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**Submitted to: Low Carbon Fuels Division, Environment and Climate Change Canada**
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# IETA COMMENTS ON PROPOSED CLEAN FUEL REGULATIONS
## SUBMISSION TO ENVIRONMENT AND CLIMATE CHANGE CANADA

The **International Emissions Trading Association (IETA)** welcomes this opportunity to provide input on the proposed **Clean Fuel Regulations (CFR or the "proposed Regulations"),** published in Canada Gazette 1 (CGI) on 19 December 2020[1][2]. As a member of the **Clean Fuel Standard (CFS)** Technical Working Group **(TWG)** since its inception, IETA recognizes the significant effort by ECCC in developing the proposed regulations, particularly in light of unprecedented circumstances leading to delays and consultation challenges. We hope that our insights and recommendations are used to inform final regulations so the CFR not only achieves its policy goals but also creates a vibrant new environmental market in Canada.

**As the premier international business voice on climate markets and finance**, IETA's non-profit organization represents over 150 companies, including many facing climate risks and opportunities across Canada's fuels, industrial, finance and technology innovation sectors. IETA's market expertise is regularly called-upon to inform market-based policies that deliver incremental greenhouse gas **(GHG)** reductions, address economic competitiveness concerns, and balance economic efficiencies with social equity and co-benefits. We believe that a robust market crediting system – which complements, rather than overlaps with, federal and provincial carbon pricing programs – should form the backbone of Canada's CFR. These market compliance tools, if properly designed and executed, should drive program efficiencies, least-cost compliance, innovation, and investments.

IETA's comments on the proposed Regulations are structured around two sections: **Section 1** features high-level priority input; and **Section 2** contains more detailed input and recommendations on various design elements and modeling or impact analyses of the proposed CFR.

[1] Canada Gazette, Part 1, Volume 154, Number 51: Clean Fuel Regulations (19 December 2020)
[2] The proposed Regulations would "require liquid fossil fuel primary suppliers (i.e., producers and importers) to reduce the carbon intensity (CI) of the liquid fossil fuels they produce in and import into Canada from 2016 CI levels by 2.4 $gCO_2e/MJ$ in 2022, increasing to 12 $gCO_2e/MJ$ in 2030".

## SECTION 1: HIGH-LEVEL PRIORITY INPUT

IETA's mission is to support broad and functional environmental markets, guided by the principles of efficiency, low-cost, real outcomes and environmental integrity. As such, IETA supports establishing a CFR credit market where annual carbon intensity (**CI**) reduction requirement obligations can be met via flexible compliance options and pathways[3] via three "main categories of credit-creating actions": 1) actions reducing CI of the fossil fuel throughout its lifecycle; 2) supplying low-carbon fuels; and 3) specified end-use fuel switching in transportation. Unfortunately, as currently proposed, the CFR leans heavily towards an overly prescriptive, "command and control" approach, which may weaken the impact of broad-based pricing policies and result in higher costs to Canadians over time. It also remains unclear how the CFR, once implemented, will truly complement already existing provincial and federal carbon pricing programs.

**The proposed Regulations introduce a host of unnecessary regulatory complexities that will translate into significant market distortions, limit investment, and hinder CFR program success**. Not only do they place several artificial limits on credit generation and compliance options, but such design elements are not implemented (or contemplated) under the world's existing fuel standard markets. If implemented as currently proposed, **the new program will create two different classes of credits, resulting in differential pricing and creating significant compliance premiums for entities restricted by credit generation limits** (in compliance categories 1 and 2). Ultimately, the unnecessary restrictions, complexities and associated uncertainties will likely give pause to entities seeking to make investments based on potential revenue generation/cost savings in the CFR.

A notable part of the success of the British Columbia and California Low Carbon Fuel Standard (LCFS) programs is due to market simplicity and clear rules. The array of proposed limits, under an already complex set of regulations, will create issues and challenges for compliance entities and likely impact the decisions of participants looking to operate in the market. **Prior to CGII, IETA strongly urges ECCC to prioritize simplifying some of the more elaborate proposed rules while aiming to avoid applying unnecessary or hindering limitations to credit creation and the market.**

Finally, **we ask ECCC to seriously consider the adverse impacts of further delays to the disclosure of underlying CFR models and data.** Waiting until after CGII publication in late-2021 (if not 2022) could have broad and lasting impacts on stakeholder/business compliance planning, investment decisions, competitiveness, etc. This is important as many IETA members are global in nature and have investment options that do not have the same level of complexity in more responsive regulatory permitting jurisdictions.

[3] Parties that are not fossil fuel primary suppliers would be able to participate in the credit market as VCCs by completing certain actions (e.g., low-carbon fuel producers and importers). In addition, the proposed Regulations would retain the minimum volumetric requirements (at least 5% low CI fuel content in gasoline and 2% low CI fuel content in diesel fuel and light fuel oil) currently set out in the federal *Renewable Fuels Regulations* (RFR). The RFR would be repealed.

## SECTION 2: DETAILED COMMENTS ON PROPOSED REGULATIONS

IETA's comments on the proposed Regulations by design elements or impact analysis are captured below.

### COVERAGE AND PARTICIPATION

**IETA supports the material decision, announced by the Government in December 2020 and reflected in the proposed Regulations**, for only the liquids class to hold CFR compliance requirements and no longer expand compliance coverage to gaseous and solid streams. As such, the proposed Regulations accurately reflect that only liquid fuel participants hold compliance requirements but all (3) classes – liquids, gaseous and solids – can generate credits (recognizing that the opportunity for solids remain unclear).

**IETA also welcomes the proposed approach to include a broad range of Voluntary Credit Creators (VCCs)**, capable of voluntarily generating credits that can be sold to Primary Suppliers to cover reduction requirements. We are also extremely **pleased and supportive of the proposal to allow credit aggregators to participate as VCCs**. Aggregators play an absolutely vital role across all environmental credit markets. Not only do they enable broader participation in reduction and removal projects, but they facilitate more supply into the market while reducing transaction and administrative burdens.

### QUANTIFICATION METHODOLOGIES AND DEVELOPMENT PROCESS[4, 5, 6]

To reiterate past comments, IETA applauds the decision to separate the quantification methodology (**QM**) development process from the regulatory development process. This distinct separation will allow for a more efficient and flexible process across CFR credit creation. **As such, these vital tools for credit creation** – meaning the suite of priority QMs alongside a generic General Quantification Methodology (GQM) for project types with no applicable GM – **should be released as soon as completed and not await final regulation publication in late-2021**.

**What current or proposed principles are guiding the CFS QM/GQM development process?** As remarked in IETA's September 2020 comments, we believe the principles guiding ECCC's federal offsets protocol development process are smart and strong tenets, which provide positive signs to the business community. **We therefore suggest that ECCC adapt these guiding principles to the QM/GQM development process, then use and communicate these principles to stakeholders**. Specific principles to guide the QM/GQM development process should: ensure complementarity with existing (and future) Canadian climate policies; remain administratively simple and cost-effective, while ensuring a rigorous commitment to environmental integrity; and build on existing experience in Canada and globally, as well as across both compliance and voluntary environmental markets.

[4] ECCC Q&A Document: Proposed CFR. 19 February 2021. Pg. 9 (CC1-EOR QM) and Pg. 10-11
[5] CG1 CFR: Quantification Method Development Guidance Document (**Full Document**)
[6] ECCC CFR CG1 Presentation: QM Development Guidance. Slides 16-23

**IETA supports the swift development of QMs for the proposed project types of:** carbon capture and storage (CCS); low-carbon intensity (low-CI) electricity integration; enhanced oil recovery; and co-processing of biocrudes in refineries and upgraders ("co-processing")[7]. We urge ECCC to follow its intention in leveraging and adapting "existing reduction accounting methods or offset protocols in other jurisdictions"[8] as much as possible and practical.

**With regard to GQM**, IETA recognizes the merits of this approach with streamlined additionality criteria, in order to encourage early investments and innovation. We support the initial potential list of (4) project types listed in the Guidance Document. **However, the restriction placed on primary suppliers where they can only use GQM credits "to satisfy up to 10% of (their) annual reduction requirement annually" is highly problematic.** This proposed GQM credit usage limit on primary suppliers should be removed and replaced with "no limit" restrictions, similar to QM credit usage. *IETA elaborates on this concern and proposed compliance credit usage limit in below sections.*

**As proposed under Section 31(1) of the draft CFR, QMs may be modified or "retired" early including during a project's lifetime, resulting in the activity not being financially viable.** Allowing projects that started before becoming required by law to generate credits for the full crediting period is an important step to supporting project viability. The cessation of credit development of an active project, once regulation makes a project type ineligible, creates market uncertainty and will hinder sensible investment toward climate action.

**IETA strongly supports the selection of Expert Reviewers, particularly from project type experts and verification experts, to support the QM development process.** Having the right individuals and expertise as Expert Reviewers/Committee will prove critical to effective and seamless QM/GQM development. This should include, but not be limited to technical experts with industry operating experience who appreciate the commercial and operational environmental realities tied to incentivizing innovation and technology. We look forward to seeing ECCC's initial call for experts in winter-early spring 2021. We also note that ECCC intends to contact industry associations; an engagement opportunity welcomed by IETA, given our organization's far-reaching membership includes the world's leading offset/CFS project type and verification experts. **IETA offers full support to ECCC in helping to communicate and broadcast these calls for experts across our community through 2021 and beyond.**

**Frequent QM development-related communications and coordination with Provincial and Territorial (P/T) regulators will also prove vital.** We therefore support experienced P/T members being "delegated by the CFS P/T Committee" to become QM expert reviewers.

[7] On refinery co-processing facilities, mass balance is now standard practice and should be relied on for robust quantitative determination of biogenic content. Advanced methods such as C14 testing should only be used for qualitative confirmation of biogenic content, as their inaccuracy may exceed the very low blend ratios expected in early years.
[8] CG1 CFR: Quantification Method Development Guidance Document. Pg. 5

**We note that the proposed priority QMs may favour certain technologies over others**, which may have indirect impacts across some parties. For example, the draft Low-CI Electrification QM is only applicable to solar and wind, notwithstanding many generation types that ought to be considered provided they are lower than P/T average grid intensity. In a similar vein, there are critical cross-market considerations that need to be watched and considered. For instance, wind is a major carbon offset creator under Alberta's Technology Innovation and Emissions Reduction (TIER) Regulation. The final QM selection and approach needs to be transparent and prioritized – with expeditious development of affected technologies that can provide the larger emissions reductions and offsets, balanced across the provincial-federal context.

**Regarding the QM for Carbon Capture and Storage (QM-CCS), IETA is concerned about Canada potentially violating international trade rules should the CFR not allow for credit generation from low-CI fuels derived from CCS outside of Canada**. This important issue was raised during January 2021 TWG discussions, but it is not clearly addressed in proposed QM-CCS or LCA methodology documents. Our understanding of the current ECCC position is for the CFR to *not recognize (exclude)* the inherent low-CI value of imported biofuels derived from CCS. Such an action, if implemented, could potentially be in contravention of the World Trade Organization (WTO) General Agreement on Tariffs and Trade (GATT), specifically *GATT Articles 3 and 4 of National Treatment and Most Favoured Nation Non-Discrimination principles*[9] [10]. To avoid potential future trade violations, ECCC should carefully revisit this issue and consider developing a mechanism to request "equivalency" for imported low-CI fuel where CCS was involved – either in low-CI fuel production or low-CI feedstock that feeds a low-CI fuel production facility.

**With regard to EOR QM development**, IETA is happy to see ECCC communicate clear timelines and expected consultation/expert engagement milestones in the "Proposed CFR Q&A Document" (19 February), including planned publication of EOR QM on "CFS webpage ready for use as of publication of final Regulations in (CGII), planned for late 2021".

**We urge ECCC to consider further streamlining the QM development process by allowing for a complementary, collaborative fast-track approach, focused on adapting already existing protocols and QMs[11].** We believe this approach would also broaden opportunities to allow for enhanced industry/market expert participation. Given that most practical and historical protocol development knowledge lies across Canada's business, market and subject matter expert community, a controlled collaborative fast-track approach to protocol development would: **swiftly capitalize on existing industry knowledge; expedite the QM development/adaptation process; and unlikely require additional government personnel or resource spending to execute**.

[9] WTO Trade Without Discrimination: Trading Principles.
[10] WTO Rules and Environmental Policies: Key GATT Disciplines. "WTO Principle of Non-Discrimination"
[11] This could be an especially welcome option to attract broad and frequent QM development, should ECCC choose to adopt its 10% compliance usage limits on GQM credits.

In addition to the fast-track collaborative approach, detailed above, **ECCC could consider a "voluntary participation" mechanism for QM submittals and development, similar to that proposed under the federal OBPS offsets system. Such a "voluntary participation" mechanism would presumably align with the federal approach for offset protocols.** It could also be modeled after Alberta's long-standing and effective approach, where voluntary proponents – including business, NGOs and coalitions – submit and support Technical Seed Document (TSD) and protocol development processes.

## ADDITIONALITY[12]

IETA recognizes that significant work and progress has gone into proposed additionality assessment approaches and criteria for both GMs and GQM. However, we believe that critical improvements to the proposed Regulations and Guidance Documents should occur before finalization.

First, to provide positive signals to the market and investors on project eligibility, **an additionality assessment should not be carried out at the project level, if a QM is available**. The fact that a QM is available signals that the project is additional (e.g., similar to Alberta), but we also recognize that additionality assessments under GQM will likely have to occur at the project level.

Second, in order to encourage and maximize mitigation action and investment, **additionality criteria should be more streamlined than currently proposed and primarily based on environmental additionality**. This includes for listed GQM types (i.e., energy efficiency, cogeneration, electrification and methane reductions).

Third, **IETA agrees that legal/regulatory additionality tests should apply to CFS credit creation, but cautions ECCC about using other overly subjective or narrow additionality criteria.**

The proposed Penetration Rate (PR) is a good example of where risks or administrative challenges could easily arise – but also be easily avoided, if ECCC opts to use PR tests during later stages of the market. The proposed PR of 5% or more than five (5) entities, combined with a short crediting period and a required 10% default rate of return, is a one-size fits all approach. This fails to accurately reflect the different hurdles faced by different sectors. It is a narrow scope that can minimize credit creation and under-deliver on the regulations purpose to provide cost-effective compliance options in an effort to invest in real, measurable GHG reductions to support Canada's 2030 and 2050 climate targets. At 5%, ECCC should be mindful of the negative, unintended consequences if applied, including: whether the low PR threshold limits broader application of a QM? And how might this hamper credit generation after 5 years? **We urge ECCC to recognize how a low PR threshold, short crediting periods, and one-size-fits all approach does**

[12] CFR CG1 Pg. 120-121: "For all QMs other than the GQM, additionality would be assessed during the (QM) development at the project type level and would take into account many factors, including whether an action is required by another Canadian law or regulation, technological and financial barriers, and the market penetration rate of the technology or practice. (QMs) would be periodically reviewed for additionality and maintained, modified or withdrawn as (BAU) activities evolve. For (GQM), separate and more streamlined additionality criteria would be developed and assessed at the project level".

**not appropriately reflect basic project financing principles and provides weak market signals. If a PR test is adopted, it should encourage innovation and result in substantial emission reductions.**

The proposed Regulations and Guidance Documents **fail to provide details on financial barrier tests for GQM development** and reviews. This is a notable gap that raises numerous questions, such as: what carbon price should be used? what commodity input price? what capacity factors, availability rates, maintenance costs assumptions, credit rating? **IETA strongly urges ECCC to not use financial additionality (or barrier) as a primary criterion**, but again focus on environmental additionality that demonstrates reduced or avoided future emissions.

Finally, **IETA remains concerned that ECCC continues to characterize additionality the same way the concept is defined across carbon offset systems** (while retaining some of the most problematic and unsuitable components and criteria of carbon offset systems). In reality, the nature of CFS credit creation should be aligned but also different than offset credit creation. Notably, offsets allow credit creation under eligible activities that are not regulated by the carbon pricing mechanism, whereas CFS credits will be generated by obligated and voluntary entities across the affected sector and supply chain.

## CC1 - LIMIT ON CREDIT COMPLIANCE USE, CREDITING PERIOD, CHANGE OF LAW RISK[13] [14]

**Through the 2020 TWG engagement activities, IETA voiced strong concern about placing compliance usage limits on credits created from Compliance Category 1 (CC1).** In the proposed Regulations[15], ECCC notably observes that *"placing these credit limits will reduce the compliance flexibility of the proposed Regulations and…decrease the availability of credits in the market*". In response to stakeholder concerns, ECCC then observes how "*placing a credit limit on this category (CC1) for projects that are undergoing an additionality assessment at the project type level would go against the principal goals of the (CFR), which is to reduce the lifecycle CI of fossil fuels and achieve incremental reductions*", but then moves to propose a credit limit of 10% along with (project level) streamlined additionality criteria. IETA continues to oppose arbitrarily limiting credit usage and potential development, particularly in the liquids fuel streams; **this proposed restriction runs counter to CFR's stated principal goals including maximizing reductions, stimulating investment in innovation and technology, and providing low-cost, flexible compliance.**

**Moreover, we are extremely concerned that ECCC is basing its above assertion – which is *linked to many problematic and complex usage limit/restrictions in the proposed Regulations* – on limited experience of market fundamentals combined with overly optimistic, non-transparent forecasts of CFR credit supply.** This is especially true and worrisome given that ECCC continues to withhold core modeling and data from parties that rely on this information to inform compliance pathways and credit supply-demand forecasts (e.g., LCA Model, PR assessments, etc.).

[13] ECCC Proposed CFR TWG Deck: CC1, Projects and QMs. Ss.14(3): Limit on Credit Use-GQM. Pg. 15. December 2020.
[14] ECCC Q&A Document: Proposed CFR. 19 February 2021. Pg. 6-8
[15] CFR CG1 Pg. 133-134.

IETA notes that, over time, **an action that was originally dealt with under the GQM may fall under a dedicated and specific QM, thereby removing the credit limitation.** To date, ECCC has been unclear about how projects under the GQM (usage limits) would be transitioned to a stand-alone QM (no usage limits). This adds another layer of uncertainty, which is unhelpful to market participants or early action, therefore **IETA requests that ECCC produce objective criteria detailing how a GQM-QM transition will be addressed.**

In sum, **IETA is happy to see that credits created by QMs and GQM can be "created, sold and banked with no limits". However, we strongly urge ECCC to remove the proposed constraint of only 10% limit from GQM-generated credits** for compliance use (noting this 10% limit includes "all liquids, gaseous and solid class credits in accordance with the GQM that are used for compliance"). Failing this, and if ECCC chooses to adopt the proposed use limit on GQM-generated credits, *at a minimum we hope to see limit application only after there is sufficient supply in the market*.

**IETA does not support the proposed Regulations approach to credit period extensions.** Compared to earlier proposal design versions: CCI credits for non-CCS credit period extension are now 10 years; and CC1 credits for CCS are now 20 years (one renewal). Provided eligible activities continue to be additional, CCI crediting periods should not be limited. For instance, consider the latter: ECCC's proposed change from 10 years with unlimited renewals to *now only 20 years with only one (1) renewal for 5 years* would adversely impact the economics of CCUS projects. Major capital projects, like CCUS, require a reasonable economic projection for at least 30 years to be approved by investors. **IETA urgently requests ECCC to allow for guaranteed and extended crediting periods and unlimited renewal opportunities for both non-CCS and CCS projects.**

**We also flag significant concerns with "change of law" risks contained in 31(1) of the proposed Regulations.** The proposed language risks truncating crediting periods, if change of regulation or law occur in project "host" jurisdictions. The chilling effect would bring uncertainty to the credit market and result in credit providers having to put their "faith" in provincial regulators coordinating across the country, in order to successfully avert unintended consequences with the CFR. This could also undercut incentives for further decarbonization in certain provincial jurisdictions.

Finally, we urge ECCC to reconsider its approach to early action. To drive credit supply and investment, **recognition of early action is strongly encouraged – but the window is fleeting**. The current proposal only allows for credits to be generated between CGII and enforcement, which means a small early credit issuance window of approximately six (6) months. Specifically, the CC1 start date has changed from January 2017 to July 2017, because any reductions taking place before July 2017 cannot be attributed to the federal government's CFS regulation announcement. By this logic, ECCC should recognize reductions that have taken place after July 2017. **IETA asks ECCC to extend the early credit issuance period to allow for early action to be appropriately encouraged and incentivized.**

## CREDIT CLEARANCE MECHANISM[16]

As currently proposed, **only liquid credits are allowed to be pledged to the Credit Clearance Mechanism (CCM) but non-liquid credits can only be transacted on the open market**. This approach unfairly restricts some key credit generators from full market participation, while also running of the risk of creating a problematic two-tiered system. What's more, restricting CCM pledges to only liquid credits could further penalize gaseous and solid credit producers thereby leading to stranded assets and credit investments.

To be effective, the CCM should see a sufficient supply of credits and there must be strong investment confidence to essentially act as a clearing house for credit holders while enabling deficit entities to clear their deficits. If insufficient liquid credits are pledged, what avenues could be available for ECCC to broaden eligibility and allow cross-stream limits? Considering there is a credit usage limit of 10% for credits from CI reductions in gaseous and solids, **ECCC should explore allowing gaseous and solids credits to be pledged to the CCM and help build a robust bank of credits**. Failure to do so will limit the amount of credit creation from the gaseous and solid stream as the market will be curtailed by the total annual compliance market less than 10% for gas and solids combined.

**How will ECCC ensure there is sufficient supply to feed into the CCM while not creating an incentive for sellers to hold on to their credits, thereby distorting the market?** Simplifying CFS rules, removing constraints and allowing more compliance flexibility should provide clear signals for credit developers and primary suppliers to invest in credit generation and build the credit bank.

## EMISSIONS REDUCTION FUNDING PROGRAM AND DEFERRAL

As a "final compliance option", Primary Suppliers can meet up to 10% of their compliance by paying into a Compliance Fund, the Emissions Reduction Fund (ERF) Program, priced at $350 per credit in 2022 and indexed to inflation. After this, Primary Suppliers can defer up to 10% of their compliance for up to two (2) years, with a 20% interest charge. Until a previous deferral is satisfied, another deferral cannot be taken. **However, it is unclear what option Primary Suppliers will have even after deferral or if deferral is required for a subsequent compliance period**.

**Deferral should be a "red flag" indication of the CFR credit market not functioning in the manner intended**. It also remains unclear what options are available should compliance not be met after all the flexibility options have been exhausted. Enforcement under CEPA is not a reasonable or acceptable outcome where Primary Suppliers, acting and investing in good faith, are placed in this position due to an overly restrictive CFR compliance design that appears to largely ignore ECCC's own design principles.

**Ultimately, IETA interprets the proposed limitation on ERF use as further amplification of the importance of ensuring the "right markers" are in place to drive a robust CFR market**, capable of

[16] ECCC Q&A Document: Proposed CFR. 19 February 2021. Pg. 6-8

generating necessary credit supply to satisfy compliance requirements by obligated parties. This observation simply strengthens IETA's above-mentioned concerns and recommendations with respect to eliminating proposed design elements that will unnecessarily limit creation potential and compliance use.

**In terms of ERF/P structure, operations and governance**, IETA encourages ECCC to consider having a third-party or Crown Corporation administer the fund and program delivery. Outsourcing will significantly ease resource, staffing and administrative burdens while shoring-up ECCC staff bandwidth for critical CFR implementation, QM development enforcement, stakeholder engagement, etc. Existing compliance fund and program administration models, such as Alberta's TIER fund, should be examined for best practice models in terms of structure, governance, program administration etc. Also similar to TIER and other fund programming and delivery models, the **ERF/P should be technology-agnostic and deploy funding across numerous pathways capable of lowering CI of fossil fuels** that support CFR policy objectives.

## CREDIT STACKING

**There continues to be significant confusion around the potential CFR/OBPS and provincial credit stacking options.** Our interpretation of the draft Regulations is that OBPS "Backstop Jurisdictions" can either generate an OBPS "surplus credit" or CFR credit, but not both. However, recent discussions with ECCC have indicated that federal OBPS credit stacking with the CFR is allowed but only for OBPS surplus credits that are generated by fossil fuel facilities. These discussions have also clarified that CFS credit stacking opportunities with *federal OBPS offsets* are not allowed. Language in the proposed Regulations does not make these program details clear, so we urge ECCC to more explicitly define eligible credit stacking interactions between CFS and OBPS (i.e., surplus credits only, generated by fossil fuel facilities).

Should ECCC finalize regulations to only allow **credit stacking for CFS/OBPS surplus credits (generated by fossil fuel facilities), several concerns and potentially perverse outcomes should be noted.** First, this could create a disparate CFR landscape with "have" and "have not" provinces across OBPS Backstop and non-Backstop Jurisdictions. Second, the different credit stacking opportunities (or lack thereof) will lead to price/market differentials between Backstop and non-Backstop provinces and territories, which will likely trigger very different investment/cost saving regional profiles.

Given the broad confusion related to interactions between federal-provincial crediting programs (and potential transition pathways) under the OBPS and CFR, it would be valuable for ECCC to **host one or multiple stakeholder webinar discussions involving officials from ECCC (CFS-OBPS Carbon Pricing Bureau) and key provincial stakeholders**. In terms of content, core topics for review and interactive discussion could include: clarification on OBPS/CFS (and potentially provincial non-backstop jurisdiction) protocol/QM crediting opportunities; program interactions; transition pathways; and permissible "stacking" or overlap. Ideally, these virtual discussions would occur in early spring 2021 and well before final regulations are published in late-2021. IETA welcomes the opportunity to support the government in convening and/or providing content for these proposed stakeholder discussions.

## CREDIT INVALIDATION AND ENFORCEMENT

**Before finalizing invalidation and replacement rules, we request that ECCC provide a better definition of "enforcement activities" and identify when and where enforcement activities apply.** As proposed, enforcement activities may not be limited to a current compliance year, which suggests potential retroactive suspension or invalidation of credits issued in other compliance years could possibly occur.

## VALIDATION AND VERIFICATION

IETA is troubled by, potentially severe, future administrative and CFS validator and verifier bottlenecks. Across the CFS, OBPS and provincial schemes, there will be a considerable surge in demand for validation and verification activities. Although this creation of high-skilled "green jobs" is certainly welcome and encouraged, **we request clear resourcing, training and action plans to provide business with the confidence that ECCC can adequately allocate resources while managing the growing demand for these vital market and compliance services**. As we have witnessed in other carbon and fuel standard markets, bottlenecks spark poor market conditions and lower confidence and participation. If bottlenecks materialize, both market participants and obligated parties could be significantly affected due to enforcement consequences the CFR has under CEPA.

**We suggest that ECCC look to existing CFS verification accreditation processes and training models used elsewhere, in order to leverage or adapt to a Canadian context.** For example, in California, the Air Resources Board (CARB) accepts applications for accreditation of LCFS verification bodies and individual verifiers, then screens and selects candidates for enrollment in required LCFS verifier accreditation training. This training, currently offered virtually, is managed by third-party groups such as the Climate Action Reserve (CAR)[17]. Details about CARB's LCFS verification approach is available online, and examples of verification training and modules, offered by CAR, are available on the organization's LCFS portal.[18, 19]

**IETA supports proposed Regulations requiring CFS verification site visits, while recognizing the need for flexibility, on a case-by-case basis, due to unanticipated constraints** (e.g., COVID). Conducting site visits to fuel production facilities and feedstock origins is a valuable component of the validation and verification process and limiting this to every five (5) years decreases costs and the burden to reporters. **However, we have concerns regarding the requirement to visit all end-user charging stations or fueling stations**, as these sites could number in the hundreds or thousands and be located throughout Canada. Visiting all sites would be impossible due to costs, logistics and manpower. We therefore recommend that **these types of disaggregated facilities, likely managed by an entity, require site visits to the location of data management (typically a headquarters) and potentially a select few stations**. This verification approach is common for large commercial GHG inventories (e.g., 200 stores worldwide), where physically visiting

[17] Climate Action Reserve. www.climateactionreserve.org
[18] CARB LCFS Verifier Accreditation Training (2020)
[19] CARB LCFS Verification Website

the sites provides little assurance, but understanding the data management system and controls is extremely important.

We are also pleased to see that ECCC is reaching-out to leading certification bodies for CFS verification guidance in Canada, but **we urge the government to broaden its scope of input/guidance to non-Canadian validation and verification institutions/individuals** with deep expertise in carbon and fuel standard markets.

**We urge ECCC to extend the proposal that a "verification body can only be used for five (5) consecutive years".** The supply of likely eligible CFS verification bodies will be quite low, especially during early years of the program. Therefore, limiting the use of one body to only five consecutive years is not only unnecessary and potentially disruptive to market participants/relationships with familiar VBs, but also quite problematic in terms of availability. We do however support the proposed option for participants to have verifications split between eligible verification bodies, should they choose.

Finally, like other existing fuel standard markets (e.g., California LCFS), **we request that ECCC maintain a regularly updated, publicly-available list of accredited validation and verification bodies and individuals**. This has proven to be a critical resource in existing programs, so Primary Suppliers and market participants can easily identify and contact accredited validators and verifiers. Uploaded on 19 February 2021, the latest CARB list of LCFS accredited verification bodies is here and individual verifiers is here.[20]

## LAND USE & BIODIVERSITY (LUB) CRITERIA[21]

With respect to the proposed approach to Land Use and Biodiversity (LUB), IETA has several questions and recommendations for improvement through late-2021.

**IETA requests improved clarity across "attestation" and "certification" requirements.** An "attestation" is a declaration of compliance and not evidence based, where "certification" is an audit-based process. For attestations, we recommend that ECCC consider the US RFS II and the case of fraud (in attestations), where it was found that declarations were not real, resulting in a dramatically negative impact on RIN market prices. ECCC will have to develop clear guidance to test or enforce attestations to reduce fraud risk. In contrast, we **recommend that ECCC lean heavily on existing certification programs** to ensure the risk of fraud is reduced, while instilling credibility and market resilience. Here, ECCC could look at existing certification schemes approved by other low CI markets, such as the EU Renewable Energy Directive.

**With either attestation or certification option, it is important that clear guidance is provided by ECCC on how to verify compliance** and not add additional, unnecessary administrative burdens that will delay

[20] More information is available on CARB LCFS Verification site, or by contacting lcfsverify@arb.ca.gov
[21] ECCC Q&A Document: Proposed CFR. 19 February 2021. Pg. 14

credit creation. ECCC should also be aware of the risk of introducing steps that can increase the risk of invalidation or credits being revoked (e.g., unenforceable requirements).

Under the proposal, verification will start at declaration of LUB compliance unless deemed compliant under recognized national or subnational laws or certification. **As soon as possible, we look forward to seeing ECCC publish a list of feedstocks and regions that "automatically" meet LUB requirements, as well as the suite of guidance related to certification.** Delays to publishing this list will be problematic for program and market participation. We also hope to soon see the suite of accompanying documents and guidance related to certification posted on the ECCC website.

## FUEL LIFE-CYCLE ANALYSIS (LCA) MODEL[22]

**IETA continues to be concerned about the fuel life-cycle analysis (LCA) model development, timeline, lack of transparency and continued non-disclosure despite repeated requests from stakeholders.** According to ECCC, "anticipated launch date of the first version of the Fuel LCA Model is in parallel with the publication of the (final CFR in CGII), expected this fall". ECCC indicated this additional time is required to incorporate model changes "resulting from LCIF review, beta version testing activity and CGI comments". This process remains extremely opaque and "closed-door" with little opportunity for stakeholder feedback, so **we urge ECCC to release underlying assumptions and data sources as soon as possible and however it currently exists today – meaning shortly after close of CGI comment period, and well before late-2021 CGII publication**.

Despite ECCC's intention to create a Stakeholder Technical Advisory Committee (**STAC**) to test LCA model functionality (with feedback post-CGII), **there are no clear avenues for testing/use by the broader TWG or other affected stakeholders, prior to regulations becoming final**. If the release of the LCA is delayed to CGII, those impacted by the regulation cannot confirm biofuel CI nor can they act in a timely manner on essential investment decisions. This is specifically concerning to liquid fuel participants attempting to plan for compliance or validate ECCC's assumptions around credit availability; essentially, a failure to make the tool and data available sooner likely means that these participants will have to stick to default values until CI pathway(s) are approved.[23] Once again, **IETA strongly encourages ECCC to allow for earlier LCA model use and feedback opportunities for TWG and affected CFS stakeholders as soon as possible – and well before late-2021** final regulations' publication date.

**IETA has strong reservations about the requirement for "24 months of operating data" necessary to approve a credit pathway.** The proposed 24-month requirement refers to the period *preceding* the CI application, where less than 3 months of operation data means that default values will be employed. Based on our understanding: if the default value is greater than the reference, the LCA model must be

[22] CG1 CFR: LCA Methodology Document

[23] Low-carbon fuels must reduce CI compared to a reference value. A CI must be approved by ECCC, so we are to expect that Default CIs will be embedded in final regulation (CGII) with any changes requiring an amendment to CFR.

used for CI calculation – but, if the facility has less than 3 months of operation data, the default must be used, meaning that there will be zero credit generation until a pathway is available. If ECCC moves forward with this requirement, we ask that sufficient guidance be made available so producers (with 24-months of operational data) can begin creating credits with an approved CI.

IETA recognizes that a conservative approach to establishing CI pathways would avoid over-estimation and potential cancellation of credits. **We therefore suggest that ECCC consider establishing province-specific CI pathways, or allowing these pathways to be developed by low CI fuel producers** (e.g., recognize methane reduction activities that go beyond regulatory requirements jurisdiction of operation).

Further comments and questions related to LCA model:

- Default values may create little opportunity for foreign feedstock, as it only applies to a limited number of feedstocks. If no default value is available, then new sources of agricultural feedstock produced outside of Canada will not be eligible and limit the supply of feedstocks for low-CI fuels
- Included in the CFR Appendix for "LCA Methodology Document" are pathways for RNG, which **do not recognize reductions from avoided methane emissions**. We ask ECCC hold further consultations with affected stakeholders and experts to determine avoided methane emission factors, as well as primary data requirements.
- We encourage ECCC to **publish a list of approved LCA software** alongside release of the ECCC Fuel LCA model, which we stress should occur prior to CGII.

## REPORTING, RECORDS AND MONITORING PLAN

IETA generally supports the proposed requirements for CFR reporting, records and monitoring plans, including support for: requirement for record-keeping to occur in Canada, and at a location that can be inspected; quarterly credit creation reports, which are beneficial for both Primary Suppliers and the market; and Producers replacing credits in error rather than a "buyer beware" arrangement.

We are concerned about the CFR online reporting system not being launched and available until CGII publication. Similarly, we are concerned about the CFR electronic register not being available until the day after regulation is final. Even use of beta versions of the reporting system and registry would allow participants to better prepare and scale learning curves. We therefore urge ECCC to host a series of "tutorial" webinars with Primary Suppliers and potential VCCs as soon as possible. **We believe that integrating user testing and soliciting feedback, prior to system launch and final regulations, is a fair request and IETA will gladly lend support to ECCC in distributing tutorial material and invitations.**

## REGULATORY IMPACT ANALYSIS STATEMENT (RIAS) AND COST BENEFIT ANALYSIS (CBA)[24]

Accompanying the proposed Regulations is the Regulatory Impact Analysis Statement (RIAS) and Cost Benefit Analysis (CBA), which estimate the societal cost per tonne of the CFS is between $64 and $128 (average estimate of $94). The CBA also estimates that the program will increase gasoline prices by $0.04 to 0.11 cents per litre/Diesel $0.04-0.13/litre[25].

**IETA has concerns regarding major gaps in CBA data and analysis, including the fact that it does not take into account Canada's escalating federal backstop price (reaching $170/tCO$_2$e by 2030) and fails to account for recent COVID-19 impacts.** In simple terms, the anticipated $170/tCO$_2$e (by 2030) backstop carbon price plus the CFS will have cumulative impact effects on Canadian consumers and the economy. From a carbon market and credit cost/value perspective, this concern is wholly linked to uncertainty regarding how future carbon prices will impact CFR credit market (e.g., incent upstream process improvements or downstream blending/fuel switching credit development?). Future CBA analysis should also take into account the impact of reduced liquidity as a result of COVID-19 on market needs.

**Another important gap in the CBA is that it fails to consider methane regulation equivalency, which had not yet been finalized when the impact analysis was conducted.** There exist material differences across Federal and Alberta/Saskatchewan methane regulations which are now all deemed "equivalent". A more thoughtful and detailed analysis should be conducted that accurately reflects Canada's current methane equivalency landscape. Flaring data and assumptions are also problematic, in that modeling assumes flaring is already covered by the federal carbon fuel charge, but Alberta and Saskatchewan have devised large emitter-aggregation strategies that exempt flaring from any price signal.

**IETA also has concerns pertaining to the transparency of the modelling and the CFR's distributional impacts on provinces and territories.** The modelling groups justified this exclusion on the basis that modelling is only on a national-basis. We struggle to see it this way as the policy already rationalizes east and west refinery configuration. Plus, the LCA model and quantification methodology pertaining to electricity and EV credits already take into account P/T perspectives. Once again, our members ask that ECCC be transparent in the P/T impacts that this regulation will have across different sectors.

**Given the narrow window between now and CGII, there leaves very little time** for ECCC to conduct more thorough impact analyses of CFR (addressing above items), but then also for stakeholders to review and provide opportunity on updated assumptions/analyses to inform final regulations.

[24] ECCC Q&A Document: Proposed CFR. 19 February 2021. Pg. 15
[25] CG1 CFR: RIAS, Table 28.

## ADDITIONAL OBSERVATIONS: INTERNATIONAL COOPERATION & ALIGNMENT

While finalizing the proposed Regulations and preparing for future CFS program reviews and modifications, **we urge ECCC to be guided by potential harmonization and linkage opportunities with international fuel standard markets**. The benefits of market expansion and linking are clear: the bigger and broader the market, the wider the range of abatement opportunities, finance and investment interest, technology innovations, and improved efficiencies, resulting in lower program costs and an expanded portfolio of emission reductions and removals.

As with Canada's carbon markets, **we hope to see future expansion of CFS market links and credit fungibility not only within Canada but also beyond our domestic borders**. Where possible and practical, the government should align program crediting rules, processes, reporting and infrastructure across Canadian and other relevant jurisdictions to build broad and effective markets. **Program alignment should also be guided by the principle of achieving compatibility with Internationally Transferred Mitigation Outcomes (ITMOs) and cooperative approaches, as established under Article 6 of the Paris Agreement.**

# CONCLUSION

Once again, we appreciate this important opportunity to record our insights and recommendations on the proposed Regulations. IETA looks forward to additional engagement through 2021 and prior to the publication of final Regulations.

If you have questions or require further information, please contact Katie Sullivan at sullivan@ieta.org.