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Submission to Environment and Climate Change Canada

Response to the Framework on the Oil and Gas Emissions Cap

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Introduction:

The release of the framework on the oil and gas emissions cap during COP28 was a step in the right direction for Canada's climate objectives. Greenhouse gas (GHG) emissions from the production of oil and gas in Canada have increased by nearly 16 per cent since 2015, and are cancelling out the reductions made in other sectors. This is one of the major reasons why Canada is currently on track to missing its 2030 climate targets.

Although the release of the emissions cap framework was significant, there are some concerning elements proposed in the design of the cap:

- 1. The proposed regulatory development timeline, with the regulations only coming into force in 2026.** This is much slower than what is needed to ensure Canada achieves the necessary GHG reductions to meet its climate targets, given that the oil and gas sector's emissions are projected to keep rising. Every year that is delayed before the emissions cap comes into force further closes the window for keeping the rise in global average temperatures to 1.5 °C. Last year, many communities across the country faced horrific climate catastrophes. The federal government needs to prioritize the implementation of this regulation urgently to have a chance at fighting the climate crisis.
- 2. The proposed 2030 target** is much lower than what it needs to be to ensure that oil and gas companies are doing their fair share to meet Canada's climate targets. The International Energy Agency (IEA) has stated that oil and gas companies must reduce their emissions by 60 per cent, from today's levels, by 2030. The proposed emissions cap target not only fails to measure up to the standards of the IEA, it also falls short of Canada's own Nationally Determined Contribution (NDC) targets for 2030, which unfairly puts a larger burden on other sectors in the country to reduce emissions by more than 40-45 per cent.
- 3. The inclusion of loopholes** in the emissions cap framework, which allow oil and gas companies to avoid having to make GHG emissions reductions from their own operations. Loopholes, which include allowing oil and gas companies to use offsets and the decarbonization fund, should not be considered as alternatives to actual reductions within the sector. The potential for companies to rely on Internationally Transferred Mitigation Outcomes (ITMOs) is also concerning as there are currently no rules that govern the credibility of international offsets.

The emissions cap is a key tool in reducing GHG emissions in Canada. The federal government has to get it right urgently to ensure that it is as effective as possible. To ensure that the emissions cap is successful in reducing oil and gas emissions at the scale that is needed, the Government of Canada must implement the following recommendations:

- 1. Emissions cap must come into effect** by 2025 at the latest, with draft regulations out by April 1st, 2024. This decade is crucial in reducing GHG emissions and keeping the rise in global average temperature to below 1.5°C. This regulation has already been in development for over two years and the Government of Canada has already engaged in extensive consultations. Any more delays before it comes into effect will further reduce the chances of meeting Canada's climate targets.
- 2. Strengthen the emissions reduction target** so that it is at least aligned with Canada's NDC target of 40-45 per cent emissions reductions from 2005 levels by 2030. The emissions cap should force oil and gas companies to achieve their fair share of reductions, like the rest of the economy, to meet Canada's climate targets.
- 3. Include an interim target** to ensure that the oil and gas sector is on track for meeting its 2030 emissions reduction target. An interim target is also critical to incentivize early and ambitious emissions reductions.
- 4. Remove loopholes** that allow the oil and gas sector to avoid making GHG reductions from their operations. Rising emissions from the sector are driving the increase in total emissions in Canada and this regulation should enforce direct reductions from the operations of oil and gas companies, not allow them to use their resources to purchase reductions elsewhere through domestic or international offsets. The proposed decarbonization fund is another loophole that should be removed. The fund allows companies to make payments to invest in speculative technologies like carbon capture and storage (CCS), yet over the last fifty years these technologies have a poor track record of delivering significant emissions reductions. Most projects never make it off the ground, the few that do fail to meet their promised capture rates. Allowing companies to meet their compliance obligations by investing in future hypothetical GHG reductions from a questionable technology at the expense of direct reductions is not a sound strategy to achieve the regulation's objectives.
- 5. Auctioning the emission allowances** instead of free allocation would provide the government with revenue which could be used to support climate-affected communities and communities impacted by the energy transition. Auctioning allowances also incentivizes companies to implement quicker and cheaper reductions.
- 6. Enforce strong compliance mechanisms** that result in real and tangible emissions reductions from the oil and gas sector. Penalties or fines for not complying with emission allowances should be significant enough to serve as a strong deterrent rather than allow oil and gas companies to internalize the penalties as a cost of doing business. Compliance mechanisms that are not financial should also be considered.
- 7. Equitably share the decarbonization burden across Canadian economic sectors.** The oil and gas sector is the largest source of GHG emissions in the country, accounting

for 28 per cent of Canada's domestic emissions. Oil and gas emissions have increased by nearly 16 per cent since 2005, while total emissions in Canada have decreased by 6.5 per cent in that same time period. The increase in emissions from the oil and gas sector are causing Canada to miss its climate targets, yet, the proposed oil and gas emissions target for 2030 is much lower than the 2030 target for the rest of the economy. The emissions cap must avoid unfairly shifting the burden of emissions reduction from oil and gas to other sectors, workers and consumers.

- 8. Uphold Indigenous Rights and Authority** by ensuring that the oil and gas emissions cap is aligned with a full and sincere implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This includes securing free, prior and informed consent from each impacted Indigenous nation or community.

Discussion Questions:

- How should allowances be allocated? What should be taken into account? How should changes in production and new projects be considered?

Ideally, the emission allowances should be auctioned off to companies, with a price floor. The proceeds generated from the auction should go to support climate-affected communities and communities impacted by the energy transition. Not only would this be in line with Canada's Polluters Pay Principle, but it would also incentivize companies that can implement GHG reductions in their operations that are cheaper than the auctioning price of the allocations to do so. Furthermore, this would increase public buy-in for the regulation as communities would see the benefits of the policy. The oil and gas industry is well placed financially to bear the cost of reducing their own emissions. The allowances can also be auctioned by subsector to ensure there is equity between smaller and larger oil and gas companies.

If there is to be free allocation during an initial period of the regulation, then the allocation should be prioritized for the lowest emissions intensity producers. This would penalize GHG-intensive producers. However, the federal government has to transition towards auctioning of allowances urgently and follow the lead of similar cap and trade programs in other jurisdictions, such as the European Union, Quebec and California.

New entrants should have to purchase allowances from pre-existing producers who have excess credits. There should be no reserve of allowances, as this would incentivize growth of the sector and weaken the emissions cap. It could also lead to potential breaching of the allowance levels.

- What process should be established to review the emissions cap trajectory for the post-2030 period?

The Government of Canada should ensure that the emissions cap trajectory is aligned with the long term objective of the Paris Agreement to limit global warming to 1.5 °C in a fair and equitable manner. The trajectory should align with the IEA's Net-zero scenario, which forecasts oil and gas use to fall globally by 75 per cent by 2050. The government should also consider the analysis being produced by the Canada Energy Regulator, as their advice increasingly aligns with a 1.5°C pathway.

The IEA projects that based on current policies, the demand for oil and gas will peak and decline this decade. This decline in global demand should be considered when developing targets so that the emissions reduction target for Canada's oil and gas industry doesn't lead to unsustainable expansions of fossil fuel projects and/or stranded assets in a shrinking and volatile global market.

The federal government will be establishing its 2035 emissions reduction target by the end of the year. The emissions cap must ensure that oil and gas companies are achieving a proportionate share of emissions reductions to ensure the burden of reductions isn't shifted unfairly to other sectors in the economy.

Establishing post 2030 targets at a set interval of 3 years to align with compliance periods would also ensure that oil and gas companies are on track to meeting their targets and a net-zero by 2050 trajectory.

- If, when and to what extent some compliance flexibilities should be phased down or phased out?

Oil and gas companies should not be allowed to meet their allowances through payments to the decarbonization fund. The purpose of the emissions cap is to achieve actual emission reductions from the production of oil and gas to meet Canada's climate goals. Paying into the fund prioritizes investing in speculative technologies like CCS, which are expensive, largely ineffective and unproven at scale, over proven solutions. Allowing oil and gas companies to pay into a decarbonization fund for hypothetical future reductions is a gamble that we can't afford.

Similarly, oil and gas companies should not be able to use offsets to comply with the regulations. Through the emissions cap, oil and gas companies should be required to reduce GHG emissions from their own operations rather than be able to purchase credits for reductions elsewhere. Experience with offset systems shows that even when best efforts are made, it is difficult to ensure that offsets result in real, additional and permanent emissions reductions. The use of ITMOs should not be considered in the emissions cap regulation. The international rules have not yet been established, and international negotiations have proven to be complex. There is no guarantee that the final rules, if and when they are developed, will be rigorous enough to guarantee the legitimacy and additionality of ITMOs.

Allowing oil and gas companies to bank credits for up to two compliance periods risks delaying near term decarbonization efforts, especially if they are implemented without a limit to how many credits can be banked.

There should be no delay for the first compliance period for the application of the emissions cap for new facilities nor for “a set proportion of design capacity”. The regulations must be respected as soon as facilities begin emitting.

We agree with the approach taken in the framework, which restricts trading to within the oil and gas sector. Allowing trading to occur with other sectors would reduce the stringency of the emissions cap and allow oil and gas companies to avoid making reductions from their operations by taking credit for emissions reductions that take place in other sectors.

- **How should the proposed approach to indirect GHG emissions be implemented?**

Ensure full coverage of all Scope 1 and Scope 2 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.

- **What measurement protocols or quantification methods most accurately estimate methane emissions at the facility level?**

To improve the measurement of methane emissions, the federal government must implement a top-down approach (aerial monitoring, for example by airplane, helicopter, or drone) combined with bottom-up measurements (on-site monitoring with near-continuous monitoring of all methane emissions at a facility-level). The current methods to estimate methane emissions are inadequate to produce accurate estimates, and relying on the oil and gas sector to self report will continue to lead to significant underreporting.

- **What administrative approaches can be used to define and regulate facilities with GHG emissions below 10 kt CO₂e per year?**

Smaller facilities (less than 10kt CO₂e/year) are responsible for a third of the total GHG emissions from the oil and gas industry. To avoid additional administrative burden, the federal government can establish a separate regulatory body that can allocate allowances to smaller facilities, which takes into account the total GHG emissions released by smaller facilities and prioritizes those facilities that have less emissions-intensive outputs.

- How should the proceeds from the decarbonization funding program be distributed? How should contributions be used to support decarbonization of the oil and gas sector?

Oil and gas companies should not be allowed to meet their allowances through payments into the decarbonization fund. However, if the government does move forward with the fund, the contributions should go towards supporting communities that have been impacted by climate change in Canada and communities impacted by the energy transition, for example retraining workers as part of Canada's sustainable jobs strategy, rather than returning the proceeds to oil and gas companies. This would increase public buy-in for the regulation as communities would see the benefits of the policy. The oil and gas sector is well placed to finance their own decarbonization. Over the last several years, they have recorded tens of billions of dollars in profits, and have made their own commitments to achieving a net-zero future.

The proposed contribution rate of \$50 per tonne CO₂ is far too low. This contribution rate was calculated based on a carbon price of \$170 per tonne in 2030. Yet oil and gas companies pay a far lower cost on their emissions, given overly generous carbon pricing systems. The contribution rate should cover the cost of pollution, to incentivize companies to achieve actual emissions reductions rather than rely on this fund. The Government of Canada's social cost of carbon will be \$294 / tonne in 2030. The contribution rate should match that.

- What are the advantages and disadvantages of a federal offsets fund? How should a federal offsets fund operate?

The Government of Canada should not go forward with the establishment of an offset fund. Offsets should not be included in the emissions cap as it provides an opportunity for the oil and gas sector to avoid making direct reductions. Instead of achieving actual emissions reductions in their own operations, offsets provide an easy way out for companies by purchasing offsets elsewhere.

- What role should ITMOs play in compliance flexibility?

None. ITMOs are yet another loophole for the industry to take advantage of. Their inclusion risks weakening both the credibility as well as the stringency of the emissions cap. There are currently no international rules governing ITMOs. Recent attempts to establish these rules have failed, resulting in uncertainty about their future development. Without strong rules in place, there is a great risk that the use of ITMOs actually undermines climate action.