

May 11, 2011

Gregory Zimmer  
Senior Program Advisor  
Ministry of the Environment  
Environmental Programs Division  
Modernization of Approvals Project  
135 St. Clair Avenue West  
Floor 4  
Toronto Ontario  
M4V 1P5

**RE: Modernization of Approvals – Proposed Regulations and Notices for Public Comments**

Dear Mr Zimmer:

The Ontario Chamber of Commerce (OCC) is a federation of 160 local chambers of commerce and boards of trade in the Province of Ontario, representing 60,000 businesses of all sizes, in all economic sectors and from every area of the province. The OCC's mandate is to advocate strong policies on issues that affect its membership throughout Ontario's business community.

As an ambassador of Ontario's business community, we would like to provide a response to the 'Modernization of Approvals – Proposed Regulations and Notices for Public Comments'.

Ontario receives more than 6,000 requests for Certificates of Approval each year. The Ministry of Environment (MoE), as part of the provincial government's Open for Business initiative, is undertaking to modernize its approvals system. The aim of the ambitious three-year initiative is to streamline government to business services, making them faster and smarter and making Ontario more attractive for business development, while protecting the public and the environment. As part of the modernization exercise, MoE is proposing a new two-tiered system for Environmental Assessment (EA) approvals. The new system includes a new rules-based environmental registry process for lower-risk environmental activities and a new Certificate of Approval process for higher risk environmental activities.

MoE's Discussion Paper contemplates a two-tiered approvals system that will involve two separate and distinct processes for approvals:

**Registry Process:** under this process, certain activities would be registered with MoE provided they meet specified eligibility requirements. A facility which was subject to this process would be required to operate in accordance with rules established by regulation. This system has also been described as "permit-by-rule." Individual registrations would not be required to be posted on the EBR Registry and would not be subject to appeals by third parties.

**Certificate of Approval Process:** under this process, applications for Certificates of Approval would need to be made to MoE and would cover activities not eligible for the registration process. A number of changes are proposed for the Certificate of Approval process, including the issuance of a single site-wide approval or single multi- site/system approval. An approval may also allow for "operational flexibility" (i.e. allow the applicants to

make future changes to their operation without amending the Certificate of Approval, within given operational parameters).

#### *Registration and Consultation Process*

The OCC commented on previous proposals by MoE to introduce a permit-by-rule system in Ontario, stating that the approvals program is a core governmental function and constitutes an integral component of MoE's regulatory regime. We applaud MoE for the efforts it has made to reduce delays in the approvals process, including consulting with key stakeholders in order to clarify how the proposed environmental approval process will work and its consequent timelines.

However, it is difficult for stakeholders to assess the potential impact of specific features of a modernized approvals system without accurate and comprehensive information about the extent of and underlying causes of delays. Reliable data on the causes of delays is necessary to determine the most appropriate intervention(s).

The OCC's research suggests that delays are often caused by external factors such as applicants submitting incomplete or deficient applications, in which case the establishment of a registration process would not necessarily speed up the approvals process. Business operations which are unable to correctly fill out application forms are unlikely to be able to comply with complex requirements set out in regulations. In addition to the proposed changes, MoE may need to devote more resources to outreach and public education to ensure that businesses are able to correctly fill out the required forms.

#### *Environmental Assessment Harmonization*

The OCC believes that a streamlined and efficient EA process also requires coordination between provincial and federal jurisdictions at the national level. Historically the lack of coordination, duplication of requirements, and absence of timelines upon which a business may rely have been burdensome, particularly in light of the need for market responsiveness and the opportunity cost of unforeseen delays in project implementation. The existence of different requirements and timelines, which vary from project to project in accordance with the specific project agreement, is a major contributor to project delays.

In Bill C-9 the federal government introduced changes to federal participation in the environmental review process. The Bill delegated authority for EAs for major energy projects from the Canadian Environmental Assessment Agency to the National Energy Board (NEB) and the Canadian Nuclear Safety Commission (CNSC); exempted many infrastructure projects from assessment; and allowed the environment minister to limit any remaining EAs to a small portion of a project.

The exemption of infrastructure projects receiving federal funding amounts to a recognition of the redundancy of the federal EA process in many instances. However, the downloading and curtailing of federal authority for remaining projects does not automatically imply that we are any closer to a standardized Environmental Assessment regime. At best it reproduces the patchwork of different policies and expertise, only with weaker links between regulators at different levels, and at worst it results in the erosion of protection for certain activities that are not adequately covered by provincial jurisdiction.

All of this implies that there remains an important role for the government of Ontario in working towards the harmonization of environmental assessment across jurisdictions. The OCC believes that the provincial government should work with its federal and provincial counterparts within the Agreement on Internal Trade to arrive at a statutory, regulatory and dispute resolution framework that enables remaining discrepancies in the

EA process to be resolved. Integrating existing policies and procedures into a national framework would allow the government to ensure that planned reforms to the EA process result in greater predictability across the board, reducing the compliance and regulatory burden and lowering the cost of doing business for Ontario firms.

In conclusion, the OCC feels that it is important for the government of Ontario to take the necessary steps to uphold the public interest in a streamlined, consolidated, Environmental Assessment process. The OCC recommends that the Ministry take the following action:

- Continue to foster communication and information-sharing with key stakeholders in order to inform them of the specificities of the EA process and devise appropriate solutions; and
- Take a leadership role in Canada through working with provincial and federal government counterparts to achieve a standardized one project-one assessment approach that harmonizes federal and provincial statutes and regulations for Environmental Approvals.

Thank you for the opportunity to provide input on this important matter. If you have any questions or concerns, you may direct your staff to contact Kelly Pritchard, Policy Analyst, at (416) 482-5222, ext 246, or [kellypritchard@occ.on.ca](mailto:kellypritchard@occ.on.ca).

Yours sincerely,



Len Crispino  
President and CEO

ccs: Mr. Tim Hudak, MPP, Leader of the Progressive Conservative Party of Ontario  
Mr. Toby Barrett, MPP, PC Critic, Environment  
Ms. Andrea Horwath, MPP, Leader of the New Democrat Party of Ontario  
Mr. Peter Tabuns, MPP, NDP Critic, Energy and Environment  
OCC membership