Environmental Law Issues During COVID-19
A Canadian Perspective
ABA Legal Summit of the Americas 2.0

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“If some countries have too much history, we have too much geography,” said former Prime Minister William Lyon Mackenzie King in a speech to the House of Commons in 1936. Canada’s total area measures 9,984,670 square kilometres, of which 9,093,507 are land and 891,163 are freshwater.
Canadian Environmental Regulation - The political dilemma
COVID-19 and the Canadian Response

• Federal
  • International Travel Restrictions (business v personal)
  • Numerous funding programs
    • To Provinces, businesses and individuals
COVID-19 and the Canadian Response

• Provincial
  • Emergency powers legisalation
  • Shut downs of “non essential” businesses, schools etc
  • Currently in various stages of re-opening
Impact on Environmental Regulation

- Environmental Services deemed “essential”
  - Remediation and related construction work continued
- Major industries continue to operate
  - Oil extraction, and refining
  - Manufacturing
- Most government workers moved to work at home
  - Including environmental regulators
- Legal Services also deemed “essential”
  - Courts closed except for emergencies
  - All environmental prosecutions on hold
  - Almost all civil litigation on hold
Impact on Environmental Regulation –

• April: Ontario removes 30 day consultation period from Environmental Bill of Rights
  • Decision makers no longer obliged to consider environmental values when making new policies
  • Exemption applies to all proposals whether or not directly related to COVID-19

• Regulatory inspections of industry has ground to a halt
  • Inspectors mostly unable to visit sites due to exposure concerns

• Investigations and prosecutions continue but no court proceedings
Impact on Environmental Regulation – a positive note

- Federal: Large Employer Financing Facility
  - Assistance to large employers affected by COVID-19

- Assistance conditional on company publishing and Annual Climate-Related Financial Disclosure Report
  - Report must highlight how company’s corporate governance, policies and practices will help manage climate-related risks and opportunities and contribute to achieving Canada’s commitments under the Paris Agreement.
COVID-19, the environment and Canada – a summary

• Canadian response has been focused on public health and the economy

• It has however provided an opportunity for some legislators to roll back environmental protection

• Not all the news is bad – some legislation ties environmental and climate change progress to financial assistance

• Long term impacts on the economy, climate change and environmental regulation remain unknown. Opportunities for positive change abound.
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