Comments on MoE's Proposal for Standardized Approval Regulations and Approval Exempting Regulations EBR Registry No. RA8E0008.P

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Brief No. 343

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PART 1 - INTRODUCTION

The Canadian Environmental Law Association (CELA) is a public interest group founded in 1970 for the purpose of using and improving laws to protect the environment and conserve natural resources. Funded as a community legal clinic specializing in environmental law, CELA represents individuals and citizens' groups before trial and appellate courts and administrative tribunals on a wide variety of environmental issues. In addition to environmental litigation, CELA undertakes public education, community organization, and law reform activities.

The Canadian Institute for Environmental Law and Policy (CIELAP) is an independent, not for profit, environmental law and policy research and education organization, founded in 1970 as the Canadian Environmental Law Research Foundation.

The purpose of this brief is to respond to the proposed Standardized Approvals Regulations (SARs) and the Approval Exemption Regulations (AERs) as proposed by the Ministry of Environment and Energy. The proposal was posed on the Environmental Bill of Rights Registry on February 1, 1998, EBR Registry Number RAE80008.P with a forty five day comment period.

Our comments are divided into two sections, the first dealing with general issues arising from the Ministry's proposals, and the second addressing the Ministry's specific proposals regarding activities to fall under the SAR and AER regime.

Note: On Tuesday March, 17, 1998 the authors met with MoE staff at Approvals Branch to raise some preliminary concerns and to request additional information regarding the proposal. The request for additional information on specific proposals has been reiterated in the brief. Upon receipt of additional information from the Ministry, the authors reserve the right to make further comments or amend this submission once they have had the opportunity to review the information.

PART II - GENERAL COMMENTS ON SARs and AERs

In its February 1998 report Hazardous Waste Management in Ontario: A Report and Recommendations CIELAP stated that "There may be value in the establishment of a regulatory regime which falls between the requirements to obtain a formal certificate of approval, and total exemption from approval and other requirements" for routine, simple activities with very little chance of causing adverse effects to the environment or public safety and health. However, the

Plastimet incident and subsequent report by the Office of the Fire Marshal[1] emphasize the need for such a system to establish adequate and enforceable requirements in relation to the protection of the environment, public health and public safety. Issues of accountability and the public's right to know must also be addressed in the design of such a system.

We do not believe that the Ministry's current proposals meet these criteria. Our major concerns with the Ministry's proposals include the following:

(a) Failure to specify criteria for SARs

The Ministry of Environment (MoE) has failed to provide any criteria as to what activities and/or sectors would be subject to SARs or AERs. We recommend that decisions as to what activities should fall within the purview of SARs should be made on the basis of clearly articulated guidelines which need to be established in a formal multi-stakeholder consultation process. For reasons which will outline in (b) we see no need for AERs.

Recommendation # 1.

MoE should establish a formal multi-stakeholder consultation process to establish explicit criteria before any activity would be considered for approval under a SAR system.

(b) Types of Activities which may be subject to SARs

The SARs will remove the current technical site specific reviews of proposals currently carried out by the Ministry to identify unacceptable or problematic proposals. The system would also prevent MoE from taking proactive steps by requiring modification in project design or construction to minimize or avoid adverse effects. This implies that only activities which are simple, routine and have the potential for only very minor impacts on the environment or public health or safety should be considered for standardized approvals. By definition, this in turn, would mean that only those activites which cause no adverse effects would be subject to AERs. However, if an activity would not cause any environmental impacts, there would be no reason to apply for a certificate of approval. Therefore, we do not see a rationale for exempting regulations.

We also note, former Environment Minister Brenda Elliott claimed that the exemptions to certificate of approval requirements would only apply to those activities which have

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[1].Office of the Fire Marshal, Protecting the Public and the Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities (Toronto: Ministry of the Solicitor General and Correctional Services, August 1997).

"predictable and controllable effects on the environment."[2]

It is clear however, that a number of the activities proposed to be dealt with under SARs, such as municipal waste transfer/processing sites and the utilization of biosolids on agricultural lands, and unlimited, one time takings of groundwater do not meet these criteria of small scale, simplicity, routine and minor potential environmental impacts which we have articulated. We also note that many of the activities which are being recommended for approval exemption as are more appropriate for consideration under SARs.

Recommendation # 2

SARs should only be used for small scale, simple and routine activities which will have very minor impacts on the environment, human health or public safety. There is no need for AERs.

(c) Lack of Auditing to Assess Compliance

The MoE rationale for using SARs is to ensure that the Approval Branch "focuses on priorities and delivers results more efficiently and effectively through streamlining of the approvals process."[3] Presumably one of the results MoE would want to assess is the effectiveness of SARs in protecting the environment and human health. However, there is no indication in the Ministry's proposal as to how MoE would go about assessing the regulated community's compliance with SARs.

We have been able to identify one other North American jurisdiction which has experimented with a programme similar to the Ministry's SAR proposal. In 1997 the Massachusetts Department of Environmental Protection (DEP) proposed the Environmental Results Programme, which sought to eliminate up-front permitting and instead require companies to certify to DEP that they were in compliance with regulatory standard. In return, the DEP announced that the agency would concentrate on setting "strict but achievable standards tailored to each industrial and commercial sector and doing more inspections and audits to verify that the standards are indeed being met."[4]

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[2] The Honourable Brenda Elliott, Statement to the Legislature on the Environmental Approvals Improvement Act (June 3, 1996).

[3] Letter from Mr. Wilfred Ng, Director, Approvals Branch and Mr. Keith West,Director, Waste Reduction Branch to Michelle Swenarchuck, Executive Director, Canadian Environmental Law Association, dated February 11, 1998.

[4] Massachusetts Department of Environmental Protection, Press Release dated October 30, 1997.

The MoE has stated that its compliance and enforcement powers would not be affected by SARs. However, in addition to failing to provide any indication of how the Ministry intends to enforce SAR conditions, the Ministry' proposal also fails to provide an accounting of how staff and resources will be re-allocated to address inspections and audits for verification purposes. Unless there is an auditing process in place, the MoE will not have an effective mechanism to assess whether, in fact, regulated parties are meeting the performance standards established by SARs. Consequently, the Ministry should not proceed with the proposal until it provides a detailed auditing and enforcement plan for SARs.

The Ministry should also provide an indication of how it intends to deal with complaints from the public regarding facilities operating under SARs.

Recommendation # 3

The Ministry of the Environment should not proceed with the implementation of SARs until it provides a detailed auditing and enforcement plan. It is further recommended that the MoE provide details of how staff and resources will be re-allocated to address the need for increased inspections and audits. The Ministry should also state how it intends to deal with complaints from the public regarding facilities operating under SARs or exemptions.

(d) Inadequate Notification Requirements

The process proposed under the SARs proposal contemplates a proponent notifying the Ministry after the completion of the modifications to the work.[5] The proposal as currently worded will prevent the MoE from taking proactive steps to prevent modifications which are likely to cause adverse effects.

The notification requirement should instead be amended to require that notice be given to the Ministry prior to the commencement of the SAR regulated activity. SAR regulated activities should only be permitted to proceed after the Ministry has provided acknowledgement of the receipt of notification. In addition, the Ministry should have the option of refusing to permit an activity to proceed, impose conditions, in addition to those in the SAR regulation, or require a "bump up" to impose the requirement to obtain a certificate of approval.

The Ministry's authority to withdraw SAR approvals, impose additional conditions, required "bump-up" facilities to full certificate of approval requirements should extend beyond the time of the granting of the SAR approval. This is necessary to deal with public complaints, and new information regarding facilities or activities.

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[5] See for example Proposed Concepts for Standardized Approval Regulations and Approval Exemption Regulations - EPA s.9 (Air), pg. 10, condition 13.

Recommendation # 4

The Ministry should require persons to provide notification of their intention to proceed with activities proposed under SARs prior to commencement of the modification. The activities should not be permitted to commence until acknowledgement has been received from the Ministry. In addition, the MoE should retain the authority to refuse to permit an activity, impose additional conditions on specific proposals, or require a "bump up' to a full certificate of approval at the time of, and subsequent to, the granting of the SAR approval.

(e) Environmental Bill of Rights

The proclamation of the *Environmental Bill of Rights, 1993* (EBR) greatly enhanced public participation of the environmental decision making process. This included requirements for public notice and a minimum public comment period on proposals for new regulations, policies and instruments, opportunities for third parties to appeal MoE instruments such as certificates of approval to the Environmental Appeal Board under certain circumstances.[6] In addition the EBR provides for the right to request reviews of existing Acts, regulations, instruments or policies and to request investigation when there is evidence of contravention of existing Acts, regulation or instrument. It is our understanding that the Ministry does not intend to post proposed SAR approvals on the EBR registry for public comment. The Ministry has not indicated whether SARs will be prescribed under Part II of the EBR. The Ministry's proposals as presented, would negatively affect all of these rights.

It is also unclear, if the EBR public notice and comment requirements are not to apply to SAR approvals, how the Ministry intends to comply with the common law obligation to give notice to the public where their property might be affected by the activity.[7] This would be particularly important in situations like "one time takings of water" which the Ministry proposes for a SAR approval, even though the MoE recognizes that this activity could have potentially significant impact on well water supply.[8]

In order to address these deficiencies, consistent with the recommendations made in

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[6] P. Muldoon and R. Lindgren, *The Environmental Bill of Rights: A Practical Guide* (Toronto: Emond Montgomery Publications Limited, 1995) pg. 48.

[7] *795833 Ontario Inc. v Ontario (Attorney General & Ministry of the Environment* (unreported December 4, 1990 Ont. Ct.)

[8] See pg. 17, Proposed Concepts for Standardized Approval Regulations and Approval Exemption Regulations, OWRA s. 34. 252 and 53 (Water and Sewage), Ministry of Environment.

CIELAP's report Hazardous Waste Management in Ontario: A Report and Recommendation[9] Notices of Intent to proceed with a SAR regulated activity should be required to be placed on the EBR registry for the minimum 30 day public comment period prior to the Ministry's acknowledgement of the notice and commencement of the activities. In addition, it is recommended that SARs be prescribed under Part 11 of the EBR to allow the public to request a review or investigation to address adverse effect caused by activites within SARs.[10]

Recommendation #5

Notices of Intent to proceed with a SAR regulated activity should be placed on the EBR electronic registry for a minimum 30 day public comment period prior to the Ministry's acknowledgement of a notice of intent and commencement of the regulated activity. In addition, it is recommended that SARs be prescribed under Part 11 of the EBR to ensure that the public maintain their right to request a review and\or an investigation under the EBR.

(f) Access to Information by Public

Currently, the MoE is required under the *Environmental Protection Act* (EPA) to keep an index of all Orders and Certificates of Approvals.[11] The index at Approvals Branch although neither complete nor comprehensive, does provide a means for the public to access environmental information. In addition, requests for this type of information have become routine for lawyers involved in real-estate and business transactions. It is recommended that MoE keep a registry of sites approved through SARs and that this registry be made accessible to members of the public. This would be consistent with the recommendations contained in CIELAP's Hazardous Waste Management in Ontario report.[12]

The need for such a registry was highlighted by the Plastimet incident, following which it was revealed that the Ministry had no estimate of the number or location of municipal waste recycling facilities operating under the Regulation 101/94 'Permit by Rule' provisions.

Recommendation # 6

It is recommended that the Ministry establish and maintain a publicly available registry of the sites and facilities which have been granted approvals under SARs.

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[9] Recommendation IX-4.

[10] AER's should also be classified in this way if the Ministry proceeds with their adoption.

[11] Section (19(2), *Environmental Protection Act,* R.S. O. 1990, E. 19 as amended.

[12] Recommendation IV-2.

(g) Legal Implications of SARs

The legal nature and status of 'approvals' arising from SARs is uncertain. Some SARs make reference to 'approval equivalency,' whilst other do not. It was not precisely defined whether activities which operate within SARs will be deemed to have a certificate of approval or some other form of 'statutory authority' to carry out the activity. If SARs are deemed to fall into the latter, it will have significant ramifications on the public rights to bring actions for those activites operating under SARs. The defence of statutory authority provides that "if the legislature expressly or implicitly says that a work can be carried out but which can only be done by causing a nuisance, then the legislation has authorized an infringement of private rights. If no compensation provision is included in the statute, all redress is barred."[13] The defence of statutory authorization applies to claims in private nuisance, public nuisance, *Rylands v. Fletcher* and to riparian rights.[14]

The issuance of a certificate of approval however, does not provide a defence to the approval holder from an action arising from the approved activity.[15] There have been some lower court decisions which have extended the statutory authorization defence to certificates of approval. However, these decisions are at odds with the Supreme Court of Canada's pronouncement on this issue in *British Columbia Growers Ltd v. Portage la Prairie (City)*.[16] Legal commentators have also noted that these recent decisions " attach unwarranted significance to the issue of a certificate of approval and fail to recognize that its purpose is to ensure that an undertaking is operated in accordance with government-accepted procedures."[17]

Thus, the issue whether SARs will operate as a deemed certificate of approval or whether it confers statutory authority will have serious consequences on the public's right to bring civil action for damages arising from activities covered by SARs.

Recommendation # 7

The Ministry should provide to the public a clear statement of the legal meaning and status SAR approvals of activities, including whether SARs would provide a statutory authorization defence to proponents, prior to the implementation of the regulation.

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[13] *Tock v. St. John's Metropolitan Area Board* [1989] S.C.R. 1181 at 1225.

[14] M.D Faieta, H.B Kohn, R. Kligman and J. Swagien, *Environmental Harm: Civil Actions and Compensation*,(Toronto: Butterworths Canada Ltd, 1996) at 242.

[15] Ibid.

[16] Ibid., at 257.

[17] Ibid.

Recommendation 8

The Ministry should not proceed with the implementation of its proposals regarding SARs and AERs until the issues raised in recommendations 1-7 are addressed.

PART III. SPECIFIC COMMENTS ON THE PROPOSED STANDARDIZED APPROVAL REGULATIONS

Regulation 347 - Environmental Protection Act (Waste Management)

a) Municipal Waste Transfer/Processing Sites

This activity is not an appropriate candidate for a SAR. The proposal fails to meet the criteria of a "routine activity which will have only minor environmental impacts." The operation of such facilities are large scale, complex activities with significant potential for environmental impacts. Concern must also be raised that granting municipal sites SAR approval will open the door to demands for similar treatment from privately operated transfer stations. This is of particular concern given the history of illegal storage and disposal operations under the guise of 'transfer' and processing facilities in the province.

We also note that the Ministry's proposal would impose no conditions addressing storage practices and only limited storage limits. This is of particular concern in light of the Fire Marshal's August 1997 report regarding Waste Management Sites which recommended that facilities should not be allowed to operate until the MoE receives confirmation of compliance with fire protection requirements.[18] Although there are conditions to address vermin and pest control there are no conditions to address odour, noise or dust. These are potentially significant problems associated with waste transfer stations.

b) Utilization of Sewage BioSolids on Agricultural Land

This activity is not an appropriate candidate for SAR approvals. The utilization of sewage biosolids on agricultural land does not meet the criterion of a small scale, simple and routine activity which will have only minor environmental impacts. Over the past few years there have been numerous reports of problems related to toxic substances contamination, water

[18] Recommendations 1 and 2.

contamination, and odour related to the application of sewage sludge in rural areas.[19] As a result of industrial hazardous waste discharges into sewers, sludge contains a very wide range, of contaminants, whose presence is difficult to predict on a day to day basis.[20]

It is unclear whether pulp and paper sludge as well as municipal sewage sludge, are intended to be included in this category. We have been informed that the Ministry has approximately 500 public complaints on file regarding the application of paper sludge on agricultural lands.[21]

We also note that the proposal fails to set standard or testing requirements for the presence of persistent organic pollutants in sewage sludge. In addition, there are no total loading limits for metals or persistent organic pollutants at sludge sites and no testing requirement for these parameters at sludge sites. Finally, there are no conditions addressing the impact on fish habitat, water quality and the prevention of odour arising from this activity.

OWRA s. 34, s. 52, & s. 53 (Water and Sewage)

a) Schedule 1 - Modifications- Water and Sewage Works

No comments at this time.

b) Schedule 2 - Watermains and Sewers

There should be a clause to state that section 52 and 53 would not apply except where there was no change in the existing rated capacitates of the works or its individual components. Without such a provision there would be no limit on the size of the new infrastructure which might be constructed. This has been major implications for water use, sewage management and the design of human settlements.

c) Schedule 3 - Spill Containment and Stormwater Management works at Electrical Transformer Stations

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[19] See, for example, S.Leahy, "The graying of Ontario's green fields," The Toronto Star, August 6, 1994.

[20] See M.Winfield, Hazardous Waste Management in Ontario: A Report and Recommendations (Toronto: CIELAP, 1998), ch.IV.

[21] Personal communication with Julia Langer, Director of Toxicology, World Wildlife Fund Canada, February 19, 1997.

We note that there are no limits on the size of the spill containment facilities. The SAR provision should only apply to small scale facilities. We have concerns as to whether the conditions for spill containment is adequate, particularly as such facilities may contain equipment which contain PCB's. We also note that there are no conditions proposed regarding spill prevention and spill management training and preparedness.[22]

d) Schedule 4 - Pumping Stations

The exemption for emergency overflows to the environment is problematic. Emergency overflows from works can result in significant discharges causing adverse effects to the environment. The SAR should include enforceable provisions regarding overflow prevention and management.

e) Schedule 5 - Temporary Water Taking from Ground Water

This activity is <u>not</u> a suitable candidate for a SAR. It fails to meet the criterion of being "small scale," simple and routine activity which may have a very insignificant impact on the natural environment. In fact, the proposal clearly contemplates adverse impacts on other users of groundwater since it provides for various mitigative measure which should be undertaken to address well water interference. In addition there are is no limit as to the quantity of ground water which can be taken in a "one time undertaking".

f) Schedule 6 - Outright Exemptions

General

As explained in section II(b) we see no need of AERs, as activities which would have no potential for adverse effects on the environment would not require an approval under Ontario's environmental legislation. Any activity with the potential to cause a minor environmental impact should at least be to the requirements of a SAR.

A number of the activities which are being proposed for exemptions appear to us to be appropriate candidates for SARs, as they appear to meet the criteria of simplicity, small scale, routineness and potential for minor environmental impacts. However, some of the proposed activities should remain under the certificate of approval process.

1. **Service Connections.** There should be conditions regarding record keeping.

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[22] See Winfield, <u>Hazardous Waste Management in Ontario</u>, recommendation IV-28.

2. **Appurtences.** There should be conditions regarding record keeping.

3. **Area Drains.** The exemption of area drains under it may not be appropriate with respect to industrial or commercial facilities because of the potential for discharge of oil, grease, gasoline and other contaminants that might be discharged into sewers.

4. **Relining Sewer and Water Mains.** No comment at this time.

5. **Replacement of watermains and sewers.** At a minimum should be subject to requirements regarding record keeping.

6. **Bottled Water:** The exemption for taking water for bottling is <u>not</u> an appropriate candidate for either an exemption or for consideration under SARs. There are no limits on how much water may be taken and the activity could have significant impact on water supply.

7. **Stormwater Management:** The exemption for stormwater management facilities in parking lots may be a problem, especially at industrial facilities. There is the potential for discharge of oil, grease, gasoline and other contaminants which are used or spilled at the site into municipal sewers. Consideration should be given to the opportunity to promote discharge of clean storm water from domestic and other sources away from sewers.

General Comment on Exemptions.

A registry of industrial, institutional and commercial facilities claiming exemptions should be established to permit inspections to ensure compliance with exemption conditions or limitations.

<u>EPA s. 9 (Air)</u>

a) Schedule 1 - Modifications

General

The provision to allow modifications for equipment and activities provided they remain below a certain level of the point of impingement concentration is problematic. The point of impingement standards in Regulation 346 are in the process of being revised by the MoE because it is recognised that the standards are outdated and inadequate to protect human health and the environment. In fact, the MoE has proposed standards for a number of contaminants that are

several orders of magnitude more stringent than the current standard.[23] This implies that a 10% variation in current emissions based on current standards could result in increases in emissions which exceed the standards proposed by Ministry staff by orders of magnitude.

Until the Regulation 346 standards have been revised, it is recommended that any modifications should be subject to an up-front review by Approvals Branch to ensure that there will be no adverse effects posed by the modifications. In addition, the proposal does not address cumulative or synergistic impacts which could result from the increase in emissions.

The proposal requires companies to collect source inventories. This would be an important positive step. However, there is no requirement that the information contained in these inventories be forwarded to the Ministry. Given the weaknesses which have been identified in both the provincial and federal systems for tracking pollutant releases, this information should be forwarded to the Ministry. The data collected through Regulation 346 requirements along with other data such as the National Pollutant Release Inventory could be a valuable source of information in assessing Ontario's air quality.

b) Schedule 2 - Combustion Equipment

The size limits for combustion equipment appears to be very large. Facilities of this scale do not meet the criteria of "small scale." The size limits for facilities should be significantly reduced.

The use of No. 2 oil is likely to have adverse effects in terms of emissions. It should be removed from the list of candidate fuel.

There appear to be no specific conditions regarding emissions, noise, or odour. There are also no requirements to reporting estimated emissions to the MoE. There appear to be no conditions regarding start up or shut down noise, emissions or odours. These deficiencies should be addressed.

c) Schedule 3 - Emergency Generator Sets

The term 'emergency situation' is not defined. Does this mean economic (i.e. production backlog) or real exogenous emergency (e.g. natural disaster). A clear definition of 'emergency' must be provided.

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[23] Ministry of the Environment and Energy, Proposed Standards Information Package Presentation Overheads, January 1997.

Allowing operation of the unit for a maximum 250 hours a year seems excessive for emergencies. The operating period should be reduced.

The use of No. 2 oil implies potential emissions with adverse effect. It should be removed as a candidate fuel.

The proposal makes no provision for reporting the operation or testing of facilities and associated emissions, noise or odour to the Ministry

The proposal seems to contemplate potential for some form of adverse effect from other fuels including noise. Given these considerations this does not seem to be an appropriate candidate for a SAR.

d) Schedule 4 - Sterilizers

The MoE needs to provide information on the types and amounts of emissions associated with this activity before we can provide any meaningful comments on the proposal.

e) Schedule 5 - Arc Welding

The MoE needs to provide information on the types and amounts of emissions associated with this activity before we can provide meaningful comments on the proposal. A review of the applicable health and safety requirements also seems appropriate. SAR requirements should integrate health and safety requirements.

f) Schedule 6 - Exemptions

As explained in section II(b) we see no need of AERs, as activities which would have no potential for adverse effects on the environment would not require an approval under Ontario's environmental legislation. Any activity with the potential to cause a minor environmental impact should at least be to the requirements of a SAR.

A number of the activities which are being proposed for exemptions appear to us to be appropriate candidates for SARs, as they appear to meet the criteria of simplicity, small scale, routineness and potential for minor environmental impacts. However, some of the proposed activities should remain under the certificate of approval process.

1. Ventilation

- Non-process areas. No comment at this time.

- Drainage systems. Exemption should be limited to domestic sewage systems for dwellings with fewer than three families.

- Indoor emission discharges. Proposed exemption has obvious indoor air quality and occupational health implications. This may be a candidate for a SAR depending on the nature of emissions and human health implications.

- Warehouses. There should be limits on the nature of the items stored in the warehouse which may be subject to an exemption. The proposal should not apply for example, to items that may volatilize and cause adverse effect. This is also an obvious opportunity to require cross compliance with fire code requirement.

2. Food Preparation Exhaust Systems

The exemption should be limited to small size facilities.

3. Air Conditioners

The exemption should be limited to domestic uses. Larger units should be subject to SAR, particularly regarding noise impacts.

4. Mobile Equipment

Some construction and maintenance activities may be candidates for SARs.

Asbestos removal and stone crushing and streaming have potential for major impacts and should remain subject to certificate of approval requirements.

Mobile equipment use for domestic activities such as upholstery, duct or carpet cleaning may be appropriate candidates for SARs regarding noise, dust, and emissions. Emissions from these activities, which may involve the use of solvents should be investigated.

5. Washing With Aqueous Detergents

No comments on this proposal at this time.

6. Fireplaces and stoves

The exemption should be limited to domestic facilities. Larger facilities might be candidates for SAR.

7. Household Can handling

This may be an appropriate candidate for a SAR regarding noise and dust.
The handling of aerosol cans should not be included in SAR as they may contain explosive, flammable, reactive or toxic materials.

8. Area Sources

a) Construction for buildings

There are obvious noise, odour, dust, and other possible adverse effect arising from activities related to construction which may require regulatory oversight. These activities may be a candidate for an SAR.

b) Road dust

We have no comments on this proposal at this time.

c) Lagoons, Clarifiers, ponds for sewage treatment

Lagoons, clarifier and ponds for sewage treatment are not suitable candidates for exemptions or SARs. The activity is not small scale and simple and has the potential to cause significant adverse effects, including odour and volatilization of toxic substances.

d) Irrigation of Farmlands with Effluent.

This activity is not an appropriate candidate for an exemption or a SAR. The activity may be associated with major odour problems, dispersion of contaminants, surface and groundwater pollution.

e) Forestry Burns

Forestry Burns is not an appropriate exemption candidate. There are potential significant impacts in terms of smoke and odour. The activity may potentially be a SAR candidate with conditions re: wind, location, etc.

f) Firefighting Training

Firefighting training is not an appropriate exemption candidate but could potentially be a SAR candidate with conditions re: wind, location, etc. There are potential significant impacts in terms of smoke, odour and other emissions arising from this activity.

g) Festivals and Special events

These activities are not a suitable candidates for exemptions. At the very minimum, festivals and special event should fall within SARs. Speedway and boat races for example, involve major emissions including lead, manganese, benzene, noise and odour.

h) Snow-Making

Snow-making is not an appropriate candidate for an exemption but may be a candidate for a SAR. Snow-making may involve the use of synthetic chemicals or biotechnology products. A certificate of approval may be appropriate in some circumstances depending on the materials being used for snow-making.

i) Domestic uses

A more complete list of activities may be required. Some activities may warrant at least SAR coverage (e.g smokehouses, burning, use of volatizing substances etc). It should be noted that the the United States Environmental Protection Agency is working on standards for small engines like lawn mowers and leaf blowers.

PART IV - SUMMARY AND CONCLUSION

The MoE rationale for the proposal is to streamline the approval process by eliminating the requirement for certificates of approval for certain types of activites. However, we see no environmental, public health or public safety benefit associated with the Ministry of the Environment's current proposals. In addition, it is our understanding that approvals and exemptions granted through the SAR and EAR systems will not be posted on the *Environmental Bill of Rights* registry for public comment prior to their implementation. As a result the current proposal would constitute a net loss from the perspective of public participation in decision-making and public accountability for decisions.

In addition, we are concerned that a number of the activities proposed as candidates for

SARs do not meet the criteria of being simple, small scale, routine activities which will have minor environmental impacts. These activities, such as the operation of municipal waste transfer and processing stations, the application of sewage sludge to agricultural lands, 'one-time' water takings should remain under the normal certificate of approval process.

Moreover, we see no need for AERs, as activities which would have no potential for adverse effects on the environment would not require an approval under Ontario's environmental legislation. Any activity with the potential to cause an environmental impact should at least be to the requirements of a SAR.

In this context are concerned that most of the proposed candidates for exemptions seem more appropriate candidates for SARs. In fact, in some cases, like air approvals for the operation of sewage lagoons, clarifiers and ponds, and the operation of certain types of mobile equipment, the activities should remain under the normal approvals process. In conclusion, the Ministry's proposals require major revisions before they could proceed in a manner which ensures the protection of the environment, health and safety of Ontarians.