

Submitted to: Ontario Ministry of Environment, Conservation and Parks (MECP)
77 Wellesley Street West, 11th Floor Ferguson Block
Toronto, Ontario M7A 2T5
ero.ontario.ca/notice/013-4551

IETA COMMENTS ON ONTARIO INDUSTRIAL EPS PROPOSAL

ERO # 013-4551

The [International Emissions Trading Association \(IETA\)](#) appreciates this opportunity to share input on the Government of Ontario's [Making Polluters Accountable: Industrial Emission Performance Standards \(the Proposal\)](#). The Proposal builds on the 2018 Ontario Environment Plan and provides additional information on the proposed design of the provincial emission performance standards (EPS) program and compliance framework. We are encouraged to see the Government of Ontario committing to reduce greenhouse gas (GHG) emissions in a flexible, cost-effective manner while attempting to align most segments of its industrial EPS program with Canada's Federal Output-Based Pricing System (OBPS).

IETA is the premier international business voice on climate markets and finance. Our multi-sector, non-profit organization represents over 150 international companies, including many with investments and operations providing employment and value creation across Ontario. Our expertise is regularly called-upon to inform environmental policies that deliver demonstrable GHG emission reductions, address industrial competitiveness, spur and protect jobs, enable fair and realistic program implementation, and balance economic efficiencies with societal benefits.

For two decades, our business community has remained committed to supporting flexible, least-cost market approaches to achieve climate goals that drive economic prosperity and avoid compromising competitiveness. **For Ontario, we believe these powerful market tools – underpinned by environmental integrity – should form the backbone of provincial climate action to 2030 and beyond.**

OVERVIEW & EXECUTIVE SUMMARY

IETA's comments are structured around two sections. **Section 1** features high-level priority input, generally relevant to all aspects of Ontario's Proposal. **Section 2** contains more detailed input associated with specific design element sections of the Proposal.

Under Section 1, IETA's high-level priority input can be summarized as follows:

1. Support flexible and cost-effective compliance approaches.
2. Enable policy harmonization and alignment.
3. Avoid duplicative and non-complementary measures.
4. Develop a robust, collaborative carbon offsets program.
5. Complement domestic and international market rules and systems.



SECTION 1: HIGH-LEVEL PRIORITY INPUT ON PROPOSAL

The following captures IETA's high-level priority input on the Proposal.

1.1 SUPPORT FLEXIBLE AND COST-EFFECTIVE COMPLIANCE APPROACH

IETA is pleased to see the principles of flexibility and cost-effectiveness guiding Ontario's proposed approach. We strongly support the use of facility-generated tradable units and voluntary carbon emission reduction credits for compliance use by covered entities under Ontario's program. These instruments should be immediately available to compliance entities for meeting full regulatory obligations. We note that delays to adequate and liquid unit supply for emitters would eliminate the intended cost mitigation benefits of the proposed design.

1.2 ENABLE POLICY HARMONIZATION AND ALIGNMENT

Ontario should rely heavily on the experiences, lessons, systems, standards and infrastructure (e.g., registries, exchanges) from existing carbon trading programs. Building on, and ensuring complementarity with, established market trading programs will enhance efficiencies, minimize provincial program development and implementation costs, enable cross-border harmonization opportunities, and ensure broader program buy-in and environmental integrity.

Ontario should actively pursue system harmonization and alignment with key jurisdictions across core GHG program design elements. Harmonizing GHG program rules, tools, standards, carbon accounting and quantification methodologies across priority domestic and international trade partners are foundational steps towards building cross-border cooperation that enhance efficiencies. These actions also allow business to more easily and cost-effectively plan, comply, and invest.

The benefits of regional linkages and cooperative approaches are clear: the bigger and broader the market, the wider the range of abatement opportunities and improved efficiencies. This drives down program and compliance costs while driving-up clean projects, jobs and market opportunities. To achieve this, a top Ontario priority should be to enable flexible and coordinated pricing systems built on market-based trading – elements that we see reflected in the current Proposal. Ontario's final framework and guidance must enable – not hinder – linkage (full or partial) with other domestic and global systems.

1.3 AVOID DUPLICATIVE AND NON-COMPLEMENTARY MEASURES

Non-market measures – such as government building codes, standards, incentives, R&D support etc. – can play important roles in supporting and scaling certain clean technologies, sectors and behaviour. However, like all jurisdictions, **Ontario must ensure these measures do not impede least-cost, industry-driven, and sizeable approaches that deliver measurable environmental outcomes.** With



business input, the nature and sequencing of Ontario’s climate measures should never overlap or potentially double-regulate industry.

Transparent tracking and reporting of the estimated/real costs (per tonne GHG basis) associated with each supplementary measure – including carbon revenue investments from the industrial EPS program – should be reflected in Ontario’s policy review and evaluation processes.

1.4 DEVELOP A ROBUST COLLABORATIVE CARBON OFFSETS PROGRAM

IETA strongly supports the development of a robust Ontario voluntary GHG emissions reduction (offsets) program that incentivizes low-carbon action and investment across the economy. Offsets are an essential, results-based cost-containment and clean finance component for any functional and flexible “Polluters’ Pay” program. They represent a vital low-cost compliance option for regulated polluters, thereby minimizing leakage risk and/or the need to pass on higher costs to consumers. Robust investment and growth in voluntary reductions is also a proven source of job creation and wealth in a variety of sectors and industries, including support for rural communities through additional revenue streams across agriculture, forestry and waste management sectors.

We strongly recommend that MECP allow for the use of compliance offsets already issued by other Canadian governments across existing carbon programs. These real reductions should be recognized as compliance units to help Ontario entities meet provincial obligations. Recognizing credits from jurisdictions with established programs will allow Ontario to immediately account for reductions and necessary “out of the gate” supply, while mitigating compliance costs for facilities in the province. This approach will also allow Ontario to draw upon the experience from regions that currently have effective pricing systems, while developing its own experience and systems in tandem. The easiest way to enable this form of one-way credit fungibility is to rely on the rules and parameters for compliance (offset and surplus) credit generation in already-existing systems, including compatibility with Canada’s federal OBPS offsets program which is currently under development.

We strongly urge MECP to avoid implementing arbitrary usage constraints on voluntary reduction (offsets) unit usage. The Ministry should avoid imposing geographic, quantitative, and qualitative limitations on compliance usage. We also discourage the imposition of expiry and holding limitations on unit usage. Moreover, MECP should avoid establishing restrictive criteria for voluntary compliance credits, in order to drive low-cost mitigation options during early program years.

Finally, Ontario’s system should see **more prescriptive, enabling language to allow for future market linkage opportunities.** Opportunities include links to international market programs, including Internationally Transferable Mitigation Outcomes (ITMOs) under Article 6 of the Paris Agreement, and growing regional carbon market programs (e.g., Saskatchewan, Alberta, Federal OBPS).



1.5 COMPLEMENT DOMESTIC AND INTERNATIONAL CARBON RULES AND SYSTEMS

It is vital for Ontario to continue looking beyond its borders to ensure that final Industrial EPS rules and systems are compatible with, or readily-adaptable to, Canada – and the world’s – swiftly-evolving carbon policy and trade landscapes. To preserve economic competitiveness, MECP must closely track developments that may affect both domestic or global GHG “stringency” acceptance of Ontario’s approach to carbon rules, pricing and trade.

This regular monitoring and risk evaluation exercise will include understanding risks and opportunities associated with permutations of the Federal OBPS that may affect both covered and non-covered Ontario entities. The timing and rollout of program stringency must also respect and protect businesses from trade exposure, specifically for businesses with competitors in non-carbon priced jurisdictions. IETA is well-positioned to support regular information-exchange with provincial officials.

SECTION 2: DETAILED COMMENTS ON PROPOSAL

The following provides more detailed technical input on specific sections of the Proposal.

2.1 PROGRAM SCOPE

IETA encourages Ontario’s EPS system to cover the same sectors as those covered by the federal OBPS. Doing so is fundamental to ensure future federal acceptance of the provincial program, and it provides MECP with the flexibility of implementing more local, customized benchmarking approaches to accommodate Ontario businesses.

It is important that a potential transition from the federal OBPS to the Ontario EPS does not unnecessarily disrupt provincial business operations or introduce added administrative burdens and requirements. Regulated provincial facilities should not be penalized with double or overlapping compliance costs as a result of changing regulations mid-year that are beyond their control.

The final Industrial EPS program must enable fair, scientifically- and commercially-proven, cost-effective actions from large polluters. This includes:

- Reasonable treatment for emissions sequestered into products or re-directed as part of feedstock into other industrial processes.
- Transparent reporting and the proposed 100% stringency protection for unavoidable emissions from industrial or manufacturing processes.
- Cost-effective considerations for emissions-intensive and trade-exposed (EITE) sectors that effectively mitigate carbon leakage risks, including delineated treatment for non-fixed process emissions.



IETA supports the proposed move to allow industrial entities to opt-in to the provincial EPS program. We believe the proposed opt-in criteria and threshold (i.e., 10ktCO₂e per annum) are appropriate and defensible. We urge final rules allow for immediate opt-in across all eligible provincial facilities.

In addition, we believe that opt-in facilities must be held to the same standard as larger covered facilities. This program, which should employ the highest standards with clear guidelines for environmental integrity and participation, should largely align (or at least ensure compatibility with) the Federal OBPS opt-in program. We recommend final regulatory language to allow facilities to opt-in that do not have a prescribed EPS, provided they can meet EITE criteria or operational vulnerability criteria.

2.2 PERFORMANCE STANDARDS

IETA urges MECP to be open to case-by-case adjustments, different data set considerations, or alternative benchmarking approaches to incorporate unique business operations and facilities that do not directly compare with their EPS peer groups. We suggest that MECP establish a clear process and facilitative criteria, including terms for reasonable consultation periods. Environmental and financial outcomes should not result in perverse incentives for any particular sector; rather, these processes should be consistent and fair across all affected sectors.

We recommend that MECP consider following Alberta’s approach in deferring the application of stringency for a minimum of two years to ease the transition towards full compliance exposure. This defensible approach to deferring will help to: 1) ensure supporting regulations and systems have full access to lower-cost compliance units to help mitigate certain global competitiveness concerns; and 2) enable more time for MECP and regulated/opt-in facilities to assess and provide feedback on the effectiveness or unexpected outcomes of established EPS.

Finally, we recommend that timeframes used to determine the emissions intensities represent a period that does not disproportionately disadvantage output anomalies or company-specific bias. In instances where a sector is largely represented by a limited number of facilities, transparent and robust analyses must ensure that the EPS outcome is fair and reasonable for all facilities impacted. The timeframe selected must not be punitive towards facilities that took early steps to reduce GHGs or improve efficiencies.

2.3 COMPLIANCE FLEXIBILITY

IETA fully supports ensuring maximum compliance flexibility – including unlimited banking and trading – in Ontario’s final program design. We encourage broad access to tradable compliance units including voluntary reduction units and enabling one or two-way market links with other Canadian markets and potentially future international markets to help increase supply to low-cost compliance units, enhance compliance flexibility options and keep costs low not only for businesses but also Ontario consumers and households.



Banking & Trading: IETA strongly supports allowing banking and trading in the Ontario EPS. Trading allows for flexibility and economic advantages for both facilities with emissions below their Annual Emissions Limit (AEL), and above their AEL, by allowing one facility to finance the early actions of another facility.

Tradable Compliance Units: IETA strongly supports the issuance of compliance units for emissions below a facility's AEL to covered facilities that emit less than the applicable GHG emissions limit. These government-issued tradable units are important tools that not only avoid penalizing facilities for early action but also drive early real reductions and enable trading and harmonization with other programs.

Voluntary Reductions for Compliance: Compliance units for voluntary emission reductions or removals (offsets) provide necessary alternative options for Ontario regulated emitters to demonstrate compliance by achieving real GHG emission reductions outside covered sectors. Empirical evidence shows that providing this compliance option to regulated polluters will provide the same GHG mitigation benefit as an emission reduction on-site at a regulated facility but at a lower cost. Offsets can also deliver substantial environmental and social co-benefits associated with biodiversity, watershed protection, First Nations engagement, rural economic diversification, and more. Each voluntary reduction unit, eligible to be used for compliance, must represent a real, additional and verifiable tonne of GHG reduced or sequestered.

2.4 COMPLIANCE OBLIGATION

IETA supports annual compliance periods to the extent the necessary system infrastructure and supply of compliance units are made available to ensure maximum least-cost flexibility on an annual basis. We recommend that MECP uses – or at least recognizes – existing carbon trading platforms and quantification methodologies to facilitate and expedite such transition and implementation.

Reporting and surrender deadlines should be identical – or as aligned as possible and practical – to the federal OBPS and relevant provincial programs. This enables more alignment, drives efficiencies (both for government administrators and companies) and facilitates near or longer-term linkage across systems.

IETA supports the proposed reporting requirement for regulated facilities to submit a report to the government for each compliance period. We also support the inclusion of the GHG emissions, production data, AEL, and compliance obligations for the facility for the previous year. We also support verification of the report, recognizing the importance of transparency and verification in ensuring environmental integrity of the system.

Finally, we encourage MECP to require independent third-party verification to further guarantee transparency and integrity of the system.

Our community looks forward to further details on EPS reporting requirements in spring 2019.



2.5 COMPETITIVENESS AND CARBON LEAKAGE ASSESSMENT

IETA agrees with the Proposal that protecting Ontario’s competitiveness is a paramount design consideration while developing a functional and sustainable industrial GHG program. Ensuring competitiveness over the lifetime of the program must be regularly and transparently assessed using appropriate peer groups and sample sizes.

To protect the competitiveness for Ontario EITE facilities and opt-in facilities without an EPS (or an unfair EPS), we recommend having a clear process and criteria over the first year of EPS implementation to adjust or implement a standard or benchmark applicable for 2019 calendar year compliance. This is a valuable design approach, even if applied retroactively. IETA recommends MECP be open to transitional benchmarks to provide MECP and industry enough time to arrive at a reasonable and fair EPS.

CONCLUSION

Once again, IETA appreciates this opportunity to record our comments on the Industrial EPS proposal. This input is a result of deep experience and lessons learned across North American and global environmental markets. Our community looks forward to future engagement with MECP officials as rules and frameworks are finalized.