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Clean Fuel Standard Team
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Via email: ec.cfsncp.ec@canada.ca

Re: Clean Fuel Standard development – Land Use, Biodiversity Criteria and Life Cycle Analysis Model

The Canadian Canola Growers Association (CCGA) and the Canola Council of Canada (CCC) have been actively participating in the development of the Clean Fuel Standard (CFS). We appreciate the updates presented to the Technical Working Group via webinar through-out the month of June. The elements of particular interest to the canola industry are the Land Use and Biodiversity (LUB) criteria and the Life Cycle Analysis (LCA) model. These policy components are important to Canada's canola farmers and the entire value chain. In order for canola-based biofuels to have an active role in the CFS, it is critical that the LUB criteria and LCA model recognize canola's sustainable production practices and contributions to reducing greenhouse gas emissions.

Land Use and Biodiversity Criteria

After consideration of the proposed LUB (with the information and understanding we have to date), **we reiterate our view that this policy framework, as it applies to Canadian grain and oilseeds as biofuel feedstocks, is unnecessarily complex, based on contested premises and generally not reflective of the state of modern Canadian agriculture and its environmental and sustainability performance that is respected as being world class by other nations and trading partners.**

As brought to your attention multiple times in 2019 (via written correspondence and bilateral meetings), the canola industry recommends a streamlined, higher-level approach to sustainability criteria.[1] **An aggregated approach to comply with sustainability criteria must be included as one of the options for domestic or foreign feedstocks to be deemed eligible under the CFS.** For example, the U.S. allows open market access for Canada-produced biofuels, subject to the 'aggregate compliance' and the biomass feedstock criteria set out in RFS2. Alignment with our largest trading partner is imperative to maintain/strengthen the integrated nature of our trade relationship and ensure agricultural feedstocks and biofuels can continue to trade freely.

The proposed LUB criteria and mandated documentation / reporting requirements can be viewed as being implicitly anti-biofuel in orientation and will add complexity and burden to those obligated parties who may look to place lower carbon biofuels into the Canadian fuel stream under compliance category II. Furthermore, the nature of the proposed LUB can be viewed as a tacit indictment of modern Canadian agriculture as the application of these criteria to Canadian feedstocks therefore assumes that adverse land

[1] Submission on Clean Fuel Standard – Proposed Regulatory Approach (August 19, 2019)
Submission on Clean Fuel Standard – Credit Allocation of biofuels based on Sustainability (September 12, 2019)

use and biodiversity impacts are taking place in Canada, related to feedstock cultivation and harvesting. That may not be the policy intention, but that is the appearance being projected both nationally and internationally.

As proposed, this LUB approach may in fact create the perverse situation where it is easier for Canadian canola to be used in the production of biofuels for use in foreign countries than domestically. A potential implication of this, in part due to the potential regulatory burden this will introduce, will be the lost opportunity of growing new domestic growth opportunities for farmers and spurring value-added investment and development of the biofuels sector *in Canada*; complementary goals we have been working on for decades.

ECCC must work together with biofuel supply chain stakeholders to ensure that sustainability criteria such as LUB is workable for everyone, from the canola farmer through to the biofuel producer. **It is critical that we find a path forward that meets the intent of ECCC's policy design, with an approach to satisfying the technical LUB criteria that is as understandable, efficient and effective for all parties.**

Below, we offer some perspective on select areas as referenced in the CFS TWG presentation dated June 16, 2020. Given the requested timelines for expeditated turnaround for comment, we were unable to fully investigate and provide detailed responses regarding the implications from our perspective. Furthermore, as gleaned from the presentation and discussion with stakeholders, there are many specifics to be determined and worked out with the mechanics of the LUB which will fall from its final design, therefore we offer the following comments at this time.

1. Criteria For All Feedstock

1.1 Riparian Zones

This LUB element is likely well-intentioned, but we are of the opinion that this will be a very difficult issue to ascertain at the farm level and will require significant streamlining and guidance.

Due to the ephemeral nature of wetlands and their tendency to expand and contract over large distances from year to year and within a season, there is a near certainty that visibly distinct vegetation or a high water mark could exist from previous year that is several metres from the actual border of a wetland. This could lead to areas that are not in fact a wetland, being deemed a wetland. Wetlands are not simply areas that are wet and supporting hydrophytic vegetation. They have specific soil, vegetative, and hydrological characteristics. This needs to be reflected in any government policy on wetlands.

1.2 Protected Areas

For regulatory clarity, and in order to insulate the proposed CFS from challenges related to division of powers, we would strongly recommend the following changes to the wording at slide 15:

- as a protected area under environmental legislation, or
- for the protection of any species designated as endangered as established by Schedule 1 of the *Species at Risk Act,* SC 2002, c 29.

"Rare and vulnerable species" are not defined in Canada's *Species at Risk Act,* and as such should not be held out as a protection goal in the proposed CFS. Additionally, Canada's democratically enacted legislation and regulation cannot be held to the non-legislative machinations of intergovernmental or international organizations. Finally, protecting habitat where a target species is not present is not a conservation practice that is proven to be effective in seeking to ameliorate the condition of said species.

2. Criteria for Crop Based Feedstock

2.1 High-ILUC Risk

We appreciate that the ILUC approach rightly disqualifies certain high-carbon feedstock from eligibility under the CFS. Canadian canola must continue to be recognized for its sustainable production practices and low-ILUC risk.

2.2 Non-eligible Land Expansion

We would like to understand how and why January 1, 2008 was identified as the cut-off / baseline date. Setting arbitrary baseline dates could unfairly disqualify land from eligibility. We also caution about using arbitrary baseline dates in other parts of the regulation such as the LCA model, as it could have the unintended consequence of disqualifying important land management practices such as zero-till, which is key to driving GHG reductions in crop based feedstocks.

The relationship between Canadian farm production and wetlands on private property is dynamic. It is our opinion that the proposed definition of wetland is problematic (as per academic literature and practice). The mere presence of a species is not indicative of suitable habitat, nor an achievable or reasonable protection goal. There is sufficient research available on wetlands to properly build out this protection goal. For example, Stewart and Kantrud's wetland classification system is the accepted standard and should be used. The protection goal should be Stewart and Kantrud's Class 4 and 5 wetlands. Anything ephemeral or non-permanent must be removed from consideration in this policy.

Furthermore, research on buffer strips adjacent to wetlands indicates that the width of the strip beyond 2 metres is not meaningful when seeking to prevent in-field runoff into wetlands. In seeking to prevent runoff into wetlands, we would therefore recommend a buffer strip of no more than 2 metres.

The current definition of grassland could have the unintended consequence of creating a disincentive for cover crops to be planted in a farmer's rotation. For example, forages such as alfalfa and timothy hay are important rotation crops for farmers to manage weed control and soil health / nutrition. These crops are often planted on a rotation cycle that exceed 5 years. Land that incorporates this common (and beneficial) agronomic practice should be eligible to produce feedstock crops.

3. Feedstock Supply Chain – Documentation and Reporting

We reiterate that providing the option for countries to demonstrate aggregate compliance to sustainability (or LUB) criteria must be included in the CFS. Defaulting to mandatory documentation / reporting requirements creates an unnecessary burden for feedstocks (domestic or foreign) that can demonstrate compliance on an aggregate basis.

Requiring feedstock suppliers to document and report compliance to the sustainability criteria is an option for consideration, but it needs to be designed carefully, with the goal of balancing the policy intent with the ease of operationalization in practice.

There are 43,000 independent farmers selling their +/- 20 million tonnes of canola seed annually on the open market delivering to approximately 350 licenced inland grain elevators or one of the 14 crushing and refining plants in Canada. Some of these crush plants will in turn sell canola oil to be used in biofuel production. Potentially requiring specific segregated product supply chains and accompanying paperwork is not an ideal situation for a bulk handling system.

There is an existing industry approach to accessing the European Union biofuel market under the Renewable Energy Directive. Farmers enrol in the export program and undertake a three-step procedure to become certified. Then they can sell their canola to one of three exporting companies that sell into the EU. Farmers may be randomly audited, and the certification is good for only one year.

Individual farmer attestations and declarations that provide a custody of records may offer another approach to participate in the CFS, however, additional details are required on how the attestations would be reviewed and audited. Additional clarity is required on what enforcement or corrective actions would be taken in cases of misstatement or errors and how this would be approached for domestic or foreign feedstock supply chains.

Life Cycle Analysis Model

The LCA model and the carbon intensity (CI) scores for biofuels derived from different feedstocks is fundamental to the efficacy of the CFS. Due to canola's innate ability to sequester carbon from the atmosphere and to trap carbon in the soil via sustainable land management practices such as zero-till, canola-based biofuels can be the most efficient and cost-effective compliance options under the CFS. In order to capture this potential, the LCA model must account for these factors.

Currently, there is no transparency on the LCA model, including what methodologies, factors, assumptions, etc. that are being considered to determine CI scores for biofuels derived from different feedstocks. Visibility on the model and resulting CI scores are needed as early as possible so stakeholders can confirm possible compliance opportunities and begin taking steps (e.g. capacity investments) to capitalize. We submit that launching the LCA model in parallel with the CFS regulation as part of Canada Gazette II (2022) is too late.

While our industry appreciates the need for ECCC to complete quality assessment / control on the LCA model and its data sources before public release, it is imperative that supply chain stakeholders, including feedstock suppliers be included in this process. Allowing feedstock suppliers to be part of the model development process will help ensure important factors like zero-till are properly accounted for and provide needed confidence to our industry that the LCA model is moving in a direction that recognizes canola's low carbon advantage. In this regard, the canola industry requests to be included in ECCC's proposed model testing initiative scheduled for Fall 2020. In the same vein, our industry further requests to be part of the proposed Stakeholder Technical Advisory Committee when it is launched.

Canadian canola is recognized internationally for sustainable production practices. The design of the CFS should avoid adding administrative burden and ensure there are opportunities for our industry to contribute to the goal of reducing GHG emissions. **We recommend that ECCC meaningfully consult interdepartmentally (eg: AAFC), provincially and specifically with agricultural feedstock stakeholders to ensure the CFS reflects sustainable Canadian agricultural practices and its positive effects on land use, biodiversity and GHG reductions.**

Sincerely,

Original signed by

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