

Burden Reduction Act to Streamline Environmental Approvals and Compliance Checks

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On September 27, 2016, the Minister of Economic Development and Growth reintroduced omnibus Bill 27, the *Burden Reduction Act 2016*, for First Reading. The Bill proposes amendments to some 50 different provincial statutes, including a number acts administered by the Ministry of the Environment and Climate Change (MOECC). The Bill is intended to reduce regulatory burden while protecting environmental standards.

The Bill is substantially similar to Bill 218, which died on the Order Paper when parliament was prorogued on September 8, 2016.

If adopted, the *Act* would further streamline the environmental approvals process, allow compliance inspectors to request documents by telephone rather than in person, and permit the province to promulgate additional regulations related to the Environmental Activity and Sector Registry (EASR) and Environmental Compliance Approvals (ECAs).¹ The amendments would come into force on the day the *Burden Reduction Act, 2016* receives Royal Assent.

The amendments affecting MOECC-administered legislation include the following:

- ♦ Approvals for additional “low risk” business activities² could be shifted to (and regulated under) EASR, the MOECC’s on-line self-registration system.³ These could include any activities currently governed by prescribed permits, licences, authorizations or other instruments administered by the MOECC.⁴ For a further discussion of changes to approvals for “low risk” activities, see our article on Making Environmental Approvals EAS(ie)R.

¹ See Schedule 11 of Bill 27 for proposed amendments related to legislation administered by MOECC

² Backgrounder, Burden Reduction Act, 2016, June 8, 2016;

<https://news.ontario.ca/medt/en/2016/06/burden-reduction-act-2016.html>

³ Legislative changes to multiple Acts as part of the Burden Reduction Bill (Bill 218), June 10, 2016, Environmental Registry (012-7750); <https://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTI4NzUy&statusId=MTk0NzA2&language=en> [ER 012-7750]

⁴ See schedule 11 of Bill 27 for definition of prescribed instrument

- ♦ Provincial officers and inspectors could reduce the number of face-to-face meetings required to conduct compliance checks and, instead, request documents or information through telephone calls, emails or “any other means of communication” when appropriate. The officer could also request the submission of documents in either electronic or paper form. This would ensure the enquiry provisions in long-standing environmental legislation are consistent with the provincial officer powers included in more recent acts, such as the *Waste-Free Ontario Act, 2016*.
- ♦ Similar enquiry provisions would be added to the *Clean Water Act, 2006*, the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002* and the *Toxics Reduction Act, 2009*.
- ♦ The Lieutenant Governor in Council would be authorized to make regulations relating to Part II.1 of the *EPA* (which covers ECAs), requiring persons prescribed by the regulations to carry insurance, and specifying the insurance that is required, and the limits and conditions of that coverage.
- ♦ A number of additional enabling provisions would allow the Lieutenant Governor to make regulations relating to Part II.2 of the *EPA* (which covers EASR), including the establishment, operation and maintenance of the Registry, the information to be included in registrations, the periodic updating of registrations, certification of certain qualified persons, financial assurances and insurance requirements.
- ♦ Under the *Nutrient Management Act, 2002*, a provincial officer or Director would be able to issue an order for preventative measures if there are reasonable grounds to believe that an adverse effect will (or is likely to) result.
- ♦ Finally, a number of additional (though minor) amendments would address various housekeeping issues and ensure consistency between the French and English versions of MOECC-administrated acts.

In an interesting twist, the MOECC says that the environment-related components are not subject to the public notice and comment provisions of the *Environmental Bill of Rights* because the government made a prior commitment in its 2016 budget to introduce legislation⁵ that will “further assist with reducing administrative burdens and lowering costs for businesses.”⁶

Instead, the Ministry posted a simple information notice on June 10, 2016 (EBR Registry 012-7750) summarizing the proposed amendments.⁷ We will be watching to see if this tactic becomes standard practice. A number of important environmental initiatives are mentioned in general terms in the government’s annual budget papers and would, normally, be posted for public comment on the Environmental Registry.

⁵ ER 012-7750

⁶ Jobs for Today and Tomorrow, 2016 Ontario Budget: Budget Papers, Chapter 1, Section A, page 19; http://www.fin.gov.on.ca/en/budget/ontariobudgets/2016/papers_all.pdf

⁷ ER 012-7750

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