Modernizing the National Energy Board

Expert Panel Briefing Binder
Context

- Minister of Natural Resources has a mandate to modernize the NEB and work with federal colleagues to review federal environmental assessment processes.

- Government launched a review of environmental and regulatory processes to restore the public trust on June 20, 2016.

- To ensure an efficient process, the review is being closely coordinated across government departments and will focus on the following components:
  - Rebuilding trust in environmental assessment processes;
  - Modernizing the National Energy Board; and
  - Restoring lost protections and introducing modern safeguards to the Fisheries Act and the Navigation Protection Act.
Context

- Development of energy infrastructure at nexus of public debate over resource development

- Efforts to strengthen the NEB will have 3 main components:
  1. **Near-term changes** to enhance confidence in reviews already underway
  2. **EA review** will examine issues related to project reviews including timelines, public participation, scope of reviews, indigenous consultations, etc.
  3. **Modernization** of the NEB’s structure, role and mandate

- Modernizing the NEB goes beyond EA review process to include broader issues related to its structure, role and mandate
The National Energy Board

- An independent federal regulatory agency established in 1959 via the NEB Act

- Regulates energy development in areas under federal jurisdiction
  - international and interprovincial pipelines, international and designated interprovincial power lines
  - Energy imports and exports
  - Monitors and assesses energy supply and markets

- Oversees project lifecycle, including:
  - Project reviews: undertakes environmental assessments as part of broader assessment of public interest
  - Construction: ensures infrastructure developed to comply with technical, environmental and safety standards
  - Operations: oversees more than 73,000 kilometers of pipelines in Canada, including compliance monitoring, audits and inspections
  - Reclamation: ensures facilities are decommissioned appropriately, including site remediation
Expert Panel

- The Panel will gather the views of provinces and territories, municipalities, Indigenous peoples, industry, non-governmental organizations and the public
  - Will be supported by Secretariat of officials from Natural Resources Canada

- Panel engagement will take place fall and winter 2016/17

- The Panel’s activities will be guided by a set of Terms of Reference, which were posted a 30-day public comment period.

- The Panel will prepare a report for the Minister on or before March 31, 2017 and include advice on potential reforms to position the NEB as a modern, efficient and effective energy regulator
  - The report will include the Panel’s findings and recommendations to modernize the NEB and a summary of the input received from the public, Indigenous peoples, provinces and territories, and any other interested group or organization.
Key issues to be addressed in modernizing the NEB

1. **Governance**, including composition and expertise of the board, roles and responsibilities, mechanisms for policy direction
2. **Mandate**, including defining the public interest, energy information and analysis, and potential expansion to the NEB’s mandate to other aspects of energy regulation
3. **Decision-making roles** of NEB, Minister and Cabinet regarding projects, licensing and compensation disputes
4. **Legislative tools for lifecycle regulation**, including for oversight, public engagement, safety and emergency preparedness and land acquisition
5. **Indigenous engagement**, including participation in all aspects of the energy infrastructure development lifecycle and the balance of Indigenous peoples interests and other interests in decision-making
6. **Public participation**, including to support greater stakeholder and public participation in NEB activities
NEB Modernization to be coordinated with other ongoing reviews

- Engagement will be at the core of this review and engagement efforts will include Indigenous Peoples, provinces and territories, the public, industry, environmental groups, and other stakeholders.

- Efforts underway to ensure coordination between federal reviews
  - Developing the narrative for concurrent reviews so Canadians are clear on how and where to participate
  - Collaboration between officials supporting review processes (e.g., consultation plans, information sharing and joint analysis)

- Coordinated engagement with Indigenous peoples where possible
  - On August 9, 2016, NRCan and CEAA launched a call for proposals for participant funding (closed Sept 26, 2016) to support the participation of Indigenous peoples in the review process
    - Fisheries and Oceans Canada and Transport Canada joined the call for proposals one week later (closed Sept 16, 2016)
  - Single funding application for participants important to coordinate efforts to minimize burden on applicants
Desired Outcomes

- NEB reflects Canada’s need for a modern, efficient, and effective regulator capable of addressing new and emerging issues and technologies
- Board’s composition is diverse with sufficient expertise, and the governance structure is optimized for operational needs
- Public trust in the NEB processes is strengthened
- Enhanced Indigenous participation in all aspects of pipeline development and ongoing monitoring