Notice of objection to the proposed Oil and Gas Sector Greenhouse Gas Emissions Cap Regulations

December 16, 2024

The Honourable Steven Guilbeault, M.P.
Minister of Environment and Climate Change
House of Commons
Ottawa, ON K1A 0A6
Canada

Dear Minister Guilbeault:

This letter constitutes a formal notice of objection to the proposed Oil and Gas Sector Greenhouse Gas Emissions Cap Regulations, published in Canada Gazette, Part I, Volume 158, Number 45, on November 9, 2024. We request that a board of review be established under section 333 of the Canadian Environmental Protection Act, 1999, to further consider the issues outlined below.

Our position continues to be that these regulations should not be enacted at all. They are counterproductive to Canada's climate goals, risk significant damage to our economy, and are duplicative and unnecessary. However, if the Government of Canada wishes to enact these ill-advised regulations, more work needs to be done on them before any further steps are taken.

The impact of the proposed regulations has been inadequately studied. The board of review should more thoroughly study the proposed regulations' interaction with existing climate policies, the potential for carbon leakage, and the cost-benefit analysis. Moreover, the board needs to consider how these regulations exacerbate three fundamental challenges that frustrate current federal climate policy: (1) policy and regulatory complexity, (2) uncertainty about climate policy outcomes, and (3) the urgent need to rapidly deploy capital and get low-carbon projects built. This work must be undertaken, the results thoroughly considered, and the regulations almost certainly adjusted based on the new information received, before you advance these regulations any further.

Incomplete analysis

The proposed federal cap suffers from significant analytical shortcomings — as recognized in the Regulatory Impact Analysis Statement in the Canada Gazette.

First, while the government acknowledges that the proposed regulations will interact with existing federal and provincial carbon pricing systems, there is no analysis of these interactions or their implications for carbon credit balances. Instead, the federal government plans to assess these impacts during the 2026 interim review of industrial carbon pricing systems — after the final regulations are published. The imposition of a cap-and-trade system on top of provincial carbon pricing systems could lead to volatility in carbon markets that could affect investment decisions.

Second, while acknowledging that the federal cap poses a risk of carbon leakage, the government anticipates this risk to be limited due to an assumed small impact on production. However, this assertion depends on a number of unknown factors, including production forecasts and global demand. Without a more detailed quantitative analysis supporting this claim, the government's confidence that this risk is limited may be misplaced.

Third, the modelling of the Output-Based Pricing System (OBPS) assumes credits will trade at the national minimum carbon price. However, this assumption does not align with current market conditions where credits are trading at significantly lower prices. This discrepancy suggests the model cost-benefit analysis is inaccurate and may mean higher compliance costs for the industry.

Policy and regulatory complexity

The Canadian climate policy landscape is characterized by a complex web of policies from federal, provincial, and municipal governments. This complexity poses significant challenges for businesses navigating the regulatory landscape and is especially a challenge for new market entrants. The proposed Oil and Gas Sector Greenhouse Gas Emissions Cap Regulations represent a step in the wrong direction by adding yet another layer of regulation onto the sector.

This approach is particularly problematic given that several provinces, notably Alberta, have already implemented carbon pricing systems for industrial emitters (e.g., Alberta's TIER Regulation), including the oil and gas sector. The federal cap is not only duplicative — it regulates

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the same emissions as other climate policies — but it also risks undermining these existing systems, creating confusion, and potentially hindering overall emissions reduction efforts.

Of particular note is that the proposed regulations are estimated to contribute 13.4 Mt of reductions between 2025 and 2032 — less than 2 Mt annually, which represents 0.3% of Canada's total annual emissions (2022). Simply put, this outcome is not worth the added complexity and costs.

The federal government and its emissions reduction goals would be better served by simplifying the policy landscape, both by streamlining its own policies and fostering better coordination with provinces and territories.

Uncertainty about climate policy outcomes

It bears repeating that businesses require certainty in the regulatory environment to make long-term investment decisions, particularly in capital-intensive industries like oil and gas. A stable and predictable policy framework is essential for encouraging investment in emissions reduction technologies and supporting the transition to a low-carbon economy.

The proposed regulations, however, inject significant uncertainty into the sector. The timeline for implementation remains unclear, with the first compliance period not scheduled to begin until 2030 — two federal political cycles from now. This protracted period of uncertainty is already discouraging investment in emissions reduction projects.

Furthermore, the interaction between the proposed cap-and-trade system and existing climate policies, particularly provincial carbon pricing systems, remains ambiguous. Already, there is uncertainty with respect to provincial carbon markets — uncertainty about the future value of credits and the trajectory of the headline carbon price. The federal cap only exacerbates these uncertainties faced by industry and investors.

Urgent need to rapidly deploy capital and get low-carbon projects built

Decarbonization is about building, and to achieve the ambitious targets outlined in the 2030 Emissions Reduction Plan, we need to build faster. Time is of the essence, with the 2030 target less than five years away.

Low-carbon capital is ready to be deployed, but Canada's policy frameworks are not prepared to facilitate rapid deployment. As a result, we risk losing investment to other jurisdictions. One example: while the U.S. was able to quickly finalize guidance for its 45Q tax credit for carbon capture, utilization, and storage (CCUS) after the Inflation Reduction Act (IRA) passed, it took Canada three years to enact its CCUS tax credit following its initial announcement in 2021.

Acknowledging that Canada cannot compete with the fiscal heft of the IRA, it is imperative that we leverage our key advantages to get projects built. We must leverage policies already in place and improve them to better drive low-carbon investment and emissions reduction. This starts with industrial carbon markets. The proposed federal cap will only distract us from the policies that are already working and will take time away from implementing and improving existing policies that could accelerate emissions reduction investments.

Alternative approach

Instead of introducing a cap on oil and gas emissions with a new and complex cap-and-trade system, we urge the federal government to optimize existing policy tools. As Clean Prosperity has long argued, a more effective approach would be to leverage existing federal and provincial carbon pricing systems — such as TIER — to achieve greater emissions reductions and attract low-carbon investment.

This approach would involve:

- **Ensuring the stringency of industrial carbon pricing systems maintains the marginal price signal**. The federal government should collaborate with provincial counterparts to investigate implementing an adaptive approach to benchmark tightening.
- **Providing certainty for industry and investors through contracts for difference**. The federal government should expand the current carbon contracts program and offer standardized, broad-based contracts that are available to all emitters. This would further de-risk investment in emissions reduction technologies and encourage faster deployment.
- **Implementing robust measures to protect the competitiveness of Canada's emissions-intensive, trade-exposed (EITE) industries.** The federal government should explore mechanisms like emissions intensity standards to ensure that Canada's most important industries remain competitive, ensuring jobs and investment stay in Canada.

This approach would leverage existing policy frameworks, avoid unhelpful complexity, and provide greater certainty for industry and investors. It would also enable faster emissions reductions by building on established systems rather than creating new ones.

We urge the government to reconsider the proposed Oil and Gas Sector Greenhouse Gas Emissions Cap Regulations and instead focus on optimizing existing policies to achieve Canada's climate goals in a timely and efficient manner.

At a minimum, the government needs to complete further study of the impact of the regulations to prevent adverse outcomes.

Sincerely,

Adam Sweet
Vice-President, Western Canada
Clean Prosperity