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Re: TAF's Comments on the Clean Fuel Standard Proposed Regulatory Approach

Introduction

The Atmospheric Fund (TAF) is a regional climate agency that invests in low-carbon solutions for the Greater Toronto and Hamilton Area (GTHA) and helps scale them up for broad implementation. We are experienced leaders and collaborate with stakeholders in the private, public and non-profit sectors who have ideas and opportunities for reducing carbon emissions. Supported by endowment funds, we advance the most promising concepts by investing, providing grants, influencing policies and running programs. We are particularly interested in ideas that offer benefits in addition to carbon reduction such as improving people's health, creating local jobs, boosting urban resiliency, and contributing to a fair society.

We are grateful for the opportunity to contribute our thoughts to the development of the Clean Fuel Standard (CFS). Please note that the views expressed in this submission do not necessarily represent those of the City of Toronto or other GTHA stakeholders.

General Comments

TAF commends Environment and Climate Change Canada (ECCC) for its leadership in developing a Clean Fuel Standard that targets transportation, buildings and industry to achieve 30 million tonnes of emission reductions annually by 2030. ***In light of these objectives, it is essential that policymakers take a holistic approach and understand the synergies and interactions among Canadian climate policies.***

The recent IPCC Special Report on Global Warming[1] sends an unequivocal message about the urgency of addressing climate change. At the same time, recent federal reports[2] project a gap of 66 Mt in reaching Canada's Paris commitment to reduce emissions to 30% below 2005 levels by 2030. The CFS has an important role to play in meeting our 2030 targets, and even more so in supporting deeper reductions to reach Canada's long-term goal to reduce emissions by 80% by 2050. Canada's transportation emissions are expected to decline by 18 Mt from 2016 to 2030 based on the most recent available emissions projections published by ECCC in late 2018. The CFS, among other additional measures that have been proposed but not yet implemented, would represent a further decline in emissions of 14 Mt in 2030, a 13% reduction below 2005 levels, in the transportation sector.[3]

With a view to maximizing the overall effectiveness of the CFS, this submission responds to the 2019 Proposed Regulatory Approach and focuses on recommendations related to accounting for indirect land-use change, credit generators and revenue recycling for electric vehicles, compliance fund(s), the review timeline, and emissions intensive and trade exposed sectors.

Application of the CFS: Guiding Principles

TAF proposes that the CFS should be designed and implemented based on a set of guiding principles that align with CFS objectives to achieve 30Mt of annual greenhouse gas (GHG) reductions by 2030 and foster innovation. These objectives can most effectively be met by establishing a CFS that is:

Ambitious: Supports ambitious action and promotes environmental integrity while accelerating our transition to the low-carbon economy

Competitive: Ensures a market where all low carbon fuels, energy sources, and technologies can compete while driving cost-effective emissions reductions across all relevant sectors

Comprehensive: Includes broad coverage and considers all direct and indirect impacts, triggers emission reductions in all intended sectors

Credible: Uses the best data, holistic analysis, concrete assumptions, and robust methodologies reasonably available to ensure the integrity of the policy

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[1] See https://www.ipcc.ch/sr15/
[2] Progress towards Canada's greenhouse gas emissions reduction target (2018). ECCC. https://www.canada.ca/en/environment-climate-change/services/environmental-indicators/progress-towards-canada-greenhouse-gas-emissions-reduction-target.html
[3] Vrooman, T and Guilbeault, S. Advisory Council on Climate Action. https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/advisory-council-climate-action/acca-final-report.pdf

Straightforward: Is clear to all regulated parties, enhances the likelihood of compliance by avoiding unnecessary complexity, and minimizes administrative burden without compromising policy objectives

Transparent: Is transparent and predictable to build trust and market confidence, encouraging participation and investment. Is regularly reviewed, with findings shared and applied to improve the policy.

These principles should be rigorously applied to the design of the CFS in order to maximize the transformative power of this policy towards a low-carbon economy.

Credit Creation Activities

As outlined in our previous submission, TAF supports the decision to eliminate the credit creation threshold of 10 ktCO2e for emissions reduction projects; doing so will allow the market to deliver a clear price signal to maximize low cost mitigation. We are also supportive of including sustainability criteria in a way that encompasses best practices from approaches in California and the European Union (EU) while ensuring only sustainable feedstocks are creditable under the CFS.

Indirect Land-use Change

TAF applauds the integration of Indirect Land-use Change (ILUC) into sustainability criteria to determine eligibility of biofuels for credit creation. The proposed ILUC criteria would effectively prohibit fuels derived from palm oil from generating credits; this is critical as the balance of evidence suggests palm oil derived fuel has higher lifecycle carbon impacts than conventional fuels. While providing a reasonable short-term means of addressing ILUC, the proposed ILUC sustainability criteria are a crude tool which can only be used to ban credit generation from the least sustainable feedstocks. However, the majority of ILUC impacts expected to be associated with Canada's CFS will come from other feedstocks with less severe ILUC risks. These feedstocks should not be banned from credit creation, but their ILUC impacts should nevertheless be accounted for.

TAF strongly believes that in order to meet the objectives of the CFS and in line with our guiding principles for a comprehensive, competitive and credible CFS, accounting for ILUC should be incorporated into the Fuel Lifecycle Modelling Tool as soon as possible. ILUC accounting is necessary even with sustainability criteria in place. Failure to include ILUC accounting risks undermining the GHG reduction benefits of the CFS. It also risks creating unfair advantages for conventional biofuels. A competitive CFS is one where different fuels and energy sources compete on their merits to meet carbon reduction needs. Without ILUC accounting on all biofuels, it may be difficult for advanced biofuels that have no ILUC impacts to compete with conventional biofuels, creating an unintended disadvantage.

Relatedly, in order to facilitate including ILUC considerations into the Fuel Lifecycle Modelling Tool, ***we would also recommend undertaking rigorous research into Canadian-specific ILUC factors beginning as soon as possible.*** The recent MOU with California illustrates an intention to work together to advance mutual understanding and provides a strong framework for a collective research agenda around important ILUC issues.

Original Equipment Manufacturers as Credit Generators

The CFS has significant potential to increase EV uptake through the inclusion of EV charging in credit generating activities. ***TAF strongly supports the inclusion of EV charging as a credit generating activity and the proposed energy efficiency ratios.*** In order to have the desired impact though, ***it is essential that the approach to credit generation for EV charging be designed in a way that is straightforward and credible, balancing the need to use the best available data while avoiding unnecessary complexity.***

While the proposed two-tiered approach for residential charging credit allocation has the advantage of avoiding the use of estimated data, it raises a number of other questions and concerns, such as:

- How will double counting be avoided in the tiered system?
- How is the necessary data being collected?
- What portion of EV stock has the telematics to generate the information ECCC and others would need?
- What kind of privacy issues could be triggered by using personal vehicle telematics data to generate credit revenues for OEMs?
- How many OEMs, as potential default credit creators, have expressed interest in credit generation activities?
- What portion of EV charging does ECCC believe would be captured through this system?

While it may be tempting to pilot an approach based on real data, this could introduce significant challenges and lead to many missed opportunities. In order to have the desired impact, ***we recommend that ECCC review these concerns to ensure that the approach to credit generation for residential EV charging be designed in a way that is straightforward and credible, balancing the need to use the best available data while avoiding unnecessary complexity.***

Revenue Recycling

In line with our guiding principle for an ambitious CFS, it is essential to ensure that revenues generated from EV charging credits are reinvested into initiatives to further accelerate adoption of Zero Emission Vehicles (ZEVs). Without a reinvestment requirement, there is no market mechanism linking EV credit revenues with further adoption of EVs, and inclusion of EV credits without this will do little to accelerate uptake of low-carbon technologies.

TAF is pleased to see that a reinvestment requirement for residential charging credit creators is being considered, in the range of 50% to 100%. However, it is concerning that, as the text currently appears in the Proposed Regulatory Approach, public charging network operators are not required to reinvest. This will undermine the effectiveness of the policy in accelerating EV adoption.

Recognizing that there are transactional costs associated with participating in the system, ***TAF recommends a 90% reinvestment requirement for all residential charging credit generators.*** This should allow for a reasonable margin of cost-recovery while providing incentives to participate. However, it will be important to ensure additionality and provide clear guidelines for reinvestment activities. Transparency will be key to build trust and market confidence.

Market Flexibility

There are a number of potential concerns related to the compliance funds as currently outlined. Overall, while TAF recognizes the importance of flexibility, funds of this nature carry an element of risk that they may not deliver actual emission reductions. Other compliance flexibility options outlined in the Proposed Regulatory Approach offer guaranteed emission reductions along the fuel lifecycle but allowing for 10% of compliance obligations to be met through payment into funds means there is a level of uncertainty around achieving the necessary reductions. Clarity around the specific price and more information on how ECCC will ensure true additionality will be essential.

Another key issue is around potential inefficiencies in contributing resources to multiple disparate funds. The criteria currently included to determine eligible funds is essential, however meeting these criteria will be very administratively burdensome for those looking to qualify their funds, as will tracking progress to ensure actual emission reductions. There is also a high risk that multiple funds making decisions in isolation will result in one-off projects. ***Without an overarching vision and plan to enhance emission reductions, seek out complementarity, and identify synergies in project implementation and outcomes, there will be substantial missed opportunities.***

Transparency in all aspects of this flexibility mechanism will be integral to its success. Continuous improvement should be built into the design through established milestones and review triggers to increase certainty for government and stakeholders. Continuous evaluation of outcomes against objectives will also be critical.

Review

In future iterations of the CFS, it will be important to clarify the specific intended year of the review. The December 2018 Regulatory Design Paper is explicit that the CFS "will require a five-year review

in 2025," whereas the 2019 Proposed Regulatory Approach simply indicates "the CFS will include a five-year review, with the intention of updating the regulations by 2030." Without clear guidance, it could be (mis)interpreted that a five-year review take place as late as 2027. This would be highly problematic as ***a review in 2027 would not give adequate time, if there are design or implementation challenges, to course-correct and make the necessary changes in time to meet the 2030 targets.***

Relatedly, as part of the review, ***TAF recommends putting a process in place to re-examine the level of ambition around the 30Mt target if the CFS exceeds expectations and participants are able to meet carbon intensity targets while credit prices remain within expected limits.***

While TAF is pleased to see that the review will include an assessment of the treatment of ILUC, ***we suggest that ECCC begin research immediately to prepare for adequate consideration in the review process***, to leave sufficient time for research, consultation, consensus-building among stakeholders and ground-truthing the factors well in advance of the review. Some critics of ILUC have argued against its inclusion as a result of lack of Canadian-specific ILUC factors and lack of consensus around the approach to modelling. While there is strong work to build on in Canada, the US, and the EU, effective modelling could be conducted within a year. In terms of a moderate and comprehensive timeline, ECCC may consider:

- 2020: Initiate procurement for necessary research and modelling, award contract(s) and begin work
- 2020: Convene technical Working Group to support research team
- 2021: Conduct comprehensive review process, pilot projects/ground-truthing
- 2021: Initiate broad multi-year stakeholder engagement process to secure broad buy-in
- 2023: Finalize proposed ILUC approach to be integrated following the 2025 review

If this research is not completed in advance of the 2025 review, the review will not be able to reach a well-informed conclusion regarding inclusion of ILUC accounting.

We also recommend including consideration of aviation fuels in the review process. Recognizing that the specific treatment of aviation fuels under the CFS currently remains to be determined and that biofuels in this sector require additional support and development, regardless it will be important to include in the review to indicate the intended direction and send a market signal to incentivize investment.

Emissions Intensive and Trade Exposed Sectors

TAF recognizes the importance of adequately addressing competitiveness concerns to help ensure a healthy Canadian economy and protect against carbon leakage. However, it is also important to

ensure that the adjustments and considerations to accommodate emissions intensive and trade exposed (EITE) sectors do not impact the overall effectiveness and level of ambition of the CFS. ***There must be a transparent and rigorous process in place to determine which industries are EITE and how legitimate competitiveness concerns should be mitigated, while balancing environmental integrity and the need to achieve 30Mt emission reductions annually by 2030.***

Conclusion

Important design details remain for the CFS. TAF has outlined above recommendations on accounting for ILUC, credit generators and revenue recycling for EVs, compliance fund(s), the review timeline, and EITE sectors to help ensure the CFS is ambitious, competitive, comprehensive, credible, straightforward, and transparent.

We would like to thank ECCC for the opportunity to provide comments on the Proposed Regulatory Approach and would welcome the opportunity for further collaboration to ensure the successful rollout of the CFS.

Sincerely yours,

Bryan Purcell
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