



## Response to the Regulatory Enhancement Project Stakeholder Workshop Questionnaire Policy Integration Framework and Policy Assurance System June 25, 2010

### Context

The Calgary Chamber of Commerce represents over 3,200 members of the Calgary business community, including small, medium and large-sized organizations from a broad range of industries. Our members recognize the importance of the oil and gas industry to Alberta's growth and prosperity, as approximately 50 per cent of the province's economy is directly or indirectly linked to the sector. The oil and gas industry creates jobs and prosperity for the whole business community, from the driller to the dry cleaner. New analysis from the Canadian Energy Research Institute (CERI) forecasts that over the next 25 years oil & gas activities in Alberta will create a total GDP impact of \$2.9 trillion within Canada, providing total federal tax revenues of \$311 billion and \$189 billion in Alberta. Incremental employment gains are estimated to be 13,750 thousand person years within Alberta, and an additional 4,780 thousand person years across the country (reaching a total of 18,530 thousand person years). In addition, oil & gas activity is expected to result in \$12 billion in royalties per year to the Government of Alberta. The study indicates a three-fold return to the Canadian economy for oil & gas investment in Alberta.<sup>1</sup> These government revenues and economic growth prospects could be jeopardized by a fiscal and regulatory regime that is uncompetitive.

In a recent survey, members identified 'economic competitiveness', which includes the health of the energy sector and reducing the regulatory burden, as the number one priority impacting their businesses.

The Chamber commends the Government of Alberta for releasing *Energizing Investment: A Framework to Improve Alberta's Natural Gas and Conventional Oil Competitiveness*. Our members welcomed the opportunity to participate in the consultation process with a formal submission made in November 2009, and were heartened that many of our recommendations were incorporated into the final framework. Adjustments to the royalty curves have improved Alberta's competitiveness and will help restore and maintain investor confidence, attract new investment and create jobs. On the fiscal side, the Chamber encourages the province to continue to monitor and improve competitiveness of provincial and municipal taxation. Our members are particularly concerned with the disproportionate and growing share of the municipal tax burden that is paid by the business community.

Other key elements of the *Energizing Investment* Framework include encouraging innovation and improving the regulatory system. As part of this initiative, Alberta's Regulatory Enhancement Project will further contribute to improve the province's competitiveness and attract investment. The recently released *Enhancing Assurance – The First 90 Days* report recapped important near-term achievements including simplification of sub-surface well spacing requirements and successful streamlining of assessment submissions required to oil sands developments. The Chamber notes that these initiatives were all well underway prior to the start of the current regulatory review. However, they are a good indication of the willingness of Alberta's regulators to continuously improve and update their regulations. Chamber members look forward to future improvements as the Regulatory Enhancement Project progresses.

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<sup>1</sup> Canadian Energy Research Institute. 2009. *Economic Impacts of the Petroleum Industry in Canada*. Available online: <http://www.ceri.ca/documents/CERIIOSummaryReport.pdf>



The challenge for the Government of Alberta, in collaboration with industry, is to develop a regulatory framework that assures strong environmental outcomes, protects public safety, facilitates prudent resource management and encourages business investment and innovation. Regulatory reform relates to changes that improve regulatory quality, performance and cost-effectiveness. It should not be confused with deregulation or privatization. Improving regulatory quality helps to enhance competition, market access and public health and safety. According to research from the OECD, regulatory reform also leads to greater employment and productivity growth through additional investment as a result of the enabling framework.<sup>2</sup>

The Chamber urges the Government of Alberta to clearly articulate the benefits of reform to citizens and federal agencies during the regulatory review and implementation process. It must also continue to consult meaningfully and broadly with stakeholders to build consensus and establish public support.

## **Discussion**

Our members offer comments in response to the questions pertaining to policy integration and system design posted on the Regulatory Enhancement Project Stakeholder Website in June 2010.

### **Feedback Section #1: Issues and Concerns**

*Question: A situational analysis of the current regulatory process reveals complexity and a lack of coordination as major problems with the current system. What are the main issues and concerns that have been identified as impacting the current regulatory system?*

Participants in the regulatory system have identified with all of the concerns listed in the government Stakeholder Questionnaire. Particularly acute concerns include the lack of predictability between government ministries (i.e. no common and consistently applied approach), long approval timelines, and additional costs to stakeholders due to system inefficiencies.

Other significant concerns that were not identified in the Stakeholder Questionnaire include policy gaps in Aboriginal consultation and water management. Members also expressed concern about a lack of clarity in what Alberta's desired economic, environment and social outcomes should be for regions and the province as a whole (e.g. air quality and water quality/quantity objectives). These concerns are consistent with the government's own acknowledgment that the policy development process needs to be improved. It is noted that the Provincial Land-use Framework and Cumulative Effects Management System will help to establish objectives, determine public interest on these outcomes and provide clarity to government policy; however, until these consultations conclude and clear leadership from government is available, industry and regulatory authorities will struggle with the ongoing ambiguity.

### **Feedback Section #2 and #3: Ways of Resolving the Concerns and Key Features of the Policy Assurance Design**

*Based on the issues that you selected in the previous question, what would you propose as ways of resolving these concerns?*

*What would a policy assurance system look like if you had a blank slate for its design (i.e. ideal regulatory framework)?*

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<sup>2</sup> OECD. 2010. *Regulatory Reform for Recovery and Growth*. May 2010. Available online: <http://www.oecd.org/dataoecd/63/0/45339155.pdf>



The Chamber recognizes the complexity inherent in the current multi-agency structure which is directed by various statutes and legislation. Oil, gas and oil sands development is overseen and managed by Alberta Environment, Alberta Sustainable Resource Development and the Energy Resources Conservation Board (ERCB), while Alberta Energy handles the administration of Crown mineral rights and royalties. Members believe that regulatory predictability is a key element of competitiveness and that great care must be taken in changing the regulatory landscape to avoid the risk of unintended consequences. At the same time, Calgary's business community believes that the current structure is overly complex and does not facilitate the most effective allocation of resources for regulatory oversight. The current system generally relies on prescriptive regulatory assurance tools and there is a strong interest to look for other approaches to achieving similar outcomes. The Chamber recognizes that moving to a more performance-based regulatory system will require a balanced approach that is appropriate to the level of risk assessed. It also acknowledges that a more performance-based system may require additional resources for smaller companies, making compliance costs prohibitive. The right balance will be critical.

### **Key Elements of an Ideal Policy Assurance System**

#### **Policy Clarity, Integration, Predictability and Collaboration**

- Develop a clear vision for the regulatory framework that aligns with Alberta's vision for economic, environmental and social prosperity in the province. This vision must be supported by integrated public policy that directs legislation and regulation, and defines roles, responsibilities, mandates and targets that are consistently applied within and across provincial departments and agencies.
- Seek formal federal-provincial agreement and leadership to integrate and coordinate regulatory objectives, processes, requirements, compliance and evaluation mechanisms in accordance with the provincial regulatory vision (a similar approach was applied in creating the *Alberta Environmental Protection and Enhancement Act*).
- Undertake efforts to ensure both private and public sector stakeholders possess a clear understanding of their respective mandates, responsibilities, accountabilities, expectations and timelines under the new regulatory framework.
- Enable meaningful and mutually respectful collaboration and feedback mechanisms between the private sector and government departments and agencies in the development of policy and regulation to inform future changes to the system.
- Ensure appropriate compensation for loss of rights and access.

#### **Regulatory Enhancement and Effectiveness**

- Adopt an approach to government regulation that designates a single point of contact for energy project development (e.g. regulatory approvals / ongoing maintenance of producing assets / compliance), which would be responsible for coordinating internal resources, approvals and expertise across all departments and agencies by region so that services are delivered in a manner that mirrors industry demand, and accommodates each of the acquisition, exploration, development, reclamation and abandonment phases of energy projects. Moving from a multi-agency delivery model to a more integrated approach up to and considering a single regulator is a critical step.
- Institute a one project, one review, one decision, one appeal framework.
- Establish clear and consistently applied regulatory policy objectives, performance measures, and service standards, as well as a framework to evaluate performance against desired outcomes and comparable jurisdictions.
- Utilize cost-benefit Regulatory Impact Assessments (RIAs) as one component of a consistently applied policy framework to evaluate any proposed regulation above a threshold where the costs of the assessment are justified.



- Ensure sufficient resources are allocated for robust data collection, evaluation and reporting of performance measures.

#### **Technological Enablement**

- Ensure regulatory flexibility in order to better manage environmental, health and safety risks associated with project type and technological innovation. This could be achieved by creating an adaptive system that balances performance-based and prescriptive regulation commensurate with the level of risk.
- Capitalize on the capabilities of information technology / information management for access to project information, effective consultation and information sharing across regulatory bodies.

#### **Capacity and Continuous Improvement**

- Provide sufficient financial resources and staff expertise for implementation, operation and continuous improvement of the regulatory framework.
- Enable continuous improvement through periodic reviews.

#### **Enforcement / Consequences**

- Ensure enforcement processes are comprehensive and coherent, and that a strong link exists between risk of non-compliance and the enforcement penalty.