

March 28, 2019

Honourable Rod Phillips  
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Dear Hon. Phillips,

In response to the Ontario Ministry of Environment, Conservation, and Park's ("MECP") February 12, 2019 publication of its proposed industrial Emissions Performance Standards ("EPS"), CF Industries Holdings, Inc. ("CF Industries" or "CF"), as the parent company of Terra International (Canada) Inc., respectfully submits the following comments.

CF supports the MECP's efforts to design Ontario's EPS program in a way that will protect the competitiveness of businesses and prevent carbon leakage. CF has organized its submission to provide focused feedback on the following:

- A. CF's Courtright Nitrogen Complex ("Courtright") is an essential part of Ontario's agricultural supply chain and an important contributor to the local Sarnia economy.
- B. Performance standards must respect and acknowledge best-in-class facilities.
- C. Capital investments rely on the government providing a stable regulatory system and competitive cost environment for business.
- D. Program flexibility mechanisms, including tradable compliance units and offsets, are key to protecting Ontario's energy-intensive and trade-exposed sectors.
- E. Policy interaction between Ontario's EPS and other greenhouse gas (GHG) regulations, including the federal Greenhouse Gas Pollution Pricing Act, must continue to be communicated timely and transparently to stakeholders.

CF is committed to working with the MECP throughout the regulatory design process and looks forward to continuing active and productive engagement.

**A. *Fertilizer manufacturing is a unique and important industry that warrants special consideration***

CF's Courtright facility provides a vital service to both Ontario and Canada as a whole: **supporting a robust and sustainable agricultural system by producing vital plant nutrients.** By providing plant nutrients to farmers, we feed the crops that feed the world. We are proud of the role our company plays in fulfilling this challenging and critical mission. A rapidly growing world population and an increase in protein-based diets will drive additional demand for food over the next half century, making the fertilizer sector even more important moving forward.

The Courtright facility produces nitrogen-based fertilizers such as anhydrous ammonia and urea ammonium nitrate (UAN) solution. Canada's farmers rely on CF's nitrogen fertilizer products to help ensure robust crop yields year after year. In 2018 alone, almost 100,000 tons of fertilizer produced at Courtright was used by farmers in Canada. Having a local producer of nitrogen fertilizer boosts food security by ensuring just-in-time delivery of product during the critical farm application periods in the spring and fall.

For 50 years, the Courtright facility has been a strong presence in the greater Sarnia community. We currently employ a full-time staff of approximately 200 employees and 40 contract workers, engage over 200 local vendors, and contribute extensively to local charitable initiatives. In 2018, CF Courtright paid approximately \$5.3 million in federal, provincial, and municipal taxes.

In addition to being a vital part of Ontario's economy and food system, the Courtright facility is among the **world's most energy-efficient fertilizer plants and is the only nitrogen manufacturing complex in Ontario.**

**B. *The MECP must ensure that the performance standards for CF's Courtright facility will acknowledge, and not punish, its status as Canada's most-efficient fertilizer plant with respect to GHG emissions.***

The MECP must design the EPS in a way that delivers on Ontario's objective to **create a policy that rewards best-in-class facilities** and balances the economic impacts of emission reduction targets.

As the most energy-efficient fertilizer plant in Canada, CF's Courtright facility has been a pioneer in sustainability, taking early action to invest in advanced technologies. A few examples include:

- Utilizing Ontario's low-emission electricity rather than fossil fuels to power certain aspects of Courtright's production processes;
- Capturing 33% of process CO<sub>2</sub> for use in the urea manufacturing process, plus an additional 11% of process CO<sub>2</sub> emissions captured and sold to third parties for various commercial use.

CF understands that the MECP is currently proposing to set performance standards for Courtright based on the facility's historical emissions level. On a Canada-wide, sector-level stage, **CF Courtright is a best-in-class facility that substantially outperforms other facilities in the same industry. Benchmarking the Courtright facility against its historical emissions would punish the facility as an early mover in emission reduction technology adoption.**

CF does not sell their products exclusively in Ontario. CF competes in the national and international markets. CF is grateful that the MECP has rightfully provided separate stringency factors for high-leakage risk industries. However, as it is currently designed, Ontario's EPS system would put the Courtright facility **at a competitive disadvantage compared to other Canadian fertilizer facilities operating outside of Ontario.**

That would contravene Ontario's goal of reducing carbon leakage and rewarding best-in-class facilities. CF is further aware that the MECP may consider nation- and sector-wide approaches for determining emissions intensity calculations. As a stand-alone facility with no Ontario competitors, these methods provide a much more appropriate and accurate assessment of Courtright's performance. **CF strongly urges Ontario to expand fertilizer sector emissions intensity calculations beyond provincial borders, considering all facilities in Canada.**

CF understands that determining emissions intensity calculation methodologies and setting product benchmarks can be administratively burdensome. **The MECP could minimize this burden by leveraging existing emission intensity work completed under Environment and Climate Change Canada's ("ECCC") Output-Based Pricing System ("OBPS").**

The federally proposed Output-Based Standards ("OBS") are publicly available under Schedule 1 of the proposed OBPS regulations<sup>1</sup>, and are functionally similar to the performance standards set under Ontario's proposed EPS. To align federal OBS with the EPS performance standards, the MECP would need to make very limited adjustments. CF welcomes and actively invites the opportunity to have transparent and candid discussions with the MECP on how best to facilitate and expedite such considerations.

As the MECP is aware, CF and the Courtright facility have made substantial strides to reduce GHG emissions over time, but there are technological limits in per-unit emission reduction capabilities. As outlined earlier in our comments, **CF's Courtright facility is among the world's most energy-efficient fertilizer plants** and is the only nitrogen manufacturing complex in Ontario. Our production of anhydrous ammonia—the building block of all nitrogen products—relies on the century-old Haber-Bosch process that requires natural gas as both a fuel source and a feedstock. Due to thermodynamic limits of this mature and proven process, and Courtright's historical efforts to apply best-in-class technology, additional efficiency measures are simply not

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<sup>1</sup> Environment and Climate Change Canada (2019) "Regulatory proposal for the Output-Based Pricing System Regulations under the Greenhouse Gas Pollution Pricing Act", Available at: <https://www.canada.ca/en/environment-climate-change/services/climate-change/pricing-pollution-how-it-will-work/output-based-pricing-system/complete-text-for-proposal-regulations.html>

feasible. As such, CF is **pleased that the MECP has appropriately determined that fixed process emissions** should be considered separately and are granted a 100% stringency factor.

**C. Growing and sustaining business investment is threatened in jurisdictions with regulatory instability and higher costs of operation.**

The increased costs that CF could face as a result of Ontario's carbon pricing system **threaten not only Courtright's competitiveness, but also Ontario's business investment climate.** Currently CF is investing circa CAD\$100 million to increase urea production capacity at the Courtright facility, which will in turn consume an additional 100,000 tons of process CO<sub>2</sub>. The decision to make that investment was based, in part, on the government's plan to rescind the cap-and-trade program and replace it with a fair and reasonable alternative. Obviously, no company is likely to make growth-related investments in a jurisdiction in which production costs are higher than those in other jurisdictions due to differing regulatory regimes.<sup>2</sup> Antweiler et al. found that even brief periods of differentiation in domestic regulatory programs can prevent investments by foreign competitors.<sup>3</sup> CF therefore urges the MECP to be mindful of the impact proposed regulations could have on the province's investment climate.

**D. The MECP should maintain and strengthen compliance flexibility, including compliance unit trading and offset usage without limits.**

One of the MECP's primary goals with the EPS regulation is to avoid carbon leakage. Leakage is a serious risk to the effectiveness of a GHG emission reduction policy. If companies choose to shift their activities to unregulated and cheaper carbon-priced regions, instead of facing the costs of continuing to operate in Ontario, the policy fails at its fundamental goal of reducing GHG emissions.

**CF supports the MECP's intention to design an industry performance-based, carbon pricing system that is customized, fair, and cost-effective.** Maximizing compliance flexibility—such as allowing the use of offsets, performance credits or early action credits **without usage or banking limits**— and linking to established carbon markets are proven examples of policy mechanisms that mitigate cost burdens and incentivize emission reductions.

**E. The MECP must carefully consider how the EPS works in concert with other regulations, including the federal OBPS.**

In our previous comments on Ontario's Environment Plan ("Plan"), CF outlined the need to carefully consider the compound effects of regulatory costs. For example, Courtright will be impacted by the Clean Fuel Standard through rising input fuel costs. The cumulative impact of

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<sup>2</sup> Hourcade, J., Demailly, D., Neuhoff, K., and Sato, M. (2007), *Climate Strategies Report: Differentiation and Dynamics of EU ETS Industrial Competitiveness Impacts*. Available at: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.384.2925&rep=rep1&type=pdf>.

<sup>3</sup> Antweiler W., B.R. Copeland, and M.S. Taylor (2001), "Is Free Trade Good for the Environment?" *American Economic Review* 91(4): 877-908. Available at: <https://www.aeaweb.org/articles.php?doi=10.1257/aer.91.4.877>.

regulations and climate objectives, provincially and federally, must not compound competitiveness impacts to local businesses. Remedies for addressing this overlap should be clearly provided for in the Plan. Additionally, CF again urges the MECP to work alongside ECCC to resolve uncertainty around interplay between the OBPS and EPS. As a company that is actively considering investing further in Ontario business, regulatory certainty is paramount.

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CF is grateful for the opportunity to provide feedback on the MECP’s industrial emissions performance standards. Transparent, frequent, and timely engagement with industry stakeholders like CF is vital for Ontario to achieve their emissions reduction goals.

Several key components of the EPS design—including granting a 100% stringency factor for fixed process emission—are important first steps to achieving Ontario’s goal of creating a pragmatic, progressive, and balanced climate approach that also protects the sustainability and competitiveness of Ontario jobs and businesses. Other components, such as the ability to trade compliance units or use offsets, should be bolstered without restriction.

It is most vital, however, that Ontario design the performance standards for the Courtright facility using, at minimum, Canada-wide emissions intensity factors, to avoid punishing Courtright for having the lowest GHG profile or any Canadian facility. CF urges Ontario to utilize our proposed adjustments for our sector so the Courtright facility is regulated in an accurate, consistent and appropriate manner.

CF Industries invites and encourages the MECP to reach out to directly discuss the comments in this letter. If you have any questions, please do not hesitate to contact Rosemary O’Brien, Vice President, Public Affairs, at 202-371-9279 or by email at [robrien@cfindustries.com](mailto:robrien@cfindustries.com).

Respectfully submitted,

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