



**Canadian Energy Pipeline Association: A Proposal to Enable Investment, Increase Regulatory Effectiveness and Strengthen Protection of Critical Infrastructure**

**To The House of Commons Standing Committee on Finance  
2012 Pre-Budget Consultations**

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## Canadian Energy Pipeline Association (CEPA)

The Canadian Energy Pipeline Association (CEPA) represents companies that transport 97% of the oil and natural gas produced in Canada to markets throughout North America. CEPA's member companies currently operate more than 100,000 km of pipelines, transporting oil and natural gas that contribute \$55 billion to the Canadian economy each year. These energy highways are essential for heating homes, generating electrical power, and meeting the needs of North American consumers for a secure reliable supply of energy. CEPA is dedicated to ensuring a strong and viable transmission pipeline industry in Canada in a manner that emphasizes public safety and pipeline integrity, social and environmental stewardship, and cost competitiveness.

### OVERVIEW

In its Economic Action Plan and subsequent initiatives, the Government laid the foundation for a stable Canadian economy during the recent period of economic uncertainty and hardship experienced in many parts of the world. Budget 2011 indicates that the Government has turned its attention toward a more long term outlook. As stated in that Budget, *"As the private sector moves ahead as the engine of growth and job creation, the Government will return its focus toward sustainable actions that create the right conditions for long-term economic prosperity."*

Minister Flaherty elaborated on this statement in a recent speech, stating: *"...our economic focus is now shifting, from protecting jobs and output to creating the right conditions for more long-term jobs and stronger economic growth, all the while steadily eliminating the deficit and returning to surplus. The need to balance our books is a lesson we must all heed."*<sup>1</sup>

CEPA's pre-Budget submission this year focuses on recommendations that will enable continued economic growth while respecting government priorities and the goal of fiscal restraint. For Budget 2012, CEPA makes the following recommendations:

- For new pipeline projects:
  - Continue reform of regulatory processes to ensure that our shared objective of environmental protection is achieved through timely, efficient and predictable processes that allow investment to be made with confidence.
- Focus on efficiency but retain capacity within the Government to move private sector projects ahead through the regulatory process, thus enabling job creation and economic development to the benefit of all Canadians.
- For existing pipelines:
  - ensure regulatory capacity and tools are in place in order to safeguard critical infrastructure and communities, thus enabling the significant national economic interests of reliable energy security and trade, as well as safety and environmental protection.

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<sup>1</sup> Minister of Finance stresses the collective need to tackle fiscal challenges in New York visit. New York, 15 June 2011. 2011-048

## **BACKGROUND**

In recent years, CEPA and its member companies have been strong advocates of regulatory reforms. We have advocated for changes that ensure private sector resource projects proceed in a timely manner through an efficient, predictable, and fair regulatory process while providing more effective environmental conservation and Crown consultation. These recommendations stem from our industry's unique position in the energy value chain, where we build and operate energy infrastructure across international, provincial and states line and experience working within complex multi- jurisdictional regulatory frameworks.

Initiatives, such as the creation of the Major Projects Management Office (MPMO), changes to the *Canadian Environmental Assessment Act* (CEAA), and new regulations proposed under the *Navigable Waters Protection Act*, are all positive changes that have begun to enhance private sector investment conditions. More can and should be done to continue these improvements, and further initiatives should be undertaken through Budget 2012.

CEPA's recommendations include a focus on the need for regulatory capacity and for the support for tools needed to enforce it. Currently, renewal of funding for several key programs is under consideration, concurrently with the Government's strategic evaluation intended to introduce efficiencies into programs and departmental funding levels. Acknowledging these efforts, we remind the committee that these regulatory improvement programs and functions enhance economic activity, protect the environment through encouraging private sector accountability, and allow the public interest to be served by enabling good development projects to proceed and by enhancing safety during operations.

Regulatory improvement initiatives within government complement existing programs undertaken by the Government, including the Red Tape Commission and the US-Canada Regulatory Cooperation Council and are integral to achieving the goals of the recently announced National Energy Strategy.

## **RECOMMENDATIONS**

### **Enabling Investment and Environmental Conservation**

CEPA believes that Budget 2012 offers the Government the opportunity to enhance conditions that support private sector investment in resource projects, which in turn create jobs, strengthen the economy and increase government revenues.

Projects with a capital cost of approximately \$100 billion are currently in the federal system coordinated through the MPMO process. The potential impact of this level of investment in the Canadian economy is significant and critical to our economic future.

The key elements for success are:

- continuing to make regulatory improvements in the administration of permitting, inspection and monitoring requirements while providing adequate capacity to ensure environmental standards and laws are met; and
- advancing and implementing legislative changes that will update, improve and simplify conservation and protection of the environment.

### Recommendation 1: Renew funding and mandate of MPMO

The Government of Canada recognized the importance of investing in regulatory capacity with the creation of the MPMO in 2007, and with additional funding for a number of key departments. CEPA recommends that MPMO's mandate and its funding be renewed for a 3-5 year period. With this renewed mandate, the MPMO can continue its work on regulatory coordination and Crown consultation, while advancing its whole-of-government approach to consider broader legislative change that will have a positive effect on how Canada does business. A failure to adequately resource regulators, particularly those that are responsible for enforcing onerous, permit-oriented legislation, will undermine the timeliness of decisions, placing investments and jobs at risk.

### Recommendation 2: Integrate key environmental legislations to improve regulatory performance

Several pieces of legislation are crucial to project development in Canada, including: the *Canadian Environmental Assessment Act*, the *Fisheries Act*, the *Species at Risk Act*, and the *Migratory Birds Convention Act*. Initiatives ranging from Parliamentary reviews to legislative amendments to development of regulations are planned for these Acts in the coming year. An updated framework for these pieces of legislation, developed through the MPMO's inter-departmental approach, would enhance the conditions for economic activity. CEPA believes that, with the Government's commitment to improvement through MPMO's oversight, these reforms should:

- a) integrate laws to achieve simpler decision-making processes and optimum environmental outcomes;
- b) direct resources where they have greatest effect and ensure laws are clearly focused on results and better environmental protection and conservation, not just process and permits;
- c) support efficiencies within government; and
- d) define effective programs for Crown consultation with aboriginal peoples.

### **Ensuring Safety and Security of Communities and Critical Infrastructure**

Safety is the top priority for pipeline companies in all aspects of pipeline development and operation, and industry is prepared to take a leadership role in these efforts. The Government must ensure that appropriate regulatory capacity and tools are in place to support this industry commitment and to safeguard critical infrastructure and communities. Together, these commitments will ensure that Canada is successful in community safety, environmental protection, trade, and security.

Extensive regulatory tools exist today to support and address pipeline integrity including construction standards, maintenance, audits, and regulatory powers for shut down and investigation.

However, Canada does not currently have the means to require and enforce the physical protection of pipelines from the activities of others. Specifically, Canada lacks the basic requirements for "call before you dig", and administrative penalties for enforcement of rules when individuals endanger the lives of others. Damage to pipelines is on the rise, and experience in other countries shows clearly that lives are saved where laws and enforcement are in place.

### Recommendation 3: Protecting Canadians from Unauthorized Activities near Critical Underground Utilities

Unauthorized activities near pipelines are on the rise in Canada. The National Energy Board (NEB) is responsible for oversight of pipeline safety in Canada. To address this important issue, the NEB requires enforcement tools and the capacity necessary to safeguard communities from unauthorized activities on pipeline rights-of-way. NEB funding for safety experts to develop and implement transparent enforcement tools, including escalating fines, is a key part of the solution. NEB funding is 90% cost-recovered from industry, and this change would have a minimal impact on the Government's fiscal objectives. A minor change to the NEB Act would enable the NEB to develop and deploy the resources required to safeguard Communities.

#### **SUMMARY**

As an industry association representing companies that operate and build critical energy infrastructure in Canada, our recommendations to the federal government fall into two broad categories:

- continue to advance regulatory reforms that will allow for timely regulatory decisions, enhance the investment climate, and build the economy; retain appropriate federal capacity to implement permitting requirements and ensure environmental compliance and protection; and
- provide legislative and regulatory tools that will allow the NEB to enforce and protect the public located near critical energy infrastructure such as pipelines from third party damage.