

THE CERTIFICATE OF APPROVAL FOR NOISE CONTROL - THE PROCESS

Dalila C. Giusti

Jade Acoustics Inc., 545 North Rivermede Road, Concord, Ontario L4K 4H1

Introduction

Section 9 of the Environmental Protection Act (EPA) requires that any equipment or process which may discharge to the atmosphere receive approval from the Ontario Ministry of the Environment and Energy (MOEE). This approval with respect to noise and vibration is contained in a document known as a Certificate of Approval (Air). The Certificate of Approval includes air emissions, noise and vibration.

The MOEE has several documents which detail the process including when a C of A is required, how an application is made and the background information needed to support the application. This paper addresses the need for a greater awareness at the municipal level of the requirements of the EPA with respect to Certificates of Approval.

Not all pieces of equipment nor all industrial processes require a C of A to operate. The MOEE has a document titled "Guide to Applying for Approval (Air): Noise & Vibration" dated November 1995. This document is basically a checklist to assist the applicant in determining if their equipment/process requires a C of A and if so what information is required to support the application. Further this Guide points the applicant to several other MOEE documents which need to be taken into consideration when preparing the C of A background information.

A Certificate of Approval is a statutory requirement under the EPA. The EPA is a legislated document. Therefore it is law. Unfortunately this is not common knowledge. Under the current system there is not a specific point where the need for a C of A is triggered. It is left up to the industry or source owner to "know" that a C of A may be required. Not the MOEE nor any other government agency has a process to routinely inform industry that a C of A may be required. In the past this may not have been critical because the development of large areas of residential land did not usually locate adjacent to lands zoned for medium to heavy industry.

Now in the GTA as more land is required for residential purposes, land adjacent to existing industries or land zoned for future industrial development is being developed for residential purposes. This potentially could lead to some interesting scenarios.

Scenario 1

Under the EPA the onus for compliance with the noise and vibration guidelines is with the industry. That is, if complaints arise from an existing residential development with respect to the industry, the industry must prove compliance or mitigate in order to comply with the guidelines. In the case where a residential development is proposed adjacent to existing industries, the

proponent of the residential development is required to assess the potential noise and vibration impact and provide adequate mitigation, at the residential site or preferably at the source. During this process it may become evident that a C of A is required for some of the industry's equipment in addition to what may already be approved.

This scenario though potentially controversial is relatively straightforward insofar as where the obligation and expense for mitigation lies.

Scenario 2

The more difficult situation is when a residential development is proposed adjacent to land which is zoned for future industrial/commercial development. In this case some planning techniques such as separation distance and/or placement of noise insensitive uses along the common boundary can be utilized. However, because it is usually not known what type of industry will be located along the common property line, there is much reluctance on the part of municipalities and developers to do this. Further, most municipalities do not require that industries have a noise and/or vibration study conducted as a condition of site plan approval and as most small to medium sized industries appear to not be aware of the C of A process a potentially volatile situation is set up.

Possible Solutions

Industries should be made aware that the MOEE has the authority to shut down an industry if the terms of the EPA are violated. Based on the above discussions, it has become apparent that a greater effort needs to be made to ensure that industries are aware of the C of A requirements. The most obvious place to let new industries know of these requirements is at the time a building permit application is made. The municipalities need to take a more active role in informing industries that a C of A may be required. This could take the form of a simple statement on the list of items required prior to the issuance of building permits directing the proponent to the MOEE to determine if a C of A is needed, and if so requiring that each industry have a noise and/or vibration report prepared and obtain a C of A prior to issuance of the occupancy permit.

Proposed residential developments have been required to prepare noise and vibration reports for many years. Now it is time to require that all new industries and any industries proposing modifications address the issues of noise and vibration as a condition of approval at the municipal level and obtain a Certificate of Approval from the MOEE.

Reference: "Guide to Applying for Approval (Air): Noise & Vibration", MOEE, Nov. 1995