

November 27, 2020

Comments submitted by CELA to the Ontario Ministry of Environment, Conservation and Parks by way of the following Link: by clicking [here](#).

Re: COMBINED HEAT AND POWER SYSTEMS PROPOSALS

ERO Number 019-1134

ERO Number 019-2061

CELA writes to provide input regarding the following two proposals posted on the ERO Registry with comment deadline of November 27, 2020:

1. ‘Proposed amendments to regulations under the Environmental Protection Act and Environmental Assessment Act for combined heat and power systems that use natural gas or wood biomass as fuel’ – [ERO number 019-1134](#).

This ERO notice stated that the “proposal would align a project’s approval requirements with its level of risk. We are proposing to amend regulations made under the Environmental Protection Act and Environmental Assessment Act to streamline permissions for combined heat and power system or power only systems.”

2. ‘Updates to Guideline A-5 regarding the Control of Air Emissions from Stationary Combustion Turbines’ – [ERO number 019-2061](#).

This ERO notice stated that the MECP wants to “update Guideline A-5 to align with recent federal guidance regarding the control of air emissions from stationary combustion turbines. This will enhance environmental protection by aligning with proposed new requirements for stationary combustion turbines that are eligible for the Air Emissions Environmental Activity and Sector Registry.”

CELA has reviewed the postings and attached documents, and attended a virtual information session on both ERO proposals in October 2020. Following our comments below, a summary of our Recommendations is provided at the end of this letter.

CELA writes to provide comments with a particular view to environmental health impacts of these two proposals. CELA works to protect human health and our environment by seeking justice for those harmed by pollution and by working to change policies to prevent such problems in the first place. As a Legal Aid Clinic our top priority is to represent low income individuals and communities and to speak out for those with less influence and who receive less of a say in decision-making. We provide our comments in two parts below. In the first section, we note the aspects of the proposals which we support. In the second section, we express the

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areas of concern and make recommendations for improvements to the proposals. in respect of those areas.

A. Supportive Comments:

Utilization of combined heat and power in contexts where natural gas is already being used or would be used is a net positive environmental benefit in that it averts the environmental and environmental costs of the energy generation that would otherwise be incurred with an increased utilization of that source of energy.

Guideline A-5

Strengthening Guideline A-5 to accord with the recent 2017 federal revisions to those air guidelines is a good step. CELA agrees with the MECP rationale that most of the relevant equipment has become far more efficient over the years, with significantly lower emissions, since the original guideline was promulgated, and that the higher emissions allowed under the existing version of the guideline are no longer justifiable nor desirable.

Transition timeline

CELA is of the view that allowing transition for guideline A-5 for existing ECAs for seven years (until 2027) provides more than sufficient time for this equipment to be brought into compliance with the more rigorous guidelines. This type of equipment is generally replaced periodically in any event, and 7 years is either full life cycle for some equipment, or well into life cycle and beyond the original “pay-back” period; thus it is economically justifiable as well as environmentally preferable.

CELA suggests that the government of Ontario should investigate establishing or expanding programs that could provide incentives for companies to transition this equipment even more quickly; this would result in the environmental improvements from the new equipment even more quickly. An example of the benefits of such incentive programs and how they can speed up replacement of this type of equipment is contained in a previous report from the Pembina Institute for Appropriate Development.¹

Performance assessments

MECP proposes that the natural gas combustion systems registered under the proposed EASR will be required to undergo two-year performance assessments. CELA supports this requirement. The MECP staff noted during their information sessions that source performance testing had been significantly reduced in the EASR system and so they stressed the importance of using the same “simplified” source testing as will be required under Guideline A-5. The 2-year performance assessment will be required to be overseen by the licensed engineering practitioner.

¹ <https://cela.ca/power-for-the-future-towards-a-sustainable-electricity-system-for-ontario/>

CELA agrees that replacing the many legacy natural gas boilers and furnaces that are presently in use, with systems certified to California Air Resources Board performance standards, would be a significant benefit to the environment (and also justifiable to the building and facility operators from a financial perspective as well.)

B. CELA Recommended Improvements to the Proposals:

CELA makes the following recommendations for improvements to the Proposals.

Cumulative Impacts

Neither of the proposals incorporates a mechanism to take account of cumulative impacts arising from the combined total of all of the systems in the particular geographic area or airshed. A mechanism to take account of cumulative impacts should be included. For example, MECP could establish a process of undertaking five-year reviews of all of the systems permitted in critical airsheds, with an adjustment as to MECP approval policy regarding whether additional systems are permissible in that airshed without individual ECAs could be implemented.

Site Specific Impacts

The exemptions outlined in the proposals do not include any mechanism whereby site-specific impacts are taken into account. For example, a facility located in a valley or on an escarpment in proximity to sensitive land uses such as residential or health facilities might result in significantly greater and more prolonged exposure to the emissions that do still occur from these facilities. There is no restriction on locating the facilities in residential areas; i.e. no restrictions on location at all. While some of the systems could be quite appropriate for residential use such as condominiums according to the proposal; and their permissible use could also result in greater use of district energy systems, which is laudable, there still needs to be a mechanism to take account of particular site-specific concerns where impacts may be greater due to the specific conditions of the site. A mechanism for site-specific review should be added.

For the systems that receive some level of MECP review prior to receipt of an ECA, the guideline should include assessment of the site-specific context of the proposal, with the imposition of relevant conditions including monitoring, and posting of a phone number for the public on the facility in case of nuisance impacts or concerns. (As noted above, for those proposed uses located in sensitive land uses, CELA observes that more stringent conditions may be required, or the use may not be appropriate at all. Guideline A-5 should not in any way restrict this assessment by the MECP in evaluating those proposals.)

MECP Audits and Inspections of Exempted Facilities

In particular, CELA is concerned that the exempted uses for low-threshold (50 to 150 kW) wood pellet burning facilities may nevertheless cause impacts on neighbouring sensitive uses, both in built up areas and in rural areas; as well as on other sensitive facilities such as child care centres, schools, parks and playgrounds, and health facilities. There should be a mechanism for MECP audits / inspections of these facilities and whether they are impacting surrounding populations. In addition there should be public education aimed at users of these systems and a mechanism for

members of the public to request inspections by MECP as to whether allowable fuels are being utilized in these systems. CELA receives complaints from members of the public every winter due to quite severe nuisance impacts from exterior heating systems burning a variety of wood materials and other materials.

Permissible Materials

CELA does not support expansion of the permissible materials to “graded” wood chips even in the future as this would be very difficult to monitor and control.

Regulations Still Under Development

The MECP information webinar of October 27 by MECP indicated that the intent is that the same “operational requirements” set out in Guideline A-5 will be transposed into the EASR (i.e. the proposed Chapter 6) requirements (such as s. 9.1 of the ESDM). CELA recommends that the regulations should not proceed until these requirements are clearly specified for both types of systems and are verified to be consistent. CELA supports the expressed rationale of MECP staff that they same equipment should be required to meet at least the same level of stringency.

SUMMARY OF RECOMMENDATIONS:

1. **Guideline A-5 should be revised to be consistent with federal air quality guidelines.**
2. **Ontario should investigate and implement programs to incent faster transition of facilities and buildings to implement more efficient natural gas using equipment.**
3. **MECP should establish a process of undertaking five-year reviews of all of the systems permitted in critical airsheds, with an adjustment as to MECP approval policy regarding whether additional systems are permissible in that airshed without individual ECAs could be implemented.**
4. **For both proposals, a mechanism should be added for site-specific review by MECP in cases of particular site-specific concerns where impacts may be greater due to the specific conditions of the site.**
5. **Where appropriate, site-specific review should result in inclusion of relevant conditions including monitoring, and posting of a phone number for complaints by public on the facility in case of nuisance impacts or concerns.**
6. **For exempted facilities, MECP should establish a mechanism for MECP audits / inspections of these facilities and whether they are impacting surrounding populations.**
7. **MECP should conduct public education aimed at users of exempt systems, and establish and publicize a mechanism for members of the public to request inspections by MECP as to whether allowable fuels are being utilized in these systems.**
8. **CELA does not support expansion of the permissible materials to “graded” wood chips even in the future as this would be very difficult to monitor and control.**
- 9.

We trust these submissions are of assistance.

Yours very truly,

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