

Submission on the Regulatory Framework to Cap Oil and Gas Sector Emissions.

To: Environment and Climate Change Canada

By email to: PlanPetrolieretGazier-OilandGasPlan@ec.gc.ca

CC:

- **Prime Minister Justin Trudeau: justin.trudeau@parl.gc.ca**
- **Minister of Finance, Chrystia Freeland: chrystia.freeland@parl.gc.ca**
- **Minister of Environment and Climate Change Canada, Stephen Guilbeault: stephen.guilbeault@parl.gc.ca**
- **Minister of Natural Resources Canada, Jonathan Wilkinson: johnathan.wilkinson@parl.gc.ca**
- **Leader of the Conservative Party of Canada: pierre.polievre@parl.gc.ca**
- **Leader of the New Democratic Party of Canada: jagmeet.singh@parl.gc.ca**
- **Leader of the Bloc Quebecois: yves-francois.blanchet@parl.gc.ca**
- **Co-leader of the Green Party of Canada: elizabeth.may@parl.gc.ca**

From: Seniors for Climate Action Now! seniorscanow@protonmail.com

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Recommendations:

1. Oil and gas sector emissions reporting should begin in January 2025 and the emissions cap and proposed methane regulations essential to accomplishing the emissions reduction goal of the Regulatory Framework should take effect no later than January 2027.
2. No exemption should be given to downstream refining and distribution facilities in the industry. The regulations must also continue to cover enterprises with emissions below 10 kilotonnes per year. Together they are responsible for over 40% of the sector's emissions.
3. The legal upper bound or hard cap on all emissions allowances, including any compliance flexibility allowances, should be set at 110 Mt, a 42% reduction from the sector's 191 Mt in 2019, as called for in the 2030 Emissions Reduction Plan. All allotment units issued, including those for emissions up to any lower soft cap, should be priced.
4. International carbon offsets should not be permitted as a compliance allowance. They do not reduce emissions from Canada's oil and gas sector, the objective of these regulations. If domestic carbon offsets are allowed, their number should be severely curtailed pending global and national standards and independent validation systems able to guarantee additive, reliable, non-exploitative offsets.
5. The regulations must provide for rigorous, independent third party monitoring - measurement and verification - of industry emissions, including use of modern drone and satellite technologies. That cost should be paid for from the proposed 'Decarbonization Fund' before any of it is reinvested in yet another subsidy to the fossil fuel industry.

Comments on the Proposed Regulatory Framework for an Oil and Gas Sector Greenhouse Gas Emissions Cap¹

SCAN! has a deep concern for the future of our children and grandchildren. We therefore appreciate that the current Government of Canada is putting a diversity of supply and demand side programs in place to mitigate and adapt to the now very real existential crisis of climate change. We are keenly aware that not all future governments may do so. We also understand the complexities of designing and instituting these programs within Canada's constitutional division of powers, the economic and political power of current dominant actors in our economy, particularly of the oil and gas sector (and their

¹ Regulatory Framework for an Oil and Gas Sector Greenhouse Gas Emissions Cap. 23 17 07.
<https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/oil-gas-emissions-cap/regulatory-framework.html>

financiers), and the prevailing ideology that focuses first on economic growth – and only second on ends – the wellbeing of people and planet.

The government's choice of a cap and trade system to regulate emissions from the oil and gas sector is not the policy SCAN! recommended² in our 2022 submission on the alternatives being considered. That being the case, this is our assessment of and recommendations for the selected cap and trade regulatory framework.

The Regulatory Timeline:

The urgency of bending the GHG emissions curve³ to sustain life on this planet is now extreme. A legislative process impelled by the 2030 Emissions Reduction Plan in 2022⁴ is not credible when it only requires the fossil fuel industry to start reporting emissions in 2026 and doesn't specify a cap on emissions until 2030. Because half the 34 Mt of actual emissions reductions from 2019 levels required in 2030 (i.e. not granted allowances of one type or another by the framework) rely on separate methane reduction regulations, those regulations must come into effect at the same time.

We can and must move faster. Canada mobilized for WWII in a few years – a socio-economic transformation comparable to instituting a low carbon economy.

Recommendation 1. Oil and gas sector emissions reporting should begin in January 2025 and the emissions cap and proposed methane regulations essential to accomplishing the emissions reduction goal of the Regulatory Framework should take effect no later than January 2027.

Scope of the Emissions Cap:

To exempt 20 Mt of downstream refining and pipeline distribution emissions, 10.5% of the sector's emissions in 2019, is to immediately handicap achieving the regulations' emissions reductions goals. We strongly support the regulations covering enterprises emitting less than 10 kilotonnes per year, despite the added regulatory administrative burden, because they are responsible for 30% of the oil and gas sector's emissions⁵.

Recommendation 2. No exemption should be given to downstream refining and distribution facilities in the industry. The regulations must also continue to cover

² Consultation on Capping and Cutting Oil and Gas Emissions. 22 09 29.

<https://seniorsforclimateactionnow.org/wp-content/uploads/2023/10/22-09-29-SCAN-Submission-on-Cutting-GHG-Emissions-from-the-OG-Industry.pdf>

³ Intergovernmental Panel on Climate Change, 2022. <https://www.ipcc.ch/2022/04/04/ipcc-ar6-wgiii-pressrelease/>

⁴ Environment and Climate Change Canada.2022.

<https://publications.gc.ca/site/eng/9.909338/publication.html>

⁵ Regulatory Framework, p. 3.

enterprises with emissions below 10 kilotonnes per year. Together they are responsible for over 40% of the sector's emissions.

Size of the Emissions Cap:

Setting a 'soft' emissions cap at 112 Mt maximum and allowing another 25 Mt of emissions to provide 'compliance flexibility' sets the legal upper bound or 'hard' cap on oil and gas sector emissions at 137 Mt. That is only 54 Mt, or 28% below sector emissions of 191 Mt in 2019; or only 34 Mt or 17.8% below 171 Mt if downstream emissions continue to be exempted from the regulations. Since half of those 34 Mt. of reductions are expected to come from separate Methane Regulations, only 17 Mt are to be achieved by the cap and trade regulations. That very small goal falls nicely within the 22 Mt projected as achievable by 2030 by Pathways Alliance⁶ on behalf of the oil sands industry - just an 8.9% reduction in emissions from 2019 levels. A 'coincidence' that holds no surprise. It is a percentage that is trivial in the face of this existential crisis whose primary cause is fossil fuel production and consumption.

The government states⁷ that the proposed regulations should reduce sector emissions by 35 to 38%. This assumes that the CCUS deus ex machina lurking in the background of this regulatory framework will dramatically decline in cost and increase in efficiency and scale in the next six years. It also expects that the compliance allowance flexibilities will either not be used by the oil and gas upstream sector or that carbon offsets reduce rather than just offset emissions. None of this seems likely.

Since the oil and gas sector emitted 29%, 189 Mt.⁸, of Canada's GHG emissions in 2021 AND is still growing, it's unlikely that the sector will contribute its fair share to Canada meeting its Paris Agreement pledge to reduce GHG emissions by 40 to 45% over 2005 levels by 2030 and net zero emissions by 2050 - the law of Canada as of the 2022 Canadian Net Zero Accountability Act.

Trading emissions allowances of 112 Mt – the maximum soft cap.

Why are the permitted emissions allowance units up to the soft cap (as much as 112 Mt in 2030) being given free to the industry? Although subject to business cycles, this is one of the most profitable industries in the country, one that does not pay its share of the costs of the impacts of its many kinds of life destroying pollution. Those allowances should be

⁶ https://www.cbc.ca/news/canada/calgary/oil-gas-emissions-reduction-guilbeault-climate-vonscheel-1.6528307?__vfz=medium%3Dsharebar

⁷ <https://www.canada.ca/en/environment-climate-change/news/2023/12/canada-introduces-framework-to-cap-greenhouse-gas-pollution-from-oil-and-gas-sector.html>

⁸ Canada Energy Regulator: <https://www.cer-rec.gc.ca/en/data-analysis/canada-energy-future/2023/results/>

priced to be fair to Canadians subject to various forms of Greenhouse Gas Pollution Pricing⁹.

When one party reduces its emissions more than required and sells that part of its allowance units or credits to another party that is exceeding its allowance, the result nets to zero change in emissions. Trading does nothing to reduce emissions. What it does is ease the cost burden for those who effect reductions. It may even incentivise or ‘nudge’ producers to cut emissions more, as aficionados of market techniques claim. In an industry dominated by foreign multinational corporations driven by the quarterly profit motive, nudges count for very little – unless there is strict, accurate monitoring, significant violation penalties, and willingness in the industry to comply¹⁰. The regulations promise to rigorously monitor and penalize for failure to comply – it remains to be seen whether that will be done effectively. As for industry willingness to implement emissions reductions to the legally binding 137 Mt level, it is far from evident¹¹.

Our concerns with the regulatory flexibilities proposed of a) granting enterprises compliance periods of up to three years to reconcile their annual units and emissions, and b) the right to bank compliance units for up to six years are:

- 1) they may slow progress when the climate crisis is increasingly urgent;
- 2) they add to the administrative burden; and
- 3) they may foster allotment gluts that undermine the market as has happened in cap and trade systems in both California¹² and the EU¹³.

Consult experts on these matters and consider including a Market Stability Reserve before the regulations are finalized.

Compliance Flexibility Allowances permitting an additional 25 Mt for a maximum hard, legal cap of 137 Mt in permissible emissions.

Compliance flexibility that permits fossil fuel corporations to purchase up to 20% more than their allowances under the soft cap just licenses emissions growth. Paying for extra allowances into a ‘Decarbonization Fund’ is just paying to pollute. The fund name is

⁹ <https://laws-lois.justice.gc.ca/eng/acts/g-11.55/>

¹⁰ Schmalensee, R., and R. N. Stavins. 2017. "Lessons Learned from Three Decades of Experience with Cap-and-Trade." *Review of Environmental Economics and Policy*, 11 (1), 59-79.

¹¹ <https://www.pembina.org/reports/waiting-to-launch-update-q2-2023-infographic.pdf>

¹² 2021 Annual Report of the Independent Emissions Market Advisory Committee to the California State Senate Standing Committee on Budget and Fiscal Review, 4 February 2022. <https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/2021-IEMAC-Annual-Report.pdf>

¹³ Danny Cullenward and David G. Victor. *Making Climate Policy Work* (Cambridge, UK: Polity Press, 2020), pp. 125-126.

pure greenwashing given the government's record in deploying such funds to reduce GHG emissions¹⁴.

Another compliance allowance flexibility is the option to purchase domestic and/or international carbon offsets. To be legitimate, such offsets must sequester a verifiable amount of GHG emissions, be permanent and a real addition to a natural carbon sink or output of a carbon removal technology with reliable sequestration. Apparently, this is what the government is counting on to keep emissions under the hard cap.

But there are problems:

First, international carbon offsets, called Internationally Transferred Mitigation Outcomes (ITMOs), do not reduce emissions inside Canada except in an accounting ledger. They do not reduce the quantity of emissions occurring materially within Canada. Since that is the purpose of the regulations, allowing them is illogical.

Second, according to recent research, most carbon offsets in place today are not reliable or credible¹⁵.

Third, the UNFCCC failed again at COP 28 to complete specifications to ensure the reliability in ITMOs called for in Article 6 of the Paris Agreement¹⁶. This is in part because of differences between the global north and south over the way in which many carbon offset programs exploit indigenous peoples, a common form of environmental racism. Does the government of Canada have the conceit to think it can create a verifiable, reliable, and non-exploitative carbon offset program when so many have failed? At what cost and in what quantity? We are very sceptical.

The size of the proposed legally binding hard emissions cap should also take into consideration the many other public subsidies this government has and continues to grant the industry, including a) a 31 Billion and still climbing Trans Mountain Pipeline, b) Carbon Capture Utilization and Storage (CCUS) and Direct Air Capture (DAC) technology research funding from the Technology Fund to aid this and other industries, c) waste pollution clean-up assistance alleviating the responsibility of the oil and gas industry, e.g. 1.7 Billion in 2022, and d) the generous CCUS investment tax credit program that could amount to 8.6 billion by 2030.

¹⁴ Office of the Auditor General of Canada, Reports of the Commissioner of the Environment and Sustainable Development to the Parliament of Canada, Report 4, Emissions Reduction Fund—Natural Resources Canada, November 2021.

¹⁵ <https://www.theguardian.com/environment/2023/sep/19/do-carbon-credit-reduce-emissions-greenhouse-gases>

¹⁶ <https://www.carbonbrief.org/cop28-key-outcomes-for-food-forests-land-and-nature-at-the-un-climate-talks-in-dubai/>

We are not averse to government assisting the members of any Canadian industry reduce emissions and clean up the air, land, and water pollution their businesses have caused. But it must be fair and proportionate or there will be a very high political as well as environmental price to pay.

Recommendation 3. The legal upper bound or hard cap on all emissions allowances, including any compliance flexibility allowances, should be set at 110 Mt, a 42% reduction from the sector's 191 Mt in 2019, as called for in the 2030 Emissions Reduction Plan. All allotment units issued, including those for emissions up to any lower soft cap should be priced.

Recommendation 4. International carbon offsets ITMOs should not be permitted as a compliance allowance. They do not reduce emissions in Canada's oil and gas sector, the objective of these regulations. If domestic carbon offsets are allowed, their number should be severely curtailed pending global agreement on standards and independent validation systems able to guarantee additive, reliable, non-exploitative offsets.

Monitoring and Accountability – Measurement and Verification.

The government's request for proposals on methods of holding members of the oil and gas sector accountable for meeting the emissions reductions targets of this cap and trade regulation must focus on unbiased, independent forms of measurement and accounting. It is well known that underreporting of methane emissions by 50 to 90% is commonplace in the industry around the world¹⁷, from Alberta to the UAE. Whether intentional or just negligent, this discrepancy between self-reported and actual emissions must end. Modern drone and satellite technologies provide a highly reliable above-ground alternative to existing on-ground self-measurement and reporting.

Recommendation 5. The regulations must provide for rigorous, independent third party monitoring - measurement and verification - of industry emissions, including use of modern drone and satellite technologies. That cost should be paid for from the proposed 'Decarbonization Fund' before any of it is reinvested in yet another subsidy to the fossil fuel industry.

Conclusion:

While the recommendations SCAN! is making would serve to increase the effectiveness of the proposed cap and trade regulatory framework to reduce oil and gas sector emissions, we are deeply concerned. The combination of slow, unambitious reductions under the program and an expensive bureaucratic administrative burden to implement,

¹⁷ <https://ieefa.org/resources/gross-under-reporting-fugitive-methane-emissions-has-big-implications-industry#:~:text=Our%20analysis%20indicates%20that%20fugitive,couered%20by%20the%20Safeguard%20Mechanism.>

facilitate, and monitor it may well lead to another climate mitigation policy failure. It will also put the program in high danger of policy reversal/backsliding - even cancellation by a subsequent federal government.

We therefore urge, as we did in our original submission, that the government supplement this modest program with much greater investment in demand side programs that improve energy efficiency, lowering total energy consumption in the face of electrification, and supply Canadians with less expensive, renewable sources of energy, reliable inter-provincial electricity transmission, community renewable power facilities, distribution, and backup throughout the country. We believe that is what our children and grandchildren require to handle the severe impacts of climate change they now face.

Recommendations Recap:

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