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# CLEAN FUEL STANDARD LAND USE AND BIODIVERSITY CRITERIA UPDATES TO PROPOSED APPROACH

Stakeholder Meeting  
September 14, 2020



Canada 

# PURPOSE

- Provide update on proposed changes to the CFS land use and biodiversity criteria under consideration following consultations this summer
- Seek initial feedback on proposal

# CFS LAND USE AND BIODIVERSITY CRITERIA - OBJECTIVES

- Ensure financial incentives created by CFS do not result in loss of biodiversity from biofuel feedstock cultivation and harvesting
- Provide clear, objective criteria that are applicable to feedstocks sourced both domestically and globally
- Minimize administrative burden on biofuel feedstock suppliers



# 1. PROTECTED AREAS



# PROTECTED AREAS

- June 2020 proposal: Feedstocks must not be harvested from land in an area that has been, at any time, on or after January 1, 2008 designated as a protected area under environmental legislation or by a competent authority, or for the protection of any rare, vulnerable or threatened species or their habitats or of vulnerable ecosystems as recognized by an international agreement, or an intergovernmental or international organization

## Comments received

- Concern about deferring to international organization assignments for protected areas and species if they are not also recognized nationally or sub-nationally
- Concerns about not having safeguards if economic pressures overcome environmental concerns in specific contexts and regions

# PROTECTED AREAS UPDATED PROPOSAL

- Prevent credit creation in protected areas designated by
  - a) sub-national and national laws, and
  - b) international agreements that are ratified by the country of feedstock origin

## Considerations:

- Maintains high level of protection: countries must abide by their national and sub-national regulations on protected zones, and recognize protected zones from the list of international agreements the country has ratified
- Does not provide a safeguard if economic pressures overcome environmental concerns in specific regions, and will allow CFS feedstock to come from these areas



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# 2. LOW LAND USE CONCERN FEEDSTOCK



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# LOW LAND USE CONCERN FEEDSTOCK

- Exempted “Type 2” feedstocks are those with low concern of land use impacts, low correlation between demand and supply of the feedstock, and difficulty of tracking back to the point of harvest origin
  - Examples include landfill materials from residential and commercial operations, used animal bedding and litter, used construction material
- Type 2 feedstocks are not required to comply with the LUB criteria, but tracking is required if used to create biofuel for CFS purposes
  - through declarations and material balancing accounting
- June 2020 proposal: Agriculture and forest residues, including primary and secondary forest residues, are not Type 2 feedstocks, and the LUB criteria would apply to them
  - Examples include husk, stover, straw, small trees, branches, tops and un-merchantable wood left in the forest and secondary (processing) residues from forest-based industries such as bark, sawmill slabs, saw dust, wood chips



# LOW LAND USE CONCERN FEEDSTOCK – COMMENTS RECEIVED

- Exempt more types of waste and residue, including forest and agriculture residue
- Exempt sawmill and pulp and paper residue
- Exempt forest residue harvested due to exceptional events (e.g. forest fires, infestations) and unexpected supply including feedstock from poor harvest years

# LOW LAND USE CONCERN FEEDSTOCK – UPDATED PROPOSAL

1. Exempt feedstock from forest operation and activities not related to harvesting, such as infrastructure installation, fire prevention and protection, pest and disease control, road maintenance
2. Exempt secondary forest residues, such as sawmill residues and pulp and paper residues, from the LUB criteria
  - Primary forest residue (residues directly related to harvesting woody biomass in forest) would still need to comply with LUB criteria

## Considerations

- Provides potential value outlet for these residues
  - Reduces traceability burden related to sawmill and pulp and paper residues and on industries not purposefully harvesting the woody biomass
  - Aligns with EU RED II, where secondary residues are not required to pass through the sustainability criteria
  - Some concern that exemption may incent the use of unsustainably sourced forest biomass to fill a market gap created by diverting secondary residues from their current use to the biofuels market or fraudulent claims of harvesting for fire prevention purposes
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# 3. RIPARIAN ZONES



# RIPARIAN ZONES

- June 2020 proposal:
  - Biofuels produced from feedstock harvested within a CFS-defined riparian zone cannot create CFS credits
  - Riparian buffer zones are 30m for streams wider than 3m, and 10m for wetlands and lakes larger than 5 ha
  - CFS-defined riparian zones apply regardless of local or regional riparian regulations
- Comments received
  - Decrease the 30m distance of CFS-defined riparian buffer zones
  - Accept existing provincial riparian zone regulations as sufficient to comply with LUB
  - Concern regarding potential large income loss and/or lack of participation due to the exclusion of these zones
  - Only apply riparian zone requirement to crop-based feedstock, not to forest-based feedstock
  - Wetland and Riparian Zones should be defined as any area inside a 2-metre buffer of an area classified as a semi-permanent or permanent wetland, pond, lake or riparian zone following a wetland and riparian classification system recognized by the Minister

# RIPARIAN ZONE UPDATED PROPOSAL

1. National or regional riparian regulations that protect zones from adverse land use and biodiversity impacts to a distance determined by that jurisdiction from watercourses or water bodies would comply with LUB criteria
2. In jurisdictions that do not have national or regional regulations, a LUB backstop of 30 m will apply where no credits may be created for feedstocks harvested within this zone, unless
  - For agricultural crops, harvest traditionally occurred in those areas occurred prior to January 2020 (Grandfather clause)
  - For forest feedstocks harvested in riparian zones, the forest harvester has management practices in place (in a management plan that is monitored) that protect the riparian zones and quality of the water body

## Considerations

- Takes into consideration unique local conditions and jurisdictional requirements for riparian zones
  - Agriculture crop grandfather clause aligns with start date of CFS and signal for new biofuel feedstocks, and aligns with the objective of not incenting new harvest in ecologically sensitive areas for CFS purposes
  - Reduces burden and avoids regulatory duplication
  - Reduces potential feedstock supply impacts
  - National or regional riparian zone legislation would be assessed and accepted by ECCC; increases ECCC admin burden
  - Increases ECCC burden: Reviews will be necessary for every national and sub-national jurisdiction who applies to have their riparian regulations accepted under LUB, to assess whether or not the CFS riparian backstop measurement and credit exclusion applies
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# 4. BASELINE YEAR FOR CROP EXPANSION REQUIREMENTS



# CROP EXPANSION UPDATED PROPOSAL

**June 2020 proposal:** Crops that have expanded into forests, wetlands and grasslands since January 2008 are not eligible

**Recommendation:** Crops that have expanded into forests, wetlands and grasslands since January 2020 are not eligible

## Considerations

- Provides sector additional flexibility and reduced burden but retains rigour of not incenting crop expansion into biodiverse or high-carbon-stock lands as of 2020, aligning with the first year of a regulatory CFS signal
- Allows for more complete and up-to-date GIS coverage and assessment of crop expansion. Current datasets on grasslands and wetlands are limited, making it almost difficult to use for past crop expansions into these areas



# 5. DEMONSTRATING COMPLIANCE





# DEMONSTRATING COMPLIANCE

- June 2020 proposal: Compliance with the criteria are demonstrated at the producer/farm-level or through an approved certification scheme
  - Comments received
    - Request to allow aggregate compliance
      - Would align with US EPA RFS 2 approach for foreign feedstocks and biofuels
    - Concerns raised about burden
    - Provincial regulatory frameworks cover criteria
    - On-site verifications should be conducted internationally, which wouldn't occur under aggregate compliance
  - Aggregate compliance allows compliance with regulatory criteria at a jurisdiction or geographic level as opposed to producer/farm-level and provides broad acceptance of all materials of a given type from the jurisdiction with accepted aggregate compliance
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# DEMONSTRATING COMPLIANCE – UPDATED PROPOSAL

1. Regulations will set criteria to recognize national or sub-national regulatory frameworks that align with CFS LUB criteria, on a criteria by criteria basis
  - Framework would be approved and listed by the Minister
2. Compliance with any LUB criteria from that are not recognized through an approved framework would be required and demonstrated through verification or certification

## Considerations

- Provides for aggregate compliance on an individual criterion basis
- Reduces administrative burden on biofuel producers and feedstock suppliers
- Avoids regulatory duplication
- Preserves environmental and biodiversity protection provided by the LUB criteria,
  - criteria that are not approved by ECCC through the application process are still required to adhere to LUB
- Burdensome for ECCC to administer
  - Application process for regulatory recognition must be developed and ECCC capacity to review and assess applications



# 6. TIMING TO IMPLEMENT THE LUB CRITERIA



# LUB CRITERIA IMPLEMENTATION TIMING

- June 2020 proposal: LUB criteria will come into force for biofuel credit creation as of the CGII publication date

## Comments received

- Concern regarding ability to acquire biofuels made from LUB-compliant feedstock in the first year of compliance due to uncertainty regarding LUB requirements, feedstock supplier transition periods, and existing fuel supply contracts
- Time is required for
  - feedstock producers to understand the LUB criteria and implement the required practices,
  - for renewable fuel producers to create contracts with CFS-eligible feedstock producers, and
  - for fossil fuel suppliers to sign contracts with CFS-eligible renewable fuel producers
  - Certification bodies to establish incorporate CFS requirements
- Updated proposal: Delay start of LUB criteria applicability 2 years - to the end of the first compliance period (January 2023)



# 7. OTHER PROPOSED CHANGES: “ADJACENT AREAS” AND CROP DEFINITION



# OTHER ADJUSTMENTS

- Removal of “adjacent areas” clause for forest feedstocks
  - A clause is currently included that prevents impacts to protected areas from harvesting in areas adjacent to the protected zones
  - No provinces require this; it would impose burden to comply with and verify this requirement
  - The current clause preventing credit creation from feedstocks harvested in protected areas is deemed sufficient for protection of these zones
- Addition of “short-rotation woody biomass crops” to the current “crops” definition
  - Concern raised that LUB does not prevent forest or grassland from being replaced by short-rotation woody crops (e.g. willow, poplar) that are monocultures and negatively impact biodiversity
  - If the “crop” definition included short-rotation woody crops, they would not be eligible to create credits if they replace forest, grassland or wetland