CLIMATE MESSENGERS CANADA

Public Consultation on the Government of Canada's Plan to Cap And Cut Emissions from the Oil and Gas Production Sector

1. Executive Summary

Environment and Climate Change Canada ("**ECCC**"), on behalf of the federal government, has opened an online public consultation process on capping and cutting greenhouse gas ("**GHG**") emissions from the production of oil and gas. It has released a Discussion Document and is asking for suggestions from members of the public until 30 September 2022. [See details here.]

GHG emissions from the production of oil and gas is Canada's single largest source of GHG emissions. It makes up 27% of all of Canada's emissions, and that is just from the ***production***, not the ***consumption*** of them. The nature of our oil and gas production means that Canadian production emits significantly more GHGs per barrel of oil produced than most of the world's other oil production . [Details here.]

Expert international bodies have told us that, although there should be no new oil and gas production developed, the world's governments plan on producing around 110% more fossil fuels in 2030 than would be consistent with the median 1.5°C-warming pathway, and 45% more fossil fuels than would be consistent with the median 2°C-warming pathway. [See details here.]

Canada is among the most prominent contributors to that production gap problem: It plans to increase its production of oil and gas through, and past, 2030. [Details here.]

The federal government is limited in what it can do about oil and gas production because oil and gas production is the exclusive jurisdiction of the provinces. [Details here.]

Two of the tools that the federal government can use are the *Canadian Environmental Protection Act* ("**CEPA**") and the *Greenhouse Gas Pollution Pricing Act* (the "**GGPPA")** because, in both instances, the federal government is addressing GHG **emissions** from production and not oil and gas **production** itself. We provide a general explanation of CEPA and the GGPPA in this Toolkit, and provide links to more details. [Details here.]

The federal government has promised to reduce GHG emissions from the production of oil and gas in Canada by 81 Megatonnes ("**Mts**"), or 42%, compared to 2019 emissions, by 2030. [See details here.] In the Discussion Document, the federal government is proposing two alternative options:

Option 1 - Using the Canadian Environmental Protection Act ("**CEPA**") to create a regulated cap-and-trade system; or

Option 2 - Using the Greenhouse Gas Pollution Pricing Act (the "**GGPPA**") to create a modified (almost certainly higher) "carbon tax" that will apply only to oil and gas production.

The announcement for the Public Consultations is found at this link, and a link to the Discussion Document appears near the bottom of the page:

Government of Canada outlines next steps to develop an oil and gas emissions cap

The email address to which you can send your submissions is found in the Discussion Document. It is:

PlanPetrolieretGazier-OilandGasPlan@ec.gc.ca

The deadline for submissions is 30 September 2022.

This Toolkit generally favours Option 1 [See details here.], but either option could work. Whichever one you choose, it is even more important that you answer one or more of the questions that the Discussion Document proposes. [See details here.]

It is extremely important that you and every one of us does this because the government is already facing fierce, and sometimes extreme, opposition from the oil and gas lobby and from some of that lobby's political allies, and there are already indications that the government is buckling under the pressure. [See details here.]

We made this Toolkit because we need many, many climate concerned citizens, including you, to learn a bit about this issue and then to participate in the federal government's Public Consultation. We must pressure the federal government to act with stringency and with speed on this extremely important issue, and press them not to cave to the forces calling for leniency and delay, which would ultimately lead to even greater climate catastrophe.

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What's In This Toolkit (Table of Contents)

2. Introduction: What All of Us, Including You, Need to Do

All of us, including you, need to tell the government to move fast and hard on the new laws it is developing to reduce greenhouse gas ("**GHG**") emissions from the production of oil and gas in Canada. Between now and 30 September 2022, the federal government is holding an online public consultation about what it should do.

We are asking you, please, to tell the federal government what you think. Doing so can take as little as a few minutes or as long as several hours, depending on how detailed you want to be, but even a few minutes of your time would be valuable to pressure the federal government to

keep their promises and to counteract the pressure by the oil and gas lobby to take little or no action on emissions reduction.

Ultimately, what you do is to send your message via this email address, which the government has set up until 30 September for the public consultation:

PlanPetrolieretGazier-OilandGasPlan@ec.gc.ca

We have made this Toolkit to help you learn about what the government is proposing and to empower you to tell them what you think they should do. The "Executive Summary" above gives you a basic overview. Each of the other sections that we link to below will give you more detailed information if you want to learn more about any of the specific aspects.
We set out the promises that the federal government has made about capping and cutting emissions from oil and gas emissions, so that you can remind them of these promises in your submissions. [Details here.]

We briefly explain the two laws that the federal government is proposing to choose from to address this issue. [Details here.] We also explain the two policy options that the government is considering and provide some information about them. We also set out the questions that the government is asking. [Details here.]

We provide some general suggestions for you to consider when making your submissions. [Details here.]

If you are pressed for time, we also provide some suggested answers. However, this is our least-favourite part of the Toolkit! We really hope to empower you to formulate your own suggestions. [Details here.]

The whole point of this Toolkit is to help regular citizens who are concerned about climate change learn more about this very important issue and to encourage them to act on it by joining in the consultation.

We believe that, in public consultations such as these, the government pays much more attention to distinctive submissions from individuals or groups than it does to a form letter or mass email sent by many people. We are not against the form letters or mass emails that some groups organize, but we believe that helping people make individual submissions is a very important and complementary action in the campaign to reduce Canada's GHG emissions.

It is extremely important that as many Canadians as possible who are concerned about climate change email their submissions to the ECCC because the government is facing enormous opposition from the oil and gas lobby. We need to counterbalance, and overcome, that opposition. [Details here.]

You do not need to be an expert to participate. Regardless of how much you know about the issue, or how much you may learn about it before sending your email, it is vital that you tell the government to act firmly and to act quickly on this.

We all need to demand that the government take the necessary firm and fast action on this issue because, if we don't, the government will buckle to the oil and gas lobby, and our GHG emissions will continue to increase.

There is no need to give any attribution to the Climate Messengers. Frankly, we would prefer that you didn't. We want you to be able to quote directly from any of the credible and authoritative sources that we have assembled here. You are welcome to cut and paste anything you want from this Toolkit, but we think the most important information for you is what we have sourced from other sources who we respect. Please do cite those others as authorities in your submissions.

Also, please share this information with your friends.

Thanks for your help on fighting climate change!

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3. The Problem: GHG Emissions from Canada's Oil and Gas Production

Canada is the fourth largest producer of oil and gas in the world:

Rank	Country	Share of World's Oil and Gas Production (Percentage)
1	United States	17.9%
2	Russia	14.8%
3	Saudi Arabia	8.5%
4	Canada	5.4%
5	Iran	5.1%
6	China	4.1%
7	Iraq	3.1%
7	United Arab Emirates	3.0%

9	Qatar	2.8%
10	Norway	2.5%

Data from Tyndall Institute for Sustainable Development, 2022.[1]

In 2019, 26% of all of Canada's greenhouse gas "**GHG**") emissions came from the production of oil and gas. Of the 730 Megatonnes ("**Mt**") of total Canadian GHGs, 191 Mt were from oil and gas production.[2]

This was only from the *production* of oil and gas in Canada, not from the *consumption* of that oil and gas. The oil and gas that Canada produced and exported emitted more megatonnes of GHGs when it was consumed in other countries than all of Canada's national GHG emissions. The GHGs that were emitted from the fossil fuels that were produced in Canada in 2019, but that were exported from Canada and consumed in other countries, totaled 954 Mt.[3]

According to the national GHG emissions accounting rules established by the United Nations Intergovernmental Panel on Climate Change (the "**UNIPCC**), those 954 Mt are counted as part of the annual GHG emissions of the country in which they are consumed.[4]

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[1] Dan Calverley and Kevin Anderson, "Tyndall Production Phaseout Report", 11 March 2022. p. 40. Retrieved from https://www.research.manchester.ac.uk/portal/en/publications/phaseout-pathways-for-fossil-fuel-production-within-pariscompliant-carbon-budgets(c7235a8e-e3b1-4f44-99de-c27958c03758).html on 16 August 2022.

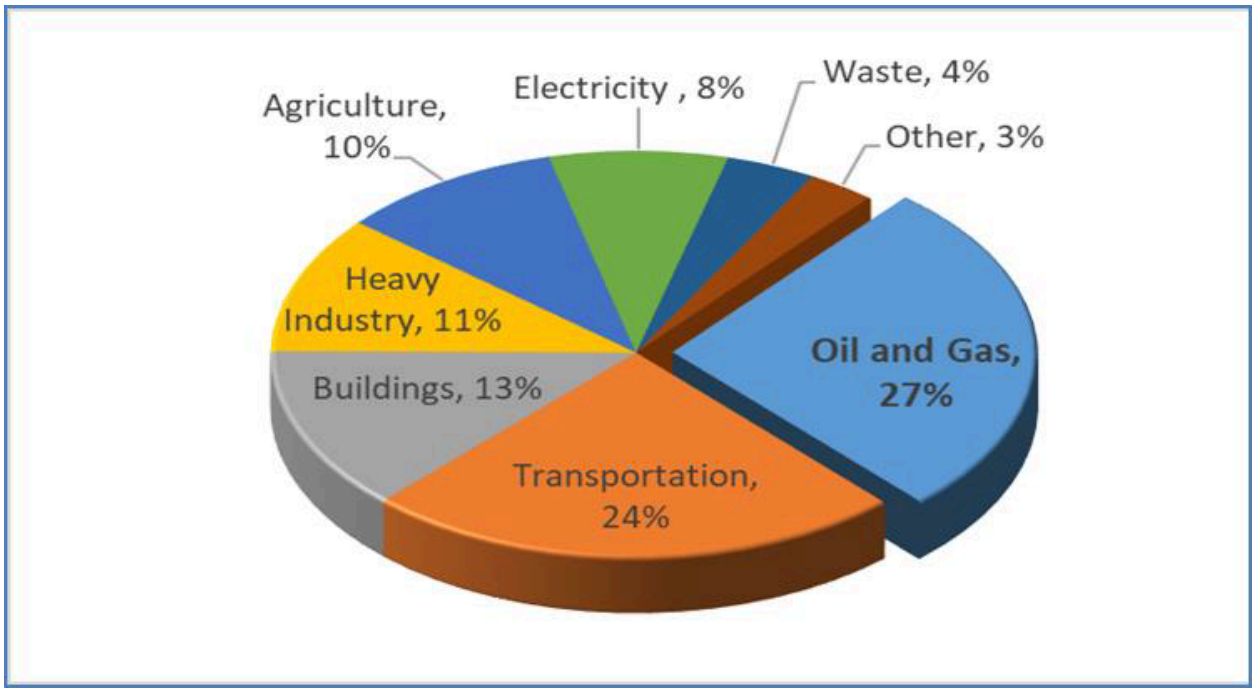
[2] Environment and Climate Change Canada, *National Inventory Report, 1990-2019: Greenhouse Gas Sources and Sinks in Canada - Canada's Submission to the United Nations Framework Convention on Climate Change*, Part 1. p. 10, Figure ES-7. Retrieved from https://publications.gc.ca/collections/collection_2021/eccc/En81-4-2019-1-eng.pdf on 4 August 2022. Note that the calculations of a given year's GHG emissions for Canada can change over time. For example, this 2021 National Inventory Report for Canada stated that Canada's 2019 emissions were 730 Mt, whereas Canada's 2022 National Inventory Report revised that figure to 739 Mt. (See footnote below.) This document will use the initial 730 Mt figure for the sake of simplicity.

[3] Fraser Thompson, "To avoid climate catastrophe, Canada must account for its hidden emissions", *Canada's National Observer*, 27 July 2021. Retrieved from https://www.nationalobserver.com/2021/07/27/opinion/canada-hidden-fossil-fuel-emissions-avoid-climate-catastrophe on 5 August 2022. See also https://ecojustice.ca/to-avoid-climate-catastrophe-canada-must-account-for-its-hidden-emissions/, retrieved 5 August 2022.

[4] UNIPCC, "Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories: Reporting Instuctions - Common Reporting Framework. Accessed via https://www.ipcc-nggip.iges.or.jp/public/gl/invs4.html. Retrieved 27 June 2022.

In 2020, Canada's total emissions were lower than in 2019, because Covid slowed the entire economy, including oil and gas production. However, the emissions from oil and gas production rose to 27% of Canada's total emissions.[5]

Figure 1 – GHG Emissions by Canadian Economic Sector in 2020



Source: ECCC, National Inventory Report, 2022[6]

The Discussion Document that ECCC published at the start of this consultation provides important information about the problem:

> Absolute GHG emissions from Canada's oil and gas sector grew by 5% from 2005-2020 (Table 1) while oil and gas production increased by 26%... This compares with decreases in absolute GHG emissions of 52% from the electricity sector and 18% from heavy industry from 2005-2020. In the same 2005-2020 timeframe, electricity generation in Canada increased by 5%, and output from heavy industry fell by 9%.

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[5]Environment and Climate Change Canada, *National Inventory Report, 1990-2020: Greenhouse Gas Sources and Sinks in Canada - Canada's Submission to the United Nations Framework Convention on Climate Change*, Part 1. p. 12, Figure ES-7. Retrieved from https://publications.gc.ca/site/eng/9.506002/publication.html on 5 August 2022.

[6] Environment and Climate Change Canada, "Options to Cap and Cut Oil and Gas Sector Greenhouse Gas Emissions to Achieve 2030 Goals and Net-Zero by 2050: Discussion Document", July 2022, p. 8. Retrieved from https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/oil-gas-emissions-cap/options-discussion-paper.html on 7 August 2022.Hereinafter "**Discussion Document**".

The GHG emissions intensity of Canadian oil production declined from 2005-2020, as the sector reduced the amount of energy needed to produce each barrel of oil through energy efficiency, fuel switching and deployment of additional clean technologies. Despite these improvements, **the GHG emission intensity of Canadian oil production is among the highest in the world, driven by combustion intensive oil sands production processes. Canada's oil sands production nearly tripled from 2005-2020 (Table 2), outweighing emissions intensity improvements, and leading to an increase in absolute emissions**.

Absolute GHG emissions from oil sands operations more than doubled from 35 Mt in 2005, to 81 Mt in 2020 (Table 1). By comparison, total GHG emissions declined for other oil and gas sub-sectors from 2005-2020, including natural gas production and processing, conventional oil production, oil and natural gas transmission, and petroleum refining. The GHG emissions intensity of oil production can also differ significantly depending on how and where it is produced. For example, in 2020, Canada's off-shore oil production had an average emissions intensity approximately 25% of the average for Canadian oil sands production. Canada's oil and gas methane regulations, and plans to strengthen them, are expected to drive down the Canadian natural gas sector's emissions intensity.

While upstream oil and gas extraction is the largest contributor to Canada's GHG emissions from the oil and gas sector (84%), some petroleum refineries are among Canada's largest GHG emitting facilities. The downstream oil and gas subsector emitted 18 Mt of carbon dioxide equivalent (CO2 eq) emissions in 2020—accounting for 10% of total GHG emissions from the oil and gas sector. Transmission pipelines accounted for 10 Mt CO2eq, or 6% of total emissions from the sector (Table 1).[7] [Footnotes omitted. Emphasis added.]

Table 1 – Canadian GHG Emissions by Oil and Gas Sub-Sector (1990-2020)[8]

[7] Discussion Document, p. 9.

[8] Discussion Document, p. 10.

Subsector	1990	2005	2015	2016	2017	2018	2019	2020
				Mt CO_2 eq				
Upstream Oil and Gas Production	**71**	**136**	**174**	**163**	**167**	**175**	**172**	**150**
Natural Gas Production and Processing	31	66	61	57	54	56	55	44
Conventional Oil Production	24	35	40	37	37	37	35	25
Conventional Light Oil	15	19	25	24	24	25	24	17
Conventional Heavy Oil	9.1	14	13	11	10	9.5	8.7	6.5
Frontier Oil (Off-shore and North)	0.26	1.7	1.5	1.7	1.8	1.9	1.9	1.8
Oil Sands Production	15	35	73	70	77	82	83	81
Mining and Extraction	2.2	5.6	11	11	13	15	15	15
In-situ	4.5	12	38	38	42	44	43	41
Upgrading	8.4	17	24	21	22	24	25	25
Oil, Natural Gas & CO_2 Transmission	**12**	**12**	**10**	**9.9**	**9.8**	**11**	**11**	**10**
Downstream Oil and Gas	**20**	**23**	**21**	**21**	**19**	**19**	**20**	**18**
Petroleum Refining	18	22	20	20	18	18	19	17
Natural Gas Distribution	1.6	1.3	1.2	1.2	1.2	1.1	1.2	1.1
TOTAL	**103**	**171**	**205**	**194**	**196**	**205**	**203**	**179**

Source: ECCC, National Inventory Report (NIR), 2022, Part 1.
Note: In the economic sector data tables within the NIR report, transmission pipelines are grouped with “upstream”, however, they are broken out in the table above to distinguish between oil and gas extraction, and pipeline transmission and downstream activities.

Table 2 - Canadian Oil and Gas Production (1990-2020)

Sub Sector	1990	2005	2015	2016	2017	2018	2019	2020
				Millions of Barrels equivalent (***Annual***)				
Upstream Oil and Gas Production	1,264	2,068	2,476	2,506	2,642	2,734	2,710	2,597
Natural Gas Production and Processing	684	1,155	1,033	1,068	1,110	1,141	1,097	1,070
Conventional Oil Production	447	508	483	468	461	484	494	449
Conventional Light Oil	341	227	290	264	259	277	272	232
Conventional Heavy Oil	94	163	127	124	121	122	123	111
Frontier Oil Production (Off-shore and North)	12	118	66	80	81	85	98	106
Oil Sands Production*	133	406	960	970	1,071	1,108	1,120	1,078
Mining and Extraction	104	254	472	465	518	598	630	604
In-situ	55	178	555	564	632	638	627	605
Upgrading	78	230	392	375	413	424	444	434
Oil, Natural Gas & CO_2 Transmission	NA	NA	NA	NA	NA	NA	NA	NA
Downstream Oil and Gas	NA	NA	NA	NA	NA	NA	NA	NA
Petroleum Refining	630	7569	696	708	736	714	763	691
Natural Gas Distribution	NA	NA	NA	NA	NA	NA	NA	NA

Source: Statistics Canada, Report on Energy Supply and Demand in Canada, 2021; Alberta Energy Regulator’s Statistical Reports, 2021; and Saskatchewan’s Mineral Statistics Yearbook, 2021 (including oil and gas).

*Note: Total oil sands production is not a summation of production in the oil sands production subsectors, as some crude bitumen produced at mining and in-situ operations is upgraded into synthetic crude oil.

Looking beyond the Discussion Document, one can see that the most important part of the problem is that oil produced in Canada creates more kilograms of GHG emissions per barrel of oil produced than the oil produced in almost all other countries. This is called "**emissions intensity**" or "**carbon intensity**". It is measured in kilograms of CO2-equivalent GHGs emitted per barrel of oil produced, or in grams of carbon dioxide equivalent per Megajoule ("**gCO2eq/MJ**").

The global volume-weighted carbon intensity is 10.3 gCO2eq/MJ. The average carbon intensity of Canadian oil is 17.6 gCO2eq/MJ).

Producing a barrel of oil in the United Arab Emirates creates only 40% of the GHGs (7.1 gCO2eq/MJ) that are emitted from producing a barrel of oil in Canada.

Producing a barrel of oil in Kuwait creates only 39% of the GHGs (6.9 gCO2eq/MJ) that are emitted from producing a barrel of oil in Canada.

Producing a barrel of oil in Saudi Arabia creates only 26% of the GHGs (4.6 gCO2eq/MJ) that are emitted from producing a barrel of oil in Canada.[9]

The reason for this is because the oil that is extracted from the ground in those countries is much closer to the refined product that is ultimately consumed than most of what is extracted in Canada. In those countries, the oil is extracted in a pipe and needs relatively little refinement to create the final product. In contrast, most of Canada's oil is produced from the oil sands, formerly called the "tar sands", which is like oily gravel that is literally shoveled from the ground and hauled in gigantic trucks to where the industrial and chemical processes begin in order to convert it into oil.

To state the emissions intensity of Canada's oil in units that are somewhat easier to conceive of, the overall emissions intensity of oil production in Canada was 65 kg of CO2e per barrel in 2019. This was about a 10% increase in the average emissions intensity of Canadian oil in

[9] Masnadi et al, "Global Carbon Intensity of Crude Oil Production", Science, Vol 361, Issue 6405 (31 August 2018). Retrieved from https://www.science.org/doi/10.1126/science.aar6859 on 7 August 2022. The supporting data is also available from that website, but may be behind a paywall for most people. The Climate Messengers have a copy of it and may share it upon reasonable request.

1990 when it was 59 kg of CO2e per barrel.[10] By contrast, according to a recent study, the global average carbon intensity of oil is 40.7 kgCO2e per barrel.[11]

"About 88% of oil sands emissions come from burning fossil fuels to extract bitumen during mining or in-situ operations and to upgrade that bitumen into synthetic crude."[12]

Canada's oil is some of the dirtiest in the world:

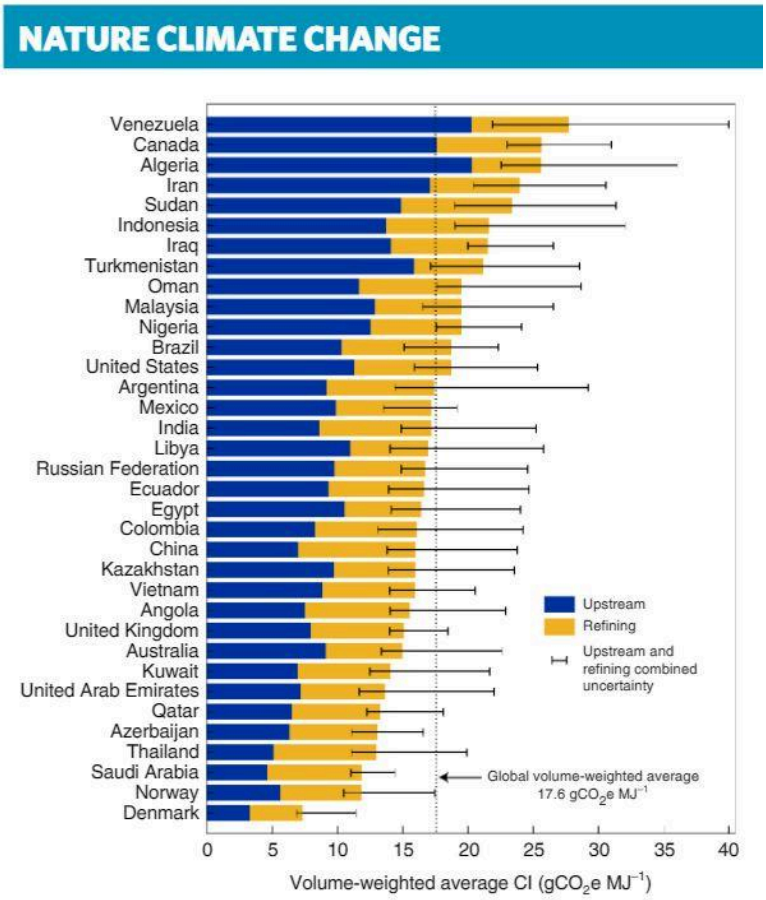

Fig. 3 | Volume-weighted average CI of crude oil production, transportation and refining by source country in 2015. Upstream data

[10] Environment and Climate Change Canada, *National Inventory Report, 1990-2019: Greenhouse Gas Sources and Sinks in Canada - Canada's Submission to the United Nations Framework Convention on Climate Change*, Part 1. p. 55. Retrieved from https://publications.gc.ca/site/eng/9.506002/publication.html on 23 August 2022.

[11] Jing, El-Houjeiri, et al. "arbon intensity of global crude oil refining and mitigation potential". *Nature Climate Change*, No 6, pp. 526-532. Published 2 June 2020. Retrieved from https://www.nature.com/articles/s41558-020-0775-3 on 23 August 2022.

[12] Environment and Climate Change Canada, "2030 Emissions Reduction Plan: Canada's Next Steps for Clean Air and a Strong Economy", 29 March 2022. Retrieved from https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/climate-plan-overview/emissions-reduction-2030.html on 7 August 2022. (Hereinafter "**ERP**"). p. 12.

“The oil sands are the biggest driver of new production and emissions growth, with emissions rising 137% since 2005.”[13]

A consideration of the problem also requires a consideration of the place of oil and gas production in the Canadian economy. This Discussion Document contains this information:

> The oil and gas sector is a major contributor to Canada’s economy. In 2020, the oil and gas sector generated $118B in GDP and accounted for 16% of Canada’s exports (valued at $86B). The sector is also a major employer across the country. In 2020, Canada’s oil and gas sector employed 178,500 direct and 415,000 indirect workers. In addition to the concentration of jobs in oil and gas producing provinces, there are thousands of jobs in manufacturing, environmental, and financial services tied to the oil and gas industry, especially in Ontario and Québec.
>
> The sector is also an important employer of Indigenous peoples, providing an estimated 10,400 jobs in 2020. Since 2014, Indigenous employment in Canada’s oil and gas sector has increased by more than 20%. In addition, oil and gas companies spent more than $2.6B on procurement from Indigenous businesses in 2019— up from $1.5B (43%) in 2017—and more than 250 Indigenous-owned service and other businesses were active in Canada’s oil and gas sector. In 2018-2019, $55 million in oil and gas-related revenues were collected on behalf of First Nations in Alberta, Saskatchewan and British Columbia by Indian Oil and Gas Canada (a special operating agency within Indigenous Services Canada).
>
> Although the oil and gas sector is currently seeing record cash flows, the sector now employs fewer people than in 2013 – the last time the price of oil was over $90 per barrel – as the sector has prioritized improving efficiency. In addition, the sector has gone from representing 30% of private sector capital spending in Canada to 11%. Making further private sector investments in emission reductions will require a long term policy signal along with a supportive and predictable investment landscape. [Footnotes omitted.][14]

To the extent that jobs may be lost and certain regions may suffer as a result of federal government action on emissions reduction and not as a result of efficiencies created by the producers themselves, the federal government should address those problems too. That is in the realm of the discussion about a “Just Transition Act”. However, there is another, separate consultation occurring on that topic, and it does not really have a place in this consultation on emissions reduction.

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[13] ERP, p. 47.

[14] Discussion Document, pp. 7-8.

4. The Nations of the World Are Producing Too Much Oil and Gas to Keep Us Below 2C

In May 2021, the International Energy Agency, (the "**IEA**") published a report stating that, in order to limit global warming to less than 1.5^{O}C, there should be no new oil and gas production:

> ***There is no need for investment in new fossil fuel supply in our net zero Pathway***
>
> **Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required.** The unwavering policy focus on climate change in the net zero pathway results in a sharp decline in fossil fuel demand, meaning that the focus for oil and gas producers switches entirely to output – and emissions reductions – from the operation of existing assets. Unabated coal demand declines by 98% to just less than 1% of total energy use in 2050. Gas demand declines by 55% to 1 750 billion cubic metres and oil declines by 75% to 24 million barrels per day (mb/d), from around 90 mb/d in 2020.[15]

It is worth noting that the IEA is by no means a climate change activism group. Indeed, the IEA "at one time was seen as a cheerleader for the fossil fuel sector".[16] As recently as 2016, the IEA was recommending more government funding for the energy sector.[17]

In October 2021, the United Nations Environment Program, the International Institute for Sustainable Development, and a number of other groups released their most recent edition of the *Production Gap Report*, which is their collaboration on the discrepancy between the quantity of fossil fuels that the nations of the world are producing and the quantity of fossil fuel production that would be aligned with less than 1.5^{O}C of global warming. It stated:

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[15] International Energy Agency, "Net Zero by 2050: A Roadmap for the Global Energy Sector", May 2021. p. 21. Retrieved from https://www.iea.org/reports/net-zero-by-2050 on 10 August 2022.

[16] https://www.forbes.com/sites/davidrvetter/2021/05/18/end-new-fossil-fuel-development-iea-demands-in-groundbreaking-net-zero-plan/?sh=278e9aa74678. Retrieved 10 August 2022.

[17] https://www.cbc.ca/news/business/iea-canada-oil-gas-research-development-fossil-fuels-1.3463208. Retrieved 10 August 2022.

> Governments plan to produce more than twice the amount of fossil fuels in 2030 than would be consistent with limiting warming to 1.5°C. The production gap has remained largely unchanged since our first analysis in 2019.[18]

More specifically, it stated:

> Our assessment of the most recent government plans and projections for fossil fuel production reveals that the world's governments plan on producing around 110% more fossil fuels in 2030 than would be consistent with the median 1.5°C-warming pathway, and 45% more fossil fuels than would be consistent with the median 2°C-warming pathway. The production gap has remained largely unchanged since our 2019 analysis. The gap remains proportionally largest for coal, even as governments plan small production decreases in aggregate. Meanwhile, governments plan to increase oil and gas production until at least 2040, leading to large production gaps for these fuels as well.
>
> As shown in this chapter's analysis of modeled scenarios assembled by the IPCC [the United Nations Intergovernmental Panel on Climate Change (the **"UNIPCC"**)], global coal, oil, and gas production (and consumption) have to start declining immediately to be consistent with limiting warming to 1.5°C. Global coal and oil also have to decline immediately to be consistent with a 2°C limit, while gas production must decline no later than 2030.[19]

On 4 April 2022, the UNIPCC released AR6 Climate Change 2022: Mitigation of Climate Change, which focuses on how humans can mitigate the worst effects of climate change.

The actual wording of the report is rather technical and dry on the issue of reducing fossil fuel production:

> **B.7 Projected cumulative future CO2 emissions over the lifetime of existing and currently planned fossil fuel infrastructure without additional abatement exceed the total cumulative net CO2 emissions in pathways that limit warming to 1.5°C (>50%) with no or limited overshoot. They are approximately equal to total cumulative net CO2 emissions in pathways that limit warming to 2°C (>67%). (high confidence) {2.7, 3.3}**

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[18] SEI, IISD, ODI, E3G, and UNEP. (2021). The Production Gap Report 2022, p. 2.. Retrieved from http://productiongap.org/2021report on 10 August 2022.

[19] SEI, IISD, ODI, E3G, and UNEP. (2021). The Production Gap Report 2022, p. 23. Retrieved from http://productiongap.org/2021report on 10 August 2022.

> B.7.1 If historical operating patterns are maintained, and without additional abatement, estimated cumulative future CO2 emissions from existing fossil fuel infrastructure, the majority of which is in the power sector, would, from 2018 until the end of its lifetime, amount to 660 [460–890] GtCO2. They would amount to 850 [600–1100] GtCO2 when unabated emissions from currently planned infrastructure in the power sector is included. These estimates compare with cumulative global net CO2 emissions from all sectors of 510 [330–710] GtCO2 until the time of reaching net zero CO2 emissions in pathways that limit warming to 1.5°C (>50%) with no or limited overshoot, and 890 [640–1160] GtCO2 in pathways that limit warming to 2°C (>67%). (Table SPM.1) (high confidence). [Footnotes omitted.][20]

In an article on the report the day after it was released, the *Toronto Star* quoted a statement by Green Party Interim Leader Amita Kuttner: "Within the IPCC deliberations, it was reported that pro-fossil fuel countries, including Canada, tried to water down the language,"[21]

Other branches of the United Nations used clearer language when describing the UNIPCC's report:

> The report makes it clear that the only realistic way to keep within 1.5C is to phase out coal use fully and reduce the amount of fossil fuels we burn. Every other measure from planting trees to carbon capture technology is secondary to reducing our dependence on fossil fuels… T]he report makes it clear that more money has to flow to renewable energy solutions and less money should flow to the fossil fuel companies.[22]

In his announcement of the new Report, United Nations Secretary-General was crystal clear:

> "We are on a pathway to global warming of more than double the 1.5°C limit agreed in Paris. Some Government and business leaders are saying one thing, but doing another. Simply put, they are lying…
>
> Climate activists are sometimes depicted as dangerous radicals. But, the truly dangerous radicals are the countries that are increasing the production of fossil fuels.

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[20] United Nations Intergovernmental Panel on Climate Change, *Climate Change 2022 Mitigation of Climate Change: Summary for Policy Makers*, April 2022. Retrieved from https://www.ipcc.ch/report/ar6/wg3/ on 10 August 2022.

[21] https://www.thestar.com/news/canada/2022/04/05/the-ipcc-urges-countries-to-move-away-from-fossil-fuels-but-canadas-climate-plan-includes-more-oil-and-gas.html. Retrieved 10 August 2022.

[22] https://unfccc.int/blog/everything-you-need-to-know-about-the-ipcc-report. Retrieved 10 August 2022.

Investing in new fossil fuels infrastructure is moral and economic madness."[23]

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5. Canada is Going to Increase Oil and Gas Production

Despite the IEA Report, the Production Gap Report, the UNIPCC Report, and the statements of UN Secretary-General Antonia Guterres, Canada intends to increase its production of oil and gas.

"The **Canada Energy Regulator (CER)** is the agency of the Government of Canada under its Natural Resources Canada portfolio, which licenses, supervises, regulates and enforces all applicable Canadian laws as regards to interprovincial and international oil, gas, and electric utilities. The agency came into being on August 28, 2019, under the provision of the Canada Energy Regulator Act of the Parliament of Canada superseding the National Energy Board from which it took over regulatory responsibilities. The CER is headquartered in Calgary, Alberta." [Footnotes omitted.][24] In its 2021 report on Canadian oil production, it stated that Canadian oil production is planned to *increase* until 2032:

> In 2019, Canadian crude oil production averaged 4.9 million barrels per day (MMb/d)...Production declined by 5% in 2020, largely due to the COVID-19 pandemic, but had returned to 2019 levels by the end of 2020. In recent years, most production growth has been concentrated in the oil sands. Regionally most production is in Alberta, with additional volumes in Saskatchewan and offshore Newfoundland and Labrador...
>
> Canadian oil production in the Evolving Policies Scenario [compared to the Current Policies Scenario] peaks at 5.8 MMb/d…in 2032 and declines to 4.8 MMb/d… in 2050, a decrease of 4% from 2021. For comparison, production peaks at 6.7 MMb/d…in 2044 in the Current Policies Scenario, driven by higher crude oil price assumptions and other assumptions related to the lack of future domestic and global policy action.

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[23] The full text of his speech is here: https://press.un.org/en/2022/sgsm21228.doc.htm. Retrieved 10 August 2022.

[24] https://en.wikipedia.org/wiki/Canadian_Energy_Regulator. Retrieved on 8 August 2022.

> Production growth in the oil sands continues in the near term, peaking in 2032 and declining slightly through 2050 in the Evolving Policies Scenario… Growth is dominated by in situ [oil sands] projects[25]

Regarding natural gas, the Canadian Energy Regulator reported:

> In Canada, natural gas is produced for domestic use and exports. In 2020, Canadian marketable natural gas production averaged 15.5 Bcf/d or 438 million cubic metres per day (106m3/d)...
>
> Natural gas production in Alberta has been relatively flat over the last few years, while B.C. production has been steadily increasing since 2010. This increase has been driven by a variety of factors including:
>
> - Drilling to evaluate natural gas resources expected to supply LNG exports off of Canada's west coast.
>
> - NGLs in the Montney tight gas play driving drilling and production despite lower natural gas prices.
>
> - Horizontal drilling and hydraulic fracturing technological advancements.

Similarly, Canada intends to maintain the same level of natural gas production for the next 20 years:

> In the Evolving Policies Scenario, natural gas production remains near 2020 levels of 15.5 Bcf/d through much of the next two decades. The additional investment in production to meet assumed LNG export volumes sustains production levels. Without these investments, production would otherwise decline, given the assumed North American natural gas prices and the costs associated with assumed domestic climate policies. After 2040, with LNG exports assumed to stay flat, total natural production begins to decline, falling to 13.1 Bcf/d by 2050. Much of the production growth related to LNG exports occurs in B.C., and production in B.C. surpasses that of Alberta by 2028.
>
> In the Current Policies Scenario, natural gas production continues increasing in the longer term, reaching 22.2 Bcf/d (627.4 106m3/d) by 2050. Current Policies Scenario projections are driven by assumptions of higher prices, a lack of future domestic and global climate action, and higher LNG exports.

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[25] Canada Energy Regulator, "Canada's Energy Future 2021", p. 40. Retrieved from https://www.cer-rec.gc.ca/en/data-analysis/canada-energy-future/ on 8 August 2022. (Hereinafter "**Canada's Energy Future, 2021**").

> Natural gas production is fairly level in the Evolving Policies Scenario to 2040, before declining through the remainder of the projection period
>
> Production from the Montney Formation in the form of liquids-rich tight gas grows significantly and becomes the majority of Canadian production over the projection period. [Footnotes omitted.][26]

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6. What the Federal Government Can and Cannot Do

The federal government cannot restrict the production of oil and gas. Under s. 92A of Canada's Constitution, the exploration for, and development and management of, non-renewable natural resources, including oil and gas, is under the exclusive jurisdiction of the provinces.[27]

The federal government could possibly restrict the transport of oil and gas by way of its jurisdiction over interprovincial pipelines, railways, and imports and exports,[28] although this could be problematic if courts determined that the real reason for restricting the movement of oil and gas was to restrict their production.

The federal government can also determine whether certain large projects, such as the construction of new electrical generating plants or new oil and gas refineries will be permitted, although it must follow specific rules in how it exercises its power. This scheme is set out in the federal *Impact Assessment Act*.[29]

However, the one very clear and effective power that the federal government has is jurisdiction over the regulation of GHG emissions. The Supreme Court of Canada confirmed that the

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[26] *Ibid*., p. 46.

[27] The *Constitution Acts* of Canada, 1867-1928, s. 92A. Accessed at https://laws-lois.justice.gc.ca/eng/const/page-3.html#h-19 on 11 August 2022.

[28] The *Constitution Acts* of Canada, 1867-1928, s. 91, including "the regulation of trade and commerce" and the "residual powers" clause by which the federal government has jurisdiction over matters that are not specifically identified as being in the jurisdiction of the provinces. Accessed at https://laws-lois.justice.gc.ca/eng/const/page-3.html#h-19 on 11 August 2022.

[29] *Impact Assessment Act*, S.C. 2019, c. 28. Accessed at https://laws.justice.gc.ca/eng/acts/I-2.75/index.html on 11 August 2022.

federal government has the power to address climate change by regulating GHG emissions in the case *Reference re Greenhouse Gas Pollution Pricing Act*.[30] The Courts have also made it perfectly clear that the federal government has the power to regulate emissions of toxic substances, including carbon dioxide, through the *Canadian Environmental Protection Act*, because in doing so, the federal government is exercising its constitutional jurisdiction over the criminal law power.

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7. How the Federal Government Can Regulate GHG Emissions from Oil & Gas Production

Knowing that the federal government ***can*** regulate the quantity of GHG emissions in Canada, we need to know ***how*** they can do that. Knowing the "how" lets us engage with the government's consultation. This section provides a brief explanation of the two main tools available to the federal government.

The federal government has two main statutes to deal with GHG emissions. One is the *Greenhouse Gas Pollution Pricing Act* (the "**GGPPA**")[31] and the other is the *Canadian Environmental Protection Act* ("**CEPA**")[32].

The GGPPA

The GGPPA creates a "charge" on the emission of a long list of GHGs. That charge is often referred to as the "carbon tax", although it is not really a tax because almost all of the money that is collected is returned to us. We therefore have a financial incentive to change our behaviour to reduce our emissions, and make a small profit by still receiving the repayment from the charges that others still pay.

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[30] *Reference Re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11. Retrieved from https://www.canlii.org/en/ca/scc/doc/2021/2021scc11/2021scc11.html?autocompleteStr=Reference%20re%20Green&autocompletePos=1 on 11 August 2022.

[31] *Greenhouse Gas Pollution Pricing Act*, S.C. 2018, c. 12. (Hereinafter the "**GGPPA**"). Accessed at https://laws-lois.justice.gc.ca/eng/acts/g-11.55/ on 11 August 2022.

[32] *Canadian Environmental Protection Act*, S.C. 1999, c. 33. (Hereinafter "**CEPA**") Accessed at https://laws-lois.justice.gc.ca/eng/acts/c-15.31/ on 11 August 2022.

In the GGPPA, The federal government put a price on emitting one tonne of carbon dioxide (CO2). In 2022, that price is $50.[33] The federal government had scientists and engineers work out how damaging other types of GHGs are, compared to CO2. For example, emitting one tonne of methane does as much climate change damage as emitting 25 tonnes of CO2, so methane emissions are priced accordingly.[34] Since all other GHGs are related back to one tonne of CO2, people often talk about the CO2-equivalent ("**CO2e**") The current federal government has also stated its intention to increase the price of the "carbon tax" by $15 gradually each year until it reaches $170 per tonne CO2e in 2030.[35]

Here is a good visualization of one tonne of CO2:

The GGPPA has two parts, one that applies to consumers and one that applies to industrial emitters.

Part 1 of the GGPPA creates "fuel charge". It puts a charge (sometimes called the "carbon tax") on a number of common fuels that consumers use, most notably gasoline for our cars and natural gas for heating our homes.

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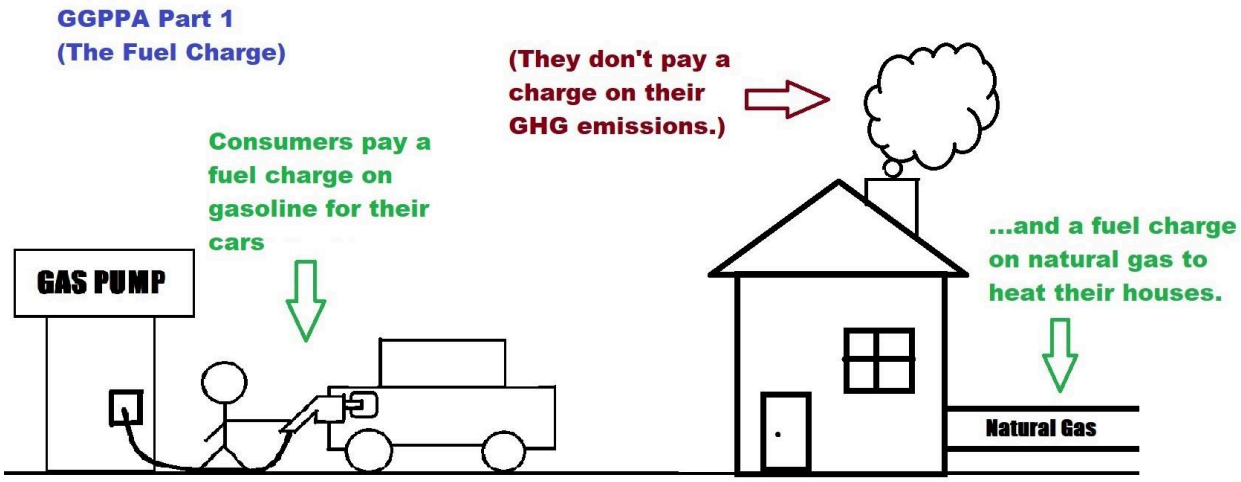
[33] GGPPA, Sched. 4. Retrieved from https://laws-lois.justice.gc.ca/eng/acts/g-11.55/page-28.html#docCont on 12 August 2022.

[34] GGPPA, Sched. 3. Retrieved from https://laws-lois.justice.gc.ca/eng/acts/g-11.55/page-27.html#h-247148 on 12 August 2022.

[35] ERP, p. 24.

The federal government had scientists and engineers work out what small fraction of a tonne of CO2e is emitted when a car burns one litre of gasoline, then multiplied that fraction by the current price of emitting one tonne of CO2 (i.e. $50) and the federal government put that "fuel charge" on one litre of gasoline. (In 2022 in Ontario, it is 11.05 cents per litre).[36] The same process was used to establish the fuel charge on one cubic metre of natural gas for home heating.



Almost all of the money collected from the fuel charge is returned to Canadians. This provides them with an incentive to pay less money by using less fossil fuel (by doing such things as taking public transit, buying a Zero Emission Vehicle, or switching to an electric fuel pump for home heating). They will still get some money back from the money collected from others who are still burning fossil fuels, but they will make a profit by paying for less fossil fuels themselves.

[36] GGPPA, Sched. 2, Table 4, Line 6(a). Retrieved from https://laws-lois.justice.gc.ca/eng/acts/g-11.55/page-26.html#h-247111 on 12 August 2022.

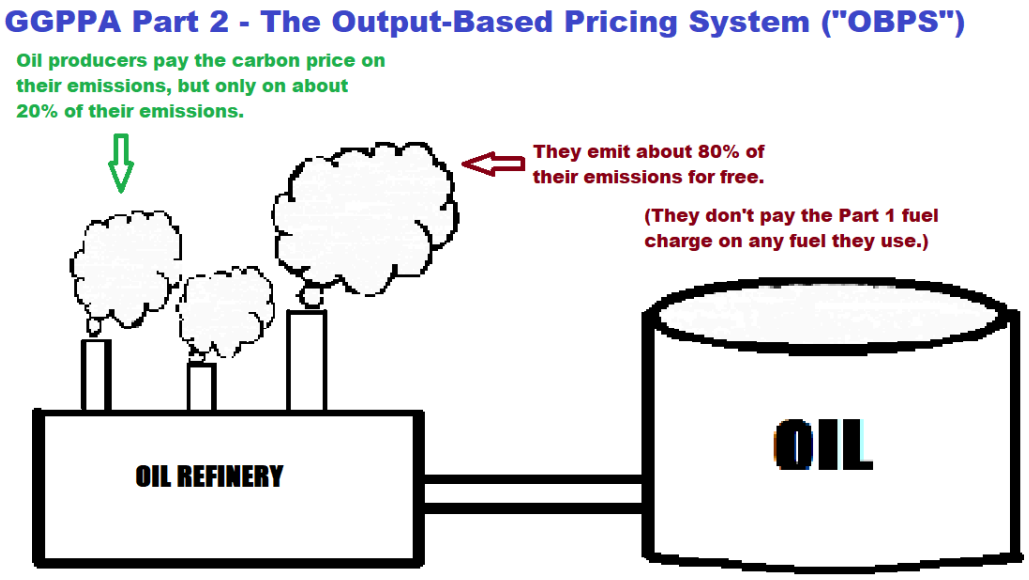
Almost all of the money collected through the fuel charge is returned to households in quarterly payments, either by cheque or by direct bank deposits.

Eight out of 10 households receive more money back than they pay out for the fuel charge.

Part 2 of the GGPPA applies to industrial facilities. It creates the Output-Based Pricing System (the "**OBPS**"), which requires factories and other industrial facilities (including oil production facilities) to pay a fee based directly on the GHGs they emit, instead of on the fuels that they use. (They do not pay any charge on the fuels they use.) However, these facilities pay the fee only on a portion of their GHG emissions.

For example, oil producers are permitted to emit 0.0544 tonnes (or 54.4 kilograms) of CO2e GHG emissions per barrel of conventional heavy oil that they produce without having to pay any "carbon tax". They only pay the "carbon tax" on the quantity of GHGs that they emit above and beyond 54.4 kilograms CO2e per barrel of oil produced.[37]

[37] Output-Based Pricing System Regulations (SOR/2019-266), Sched. 1, Line 1(b). Retrieved from https://laws.justice.gc.ca/eng/regulations/SOR-2019-266/page-11.html#h-1185036 on 12 August 2022.



The Parliamentary Budget Officer estimates that this means that oil and gas producers emit about 80% of their GHG emissions for free, and that they pay the “carbon tax” on only about 20% of their emissions.[38]

> The Canadian Climate Institute looked at the OBPS and similar provincial systems for industrial emitters. It found:
>
> In Canada’s large emitter programs, competitiveness is protected by providing what is essentially free allocation to industry. Compliance payments or tonnes owed are set as a fraction of total facility emissions. This means that the average cost of the policy to the large emitter, or total compliance costs over total tonnes covered, is a fraction of the posted carbon price. The fraction of covered emissions subject to compliance is typically determined based on sector-specific performance standards, expressed in carbon intensity of production, that jurisdictions can define freely.
>
> The Institute’s Independent Review determined that the average cost signal in Canada is exceptionally low for large emitter programs, ranging from $1.80 to $25.60 per tonne, with an average price per tonne of $4.96.[39]

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[38] Office of the Parliamentary Budget Officer, “Carbon Pricing for the Paris Target: Closing the Gap With Output-Based Pricing”, 8 October 2020, Appendix B, p. 19. Retrieved from https://www.pbo-dpb.ca/en/publications/RP-2021-019-S--carbon-pricing-paris-target-closing-gap-with-output-based-pricing--tarification-carbone-accord-paris-combler-ecart-avec-tarification-fondee-rendement on 12 August 2022.

[39] https://climateinstitute.ca/canadas-carbon-pricing-update/. Retrieved 23 August 2022.

Although, at first, that may strike you as outrageous, it still gives oil and gas producers a financial incentive to reduce their emissions per barrel of oil, so that they do not have to pay the "carbon tax". However, whether that incentive is sufficient to make oil and gas producers reduce their emissions from production appears to be an open question.

The permitted GHG emissions per unit of output that is applied to different industries varies from about 80% to about 95%.[40] It is set according to the risk that these industrial producers would simply close their operations and move them to another country that does not have a "carbon tax". This phenomenon is referred to as "**carbon leakage**", since, theoretically, the same amount of GHGs would be emitted into the world's atmosphere, but they would just be emitted from a jurisdiction other than Canada, where they would not be subject to any "carbon tax".

However, the problem with the "carbon leakage" argument as it pertains to oil and gas production is that producing the same number of barrels of oil almost anywhere else in the world will generate less GHG emissions than it would in Canada, since producing oil from the oil sands is so much more emissions-intensive than most other forms of oil production. (See Section 3.)

CEPA

Unlike the GGPPA, which imposes the "carbon tax" on GHG emissions, CEPA[41] creates a prohibition on emitting certain "toxic substances", or a prohibition on emitting more than a certain amount of those substances per unit of something that is manufactured. Both carbon dioxide and methane are among the toxic substances that are regulated by CEPA.

Individuals who contravene CEPA are liable to fines that can go as high as $2,000,000 and up to three years of imprisonment, or to both.[42] Corporations can be fined as much as $12,000,000 for a second or subsequent offense.[43]

The concept of a certain amount of GHGs being emitted per unit of something that is produced – for example, the number of kilograms of GHGs emitted in the production of one barrel of oil – is known as "emissions intensity". This concept is important.

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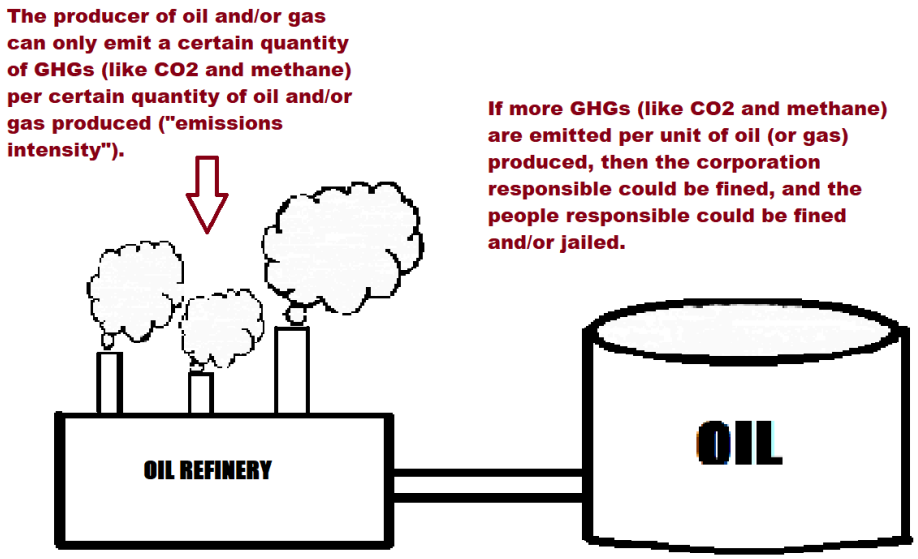
[40] *Ibid*.

[41] *Canadian Environmental Protection Act*, 1999. S.C. 1999, c. 33. Retrieved from https://laws-lois.justice.gc.ca/eng/acts/c-15.31/ on 13 August 2022.

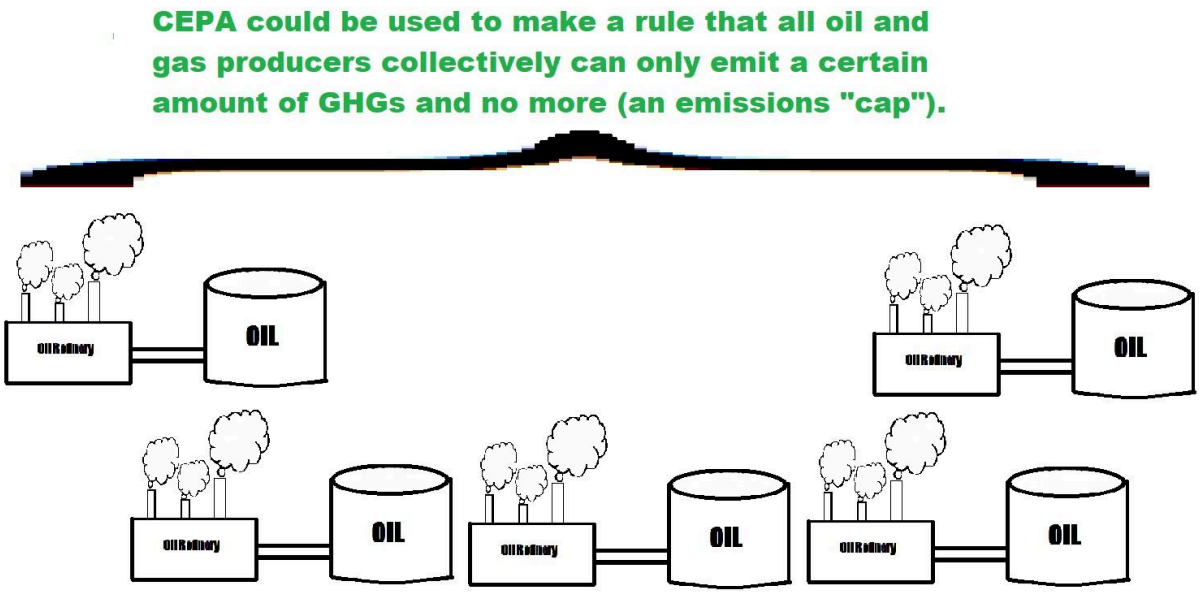
[42] CEPA, s. 272(2)(a)(ii).

[43] CEPA, s. 272(3)(a)(i).

CEPA



While CEPA can create a prohibition based on a certain emissions intensity, it can also create an absolute prohibition on certain emissions, or create a cap on total emissions, over which further emissions are prohibited.



Canada's oil and gas producers have been arguing very strenuously that the federal government should only require them to meet a certain (lenient) emissions intensity and that, as long as they meet that emissions intensity requirement, they should be permitted to produce as

much oil and gas as they want. However, that is not what the federal government has promised Canadians. During the last federal election, in the ERP, and in the Discussion Document, the federal government has promised an emissions cap on the entire industry, which will be reduced over time. We need to make sure the federal government keeps its promise.

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8. The Government's Promises

In Forward. For Everyone, which is the Liberal Party of Canada's book of policy promises during the 2021 federal election, Justin Trudeau and the liberals promised to cut Canada's GHG emissions by 40-45% by 2030 compared to 2005 levels:

> A re-elected Liberal government will:
>
> • Deliver on all policy and fiscal measures outlined in our Strengthened Climate Plan from December 2020, implement the recently passed Net-Zero Emissions Accountability Act, and advance new measures to achieve an ambitious 40-45% reduction in emissions by 2030 compared to 2005 levels.[44] [p. 43]

In that same document, Justin Trudeau and the Liberals promised to cap and cut the emissions that come from the production of oil and gas:

> A re-elected Liberal government will:
>
> • Make sure the oil and gas sector reduces emissions at a pace and scale needed to achieve net-zero by 2050, with 5-year targets to stay on track to achieving this shared goal. And driving down pollution starts with ensuring that pollution from the oil and gas sector doesn't go up from current levels.
>
> • Set 2025 and 2030 milestones based on the advice of the Net-Zero Advisory Body to ensure reduction levels are ambitious and achievable and that the oil and gas sector makes a meaningful contribution to meeting the nation's 2030 climate goals." [p. 44]

[44] Liberal Party of Canada. *Forward. For Eveyone*. (Liberal Party of Canada 2021 federal election campaign policy promises book). Released in Summer of 2021. (Hereinafter "***Forward. For Everyone***"), p. 43. Retrieved from https://liberal.ca/our-platform/ on 14 August 2022.

The 40-45% national emissions reduction target by 2030 had already been placed into law before the election, by s. 7(2) of the Canadian Net-Zero Emissions Accountability Act, which was formerly Bill C-12 and which became law on 29 June 2022.[45]

That Act refers to Canada's "Nationally Determined Contribution", which is a promise Canada makes under the Paris Agreement of 2015, to make specific cuts (40-45%) by 2030 and to convey that promise to the United Nations in Canada's National Inventory Report: 1990-2020, which Canada has submitted to the United Nations International Convention on Climate Change (the "**UNICCC**").[46]

Under s. 9(2) of the Canadian Net-Zero Emissions Accountability Act, the Minister of Environment and Climate Change is also required to set an interim greenhouse gas emissions objective for 2026.[47]

The interim objective was set out in Environment and Climate Change Canada's 2030 Emissions Reduction Plan: Canada's Next Steps for Clean Air and a Strong Economy (the "**ERP**"). This is a tremendously important document that sets out, in some detail over the course of 240 pages, the general plan, through each section of Canada's economy, to achieve our 40% to 45% emissions reduction target by 2030.

The ERP sets the interim emissions objective at 20% below 2005 levels by 2026.[48]

Canada's 2005 emissions were 741 Mts.[49] That means that, in 2026, there should be only 582 Mts, or 148 Mts less than the 730 Mt figure previously identified as our 2019 emissions.

To achieve a 45% reduction from our 2005 emissions by 2030 means that we must eliminate 333 Mts from our 2005 total, and must only emit 408 Mts in 2030. That is a reduction of 322 Mts from 2019 emissions.

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[45] *Canadian Net-Zero Emissions Accountability Act*. S.C. 2021, c. 22. Retrieved from https://www.laws-lois.justice.gc.ca/eng/acts/C-19.3/page-1.html#h-1305647 on 14 August 2022.

[46] Environment and Climate Change Canada. *National Inventory Report 1990-2020: Greenhouse Gas Sources and Sinks in Canada - Canada's Submission to the United Nations Framework Convention on Climate Change*. April 2022. p. ES-2. Retrieved from https://publications.gc.ca/site/eng/9.506002/publication.html on 14 August 2022.

[47] s. 9(2) *Canadian Net-Zero Emissions Accountability Act*. S.C. 2021, c. 22. Retrieved from https://www.laws-lois.justice.gc.ca/eng/acts/C-19.3/page-1.html#h-1305647 on 14 August 2022

[48] Environment and Climate Change Canada. *2030 Emissions Reduction Plan: Canada's Next Steps for Clean Air and a Strong Economy*. Released 29 March 2022. (Hereinafter, the "**ERP**"). p. 82. Retrieved from https://publications.gc.ca/site/eng/9.909338/publication.html on 14 August 2022.

[49] Environment and Climate Change Canada. *National Inventory Report 1990-2020: Greenhouse Gas Sources and Sinks in Canada - Canada's Submission to the United Nations Framework Convention on Climate Change*. April 2022. p. 5. Retrieved from https://publications.gc.ca/site/eng/9.506002/publication.html on 14 August 2022.

As it does for other sectors of Canada's economy, the ERP specifically addresses emission reductions from oil and gas production:

> To meet Canada's 2030 target and the lay the groundwork for net-zero emissions by 2050, the Government of Canada commits to:
>
> Capping emissions
>
> The Government of Canada is committed to cap and cut emissions from the oil and gas sector at the pace and scale needed to get to net zero by 2050. The details of how best to design and implement this cap will require close collaboration with industry, provinces, Indigenous partners, and civil society. The government is considering a range of options to achieve these emissions reductions.
>
> The Government will work closely with provinces and the sector to manage competitiveness challenges, remain attuned to evolving energy security and climate risk considerations, maximize opportunities for ongoing investment in the sector, and minimize the risk of carbon leakage. The intent of the cap is not to bring reductions in production that are not driven by declines in global demand. Mechanisms like the CCUS investment tax credit will help support decarbonization. The sector may also need time-limited flexibilities, for example using domestic or international offsets, to achieve a small portion of reductions.
>
> These and other considerations will be explored in a discussion paper that will initiate formal consultations on the cap this spring.[50]

In the ERP, the government promised to cap GHG emissions from oil and gas production and then to gradually reduce them by 81 Mts from 2019 by 2030, so that, by 2030, oil and gas production emissions are only 110 Mts. This is a portion of the table that appears on pp. 89-90 of the ERP[51]:

Sector	Where we were in 2005 (Mt)	Where we were in 2019 (Mt)	Where we could be in 2030 (Mt)	Per Cent Reduction from 2005 Levels
Oil and gas	160	191	110	-31%

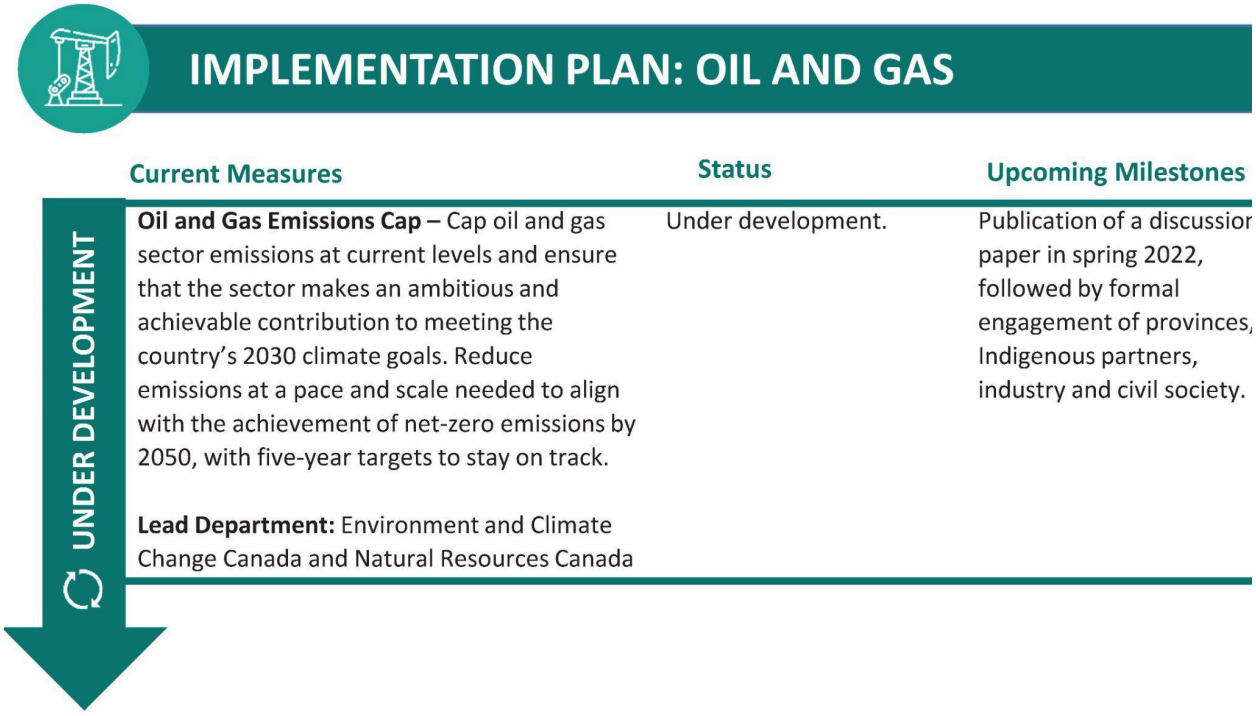
[50] ERP, p. 50-51.

[51] ERP, pp. 89-90.

In another column of that table, under the heading “Key elements of Canada’s Pathway”, ECCC stated:

> In order to meet its climate objectives with respect to the oil and gas sector, the Government will pair increased stringency in measures to accelerate and deepen emissions reductions from the sector with a range of supporting policies and investments, including with partners and stakeholders to design the cap on oil and gas emissions. As well as to identify supporting infrastructure for the transition (e.g., CO2 pipelines for carbon storage). Reducing methane emissions in the sector will also be key to meeting the 2030 target. (See Chapter 2.5)

Also in the ERP, the federal government promised to release a Discussion Paper on how it intended to do the emissions cap and cut “in spring 2022”:[52]



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[52] ERP, p. 225.

9. The Options the Federal Government is Considering and What They Seek Our Input On

On 18 July 2022, Environment and Climate Change Canada ("**ECCC**") made an announcement that commenced the public consultation process, which remains open until 30 September 2022.

The announcement can be viewed here:

Government of Canada outlines next steps to develop an oil and gas emissions cap

At the same time, the government released a Discussion Document that sets out two options that ECCC is considering to cap and reduce those emissions. ECCC is asking people to provide their opinions on the two options, as well as on related matters, and to answer a number of questions upon which the government is seeking input.

The Discussion Document can be obtained here:

Options to Cap and Cut Oil and Gas Sector Greenhouse Gas Emissions to Achieve 2030 Goals and Net-Zero by 2050: Discussion Document

It is the main document about oil and gas emissions reduction that citizens are being asked to respond to between now and 30 September 2022.

The best thing that climate concerned citizens can do is to download the Discussion Document, read it for themselves, and provide their own answers to the questions. ECCC is seeking our input on whether we prefer one of the options over the other. ECCC also sets out 22 questions upon which it is seeking input. There is no need to make a submission on all 22 questions. People should feel free to submit as many or as few as they wish.

The early pages of the Discussion Document provide excellent information on the context and background of this issue.

The Discussion Document notes that ERP identifies a projected contribution from the oil and gas sector of a 42% reduction from 2019 levels, so that emissions are 110 Mt in 2030. This is equivalent to a 31% from 2005 levels.[53]

The fact the oil and gas sector is only being required to reduce GHG emissions by 31% from 2005 levels by 2030 is notable, because the rest of the country is being required to reduce

[53] Discussion Document, p. 14.

emissions by between 40% and 45% by 2030.[54] This is because GHG emissions from oil and gas production increased so much (31 Mt) between 2005 and 2019[55] that apparently the government and few others believe that the oil and gas industry could achieve the cuts based on 2005 numbers that are required by the rest of the country.

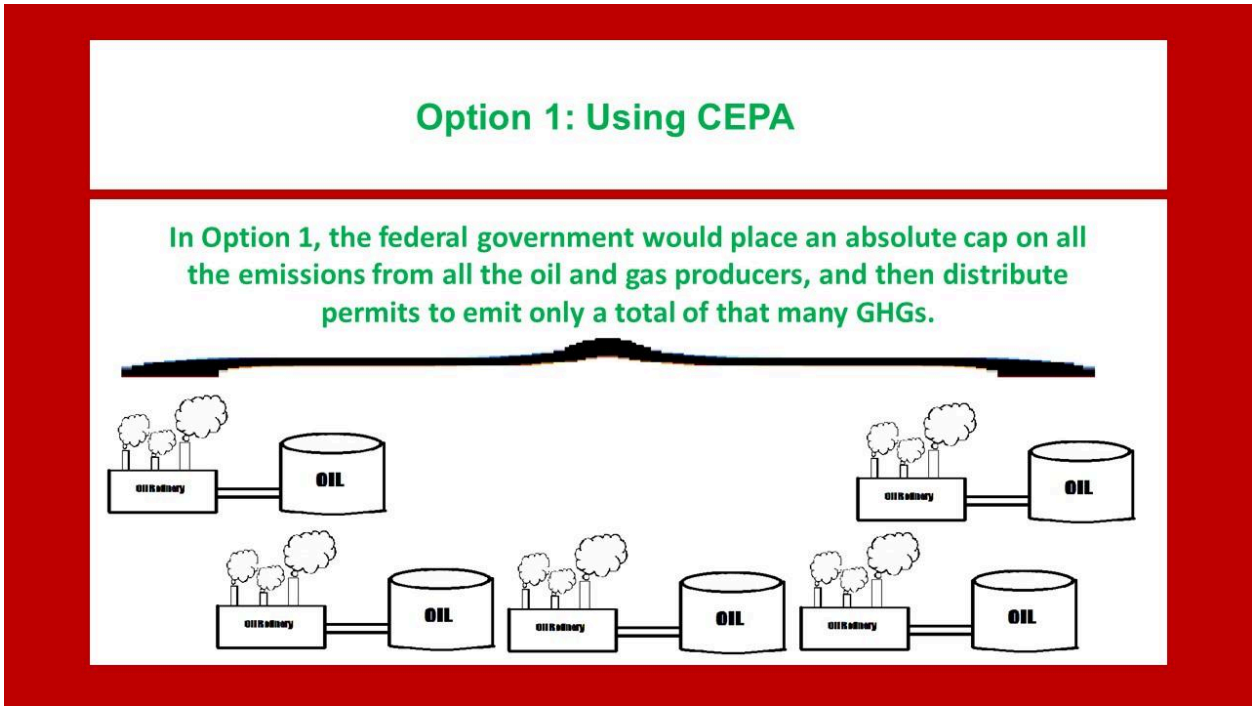
The two options are proposed in Section 7 of the Discussion Document, beginning on p. 19:

> The Government of Canada proposes to implement the oil and gas emissions cap through a regulatory, market-based approach, and is seeking input on two options:
>
> Option 1: A new cap-and-trade system under the Canadian Environmental Protection Act, 1999 (CEPA).
>
> Option 2: Modification of the current carbon pricing approach under the Greenhouse Gas Pollution Pricing Act (GGPPA).[56]

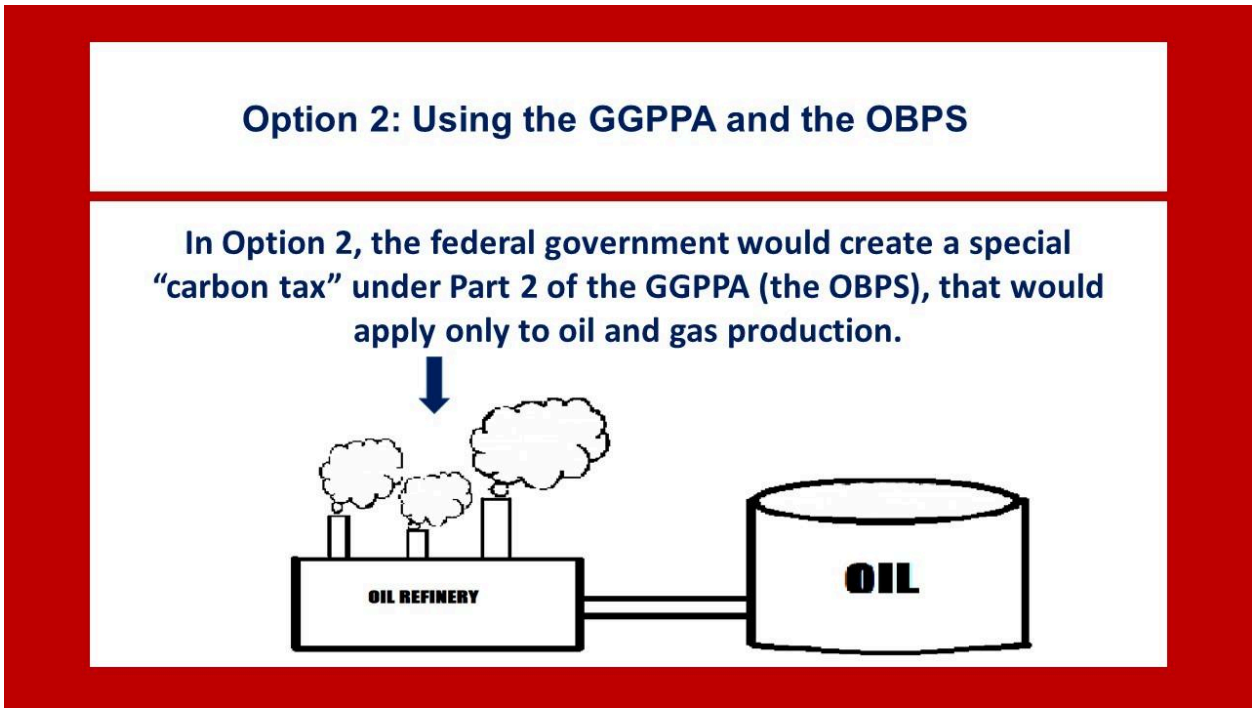
This picture (from the Climate Messengers) illustrates how Option 1 would work:

[54] s. 7(2) *Canadian Net-Zero Emissions Accountability Act*. S.C. 2021, c. 22. Retrieved from https://www.laws-lois.justice.gc.ca/eng/acts/C-19.3/page-1.html#h-1305647 on 14 August 2022; in combination with Environment and Climate Change Canada. *National Inventory Report 1990-2020: Greenhouse Gas Sources and Sinks in Canada - Canada's Submission to the United Nations Framework Convention on Climate Change*. April 2022. p. ES-2. Retrieved from https://publications.gc.ca/site/eng/9.506002/publication.html on 14 August 2022.

[55] Discussion Document, p. 10.
[56] Discussion Document, p. 19.



This picture (also from the Climate Messengers) illustrates how Option 2 would work:



The Discussion Document explains some criteria that would apply to both options, then it discusses each option in more detail:

> **Criteria Applicable to Both Cap Options**
>
> **Scope**: The oil and gas emissions cap would apply to direct emissions from upstream oil and gas production. It would not apply to natural gas distribution, oil pipelines or end-uses (i.e. fuels used in vehicles or home heating).
>
> There are important differences between the upstream and downstream oil and gas sectors, including the markets they serve, and coverage under other regulatory measures such as the CFR [the Clean Fuel Regulations].
>
> The government is seeking feedback on whether to include petroleum refineries and natural gas transmission pipelines under the emissions cap.
>
> **Coverage**: The oil and gas emissions cap would cover all greenhouse gases reported in Canada's National Inventory Report resulting from upstream oil and gas production, including carbon dioxide and methane.
>
> **Time-limited Compliance flexibilities**: Consideration will be given to whether the cap will allow the use of time-limited flexibilities under specific circumstances. These could include robust domestic or international offsets to achieve a portion of the required reductions.
>
> A prerequisite for the use of international offsets will be Canada's establishment of an overarching framework and international agreement(s) governing the use of internationally transferred mitigation outcomes (ITMOs).
>
> **Emissions Baseline**: An emissions baseline will provide a reference for setting the cap trajectory. The baseline emissions level for covered sources will account for current capacity, but will not include planned expansions. For example, some oil and gas facilities have plans and permits to expand production in future years, which may have an impact on future emissions. The calculation of the emissions baseline would not be adjusted to account for these expansions.
>
> **Emissions Cap Trajectory**: Both cap options would implement the same emissions cap trajectory. Specific cap levels will be determined based on further analysis that considers the many factors identified in this discussion paper.
>
> In addition to the trajectory, another important consideration on which input is welcome is whether the cap should be set in the form of annual or multi-year emission levels.[57]

[57] Discussion Document, pp. 19-20.

OPTION 1: REGULATED CAP AND TRADE SYSTEM

Option 1 would involve the development and implementation of a new cap-and-trade system. This would apply in addition to existing federal and provincial regulations that apply to the sector, including carbon pollution pricing, the Clean Fuel Regulations, and methane regulations. The system would be national in scope and would be expected to be implemented through regulations under CEPA.

The cap-and-trade system would establish a total quota of GHG emissions allowable for specified periods, with that quantity declining over time. Emission permits ("allowances") would be issued for each tonne of emissions allowed under the cap for the period. Emitters covered by the cap would be required to remit one allowance for each tonne of emissions, expressed in tonnes of CO2 eq.

Emissions allowances would be unique to the cap-and-trade system, meaning they could not be recognized by, traded or exchanged with other regulatory instruments or carbon pricing systems. Likewise, surplus credits, performance credits or other permits or allowances from other regulations or carbon pricing systems would not be eligible for use within the cap-and-trade system. As indicated above, under specific circumstances the use of compliance flexibility may be enabled under the cap-and-trade system. If enabled, eligible facilities subject to the cap would be able to remit eligible offset credits in place of allowances for a time limited period, up to a predefined limit.

Allocation of Emission Allowances

Emission allowances would be fully or partially distributed through auctioning, with the option to vary the proportion of allowances auctioned over time. The government is seeking feedback on the approach to allocation under the cap-and-trade option, notably whether there is preference for one, or a combination of allocation approaches.[58]

Auctioning

Auctioning allowances has a number of benefits. It is transparent and creates a level playing field for market participants. It allows new facilities to participate in a straightforward manner, without the government having to predict their emissions or reallocate allowances. It also ensures facilities only bid on the allowances they

[58] Discussion Document, pp. 19-20.

need based on current and future emissions rather than receiving allowances based on historical levels.

Auctioning also generates proceeds, which would be reinvested to support sector decarbonization and reduce carbon leakage risks. For example, proceeds could be used to support important decarbonization projects such as the operation of CCUS.

Auctions would require establishing an auction schedule, auction platform, and rules with regard to participation and bidding. For example, in order to mitigate risks associated with the differing market power of auction participants, some cap-and-trade systems limit the size of individual bids (e.g., to a maximum percent of the total allowances available) and on the number of allowances a facility can hold in relation to its emissions.

The auction design would be expected to be similar to those implemented in the European Union, Nova Scotia, Quebec and California:

- the government accepts bids (that include price and quantity) from auction participants;
- all qualified bids are ordered from highest to lowest price and are processed, starting with the highest priced bid, until the associated quantity of allowances available for auction is reached; and
- the price of the last bid processed (where the allowance supply is exhausted) sets the clearing price for the auction, which determines the price per allowance that all participants pay.

Free allocation of allowances

The free allocation of some allowances is generally used in cap-and-trade systems as a strategy to mitigate carbon leakage risks for emissions-intensive and trade-exposed sectors. It achieves this by reducing the average carbon costs while maintaining the prohibition on emissions in excess of the regulated cap.

Free allocation would be based on an output-based approach, leveraging existing output-based standards developed under the federal Output-Based Pricing System Regulations. Refinements may be made to take into account carbon leakage risk, localized competitiveness risks, such as for smaller firms and regional contexts, and longer-term energy transition considerations such as the role of natural gas as a feedstock for hydrogen production. In alignment with common practice, standards would be tightened over time to reflect the declining cap. In addition, the distribution of allowances may need to be pro-rated to avoid exceeding the cap.

The advantage of an output-based approach compared to allocating allowances based on historical emission levels is that it avoids creating an incentive to curtail production, as the level of free allocation would fall with declines in production. In addition, an output-based approach would not require special treatment or reserve approaches for new facilities, as new entrants would have the same access to free allocation based on production as existing facilities, thereby eliminating barriers to entry that can arise under approaches tied to historical emissions levels. However, since all allowances will need to be prorated to avoid exceeding the cap, this approach does mean that existing facilities will see their free allocations decline if the number of new entrants or total production level covered by the system increases substantially.

Time-Limited Compliance Flexibility

Carbon offsets could provide a lower-cost compliance option for facilities regulated under a cap-and-trade system . Under the cap-and-trade system, some facilities that meet specific criteria could use a limited quantity of recognized, compliance-based offset credits, up to a predefined limit for a specific period of time. In order to ensure emissions abatement occurs within the sector, any allowable proportion of compliance obligation that could be met by offset credits would be limited, for a short period, specific to certain circumstances and would decline over time.

Other limited flexibility options could also be considered, for example through rules around the acquisition, holding, and remittance of emissions allowances. Examples to explore could include:

- Banking: allow facilities to hold a predefined quantity of emissions credits for a predefined period of time.
- Multi-year compliance periods: give facilities flexibility regarding when compliance obligations must be remitted.

These options, which are a common design feature in other cap and trade systems, are primarily intended to provide flexibility on the timing of emission reductions within the sector. As a result, they reduce the certainty of the sector's emissions level in any specific year, but could be developed within limits to ensure the regulated emissions cap and overall long-term trajectory is maintained. In order to ensure predictability and effective market functioning, the use of these options would require further consideration and analysis, particularly in conjunction with any approaches to free allocation of allowances or offset credit use.

Emission Prices and Market Stability

The price for allowances would be determined through supply and demand within the emissions trading market. However, the system would include mechanisms to mitigate volatility in the market price of emission allowances.

While many cap-and-trade systems establish auction reserve prices to ensure that a minimum marginal price signal is maintained across the market, Canada's minimum national carbon price, applied through federal, provincial or territorial pricing systems, will continue to provide a minimum floor price signal to regulated facilities to incent reductions. The cap and trade system, as a result, may not require an auction price floor mechanism for this specific purpose. However, the market could face low-price risks if a large bank of unused emissions allowances and/or offset credits is available on the market at a given time. To address this issue, a predetermined adjustment to the number of allowances available in subsequent auctions and allocated for free could be considered in addition to potential limits on banking.

The risk of sudden or unpredicted high market prices could be addressed though one or several mechanisms that could be included in the cap. A common design feature in most cap and trade systems, including the Western Climate Initiative and the European Union Emissions Trading System (EU ETS), is an emission allowance reserve from which emission allowances can be released to new entrants or to moderate sudden market pressures and mitigate rapid or unexpected price increases. An allowance reserve is generally comprised of emission allowances withheld from auctions and free allocations in previous years, or allowances that remained unsold at previous auctions. A reserve does not create or introduce additional allowances beyond the regulated cap level.

Design Considerations for a Cap-and-Trade System

Environmental Outcomes: A cap-and-trade system provides a high level of certainty of achieving the emissions cap trajectory. However, compliance flexibility choices may influence the emissions level in specific years, and offsets and ITMOs would result in the cap being achieved, in part, through emissions reductions originating outside the sector or country.

Cost Effectiveness: A national cap-and-trade system would be an efficient (lower cost) way to achieve a desired level of emissions for the oil and gas sector. However, as coverage increases, so would policy complexity, as opportunities, costs and timelines for reductions vary across the many oil and gas sub-sectors.

Policy Coherence: A cap-and-trade system would complement other regulatory instruments and carbon pricing in that reductions made by an oil and gas facility under those programs would contribute to a reduction of a facility's compliance obligation under the emissions cap, and vice-versa. Interactions may impact the supply and demand of credits in federal and provincial carbon pricing systems once the cap-and-trade is implemented, which could require changes to those systems to ensure the marginal price continues to hold, in alignment with federal benchmark requirements. Depending on the approach to allowance allocation and the level of the cap, facilities subject to existing regulations and carbon pricing may face additional compliance costs under the cap-and-trade system. The scope of the cap-and-trade system may also have implications for oil and gas offset projects that currently exist in some provincial systems.

Administrative Burden: A cap-and-trade system would be implemented through new regulations and would create new monitoring, reporting and verification requirements for oil and gas facilities, in addition to existing pricing and regulatory requirements and Canada's Greenhouse Gas Reporting Program.[59]

OPTION 2: MODIFY EXISTING GHG EMISSIONS PRICING SYSTEMS

This approach would build on the existing federal approach to carbon pricing by setting out the emissions cap trajectory in policy and modifying federal carbon pollution pricing benchmark criteria to incent further reductions from the oil and gas sector, aligned with the emissions cap trajectory. This would be implemented under Canada's approach to pricing carbon pollution, the GGPPA and the federal benchmark. It would include changes to the federal OBPS and relevant provincial carbon pricing systems for industrial emissions. These would be considered as part of the interim review of carbon pricing.[60]

Recap – Canada's Current Approach to Economy-Wide Carbon Pricing

The Government's current approach to pricing carbon pollution gives provinces and territories the flexibility to implement a carbon pricing system that makes sense for their circumstances, provided that the system meets minimum national stringency criteria, as defined in the federal benchmark, to ensure systems across Canada are comparable and effective. Where a province or territory does not implement a system that meets the benchmark, the federal government

[59] Discussion Document, pp. 20-23.

[60] Discussion Document, p. 23.

implements the federal carbon pricing backstop system. Jurisdictions can also request the backstop system.

The benchmark includes a minimum national price per tonne of CO2 eq emissions for direct pricing systems that rises by $15 per year to $170 per tonne in 2030. The federal benchmark requires provinces and territories to implement either:

- An explicit price-based system (i.e., (i) a carbon levy on fossil fuels, or (ii) a hybrid system comprised of a carbon levy on fossil fuels and an output-based pricing system for industry); or,
- A cap-and-trade system (e.g. as currently exists in Quebec)

Under the benchmark, jurisdictions that implement cap and trade systems must put in place caps that correspond, at a minimum, to the projected emissions levels that would result from the application of the minimum national carbon price. Jurisdictions that implement explicit price-based systems must have a minimum carbon pollution price that matches the minimum national carbon price. In addition, output-based pricing systems for industry must be designed to maintain a marginal price signal equivalent to the minimum national carbon price across all covered emissions.

The GGPPA establishes the framework for the federal carbon pollution pricing backstop system. The GGPPA also provides the authority for the establishment of Canada's Greenhouse Gas Offset Credit System.

The federal carbon pollution pricing system consists of two parts:

- a regulatory charge on fossil fuels (fuel charge); and
- a regulatory trading system for industry, known as the OBPS.

The OBPS is designed to put a price on the carbon pollution of large industrial facilities, while mitigating the risks of carbon leakage and adverse competitiveness impacts due to carbon pollution pricing under the federal fuel charge or in certain cases, a provincial fuel charge or levy. Covered facilities are required to provide compensation for GHG emissions that exceed an emissions limit and are issued surplus credits if their emissions are lower than the applicable emissions limit. Facilities can sell surplus credits or bank them for use in future years, for up to five years since their date of issuance.

Currently, the federal OBPS is in place in Manitoba, Prince Edward Island, Yukon, Nunavut, and partially in Saskatchewan.
The federal government is currently assessing provincial and territorial carbon pricing plans for 2023-2030 and will announce where the federal backstop will apply later this year.

Changes to the Benchmark Criteria

Under the benchmark, stringency is primarily set through carbon prices. In order to use this approach to achieve the desired emissions reductions from the oil and gas sector, the benchmark would be amended to set out separate criteria specific to that sector. This would include an applicable oil and gas carbon price, set at the level needed to incent the sector to reduce emissions to the emissions cap trajectory level. This oil and gas specific carbon price would be evaluated at five year intervals. The benchmark would also require provincial and territorial systems to cover a specific set of oil and gas GHG sources and emissions.

If the economy-wide carbon pricing systems in place are forecast to achieve the oil and gas emissions cap trajectory, further measures for the sector would not be necessary and the general benchmark criteria would continue to apply. However, if further reductions from the sector are needed to achieve the cap trajectory, the oil and gas-specific carbon price would apply, as set out in the benchmark. In this case, in order to ensure reductions occur within the sector, the trading of credits/allowances with other sectors of the economy would not be allowed. If permitted, Exception could be made for a time limited period in a manner consistent with any allowable use of offset credits. If a portion of compliance obligation is allowed to be met by offset credits or surplus credits, it would be for a limited amount, specific to certain circumstances, and this flexibility would decline over time (same approach as for the cap and trade option).

Federal reporting requirements would also be put in place to enable the government and the public to monitor progress towards the caps.

Finally, since the oil and gas industry is concentrated in certain jurisdictions in Canada, where the oil and gas sector in a province or territory makes up less than a certain amount (e.g. 0.5% of the total emissions from the national sector), the jurisdiction would be exempt from the oil and gas section of the benchmark.

Implementation of an oil and gas specific carbon price as the mechanism to meet the cap

Canada has committed to achieve net-zero emissions by 2050 and economy-wide carbon pricing will play a key role in achieving this objective. Economy-wide carbon-pricing systems are designed to incent emissions reductions while allowing for maximum flexibility at the lowest overall cost. The flexibility afforded by these systems will result in different segments of the economy reducing emissions along different pathways, depending on the availability and cost of emissions reduction opportunities. The oil and gas

emissions cap will set out a specific trajectory for the oil and gas sector to achieve net zero emissions by 2050.

As would be the case for a cap-and-trade system, this trajectory would take into account the technological readiness of the sector, the need to incent the deployment of low emissions technology while avoiding stranded assets and the importance of global energy security within the context of an energy transition that maximizes net global GHG reductions. In any given five-year period, the trajectory for the oil and gas sector under the cap may align with the trajectory that will be incentivized by the economy-wide carbon pricing system or there may be a need for additional reductions to achieve the cap level.

If the sector is not on track to meet the emission cap level for the next five-year period due to the incentives created by the economy-wide carbon pricing systems alone, the imposition of an oil and gas-specific price would require modifications to each of the pricing systems (provincial and federal) that apply to oil and gas activities across Canada. The modifications necessary will depend on the system the jurisdiction has in place:

- Carbon levies – Jurisdictions with carbon levy systems would need to set a separate price applicable to oil and gas facilities, as well as a price applicable to methane emissions.
- Cap and trade systems – Jurisdictions with cap and trade systems would need to set an oil and gas specific cap at the level necessary to achieve the emissions reductions that would be achieved by the sector-specific price.
- Hybrid systems – Jurisdictions with hybrid systems in place would either need to set a higher sector-specific price in both the carbon levy (including methane emissions) and OBPS, or set a higher oil and gas-specific price in the OBPS and make participation in the OBPS mandatory for most oil and gas facilities.

A higher oil and gas price will serve to incent investments in higher cost emissions intensity improvements that will reduce emissions further than the economy-wide price.

This focus on the price is proposed instead of a system which requires increasing the stringency of output-based standards for the oil and gas sector. Increasing the stringency of standards while maintaining the price at the economy-wide level would increase the average costs to the sector without any material impact on the incentive to invest in emissions reduction technology. This would be more likely to result in emissions reductions from decreased production and carbon leakage rather than improvements in emissions intensity from existing facilities.

Restrictions on trading

In order to ensure that the desired emission reductions from the oil and gas sector occur, it would be necessary to not permit the trading of surplus credits under output-based pricing systems, or allowances under cap and trade systems, between oil and gas and other sectors. Without such restrictions, in carbon pricing systems with trading between sectors, the high price for the oil gas sector could be met by oil and gas facilities buying credits generated by other sectors pursuing reductions beyond what would have been incentivized by the economy-wide price. For similar reasons, depending on the availability of offset credits, it may also be necessary to establish oil and gas specific rules limiting the use of offsets to specific circumstances for a time limited period.

Effects on benchmarking for economy-wide carbon pricing systems

A key criterion in the carbon pricing benchmark is that output-based pricing systems must be designed to maintain a marginal price signal equivalent to the minimum national carbon pollution price across all covered emissions. The assessment of this criterion is based on federal modeling, which considers the expected impact of other GHG emissions mitigation measures. To meet this criterion, assessment results must show that the projected sum of all regulated facilities' compliance obligations is greater than the projected sum of tradable units available to the market after industries have responded to the price signal in a given compliance period, i.e., that the marginal price is holding.

In periods when the oil and gas carbon price is set higher than the economy-wide carbon price, emissions performance standards for other sectors may also need to be adjusted so that the marginal price signal will be maintained in the rest of the economy, taking into account the restrictions on trading between the oil and gas sector and other industrial sectors. As outlined below, any such changes would occur as part of the planned interim assessment of carbon pricing.

Reporting

To improve price forecasting for the oil and gas sector, a federal reporting requirement would be put in place for all large oil and gas facilities (e.g. > 50kt) to forecast their emissions for five subsequent years. This forecasting of emissions will help form the basis for determining the oil and gas sector-specific price. The first report would be for the 2026-2030 period.

Facilities would be required to provide best available information regarding the next five operating years, including any scheduled expansions and turn-over, as well as planned facility improvements that will result in the reduction in emission intensities.

This requirement would be similar to the Alberta TIER regulation, which requires facilities emitting over 1Mt per year to provide annual forecasting reports.

Timing

Under the current benchmark, the Government has committed that where the federal backstop applies in 2023 it will remain in place until at least the end of 2026. The Government has also committed to engaging provinces, territories and Indigenous organizations in an interim review of the benchmark by 2026 to confirm that benchmark criteria are sufficient to continue ensuring that pricing stringency will remain aligned across all carbon pricing systems in Canada. Work on the review will begin in 2023 to allow it to be completed early enough to inform the interim assessment of carbon pricing systems. Changes to the benchmark to incorporate criteria to incent emission reductions aligned with the oil and gas cap would be made as part of that interim review. This would likely require some acceleration of the timelines to complete the review process. After this, all carbon pricing systems, including economy-wide pricing and the price applicable to the oil and gas sector, would be evaluated at five-year intervals to ensure that pricing continues to ensure achievement of the prescribed cap levels.

Changes to the Federal OBPS

The same changes that would be required of provincial and territorial systems would also be required of the federal carbon pricing system. Implementing an oil and gas specific price under the federal backstop would require amending the GGPPA to enable the Governor in Council to set a price in the Schedule to the Act that would be applicable specifically to oil and gas facilities under the federal OBPS. In addition, changes to the federal OBPS could include:

- Making participation in the federal OBPS mandatory for most oil and gas facilities in jurisdictions in which the federal OBPS applies; and
- Removing the exemption for methane emissions from fugitive and venting from oil and gas facilities.

Section 10 of the Discussion Document, which begins on p. 28, itemizes 22 Discussion Questions upon which ECCC seeks your input. As stated above, there is no obligation to answer all of them.

Climate Messengers hopes, though, that the information provided in this toolkit will provide you with information that you can cite in providing your own answers to some of them.

Here are the questions the federal government is asking you:

Please note that you can copy them from here, paste them into your word processing document, add your own answers to as many as you feel like answering, and then submit that to the consultation through this email address:

PlanPetrolieretGazier-OilandGasPlan@ec.gc.ca

General

1. How do you envision the future of the oil and gas sector in the Canadian economy or your community?

2. What do you see as the role of your organization or community in contributing to reducing oil and gas sector emissions in Canada?

3. What are the benefits or drawbacks of the options outlined in the discussion document?

4. Of the two approaches outlined, is there an approach your organization or community would prefer?

5. Do you have suggestions on how to improve the options outlined?

6. What potential short or long-term socio-economic impacts do you foresee or anticipate for particular regions or population groups resulting from an oil and gas emissions cap in general, and more specifically, the two proposed regulatory options?

Scope of coverage

7. Should consideration be given to facility emission thresholds to set different approaches and requirements for small versus large emitters?

8. Should the cap include petroleum refineries and natural gas transmission pipelines?

9. Are there other considerations relevant to determining the scope of the cap?

Emissions Cap Trajectory

10. What are the relevant considerations for determining a GHG emissions trajectory, particularly over the first 10 to 15 years?

11. How should the trajectory of the oil and gas emissions cap be designed to support Canada's 2030 targets and achieve net-zero by 2050? Should the cap set annual or multi-year emission levels?

12. Should the trajectory be fixed out to 2050, or should the approach include steps to ratchet up the trajectory at one or more fixed intervals?

Competitiveness and carbon leakage

13. What design features should be considered to maintain Canadian competitiveness and minimize the risk of carbon leakage?

14. What compliance flexibilities should be allowed, and what conditions should determine eligibility?

15. Should the use of compliance flexibilities decline over time? If so, to what extent?

16. Under a potential cap-and-trade option, should distribution of allowances be done through auction, free allocation, or a combination of the two?

Policy coherence and coordination across jurisdictions

17. Would there be merit in excluding or taking an approach that results in lower compliance costs for emissions generated from the production and processing of fuels used to support the development of clean fuels (e.g., natural gas required for low carbon hydrogen production)?

18. How should the Government of Canada ensure that the cap incents investments in diversification and other preparations for a clean energy transition?

19. How would each potential cap approach interact with other climate measures?

20. What opportunities exist for coordination among federal and provincial and territorial measures?

Implementation

21. How should a cap on GHG emissions be implemented to maximize emission reductions while avoiding potential challenges related to layering of multiple policies and regulations?

22. What other factors related to implementation should be considered in developing an approach to cap and cut GHG emissions from the oil and gas sector?

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10. Can the Federal Government Control Oil and Gas Production?

(1) The Constitutional Issue

In the federal government's promises, and in the two options for action that the federal government is proposing, they make it clear that their only intention is reducing GHG ***emissions*** from the production of oil and gas, and that their intention is not to reduce the ***production*** of oil gas.

In actions they have taken in reaction to ECCC's proposals some ENGOs have called for the federal government to include the GHG emissions that occur when the oil and gas is consumed, almost always by combustion, by its end users. They have noted that 80% of the total GHG emissions that occur throughout the whole production-through-consumption life-cycle of oil and gas comes at the consumption stage.

Some people have called for the federal government to reduce oil and gas production, and not just the GHG emissions from oil and gas production.

However, there is a real concern that federal legislation purporting to directly reduce oil and gas production would be unconstitutional, and would therefore be found by the courts to be of no force and effect.

Section 92A, of Canada's Constitution, which was added when Canada's Constitution was patriated from the United Kingdom in 1982, makes it clear that the production and export to other provinces of oil and gas, which are "non-renewable natural resources", is within the exclusive jurisdiction of the provinces:

> **Laws respecting non-renewable natural resources, forestry resources and electrical energy**
>
> 92A (1) In each province, the legislature may exclusively make laws in relation to
>
> (a) exploration for non-renewable natural resources in the province;
>
> (b) development, conservation and management of non-renewable natural resources and forestry resources in the province, including laws in relation to the rate of primary production therefrom; and
>
> (c) development, conservation and management of sites and facilities in the province for the generation and production of electrical energy.

Export from provinces of resources

(2) In each province, the legislature may make laws in relation to the export from the province to another part of Canada of the primary production from non-renewable natural resources and forestry resources in the province and the production from facilities in the province for the generation of electrical energy, but such laws may not authorize or provide for discrimination in prices or in supplies exported to another part of Canada.

Authority of Parliament

(3) Nothing in subsection (2) derogates from the authority of Parliament to enact laws in relation to the matters referred to in that subsection and, where such a law of Parliament and a law of a province conflict, the law of Parliament prevails to the extent of the conflict.[61]

When a party, which is often a the government of a province, challenges the validity of a federal law on the grounds that it infringes on the jurisdiction of a province, the test that the courts, which typically is ultimately the Supreme Court of Canada, applies, is well-established:

> The review of legislation on federalism grounds consists of the well-established two-stage analytical approach. At the first stage, a court must consider the purpose and effects of the challenged statute or provision with a view to characterizing the subject matter or "pith and substance". A court must then classify the subject matter with reference to federal and provincial heads of power under the Constitution in order to determine whether it is *intra vires* Parliament and therefore valid.
>
> At the first stage of the division of powers analysis, a court must consider the purpose and effects of the challenged statute or provision in order to identify its "pith and substance" or its main thrust or dominant or most important characteristic… In considering the effects of the challenged legislation, a court can consider both the legal effects, those that flow directly from the provisions of the statute itself, and the practical effects, the side effects that flow from the application of the statute. Where a court is asked to adjudicate the constitutionality of legislation that has been in force for only a short time, any prediction of future practical effect is necessarily short-term, since the court is not equipped to predict accurately the future consequential impact of legislation. The characterization process is not technical or formalistic. A court can look at the

[61] The *Constitution Acts* of Canada*,* 1867-1928, ss. 92A(1) to (3). Accessed at https://laws-lois.justice.gc.ca/eng/const/page-3.html#h-19 on 22 August 2022.

> background and circumstances of a statute's enactment as well as at the words used in it.
>
> Three points with respect to the identification of the pith and substance are important to clarify. First, the pith and substance of a challenged statute or provision must be described as precisely as possible. A vague or general description is unhelpful, as it can result in the law being superficially assigned to both federal and provincial heads of powers or may exaggerate the extent to which the law extends into the other level of government's sphere of jurisdiction. However, precision should not be confused with narrowness. A court must focus on the law itself and what it is really about. The pith and substance of a challenged statute or provision should capture the law's essential character in terms that are as precise as the law will allow. Second, it is permissible in some circumstances for a court to include the legislative choice of means in the definition of a statute's pith and substance, as long as it does not lose sight of the fact that the goal of the analysis is to identify the true subject matter of the challenged statute or provision. In some cases, the choice of means may be so central to the legislative objective that the main thrust of a statute or provision, properly understood, is to achieve a result in a particular way, which would justify including the means in identifying the pith and substance. Third, the characterization and classification stages of the division of powers analysis are and must be kept distinct. The pith and substance of a statute or a provision must be identified without regard to the heads of legislative competence.
>
> At the second stage of the division of power analysis, a court must classify the matter by reference to the heads of power set out in the Constitution. Matters and classes of subjects are distinct. Law-making powers are exercisable in relation to matters, which in turn generally come within broader classes of subjects. Section 91 does not provide in the context of the POGG power that Parliament can make laws in relation to classes of subjects; instead, it states that Parliament can make laws for the peace, order, and good government of Canada in relation to "Matters". National concern is a well-established but rarely applied doctrine of Canadian constitutional law derived from the introductory clause of s. 91 of the Constitution, which empowers Parliament to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects assigned exclusively to the legislatures of the provinces. A matter that falls under the POGG power necessarily does not come within the classes of subjects enumerated in ss. 91 and 92.

The passage above is quoted from the summary appearing near the beginning of References re *Greenhouse Gas Pollution Pricing Act*, a decision by the Supreme Court of Canada on 25 March 2021. That case determined that the federal government had jurisdiction to create and enforce the GGPPA, and that the GGPPA was therefore a valid law. The decision of Chief Justice Wagner, with which the majority of the other Supreme Court Justices agreed, clarifies

when the court can and cannot termine that a matter falls within the “POGG”, or “Peace, Order, and Good Government” power of the federal government:

> [89] Canada argues that the GGPPA is constitutional on the basis of the national concern doctrine. This doctrine is derived from the introductory clause of s. 91 of the Constitution, which empowers Parliament “to make Laws for the Peace, Order, and good Government of Canada, **in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces**” (“POGG power”). According to the doctrine, the federal government has jurisdiction over matters that are found to be of inherent national concern. As Professor Hogg explains, it “is residuary in its relationship to the provincial heads of power”: at p. 17-1 to 17-2. **Therefore, the national concern doctrine does not allow Parliament to legislate in relation to matters that come within the classes of subjects assigned exclusively to the provinces under s. 92.** The national concern test is the mechanism by which matters of inherent national concern, which transcend the provinces, can be identified. [Emphasis added.][62]

In the References re *Greenhouse Gas Pollution Pricing Act* case, one of the reasons that Chief Justice Wagner could find that the GGPPA was valid under national concern doctrine, and therefore the federal government could address it under the POGG power, was that he determined that the pith and substance of the GGPPA was very narrow:

> [57] In this case, the judges in the courts below, the parties and the interveners have proposed various formulations of the GGPPA’s pith and substance. These formulations can be grouped in three basic categories: (1) a broad formulation to the effect that the GGPPA’s pith and substance is the regulation of GHG emissions; (2) a national standards-based formulation to the effect that the GGPPA’s pith and substance is to establish minimum national standards to reduce GHG emissions; and (3) a national standards pricing-based formulation to the effect that the GGPPA’s pith and substance is to establish minimum national standards of GHG price stringency to reduce GHG emissions. I would adopt a national standards pricing-based formulation of the pith and substance of the GGPPA. In my view, the true subject matter of the GGPPA is establishing minimum national standards of GHG price stringency to reduce GHG emissions.[63]

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[62] References re *Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11, Para. 89. Retrieved from https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/18781/index.do on 21 August 2022.

[63] *Ibid*., Para. 57.

Chief Justice Wagner thereafter wrote several pages explaining why he determined that the pith and substance of the GGPPA was so narrow. For our purposes, though, we should simply be mindful that, in finding that the GGPPA was constitutional, the Supreme Court of Canada did not give the federal government *carte blanche* to make laws on any climate change issue, and not necessarily even on any and all GHG reduction issues.

Here we are considering a federal law to reduce GHG emissions from the production of oil and gas. If the federal government crafted its law so that it did not simply set reductions on GHG **emissions** from the production of oil and gas (or to establish national standards on the price of GHG emissions from oil and gas production) but went further and tried to reduce the **production** of oil and gas, the Supreme Court could very well determine that the pith and substance of the law was for the federal government to restrict oil and gas production. It would then determine that oil and gas production falls exclusively within the jurisdiction of the provinces under s. 92(A)(1) of the Constitution, and would then necessarily determine that the federal law was unconstitutional and therefore of no force and effect.

> As Environment and Climate Change Minister Steven Guilbeault said during an interview on 1 September 2022:
>
> I know there are people out there who say we should be capping production. That's a point of view I respect. But constitutionally we can't really do that…
>
> [T]he reality is we're getting sued on just about everything we do. We got sued on carbon pricing. Then when we won in the Supreme Court we got sued on the application of carbon pricing. We're getting sued on impact assessment [Bill] C-69. We're getting sued on plastics — actually we have two different court cases on plastics. If we can't show the court what we're doing respects the Constitution, respects jurisdictions and has a level of regulatory legislative preparedness we will lose in the courts.[64]

When we make submissions for this public consultations, we should at least turn our minds to whether we should press for emissions reductions and not for production reductions, on the grounds that we want to ensure the law will not be struck down and therefore be of no force and effect. We can probably still demand that the law be as stringent as the government has promised: that, with all the carrots and all the sticks that the federal government is using, the emissions from oil and gas production must be reduced by 81 Mts by 2030. We should demand that that, at least, be the emissions cap set by these new laws. If achieving that degree of stringency requires oil and gas producers to produce somewhat less oil and gas, that is a

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[64] Michelle Gamage, "'We're Sued on Pretty Much Everything We Try': Canada's Climate Minister, *The Tyee*, 2 September 2022. Retrieved from https://thetyee.ca/News/2022/09/02/Steven-Guilbeault-Climate-Minister-Interview/?utm_source=twitter&utm_medium=social&utm_content=090222-1&utm_campaign=editorial on 5 September 2022.

secondary effect and probably does not go to the pith and substance of the law, which remains **emissions** reduction.

(2) Where the Scope 3 Emissions Are Accounted For

"Scope 1" emissions and "Scope 2" emissions are both categories of emissions that occur before a fossil fuel reaches its end user. "Scope 3" emissions are the emissions that occur when the consumer combusts those fossil fuels. It is commonly accepted that "Scope 3" emissions account for about 80% of the emissions that are created by fossil fuels.

In 1992, approximately 154 countries, including Canada, signed the United Nations Framework Convention on Climate Change (the "**UNFCCC**"). As of 2022, the UNFCCC has 198 parties, including all United Nations member states, United Nations General Assembly observers, the State of Palestine and the Holy See.[65] Article 4 of the UNFCCC states:

> 1. All Parties…shall:
>
> (a) Develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12, national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties;[66]

From the outset, GHG emissions from fossil fuels were accounted for in the country in which the fuels were consumed and combusted.

Consider, for example, the "Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories: Reporting Instructions". The "Common Reporting Framework" instructs countries to include in their National Inventories of GHG emissions "Total emission of all greenhouse gases from stationary and mobile energy activities (fuel combustion as well as fugitive fuel emissions)." Again, the country is to account for "[a]ll combustion and evaporative emissions arising from fuel use in road vehicles, including the use of agricultural vehicles on highways" and "[c]ombustion emissions from all remaining transport activities. Similarly, the country is to account for "[e]mission from fuel combustion in commercial and institutional buildings' and "[a]ll emissions

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65 https://en.wikipedia.org/wiki/List_of_parties_to_the_United_Nations_Framework_Convention_on_Climate_Change. Retrieved 22 August 2022.

66 United Nations, "United Nations Framework Convention on Climate Change", Article 4, Section 1(a). Retrieved from https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf on 21 August 2021.

from fuel combustion in households".[67]

In other words, the GHG emissions are accounted for by the country where they are emitted. In the case of oil and gas produced in one country but exported to a second country and consumed and combusted in that second country, the GHG emissions are accounted for by that second country.

Oil and gas production is a huge problem. We have have devoted a section of this Toolkit to the magnitude of the problem.

However, if people insist on demanding that the emissions from the oil and gas that Canada exports be accounted for in Canada, they are not just fighting the climate change policies of Canada, they are fighting the climate change policies of quite literally the entire world, as represented by the UNIPCC, and also more than 28 years of international law.

Moreover, it is easy enough to see that accounting for the potential GHGs by imagining that they were combusted in the nation-state where they were produced rather than the nation-state in which they were actually combusted simply moves the international accounting around without any ultimate change.

For example, in 2019, Canada's transportation sector emitted 186 Mt of CO2e GHGs, Canada's industrial sector emitted 77 Mt, and Canada's electricity sector emitted 61 Mt.[68] That same year, Canada imported 252,945,000 barrels of oil.[69]

The United States Environmental Protection Agency uses the calculation that the combustion of one barrel of oil emits 0.43 tonnes of CO2e GHGs.[70]

Therefore, if a nation-state's GHG emissions will be calculated by imagining that it combusts all the oil it exports within its own borders, rather than the nation-state in which they are consumed, Canada must remove 109 Mt of CO2e GHG emissions from its 2019 National Inventory, amending its slate, as required, from its transportation, industry, buildings, and electricity generation sectors.

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[67] UNIPCC, "Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories: Understanding the Common Framework", p. 1.2, p. 1.5, p. 1.6. Accessed via https://www.ipcc-nggip.iges.or.jp/public/gl/invs4.html. Retrieved 27 June 2022.

[68] Environment and Cliamte Change Canada, "National Inventory Report, 1990-2019, Part 1, p. 10. PDF accessed via https://publications.gc.ca/site/eng/9.506002/publication.html. Retrieved 28 June 2022.

[69] https://www.cer-rec.gc.ca/en/data-analysis/energy-markets/market-snapshots/2021/market-snapshot-crude-oil-imports-decreased-in-2020-and-so-did-the-cost.html. Retrieved 27 June 2022.

[70] https://www.epa.gov/energy/greenhouse-gases-equivalencies-calculator-calculations-and-references. Retrieved 27 June 2022.

In 2019, the fossil fuels that Canada exported emitted 954 Mts of GHG when, and where, they were consumed.[71] In 2019, nearly all of Canada's exported oil went to the United States.[72] If, for this example, we assume the same is true for Canada's other fossil fuel exports, that would mean that the United States must remove 954 Mts of emissions from its transportation, industrial, buildings, and electricity generation sectors.

This would be an absurd result.

Under this alternative and very different accounting system, all the countries of the world would have very little incentive to reduce their consumption of fossil fuels, since the responsibility for fossil fuel emissions would rest entirely in the countries in which those fossil fuels were produced.

The **combustion** of fossil fuels is the problem that we must all address.

While Canadians need to be more aware than they are about the problem of the ultimate emissions from our fossil fuel exports, some of us believe that the solution is much more complex than demanding that the federal government reduce production as well as emissions from production. This is more the case because drafting such a requirement into the laws currently being contemplated could well make those laws unconstitutional, and thus of no force and effect.

We encourage those making submissions on the two options to focus on the reduction of the GHG emissions associated with oil and gas production and not on the reduction of oil and gas production itself.

Obviously, that production is an important problem, as we have set out in Section 4 and Section 5 of this Toolkit. We hope people will seek out other ways that the federal government may be able to validly effect production. Remember that the production of the oil and gas that remains in Canada is being affected by the federal government's work on switching Canadians off fossil fuels. Examples of this are the "carbon tax" on consumer fuels, the new Clean Electricity Standard, and the promised national Zero Emission Vehicle Mandate.

Regarding Canada's fossil fuel exports, in his written submission to the the House of Commons Standing Committee on Natural Resources, Andrew Leach noted:

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[71] Environment and Climate Change Canada, "Response to Environmental Petition No. 390-B concerning the quantification of Canada's total carbon dioxide (CO2) emissions from exported fossil fuels". PDF accessed via https://ecojustice.ca. Retrieved 28 June 2022.

[72] Retrieved from https://www.cer-rec.gc.ca/en/data-analysis/energy-markets/market-snapshots/2019/market-snapshot-canadian-crude-oil-is-mainly-exported-two-regions-in-united-states.html on 22 August 2022.

> Section 91(2) [of Canada's Constitution], the trade and commerce power, affords more than sufficient jurisdiction to extend carbon prices to eventual emissions from exported hydrocarbons, should that be deemed desirable, through border carbon adjustments.

He also stated:

> The major project impact assessment powers in the Impact Assessment Act and the Canadian Energy Regulator Act respectively provide substantial authority to constrain the development of new and expanded hydrocarbon production and transportation.[73]

These options require a different sort of legislation than is being contemplated here. We encourage people to press for that different legislation ***in addition to*** the legislation currently being contemplated, but to focus on what is constitutionally possible within the current Discussion Document and Public Consultation.

Having stated that, we did not create this Toolkit to tell people exactly what submissions they should make. You are at liberty to agree with this section or to disagree with it.

Indeed, probably not all of the grassroots volunteers who are active with the Climate Messengers agree with this section.

However, any such disagreement is much less important than the necessity of many many people, who agree on most of what needs to be done, make submissions that are all generally pushing in the same direction.

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11. Why You Need to Act: Opposition from the Oil and Gas Lobby

[73] Andrew Leach, "Extended Brief on the Proposed Oil and Gas Cap". Published by the House of Commons Standing Committee on Natural Resources on 2 March 2022. Retrieved from https://www.ourcommons.ca/Committees/en/RNNR/StudyActivity?studyActivityId=11468847 on 24 August 2022.

You, and every other climate concerned Canadian, need to be heard on this issue because the opposition and objections to ECCC's proposed action started almost immediately after the Discussion Document was released on Monday 18 July 2022.

Pathways Alliance represents six member companies: Canadian Natural, Cenovus Energy, ConocoPhillips Canada, Imperial, MEG and Suncor Energy. Together they operate about 95 per cent of Canada's oil sands production.[74]

On Tuesday 19 July 2022, the Globe and Mail reported the reaction Pathways Alliance:

> Mark Cameron of the alliance said on Monday the group was studying Ottawa's proposed options. But he's worried that whatever tool the federal government chooses could leave the oil and gas sector facing higher carbon prices and fewer compliance options than other industrial sectors.
>
> Mr. Cameron added that if the government doesn't ensure the industry has the means of meeting new regulations, then "they are in fact going to require production cuts," he said.
>
> …
>
> Lisa Baiton, president and chief executive officer of the Canadian Association of Petroleum Producers, said in a statement that both choices could limit oil and gas production in Canada "by adding regulatory burden and eliminating options for economywide co-operation on emissions reductions."[75]

In the ERP, the federal government called for 81 Mts of emissions cuts from oil and gas production, from 191 tonnes of emissions in 2019 to 110 Mts in 2030.[76]

In contrast, the oil and gas industry is proposing to cut about one-quarter of that amount by 2030.

A CBC news article on 23 July 2022 stated:

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[74] https://pathwaysalliance.ca/key-oil-sands-groups-join-forces-under-pathways-alliance-banner/

[75] https://www.theglobeandmail.com/politics/article-energy-sector-fears-higher-costs-under-new-carbon-pricing-system/?utm_source=dlvr.it&utm_medium=twitter. 19 July 2022. Retrieved on 14 August 2022.

[76] ERP, pp. 89-90.

> Pathways Alliance, a group that includes six companies representing 95 percent of Canada's oilsands production, says it is working to reduce its CO2 emissions by 22 megatonnes by 2030. Ottawa's plan wants the sector's total emissions (about 191 megatonnes in 2019) reduced to 110 megatonnes by the end of the decade.
>
> "By 2032 you might get another two or three megatonnes," Mark Cameron, vice-president of external relations with the Pathways Alliance, told CBC News…
>
> …
>
> Cameron added that the 22-megatonne-by-2030 goal could potentially be increased if new technology becomes available or significantly more funding is infused. Either way, hitting the reductions outlined in the federal government's 2030 plan isn't feasible under current circumstances, he said.
>
> "We would obviously need more time to get to that level. Whether or not we can achieve that by 2032, or it may take longer than that, is another question."[77]

Also, by the day after ECCC's 18 July 2022 release of their proposal, Alberta's provincial politicians were calling out against it:

> In a statement, Alberta's energy minister, Sonya Savage, accused Ottawa of failing to work with provinces to develop this regulation. Savage said the discussion paper "is yet another example of a lesson Ottawa refuses to learn: the only way to actually cut emissions and keep life affordable is to work with the provinces to create environmental policies that will actually work.
>
> "Alberta will not accept any plan from the federal government that seeks to interfere in our constitutionally protected ability to develop our resources," she said. "Provinces are the owners
> of these natural resources, which have been responsibly managed on behalf of Canadians for decades."[78]

By 21 July 2022, the front-runners to replace Jason Kenney as leader of the Unified Conservative Part of Alberta, and therefore as premier of Alberta, had gone further:

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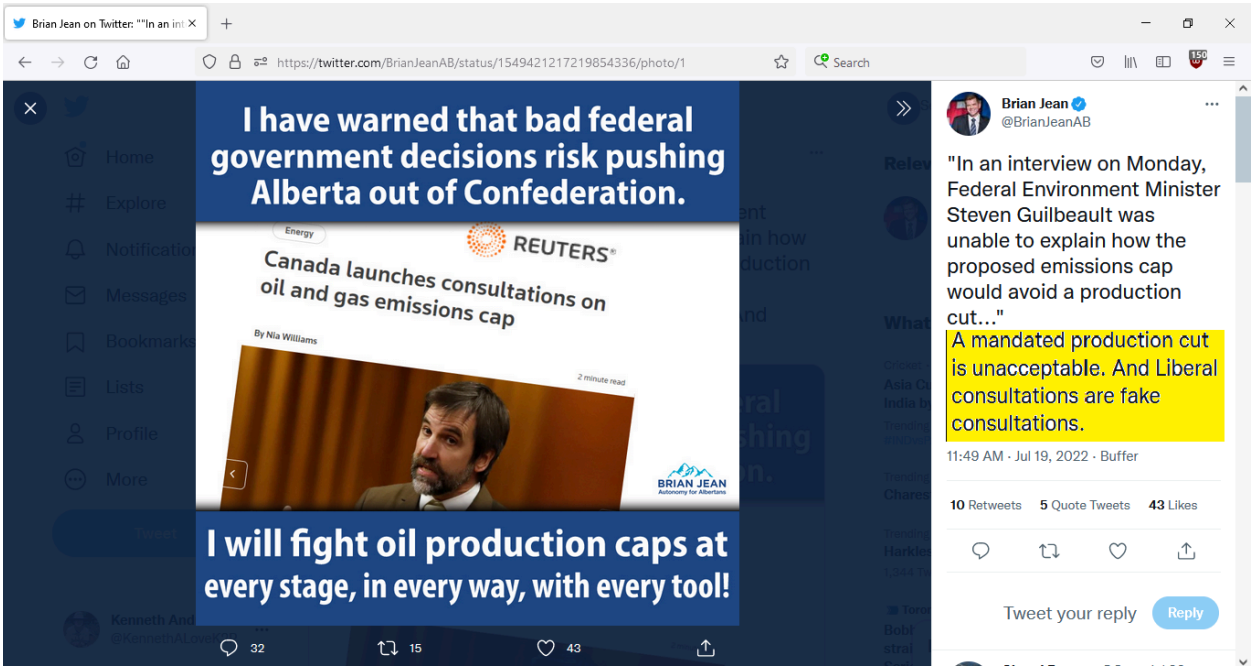
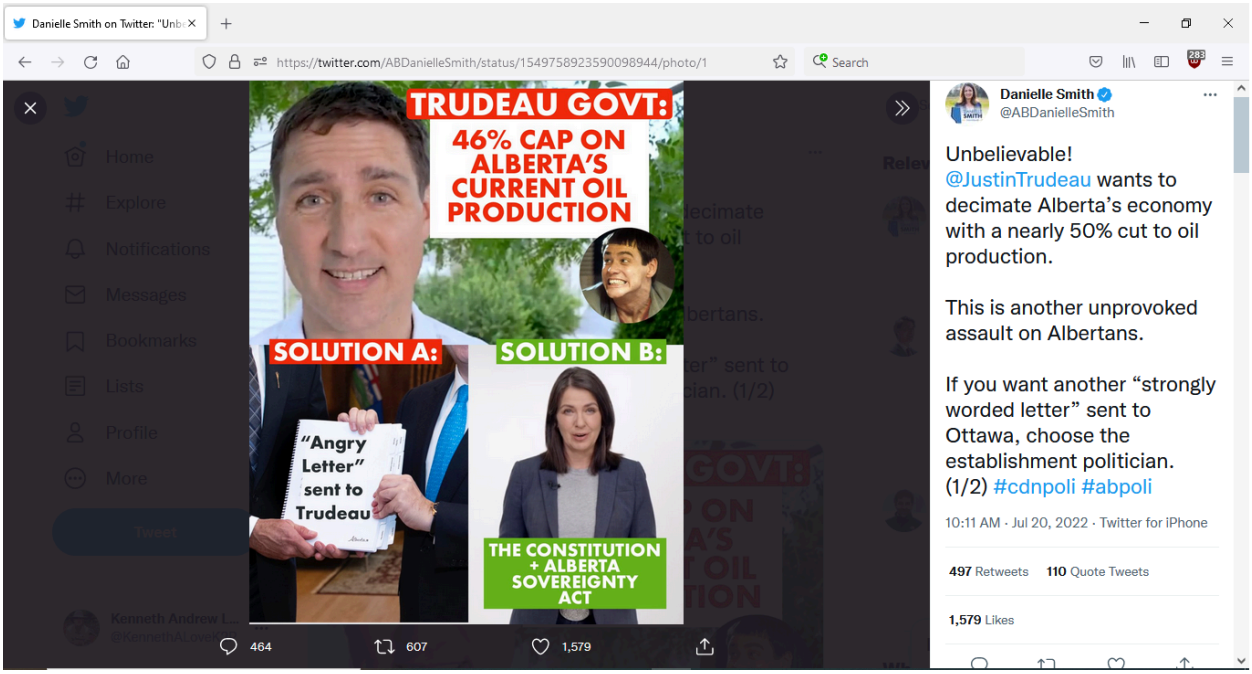
[77] Oil and gas industry could get more time to meet 2030 emissions targets, minister says | CBC News. Retrieved on 14 August 2022.

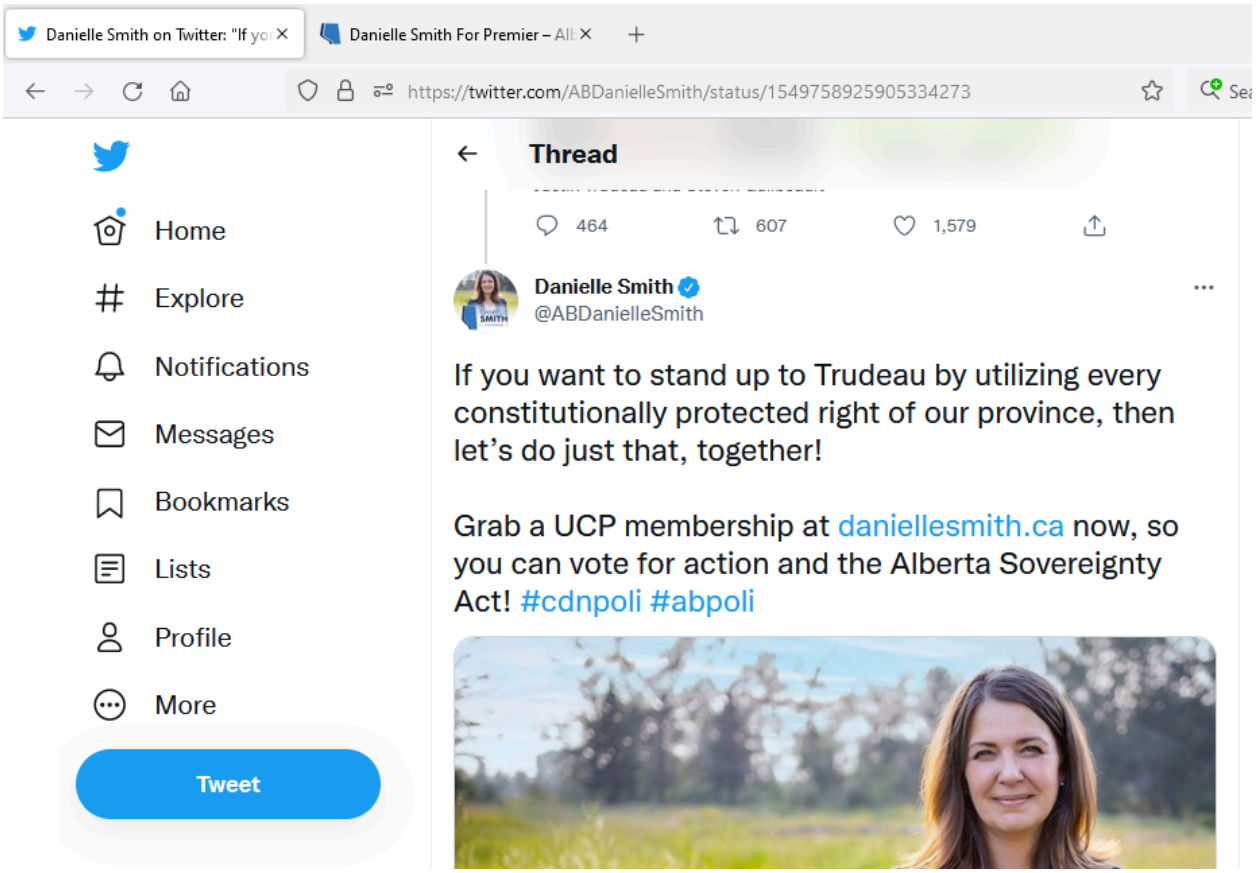
[78] John Woodside, "Oil and gas emissions cap is a 'cornerstone' promise for the feds — and it's catching flak from all sides". *Canada's National Observer*, 19 July 2022. Retrieved from https://www.nationalobserver.com/2022/07/19/news/oil-and-gas-emissions-cap-catching-flak on 14 August 2022.

Reaction from the two front-runners for Jason Kenney's job was even more removed from reality. Brian Jean, the UCP MLA for Fort McMurray, tweeted: "A mandated production cut is unacceptable. And Liberal consultations are fake consultations." As has been the case for the entire leadership race, former Wildrose leader Danielle Smith did him one crazier, tweeting, "Justin Trudeau wants to decimate Alberta's economy with a nearly 50% cut to oil production. This is another unprovoked assault on Albertans."[79]



[79] Max Fawcett, "Canada's oil industry fiddles while Europe burns". *Canada's National Observer*. Retrieved from https://www.nationalobserver.com/2022/07/21/opinion/canada-oil-industry-fiddles-while-europe-burns on 14 August 2022.





On 28 July 2022, the CEO of Cenovus stated that the federal government's proposals could result in production cuts:

> Cenovus Energy Inc. chief executive Alex Pourbaix warned that the federal government's proposed cap on oil and gas emissions could result in future production cuts in the Canadian oilpatch, casting a pall over the massive second-quarter profit of $2.4 billion his company reported Thursday.
>
> "I am very worried that if we remain on this path, it could lead to shutting in production at a time when the world is literally crying out for more oil and gas production," Pourbaix said during a conference call with investors.
>
> …
>
> Pourbaix said the federal targets significantly exceed the 30 per cent reduction by 2030 that oilsands producers have committed to under the Pathways Alliance — a consortium of six major oilsands firms who have pledged to decarbonize production to reach net-zero by 2050.
>
> "Those are much more aggressive goals than are being asked of any of the other industrial sectors in in the country, including agriculture, heavy industry, and transportation," Pourbaix said. "I think they're going to be incredibly difficult — I don't think they're possible to hit."[80]

By 23 July 2022, this onslaught was already causing Steven Guilbeault, the federal Minister of Environment and Climate Change, to waiver:

> Canada's environment minister says the federal government could give oil and gas companies extra time to fully meet 2030 emissions reduction targets.
>
> "[We] recognize that some of the measures that will be needed to achieve those deep emission reductions might require more time than what we have between now and 2030," Steven Guilbeault said in an interview with CBC Radio's The House.
>
> "I'm not saying today it's necessarily going to be 2032, but the companies have said it could be 10 years, which would bring us to 2032."
>
> …

[80] Meghan Potkins, "Cenovus CEO warns Ottawa's emissions cap could shut in future oilpatch production". *Financial Post*. 28 July 2022. Retrieved from https://financialpost-com.cdn.ampproject.org/c/s/financialpost.com/commodities/energy/oil-gas/cenovus-energy-hikes-spending-forecast-q2-profit/wcm/35f914a5-1b21-4758-a9c3-339ce1aad170/amp/ on 18 August 2022.

> "There's a possibility that if the industry needs a bit more time, then we can provide some flexibility while ensuring that Canada still meets its 2030 goals, that we can allow the industry a bit more time if they need this time to deploy the necessary infrastructure that they need to reduce emissions," Guilbeault said.
>
> …
>
> Guilbeault said the discussion paper also outlines the potential need for flexibility on methods and deadlines.
>
> "I agree that there are different views out there. Not everyone agrees with that. But at the same time, I think Canadians see the need to reduce carbon pollution. They see the impacts of climate change," the minister said.[81]

The pressure from the oil and gas lobby is continuing. On 21 August 2022, Kendall Dilling, the President of the Pathways Alliance, published an Op-Ed in the Globe and Mail under the title "Ottawa's unrealistic emissions plan could drive away investment". It stated:

> We have a plan, which we have shared with the federal government, to reduce emissions by 22 million tonnes by 2030. And we support the larger emission-reduction goals set out by Ottawa.
>
> However, we are concerned about the timelines recently proposed. We can reduce our emissions by 42 per cent from 2019 levels – we have, after all, set a goal of net zero by 2050 – but reaching that as early as 2030 is simply not realistic given current technology, construction and regulatory requirements.
>
> In reality, impractical time frames for emissions-reduction targets could drive investment away from our industry and our country, reducing production in Canada while increasing output and emissions in other countries.
>
> …
>
> We see real and ambitious reductions on the immediate (by 2030), midterm (2030-2040) and long-range (2040-2050) horizon as we steadily move toward our net-zero goal.[82]

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[81] Elise von Scheel, "Oil and gas industry could get more time to meet 2030 emissions targets, minister says". CBC News. 23 July 2022. Retrieved from https://www.cbc.ca/news/canada/calgary/oil-gas-emissions-reduction-guilbeault-climate-vonscheel-1.6528307?__vfz=medium%3Dsharebar on 14 August 2022.

[82] Kendall Dilling, "Ottawa's unrealistic emissions plan could drive away investment", *The Globe and Mail*, 21 August 2022. Retrieved from

That passage reveals the classic playbook of the oil and gas lobby: Pretend to be doing something – in the "immediate" horizon of 2030 – but move government and public opinion away from stringent action now and delay, delay, delay.

Opposition to the government's attempts to reduce GHG emissions from oil and gas production is only going to increase. The oil and gas lobby, and its supporters, are extremely effective. The only way to ensure that the federal government makes the required reductions, and at the required pace, is for all of us, including you, to fight back by participating in these consultations.

Then, we need to see what the government's next step is, and to fight back again at that stage, too.

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12. Suggestions For Your Submissions

Ultimately, the best thing you can do is to read to documents and form your own opinions for your submissions. Those two documents are:

1. The Discussion Document. The PDF of it can be obtained by following the link near the bottom of this ECCC Announcement at this website: Government of Canada outlines next steps to develop an oil and gas emissions cap.

2. Jared Forman, Jason Dion, Dale Beugin, and Rick Smith. "Aligning Canada's oil and gas sector with net zero". Canadian Climate Institute, 6 September 2022. It can be accessed here: https://climateinstitute.ca/.

Having stated that, we will provide some information here, including some from the Canadian Climate Institute's 6 September 2022 paper.

Should You Recommend Option 1 or Option 2?

In your submissions, should you recommend

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https://www.theglobeandmail.com/business/commentary/article-ottawas-unrealistic-emissions-plan-could-drive-away-investment/?utm_source=Shared+Article+Sent+to+User&utm_medium=E-mail:+Newsletters+/+E-Blasts+/+etc.&utm_campaign=Shared+Web+Article+Links on 24 August 2022.

Option 1: A new cap-and-trade system under the Canadian Environmental Protection Act, 1999 (CEPA); or

Option 2: Modification of the current carbon pricing approach under the Greenhouse Gas Pollution Pricing Act (GGPPA)?

We have asked a number of experts this same question and have also discussed it among ourselves. In general, the answer seems to be that either option could work, but both have significant challenges.

Of vital importance, though, many experts point out that the details of either option might well matter more than which option is selected. Essential components of those options include the stringency of the policies and the speed with which they are implemented.

This is well-encapsulated by the conclusions of the Canadian Climate Institute:

> Overall, the two options for aligning oil and gas with a net zero pathway are more similar than they are different. Particularly when the design elements we have suggested in this report are incorporated, both options improve the certainty that the sector's emissions will decline in line with its net zero pathway, albeit without entirely eliminating uncertainty. At the same time, neither option performs perfectly across all evaluation criteria.
>
> Whether the policy ultimately helps realize emissions reductions in the sector "at a pace and scale needed to reach net-zero by 2050" depends on how quickly it is implemented. There is no time to waste. Emissions in the oil and gas sector are still rising, so to meet Canada's climate goals, the government must right the ship as soon as possible by immediately establishing strong policy signals and clear expectations.
>
> …
>
> Regardless of the option chosen, the design and implementation details will ultimately make or break this policy. Again, both options can achieve the government's desired emissions reductions in the oil and gas sector, but only if the chosen option is implemented in a way that addresses the issues we have raised and integrates the optimal design elements we have outlined. Failing to get the details right—with either option—could render the policy ineffective, costly, and burdensome. Given the outsized contribution of the oil and gas sector to Canada's greenhouse gas emissions, the success or failure of efforts here

> could be the decisive factor for whether Canada meets its 2030 climate targets and reaches net zero by 2050.[83]

These are details for which the oil and gas lobby is clearly pressing for exactly the opposite of what is necessary: We need stringent and fast; They are clearly pushing for lenient and slow (if at all).

Ultimately, the Canadian Climate Institute expressed some preferences for Option 1 (using CEPA):

> Option 1, with the design changes we recommend, may have a better chance of achieving the government's goals because it could be more easily implemented. Granted, Option 1 is an entirely new system that has to be built largely from scratch. However, Option 2 requires changes to existing policy that risk being extremely complex, whereas by leveraging design elements from the federal OBPS and existing legislation, as we recommend, the cap-and-trade option could be implemented more quickly. But how these and other criteria should be weighed is something that the government will have to consider in determining which option to pursue.[84]

The Climate Action Network Canada (CAN-Rac) also expressed a preference for Option 1:

> The government must choose a policy option that will quickly and effectively drive down oil and gas emissions; the most obvious way to do so would be a hard, declining cap on oil and gas emissions. Among the options presented in the discussion paper, a cap-and-trade system would provide the most clarity and certainty, but Ministers Guilbeault and Wilkinson must ensure the policy does not allow for industry to game the system with false solutions and delays.[85]

CAN-Rac also believes that the quantity of emissions reductions should be 60% from 2005 levels, which is significantly more than the Discussion Document proposes:

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[83] Jared Forman, Jason Dion, Dale Beugin, and Rick Smith. "Aligning Canada's oil and gas sector with net zero". Canadian Climate Institute, 6 September 2022. (Hereinafter "**CCI Paper**"). p. 22.

[84] CCI Paper, p. 22.

[85] Can-RAC, "Oil and gas cap is Canada's chance to reverse emissions trajectory, if done right", Press release, 18 July 2022. Retrieved from Chttps://climateactionnetwork.ca/2022/07/18/oil-and-gas-cap-is-canadas-chance-to-reverse-emissions-trajectory-if-done-right/ on 16 August 2022.

> For Canada to do its fair share of the global effort to limit warming to 1.5°C, the oil and gas sector must reduce its emissions by at least 60% from 2005 levels by 2030. The "expected contribution" of the sector identified in Canada's 2030 Emissions Reduction Plan – reducing emissions by 31% below 2005 levels by 2030 – not only falls far short of 60%, but fails to even ensure the oil and gas sector would do its fair share to reach Canada's current climate target of 40 to 45% emissions reduction. Unless the oil and gas industry does its part to reduce emissions, other sectors, workers and consumers will be left to pick up the slack.[86]

CAN-Rac discusses what it believes to be Canada's "fair share" here:

https://climateactionnetwork.ca/2019/12/02/canadas-fair-share-towards-limiting-global-warming-to-1-5c/

> CAN-Rac also believes that any proceeds raised should be transferred to funding a Just Transition:
>
> The proceeds that are raised from the policy's revenue should be redirected to fund a Just Transition in Canada, rather than to provide yet another fossil fuel subsidy at a time when the oil and gas industry has been raking in record profits. For this policy to succeed, it must be paired with a proactive Just Transition strategy designed for and by workers and communities currently involved in this sector.[87]

Shortly before we posted this to our website, we learned that CAN-Rac has also made a Toolkit. We heartily recommend that you have a look at it, too, before you finalize your own submissions:

https://docs.google.com/document/d/18YWSHy6iHFnzMBSoh3l9Wsz2ns5juWsmxzUqB0Ou9uI/edit#heading=h.aj1ofobcwfv

The Climate Messengers operates as a bit of a happy anarchy. The grassroots people who volunteer with it have very divergent political opinions and we do not necessarily agree on what is the best climate change policy for a specific situation. However, we all agree on the general direction that Canada should move in on climate change, and that Canada must move fast.

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[86] *Ibid.*

[87] *Ibid.*

We also very strongly believe that the best way to achieve that is to encourage many thoughtful citizens to maintain a continuous, thoughtful pressure on their government.

While some of the Climate Messengers may end up advocating for Option 2, some of us favour Option 1 (using CEPA). Here are our reasons:

An emissions cap, which gradually becomes more stringent, provides certainty: We will know what the emissions will be at a specific time and by how much they will fall at specific times in the future. By contrast, a special "carbon tax" for emissions from oil and gas production provides certainty on how much the cost will be, but it does not provide certainty on what the reductions will be.

Also, a special "carbon tax" on emissions from oil and gas production could well become a huge political target for right-of-centre political parties and for those in Canada who want unrestrained fossil fuel development. The current "carbon tax" under the GGPPA has certainly been vulnerable to attacks in such a manner, and a special "carbon tax" for the oil and gas sector could well be even more vulnerable.

Moreover, the price per tonne of CO2 emissions from oil and gas production might very well need to be extremely high to be effective. In its Second Quarter, 2021 presentation to its shareholders, "[t]o help investors and analysts model the potential impact of current and future carbon pricing", Suncor analyzed what the effect of a "carbon tax" of $170 per tonne CO2, combined with other federal and provincial regulations would have on its cost of oil production. It determined that the $170 cost would add less than $1 to the price of producing a barrel of oil.[88]

The market price for a barrel of oil can fluctuate by over $50 in a given year. A $1 production cost increase brought about by a $170 per tonne "carbon tax" would make very little impact on the producers' behaviour. It is hard to imagine how many multiples of $170 would be required to create the necessary incentive for producers to make the required emissions reductions, but it is easy to see how such a high number would be an excellent target for those who object to requiring any change from Canada's oil and gas producers.

We believe that which option you advocate for is less important than that you push for the details of either policily to be stringent, and that the policy be implemented quickly. The Canadian Climate Institute makes these points, but individual citizens also need to

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[88] Suncor Energy, "2021 Q2 Investor Presntation", 28 July 2021. Retrieved from https://sustainability-prd-cdn.suncor.com/-/media/project/suncor/files/investor-centre/investor-relations-presentations-2021/2021-q2-suncor-energy-investor-presentation-en.pdf on 24 August 2022. Cited also by Andrew Leach, "Extended Brief on the Proposed Oil and Gas Cap". Published by the House of Commons Standing Committee on Natural Resources on 2 March 2022. Retrieved from https://www.ourcommons.ca/Committees/en/RNNR/StudyActivity?studyActivityId=11468847 on 24 August 2022.

make them, in order to counter the enormous force of the oil and gas lobby, and their supporters, who are calling for leniency and slowness. All of us can make these points in our answers to the Questions that the Discussion Document is asking us.

What follows is some general points to consider when answering those questions.

Suggest more changes to the statutes and less changes to the regulations that accompany them

One important suggestion to make is that, whichever of the options it chooses, the government should put as much of the legislative changes into the statute in question, and leave as little as possible for the regulations.

To create, amend, or rescind a statute requires a majority of the Members of Parliament who sit in the House of Commons to do so.

By contrast, "[r]egulations are not made by Parliament but by persons or bodies to whom Parliament has delegated the authority to make them, such as the Governor in Council or a minister."[89]

The Governor in Council is composed of Cabinet Ministers. If the Conservatives were elected as a minority government, they might well not be able to muster the votes to gut or repeal the statute used to implement this policy. However, even as a minority government they would appoint all the federal Cabinet Ministers. If they did what they say they would do, they could then gut or repeal the regulations making the emissions reduction policy work because they would hold all of the Cabinet positions and thus control the Governor in Council.

Do not let the legislation become lenient on the quantity of the emissions cuts

The oil and gas sector is only being required to reduce GHG emissions by 31% from 2005 levels by 2030, whereas the rest of the country is being required to reduce emissions by between 40% and 45% by 2030.[90] This is because GHG emissions from oil and gas production increased so much (31 Mt) between 2005 and 2019[91] that apparently the government and few

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[89] Glossary of Parliamentary Procedure, in Bosc and Gagnon, *House of Commons Procedure and Practice*, (Third Edition, 2017). Retrieved from https://www.ourcommons.ca/procedure/glossary/index-e.html on 24 August 2022.

[90] s. 7(2) *Canadian Net-Zero Emissions Accountability Act*. S.C. 2021, c. 22. Retrieved from https://www.laws-lois.justice.gc.ca/eng/acts/C-19.3/page-1.html#h-1305647 on 14 August 2022; in combination with Environment and Climate Change Canada. *National Inventory Report 1990-2020: Greenhouse Gas Sources and Sinks in Canada - Canada's Submission to the United Nations Framework Convention on Climate Change*. April 2022. p. ES-2. Retrieved from https://publications.gc.ca/site/eng/9.506002/publication.html on 14 August 2022.

[91] Discussion Document, p. 10.

others believe that the oil and gas industry could achieve the cuts based on 2005 numbers that are required by the rest of the country.

The issue of leniency is extremely important to this Public Consultation. It is directly addressed in Question 14:

> 14. What compliance flexibilities should be allowed, and what conditions should determine eligibility?[92]

We must be very clear: "Compliance flexibilities" are things that make the policies less stringent, and therefore less effective. The Discussion Document provides this explanation of "compliance flexibilities":

> As indicated in Canada's 2030 ERP, **consideration will be given to whether time-limited compliance flexibilities, for example using robust domestic or international offsets, will be an option in limited circumstances**. The intent of allowing some flexibility in complying with the emissions cap trajectory would be to ensure that the sector is responsible for reducing emissions while allowing time for investment and deployment of key deep decarbonization solutions. The nature and availability of any flexibilities will influence the costs and timelines to achieve the emission reduction trajectory set by the cap, and will therefore be an important consideration in determining the trajectory. [Emphasis added.][93]

Offsets are a scheme by which a polluter effectively buys permission to continue polluting by paying money to someone else to not pollute. They are absurd and prone to failure. The "someone else" may very well have not polluted in any event, even without the money. Alternatively, there should have been a rule that prohibited the "someone else" from polluting without the offset.

Offsets have been aptly compared to the Mediaeval Catholic Church's practice of granting "Indulgences". Put someone crudely, if a rich Mediaeval man wanted to have sex with a consenting rich Mediaeval woman who was not his wife (and was married to another man), both the rich Medieval man and the rich Mediaeval woman could pay money to the local bishop, who would grant them Indulgences. Whereas, under normal circumstances, the rich Mediaeval man

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[92] Discussion Document, p. 29.

[93] Discussion Document, p. 18.

and the rich Mediaeval woman would be committing the cardinal sin of adultery, thereby damning themselves to eternity in Hell, their purchase of the Indulgences would grant them a free pass to happily fornicate, secure in the knowledge that they would not end up in Hell for it.

Leaving aside our discussion of Mediaeval religion, the Canadian Climate Institute has been quite clear on whether, or how, the federal government should include "compliance flexibilities" such as offsets in its new policy:

> Introducing compliance flexibility reduces certainty in achieving emissions abatement, and in the case of offsets, may even undermine effectiveness in reducing emissions in the oil and gas sector… Providing significant compliance flexibility also complicates the design of the system and could delay its implementation.
>
> Given the tradeoff between compliance flexibility and emissions reductions, we strongly suggest that compliance flexibility be limited to a very short period of time or not at all, and that the flexibility options are minimal.
>
> The only form of compliance flexibility that we recommend including are offsets that would represent net negative emissions (i.e., permanent sequestration), restricted to engineered forms of sequestration like direct air capture. Unlike other sources of offsets, such as natural carbon removal, these offsets would be more guaranteed to be additional and permanent.
>
> Creating incentives for direct air capture also has other societal benefits. It will help to develop and scale a key decarbonization "wild card" that leverages expertise and assets in the Canadian oil and gas sector while having the co-benefit of advancing CCUS technology (Canadian Climate Institute 2021). Canadian firms could become leaders in carbon storage—a new business line which would thrive in a low-carbon economy. Moreover, in the longer term, scaling up low-cost carbon removal will be essential and valuable in stabilizing the climate, especially as net negative global emissions will be required beyond 2050. [Citation removed.][94]

The Canadian Climate Institute made these comments in their discussion of Option 1 (using CEPA). Possibly, it is a more important consideration for Option 1 than for Option 2 (using the GGPPA and the OBPS). However, the Canadian Climate Institute also noted that the use of "compliance flexibility" could also influence the effectiveness of Option 2.[95]

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[94] CCI Paper, p. 17.

[95] CCI Paper, p. 14 (See Table).

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13. Elizabeth May's subsequent suggestions for responding to this Public Consultation

The Climate Messengers do not support any specific party. In this instance, we reached out to a handful of academics and asked them if they wanted to contribute. None contributed anything specific, but the general information from those who responded are reflected in our Toolkit. You will also see references to the suggestions of the Canadian Climate Institute and a link to their paper. You will also find a link to the Toolkit made by CAN-Rac.

On 22 September, Elizabeth May was on as a guest with one of us on a Zoom presentation that another grass-roots group, Time4Action, hosted. What follows are Elizabeth May's suggestion for how people might wish to respond to the public consultation. The Climate Messengers do not necessarily endorse everything that Elizabeth May suggests, but we have sufficient respect for to include it here, without any alteration by the "Messengers".

If we received them, we would also include suggestions from other climate leaders and academics.

Here is much of what she sent us, *verbatim*:

My quick and dirty notes for guidance -

1) Start with **First Principles** - we must avoid climate breakdown.

We are at 1.2 degrees C global average temperature increase. Global devastation is obvious.

In the Paris Agreement (COP21 in 2015), all nations promised to keep global average temperature increase to as far below 2 degrees C as possible, and to try to hold to 1.5 degrees.

Even since 2015, the science has become clearer. Even at 1.5 degrees C we risk exceeding globally dangerous and irreversible "tipping points" (Science: https://www.science.org/doi/10.1126/science.abn7950).

1.5 degrees is increasingly out of reach. Holding to 1.5 does not guarantee human civilization's survival . It is not "safe." 2 degrees is much worse. And we (all nations together even meeting all commitments from all nations) are headed for 3 degrees . (below I have cut and pasted some more about the IPCC April 4 report to save time. I wrote it for another publication but feel free to use!)

2) Then go to subject of consultation - **Setting a Cap on Emissions.**

The logical starting point in any consultation should be, picking a number- setting the CAP - on oil and gas emissions.

This consultation does not do that. Instead it directs people to two different approaches as mechanisms to cap emissions - either use cap and trade or tinker with carbon pricing.

https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/oil-gas-emissions-cap/options-discussion-paper.html

3) Critique government's approach as duplicitous and distracting.

Step one must be (esp given IPCC April 4 advice that emissions must peak and begin to fall before 2025) to set the cap.

Advocate for the cap to be emissions in 2022. **Now.** This year must be the highest ever level of GHG emissions from Canada.

To make that cap viable- cancel TMX and cancel Bay du Nord. Both fully federal decisions.

Second, to engage in meaningful public consultations, no options for government action to meet the target should be off the table.

So restricting public input to two options (both tinkering with carrots and sticks) is unhelpful.

The Minister of Environment and Climate Change has the power - right now - under Part 4 of the Canadian Environmental Protection Act (CEPA) to regulate the winding down of the fossil fuel sector. Part 4 is called the "pollution prevention" section. Since 2005, GHG have been listed as "toxic substances" within the meaning of CEPA. As CEPA toxic substances, the minister has authority to call on sectors emitting GHG to publish plan to drop emissions to targets set by the minister.

As well, many other tools exist. The government bought the Kinder Morgan pipeline to build it over the objections of the BC government, the BC municipalities and most fN along its route. The government bought it to build it. We should explore buying oil sands operations in order to shut them down.

Use opportunities to stress that oil and gas are NOT the corner stone of our economy, not indispensable and should be shut down as soon as possible with protections for fossil fuel workers and their families. (Just Transition)

4) answer all the questions at the back of the consultation doc from the web site.

The government claims that the Intergovernmental Panel on Climate Change (IPCC) has endorsed the goal of “net zero by 2050” to ensure a livable world for our children. The IPCC has not done so. The IPCC warns that drastic actions are required globally in the next three years with a deep and steep decline in fossil fuel use by 2030. True, the IPCC then sees net zero by 2050 as a target, but without deeply transformative action before 2030, the 2050 goal is irrelevant. The window on holding to no more than 1.5 degrees C global average heating will have closed before 2030. That window does not re-open.

Net zero by 2050 is dangerous spin. In its own way, it is as dangerous as saying the climate crisis is a hoax. It leads us to miss critical points of no return.

In a quick succession of events between March 29 and April 7, the tragic story of Canada’s commitment to climate failure is revealed.

March 29: The Government of Canada releases its emissions reduction plan to reach 40-45 percent reductions of greenhouse gas (GHG) emissions as against 2005 levels by 2030 – the stated commitment known as our “NDC” or Nationally Determined Contribution under the Paris Agreement. The March 29 plan dispenses in short order with any notion our government was serious about the commitment to reach 45 percent. It sets out the target at 40 percent and then fails to reach it. It announces as part of the plan that Canada’s oil and gas production is to increase by 21 percent by 2030.

April 4: The Third Working Group of the IPCC releases the final chapter to the Sixth Assessment Report. It pulled no punches. To hold to our Paris target of holding to no more than a 1.5 degree Celsius, or even the lesser goal of as far below 2 degrees as possible, global

emissions must **peak no later than before 2025** and drop rapidly to at least half of our 2010 GHG emissions by 2030. As one of the lead authors put it, “It’s now or never.”

What is now or never? A decision to chart a course to a livable world.

U.N Secretary General Antonio Guterres said: “We are on a pathway to global warming of more than double the 1.5°C limit agreed in Paris. Some Government and business leaders are saying one thing, but doing another. *Simply put, they are lying.* And the results will be catastrophic. This is a climate emergency.

“Climate scientists warn that we are already perilously close to tipping points that could lead to cascading and irreversible climate impacts. But, high-emitting Governments and corporations are not just turning a blind eye, they are adding fuel to the flames.

“They are choking our planet, based on their vested interests and historic investments in fossil fuels, when cheaper, renewable solutions provide green jobs, energy security and greater price stability.” (Emphasis added).

Please re-read the paragraphs above – we risk “cascading and irreversible climate impacts.” This is not a threat of increasingly bad weather. This threat is to the survival of human civilization. And we have three years to act. Net zero in three decades is a dangerous distraction.

April 6: As if to prove Guterres’s point, Canada doubled down on expanding fossil fuels, approving the Bay du Nord development 500 km off the east coast of Newfoundland. Bay du Nord will produce up to one billion barrels of oil – on top of our already planned increase of 21 percent of fossil fuel production.
https://www.cbc.ca/news/canada/newfoundland-labrador/bay-du-nord-reaction-1.6411013

Wonder no more - if you did - which countries are condemned as “lying” and “adding fuel to the flames.” In the immortal words of Walt Kelly’s Pogo, “We have met the enemy and he is us.”

April 7: The 2022 Budget sets out the financing for the March 29th plan. Twenty percent of the $12 billion for climate action is for government support to the oil and gas industry for an expensive and unreliable technology called “CCUS” – Carbon Capture Utilization and Storage. Otherwise known as “have your cake and eat it too.” A carbon weight loss regime of chocolate cake.

Also in the budget is an unspecified amount to transfer ownership of the bloated carbon killing machine called the Transmountain Pipeline Expansion (TMX). With the new sticker shock of the planned construction cost of $21 billion – up from the original Kinder Morgan estimate of $5 billion - the Finance Minister pledged no more federal dollars will be expended. But the budget promises some alchemy by which the project becomes the headache for some as yet unspecified Indigenous ownership group. Dollars to be announced soon.

There is, of course, widespread support for nearly $900 million for decarbonizing electricity, $350 million for greener buildings and homes, and an additional $458.5 million for greener affordable housing. Significant investments have also been made in expanding the network of EV charging stations across Canada (nearly $1 billion) and a continuation of $5,000/per vehicle rebates for consumers who buy a zero emissions vehicle (another $1.7 billion over five years.)

But essential spending is missing to upgrade and connect a modern national electricity grid. The promised funding for adaptation to climate emergencies remained unchanged from last year's $1.4 billion ovAfter the multiple billions in infrastructure damage from wildfires and floods in 2021 and the 600 deaths in BC from the heat dome due to appalling lack of preparedness, more should have been allocated to adaptation.er twelve years. There was a new $383 million over five years to help prepare for additional wildfires, but through all our government's responses, the lack of urgency to address a growing emergency is palpable.

Lytton BC has seen no new housing rebuilt. The only new infrastructure is a fence along Highway 1 so drivers can no longer see the burned-out town centre.

[U.N. Secretary General Antonio Guterres described additional spending on fossil fuel production] "moral and economic madness"...Of course, Guterres did not name any nation in that condemnation, but of the countries in the G-7 only Canada has seen an increase in emissions since 2015 when we signed the Paris Agreement.

14. I'm pressed for time! Take me straight to the sample answers.

First, we are setting out the questions that the federal government is asking without any answers. You can copy these questions, paste them into your word processor, and use them as the framework for what you submit. Remember that you don't need to answer every single

question if you don't want to.

Below, we will repeat the questions again (scroll down to the heading in red) and provide some sample answers. We hope that you will submit as much of your own thoughts as you can. If you decide to use our samples, please consider changing the wording to customize it a bit. Ultimately, we believe that the biggest impact we can all have on public consultations like this is to provide unique individual submissions.

Please submit your answers to the following email address by September 30th, 2022: PlanPetrolieretGazier-OilandGasPlan@ec.gc.ca

Here are the questions without answers:

General - Elizabeth

1. How do you envision the future of the oil and gas sector in the Canadian economy or your community?

2. What do you see as the role of your organization or community in contributing to reducing oil and gas sector emissions in Canada?

3. What are the benefits or drawbacks of the options outlined in the discussion document?

4. Of the two approaches outlined, is there an approach your organization or community would prefer?

5. Do you have suggestions on how to improve the options outlined?

6. What potential short or long-term socio-economic impacts do you foresee or anticipate for particular regions or population groups resulting from an oil and gas emissions cap in general, and more specifically, the two proposed regulatory options?

Scope of coverage

7. Should consideration be given to facility emission thresholds to set different approaches and requirements for small versus large emitters?

8. Should the cap include petroleum refineries and natural gas transmission pipelines?

9. Are there other considerations relevant to determining the scope of the cap?

Emissions Cap Trajectory

10. What are the relevant considerations for determining a GHG emissions trajectory, particularly over the first 10 to 15 years?

11. How should the trajectory of the oil and gas emissions cap be designed to support Canada's 2030 targets and achieve net-zero by 2050? Should the cap set annual or multi-year emission levels?

12. Should the trajectory be fixed out to 2050, or should the approach include steps to ratchet up the trajectory at one or more fixed intervals?

Competitiveness and carbon leakage BEATE

13. What design features should be considered to maintain Canadian competitiveness and minimize the risk of carbon leakage?

14. What compliance flexibilities should be allowed, and what conditions should determine eligibility?

15. Should the use of compliance flexibilities decline over time? If so, to what extent?

16. Under a potential cap-and-trade option, should distribution of allowances be done through auction, free allocation, or a combination of the two?

Policy coherence and coordination across jurisdictions

17. Would there be merit in excluding or taking an approach that results in lower compliance costs for emissions generated from the production and processing of fuels used to support the development of clean fuels (e.g., natural gas required for low carbon hydrogen production)?

18. How should the Government of Canada ensure that the cap incents investments in diversification and other preparations for a clean energy transition?

19. How would each potential cap approach interact with other climate measures?

20. What opportunities exist for coordination among federal and provincial and territorial measures?

Implementation

21. How should a cap on GHG emissions be implemented to maximize emission reductions while avoiding potential challenges related to layering of multiple policies and regulations?

22. What other factors related to implementation should be considered in developing an approach to cap and cut GHG emissions from the oil and gas sector?

Here are the questions again with some sample answers.

PLEASE TRY TO BE ORIGINAL AND DO NOT JUST COPY AND PASTE THE SAMPLE ANSWERS. EVEN MAKING SMALL CHANGES TO THE WORDING CAN HELP TO GET YOUR UNIQUE ANSWERS NOTICED AND THUS MAKE A BIG DIFFERENCE.

General

1. How do you envision the future of the oil and gas sector in the Canadian economy or your community?

Sample answer 1: Oil produced in Canada is much more emissions-intensive than oil produced in many other countries. Given the urgency of the climate crisis, I do not believe that the oil and gas sector should play a prominent role in the Canadian economy.

Sample answer 2: I would like to see the oil and gas sector replaced by a vibrant renewable energy industry!

Sample answer 3: Canada has some of the dirtiest oil in the world. Countries like Norway and Saudi Arabia, as well as many others, produce oil with much lower emissions intensity per barrel than Canada. For example, producing a barrel of oil in Saudi Arabia emits 26% of a Canadian barrel of oil's GHGs (Masnardi et al. https://www.science.org/doi/10.1126/science.aar6859). Furthermore, in May 2021, the International Energy Agency, (the "IEA") published a report stating that "there is no need for investment in new fossil fuel supply in our net zero pathway", and emphasized that the net-zero pathway results in a steep decline in demand for fossil fuels. Given these facts, it is my belief that Canada's oil and gas industry should not be increasing production, and that emissions must be capped in an ambitious manner in order to achieve our targets set out in the Canadian Net-zero Emissions Accountability Act and the government's recent Emissions Reduction Plan.

Sample answer 4: While the oil and gas sector has played an important role in the Canadian economy for many years, I do not believe that it should continue to do so. We are already seeing the effects of climate change, in terms of floods, droughts, fires, and other extreme weather events all over the world, and we know that these events will only increase in severity and frequency as the climate crisis worsens. Oil and gas production is an important contributor to Canada's emissions, and I would like the government to keep its promise to Canadians and put an ambitious cap on the sector's emissions so that we can do our part to mitigate the climate crisis.

Sample answer 5: I envision a future where the oil and gas industry contributes their fair share of reductions in order to meet our country's GHG reduction targets. The oil and gas industry should not get off easy and leave other sectors to pick up the slack, especially given that

emissions from oil and gas production represented 27% of the country's emissions in 2020, which is the highest of any sector. Their emissions need to be capped swiftly and without any loopholes or other forms of leniency that undermine the goal of the cap.

2. What do you see as the role of your organization or community in contributing to reducing oil and gas sector emissions in Canada?

[We can't really provide a sample answer here. Please give your own answer about your own role, or that of your organization or community.]

3. What are the benefits or drawbacks of the options outlined in the discussion document?

Sample Answer 1: Option 1 (the Cap and Trade system under CEPA) has the benefit of providing certainty of outcome, meaning that we would have some certainty of the level of emissions reduction. The main drawback of the CEPA option is that there could be significant fluctuations in the price of emissions permits. Because this new system would be imposed on top of already existing emission pricing systems, the certainty of outcome provided by the CEPA system makes it preferable.

Sample Answer 2: A fundamental drawback of Option 2 (using the Output-Based Pricing System part of the Greenhouse Gas Pollution Pricing Act (the "GGPPA") to create a special "carbon tax" for the oil and gas production sector is how vulnerable any sort of "carbon tax" is to political attack from opponents. This has been made clear by the clear and sustained attacks that Conservative politicians, both federal and provincial, continue to make on the existing "carbon tax" in the GGPPA. A special "carbon tax" just for oil and gas production would be even more vulnerable to political attack. These attacks could readily be compounded by arguments that a special "carbon tax" applying to only one industry is unfair because it treats that industry worse than it treats other industries. Furthermore, the special "carbon tax" could readily be seen to treat certain provinces – mainly Alberta and Saskatchewan – worse than other provinces.

By contrast, Option 1 (a Cap and Trade system implemented under CEPA) would be relatively invisible to the general public. As such, it would be more difficult for political opponents to whip up general public opposition to it. This fact is a good reason to prefer Option 1.

Sample Answer 3: To have any effect, the special "carbon tax" implemented by the GGPPA and the OBPS on oil and gas production, as contemplated by Option 1, could very well need to be so high as to be both unwieldy and hard to defend politically.

In its Second Quarter, 2021 presentation to its shareholders, "[t]o help investors and analysts model the potential impact of current and future carbon pricing", Suncor analyzed what the effect of a "carbon tax" of $170 per tonne CO2, combined with other federal and provincial

regulations, would have on its cost of oil production. It determined that the $170 “carbon tax” would add less than $1 to the price of producing a barrel of oil. [Suncor Energy, “2021 Q2 Investor Presentation”, 28 July 2021. Accessed at https://sustainability-prd-cdn.suncor.com/-/media/project/suncor/files/investor-centre/investor-relations-presentations-2021/2021-q2-suncor-energy-investor-presentation-en.pdf.]

The market price for a barrel of oil can fluctuate by over $50 in a given year. A $1 production cost increase brought about by a $170 per tonne “carbon tax” would make very little impact on the producers’ behaviour. It is hard to imagine how many multiples of $170 would be required to create the necessary incentive for producers to make the required emissions reductions, but it is easy to see how such a high number would be an extremely vulnerable target for those who object to requiring any change from Canada’s oil and gas producers.

4. Of the two approaches outlined, is there an approach your organization or community would prefer?

Sample Answer 1: I agree with what the Canadian Climate Institute stated in its 6 September 2022 paper, “Aligning Canada’s oil and gas sector with net zero”, on p. 2: “Option 1 might represent a more practical path forward, despite its challenges. While both options have their pitfalls, implementing Option 1 may be faster and less disruptive. With that said, which option is preferable will depend on how successfully each option could be implemented and optimized in practice. Either approach can work, and ultimately getting the details right will be the key to success.”

Sample Answer 2: Of the two approaches outlined, I prefer Option 1: A new cap-and-trade system under the Canadian Environmental Protection Act because it ensures a hard cap on the total oil and gas sector emissions and can regulate those emissions down over time. Option 2 incentivizes emissions to be reduced, through pricing oil and gas emissions, but does not directly ensure emissions will decline. However, regardless of which Option is chosen, it is more critical that said Option is implemented quickly and strongly to ensure Canada’s emissions targets are met.

Sample Answer 3: Of the two approaches outlined, I prefer Option 2: Modification of the current carbon pricing approach under the Greenhouse Gas Pollution Pricing Act. This would be more in line with the well-understood Carbon Price that Canadians have come to support and it would ensure efficient market-based solutions will emerge to drive down Oil and Gas production emissions. However, regardless of which Option is chosen, it is more critical that that Option is implemented quickly and strongly to ensure Canada’s emissions targets are met.

5. Do you have suggestions on how to improve the options outlined?

Sample Answer 1: One important suggestion that would improve either option being considered is that as much as possible of the mechanisms to make the policies work should be put into the respective statutes and as little as possible be left for the respective regulations. With the support of the NDP, the current Liberal minority government can summon the required majority in the House of Commons to pass the statutory amendments. That way, at least if the Conservative Party, or some other party that essentially opposes climate action on the required scale, wins only a minority government before 2030, it may very well be unable to summon the Commons votes necessary to repeal or otherwise "gut" the relevant statutes. However, to the extent that the operative mechanisms are in regulations, any potential climate-unfriendly minority government will be vulnerable to attack by a future minority government that opposes them, since usually minority governments still control all cabinet positions and thus can have cabinet or the Governor in Council do as they wish with regulations.

This suggestion is one which the Environment Minister's political staff and the Prime Minister's Office should consider. It is understood that this is not a consideration for the nonpartisan bureaucracy, but it is hoped that it will be brought to the attention of the Minister's political staff and the PMO.

6. What potential short or long-term socio-economic impacts do you foresee or anticipate for particular regions or population groups resulting from an oil and gas emissions cap in general, and more specifically, the two proposed regulatory options?

Sample Answer 1: I foresee strong long-term socio-economic benefits, especially for the disadvantaged groups of Canadians, resulting from either of the two proposed regulatory options. A healthier climate leads to healthier, more productive, safer, and happier Canadians who will thrive in this beautiful country. In addition, there will be many green jobs that emerge in as the world transitions away from oil and gas, which Canadians will be early adopters of.

Sample Answer 2: Obviously employees of the oil and gas sector, and communities that rely heavily on revenues from that sector, are going to be impacted if the cap results in declining production. However, this is not more important than reducing emissions, and should not be addressed as part of the cap. This issue belongs in the Just Transition Act. Please enact the cap quickly and don't be lenient on the fossil fuel industry.

Scope of coverage

7. Should consideration be given to facility emission thresholds to set different approaches and requirements for small versus large emitters?

Sample Answer 1: I agree with what the Canadian Climate Institute stated in its 6 September 2022 paper, "Aligning Canada's oil and gas sector with net zero", on p. 18:

"There is value in including a greater number of small emitters within a sectoral cap-and-trade

system: the more emitters covered by the system, the greater the emissions reductions at a lower overall cost. However, at a certain point, measuring the emissions for smaller firms ends up costing more than the benefits of their inclusion in the system.

“In general, firms will often prefer to participate in the cap-and-trade system rather than not, even if the price of carbon under such a system is higher than the fuel charge to which they are otherwise subject. Firms in the cap-and-trade system will be eligible for output-based allocations, which will lower the average cost of compliance. Therefore, either allowing firms to self-select into cap-and-trade or establishing a system to opt-in to it would likely expand the inclusion of small emitters, while excluding those emitters for whom the measurement and quantification of emissions would be too costly.”

While the Canadian Climate Institute was discussing Option 1 (using CEPA), I think the same principles would apply to the use of Option 2 (using the GGPPA and the OBPS). The more emitters covered, the greater the emissions reductions. Similarly, smaller emitters should be permitted to “opt in” if Option 2 is used but they are somehow not covered.

Sample Answer 2: No. GHG emissions are the same problem whether they come from small or large participants in the oil and gas production sector. The policy should not favour one emitter over another on the basis of its size.

Sample Answer 3: No, there should be no consideration given to set different requirements for small versus large emitters. All GHGs contribute to climate change, regardless of the size of the facility that they come from. Setting different requirements could introduce leniencies that undermine the goal of the cap.

8. Should the cap include petroleum refineries and natural gas transmission pipelines?

Same Answer 1: Yes. The Discussion Document (p. 9) states that 84% of emissions come from oil and gas extraction. It also states that 10% comes from “the downstream oil and gas sector”, which is presumably refineries, and 6% comes from transmission pipelines. There is no valid reason for leaving 16% of the emissions not covered by the policy.

Sample Answer 2: Yes, the cap should include petroleum refineries and natural gas transmission pipelines. All GHGs contribute to climate change, regardless of what stage of the production process or facility they come from, and should be treated equally. Furthermore, this contributes to some “equality” across the country, given that refineries and transmission pipelines are located in many different provinces. Excluding them from the cap would make it easier to accuse the government of disproportionately burdening Alberta, which is where the bulk of the production happens.

9. Are there other considerations relevant to determining the scope of the cap?

Sample Answer 1: An important consideration for having all Scope 1 and Scope 2 emissions covered by the cap is that, to the greatest extent possible, all provinces and all regions of the country should be treated equally. Obviously, since most production occurs in Alberta and Saskatchewan, they will bear much of the burden. However, by ensuring that the scope of the cap covers refineries and pipelines, at least some of the burden can be shared by the provinces where at least some of those refineries and pipelines are located, such as Ontario, Quebec, and the Maritimes.

Sample Answer 2: Please make sure that the cap is as broad as possible and ensure that all scope 1 and scope 2 emissions are included. Do not make any exceptions or "differing requirements" for producers of different sizes or at downstream stages of the production process.

Sample Answer 3: The most important consideration relevant to determining the scope of the cap is that it reduces as many emissions as possible, as quickly as possible.

Emissions Cap Trajectory

10. What are the relevant considerations for determining a GHG emissions trajectory, particularly over the first 10 to 15 years?

Sample Answer 1: The GHG emissions trajectory over the first 10 to 15 years must consider that Canada is one of the most GHG-intensive oil and gas producers in the world and therefore we must boldly reduce our emissions as quickly as possible.

Sample Answer 2: An important consideration that is apparently being ignored is that highly credible international organizations have stated that the nations of the world are producing far more fossil fuels, including oil and gas, by 2030 than is compatible with global warming of below 1.5C, or even 2C.

The International Energy Agency, in "Net Zero by 2050: A Roadmap for the Global Energy Sector", May 2021 (p. 21) stated: There is no need for investment in new fossil fuel supply in our net zero Pathway. Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required."

In October 2021, the United Nations Environment Program, the International Institute for Sustainable Development, and a number of other groups released their most recent edition of the Production Gap Report. It found, on p. 2, that "Governments plan to produce more than twice the amount of fossil fuels in 2030 than would be consistent with limiting warming to 1.5°C. The production gap has remained largely unchanged since our first analysis in 2019."

It is inexcusable that Canada, as one of the wealthiest countries of the world per capita, with a

robust economy entirely apart from its fossil fuel production, and with a relatively small amount of its GDP linked to oil and gas production compared to many other producers, is not cutting its production much faster.

It is widely understood that, under Canada's Constitution, regulating levels of oil and gas production is the exclusive jurisdiction of the provinces, and that the federal government cannot directly regulate oil and gas production.

Nevertheless, Canada's federal government should be using every lever legally at its disposal to create reductions in production. This must include much more stringent emissions reductions than are currently being contemplated by Canada's Emissions Reduction Plan or, apparently, by the "Options to Cap and Cut Oil and Gas Sector Greenhouse Gas Emissions to Achieve 20030 Goals and Net-Zero by 2050" Discussion Document.

Sample Answer 3: Relevant considerations for determining the emissions trajectory are as follows:

- Canada is one of the largest producers of oil and gas in the world
- Oil and gas is the largest contributor to Canada's emissions of any sector
- Canada is projected to produce way more fossil fuels than what would be consistent with limiting warming to 1.5 degrees C
- WE ARE IN A CLIMATE CRISIS and need to drive our emissions down NOW

In other words, you better make that emissions reduction trajectory ambitious!!

11. How should the trajectory of the oil and gas emissions cap be designed to support Canada's 2030 targets and achieve net-zero by 2050? Should the cap set annual or multi-year emission levels?

Sample Answer 1: The UNIPCC has been crystal clear that what happens this decade, meaning before 2030, is crucial to preventing global warming of 1.5C and even 2C. The world is nowhere near on track to doing enough by 2030 to limit global warming to anywhere near 2C, and Canada is not doing its part. The trajectory should implement an immediate cap, as this government promised in the last election. Thereafter, the trajectory should be much, much more stringent than the 31% below 2005 levels that the Emissions Reduction Plan presently contemplates for the oil and gas production emissions by 2030.

In light of the urgency of taking action by 2030, any discussion of 2050 should be such a secondary matter as to merit little attention.

Ideally, the cap would set multi-level emission levels. This would be compatible with a system of multi-year "carbon budgets" like the United Kingdom's *Climate Change Act, 2008*, created. However Canada only created a very pale imitation of the UK legislation with the *Canadian*

Net-Zero Emissions Accountability Act (the "CNZEAA") Unfortunately, Canada's legislation opted for annual targets instead of carbon budgets. As such, the trajectory for the oil and gas production emissions cuts should set annual emission levels to be more compatible with the CNZEAA. If the CNZEAA is modified in the future to incorporate carbon budgets, then the oil and gas production emission cuts should be changed at that time to conform to the CNZEAA, but not before.

Sample Answer 2: It is very clear how the trajectory of the oil and gas emissions cap should be designed to support Canada's 2030 target. The Canadian Net-Zero Emissions Accountability Act (the "CNZEAA") legally required the Environment and Climate Change Minister to produce Canada's Emissions Reduction Plan (the "ERP"), which was released on 29 March 2022. The CNZEAA also legally requires the Minister and the government to achieve the 2030 target.

In the ERP, the government promised to cap GHG emissions from oil and gas production and then to gradually reduce them by 81 Mts over the period from 2019 to 2030, so that, by 2030, oil and gas production emissions are only 110 Mts. That is a reduction of 31% for the oil and gas industry from 2005 emissions by 2030. This is stated on pp. 89-90 of the ERP.

That 110 Mts, and no more than 110 Mts, should quite obviously be the maximum emissions in 2030 and that should be the anchor of the trajectory between now and 2030.

The CNZEAA, in combination with the ERP, sets the interim emissions objective for 2026 at 20% below 2005 levels for the rest of the economy, other than oil and gas production.

If the rest of the economy is expected to reduce by 20% by 2026 and by 45% by 2030, and if the oil and gas industry is expected to reduce 31% by 2030, the proportionate reduction from the oil and gas industry by 2026 should be 13.8 % from 2005 emissions. That means the cap for oil and gas production emissions in 2026 should be 13.8 % below the 2005 emissions of 160 Mt. In other words, 138 Mt, and no more than 138 Mts, should be the anchor of the trajectory for 2026.

The specific numbers for oil and gas production emission reductions set out in the ERP, as well as the 2026 interim target, should not have been left out of the Discussion Document. Indeed, these specific numbers should have been prominently presented and discussed.

Sample Answer 3: Regardless of whether you choose annual or multi-year targets, please implement an emissions reduction trajectory that is AT LEAST as ambitious as the trajectory for the rest of the country's economic sectors. The oil and gas industry should be expected to reduce their emissions by 20% by 2026 and by 40-45% by 2030 in order to be like the rest of the country. The "31% by 2030" figure for the oil and gas sector cited in the government's Emissions Reduction Plan is not adequate. The fact that the oil and gas producers increased their emissions so much between 2005 and 2019 is no reason to give them a break on the

emission reductions they must undertake. The fossil fuel industry contributes the most to our country's emissions, why should they be forced to do the least?

Sample Answer 4: Make sure that the emissions reduction trajectory between now and 2030 is deep (it would be nice to see 40% below 2005 levels by then, if not something even more ambitious!). Do not listen to the industry's pleas for more time and say "sure, no problem, we'll be lenient on you for the next few years, and then in 2035 and onward is when the big reductions will happen!" Make the big reductions now.

12. Should the trajectory be fixed out to 2050, or should the approach include steps to ratchet up the trajectory at one or more fixed intervals?

Sample Answer 1: A minimum trajectory should be fixed out to 2050, with the option to ratchet up the trajectory at one of more fixed intervals. No permission should be given to ratchet down the trajectory in the future.

Sample Answer 2: If "steps to ratchet up the trajectory" is an excuse to keep the trajectory lenient in the next few years because "we'll be ratcheting up the trajectory in the future", then absolutely not. Fix out the trajectory to 2050 and make sure that the trajectory for the next few years is very ambitious.

Sample Answer 3: Whatever you do, do not give into the fossil fuel lobby's demand for leniency and delayed action.

Competitiveness and carbon leakage

13. What design features should be considered to maintain Canadian competitiveness and minimize the risk of carbon leakage?

Sample Answer 1: The Canadian oil industry (the oil sands in particular) has limited ability to compete in a low-carbon world due to the amount of refinement necessary to convert it into usable product (i.e. converting bitumen into crude oil), and the amount of investment necessary to reduce the emissions intensity of oil sands production. Additionally, carbon leakage is likely not a major concern, seeing as Canadian oil has one of the highest emissions intensities in the world. In fact, carbon leakage from Canada could be considered a global net benefit if the emissions "leak" to a jurisdiction with lower emissions per barrel than Canadian oil. Given the aforementioned considerations, I am personally unconcerned about the issues of competitiveness and carbon leakage, and vastly more concerned about the Government of Canada implementing an emissions cap quickly and with an ambitious trajectory in order to meaningfully reduce the sector's GHGs emissions.

Sample Answer 2: I am unconcerned about Canada's oil industry remaining competitive. In fact, I think it's inevitable that it will become less and less competitive as we move closer to a global

low-carbon economy, due to its high emissions intensity. I care more about making sure that an emissions cap is implemented quickly and without any loopholes for industry that would undermine the objective of the cap.

Sample Answer 3: Carbon leakage doesn't sound so bad to me; the production would probably move to a country that has lower emissions intensity per barrel of oil produced than Canada. Canada has some of the dirtiest oil in the world! Please just implement the cap and don't cave to pressure from the oil and gas lobby to be lenient with them. Their short-term profits are NOT more important than solving the climate crisis!

14. What compliance flexibilities should be allowed, and what conditions should determine eligibility?

Sample Answer 1: If "compliance flexibilities" means a system of carbon offset credits, they should not be allowed whatsoever. Carbon offsets have a well-established track record of not working. The polluter gets a licence to emit one extra tonne of CO2-equivalent GHGs, but whoever is supposed to reduce their emissions by one tonne to make the "offset" work typically ends up reducing their emissions by significantly less than that one tonne. Another variation of this broken scheme, the money the polluter pays for his licence to emit one extra tonne of GHGs goes to someone who would have taken their emissions reductions even without the money, or should have been obliged by regulation (and not bribed by money) to make his emissions reduction. There is no place for this inherently flawed "offsets" scheme in reducing GHG emissions from the production of oil and gas.

Sample Answer 2: No "compliance flexibilities" whatsoever should be permitted. The policy in question is about reducing GHG emissions from the production of a product where roughly 80% of the total harm to the planet comes from the product being consumed. Ultimately, the world needs to stop consuming the product. There should be no consideration given to making it easier for producers to produce it.

Sample Answer 3: Absolutely no "compliance flexibilities" whatsoever should be allowed. The federal government has already provided "compliance flexibility" by way of an investment tax credit which, according to the Financial Post, and is expected to cost Canadians $2.6 Billion in the first five years of the program — reaching up to $8.6 Billion by 2030.[1] This is after buying the TMX Pipeline to help the producers get their product to market when no private company would do so, at what is expected to be the cost of $21.4 Billion. This is before considering the federal government's other fossil fuel subsidies.

The federal government has already spent far too much on "carrots" for Canada's oil and gas producers. The federal government now needs to employ the "sticks" to reduce the producers' GHG emissions.

Sources:

[1] https://financialpost.com/commodities/energy/oil-gas/trudeau-proposes-tax-credit-to-cover-50-of-carbon-capture-technology-cost

[2] https://www.cbc.ca/news/politics/trans-mountain-pipeline-tmx-1.6389874

15. Should the use of compliance flexibilities decline over time? If so, to what extent?

Sample Answer 1: "Compliance flexibilities" should never be introduced into the policy in the first place. This is not about making things easy for the oil and gas producers. It is about forcing them to cut their emissions significantly and quickly. To the extent that "compliance flexibilities" are part of the policy, they should decline and entirely disappear as quickly as possible.

Sample Answer 2: Do not introduce any "compliance flexibilities" in the first place. The people suffering from the climate crisis don't get any "flexibility" with how to deal with it, so why should the fossil fuel industry, who are contributing to the problem, get any "flexibility" on reducing their emissions?

16. Under a potential cap-and-trade option, should distribution of allowances be done through auction, free allocation, or a combination of the two?

Sample Answer 1: The distribution of allowances should be done through auction, for the reasons set out on p. 21 of the Discussion Document. These include the fact that auctions are transparent and create a level playing field for market participants. They allow new facilities to participate in a straightforward manner, without the government having to predict their emissions or reallocate allowances. They also ensure that facilities only bid on the allowances they need based on current and future emissions rather than receiving allowances based on historical levels. While the Discussion Document notes that generating proceeds "could be used to support important decarbonization projects such as operation of CCUS", this should not be a consideration and should not be pursued. A paper by Bruce Robertson and Milan Mousavian for the Institute for Energy Economic and Financial Analysis, released on 1 September 2022 and entitled "The Carbon Capture Crux: Lessons Learned", found that most of the major CCUS projects surveyed have not met their targets.

Sample Answer 2: Regardless of how you choose to allocate allowances, do not use the proceeds to support Carbon Capture, Utilisation, and Storage (CCUS) projects. I am troubled by the fact that this is on the table at all. CCUS isn't reliable yet and the revenue could be used for other projects that will actually reduce emissions, as opposed to capturing and storing them.

Policy coherence and coordination across jurisdictions

17. Would there be merit in excluding or taking an approach that results in lower compliance costs for emissions generated from the production and processing of fuels used to support the development of clean fuels (e.g., natural gas required for low carbon hydrogen production)?

Sample Answer 1: No, there would be no merit in excluding such emissions. There are effectively no fossil fuel emissions that we should be encouraging in any way. The example of natural gas required for "low carbon hydrogen production" is particularly egregious, because the actual emissions from converting natural gas to hydrogen, and then to electricity, have been found to be higher than directly burning natural gas to generate electricity. (See Robert W. Haworth and Mark Z. Jackson, "How green is blue hydrogen?" Energy Science & Engineering, 26 July 2021.)

Sample Answer 2: No. Do not exclude or provide different requirements for any kinds of emissions, including those used to generate "clean" fuels. All emissions contribute to climate change and should all be treated equally. Besides, if a source of electricity requires emissions to produce, then it's not very "clean", is it?

18. How should the Government of Canada ensure that the cap incents investments in diversification and other preparations for a clean energy transition?

Sample Answer 1: The Government of Canada should not even try to have the cap incent investments in diversification and other preparations for a clean energy transition. The federal government should use the cap to reduce emissions from the production of oil and gas and, to the greatest extent possible under Canada's Constitution, to reduce the production of oil and gas in Canada. The federal government should incent investments in diversification and other preparations for a clean energy transition by entirely other means, including but not limited to massive direct investment in clean electricity generation, vast improvements to the national electricity grid, and a "Just Transition Act".

Sample Answer 2: This question is beyond the scope of the cap. The sole goal of the cap should be to cap the oil and gas industry's emissions. That's it. Any other policy goal should be addressed through a Just Transition Act, or new or existing policies, legislation, and regulations.

19. How would each potential cap approach interact with other climate measures?

Sample Answer 1: Option 2 (the GGPPA and the OBPS) would probably interfere with other climate measures, in that it would substitute an existing and, ideally economy-wide carbon price for a special carbon price for one particular industry.

By contrast, Option 1 (CEPA) would decidedly complement existing climate measures. If the climate measures that already exist for oil and gas production (including the existing "carbon tax", the new methane regulations, and the investment tax credit for CCUS) are already sufficient, then the cap will have little to do, and will simply be the relatively unobtrusive "icing on

the cake". If, as is more likely, those existing measures are flawed and ineffective at achieving the required emission reductions, then a definitive cap under CEPA can "take up the slack" of those other measures and implement the certain and decisive emission reductions that we require.

Sample Answer 2: The GGPPA option of having another "carbon tax" in addition to the existing one seems like it would be cumbersome to administer, and would undermine the supposed simplicity of the first carbon tax. The cap-and-trade option under CEPA might be less obtrusive.

20. What opportunities exist for coordination among federal and provincial and territorial measures?

Sample Answer 1: With the current provincial government in Alberta, Saskatchewan, and Ontario, there are probably very few opportunities for coordination. That is why the cap and accompanying emission emission reductions, ideally via Option 1 (CEPA) must become part of the "federal backstop", which must be imposed on the provinces if they remain uncooperative.

Sample Answer 2: The federal government has jurisdiction over regulating emissions. Make the cap part of the "federal backstop", and make the provinces and territories adopt it if they don't come up with an adequate equivalent. Coordination and cooperation are nice, but if certain provinces end up being intransigent, then you'll just have to do what's right and force the cap on them.

Implementation

21. How should a cap on GHG emissions be implemented to maximize emission reductions while avoiding potential challenges related to layering of multiple policies and regulations?

Sample Answer 1: The avoidance of potential challenges related to "layering" of policies should not be an issue of concern. Reducing GHG emissions is not a matter of convenience: It is a matter of necessity. "Layering" would not be a relevant issue at all if previous attempts to reduce GHG emissions from oil and gas production had been successful, but they have not. This is despite the fact that, as the Discussion Document sets out, there have been decreases in absolute GHG emissions of 52% from the electricity sector and 18% from heavy industry from 2005-2020.

Moreover, "layering" is a necessary evil to deal with the other "necessary evil" of Canadian federalism, by which the provinces, and in this instance Alberta and Saskatchewan in particular, are given exclusive jurisdiction over the production of fossil fuels. Alberta and Saskatchewan disproportionately benefit from their production, but the rest of Canada – and the rest of the world – share in the costs and detriment of their production.

Sample Answer 2: Focus on the first part of that question: "Maximize emission reductions". No compliance flexibilities, no differing requirements (for producers of different sizes, at different

stages of the production process, for producing “clean” fuels, etc.), no exclusions. In addition to maximizing emissions reductions, not being lenient with industry can also prevent layering of policies and regulations by preventing the government from having to introduce new policies to fix the inadequacies of the cap.

Sample Answer 3: “Layering” of policies and regulations is less important than actually reducing our emissions. Focus on maximizing emissions reductions.

22. What other factors related to implementation should be considered in developing an approach to cap and cut GHG emissions from the oil and gas sector?

Sample Answer 1: A very fundamental factor is that the new emission reductions policy for oil and gas production needs to be implemented quickly. The UNIPCC has been crystal clear that what we do between now and 2030 is crucial if we are to avoid catastrophic global warming. Anything like the years-long delay in the implementation of the methane regulations, through which the oil and gas lobby played the federal government for rubes, is completely unacceptable.

Sample Answer 2: The most important factor to consider is that the goal of the cap should be to maximize emission reductions. The following implementation considerations can help achieve that:

- No offsets of any kind
- No “compliance flexibilities”
- No exclusions of any emissions from any part of the industry, and no differing treatment for different types of producers
- Design the emissions reduction trajectory so that deep reductions occur between now and 2030. Don’t be lenient in the short-term in the hopes that big emissions reductions will happen in the long-run.
- Don’t let the revenues be used for Carbon Capture, Utilization, and Storage (CCUS). You already gave the industry a big tax credit for that.

Sample Answer 3: The most important factor is that the new emission reductions policy for oil and gas production needs to be implemented immediately. When the present government sought re-election in 2021, it promised that it would: “[m]ake sure the oil and gas sector reduces emissions at a pace and scale needed to achieve net-zero by 2050, with 5-year targets to stay on track to achieving this shared goal. **And driving down pollution starts with ensuring that pollution from the oil and gas sector doesn’t go up from current levels.**” [Liberal Party of Canada. *Forward. For Eveyone*. (Liberal Party of Canada 2021 federal election campaign policy promises book). Released in Summer of 2021. p. 44. Retrieved from https://liberal.ca/our-platform/ on 14 August 2022. Emphasis added.]

That means that GHG emissions from oil and gas production must be lower in 2022 than they

were in 2021. The UNIPCC has been crystal clear that what we do between now and 2030 is crucial if we are to avoid catastrophic global warming. The government of Canada must alert the oil and gas industry that its emissions from productions must be lower this year than in 2021 and that, if they are not, the industry will have to make up the difference when these new policies become law. Then the government of Canada must enact the new legislation within a matter of months, with 2023 being the first full year that it is in force and with the oil and gas producers made liable to make up for any increases over 2021 emission levels.

Sample Answer 4: Ensure that loopholes associated with offsets are not accidentally introduced into the oil and gas emissions reduction strategy.

Shortly before we posted this to our website, we learned that CAN-Rac has also made a Toolkit. We heartily recommend that you have a look at it, too, before you finalize your own submissions:

https://docs.google.com/document/d/18YWSHy6iHFnzMBSoh3l9Wsz2ns5juWsmxzUqB0Ou9uI/edit#heading=h.aj1ofobcwfv

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