

March 27, 2020

The Honourable Seamus O'Regan, P.C., M.P.
House of Commons
Ottawa, Ontario K1A 0A6
(via e-mail:)

Dear Minister:

Re: COVID-19 Crisis Response – Actions required regarding Federal Policy and Regulations

On behalf of the Canadian Association of Petroleum Producers (CAPP) and our member companies, we would like to acknowledge the hard work and difficult choices that the federal government and governments across Canada are taking to protect the health and safety of Canadians. The depth of the impacts of the COVID-19 pandemic are profound. We would also like to thank you for meeting with CAPP and our members on March 19 and 26 and for agreeing to initiate a *COVID-19 Market Crisis Joint Working Group*. The openness to dialogue you and colleagues in cabinet have shown since the beginning of this crisis has been greatly appreciated. CAPP and our members see effective collaboration between industry and government as critical to managing the impacts of this crisis – protecting public safety, keeping industry active, maintaining jobs, and ensuring continuity of the essential services provided by our industry. We also welcome the coordination we see between the Government of Canada and the provinces and territories on broader economic recovery measures.

The crisis brought on by COVID 19 pandemic will cause hardship for many Canadians, including the hundreds of thousands employed in the upstream oil and gas industry and its associated value and supply chain. Canada's energy sector is currently facing unprecedented fiscal challenges resulting from a collapse in energy demand – stemming from the pandemic – and a surplus of supply driven by OPEC country actions. As a result, companies have been forced to cut capital expenditures by close to \$6 billion in the last few weeks alone. Despite the hardships, our sector's short term objective is to sustain its operations in order to continue to provide an essential service to Canadians. In the longer term our objective is to be a major part of Canada's economic recovery after the acute phase of COVID 19 management has passed.

Consistent with direction provided by federal and provincial health officials, the energy sector's response to the COVID 19 crisis includes minimizing person-to-person contact and establishing

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social distancing. To effectively implement these practices, CAPP's member companies have eliminated any non-essential activities and personnel at their operational facilities in order to focus on those critical activities required to maintain the safe operation of these essential services and protect the health and safety of its workers. As a result of these measures, there are a number of existing regulatory requirements for which compliance will be a challenge within existing timelines.

As industry and government continue to collaborate on COVID 19 crisis response, we now raise that the adoption by government of a flexible approach to compliance for certain low risk regulatory requirements is critical at this time.

In addition to the flexibility in existing regulations, CAPP also recommends that, during this time of crisis, governments adopt a *do no harm principle* with respect to regulations and the costs they impose on industry. This principle will also be crucial in the longer term in planning for economic recovery. Through our *Joint Working Group*, CAPP hopes to continue working with the government of Canada to streamline regulations and to identify other actions that can improve the regulatory environment and support economic recovery.

To address the near term regulatory challenges CAPP members have identified, recommendations have been developed and organized by the following categories:

- Defer, suspend, or waive near-term, low-risk regulatory obligations in support of the public health response, and
- Defer the development or implementation of policy and regulations that are important but require additional resources or meaningful consultation in order to be completed effectively; and
- Defer implementation or make amendments to policy and regulations to support recovery from the economic crisis.

The current list of recommendations for each category is provided in **Annex 1**.

Be assured that CAPP's member companies are taking appropriate and responsible measures to ensure workers remain safe in the face of the COVID-19 crisis. At the same time, our members are looking for certainty that these actions will not result in unintended regulatory consequences and that there will be a suitable deferral of any government engagement on the of development of new regulations while members focus attention on safely providing an essential service and recovering from this crisis.

Thank you for your decisive actions to date and for the opportunity to work collectively as we navigate the path to mitigate the impacts of this crisis together.

Sincerely

A handwritten signature in blue ink, appearing to read "Tim McMillan". The signature is fluid and cursive, with the first name "Tim" written in a larger, more prominent style than the last name "McMillan".

Tim McMillan
President and CEO

C.c.

Hon. Chrystia Freeland - Deputy Prime Minister and Minister of Intergovernmental Affairs
Hon. Bill Morneau - Minister of Finance
Hon. Jean-Yves Duclos - President of the Treasury Board
Hon. Navdeep Bains - Minister of Innovation, Science and Industry
Hon. Bernadette Jordan - Minister of Fisheries, Oceans and the Canadian Coast Guard
Hon. Jonathan Wilkinson - Minister of Environment and Climate Change
Hon. Marc Garneau - Minister of Transport

Annex 1: Recommendations for Short Term Actions Related to Federal Policy and Regulatory Requirements

Table 1 - Defer, suspend, or waive near-term, low-risk regulatory obligations in support of the public health response

Regulation / Policy / Directive	Agency	Aspect	Issue / Justification	Recommendation
CER Act	CER	Audits and Screenings	CER management system audits and screenings take substantive resources and time and require individuals that currently need to be focused on operations and safety while functioning under the current conditions.	Low risk and routine should be set aside.
ECCC Greenhouse Gas (GHG) Reporting Program	ECCC	All	Federal Greenhouse Gas Reporting due June 1, 2020.	Extend reporting deadline to August 31, 2020
ECCC Methane Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds	ECCC	Registration	Facility registration is due April 30, 2020	Defer registration by 6 months.
ECCC Methane Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds	ECCC	Compressor testing	Compressor tests often require third-party visits to sites and significant travel of inspection teams. Compressors may also require multiple visits in order to modify the piping to facilitate testing.	Extend the compressor testing deadline by at least 6 months.

<p>ECCC Methane Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds</p>	<p>ECCC</p>	<p>Gas-oil ratio testing</p>	<p>Determining gas-oil-ratio in accordance with federal regulation requires up to 72hr duration tests; for some facilities this test must be completed monthly. This requires 3rd party site access, significant travel, and presents a significant exposure risk.</p>	<p>Waive federal gas-oil-ratio testing requirements for 2020 and allow operators to rely on their most recent provincial gas-oil-ratio test results.</p>
<p>ECCC Methane Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds</p>	<p>ECCC</p>	<p>Surveys - LDAR</p>	<p>Fugitive LDAR surveys require third party contractors to travel to site. Site access is presently being limited to essential staff. Upstream assets may not be able to meet deadline to complete multiple LDAR survey and subsequent repairs due to COVID-19 pandemic. If the assets are unable to complete a first survey in March/April, it will impact their ability to complete 3 surveys in 2020. If the COVID-19 crisis continues into the summer, it may become impossible to complete two surveys in 2020 and maintain regulatory repair timelines. If sites shutdown operations for prolonged period of time, the upstream assets may not be able to perform even one LDAR survey and repair in 2020.</p> <p>No public safety risk is anticipated from not completing surveys.</p>	<p>Remove requirement to complete first LDAR survey by April 30, 2020. Waive the requirement for LDAR surveys for the duration of the COVID-19 crisis and reduce the total number of LDAR surveys required for 2020 in alignment with the duration of the crisis.</p>
<p>Fisheries Act</p>	<p>DFO</p>	<p>Monitoring Activity</p>	<p>Site visits required to complete monitoring program which are not possible with COVID-19 response measures.</p>	<p>Defer monitoring for 2020 with no impact to long term program integrity.</p>

Fisheries Act	DFO	Reporting Activity	Reporting requirements for approvals needs to be amended to focus on necessary components during the health crisis.	Reporting be required only for incidents that harm human health and result in adverse and irreversible harm to the environment. Sampling requirements are reduced to include only those samples necessary to ensure safe plant operations, protection against long term adverse environmental effects, and/or worker health. All other reportable events will be recorded by operators and reported to DFO within 60 days at the end of the emergency health crisis. An extension for all deadlines for submission of non-emergency regulatory documents, including compliance reporting plans, research reporting and demonstrations.
Fisheries Act	DFO	Audits and Inspections	There is limited capacity to manage and fulfill low risk regulatory audits and inspections. Staff is focused on critical and essential work to maintain safe and reliable operations.	Defer low risk inspections and audits.
Indian Oil and Gas Act	IOGC	Field Audits	Site visits required to complete field audit are not possible with COVID-19 response measures.	Defer 2020 field audit program.
Lobbying Act	OoC	Filing deadlines	Given the strain on resources during the COVID-19 event, some reporting requirements should be delayed. In addition, more engagement with Governments will be required to respond to crisis which require additional events being reported during this time.	Suspend the filing requirements to July 31, 2020.

Migratory Bird Act	ECCC	Monitoring Activity	Oil Sands Bird Monitoring is typically required by contractors outside of Alberta.	Defer monitoring for 2020 with no impact to long term program integrity.
Multi-Sector Air Pollutant Regulations	ECCC	Stack testing	MSAPR requirements for "boilers and heaters" and "engines" contain numerous and varied timelines for stack tests; according to current regulation much of this work will need to be done during the nation's COVID response. Additionally, operators are required to "group" their engines by October 31, 2020 – additional testing will be required to determine those groupings. This work is not essential for site safety and work is often conducted by 3rd parties. This work cannot be completed at this time, or in the foreseeable future, so flexibility will be necessary for all MSAPR stack-testing deadlines.	Request that all stack testing deadlines related to the Multi-sector Air Pollutant Regulations are delayed until COVID-19 response allows non-essential workers and contractors to return to on site work.
National Pollutant Release Inventory (NPRI)	ECCC	Reporting - Air/Water	Requirements to work from home have reduced operators' computing capacity making calculations and data uploading more difficult. Also reports require site-level data collection, which is not an essential service at the moment. The quality of the various report data will not be sacrificed if the reporting deadline is pushed back for 2020.	Defer reporting deadlines for NPRI to August 31, 2020
TDG Regulations, Part 3	Transport Canada	Documentation	As per the TDG Regulations, only paper copies, with signature, of Dangerous Goods shipping documents are currently allowed. Due to the current COVID-19 pandemic, producers have	Electronic signatures and documentation be allowed, instead of paper copies (as required per Part 3 Documentation).

			<p>experienced work refusals from staff who are concerned with exposure from close contact and handling of paperwork.</p> <p>Multiple options are available to reduce the risk, including the use of electronic signatures and documentation.</p>	
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Table 2 - Defer the development or implementation of policy and regulations that are important but require additional resources or meaningful consultation in order to be completed effectively

Regulation / Policy / Directive	Agency	Aspect	Issue / Justification	Recommendation
CER Cost Recovery Requirements	CER	Cost Recovery	CER seeking feedback on the design of the framework for the CER's regulation for cost recovery.	Postpone development until time which effective consultation is possible. Industry review of any framework presented by CER will be necessary.
Canada Gazette Publications	All	Consultations	Recognize and support that the federal government has advised on the Canada Gazette "that given the current situation with the coronavirus (COVID-19), until further notice, only urgent notices will be published in the Canada Gazette." Provided that this action is a postponement of publications only and not a by-pass of the publication and consultation stages, this action will ease the burden on both government and industry resources.	Clarify/ensure that this action is a postponement of publications only and not a by-pass of the publication and consultation stages.

Canadian Environmental Protection Act Reform	ECCC	All	The government of Canada is working on changes to CEPA to better protect people and the environment from toxins and other pollution.	Postpone the development and consideration of any changes to the CEPA legislation until proper consultation is possible.
ECCC Methane Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds	ECCC	Regulatory certainty, dual burden	There is still regulatory duplication between provinces and the federal government for 2020 for methane requirements.	Complete methane equivalency agreements with provinces immediately or defer implementation of federal methane regulations for one year.
Introduction of Additional Measures to Achieve GHG Reductions and Net Zero by 2050.	ECCC	TBD	The Government of Canada has targeted exceeding the 30% reduction of GHG emissions by 2030 and plans to implement additional measures to achieve this. COVID-19 will have significant implications on emissions and the economy. Exciting measures should be evaluated before additional measures are considered.	Postpone the development and consideration of any additional measures related to climate to support the do no harm principle.
Migratory Birds Act Regulation	ECCC	All	ECCC has proposed changes to the Migratory Birds Act Regulation. If implemented now may introduce new field monitoring requirements and/or introduce project delays	Postpone the final approval of this regulation until complete assessment of impacts to industry has been undertaken, and modifications made where necessary
Rail Tank Car Timelines	Transport Canada	Affirm Timelines	There is continued pressure from Transport Canada to accelerate rail tank car timelines from the current 2025 timeline.	Transport Canada should accept the recommendations submitted via a multi-industry committee for Transport Canada to affirm current timelines to 2025 (i.e. not accelerate timelines) for tank car phase out/retrofit, particularly in light of external constraints.

Sector Based Legislation on Emission reductions - Legally binding 5-year emission reduction milestones.	ECCC	TBD	The Government of Canada has proposed legislated targets to achieve greenhouse gas emissions reductions. Effective Consultation will not be possible given the current conditions.	Postpone the development and consideration of any additional measures related to climate to support the do no harm principle and until effective consultation is possible.
Strategic Assessment of Climate Change	ECCC	All	The Government of Canada has had the SACC under development for the past few years without finalization. Adequate consultation will not be possible for final stages of this piece of work.	Postpone the final development of the SACC until proper consultation is possible.
TDG Client Identification Database (CID)	Transport Canada	Data Collection	<p>Transport Canada has been criticized for not knowing all of the consignors, carriers and consignees that are involved in transporting dangerous goods in Canada. In response, Transport Canada is working on the development of a Client Identification Database (CID) to identify those organizations who handle, offer for transport, transport and import (HOTI) dangerous goods in Canada.</p> <p>The additional information that will be collected via the CID is burdensome and provides limited value, besides an organization's contact details with respect for TDG. Transport Canada already collects information on the oil and gas industry via multiple programs. However, this information is not shared, even within Transport Canada.</p>	<p>Transport Canada review and revise their approach in collecting oil and gas industry data.</p> <p>Pause on the current policy approach and review the current databases that are available federally and provincially to minimize duplication;</p> <p>Revise the basic information needs of the CID program, including a risk-based approach to which sites/activities/dangerous goods need or should be registered;</p> <p>Conduct a business case for the proposed regulatory change; and</p> <p>Ensure an adequate phase in time for registration, based upon the current economic climate.</p>
TDG Rail Security Regulations	Transport Canada	Extend Implement	The TDG Rail Security Regulations, for rail loaders,	The implementation and enforcement of the TDG Rail Security Regulations be

		ation Timelines	are scheduled to be enforced on May 6, 2020.	extended further out from May 6, 2020 for rail loaders.
TDG Regulations, Part 6	Transp ort Canada	Training & Certificatio ns	<p>Transport Canada is currently in the process of updating the requirements in Part 6 Training of the TDG Regulations.</p> <p>The update to part 6 Training involves the development of a CAN/CGSB 192.3 TDG Training & Competency Standard (CGSB Standard). This CGSB Standard is currently for ballot, and is expected to be approved in May 2020.</p> <p>The new CGSB standard will require additional training and a new competency verification component that will add additional costs to industry.</p> <p>The CGSB Standard will be referenced in the next update to Part 6 of the TDGR.</p>	<p>The requirements in Part 6 of the TDG regulation have been in effect for over 20 years.</p> <p>Transport Canada should allow for extensions of the current training certificates that expire in 2020 (as certificates are currently valid for only 2 years).</p> <p>Transport Canada should also review their approach to the revision of Part 6, as the majority of training is already captured under the jurisdictional occupational health & safety regulators.</p> <p>A business case of the proposed regulatory change to Part 6 is needed.</p>
UNDRIP	Justice Canada	All	<p>UNDRIP legislation planned to be introduced during a period where effective consultation will not be possible.</p>	<p>Defer introduction of UNDRIP legislation. Resume when it is possible to conduct meaningful consultation. To ensure alignment with the do no harm principle there will need to be fulsome understanding of how some key components of UNDRIP will work with economic recovery of Canada.</p>

Table 3 - Defer implementation or make amendments to policy and regulations to support recovery from the economic crisis

Regulation / Policy / Directive	Agency	Aspect	Issue / Justification	Recommendation
Federal Clean Fuel Standards (CFS)	ECCC	Clean Fuel Standards	The Government of Canada has proposed the CFS as a means to achieve 30 megatonnes of greenhouse gas emissions reductions. This policy will impose significant costs on industry and the public when it is implemented and there substantive overlap with provincial and other federal regulatory tools. In addition, consultation will not be able to undertaken effectively.	Halt development of regulation until consultation can be undertaken. Postpone the implementation of the CFS for 3 years (i.e. effective date of the CFS regulation from 2022 to 2025 for the liquid stream and from 2023 to 2026 for the gaseous stream).
Green House Gas Pollution Pricing Act	FIN	Carbon Price	The Carbon Price is set to increase to \$40 in 2021 and \$50 in 2022. This will further increase costs to industry and the public and force provinces to increase cost if looking to maintain equivalency.	Hold Carbon Price at \$30/tonne CO ₂ e until economic recovery is underway. Consistent with the do no harm principle and will ensure provincial equivalency does not require change.
Offshore Rig Intake	CNSOPB and C-NLOPB (offshore Boards)	Process certainty for rig intake	Clear process to reduce the timeline and regulatory approval process required to bring a foreign flagged Marine Installation or Structure into Canada and obtain regulatory approval from the appropriate offshore Board.	CAPP recommends the offshore Boards in consultation with industry develop a clear and timely process for rig intake offshore east coast Canada.
Regulations Designating Physical Activities	ECCC	Offshore Exploration Drilling	Exploration drilling does not belong on the Designated Projects List. This activity is routine, of limited duration and occur multiple times each year. The risks and proven	CAPP recommends that exploration drilling be removed as a Designated Project from the Regulations Designating Physical Activities.

			mitigations are well understood.	
Regulations Designating Physical Activities	ECCC	In Situ Oil Sands	In situ oil sands do not belong on the Designated Project List. Provincial legislation and regulations are already in place to assess in situ projects that produce greater than 2,000 m ³ /day of bitumen. Provincial regulatory bodies have extensive experience in assessing and regulating in situ oil sands projects.	CAPP recommends that in situ oil sands be removed as a Designated Project from the Regulations Designating Physical Activities.