

Canada's inefficient regulatory processes stifle job growth

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VANCOUVER, BC, Dec. 4, 2011/ Troy Media/ - At a time when Canada's economy is still in recovery mode and battling headwinds from a slowing global economy, it makes sense for policy-makers to consider ways to expedite the development of projects in the resource, infrastructure and transportation sectors.

Inefficient regulatory processes can impede economic activity, stifle job growth and compromise Canada's competitiveness. Environmental regulation is one area that needs sustained attention.

In Canada, constitutional jurisdiction over the environment is shared between the national government and the provincial/territorial governments. Over time, this shared jurisdiction model has given rise to duplication of jurisdictional responsibilities and spawned a very complex system for managing the environmental effects of industrial and other human activity.

Four years to gain approval

Robust federal legislation is in place to protect the environment – the *Canadian Environmental Assessment Act* (CEAA) and the *Canadian Environmental Protection Act* are the two principal federal statutes concerning the environment. The Canadian Environmental Assessment Agency is the lead federal agency involved in the assessment of projects. Under the CEAA process, it takes an average of four years to secure approval for major projects, and much longer than that in some cases.

As part of its action plan to address the 2008-9 recession, the Conservative government moved to exempt several classes of public – that is, government-funded – projects from full federal environmental assessments, in order to get them started without undue delay. In undertaking this exercise, the government discovered first-hand the time and resources required to navigate the often cumbersome CEAA process. Former Environment Minister Jim Prentice expressed surprise when he learned that the CEAA captures more than 7,000 projects – most quite small – in a typical year.

The next step for the government is to take further measures to streamline the process for private projects, too. This issue has recently been taken up by the House of Commons Standing Committee on the Environment and Sustainable Development, which has been examining the federal government's role in environmental assessment.

The existing federal environmental assessment process tends to move slowly. Some proponents have had to wait as long as 18 months before being told whether an assessment of their project is even required. Once an assessment is deemed necessary, more delays are common, as officials from a plethora of departments and agencies ponder the scope of a formal review, and define the specific process to be used for a given project.

According to a recent Conference Board study, as many as 17 federal departments can be involved in assessing an individual project. Involving a multiplicity of administrative actors increases the likelihood of turf battles, invites intra-governmental wrangling, and produces costly delays.

Because most provinces maintain their own environmental assessment regimes, the delays that plague the federal process can make it difficult if not impossible to coordinate with provincial reviews. This means that many projects in Canada effectively are put through separate federal and provincial environmental assessments, with all of the extra costs and time that this entails.

How to improve on this situation?

First, federal environmental assessment legislation and regulations should be modified to facilitate closer alignment with provincial reviews, so that the elusive goal of "one project, one assessment" can be realized in practice. Some progress along these lines has been made, as a result of changes introduced by the Harper government in 2010. One way to further reduce the duplication of federal/provincial assessment processes would be to adopt the concept of "equivalency" into federal law. This would give national authorities the ability to designate a provincial environmental review as equivalent to an assessment conducted under the CEAA.

Another suggestion is to incorporate statutory timelines into the federal environmental assessment regime, as is the case with the relevant laws in British Columbia and some other provinces. Recent regulatory changes have established timelines for some federal assessments, but these are not spelled out in the statute itself. Defined timelines embodied in the CEAA would allow project proponents to know in advance when a decision will be made as to whether a federal assessment is necessary, and – if so – how long it is expected to take. The discipline inherent in statutory timelines would encourage greater efficiency, certainty and accountability.

Too many small projects under review

A notable defect in Ottawa's approach to environmental assessments is that far too many small projects are captured – for example, dock extensions. This chews up scarce resources, for little or no public benefit. Fixing the problem could involve adjusting the types of projects subject to the CEAA, or altering the "triggers" which determine whether a federal assessment is required. The goal should be to limit federal assessments to projects of significant size or evident national importance. Provincial reviews are sufficient for smaller projects, including expansions of existing facilities.

Finally, as policy-makers contemplate further reforms to the CEAA process, they must be mindful of the anticipated upsurge in resource and infrastructure development across parts of the country, notably in the energy and mining industries. The likely growth in project activity will test the Canadian Environmental Assessment Agency and other federal departments involved in project reviews. Ottawa will have to ensure that it has allocated sufficient human and financial resources to run an efficient and effective environmental assessment regime.

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