Speaking Notes on the Proposed Oil and Gas Cap

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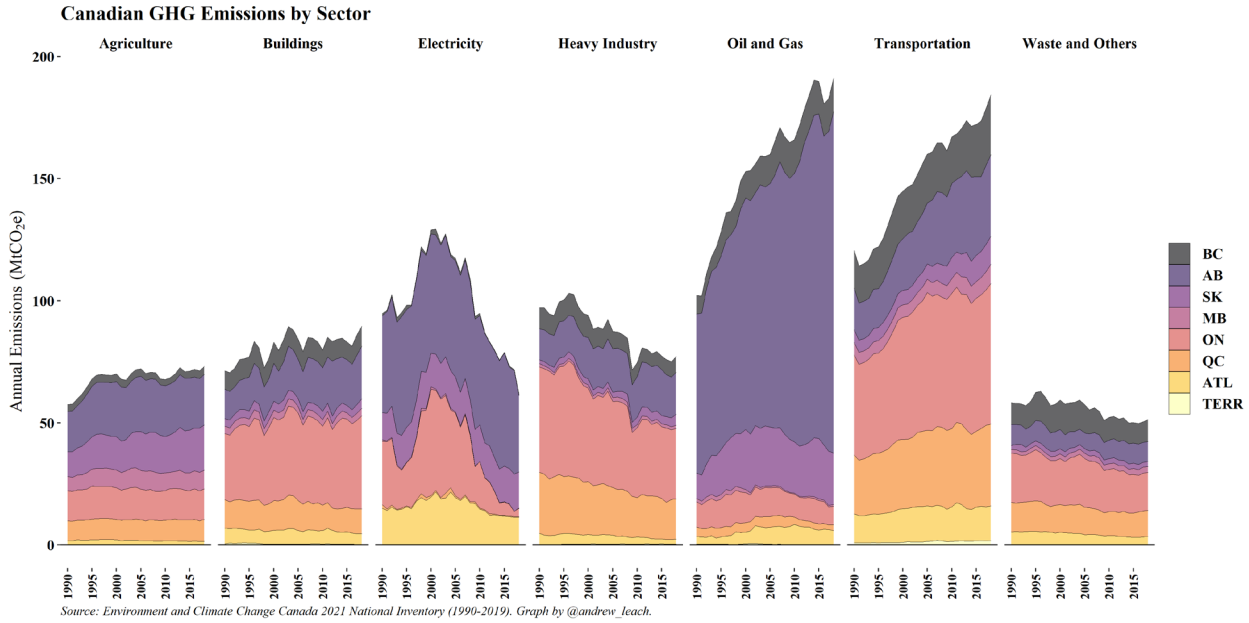
Canada will require more stringent policies to meet its international commitments and I strongly support the implementation of such policies. That said, I am unconvinced that a regulatory cap on emissions from the oil and gas sector is needed.

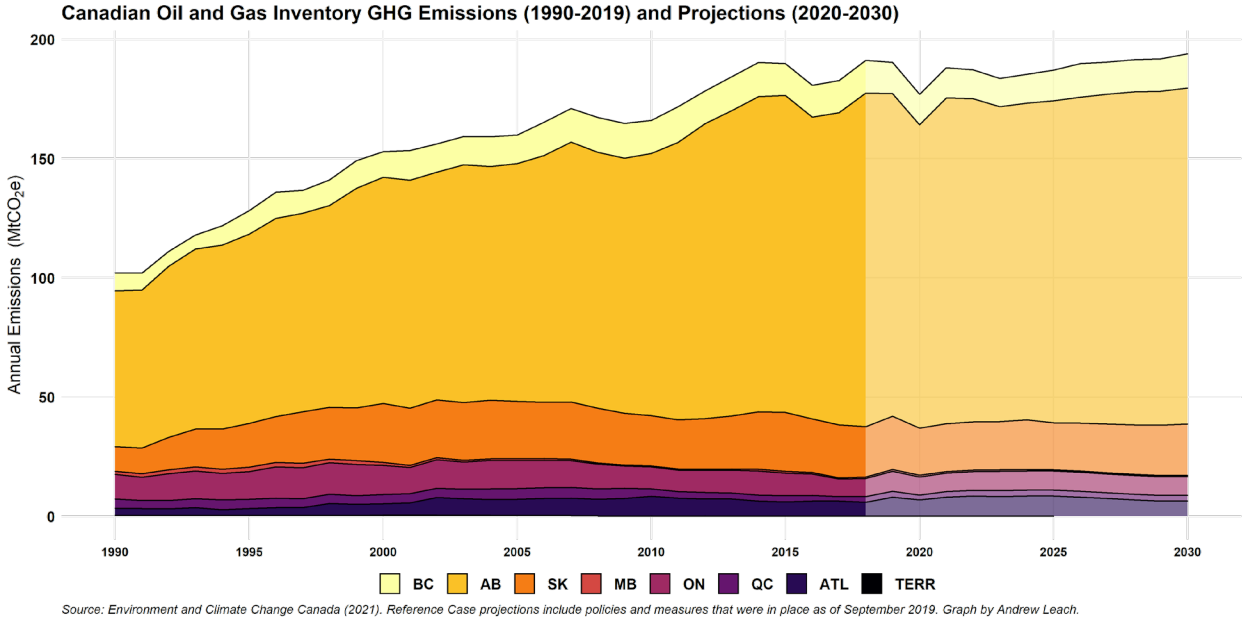
A sector-wide, declining cap on emissions could represent a financial, technical, and constitutional challenge and lead to less cost-effective emissions reductions.



The oil and gas sector accounted for 191Mt of emissions in 2019, slightly higher than the 186Mt for transportation. Forecasts from Environment and Climate Change Canada and the Canadian Energy Regulator show that these emissions are unlikely to decrease meaningfully unless more stringent policies are imposed.[1]

[1] Canadian Energy Regulator, "Canada's Energy Future 2021", (2021), online: *Canadian Energy Regulator* <https://www.cer-rec.gc.ca/en/data-analysis/canada-energy-future/2021/canada-energy-futures-2021.pdf> [perma.cc/2ZV8-GNW2], fig ES-8, and generally pages 11-12.

There should be no question that oil and gas production contributes substantially to Canada's emissions, and that emissions embodied in Canadian hydrocarbon production are a significant source of global emissions. Absent significant decreases in emissions from this sector, Canada's goals will become increasingly challenging and eventually effectively impossible to meet.



Statements about increasing oil and gas emissions are often countered by claims that emissions-intensity is improving.[2] In the oil sector, that has not been consistently true: the average Canadian barrel has become more emissions-intensive over the past 3 decades. Why? Because more of our barrels are produced in the more emissions-intensive oil sands, and more oil sands barrels are produced using *in situ* processes. The story is slightly better for natural gas, with the NIR showing a slight decrease in emissions intensity.[3]

The most important drivers of production and thus emissions from the oil and gas sector in Canada come from beyond our borders in the form of commodity prices. High prices mean a larger willingness to invest to maintain production in spite of policy changes. This begs the question of whether oil prices, combined

[2] For one example among many, see Deborah Jaremko, "Oil sands on path to total emissions reductions", (1 February 2022), online: *Canadian Energy Centre* <https://www.canadianenergycentre.ca/oil-sands-on-path-to-total-emissions-reductions-new-analysis/> [perma.cc/3WS9-D4UP].

[3] *Ibid* at 56.

with carbon pricing and a regulatory cap on emissions, would lead to sufficient investment to decouple emissions from production. My belief is that this is unlikely due to uncertain long-term returns. This echoes recent statements from industry leaders.[4] But other tools, including proposed tax credits, can close this gap.

In arguing for the *GGPPA* before the Supreme Court of Canada, the Attorney General for Canada claimed that "[e]xperts around the world, including the vast majority of Canadian economists, agree that carbon pricing is one of the most cost-effective ways to reduce emissions," and cited my own testimony before the Finance Committee of the House of Commons to support their claim.[5] Carbon pricing's cost-effectiveness comes from applying the same price broadly to all emissions.

With that in mind, I would ask two questions: first, would we want more stringent policies applied on some sectors than on others, and even if we did, do we need another mechanism or another policy to do so?

My answer to both of these questions is no. We should strive for comparable carbon prices across sectors in the same way we strive for this across provinces.

That emissions in one sector are more resilient to carbon pricing is indicative of higher value per tonne of carbon emitted, which is exactly what carbon pricing should drive us to seek.[6] I've made this point to anyone who would listen for more than a decade in support of carbon pricing.

Parliament has the means to ensure that the carbon prices established through the *GGPPA* are reflected investment, production, export, and combustion decisions, as outlined in my extended brief. It could choose to vertically target prices to embodied emissions. The *Clean Fuel Regulations*, tax measures, and the new

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[4] Consider, for example, the interview given by Alex Pourbaix, CEO of Cenovus, on West of Centre, "'Walking the walk': A major oil CEO on emissions targets, COP26 and new ministers", (29 October 2021), online: *CBC Podcasts* <https://www.cbc.ca/listen/cbc-podcasts/407-west-of-centre/episode/15875444-walking-the-walk-a-major-oil-ceo-on-emissions-targets-cop26-and-new-ministers>.

[5] *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 [*GGPPA References*], Factum of the Attorney General of Canada at para 48, citing FINA No 151 (7 May 2018) at 1.

[6] I've made this argument in multiple forums for more than a decade. See, for example, Andrew Leach, "When it comes to carbon pricing, you have to take the good with the oil sands.", (31 January 2011), online: *Rescuing the Frog* <http://andrewleach.ca/oilsands/when-it-comes-to-carbon-pricing-you-have-to-take-the-good-with-the-oil-sands/> [perma.cc/P975-6WVA].

Impact Assessment and *Canadian Energy Regulator Acts* respectively provide more than enough additional tools to the federal government to address oil and gas emissions.

If the proposed oil and gas *cap* serves only as an expression of the expected outcome of extant policies and the exercise of other federal powers, so be it. But, I question the need for and the efficacy of a new, regulatory mechanism.