

From: [Michael Tims](#)
To: [finrespguidelines](#)
Subject: Public comments on the Draft Financial Viability and Financial Responsibility Guidelines
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Katie Johnson

Here is my input on the Draft Financial Viability and Financial Responsibility Guidelines. Please ensure they are vetted appropriately. Thankyou, Michael Tims

Draft Financial Viability and Financial Responsibility Guidelines

Having reviewed the draft legislation, I would like to share the following comments.

From the draft

“ B. To address Financial Responsibility”

- “1.Containing the incident
- 2. Cleaning up the environment
- 3. Compensating affected third parties.”

“c) Cost of Compensation

The Applicant will provide the Board with its estimated cost for compensating affected third parties in the case of its worst case scenario as well as a rationale for how those costs were derived. The estimated costs should take into consideration all factors which contribute to the cost of compensating third parties from an incident.”

Both of these sections introduce the concept of new levels of financial responsibility into the energy sector for damages to the environment and third parties. On paper, this *appears* to be a step forward in the effort to address Canadians’ concerns regarding these areas, and the history of taxpayers footing the bill for corporate activity, negligence and malfeasance. It may also address concerns about decades of government negligence and malfeasance in regulating the energy sector.

Given this latter concern of government negligence, it would be prudent for all Canadians to be cautious and attentive to Conservative rhetoric regarding these matters, as it is very clear that they do not believe in freedom of information, nor informing the public in timely and factual ways, nor in “the science”. They have made very clear that they are all about resource development at all costs, while they pass legislations to undermine environmental responsibility for the government and industry.

Consequently, further development of this draft legislation will require many more specifics, including;

- 1. State actual liability amounts to cover all damages to the environment and third parties. Will these liability**

amounts actually address the long-term damages caused by fossil fuel spills that cannot be cleaned up? Will the financial responsibilities actually cover the loss of drinking water for decades to communities? Will they cover the costs of job loss in the fisheries due spills? Will they cover the actual costs of losing one's home due to a toxic environment? If one has to leave work due to illness from fossil fuel spills, will the full income be guaranteed?

2. A regulatory framework which will initiate a new, aggressive government regulation, one that is publicly documented on a real-time basis via the internet, so that Canadians can see precisely what has and has not occurred regarding regulation of accidents. There will be no applications for freedom of information, nor any charges borne by Canadian citizens for immediate access to this regulatory documentation. Citizens must have direct, unfettered access to government scientists, who must be allowed to share all information publicly without department approvals. Direct contact information for scientists will be available on the internet so contacts can be made immediately with no delays. Scientists will not lose their jobs for expressing opinions on the science and politics of energy.

3. This new regime must have very stiff penalties for industrial noncompliance, penalties that will ensure it is cheaper to comply fully than to carry on the tradition of industry and government negligence and double-speak. I doubt very much that the Harper government has any such lofty intentions given its neoliberal history and philosophy. It has previously rejected this necessary requirement.

4. Industry should pay for government regulation costs, not the taxpayer. The government will act independently of industry, will hire sufficient personnel to effectively regulate, will document online, in real-time the processes of regulation, and will initiate stiff penalties for government employees who do not carry out their duties as outlined in the new regulations. These employees must be allowed to talk openly with the public. This must especially apply to upper, senior management officials. Once it no longer pays government employees to continue bureaucratic negligence to maintain their jobs, we will enter a new era of regulation. Once government managers are not supported, but rather severely penalized for negligence, the managers will work to benefit the Canadian people.

5. Regulatory costs borne by industry should include a sliding scale of costs that increase or decrease based on compliance data, negligence data, etc.. Industries that fully comply will incur less regulatory costs. Industries that have a poor record will pay significantly more.

6. The government must introduce new corporate law regarding corporate management. The new law would require documentation of management activities in complying with legislation, and introduce financial penalties that ensure CEOs etc. fully comply or lose the cash cow they are counting on by their intentional corporate negligence. Current corporate structure and law ensures that the neoliberal profit model will continue to undermine environmental and corporate responsibility. When CEOs no longer increase their earnings through malfeasance, they will comply. When bankruptcy law does not erase personal, financial responsibility of senior management, managers will comply. Failure to address this will ensure that the energy sector continues the unacceptable rhetoric. It will also ensure that Canadians continue to stand up and fight against the deceit that is enshrined in business and regulatory law. We will stand in the way of poorly regulated development which is the hallmark of the Harper government, and should refuse to accept the apologetics of "world-class regulation", that still fails abysmally to place liabilities back on the corporate

entity.

7. First Nations peoples must be involved in creating all regulations on their territories. Treaty rights must be fully respected. They must have majority representation on committees that decide development on their lands.

8. Whatever committees become the final arbiters of the legislation must contain more non-corporate members than corporate members. History shows committees are stacked with corporate power. This ploy has been used ad nauseum to ensure that regulation is corporate friendly and corporate controlled. **The Canadian people want control to be with the public and a responsive, honest democracy.** Since the environment is front and center, there should be more environmental people on the committee than business and tech people from the energy sector. It is very difficult to believe that the Harper government would honour this spirit of environmentally responsible regulation.

9. The previous paragraph fully applies to the NEB which is NOT an independent board that ensures environmental and corporate responsibility. The NEB has failed miserably for decades on both fronts (just look at the poisoning of Alberta's water, air and land!). Looking at the personnel listed on the NEB corporate structure web page, one can see clearly that the board is stacked to the rafters with business and tech people (many of fossil fuel background), with just a few biological science people thrown in, presumably for respectability.

So, it is clear that the NEB is just a corporate front group, used by the government, to continue the long history of rhetoric about environmental responsibility. The NEB needs a new team of players, and once again, biological science people need to be in the majority on the board. Failure to do so ensures the continuation of environmental and corporate hypocrisy that Canada has become world famous for!

Michael Tims