

**To:** Net-Zero Advisory Body Members

**Re:** Submission related to principles guiding the elaboration of oil and gas emission caps

**Date:** December 17th, 2021



## **Context**

The Net-Zero Advisory Body (NZAB) has been asked by Ministers Guilbeault and Wilkinson to provide independent advice on the government’s commitment to cap and cut emissions from the oil and gas sector. Specifically, the NZAB has been asked to provide advice on “key guiding principles to inform the development of quantitative five-year targets.” In response to this request, the NZAB is holding an engagement period for stakeholders and rights holders to share their views as the NZAB develops their advice. **This submission is made on behalf of Climate Action Network Canada - Réseau action climat Canada (CAN-Rac), the International Institute for Sustainable Development (IISD), Wilderness Committee, Environmental Defence, Shift: Action for Pension Wealth & Planet Health, West Coast Environmental Law Association, Équiterre and the David Suzuki Foundation.**

## **Issue**

Under the current global fossil fuel production trajectory, Canada will miss the goals set in the Paris Agreement. The *Production Gap Report* concluded that governments are planning to increase fossil fuel production at 2% per year, while if it were aligned with limiting warming to 1.5°C, extraction should be phased out at more than 6% per year. Instead, if plans become reality, the fossil fuel industry will be extracting twice as much fossil fuel as would be consistent with 1.5°C by 2030.<sup>1</sup> Meanwhile, even in the most ambitious energy scenario published in its annual report *Energy Future 2021*, the Canada Energy Regulator projects that oil demand continues to grow and only peaks in 2032, while gas demand peaks in 2040.<sup>2</sup>

Canada’s oil and gas emissions caps offer an opportunity to address this problem - but only if the following principles are respected: A) the decarbonization pathway informing the caps; B) the coverage of the caps; C) enforcement; D) the supporting regulatory environment and E) respect for Indigenous Rights. Additionally, we note that while the Ministers used the term “five-year targets” in their letter to the NZAB, their mandate letters require them to establish oil and gas emissions *caps*, which are stronger and more enforceable than targets. This letter uses the term “caps” rather than targets, and we urge the NZAB and the Ministers to similarly maintain the standard of caps.

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<sup>1</sup> United Nations Environment Programme, 2021. *Production Gap Report 2021*.

<https://www.unep.org/resources/report/production-gap-report-2021>

<sup>2</sup> Canada Energy Regulator, 2021. *Canada’s Energy Future 2021*.

<https://www.cer-rec.gc.ca/en/data-analysis/canada-energy-future/2021/index.html>

## A) Decarbonization Pathway

To establish these five-year quantitative caps, the government will have to determine a pathway for decarbonization of the sector. In the NZAB's words, a pathway "connects where we are today with where we want to go."

### Recommendations

The pathway identified to decarbonize the oil and gas sector should :

- 1. Align with the Paris Agreement long-term objective to limit global warming to 1.5 degrees, in a fair and equitable manner.** As a wealthy and high-emitting country, Canada has the capacity and responsibility to lead globally in phasing out fossil fuel emissions and undertaking a just transition. According to the recent report *A Fair Shares Phase Out* (published as a Civil Society Equity Review), "expansion of fossil fuel extraction around the world must be halted immediately, including in Canada, and the phase down in Canada must immediately start and must be completed swiftly, lest we forgo the possibility of limiting warming to 1.5°C, shift undue burden to the most vulnerable, or both."<sup>3</sup> The emissions cap for the sector must therefore reflect the rapidly shrinking global carbon budget and Canada's responsibility and capacity to do its fair share of the global effort to limit warming to 1.5°C. Analysis by Climate Action Network Canada<sup>4</sup> shows that in order for Canada to do its fair share of the global effort to limit warming to 1.5°C, emissions must be reduced by at least 60% below 2005 levels by 2030<sup>5</sup>

Made-in-Canada energy supply and demand scenarios published by the Canada Energy Regulator fail to align with both Canada's domestic and international climate obligations, including its own emission reductions targets. The International Energy Agency has set out a roadmap for the energy sector which aligns with limiting global heating to 1.5 degrees.<sup>6</sup>

- 2. Be consistent with Canada's current nationally-determined contribution (NDC) target for 2030, as well as an ambitious 2026 interim objective required by the Canadian Net-Zero Emissions Accountability Act.** Canada's NDC range target of 40 to 45 percent below 2005 levels is inadequate; (see aforementioned analysis by Climate Action Network Canada), and the Glasgow Climate Pact requests for parties to revisit and strengthen the 2030 targets in their NDCs to align with Paris targets by the end of 2022. This said, the oil and gas emissions caps should at minimum allow for Canada to reach its own climate objectives.

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<sup>3</sup> Civil Society Review, 2021. *A Fair Shares Phase Out*. <http://civilsocietyreview.org/report2021>

<sup>4</sup> Climate Action Network - Réseau action climat Canada, 2019. *Canada's Fair Share towards limiting global warming to 1.5°C*. <https://climateactionnetwork.ca/2019/12/02/canadas-fair-share-towards-limiting-global-warming-to-1-5c/>

<sup>5</sup>  
<sup>6</sup> International Energy Agency, 2021. *Net-Zero By 2050: A Roadmap for the Global Energy Sector*. <https://www.iea.org/reports/net-zero-by-2050>

3. **Equitably share the decarbonization burden across Canadian economic sectors.** According to Canada's latest National Inventory Report, the oil and gas sector accounts for the largest share - 26% - of the country's emissions, which have grown by 87% (89 Mt CO<sub>2</sub> eq) between 1990 and 2019. During the same time period, emissions from combustion-based electricity generation have decreased by 36%. The pathway identified must avoid unfairly shifting the burden of mitigation from oil and gas to other sectors, workers and consumers.
4. **Favour early and ambitious emissions reductions.** In its *Initial Observations*, the NZAB recognizes that "the most likely net-zero pathways prioritize early and deep reductions."<sup>7</sup> In accordance with recommendation #1, the pathway chosen should favour frontloading and prevent backloading. The 2025 cap must require emissions reductions from the baseline year that are aligned with Canada's fair share of the global effort to limit warming to 1.5 degrees, acknowledging that existing regulations are aligned with significant reductions by 2025. Failure to reduce emissions early could make later emissions targets impossible to achieve.

## **B) Coverage**

Which emissions are covered by the quantitative caps will have a large impact on the emissions reductions that result from the policy's implementation, and whether it truly addresses the problem at the source of Canada's poor emissions reduction performance since the signing of the Paris Agreement. While Canada's six largest producers, representing approximately 95% of Canada's oil sands production, have committed to net zero emissions by 2050,<sup>8</sup> Canadian producers are on track by 2030 to expand annual oil and gas production in Canada by nearly 30% above 2020 levels, which would result in a 25% increase in associated annual carbon emissions.<sup>9</sup>

## **Recommendations**

The coverage should:

5. **Reduce absolute emissions (rather than net emissions or carbon intensity).** In its *Initial Observations*, the NZAB warns against "getting caught in the net" and that "we must get as close to zero emissions as we can by reducing or eliminating GHGs across all sectors." Both the cap and the policy measure to implement the path should focus on absolute emissions.

Carbon intensity targets are an inadequate measure as they aim to only cut carbon pollution relative to productivity or output, and do not result in overall reductions in emissions since production can expand while carbon intensity decreases, and as

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<sup>7</sup> Net-Zero Advisory Body, 2021. *Net-Zero Pathways: Initial Observations*.

<sup>8</sup> The Oil Sands Pathways to Net Zero, 2021. *An Alliance for Canada*.

<https://www.oilsandspathways.ca/#alliance>

<sup>9</sup> Environmental Defence and Oil Change International, 2021. *Canada's Big Oil Reality Check: Assessing the climate plans of Canadian oil and gas producers*.

<https://environmentaldefence.ca/wp-content/uploads/2021/10/Big-Oil-Reality-Check-Canada-November-2021.pdf>

described above, no realistic 1.5-aligned decarbonization pathway allows for growth in production. On the compliance side, focusing on getting to “zero” rather than on the “net” in “net-zero” will require the exclusion of offsets, including Internationally Transferred Mitigation Outcomes (ITMOs) and reliance on hypothetical emissions reductions from carbon capture, utilization and storage (CCUS) projects that have yet to be commissioned and demonstrate actual emissions reductions. The policy should also avoid any diluting language, for example referring to “unabated emissions” only.

**6. Factor in the full life-cycle of greenhouse gases (GHGs). Data from Environment Canada — secured by Ecojustice — shows that in 2019, Canada’s domestic emissions were 730 megatonnes (Mt) of CO<sub>2</sub>, while emissions from exported fossil fuels were 954 Mt.<sup>10</sup> The *GHG Protocol* for company emissions divides emissions into three categories :**

- Scope 1: Direct emissions, like emissions from the oil and gas extraction process
- Scope 2: Emissions from generating energy purchased by the company (for example, the emissions in the electricity generated to power a refinery)
- Scope 3: Supply chain emissions, including emissions from burning oil and gas produced by the company.

Globally, Scope 3 emissions account for about 85% of the oil and gas industry’s carbon pollution.<sup>11</sup>

While Canadian domestic emissions have stabilized, between 2012 and 2019 Canada’s exported emissions from the sale of oil, gas, and coal increased by an alarming 46%.<sup>12</sup> The federal government has jurisdiction over exports. While dealing with Scope 3 emissions might require the creation of a separate mechanism than Scopes 1 and 2, particularly for emissions resulting from burning fuels abroad, it is imperative that these elephantine emissions are tackled by the government of Canada’s oil and gas emission caps.

**7. Set and implement the cap as soon as possible.** The need for additional GHG emissions data should not be used as an excuse for delay.

**8. Include methane and update Canada’s National Inventory Report to reflect the high, currently unreported methane emissions coming from oil and gas facilities in Canada.** For the same reason it makes sense to include the full scope of emissions, the emissions cap should include methane. As a potent GHG, it contributes significantly to the oil and gas industry’s impact on global warming, especially over the short term. Including methane can also enable significant emission reductions between now and 2025, since methane abatement is low-cost and uses existing technologies, including zero-bleed equipment and leak detection.

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<sup>10</sup> Environment and Climate Change Canada, 2021. *Response to Environmental Petition No. 390-B concerning the quantification of Canada’s total carbon dioxide (CO<sub>2</sub>) emissions from exported fossil fuels.* <https://ecojustice.ca/wp-content/uploads/2021/07/Petition-Response-0390B-004.pdf>

<sup>11</sup> Environmental Defence and Oil Change International, 2021. *Canada’s Big Oil Reality Check: Assessing the climate plans of Canadian oil and gas producers.*

<sup>12</sup> Environment and Climate Change Canada, 2021. *Response to Environmental Petition No. 390-B concerning the quantification of Canada’s total carbon dioxide (CO<sub>2</sub>) emissions from exported fossil fuels.*

9. **Exclude any early-reductions carryover.** Emissions reductions achieved before the cap is implemented should not be accounted for and rewarded by the policy.
10. **Cover existing and planned oil and gas infrastructure including inactive and orphaned infrastructure.**
11. **Ensure full coverage of all emissions and avoid any exemptions.** All of the emissions associated with the extraction, production and refinement of oil and gas must be covered by the cap. This includes emissions from primary production, enhanced oil recovery, co-generation activities, and new upgrading - all sources of emissions associated with the sector.

### **C) Enforcement**

The oil and gas emissions cap must have robust compliance mechanisms that are properly enforced.

#### ***Recommendations***

The enforcement of the oil and gas emissions cap should:

12. **Compel compliance.** The oil and gas emissions cap, if it is to result in real and tangible emissions reductions, must include robust enforcement mechanisms and avoid any “relief valves” for industry that could reduce the policy’s stringency. Penalties or fines should be significant amounts that serve as a strong deterrent rather than allow companies internalizing these as cost of doing business. Compliance mechanisms that are not financial should also be considered.
13. **Only allow non-regressive amendments.** To ensure certainty for investors, industry and policy-makers, the regulation should only allow for caps to be amended to be strengthened.
14. **Trading mechanisms present many risks and should only occur if robust rules are in place.** Trading schemes have well-documented pitfalls, including the over-allocation of free credits (sometimes referred as “hot air”) and price ceilings that prevent prices from reaching levels that drive down emissions and delayed timelines. While the signatories of this submission have grave concerns that such pitfalls and loopholes could undermine the cap, in particular the following design elements would be unacceptable:
  - Trading outside the oil and gas industry;
  - Allowing carbon offsets and ITMOs within the system;
  - Technology fund contributions in lieu of payments.

### **D) Supporting Regulatory Environment**

To ensure that it is effective in its objectives of cutting pollution while ensuring that the Canadian economy, communities, and workers continue to prosper, the caps should complement existing mechanisms aimed at reducing emissions in the oil and gas sector and be accompanied by some key supporting policy pieces.

## **Recommendations:**

**15. Foster additional emission reductions.** There are already existing and planned Canadian regulations that aim to limit and reduce the emissions of the oil and gas sector: carbon pricing, through the Output-Based Pricing System, as well methane regulations and the Clean Fuel Standard. The oil and gas emissions caps should not be fixed at an amount that simply reflects the sum of the emissions reductions that occur from these policies; but rather should be a new, additional policy that requires additional emissions reductions.

**16. Come with strong and sufficient Just Transition mechanisms that ensure no workers and communities are left behind.** Potential impacts related to implementation of the cap should be assessed and fully integrated into broader just transition planning, so that affected workers and communities can be fully supported.

The Just Transition Act that has been promised by the government must set up an advisory working group on just transition in charge of establishing the process, mechanisms, tools and funding for a just transition. Trade unions must be consulted from the beginning of planning, and be part of this group. The funding that comes with the Act must be scaled up - the CAD 2 billion Futures Fund is a small start but amounts will need to be vastly increased to fund the transition.

**17. Ensure that strategies to achieve the cap avoid asset stranding and dead ends, including by explicitly prohibiting subsidies, public financing and other fiscal supports for compliance or emissions reductions, including for CCUS.** In its *Initial Observations*, the NZAB warns of dead ends, and calls for “avoiding locking-in systems and technologies that will become emissions liabilities.” Credible pathways to achieve Canada’s emission reduction targets require a rapid wind-down of commodity markets for fossil fuels. It makes little sense to invest in expensive and underdeveloped technologies like CCUS to reduce the emissions of fuels that can otherwise be easily transitioned off of combustion fuel reliance.

Oil and gas companies are already asking governments to pay over \$52 billion to equip the sector with carbon capture and storage (CCS), an expensive, undeveloped and unproven technology that risks locking in continued dependence on fossil fuels.<sup>13</sup> Once supports are in place, for example the proposed CCUS investment tax credit, they are very difficult to remove.

To ensure policy coherence, avoid asset stranding, and in order to guarantee that other government decisions do not harm the emissions reductions that the caps seek to achieve, the government should phase-out all fossil fuel subsidies, including funding for decarbonization - especially in short-term solutions that will require retooling at greater

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<sup>13</sup> “Cenovus chief urges Trudeau to pay for greening of Canada's oilsands”, Derek Brower, *The Financial Post*, August 9th 2021.  
<https://financialpost.com/commodities/energy/oil-gas/cenovus-chief-urges-trudeau-to-pay-for-greening-of-canadas-oilsands>

expense and time down the road.

- 18. Create an example for other sectors of the Canadian economy.** The oil and gas emissions caps should be reproducible for other sectors, which all have to reach net zero by 2050, keeping in mind recommendation #3: that this should not be an excuse to delay or dilute the necessity for the oil and gas sector to do its equitable share of the effort.

### **E) Uphold Indigenous Rights and Authority**

The design and implementation of oil and gas emission caps and related policy must uphold the inherent title and rights of Indigenous peoples and other rights affirmed in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

- 19. The oil and gas emissions caps must be aligned with a full and sincere implementation of UNDRIP.** This includes securing free, prior, and informed consent from each impacted Indigenous people for any and all new energy projects, regardless of the degree to which a project is already complete.
- 20. There should be meaningful engagement of rights-holders throughout the design of the policy to ensure its implementation takes into account Indigenous knowledge and expertise, for instance on the impacts of the proposed regulations.**

## **Signatories**

**Climate Action Network - Réseau action climat Canada (CAN-Rac)**

**International Institute for Sustainable Development (IISD)**

**Wilderness Committee**

**Environmental Defence**

**Shift: Action for Pension Wealth & Planet Health**

**West Coast Environmental Law Association**

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