



December 12, 2024

The Honourable Steven Guilbeault  
Minister of Environment and Climate Change  
Government of Canada  
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Gatineau, Quebec K1A 0H3  
(via email: [ministre-minister@ec.gc.ca](mailto:ministre-minister@ec.gc.ca))

Dear Minister Guilbeault:

**Re: Draft Oil and Gas Sector Greenhouse Gas Emissions Cap Regulations**

The Canadian Association of Petroleum Producers (**CAPP**) has reviewed the draft *Oil and Gas Sector Greenhouse Gas Emissions Cap Regulations (Draft Emissions Cap)* and its Regulatory Impact Analysis Statement (**RIAS**). It is our view, and that of other experts,<sup>1</sup> that the Draft Emissions Cap will directly limit oil and natural gas production. The emissions cap will negatively impact Canada's economy and trade relations. It is also an unconstitutional federal overreach that seeks to impose federal control over the provinces' resources by constraining industry growth. No government should pursue such unconstitutional legislation. The cap will hurt Canadians already struggling with affordability. **The emissions cap should not progress to a final regulation.**

The draft emissions cap presents multiple problems worthy of your attention. First and foremost, as a cap on our industry's growth, it will negatively impact the economy and it is an unconstitutional intrusion into provincial affairs. This alone should halt it. In addition, the draft emission cap's design and the limited RIAS create uncertainties, in terms of compliance, costs, and impacts on other carbon markets. These inhibit meaningful stakeholder consultation as the appendix to this letter details.

Canadian prosperity and international partnerships

Canada is facing an affordability crisis and a decelerating economy. The OECD projects Canada to be the worst-performing economy out of all 38 advanced countries over the next 40 years, achieving

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<sup>1</sup> BMO Capital Markets, "Kicking the Can (Cap) Down the Road?", November 5, 2024. Lagerquist, Jeff, "Canada's oil & gas industry likely to cut production under new rules: Morningstar DBRS", November 14, 2024.

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the lowest real GDP per capital growth.<sup>2</sup> Canadians cannot afford to layer on an economically decelerating policy that constrains industry growth and could shut in production.

Government's stated priorities are growing the economy and addressing affordability.<sup>3</sup> Canada's oil and gas industry supports 900,000 jobs,<sup>4</sup> many of which are high quality, coveted "mid-skilled jobs".<sup>5</sup> The average wage within the conventional oil and natural gas sector is \$47 per hour more than the national average.<sup>6</sup> Oil, natural gas and related petroleum sectors, such as refining and pipelines, together contribute about \$118 billion to Canada's GDP.<sup>7</sup>

The potential implementation of an oil and natural gas production cap must also be closely considered with regard to Canada's bilateral trade relations. The oil and gas industry makes up 25% of Canada's trade balance, with exports of some \$177 billion worth of product.<sup>8</sup> We supply the United States with 99% of its imported natural gas and major components of their oil and natural gas industry are dependent on Canadian production. Canada has an opportunity to leverage this interdependence in negotiations with our largest trading partner, but not if we are regulating limits on the industry's growth. The optics and real impacts of implementing the Draft Emissions Cap are critical considerations in the face of a potentially challenging binational trade relationship with the United States and the opportunity for North American energy independence.

**For numerous economic and trade reasons, Canada should not put a cap on industry growth and production.**

### Unconstitutional design

The Draft Emissions Cap would limit industry growth to a 16% increase from 2019 to 2030. Additional growth is not projected to be possible based on ECCC's assessment of technically achievable emissions reductions. The Draft Emissions Cap would prevent industry from growing to

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<sup>2</sup> Guillemette, Y. and D. Turner (2021), "The long game: Fiscal outlooks to 2060 underline need for structural reform", OECD Economic Policy Papers, No. 29, OECD Publishing, Paris, <https://doi.org/10.1787/a112307e-en>

<sup>3</sup> Canada, "Budget 2024: Fairness for Every Generation", April 16, 2024.

<sup>4</sup> CAPP. "Economic Impact of Canadian Oil and Gas." <https://www.capp.ca/wp-content/uploads/2023/12/The-Economic-Impact-of-Canadian-Oil-and-Gas.pdf>

<sup>5</sup> Careers that require technical training beyond high school, but do not require a four-year university degree.

<sup>6</sup> Canadian Chamber of Commerce. "Economic Impact Study: Canada's conventional oil and natural gas sector." [https://businessdatalab.ca/wp-content/uploads/2024/03/CAPP\\_EconomicAnalysis\\_March2024.pdf](https://businessdatalab.ca/wp-content/uploads/2024/03/CAPP_EconomicAnalysis_March2024.pdf)

<sup>7</sup> CAPP. "Economic Impact of Canadian Oil and Gas." <https://www.capp.ca/wp-content/uploads/2023/12/The-Economic-Impact-of-Canadian-Oil-and-Gas.pdf>

<sup>8</sup> Natural Resources Canada, "Energy Fact Book, 2024-2025". Page 102. <https://energy-information.canada.ca/sites/default/files/2024-10/energy-factbook-2024-2025.pdf>

meet potential future demand for oil and natural gas or to achieve more ambitious provincial growth targets.

The RIAS states that 16% growth is aligned with the Canadian Energy Regulator’s growth projections, but this is much lower than provincial targets and what the free market would achieve. The Alberta Energy Regulator estimates that provincial production will grow 30% between 2019 and 2030.<sup>9</sup> The Saskatchewan government aims to increase oil production by 25% between 2020 and 2030.<sup>10</sup> In 2020, British Columbia produced roughly one third of Canada’s marketable natural gas, the provincial regulator anticipates this will grow to 50% of total Canadian production by 2040.<sup>11</sup> Total oil and natural gas production in Alberta grew by 14% from 2019 to 2023<sup>12</sup> and nationally natural gas production grew by 12% over the same period.<sup>13</sup> The 16% allowable growth under the Draft Emissions Cap would be a clear curb on production and **the federal government does not have Constitutional authority to, directly or indirectly, regulate oil and natural gas production.**<sup>14</sup> Such control over natural resources and their development is clearly allocated to the provinces under section 92A of the Constitution.

While the declared intent of the Draft Emissions Cap is to reduce emissions, the practical effect of the regulation will be to regulate and curtail upstream oil and gas production. This is clear as the 16% projected allowable growth is explicitly tied to “Canada Net-zero Scenario” as described in Canada’s Energy Future, 2023.<sup>15</sup> This scenario does not reflect Canada meeting actual projected energy demand, rather it was explicitly designed based on the predetermined outcome of net-zero GHG emissions by 2050. Its authors stated that the scenarios “are not predictions about the future, nor are they policy recommendations... they are the product of scenarios based on a specific premise and set of assumptions.”<sup>16</sup>

By limiting growth under the draft emissions cap to align with the Canada Net-zero Scenario, ECCC is using an environmental outcome to control oil and gas production. Production would be constrained to align with federal priorities, not market factors, domestic or international demand,

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<sup>9</sup> Alberta Energy Regulator, “Alberta Energy Outlook: ST98”, 2024. Figure 8. From 3.59 to 4.70 million barrels equivalent per day.

<sup>10</sup> Saskatchewan, “Saskatchewan’s Growth Plan, The Next Decade of Growth, 2020-2030”, 2019.

<sup>11</sup> British Columbia Oil and Gas Commission, “2021/22 – 2023/24 Service Plan”, April 2021.

<sup>12</sup> *Supra note 9*. Figure 8.

<sup>13</sup> Statistics Canada, “Supply and disposition of natural gas” Table 25-10-005-01.

<sup>14</sup> The Constitution Acts 1867 to 1982, Section 92A

<sup>15</sup> [CER – Canada’s Energy Future 2023: CER’s first long-term Outlook modeling Net-Zero by 2050](#)

<sup>16</sup> *Ibid.* Page 4

or provincial targets. **This is a federal production cap under the guise of an emissions cap and well outside federal jurisdiction.**

Moving forward

CAPP and its members do not see an oil and natural gas emission cap as an appropriate tool for addressing greenhouse gas emissions. We support market mechanisms that deliver the lowest cost abatement opportunities. We want to work with all governments, federal and provincial, to consolidate and streamline regulations and programs targeting greenhouse gas emissions reductions to deliver efficient emissions reductions and long-term investment certainty. If you have any questions regarding our position, please contact Johanne Senécal, Vice President, Sustainability, External and Indigenous Affairs at [johanne.senecal@capp.ca](mailto:johanne.senecal@capp.ca)

Sincerely,

Lisa Baiton  
President & Chief Executive Officer

Cc: Hon. Chrystia Freeland, Deputy Prime Minister and Minister of Finance  
Hon. Jonathan Wilkinson, Minister of Energy and Natural Resources  
Hon. Dominic Leblanc, Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs  
Hon. François-Philippe Champagne, Minister of Innovation, Science and Industry  
Hon. Arif Virani, Minister of Justice and Attorney General of Canada  
John Hannaford, Clerk of the Privy Council of Canada

## Appendix

In addition to the economic impacts and unconstitutional nature of the draft emissions cap, its regulatory design results in high uncertainty and its Regulatory Impact Analysis Statement (**RIAS**) fails to provide sufficient information to stakeholders interested in meaningfully participating in the consultation process.

### 1. Uncertainty of emissions obligation

The design of the draft emissions cap does not allow individual operators to know their exact compliance obligation until 2029. This delay inhibits operators' ability to confidently estimate compliance costs and develop the most cost-effective compliance plans. Furthermore, individual operators do not have control over their unique compliance obligation as every company's free allocation of emissions is based on both their operations, and the size and profile of the total Canadian upstream oil and natural industry. This creates significant uncertainty for individual operators' plan for compliance, as independent events by competitors affect each operator's free allocation (examples include upset events, turnarounds, addition of new production, new facility start-ups, broader issues including geopolitical changes or natural disasters).

This complex design requires operators to act today to meet an unknown compliance obligation in the future. As such, operators cannot confidently comment on the future cost or feasibility of compliance with the draft emissions cap. The future is unknown, **if demand is high and production grows, operators will be obligated to shut in production to stay in compliance.**

CAPP's members believe that ECCC's assessment of technically achievable emissions reductions by 2030-32 is an overestimation, and the methodology used to develop this estimate is not explicit in the draft regulation, RIAS, or other public documentation. The practical challenges of procurement, construction, permitting, and implementing tens of thousands of emissions abatement projects make the challenge daunting. The draft emissions cap establishes individual operators' compliance obligations contingent on the future production and emissions profile of the industry as well as future unknown actions taken by competitors, making it impossible to comment today on the cost and feasibility of individual corporate compliance. **Under an industry-wide production growth scenario, operators could implement every technically achievable emissions reduction project by 2030 and still be obligated to shut in production to stay in compliance.**

## 2. Uncertain economic and emissions impacts

The RIAS fails to complete a comprehensive economic assessment of the draft emissions cap. Previous regulatory impact assessments for emissions related regulations consistently estimated the cost of compliance for industry and the cost impacts to heavily impacted provinces, providing a summary of compliance pathways and their costs that had been included in the RIAS.<sup>17</sup> These estimates may not have always been accurate, but they were completed in good faith and provide important insights to stakeholders reviewing the regulation, including provincial governments, the oil and gas sector, and other industries.

The economic assessment undertaken is overly simplistic, failing to meet the criteria established by the Treasury Board of Canada and not accounting for obvious compliance costs. The Cabinet Directive on Regulation<sup>18</sup> and the Policy on Cost-Benefit Analysis<sup>19</sup> lay out key requirements for economic assessments of regulations, including a requirement that economic impacts are considered over a 10-year period;<sup>20</sup> the RIAS only considers 7.5-years of impacts.<sup>21</sup> The directive also requires that “decisions are based on a robust analysis of costs and benefits”,<sup>22</sup> we support this principle, but the RIAS fall short of that expectation.

The RIAS estimates a \$3.3 billion “incremental impact on the economy”. This does not consider the real cost of compliance with the regulation. It does not consider the potential lost production due to deviation from provincial growth goals, nor the costs for emissions abatement projects required to meet the draft emissions cap. Actual compliance costs are likely to exceed \$20B for carbon capture, electrification, and other emissions abatement actions. These costs will not be born equally across provincial economies with industry investments in British Columbia, Alberta, Saskatchewan, and Newfoundland and Labrador, being directed towards compliance obligations. **Meaningful consultation should provide Canadians with good faith insights into the probable costs of implementing regulations, however the draft emissions cap does not include sufficient data.**

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<sup>17</sup> See for example the complex and detailed cost assessment, including operational and capital costs, outlined in the draft Clean Fuel Regulations, Canada Gazette I, December 2020.

<sup>18</sup> Treasury Board of Canada, “Cabinet Directive on Regulation”, 2024.

<sup>19</sup> Treasury Board of Canada Secretariat, “Policy on Cost-Benefit Analysis”, 2018.

<sup>20</sup> *Ibid.* Section 7.4

<sup>21</sup> The Policy on Cost-Benefit Analysis provides some flexibility for shorter analyses if regulations sunset before 10-years, but there is no language in the draft emissions cap indicating that the requirements will cease to exist after 7.5-years.

<sup>22</sup> *Ibid.* Section 4

In addition, regulations that target greenhouse gas emissions reductions must provide assurances to Canadians that the regulations will drive real emissions reductions. ECCC should conduct a carbon leakage assessment. Canada's *Output-Based Pricing System Regulations* undertook a robust carbon leakage assessment and clearly indicated that incrementally more stringent requirements for the oil and gas industry could pose a real risk of carbon leakage. The draft emissions cap places more stringent requirements on the sector and has a high potential for carbon leakage. **Where new climate regulations are proposed, transparent carbon leakage assessments should be completed to ensure that the increased costs to Canadians will drive actual global emissions reductions.**

### 3. Uncertain impacts on other emissions reductions programs

The draft emission cap layers a new carbon market atop other existing carbon markets including Alberta's Technology Innovation and Emissions Reduction (TIER) Regulation and the Output-Based Pricing Systems in Saskatchewan, Newfoundland and Labrador, and under development in British Columbia. These provincial markets regulate emissions from multiple sectors, not only oil and natural gas. The draft emissions cap forces oil and natural gas producers to simultaneously operate in overlapping carbon markets with a high potential for market and economic distortions, creating credit price uncertainty for decarbonization investments.

Layered markets have the potential to cause significant fluctuations in price signals, unwinding the efficacy of provincial markets. The provincial markets incorporation of multiple industrial sectors encourages the lowest cost, most efficient, emissions reductions. Placing the upstream oil and gas sector in its own market undermines those efficiencies.

The RIAS references the potential impact of the draft emissions cap on provincial markets noting that it "could have impacts on the supply and demand for credits". Given the massive investments made by all industries subject to these provincial programs, a more robust analysis is warranted. **The potential for the draft emissions cap to disrupt broad-based provincial markets poses a serious risk to multiple industry sectors. Those impacts should be assessed and shared with stakeholders before the regulation is finalized, not after.**