10 July 2021

Submitted to:
Ontario Ministry of Environment, Conservation and Parks (MECP) and
Environmental Registry of Ontario (ERO) Notice # 019-3719
https://ero.ontario.ca/notice/019-3719

IETA COMMENTS ON PROPOSED AMENDMENTS TO SUPPORT TRANSITION AND IMPLEMENTATION OF ONTARIO EPS PROGRAM

Environmental Registry Notice (ERO) # 019-3719

The **International Emissions Trading Association** **(IETA)** appreciates this opportunity to share input on the **proposed amendments** to Ontario's *Greenhouse Gas (***GHG***) Emissions Performance Standards (***EPS***) Regulation and Reporting Regulation*, posted by the Ministry of Environment, Conservation and Parks (**MECP**) . As the leading international business voice on climate markets and finance, IETA represents over 160 companies which include many facing climate risks and opportunities across Ontario and Canada. IETA's expertise is regularly called-upon to inform market-based policies that deliver measurable GHG reductions and removals, address economic competitiveness concerns and balance economic efficiencies with social equity and co-benefits.

IETA supports the overall goal of the proposed EPS amendments to provide further support and clear guidance to help Ontario industries transition from the Canadian federal output-based pricing system (**OBPS**) to the EPS. We hope that our insights and proposed recommendations are used to inform adoption of a final provincial program that effectively reflects, and responds to, evolving carbon pricing and competitiveness dynamics across Canada and internationally. The input is structured around two main sections: **Section 1** features high-level priority input relevant to all aspects of ensuring an effective transition and lasting stability of Ontario's EPS program through its 2022 launch; and **Section 2** contains more detailed input associated with specific provisions of the EPS proposed regulatory amendments.

SECTION 1: HIGH-LEVEL PRIORITY INPUT ON EPS

The following captures IETA's high-level priority input relevant to all aspects of ensuring an effective transition and lasting stability for Ontario industries through EPS program launch in January 2022.

EASING THE TRANSITIONAL BURDEN

IETA supports the continued efforts by the Government of Ontario to help ease industry's transition from the federal OBPS to the EPS. It is critical that this transition, scheduled to take effect on 1 January 2022, does not unnecessarily disrupt provincial business operations or investment plans nor introduce added administrative burdens and requirements**.** Regulated Ontario facilities, who have been operating and complying in good faith under the federal OBPS since 2019, should not be penalized with higher or overlapping compliance costs as a result of shifting regulations that are beyond their control.

INCLUDING OFFSETS FOR COMPLIANCE IN EPS – AND RISKS OF EXCLUSION

IETA strongly urges MECP to amend the existing EPS framework to allow offsets for compliance use under the first EPS compliance period. We consider it highly problematic that Ontario's current EPS regulation, as well as the current proposed amendments, entirely exclude the use of offsets for compliance by Ontario facilities.

Simply put, a failure to include offsets for compliance at EPS program outset would send a strong signal that Ontario is poorly-positioned to remain competitive, retain equivalency, and secure itself as a "clean investment destination" post-2022. Excluding offsets would further signal that Ontario is ill-prepared to align and potentially link its nascent program with other markets to ensure cost-containment while climate policy ambition and carbon pricing systems "ratchet-up". Importantly, it will put Ontario business at a disadvantage compared to competitors in other jurisdictions (Canadian and global) that have full or partial access to these lower-cost compliance mechanisms. Finally, if Ontario fails to work quickly to embrace and maximize the use of offsets at EPS launch, a critical "window of opportunity" to position the province as a leader on certain land-use management and clean technology innovations will be missed.

Not only are offsets an essential, results-based cost-containment tool and clean finance accelerator, but nearly all government-mandated GHG emissions trading and reduction programs – across Canada and globally – include offset compliance credits from program outset. Today, over 40 national and sub-national governments recognize offsets as an essential tool to support accelerated decarbonization trajectories while also delivering jobs, clean finance and community investments at scale[1].

Fortunately, Ontario is extremely well-positioned to not "start from scratch" but instead rely heavily on existing offsets best practice, standards, protocols and infrastructure. Ontario can move swiftly to leverage, and/or ensure maximum complementarity with, this existing Canadian or international offset crediting systems and protocols. In particular, Ontario could use or build-upon the federal compliance offset program and priority protocols in order to unlock efficiencies and minimize program development and implementation costs for MECP. Such an approach would also allow near and longer-term cross-border market harmonization and fungibility opportunities.

Further details on the latest Canadian compliance offset program and eligible protocol type developments are captured in IETA's 2021 catalogue of ***Global Emissions Trading System (ETS) Business Briefs***.[2]

[1] "Carbon Pricing State and Trends 2021". World Bank Group. May 2021 (**Link**)
[2] IETA **2021 Global ETS Business Briefs** catalogue includes: **Canadian OBPS**, **Alberta TIER**, and **Quebec Cap and Trade** program.

ALLOWING USE OF RECOGNIZED UNITS & SURPLUS CREDITS IN EPS

In addition to allowing for use of offsets under the EPS, we believe that Ontario should take further action to allow use of Recognized Units (RUs) and transfer of surplus credits from the federal OBPS to the EPS at program launch. RUs and surplus credits could be immediately available to Ontario EPS through initial compliance periods. This transfer would enable cost-containment as well as avoid penalizing early efforts and investments by Ontario firms forced to comply/transition from federal to EPS system, especially during relatively limited or rushed transition periods.

RU and OBPS credit transfers to Ontario's "equivalent" provincial market could also act as a "positive supply shock" to Ontario's nascent program. Immediate credit recognition would boost early liquidity, preserve business/investor confidence and benefit overall provincial market functionality. Ideally, and as communicated in IETA's July 2021 input on the draft amendments to the OBPS Regulations[3], Ontario will eventually allow EPS credits to also be transferred to the OBPS market enabling full linkage with a strong single price signal across both federal and provincial systems through 2030[4].

SECTION 2: DETAILED COMMENTS ON PROPOSED AMENDMENTS

The section provides detailed input associated with specific provisions of the EPS proposed amendments.

SUPPORT A PARTIAL YEAR TRANSITION

IETA supports the proposed amendments clarifying the calculation process for determining compliance obligations during the partial year. We believe these amendments will play a key role in reducing the transitional burden faced by EPS covered emitters that were previously regulated by the OBPS. The new requirements to determine pro-rated amounts are important to fairly determine compliance obligations and number of Emissions Performance Units (**EPUs**) to be distributed into accounts.

TREATMENT OF NEW FACILITIES

IETA generally supports the proposal to update compliance timelines for new eligible facilities. These amendments further help to align the EPS with the federal OBPS by allowing new eligible facilities to register during their first year of production.

---

[3] IETA Input to ECCC on "Proposed Amendments to OBPS Regulations". Canada Gazette 1. 4 July 2021.

[4] This would address a major priority area and challenge raised in the report, "2020 Expert Assessment of Carbon Pricing Systems[4]", prepared by the Canadian Institute for Climate Choices for ECCC and publicly released in June 2021. (Link)

The proposal to defer compliance obligations for new facilities[5] by three (3) years is considered appropriate and a defensible approach to help ease transitions towards full compliance exposure. This approach will also provide more time for MECP and regulated/opt-in facilities to gather and assess necessary data to inform effective design, impact assessments and compliance pathways.

IETA supports the proposed registration requirement for new facilities to submit an emissions estimate prepared by an independent third party and verification of the report. These amendments enhance EPS program transparency and ensure environmental integrity of the system.

The proposal to allow alternative EPS benchmarking approaches when a sector performance standard does not exist for a facility's product(s) is sound. Such measures will help incorporate unique Ontario business operations and facilities that do not directly compare with their EPS peer groups. MECP should establish a clear process and facilitative criteria, including terms and timetables for close consultations with affected parties. Environmental and financial outcomes should not result in perverse incentives for any particular sector, but instead be consistent and fair across all affected sectors.

ADDITIONAL ADMINISTRATIVE, TECHNICAL, AND CLARIFYING AMENDMENTS

IETA supports federal OBPS alignment of the EPS performance standard for electricity (eOBS) generation to enhance policy coherence and harmonization, but encourages MECP to abandon the proposed technology standard targeting co-generation. Since 2019, IETA and many of our Canadian members have consistently advised the federal and Alberta governments against the creation of a "two-tiered" eOBS targeting co-generation, which could spark unintended climate and competitiveness consequences. The two-tiered eOBS proposal would discourage future Ontario investments in highly reliable, low-cost and low-intensity power by making industrial co-generated electricity more expensive to produce relative to alternative, higher intensity sources; so, rather than future co-generation investments, the economics would shift to importing grid electricity and deployment of natural gas boilers to fulfill industrial heat energy needs (resulting in higher overall GHG emissions). Prior to EPS program launch in 2022, we urge Ontario to adopt a single eOBS for EPS and abandon the proposed co-generation technology standard.

We recommend that the EPS be further amended to cover GHG emissions from Ontario electricity imports. Future imported emissions should be charged the same as Ontario-produced electricity to ensure competitiveness, reduce carbon leakage and prevent inefficient "resource shuffling" that might arise.

IETA is encouraged to see the proposed clarification to rules for trading compliance instruments. Despite the stark omission of other lower-cost tradable units under the EPS (i.e., offsets and recognized units –

[5] Excludes new facilities that generate electricity with fossil fuels

see Section 1 above for details), we are pleased to see the program allow the use of EPUs. Clarifying rules for these EPU compliance instruments will provide added clarity and confidence to business that will heighten confidence and program participation, while ensuring that the system works as intended and is underpinned by integrity and oversight.

CONCLUSION

Once again, IETA appreciates this opportunity to record our comments on the EPS proposed amendments, as well as offer strong recommendations for discrete program improvements prior to the 1 January 2022 program launch.

The federal government will soon be consulting on decisive steps on post-2022 carbon pricing benchmark criteria as well as OBPS program modifications to align with Canada's proposed updated 2030 GHG reduction target and 2050 net zero goal. Given this imminent backdrop, **it critical for Ontario to now instill a workable, adaptable EPS foundational framework – one that drives lasting predictability, price signals and program confidence while positioning Ontario to retain "equivalency" post-2022.**

Our community looks forward to future engagement with MECP officials as the EPS program start date fast approaches. If you have questions or require further information, please contact Katie Sullivan, IETA Managing Director, at **sullivan@ieta.org**.