

February 5, 2024

Environment and Climate Change Canada

Submitted via email: PlanPetrolieretGazier-OilandGasPlan@ec.gc.ca

Re: Comments on the Regulatory Framework for an Oil and Gas Sector Greenhouse Gas Emissions Cap

Dear Minister Guilbeault:

With approximately C\$11 billion in assets under management, NEI Investments' approach to investing incorporates the thesis that companies can mitigate risk and take advantage of emerging business opportunities by integrating best environmental, social and governance (ESG) practices into their strategies and operations. We have also made a pledge to align our portfolio with a net-zero by 2050 target. Importantly, we apply this lens to our investments in the Canadian oil and gas sector, where we continue to have material investments. We believe the sector has a significant role to play in helping Canada achieve its net-zero ambitions. Thank you for the opportunity to provide comments on the Government of Canada's (the Government) proposed regulatory framework for a GHG emissions cap in the oil and gas sector.

As we noted in our December 2022 submission on the Government's emissions cap discussion paper¹, we do not feel that we are best placed to inform the detailed implementation aspects of the framework. However, we do have an interest in ensuring that government policy effectively incents the capital investments required to drive real-world emission reductions from the companies we own and improves the resiliency and competitiveness of the Canadian oil and gas sector, while also resulting in the magnitude of emission cuts required to keep us on a net-zero trajectory. As such, we have provided select feedback to the consultation.

Policy overlap and interaction

We agree that the material nature of emissions from the oil & gas sector warrants a comprehensive approach that draws on several complementary policy levers, as the size of the challenge is realistically too large for any one policy to tackle alone. However, we also believe that if the Government is to impose an emissions cap on the sector, that cap should bring clarity to enable companies to have a clear line of sight to where they should be putting their capital. To the greatest degree possible, the Government should ensure that implementation of the framework does not lead to greater uncertainty. Newly introduced regulations should simplify, not complicate, the path to transition.

¹ <https://www.neiinvestments.com/content/dam/nei/docs/en/responsible-investing/policy-submissions/2022/emissions-cap-discussion-NEI-submission.pdf>

To that end, we believe the regulation would benefit from greater clarity on the interaction between the proposed framework and existing or pending regulations. Specifically, we think industry needs clarity on how the regulation will interact with the existing output-based pricing system (OBPS) to, for example, ensure that credits created by either system do not lead to a surplus or otherwise undermine the financial incentives of the existing OBPS.

As well, the relationship between the proposed cap and the Government's proposed methane regulations should be streamlined so that companies are clear on what methane-related activities will count towards the cap, and to ensure they are not faced with different sets of calculations for different regulations. For example, it is not entirely clear how fugitive emissions management activities will factor into meeting the cap considering the uncertainty associated with those emission sources, but companies should expect to see some level of relief from their obligations under the cap if they are committing resources to meeting the proposed methane regulations. We do agree that reducing methane emissions is the most cost effective and impactful pathway for emission reductions for the industry, and it is important that the emissions cap maximize the effort put towards methane and not dilute it.

There is a further complication in terms of measuring the contribution of methane reduction efforts to meeting the cap. Namely, research has consistently identified a material gap between industry-reported methane emissions data and observed emissions data as measured in field studies.² Industry reported data seems to be significantly underreporting emissions. This gap creates uncertainty when it comes to determining the actual contribution of methane emissions, and further, increases the possibility that companies are not allocating capital to the most effective reduction opportunities. As such, we are strong proponents of incentivizing the use of direct measurement technologies and see the Oil and Gas Methane Partnership (OGMP) 2.0 as an internationally recognized best practice framework for methane measurement that would alleviate these concerns.³

There are currently no Canadian companies following the OGMP 2.0 framework and we believe the government could look to incent company participation through providing some form of regulatory relief for those companies reporting to the OGMP 2.0 "Gold Standard" level of reporting. We believe this would bring greater certainty to the reductions achieved under the cap while also increasing actual emissions reductions through the capture of previously underreported or unseen emission sources.

² Conrad, B.M. *et al.* A measurement-based upstream oil and gas methane inventory for Alberta, Canada reveals higher emissions and different sources than official estimates. *Commun Earth Environ* 4, 416 (2023). <https://doi.org/10.1038/s43247-023-01081-0>
MacKay, K. *et al.* Methane emissions from upstream oil and gas production in Canada are underestimated. *Sci. Rep.* 11, 8041 (2021). <https://www.nature.com/articles/s41598-021-87610-3>

Chan, E. *et al.* Eight-Year Estimates of Methane Emissions from Oil and Gas Operations in Western Canada Are Nearly Twice Those Reported in Inventories. *Environ. Sci. Technol.* 54, 14899–14909 (2020). <https://pubs.acs.org/doi/10.1021/acs.est.0c04117>

³ <https://ogmpartnership.com/>

Allocation of allowances

Regarding the allocation of allowances, we strongly encourage the government to ensure that allocations reflect the current performance of companies and duly reward companies that have proactively taken steps to reduce emissions. Companies who perform better from an emissions-intensity perspective should be rewarded with greater flexibility under the cap, thus incentivizing companies to continue to improve performance while also recognizing that further reductions for a company that is already best in class will likely be more expensive or challenging than for a peer that has significant low-hanging fruit available.

Policy resiliency and uncertainty

We continue to believe that the most resilient policies will be ones that have most effectively engaged with and addressed the concerns of industry and provincial governments. We urge the government to address genuine concerns raised by these important stakeholders to the greatest degree possible. That said, it appears exceedingly likely that the proposed framework will result in a legal challenge from either provincial governments or industry players (or potentially both). This will only add to the uncertainty facing industry (and the market) regarding future climate regulation. Ongoing uncertainty will only lead to further delay and make achieving Canada's 2030 goals even more challenging, further increasing the systemic risks to the financial system. As such, we believe the federal government should consider, in consultation with the provinces, submitting a reference case to the Supreme Court of Canada on the constitutionality of the emissions cap framework to remove this uncertainty as quickly as possible. While the Government may be confident it is exercising within its jurisdiction, it seems clear that we will end up in the courts eventually and we believe it would be advantageous for all parties to settle the constitutionality of the framework sooner rather than later.

We thank you for the opportunity to share our perspective on the proposed emissions cap for the oil & gas sector. We support the Government's ambition to align the sector with a net-zero trajectory and continue to believe the sector has the ability and the innovative spirit to meet this challenge. Please feel free to contact us should you have any questions on what we've written.

Best regards,



Jamie Bonham
Head of Stewardship, NEI Investments