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Finance Canada

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Consultation on Draft Legislative Proposals – Clean Hydrogen Investment Tax Credit

The Canadian Hydrogen Association (CHA) is the national industry association representing companies from across Canada and throughout the entire hydrogen value chain. Our membership includes producers, technology developers, infrastructure providers, end-use companies, post-secondary institutions, and organizations advancing low-carbon solutions in every region of the country. Together, we work to accelerate the deployment of clean hydrogen, support the growth of a competitive domestic industry, and contribute to Canada's climate, energy security, and economic objectives. We appreciate the opportunity to comment on the Department of Finance's [draft legislative proposals to implement previously announced and technical tax measures](#), including technical changes to the Clean Hydrogen Investment Tax Credit (CH-ITC).

The CHA supports the federal government's objective of using the CH-ITC to mobilize private capital for low-carbon hydrogen and ammonia production, strengthen industrial competitiveness, and contribute to Canada's climate goals. We also support the stated intent of the January 2026 package, namely to "clarify the legislation," "align the measure with policy intent," and "facilitate administrative efficiency" for the CH-ITC. The recommendations outlined below are intended to ensure technology neutrality, investment certainty, and alignment with the stated objective of accelerating competitive low-carbon hydrogen production.

1. Amend sub paragraph 127.48 (6) (e) (i) to support ownership of a clean hydrogen project and eligible clean electricity generation source within an affiliated ownership structure

To access the full 40% CH ITC, the taxpayer must own both the clean hydrogen project and the eligible electricity generation source. From a risk mitigation perspective, project developers would not hold these two assets within one organization.

The current Income Tax Act (ITA) legislation presents a barrier to first-of-a-kind projects leveraging excess behind-the-meter electricity that would otherwise not be utilized to support the development of the clean hydrogen industry in Canada.

The CHA recommends the following amendment to subparagraph 127.48(6)(e)(i) of the ITA to add the following underlined language:

- *(e) if, in connection with hydrogen production, the taxpayer generates or purchases, or proposes to generate or purchase, electricity that is
 - *(i) generated, or to be generated, by the taxpayer or by a person affiliated with the taxpayer from...**



This amendment would:

- Reflect the reality of corporate structures used by taxpayer-owned utilities and project developers in building major projects;
- Align with the Government of Canada's policy intent to incentivize clean hydrogen production using low CI or non-emitting electricity sources;
- Allow major projects to access the maximum 40% ITC for using existing hydroelectricity infrastructure that would otherwise not be utilized;
- Unlock future clean hydrogen major projects aligned with the federal government's clean energy goals that may not be possible without access to the CHITC.

This proposed legislative clarification is a narrow technical change that would unlock full CHITC eligibility for early adopters while supporting federal policy objectives. It reflects the realities of integrated energy developments and will enable leading clean hydrogen projects to proceed with financial certainty.

2. Automatic 40% Credit for ≥90% Non-Emitting Grids

The CHA believes that projects located on electricity grids with at least 90 percent non-emitting generation should automatically qualify for the 40 percent CH-ITC tier, without requiring renewable-energy-credit purchases or additional contractual structures. Provinces such as Québec, British Columbia, and Manitoba operate electricity systems that are overwhelmingly non-emitting. Requiring additional compliance mechanisms in these jurisdictions introduces administrative complexity without materially improving emissions performance.

Automatic eligibility in ≥90 percent non-emitting grids would reflect real-world carbon performance, improve investment certainty, reduce administrative burden, and support geographically balanced hydrogen development across Canada.

3. Explicit Recognition of RECs/CECs

The CHA recommends amending subparagraph 127.48(6)(e)(iii) to explicitly recognize renewable and clean energy certificates (RECs/CECs) as qualifying instruments. Where provincially sourced grid power is bundled with RECs/CECs from renewable generation facilities in the same province and tracked through a recognized provincial, federal, or regional registry, the contribution of that electricity to project carbon intensity should be deemed to correspond to the underlying renewable technology's carbon intensity in the Fuel LCA Model, for the quantity and duration covered by the RECs/CECs.

Explicit recognition of RECs/CECs would harmonize the CH-ITC with existing regulatory and registry frameworks, provide incremental revenue for renewable developers and grid operators, lower electricity costs for ratepayers through enhanced renewable integration, and accelerate deployment in provinces that already possess decarbonized grids, while remaining fiscally neutral within the existing CH-ITC envelope.



4. Expansion to Hydrogen Derivative Equipment

There exists a structural asymmetry in the current CH-ITC framework: ammonia synthesis equipment is eligible, while other hydrogen derivatives such as e-methanol, e-methane, and sustainable aviation fuel (SAF) are excluded. In practice, hydrogen is rarely transported or consumed in molecular form; it is typically converted into transportable derivatives. These derivatives are not peripheral—they are central to decarbonizing shipping, aviation, heavy industry, and export markets.

This asymmetry creates several distortions:

- it discourages vertically integrated hydrogen-to-fuels facilities;
- it places non-ammonia derivatives at a disadvantage despite equivalent climate performance; and
- it risks exporting value-added synthesis and manufacturing activity to competing jurisdictions.

The CHA recommends that eligible clean hydrogen property be expanded to include equipment used for the synthesis of hydrogen derivatives—specifically e-methanol, e-methane, and SAF—where hydrogen is the principal feedstock and where the underlying hydrogen qualifies for the applicable CH-ITC rate. Eligibility for derivative synthesis equipment should apply where hydrogen is the principal feedstock and where the underlying hydrogen itself meets the relevant carbon-intensity requirements for the 15, 25, or 40 percent CH-ITC tiers.

This expansion would further support programs previously announced, including the Green Shipping Corridor, enable integrated hydrogen-to-fuels projects to reach financial close, anchor domestic engineering and equipment-manufacturing capacity, and align Canadian policy with international procurement regimes.

5. Excluded Property and High-Temperature Electrolysis (SOEC)

The CHA has concerns regarding the proposed amendment to subsection 127.48(1), specifically the addition of paragraph (a.1), which excludes “equipment used to generate electrical energy, heat energy or a combination of electrical and heat energy to support the production of hydrogen through electrolysis of water.”

As currently drafted, this provision risks unintentionally excluding heat-generation and heat-exchange equipment that is physically embedded within solid oxide electrolysis cell (SOEC) systems. SOEC operates at approximately 600–850°C and electrolyzes steam rather than liquid

water. Its efficiency advantage—approximately 20–30 percent lower electricity consumption per kilogram of hydrogen compared to low-temperature electrolysis—derives from substituting thermal energy for a portion of electrical input. Thermal input is not provided by a stand-alone



energy asset; it is delivered through components that are physically integrated within the electrolyzer system and cannot function independently. They are not analogous to a wind turbine, boiler, or other external generation asset.

Importantly, embedded SOEC heat systems:

- are a part of the production capital equipment;
- are not eligible under other clean technology or clean electricity investment tax credits;
- are procured as part of the electrolyzer system; and
- create no double-counting risk.

Without clarification, highly efficient SOEC systems could be disadvantaged under the CH-ITC. To that end, the CHA recommends amending paragraph (a.1) as follows (new language underlined):

- “...equipment used to generate electrical energy, heat energy or a combination of electrical and heat energy to support the production of hydrogen through electrolysis of water, other than equipment used for the generation, recovery, or exchange of heat energy where such heat energy is necessary for and integral to the electrolysis process itself, including steam generation for high-temperature electrolysis and heat recovery from associated hydrogen derivative synthesis processes.”

In addition, CHA supports adding the following text to clause (c)(iv):

- “(M) a steam generation, heat recovery, or thermal management system that is integral to a high-temperature electrolysis process.”

This targeted carve-out preserves Finance Canada’s intent to exclude stand-alone generation assets from the CH-ITC while ensuring that high-efficiency, high-temperature electrolysis pathways are not inadvertently penalized.

6. Clarification of “Eligible Hydrocarbon” and “Eligible Pathway”

The CHA supports clarifying amendments to the definition of “eligible hydrocarbon” and “eligible pathway” to ensure neutrality across hydrogen production technologies.

In particular, we recommend:

- Explicit recognition of hydrogen produced through:
 - electrolysis of water;
 - reforming, partial oxidation, or shift reactions of eligible hydrocarbons (where applicable based on carbon intensity modelling framework);
 - pyrolysis of eligible hydrocarbons (enumerated separately to avoid interpretive ambiguity); and,



- All forms of Stimulated geologic hydrogen including:
 - In-situ gasification of hydro-carbon formations, or other geological formations.
 - Chemical, polymer, steam, biological, or catalyst injection into hydrocarbon reservoirs or other geological formations including geo-thermal zones and other geological formations that can produce hydrogen.
- A refined definition of “eligible hydrocarbon” that includes natural gas, substances sourced substantially from natural gas, eligible renewable hydrocarbons, and certain by-product gases already recognized under the federal carbon-intensity modelling framework.

The CHA proposes that the definition of eligible clean hydrogen property in subsection 127.48(1) be updated as follows (proposed edits underlined and struck through):

- Subparagraph (d)(i) of the definition **eligible hydrocarbon** in subsection 127.48(1) of the Act is modified as follows:
 - (d)(i) a by-product from processing one or more substances described in paragraph (a) or (b) or a by-product gas recovered from industrial processes, and
- Paragraph (b) of the definition **eligible pathway** in subsection 127.48(1) of the Act is modified as follows:
 - (b) from the reforming, ~~or~~ partial oxidation, or shift reaction of eligible hydrocarbons, in which:
 - (i) carbon dioxide is captured using a CCUS process, or
 - (ii) the eligible hydrocarbons are eligible renewable hydrocarbons;
- After passage of the legislative proposal including Utility’s suggested amendments, the relevant paragraphs of subsection 127.48(1) of the Act would read as follows:
 - **eligible hydrocarbon** means, at any time,
 - (a) natural gas;
 - (b) a substance sourced all or substantially all from raw natural gas;
 - (c) an eligible renewable hydrocarbon; or
 - (d) a substance that is
 - (i) a by-product from processing one or more substances described in paragraph (a) or (b) or a by-product gas recovered from industrial processes, and
 - (ii) included in the *Clean Hydrogen Investment Tax Credit – Carbon Intensity Modelling Guidance Document* published by the Government of Canada at that time. (*hydrocarbure admissible*)
 - **eligible pathway** means the production of hydrogen
 - (a) from electrolysis of water;



- **(b)** from the reforming ~~or~~, partial oxidation, or shift reactions of eligible hydrocarbons, ~~with carbon dioxide captured using a CCUS process,~~ in which:
 - **(i)** carbon dioxide is captured using CCUS, or
 - **(ii)** the eligible hydrocarbons are eligible renewable hydrocarbons;
- **(c)** from the pyrolysis of eligible hydrocarbons. (*méthode admissible*)

Clear statutory drafting in this area will prevent unintended exclusion of commercially deployed technologies, align the Act with the Government of Canada's carbon-intensity modelling guidance, and ensure consistent treatment across pathways.

7. Carbon Intensity Modelling of Heat Inputs

Proposed amendments to subsection 127.48(6), including the replacement of paragraph 127.48(6)(i), address how heat energy inputs are modelled for carbon intensity purposes. Under the current Fuel LCA Model, "purchased steam" is assigned a carbon intensity consistent with generation from a natural gas boiler. Under proposed subparagraph (ii), this treatment would also apply to heat recovered from a non-hydrogen production process or purchased from a vendor.

This default assumption creates a methodological distortion where: zero-emission waste heat (for example, from renewable-powered ammonia synthesis) is assigned fossil carbon intensity and the efficiency benefits of high-temperature electrolysis and integrated heat recovery systems are understated. In practice, this can materially increase a project's modelled carbon intensity despite no associated increase in actual emissions. The result is a misalignment between real-world emissions performance and modelled outcomes.

The CHA recommends that the Fuel LCA Model be updated to:

- Allow customizable carbon intensity inputs for purchased or recovered heat where supported by verifiable, auditable data; and
- Recognize zero-emission waste heat streams rather than defaulting to natural gas boiler assumptions.

This recommendation does not alter the CH-ITC's carbon intensity thresholds or policy architecture. It ensures that modelling accurately reflects actual emissions performance and avoids unintended distortions against high-efficiency, thermally integrated hydrogen production systems.

To reflect this change in modelling methodology in 127.48(6)(i), we recommend the calculations for the CH-ITC could be modified using the following suggested language (proposed edits underlined and struck through):

- *(ii) recovered from a non-hydrogen production process of the taxpayer, or purchased from a vendor that produced the heat from eligible hydrocarbons or recovered the waste heat from a production process, ~~the contribution of the heat to carbon intensity is to correspond with the input carbon intensity of purchased steam in the Fuel LCA Model, and~~*



- (A) where the taxpayer can demonstrate, through verifiable and auditable data, the actual carbon intensity of the heat source, the contribution of the heat to carbon intensity is to be modelled using the demonstrated carbon intensity of that heat source, including a carbon intensity of zero where the heat is waste heat from a process that does not produce incremental greenhouse gas emissions, and
- (B) in any other case, the contribution of the heat to carbon intensity is to correspond with the input carbon intensity of purchased steam in the Fuel LCA Model, and

8. Additional Investment Certainty and Consistency Improvements

Many Clean Hydrogen Projects involve first-of-its-kind technologies scaled at levels never seen before—necessitating additional flexibility in the carbon intensity buffer and downtime provisions. The current policy design is not reflective of operational realities for complex facilities—maintenance provisions are important to ensure the facility can operate in a safe and reliable manner, and factors such as weather and market conditions impact plant operation rates.

The ITC legislation currently allows for a 0.5 kgCO₂/kgH₂ buffer between design CI and final assessed CI after the 5-year buffer period. If the assessed CI is more than 0.5kg/kg greater than design CI, ITC repayment is required. In addition, the policy does not contain any provisions to account for equipment or facility downtime without risking repayment.

The CHA recommends that Increase the CH-ITC CI buffer to 0.8 kg/kg and add ITC downtime provisions (20%) by:

- Amending 127.48(20) to update the buffer to “0.8”, and
- Amending the income tax legislation in the fall budget to allow exclusion of up to 20% downtime from assessment period for non-representative operations

These novel projects deserve the government support necessary to accelerate their implementation of important decarbonization projects and promote Canada’s ‘Clean Hydrogen’ competitiveness relative to other jurisdictions. In contrast to promoting these positive outcomes the CH-ITC eligible CAPEX is

reduced by government grants, unlike CCUS-ITC. There is no rationale provided for this disparate treatment of the two policy instruments that are intended to drive similar outcomes.

The CHA also recommends that the CH-ITC rules be amended regarding grant reduction for consistency with the CCUS-ITC provisions.

9. Investment Certainty and Retroactive Amendments

Clean hydrogen projects involve multi-billion-dollar capital commitments and long procurement timelines. Equipment and engineering decisions are made years before commercial operation, often following formal project-plan approvals. Where amendments narrow eligibility—particularly



through revisions to excluded-property definitions—retroactive application may undermine investment certainty and financial models developed in reliance on prior legislative language.

Providing clarity that approved project plans establish reliance on the eligibility framework in effect at the time of approval would reinforce the investment certainty the CH-ITC was designed to provide.

The CHA recommends that Finance Canada consider:

- applying amendments to excluded-property definitions prospectively; or
- grandfathering projects that have received final clean hydrogen project plan approval prior to the amendment date.

Moreover, although Canadian ITCs are refundable and therefore bankable over time, projects typically only receive the cash benefit after filing tax returns, often over multiple tax cycles, which creates a lag between capital expenditure and realization of the credit. By contrast, the ability to transfer or sell ITCs in the United States has created a more liquid, financeable credit that can be monetized earlier in a project's life, materially improving project economics. We encourage Finance Canada to explore mechanisms that would similarly allow CH-ITC credits to be transferred, in order to shorten the time between investment and credit realization.

10. Strengthening Hydrogen Supply Chains and Manufacturing Activity

CHA members encourage the Government of Canada to complement project-level incentives with measures that strengthen hydrogen supply chains and manufacturing activity in Canada. Doing so would help anchor long-term investment, support high-quality employment, and ensure that the benefits of the CH-ITC extend beyond project deployment to include industrial capability and jobs.

The CHA also encourages the Government of Canada to complement project-level incentives with measures that strengthen hydrogen supply chains and manufacturing activity in Canada, supporting long-term investment and high-quality employment.

Conclusion

With these adjustments, the CH-ITC can more effectively serve as a cornerstone of Canada's clean industrial strategy and global competitiveness in hydrogen and hydrogen-derived fuels.

Within the existing CH-ITC envelope of approximately \$18.5 billion, CHA analysis suggests that, even with these critical refinements, total uptake would be on the order of \$9.5 billion—roughly half the current fiscal allocation—while helping unlock an estimated \$35 billion in private capital investment by 2033. Without these updates, there is a material risk that the CH-ITC will not mobilize the scale of investment originally intended.



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Beyond the proposed CH-ITC amendments, the CHA recommends that Finance Canada recognize natural hydrogen as an eligible critical mineral under the Critical Mineral Exploration Tax Credit (CMET), enabling the use of flow-through shares to finance early-stage natural hydrogen exploration in a manner consistent with other critical resource sectors. This change would unlock capital for drilling and subsurface development, support high-quality jobs and Indigenous economic partnerships, and help position Canada as a first mover in the emerging global market for natural hydrogen.

The Canadian Hydrogen Association thanks Finance Canada for the opportunity to provide these comments and for its continued engagement with industry. We would welcome the opportunity to discuss these recommendations in more detail and to support further technical work as refinements are considered.

Best,

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President and CEO

Canadian Hydrogen Association