



October 10th, 2022

Melissa Ollevier
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Re ERO # 019-5769 Emission Performance Standards (EPS) Program Regulatory Amendments for the 2023-2030 Period

Dear Ms. Ollevier:

The Industrial Gas Users Association (IGUA) represents large industrial gas users in Ontario and Quebec. Our membership spans multiple industry sectors such as mining, steel, chemicals, pulp and paper and bio-based materials. IGUA members are committed to environmental stewardship and take pride in having lower emissions intensity than many of their exogenous competitors. I am happy to report that all IGUA members are committed to carbon reduction and have active plans for substantive emissions reductions by 2030. Most have also committed to carbon neutrality by 2050.

IGUA supports Ontario Government efforts to provide regulated emitters with greater certainty, clarity, and predictability for the 2023-2030 period. We appreciate the opportunity to comment on the Ministry's proposed amendments to the EPS program. Our comments below represent the consensus of our membership on the proposed amendments..

Executive Summary

These comments are made on behalf of IGUA on the EPS program regulatory amendments for the 2023-2030 period. IGUA is overall supportive of the increased stringency of Ontario's EPS Program to meet the minimum requirements under the Federal benchmark for carbon pollution pricing systems in Canada: 2023-2030 (the "benchmark"). Significant greenhouse gas (GHG) emissions reductions are required to adequately mitigate the impacts of anthropogenic climate change. To meet Canada's targets of reducing GHG emissions by 40-45% by 2030 and achieve net-zero emissions by 2050, the Canadian industrial sector will need to make significant decarbonization efforts.

As the EPS Program is updated for the 2023-2030 period, it is important to maintain the integrity of the regulatory design. Regulated facilities need consistency, stability, and predictability in the program design. A program designed on these pillars will help incentivize reliable and long-term investments in GHG reduction projects.

IGUA has three key comments on the proposed regulatory amendments to the EPS Program. IGUA members emphasize the need for offset credits as a compliance option for regulated emitters.

Integration of offset credits can be done through a provincial offset credit system, or through recognition of offset credits developed in other Canadian programs. Secondly, IGUA emphasizes the importance of a transparent use of proceeds system that returns funds to the emitters for decarbonization investments. Lastly, without offset credits or structured return of revenues, the application of stringency factors on fixed process emissions (FPEs) is concerning to IGUA members. The timing of applying stringency on FPEs is important to be aligned with the proper tools to maintain the price signal and achieve emission reductions more effectively.

There is also a need for the adoption of a Carbon Intensity (CI) Life Cycle Assessment (LCA) model similar to other Canadian jurisdictions. Adoption of the approved LCA models in BC, Alberta, and the Federal Clean Fuel Regulations (CFR) is recommended. This will be important so the carbon intensity of different renewable sources, such as RNG, would be recognized as emitters switch fuels to reduce emissions.

Additional comments on the proposed amendments include carbon capture and utilization treatment, transparent reporting, a flexible permanent storage definition, cogeneration treatment, and carbon leakage evaluations.

Comments on the Proposed Amendments:

- **It is Necessary to have an Offset Program** – IGUA supports the continued use of Emission Performance Units (EPUs) and Excess Emission Units (EEUs) as pathways for compliance. Offset credits have become an advantageous compliance mechanism in other Canadian carbon pricing programs, including Alberta’s Technology Innovation and Emissions Reduction (TIER) program and the newly developed Federal Greenhouse Gas Offset Credit System for the Federal OBPS. In this proposal, offset credits were excluded as a future compliance option. IGUA members highlight the need for this alternative compliance option, whether through the development of an Ontario provincial offset system leveraging the design of existing offset systems or through recognizing existing offset systems and credits across Canada.

IGUA acknowledges the important requirement set by the Federal Benchmark that the sum of compliance obligations within a program must be greater than the projected sum of credits. The impact of offset credits on markets will be assessed against the benchmark considering expected supply and market participant behaviour. Offset credits are a compliance pathway that achieves actual GHG emission reductions. Purchasing and using offset credits in place of purchasing EEUs would thus result in real and additional emission reductions. They would also provide more economic stability to emitters and provide investments and funding into real projects that generate offset credits. More economically feasible compliance pathways allow emitters more financial flexibility to invest in greener technologies and processes within their facilities and reduce emissions at the source as the program becomes more stringent.

Ontario has a number of pathways through which to incorporate offset credits into the EPS Program. The development of an Ontario-based GHG offset system would allow the province to implement the vital cost-containment tool in a way that can filter eligibility based on the

province's predefined criteria. To save money and time, it could build off of the design of existing offset systems. Conversely, other jurisdictions have offset credits that can be leveraged by the EPS Program. The Federal GHG Offset Credit System has language that allows for the use of credits across jurisdictions if the provincial government engages with the opportunity: "Regulated entities in a provincial or territorial carbon pollution pricing system may be able to use federal offset credits to offset GHG emissions, provided that the use of these credits is permitted within the provincial or territorial system, and there is an intergovernmental agreement in place at the operational level stipulating that credits may only be used once". To this end, the EPS program should allow for the recognition of offset credits from other Canadian and North American jurisdictions. As a first step, the EPS program could allow recognized units from Alberta and offset credits in the BC Carbon Registry. Then recognition can extend to offset credits to other Canadian and North America jurisdictions, similar to Alberta offset protocols being recognized in the Federal OBPS. Similarly, the Ontario government should work closely with other jurisdictions to ensure that offset credits created in Ontario are recognized in their carbon pricing programs. Recognition of offset credits from other jurisdictions would allow industrial emitters to comply more easily and efficiently with the regulation, making it easier to meet or exceed GHG emission reduction targets.

The need for more flexible compliance pathways is increasingly important considering the proposed stringency rate schedule, applicable to both fixed process emissions (FPEs) and non-fixed process emissions (non-FPEs). More details on this can be found in the stringency factors section below.

- **Revenue Recycling Should be Included**— IGUA supports the alignment of the EEU price with the federal minimum carbon pricing schedule. However, the proposal is missing details on the use of proceeds generated from the EPS Program. This is a point of concern for IGUA members, and we recommend the inclusion of a use of proceeds program in draft regulations and further details on the allocation of funds. It should also be ensured that the funds go back to regulated emitters.

It is imperative for the province that the proceeds collected from regulated emitters be used to address the decarbonization challenges faced by regulated facilities and to address carbon leakage risks. The majority of a Large Final Emitter's (LFE) compliance payments should be held in individual accounts. At the approval of the Ministry, regulated facilities would then be able to draw from this account for re-investment in decarbonization projects to improve the facility's GHG emissions intensity. The process should be simple and minimize activities that are not value added.

Efficient use of proceeds generated from the program, and specifically the return of funds to regulated emitters, is increasingly important to maintain the innovation of the program as the stringency increases. Further details on the application of stringency rates on both FPEs and non-FPEs can be found in the stringency factors section below.

- Stringency Factors – While IGUA members are supportive of emissions reductions through the EPS Program, there is concern regarding the timing of the application of stringency factors on fixed process emissions (FPEs). We recommend that the timing of this application should align with the implementation of additional methods through which to reduce emissions. These include the use of proceeds (and subsequent increased funding opportunities), the inclusion of offset credits as a compliance mechanism, and the availability of carbon capture technology to leverage the proposed CCUS treatment.

IGUA is supportive of increased stringency in the program to achieve these important GHG emission reduction targets to combat climate change. The timing of applying stringency on FPEs, however, is important to be aligned with the proper tools to maintain the price signal. Without these pathways to achieve emission reductions more effectively, regulated facilities will struggle to reduce emissions sufficiently to keep up with the proposed stringency factors schedule.

Locking in stringency locks in our future, good or bad. Given stringency factors determine exposure to the carbon price, they therefore present the highest risk to carbon leakage. Excessive stringency should be avoided to mitigate carbon leakage. Without understanding the basis for proposed stringencies, IGUA members must trust the MECP assumptions and modelling are fair and representative.

Additional Comments:

- CCU Treatment – IGUA welcomes the recognition of captured CO₂ emissions at a covered facility as GHG emission reductions. While the proposal acknowledges the future inclusion of carbon capture and utilization (CCU), IGUA wants to highlight the importance of including this aspect of GHG emission reductions quickly. This would help incentivize technological advancements in CCUS technologies and encourage uptake.
- Carbon Intensity based on Life Cycle Assessment (LCA) is Critical – All initiatives aimed at achieving substantial reductions in GHG emissions should be accompanied by the establishment of a reference to the carbon intensity (CI). Having the carbon intensity of the renewable energies that would be used by industry to reduce their GHG emissions would allow them to make their energy supply choices based on the real GHG reductions that these energies would allow.

This would have the following main effects:

- Accelerate the decarbonization of industrial processes
- A better interaction with offset mechanisms in Ontario and other jurisdictions
- Easier compliance with federal regulatory obligations, such as the Clean Fuel Regulations (CFR)

For example, renewable natural gas (RNG) will have a different carbon intensity score based on LCA, depending on its mode of production (e.g., land field, manure). Thus, the carbon intensity

of RNG from landfills has a carbon intensity close to (0 gCO₂e/MJ) while for RNG from agricultural projects this carbon intensity would be between (-372 to -151 gCO₂e/MJ). This negative carbon intensity would allow for GHG emissions reductions to be made in a more important and effective way. Thus, IGUA believes that a carbon intensity score should be implemented at an early stage.

The current design of the EPS Program also only allows for the use of RNG to reduce a facility's total emissions if the RNG is combusted on site. The environmental attributes of RNG bought by the facility and combusted off site do not have an impact on compliance obligation. IGUA members support the recognition of environmental attributes against facilities' emissions, given the lack of infrastructure and feasibility of getting RNG on site for combustion.

- Reporting – IGUA is supportive of more frequent and transparent reporting on the key features, outcomes, and impacts of the EPS Program. This data is necessary to understand the carbon market and balance created by the EPS. In addition, future assumptions and modelling should also be shared that illustrate the forecasted credit market tightness and justification for changes in stringency factors. Within this, it is important that sectoral data is sufficiently aggregated to ensure sectors with one or a few facilities maintain confidentiality of their data.
- Carbon Leakage – We ask that the MECP continually evaluate and report on carbon leakage risks in its Public Reporting. This is especially important for industries competing in global markets. IGUA members compete not only globally for market share, but also for investment funding. In contrast to carbon tax, many US states offer various investment incentives, as well as tax credits created under the federal Inflation Recovery Act which are intended to influence the flow of private sector investments.
- Permanent Storage Definition – IGUA also advocates for a broader definition of “permanent storage” of GHG emissions. A broader definition that does not limit the requirement to geological storage would allow more flexibility in storage options (e.g., storage in cement). This would also incentivize research and development into more commercially ready technology and processes for carbon capture and storage.
- Cogeneration – IGUA recognizes the Ministry's effort to provide equitable treatment for electricity generation from fossil fuels and cogeneration. We support the proposed treatment for cogeneration through the use of a combination of Method B (Electricity Generation) and Method C (Thermal Energy). This change clarifies treatment by energy type and removes the inequity in treatment that existed from Method D (Cogeneration). We ask that this change is retroactive to 2022 to allow for a smooth and practical transition from the Federal OPBS.

Sincerely,



Shahrzad Rahbar, PhD, ICD.D