

Approvals 101
Justin Duncan, Staff Lawyer, Ecojustice
Aamjiwnaang Community Forum
February 10, 2011



Who Currently Regulates Industrial Approvals in Sarnia?

1. Ontario Ministry of the Environment

- *Environmental Protection Act*
 - Act prohibits all discharges of contaminants to environment unless approved by Ministry
 - Approvals include Certificates of Approval (public) and control orders (usually secret)
 - Certificates of approval are not supposed to be issued if existing air pollution standards cannot be met

Who Currently Regulates Industrial Approvals in Sarnia?

1. Ontario Ministry of the Environment, continued
 - *Ontario Water Resources Act*
 - Act prohibits all discharges to water unless approved by Ministry
 - *Environmental Assessment Act*
 - EAs for projects the Minister requires EAs for (ex. Shell refinery)

Who Currently Regulates Industrial Approvals in Sarnia?

2. Federal Government

- *Navigable Waters Protection Act* (permits for docks and other structures in St.Clair River)
- *Fisheries Act* (any pollution discharges to Talford Creek and St.Clair River)
- *Canadian Environmental Assessment Act* (EA where federal permits required or federal funding – ex. Northern ethanol plant funding)
- *Indian Act* (impacts to reserve)

5 'W's of Certificates of Approval

- **Who:** anyone who wants to release contaminants to air or water
- **What :** approves use of certain industrial equipment at certain levels but does not regulate actual emission rates
- **When:** must be in place before releases begin
- **Where:** each source of pollution (but many facilities moving to comprehensive CofAs)
- **Why:** to regulate the amount of pollution released

Finding Industrial Approvals

1. Proposed certificates of approval posted on the Environmental Bill of Rights Registry for 30-60 days for public comment:

<http://www.ebr.gov.on.ca/ERS-WEB-External/>

2. Existing approvals can be searched on the Ministry of the Environment website:

<http://www.environet.ene.gov.on.ca/eCofAWeb/ecofa/GoSearch.action>

Other Sources of Information

1. Emission Summary and Dispersion Modeling reports
 - Compliance with existing air standards (ex. CO, SO₂, H₂S, NO_x etc. is demonstrated through the preparation of a document called an Emission Summary and Dispersion Modelling (ESDM) Report.
 - Only executive summaries of ESDM reports are available and can only be obtained by visiting a facility.
 - Facilities are legally required to provide anyone a copy if they request it.

Other Sources of Information

2. Yearly non-compliance reports on Ministry website provide outline of all failures to comply with water and air pollution standards:

http://www.ene.gov.on.ca/environment/en/industry/compliance_and_enforcement/environmental_compliance_reports/STDPROD_080632.html

Case study: Imperial Oil Refinery Complex

1. Most recent EBR Registry posting for proposed certificate of approval:

<http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTA4MTk1&statusId=MTY2NzYy&language=en>

2. Approvals granted up to February 2011:

http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/environmental_approvals/index.htm

Case study: Imperial Oil Refinery Complex

3. ESDM report

4. Non-compliance reporting:

Air:

http://www.ene.gov.on.ca/environment/en/resources/STDPROD_080826.html

Water:

http://www.ene.gov.on.ca/stdprodconsume/groups/lr/@ene/@resources/documents/resource/stdprod_080897.pdf

So What?

Information obtained from any of these sources can be used for:

- Informing yourself of current situation and what is being proposed
- Demanding consultation from governments
- Developing position on what accommodation ought to entail

So What?

- Developing comments on new proposals for certificates of approval (Note: any comments made to EBR registry legally must be addressed in final decision made)
- Requesting reviews of existing certificates of approval for various reasons including: ongoing non-compliance, lack of cumulative effects assessment, lack of health assessment
- Challenging industry and government to do a better job

Aamjiwnaang's Neighbours



QUESTIONS?

Thank You

