

October 23, 2001

Ms. Jane Keenan
Policy Analyst
Department of Environment and Local Government
P.O. Box 6000
Fredericton, NB
E3B 5H1

Dear Ms. Keenan:

We received a copy of the draft Public Participation Regulation to the Clean Air Act late last week from Dr. Nabil Elhadi. We would like to make a number of comments on the draft regulation based on our written comments of July 1, 1998 concerning the original discussion paper and the experience to-date with the process.

The Conservation Council remains convinced that a formal public meeting, convened by the Department of Environment and Local Government, must be a requirement under the regulation. At such a meeting, to be held following the release of the Interim Summary and Draft Approval, the public should be able to present oral or written submissions, and be able to ask questions of the responsible government department, consultants and the proponent. A verbatim transcript should record the public comments, questions and responses. Departmental staff should make recommendations based on the input received, and these recommendations should be made public.

An information meeting held by the Department of Environment and Local Government, following the 1st public notification of the applications, should precede a formal public meeting, but in no way is a substitute for them. If there is to be meaningful public participation then citizens, in context of their communities, need to have the Department of Environment and Local Government present the "Facility Profile" in a public forum where all present can ask questions and hear the responses. Public participation can only be meaningful if the public is adequately informed about the facility, its emissions, and the associated risks to the health of the environment and the public at large.

While the applicants may, of their own volition, decide to hold an open house or information meeting in addition to the government-run process, in no way should this be seen as a substitute for information and public consultation meetings convened by the responsible regulatory authority.

Finally, with respect to the regulation providing the opportunity for appeal, we have two points. The right to appeal should apply to the substance of the intended approval, and not simply the Minister's decision regarding the public participation process. However, in both cases, the appeal should be made to someone other than the Minister. We have previously suggested that an Environmental Appeal Panel be created for this purpose. Another possibility would be to establish a position within the Office of the Ombudsman.

In our July 1, 1998 comments in response to the Discussion Paper on Public Participation we wrote: "The democratic principles of respect, autonomy and self-determination, as well as environmental justice, require that a public participation process provide opportunities for meaningful participation to the public." Without improvements to the draft Public Participation Regulation, we believe public participation in the permitting process under the Clean Air Act will not be meaningful.

The Conservation Council appreciates the opportunity to provide comments on the draft Public Participation Regulation.

Yours truly

David Coon
Policy Director

cc: Byron James