

FEDERAL ENVIRONMENTAL ASSESSMENT OF MAJOR ENERGY PROJECTS IN CANADA

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INTRODUCTION

Canada, with its vast land and diversified geography, has substantial renewable resources that can be used to produce energy. The energy resources, supply and demand are not evenly distributed through the regions which plays a big role in shaping the Canadian economy. Some of the provinces and territories are rich in hydroelectric resources and are significant exporters of electricity. Others have vast fossil fuel resources and are large producers, exporters and users of oil, natural gas and coal. Nuclear energy makes a significant contribution to the electricity system in some provincial jurisdictions while one province is a world leader in the production of uranium. In addition, there is growing development of renewable resources with considerable potential across the country¹. This paper examines how Canada's multi-jurisdictional and economic contexts in the energy resource sector are driving change for improvements to the federal regulatory system and emerging issues for federal environmental assessment (EA) reviews of energy resource projects.

Canada's Energy Sector Context

Canada has a reliable mix of energy sources such as oil, natural gas, hydro power, uranium for nuclear power generation, and coal. It is the world's third-largest producer and exporter of natural gas. In addition, Canada's established oil reserves (174 billion barrels) are second only to those of Saudi Arabia. The oil sands comprise more than 97 percent of those reserves.² Canada is a world leader in the production and use of energy from renewable resources. Renewable energy sources currently provide about 16 percent of Canada's total primary energy supply. Moving water is the most important renewable energy source in Canada, providing about 59 percent of Canada's electricity.² In fact, Canada is the second largest producer of hydroelectricity in the world. Canada is also the second largest global producer and exporter of uranium. It has the world's third largest oil reserve. Biomass is the second most important renewable energy source in Canada. The primary types of bioenergy include electricity and industrial heat from wood waste, space heating from firewood, and biofuels from agricultural crops. While they are emerging sources, wind and solar energy are experiencing high growth rates.

Within this context, as demand for energy continues to increase both domestically and worldwide, the Government of Canada is taking steps to modernize its regulatory system to ensure that Canada is positioned to attract the investments it needs to develop its natural resources to ensure future prosperity for Canadians. As a component of the federal regulatory

¹ Canadian Intergovernmental Conference Secretariat:
<http://www.scics.gc.ca/english/conferences.asp?a=viewdocument&id=1621>)

² Natural Resource Canada

regime, the *Canadian Environmental Assessment Act* (the Act) has been applied to a wide range of energy resources projects since its coming into force in 1995.

Over the years, EA regimes with varying requirements and systems for environmental management and project assessment have been developed by the federal government and by all provinces. Also, new EA regimes have been established with Aboriginal groups through constitutionally protected modern treaties. The result is a regulatory system that does not always lend itself to integrated project management and timely decisions. This context of multi jurisdictional authority, coupled with an increasing role for Aboriginal groups in relation to resource management, is shaping Canada's EA practices and key strategic directions.

Regulatory Performance

Important efforts have been made in recent years to improve the regulatory framework for Canada's major resource industries including major energy projects, with environmental assessment as a key element. Starting in 2007, the federal government established the Major Projects Management Office Initiative to improve the overall performance of the regulatory system for major natural resource projects. Through this initiative, the Canadian Environmental Assessment Agency (the Agency) assumed new responsibilities and accountabilities for managing the assessment for major projects, and for leading and integrating Aboriginal Crown consultation obligations into impact assessment procedures. In 2010, further amendments to the Act resulted in the transfer of responsibility to the Agency for the conduct of environmental assessments for all major projects listed under the *Comprehensive Study List Regulations*, except those regulated by the National Energy Board (NEB) and the Canadian Nuclear Safety Commission. Comprehensive studies conducted by the Agency must be completed within 12 months in accordance with newly established regulations.

Despite these recent improvements to the Act, further transformative changes are considered necessary to better focus the federal EA process and to eliminate unnecessary interjurisdictional duplication of EA requirements.

Budget 2012: Responsible Resource Development

In Budget 2012, the federal Government recently announced its intent to further improve its regulatory system as it applies to resource development activities. The Government intends to focus on four major areas to streamline the review process for major economic projects:

- Making the review process for major projects more predictable and timely;
- Reducing duplication and regulatory burden;
- Strengthening environmental protection; and
- Enhancing consultations with Aboriginal peoples.

Measures proposed include:

- Resources focused on large projects where the potential environmental impacts are the greatest;
- Consolidation of responsibility for reviews;
- Fixed beginning-to-end timelines;

- Panel Reviews: 24 months;
 - NEB Hearings: 18 months;
 - Standard EAs: 12 months;
- Authority to recognize provincial EAs as substitute for or equivalent to federal EAs; and
- Aboriginal consultation integrated into project reviews.

CONCLUSION

Canada's energy sector is an important engine of economic growth and jobs. An efficient and effective EA system is integral to ensuring economic development that adequately balances social and environmental considerations. In recent years, the pace and scale of energy development has intensified increasing the need for effective project reviews. Recent legislative changes to the Act has strengthened the role of the Canadian Environmental Assessment Agency and improved the delivery of the federal EA process for major projects. Additional changes to the federal regulatory system, recently proposed as part of Budget 2012, will provide opportunities to further improve the federal EA process for major projects, while leading to better environmental outcomes.