Dear Chair:

Fertilizer Canada represents the manufacturers, wholesale and retail distributors of nitrogen, phosphate, potash and sulphur fertilizers – supporting farmers, who feed Canadians and the growing global population. We appreciate the opportunity to comment on Bill C-69 (or the “Impact Assessment Act”) as part of the Committee’s ongoing consultation.

Canada is currently the world’s largest producer of potash and a significant producer of nitrogen fertilizer. There are 20 mines and manufacturing facilities across Alberta, Saskatchewan, Manitoba and Ontario. Our members utilize the best available technology at world-class facilities, which are top-quartile globally in energy efficiency.

The fertilizer industry supports policy that balances environmental performance and economic certainty. Companies who have sought greenfield or brownfield fertilizer manufacturing projects have participated in robust provincial assessments and have not been subject to the Canadian Environmental Assessment Act, 2012 (CEAA 2012) or its predecessors. As current and future project proponents, our members are significantly invested in the current state and any potential amendments to this tabled legislation and its pending implementation.

However, to make informed, considered and rational commentary on the legislation, clarity is required on its scope. Specifically, Fertilizer Canada would need to understand the Regulations Designating Physical Activities, commonly referred to as the “Project List”, to even determine if fertilizer projects (or what
The scope of fertilizer projects) would be subject to federal review. As it currently stands, it is difficult for us to analyze potential impacts or put forward legislative recommendations and contribute more fulsomely to the discussion.

Further information is also required on the scope and scale of the public interest consultations for a project that would trigger an assessment under the Bill. Although we hold concerns that the current legislation will impart views on impacts which may be subjective, unscientific or lack a true representation of diverse opinions, our member companies have always welcomed and engaged in public and Indigenous engagement before proceeding with our projects. The current concern with the legislation is that it introduces uncertainty as to the depth and breadth of such consultation as well as uncertainty to the weighting of over-represented opinion over scientific evidence and majority rule. As such, further information is requested to better understand the true impacts of the legislation to enable Fertilizer Canada and our members to adequately comment.

Fertilizer Canada is supportive of strengthening public confidence in the environmental assessment process, enhancing the participation of Indigenous Peoples and supporting sustainable economic growth. However, without clarity on which regulatory system to abide by, the federal government could be deterring the development of world-class natural resources projects that it seeks to attract.

Another of the criteria requiring further definition is greenhouse gas emissions, which have been listed as a trigger for assessment. With the management of greenhouse gas emissions currently entrusted to the provinces in a system tailored to their jurisdiction, this trigger may be convoluted and requires a clear definition to ensure that all provincial jurisdictions are treated in a fair manner. It is the view of Fertilizer Canada that any review of greenhouse gas emissions as part of a project assessment should be left to the provinces and would also consider the use of Best Available Technology Economically Achievable (BATEA).

It is clear that in its current form, without the Project List and other guidance readily available to help clarify the above concerns, Bill C-69 has the strong potential to deter investment in the Canadian fertilizer industry. Asymmetrical global policy treatment and uncertainty increases the potential for carbon leakage; increasing investment certainty in less efficient and less regulated jurisdictions and devaluing Canada as an investment jurisdiction for new and existing facilities.

Sustainability is a pillar of the fertilizer industry as we seek to feed a growing global population. We appreciate the opportunity to further highlight our views, and as an outcome, providing more economic opportunities in Canada.
Sincerely,

Clyde Graham  
Executive Vice President  
Fertilizer Canada  

cc. Maxime Fortin, Procedural Clerk, Senate of Canada