CANADIAN MANUFACTURERS & EXPORTERS

MANUFACTURIERS & EXPORTATEURS DU CANADA

CANADIAN MANUFACTURERS & EXPORTERS SUBMISSION

Consultation on the Clean Fuel Standard (CFS) Regulatory Design Paper

To:

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INTRODUCTION

On behalf of Canadian Manufacturers & Exporters (CME) and our 2,500 direct members across the country, we are writing to provide our comments on the 2019 Clean Fuel Standards (CFS) Regulatory Design Paper.

Manufacturing is the largest business sector in the country, directly accounting for 11 percent of GDP, 66 per cent of exports, and 1.7 million employees in high wage, high skilled jobs in nearly every community across the country.

Throughout its integrated operations and supply chains, manufacturing today directly and indirectly also accounts for nearly 30 percent of all economic activity and over 25 percent of employment. Manufacturers also directly account for 35 percent of all private-sector research and development, and 75 percent of all exports.

BACKGROUND

It is important to state that CME believes that all Canadians, including the industrial sector, have a responsibility to do what we can to address climate change. We fully agree with the government's view that a balance must be struck between the environment and the economy. We also agree that the solutions to our challenges are global and that Canada's actions must be aligned to global efforts. The reason for this is simple: Canada is a small, open economy, that contributes a minimal amount of human-based GHG emissions.

According to the World Resources Institute, Canada accounts for about 1.6 percent of global GHG emissions (745 Mt of CO2 equivalent). As such, if Canada's emissions were to disappear tomorrow, those 745 Mt of GHGs would be replaced by new emissions growth from China alone in less than three years. Many will undoubtedly point out that Canada is one of the largest emitters in the industrialized world on a per capita basis. However, this is not the result of indifference towards the environment or a lack of willingness to do our fair share, and does not account for geography, population, and economic structure. These factors all matter but are mostly ignored and assumed to be the same across all advanced economic jurisdictions.

From an industrial perspective, and what is also mostly overlooked, is the outstanding performance of Canadian manufacturers. In fact, Canadian manufacturers are often global leaders in environmental performance in general and more specifically in producing goods at low levels of emissions intensity. For example, Canada's steel industry has a carbon footprint 2-4 times lower than its international competitors with respect to the transportation of steel for use in Canada – largely because much of the energy in Canadian steel production comes from nonemitting sources and companies have invested in the latest production technologies. When comparing the carbon footprint of a tonne of steel that was made elsewhere (such as China) and transported to Canada for use, it has been calculated previously to be approximately four times higher than if we simply produced the same tonne of steel in Canada. As such, every ton of steel produced in Canada (and not elsewhere) reduces the environmental footprint of the global industry. Canada aluminum industry is also the least GHG intensive in the world at 2t/CO2e/t Al largely because our smelters use zero-emission hydroelectricity. Therefore, incremental GHG reductions at Canadian smelters are costlier to achieve because they are already efficient smelters. In fact, using 2005 as the base year, aluminum produced in the United States and Europe is about double the average GHG content compared to Canadian aluminum. This same conclusion can be made of many industries in Canada.

With these facts in mind, the basis of our opposition to the CFS as it is currently designed is based on practical implications for industries who are already struggling. For many years, Canada has been lagging in several critical areas compared to other jurisdictions – most notably in output and export growth. These struggles can be largely traced to one key statistic: declining investment. Simply put, without investment, businesses and the economy cannot grow. An uncompetitive business environment will drive investment out of Canada. The result: a loss of manufacturing jobs, a weaker economy, and/or a net increase in global GHG emissions.

The reality is that the cost of doing business in Canada is eroding competitiveness and making it harder for companies to reduce emissions and their overall environmental footprint. According to the World Economic Forum, Canada has slipped in recent years in the rankings from ninth (in 2009-10) to 14th (in 2017-18) in terms of economic competitiveness. Since 2013, Canada has seen the slowest growth in

business capital spending in the entire G-7, except for Italy. Investment growth is also two-and-a-half times slower than the Organization for Economic Cooperation and Development (OECD) on average and three times slower than in the United States. This has resulted in Canadian companies taking their capital out of Canada and investing in other jurisdictions, while foreign investment in Canada is drying up. In fact, since 2013, US investment in Canada has halved while Canadian investment in the US has tripled. And in the last four years, Canada has swung from a $15 billion net inflow of investment from the US to a net outflow of nearly $60 billion.

Investment levels are a leading indicator of the health of the economy, especially capital-intensive sectors like manufacturing. However, declining investment has put Canada out of step with its international competitors and are a primary reason why business investment is going to other jurisdictions. The proposed CFS along with the continuous review, change, and addition of numerous environmental policies and legislation, often with overlapping objectives, has included almost no explicit consideration of the increasing costs of doing business in Canada. The bottom line is that Canada cannot make a meaningful contribution to fighting climate change without the support of a thriving economy. The wealth generated from strong economic growth is an essential resource to spark the investment and innovation needed to balance the environment and the economy.

We explore our major concerns that remain with the CFS along with our proposed recommendations below.

MAIN CONCERNS

From the outset, CME has had many concerns with the proposed CFS. These concerns have included: the technical feasibility of the 30 MT GHG emissions reduction target, the impact the standard will have on Canada's already eroding business competitiveness and for sectors within manufacturing that are Energy Intensive, Trade-Exposed (EITE), and the potential duplication and overlapping regulatory burden between competing environmental and regulatory policy developments (i.e., Output-Based Pricing System – OBPS) as a result of the policy.

Additionally, it has also been very alarming that no economic and cost benefit analysis has been publicly released. The consultation process has been mostly restricted which has prevented broad-based authentic consultations across industry. We request that ECCC rectify this as soon as possible and release the economic analysis and regulatory impact analysis (RIAS) to show the full cost of the CFS so that industry can provide additional and constructive input on the CFS.

With that said, there are three major concerns that we would like to highlight for ECCC as this time:

Increased Costs on Manufacturers:

When we analyze how much the CFS will cost our members, CME estimates that the CFS for liquid fuels could cost our members as much as $200.00 (50% to 110% increase in market price) per tonne based on the consultation of our members. With respect to gaseous and solid fuels, the Canadian Energy Research Institute (CERI) report entitled *Economic and Emissions Impacts of Fuel Decarbonization,* which evaluates the potential GHG emissions reduction of fuel decarbonization scenarios and their overall economic cost. Their analysis of the CFS, shows additional costs ranging from $0.94 per GJ (10% CI reduction) to $1.88 per GJ (20% CI reduction) for gaseous fuels, which includes natural gas, landfill and waste gases, still gas, and petrochemical coke oven gas. If the average 2017 AECO hub (Alberta) price of CAD$1.62/GJ is taken for comparison, these costs will constitute a **58-116% increase in market price.** The largest impact is to be expected for industry and buildings. This is because natural gas is a large source of energy for buildings (46% of total consumption in 2016) and the industry (40% of total consumption in 2016) with substantial existing supply infrastructure and limited opportunities to switch fuel without additional investments.

But there are other cost implications specifically for the manufacturing sector. First, energy costs at a manufacturing plant that are already high will be even higher. Our energy costs are already the highest in North America. According to London Economics International (LEI), in Ontario alone, electricity costs have increased 75% for small-medium manufacturers and 22% higher for large industrials. This is already putting manufacturers at a competitive disadvantage and restricting the sectors ability to grow and maintain/attract new investments in Canada.

Additionally, it is already a challenge to further decarbonize lower carbon fuels for many sectors within manufacturing (i.e., petrochemical manufacturing). The cost of supply for sectors, such as petrochemical will be passed along to secondary manufacturers (e.g., plastic manufacturers that supply plastics for auto parts within auto manufacturing) and then ultimately to consumers.

Finally, the cost of transportation fuels for manufacturers will also be impacted. This is because currently the CFS proposes risks double-regulating gasoline, diesel and heavy fuel oil (under the liquid stream). There are two key points we would like to stress to underscore this point:

- Regulated entities already subject to the Greenhouse Gas Pollution Pricing Act (GHGPPA) are already paying for the carbon associated with these liquids through the Output-Based Pricing System (OBPS) as:
  - On-site transportation emissions are subject to the OBPS.
  - Manufacturers are subject to increase transportation costs associated with the shipment (e.g. trucking) of raw materials to a regulated facility, and shipping products to a customer in a GHGPPA covered jurisdiction through the fuel charge (an indirect carbon cost).

- The CFS will add yet an additional pass-through cost that all manufacturers (particularly small-medium manufacturers) will be incurring as a result of this policy. This further raises concerns about the competitiveness of manufacturers that are EITE.

Overall, these factors show that the CFS as envisaged will negatively impact Canadian manufacturers by increasing the cost of combustible energy in industrial uses, increasing transportation costs within Canada; and, create a competitive disadvantage relative to global competitors subject to lesser standards. These impacts are on top of those resulting from federal/provincial carbon pricing initiatives. The CFS, as currently structured will increase costs to both industry and Canadians and will further discourage investment in Canada. Again, we strongly emphasize that it is very alarming that no economic and cost benefit analysis has been publicly released.

The Impact on Manufacturing Fuels

CME considers a manufacturing fuel to include the following types of fuels: transportation, biofuels, diesel, and self-produced fuels. The CFS, as currently proposed will have a major impact on manufacturing fuels. As a result, transportation fuels and all other fuels that will be used in manufacturing will have higher bio-fuel requirements. There are several problems with this:

- Canada's manufacturing sector does not and cannot create enough biofuels to meet possible demands.
- For many manufacturers, shifting to biofuels wouldn't be possible depending on the machinery being used by companies or the products they create.
- Decarbonizing lower carbon fuels that our sector uses are challenging given the fuels our members have adopted to use. Any push to decarbonize feedstocks could be highly destructive to this sector, as significant infrastructure and process designs are built around feedstock composition and availability.
- Fuel switching in the manufacturing sector from current fuels may not be feasible due to the processes that are undertaken in a manufacturing plant.
- Alternative fuels for industrial processes may not be available due to integrated processes, and the need for continuous, stable and consistent energy sources.
- The fuels that the CFS targets are used in manufacturing operations, equipment and processes that are already the object of federal and provincial climate change regulations, as well as federal and provincial air quality regulations.

The manufacturing sector, which is already very efficient, will require additional re-investment to see carbon reductions for specific pieces of equipment or its fuel. This is on top of investments already being made or about to be made to meet other regulatory requirements. These investments will not deliver the carbon reductions per dollar that similar investments into other GHG reduction technologies or into less

efficient sectors may deliver and result in a loss of emissions reduction opportunities. These factors along with the cost implications mentioned above is why our sector has advocated for an exemption for manufacturing fuels, including fuels that are used as raw material feedstocks and self-produced (by-product) fuels. This exemption is required to level the playfield, prevent significant cost increases and maintain the competitiveness of our sector.

The Impact on EITE Sectors

ECCC must be mindful of the trade exposure risk to the manufacturing sector that the CFS will create. Many sectors within manufacturing in Canada and globally are recognized as among the most sensitive EITE sectors. In fact, all carbon pricing provinces have formally recognized the competitiveness challenges the manufacturing sector faces with transitional measures that aim to protect the competitiveness of trade-exposed sectors while preserving the market incentive to reduce emissions. In many cases, this includes funding support for low carbon technologies to account for the significant capital investment required for our sector to reduce emissions and position our manufacturers to remain competitive in an increasingly and, so far, uniquely carbon constrained national economy.

These transitional measures have, in many cases, been implemented with the benefit of economic modeling that considers both direct and indirect flow-through cost impacts from carbon pricing as well as abatement cost curves. They do not, however, account for policies, like the proposed CFS, that as mentioned above would add significant costs in the form of more expensive industrial and transportation fuels. We are therefore very concerned that the CFS without additional measures to assist trade-exposed, will upset the competitiveness balance that has already been struck in carbon priced provinces. The result would be that the CFS could perversely increase the risk of emissions "leakage" to facilities outside of Canada not subject to equivalent carbon pricing and CFS policies (an outcome most provincial pricing systems have worked very hard to avoid).

RECOMMENDATIONS

CME's recommendations for the CFS regulatory design paper are broken down into three categories and are as follows:

Primary Recommendation:

Based on consultation with our members, our main recommendation to ECCC in response to the CFS regulatory design paper are as follows:

1. Proceed with a full withdrawal of the CFS as it is currently designed and implement a complete pause in the consultation process so that the serious issues raised by our sector are addressed. Including its overlapping objectives with other climate related policy and legislation (i.e., the OBPS.).

Secondary Recommendation:

If the CFS is not fully withdrawn as it is currently proposed, our recommendation to ECCC is to:

1. Exempt manufacturing fuels from the CFS given the increased costs manufacturers will incur under this current policy proposal and under the OBPS. This exemption should also include fossil-based raw material feedstocks used in industrial processes as well as self-produced (by-product) fuels that are regulated under the OBPS.

Alternative Recommendations:

If an exemption of manufacturing fuels is not granted, we recommend ECCC undertake the following measures:

1. Ensure that the Cost-Benefit Analysis (CBA), and consequently the Regulatory Impact Statement (RIAS) accurately reflects the potential impacts of the CFS. This must be completed independently and using robust modelling that reflect the impacts that the CFS in practice, not just theory.
2. Provide EITE competitive protections in the CFS based on the cumulative impacts of all policies that EITE sectors face. ECCC should include a statement either in the Canada Gazette I test or in the RIAS that indicates there will be protection for energy EITE exposed industries.
3. Test a revised version of the CFS through a government and industry procurement collaborative process to ensure that the reporting and documentation is administratively simple, user-friendly and does not add costly compliance requirements.
4. Establish transparency/predictability for credit criteria determination. The design needs to incorporate rigorous protocols (like offsets) to ensure credit determination and continuation integrity.
5. Enact a more conservative carbon intensity (CI) reduction trajectory as a result of the full one-year delay in Canada Gazette (CG) Part I (early 2020) and final regulation CG II (early 2021). This is further at risk given the uncertainty surrounding early and ongoing credit generation, and now given the limited time for compliance obligated parties and other credit generators to take action before the regulation applies.
6. Relax the proposed 2022 reduction requirement of 3.6 g/MJ. This is currently very stringent as it essentially front-end loads nearly 40% of the CI reduction requirements into the first year.

CONCLUSION

Canadian manufacturers, who are already leaders in reducing emissions at home and are setting world-class benchmarks for environmental performance, believe the most proven solution for reducing emissions is investment in new technology, not forcing costly and uncertain regulatory measures on industry. CME is committed to foster meaningful dialogue and understanding about the CFS, but our priority is to ensure the sector is dynamic, profitable, productive, innovative and growing.

DETAILED COMMENTS:

1.0 Context

1.2 Complementing Carbon Pollution Pricing

CME is supportive of the policy intention that manufacturing process improvements generate both carbon mechanism (OBPS or other provincial GHG regulations) and CFS benefits (one action to comply with multiple applicable regulations) and that this policy direction would apply to all provincial and federal GHG-related regulations.

2.0 Application and Exemptions

2.1 Liquid fossil fuel types

CME understands that the Fossil Fuels subject to the CFS are restricted to gasoline, diesel, kerosene, light & heavy fuel oil for the CI reduction requirements.

2.2 Self-Produced and Used Fuels

CME understands that self-produced and used Transportation fuels on-site will be subject to gasoline/diesel CI reduction requirement.

CME supports the exemption for Refinery self-produced and used fuels (refinery fuel gas and coke-on-catalyst). We are also supportive of the proposal that Liquid self-produced & used fuel for Stationary uses will not have a separate CI reduction requirement.

2.2 Exemptions

Additionally, regional fuels exemptions should be consistent with the federal RFR, for consistency on reporting. Theses exemptions in the federal RFR should be reconciled to the CFS to recognize compliance limitations and to reduce administrative complexity.

Exemptions should also include fossil-based raw material feedstocks used in industrial processes as well as self-produced (by-product) fuels that are regulated under the OBPS.

2.2 Remote Communities

CME recommends an attestation process, and/or a specific listing of the remote communities that qualify for exemptions.

Furthermore, there should be an alignment of these CFS exemptions and those under the carbon tax regulations for manufacturing fuels.

3.0 Lifecycle Carbon Intensity

3.1 Fuel LCA Modelling Tool

CME recommends that ECCC implement a governance process for the Life Cycle Analysis Tool (LCA) to provide (new and ongoing) development oversight. The process should include the implementation of a Technical Advisory Committee (TAC) comprised of manufacturers, interested federal and provincial government departments, academic stakeholders who created these beta models and other subject matter experts

CME would like to stress that provincial engagement in the LCA tool is critical to ensure it is successfully introduced and implemented and with respect to the CFS overall.

4.0 CI Reduction and Minimum Low-CI Fuel Content Requirement

4.1 Fossil Fuel Baseline Lifecycle CI Values

ECCC proposes to monitor actual crude oils through reporting to determine a national average CI value, and at the 5-year review (2027), ECCC may adjust the CI reduction requirements (similar to the California Low Carbon Fuel Standard (LCFS). CME has concerns that this action contradicts the stated policy intention of 'no crude differentiation' and would not recommend any crude basket CI adjustments.

CME supports the proposal to not differentiate crude oil types, whether produced or imported into Canada.

Should ECCC decide to adjust this baseline, CME requests a minimum 5-year notice prior to the required CI reduction requirements.

There is a need for full Fuel definitions, and ECCC may wish to be consistent with the definitions under the Fuel Information Regulation (FIR).

4.2 Annual Reduction Requirement and CI Limits

CME believes that a more conservative CI reduction trajectory is warranted as a result of the full one-year delay in Canada Gazette (CG) Part I (early 2020) and final regulation CG II (early 2021). This is further at risk given the uncertainty surrounding early and ongoing credit generation, and now given the limited time for compliance obligated parties and other credit generators to act before the regulation applies. The proposed 2022 reduction requirement of 3.6 g/MJ is very stringent as it essentially front-end loads nearly 40% of the CI reduction requirements into the first year.

In order to meet this 2022 requirement, significant early actions will be required by the manufacturing sector, many of which will need new capital infrastructure that require minimum lead times of 3 years following the regulatory certainty of a final regulation (CG II), for planning, permitting and construction. There is an urgent need for ECCC to re-do the compliance modelling to determine the probability of achieving the 3.6 CI reduction in 2022. This value appears optimistic, given the shortened timeframe between CGII and the 2022 start date.

It had been expected that early credit generation for projects-initiated post baseline year (2016), would be an incentive to complete projects as early as possible and contribute towards credit banking in order to meet the CFS reduction targets post 2022. In order to improve compliance feasibility, CME recommends ECCC declare the early biofuel blending credit policy.

4.4 Minimum Low-CI Fuel Content Requirements

CME is supportive of discontinuing the RFR regulation, with the last RFR compliance period of 2021. However, we do question the need and the value to continue the additional reporting of the 5% ethanol and 2% biodiesel volumes under the CFS. Furthermore, having prescriptive minimum biofuel volumes appears counter to the stated objective of CFS achieving market flexibilities to lower cost of compliance.

For administrative reasons, we recommend the CFS maintain the high renewable content labelling requirement currently used in the RFR.

5.0 Credit Creation

5.1 Compliance Category 1: Actions throughout LCA of Fossil Fuel to Reduce CI

CME strongly believes that further discussion is needed on the proposal that project credits projects will be created annually for a minimum of 5 years. This position may not be applicable to all projects, and other factors (such as project amortization) should be considered. A five-year period is insufficient to provide

certainty and enough return, even with the potential for renewal. Further, a protocol extension would be subject to review and therefore less certain. CME recommends that a 10-year minimum for credit creation be established.

CME agrees with the proposal for eligible CCS projects (new or expansion) as of July 1, 2017.

CME is supportive of the use of the Complexity Weighted Barrel (CWB) metric as a benchmark for new Oil & Gas facilities, since it is consistent with the Federal Output-Based Pricing System (OBPS). In addition, if ECCC wishes to create an incentive for further emissions reductions, we would recommend that a benchmark approach be also applied to both existing and new manufacturing plants.

5.2 Compliance Category 2: Supply of low-CI Fuels

We are supportive of the proposal that Low-CI credits are created by default to the producer/importer (with the ability to transfer to a party downstream). However, we do have concerns on the liability of the CI value for the low-CI fuels, and we would recommend a similar system as BC LCFS. Under the LCFS, the producer/importer applies for a CI value, government approves the CI for a specified period, and the purchaser buys the fuel CI (with no assumed liability)).

ECCC is proposing sustainability proxies that are aligned with those used by the EU (and applicable to all domestic and imports). CME has serious concerns on the sustainability criteria:

- Key sustainability parameters (e.g. high biodiversity), including social, air, soil and water elements need to be carefully defined and where possible, quantitative indicators should be included within the definitions.

- The proposed high carbon stock criterion applies to the conversion of land to agriculture. However, many types of forest should also be protected

- The proposed certification process is complex. CME recommends that ECCC consider the practicalities and costs of certifying bio-feedstocks in Canada and elsewhere. Certification requirements, including frequency, should ensure that feedstocks meet the criteria but should not be overly burdensome.

- Forest bio-mass criteria should allow bio-mass harvesting as part of certified good forest management (thinning), and fire-prevention practices (corridors).

- ECCC should consider the impacts that the proposed date limiting land use (i.e. January 1, 2008) may have on biofuel availability in Canada. ECCC should also consider including the ability to reduce or reverse compliance targets in the CFS to allow for action in the event that sustainable biofuels are not available.

- The proposed sustainability requirements do not allow for the re-designation of land status post-2008. Provided feedstocks account for GHG emissions incurred, ECCC should consider allowing a land status change post-2008 under the sustainability criteria, if justified by the jurisdiction's governing body.

- Fuels from plastics and other wastes should have their own sustainability requirements (to be developed at a later date).

- The proposal did not include any details on certification requirements for biomass feed stocks.

- The federal and provincial governments in Canada manage lands and resource development and designate areas for nature protection. The criteria could allow international agreements, intergovernmental organizations or the International Union for the Conservation of Nature to define areas for nature protection in Canada. Although this may be redundant for Canadian feedstocks, we recommend having additional international agreements or IUCN categories, as it is uncertain that country designations will be sufficient to protect nature conservation, particularly for imported feedstocks.

The concern on liability for meeting the sustainability proxies would be the same as the CI value issue.

CME believes a focused discussion is required as to the CFS impact on potentially increased criteria air contaminants (CACs), and the regulatory inter-relationship between those CAC policies.

5.3 Compliance Category 3: Specific end-use fuel switching in Transportation

Within Table 4 of Default Credit Creators, CME believes there is a need for definition of Original Equipment Manufacturer (OEM) that this applies to both automaker OEMs and to electric vehicle charging supply OEMs. All appropriate measurement method needs definition.

If ECCC decides to require credit revenue reinvestment we recommend that this requirement apply on revenues net of capital and operating costs. In all cases, there should be a reasonable 'end date' on this requirement, once the charging network reaches some level of penetration.

For LNG, CNG and Propane, CME agrees with ECCC's recommendation that the fuelling facility owner will be the default credit generator (for liquid credits).

For Renewable NG, Renewable Propane and Hydrogen, CME agrees with ECCC's recommendation that the fuelling facility owner will be the default credit generator (for liquids credits), if fuelling facility owner has proof of purchase of renewable gaseous fuels.

It is understood that credits for producers and importers of RNG and RP which do not displace liquid fossil transportation fuels or do not have documentation of supply into transportation sector will create credits in the gaseous stream.

6.0 Credit Trading System

6.1 Participants

CME understands and appreciates that there is a role for aggregators/brokers, however, there needs to be restrictions and limits/controls on the length of time that these parties can hold the credits. The key is to avoid speculators, and there is a need for trigger points to release credits into the market. The concern on allowing brokers or aggregators to own credits is the impact on the ability to maximize credit availability for compliance obligated parties.

7.0 Market Flexibility & Stability Mechanisms

7.1 RFR compliance unit bank roll-over

The CI values outlined (ethanol default 59, FAME & HDRD default 35), are significantly different than those on page 83 (ethanol 49, FAME 26, HDRD 29). Furthermore, ECCC needs to declare the basis for each of the CIs.

7.3 Credits from other classes

CME does not agree with the 10% credit trading limitation. This level is not sufficient to provide maximum flexibility and the lowest cost solutions and we recommend the capability for CFS credits to have full fungibility for all fuel streams.

7.4 Early Credit Creation

It is CME's understanding that there will be Early Credits available between CGII and January 1, 2022. However, we recommend early credit generation commence for projects-initiated post baseline year (i.e. January 2017). These emission reduction actions are real, demonstrable GHG reductions post 2016 baseline year. As such, these actions should contribute towards the CFS reduction targets for the manufacturing sector. By allowing early biofuel blending credits post 2016 for CFS, would be consistent with the proposed federal offset system that allow credit generation as of July 2017.

7.5 Credit Clearance Mechanism (CCM)

CME believes that further consultation on determining a price ceiling for the Credit Clearance Mechanism (CCM). We strongly feel that a price ceiling should not be punitive as the use of the CCM is expected to be triggered by a shortage of credits which is likely outside of the control of compliance obligated parties. If there are no credits available for sale, obligated parties within the manufacturing sector must consider the Compliance Fund Mechanism or carry-forward their obligation and incur an interest penalty on their credit deficits.

There is a legitimate fear that there will not be enough credits generated in the market and compliance costs determined by a cap and trade style market will be unbearable for most companies (this is what happened in B.C.).

There should be zero restrictions on trading of credits between streams particularly for integrated companies with compliance obligations in multiple streams. (10% maximum as proposed).

7.6 Compliance Fund Mechanism (CFM)

CME supports the use of Compliance Fund Mechanism (CFM) to provide cost-containment, market stability and compliance certainty. This flexibility is very important given that this regulation will be enacted under the Canadian Environmental Protection Act (CEPA). However, we would suggest that 10% allowance is not high enough and would like to see this as unlimited.

We do not support limiting the use of the CFM at any level. An appropriately set CFM price is a better approach to ensure the market signal for investment in cleaner fuel is maintained. We understand that the purpose of the CFM is to provide a compliance channel in the event that credits are not available. Limiting access to the funds may create non-compliance challenges given the uncertainties in credit generation opportunities and given how difficult it will be to change the CFS targets after the regulation is promulgated.

The CFM provides some market stability; however, this will be of limited use if only 10% of the obligation could be eligible. Recommend structuring the CFM price ceiling at a level that eliminates the perceived need to set a limit on access to the CFM.

We agree that fund participants should not be limited and that access to funds be equitable across obligated and regulated parties and voluntary credit generators.

We support ECCC's recommendation to allow any fund, meeting established criteria. The funds should not be used to subsidize particular actions or specific sectors as this picks technology winners and losers and can distort markets. Given the importance of this flexibility, we recommend further stakeholder consultation to ensure its successful deployment. CME also believes that the funds should be governed by consistent, established criteria that allow proponents to plan over multi-year business cycles.

7.7 Deficit Carry Forward

The Deficit Carry Forward is a last measure to avoid non-compliance, however this would have limited effectiveness if credits are scarce or uneconomic to pursue.

CME does not support ECCC's recommendation for a 20% interest rate on deficit carry-forward. Deficit carry-forward is an important compliance flexibility, and it should be available for use without limit if credits are not available.

In the event all flexibilities are exhausted (CCM, ERF, Deficit Carry-forward), and many primary suppliers still face infeasible compliance, then ECCC may need to have the ability to make CFS regulation amendments.

8.0 Primary Suppliers using credits to satisfy reduction requirements

8.2 Cancelling credit for exports of low-CI fuel

CME recommends an attestation process for exports, and an alignment with the existing tax systems to validate export volumes.

9.0 Verification

CME generally supports the proposed approach for the CFS verification. However, we expect that significant ECCC and industry resources will be required to manage compliance reporting and verification

of pathways, credits and compliance reports. We encourage ECCC to consider and adjust their resourcing needs to be ready for the first compliance reporting period.

10. Registration, Reporting, Measurement and Records

10.4 Correction of errors

We recommend that purchasers of verified credits that find out after purchase that the credits are invalid, should not be held liable for any lost credits. In the event credits are under-reported, the credit generator should be able to use or sell the incremental credits.

ECCC may wish to use a form similar to the BC Exclusion Report, to assist in the tracking of exports, in an effort to minimize errors.

The requirement of reporting errors within 5 days is unreasonable, and there should be some language towards 'as-soon-as-reasonably possible'.

11.0 Review of CFS

CME believes the proposal for a 5-year review of the CFS is too long, and a scheduled review should be every 3 years, based on the manufacturing sector's experience with British Columbia and California under similar programs. This would include periodic compliance feasibility and regulatory impact analysis to determine the appropriateness of the CI reduction schedule.

CME strongly believes that an annual assessment of program benefits and costs is needed to determine the GHG benefits and the equivalent $/tonne abatement costs, such that they are transparent to the manufacturing sector.

12.0 Next Steps

12.4 EITE sectors

Cumulative impacts (from all climate policies) on EITE industries need to be assessed and mitigated to ensure that Canadian industries remain globally competitive and that Canada's economy stays strong.

CME recommends that ECCC include a statement either in the CGI test or in the RIAS that indicates that there will protections for EITE exposed industries.

The individual measures listed in 12.4 provide some degree of EITE protection but not the complete level of protection that is required, particularly for purchased and used fossil fuels.

Remove the standard for any industry with a product that is at the mercy of market pricing or that is trading their products internationally.

12.5 Aviation Sector

CME requests to be part of the consultation with the aviation industry, as to the treatment of aviation fuels in CFS as we have members who ship goods across Canada and around the world that will be affected by the CFS.

12.6 Dialogue with Transportation Fuel-Users

CME requests that ECCC begin having a dialogue with transportation fuel-users. We are concerned that few transportation fuel users have been informed about the CFS and had the opportunity to understand the impacts the CFS will have on them. We request that ECCC answer clearly the following questions to transportation fuel-users:

1. What kind of costs are going to be passed down to end users? How will they be passed down? How can we plan for that? Will producers be regulated in how they pass down the costs?
2. When will the program be fully costed, and what kind of stakeholder engagement will happen once the RIAS is done?
3. How can transportation fuel users engage in the credit market as fuel-switching end-users?
4. What kind of long-term planning and education is required for transportation companies? What does the transportation sector need to do to be prepared, both in terms of capex plans and in terms of understanding their opportunities to participate in the credit market to offset costs?
5. Can ECCC walk the transportation sector through concepts of baseline and additionality requirements?
6. What are some other key concepts that the sector might need to be familiar with?