



## Procedure for Transfer of Approval

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<b>Effective date:</b>	October 25, 2016
<b>Version control:</b>	New procedure (replaces "Guidelines on Transfer of Approvals" and "Internal Policy – Transfer of Environmental Assessment Approval")

### I. PURPOSE

The purpose of this procedure is to provide guidance regarding requests to transfer approvals granted under Part IV and Part V of the *Environment Act* (the Act).

### II. LEGISLATION/POLICY

Approvals under Part IV of the Act (environmental assessment approvals):

As per Section 41B of the Act, written consent from the Minister is required for an approval holder to transfer an environmental assessment approval to another party. A sale of a controlling interest in a business or a transfer of the environmental assessment approval from a parent company to a subsidiary or an affiliate is deemed to be a transfer requiring consent from the Minister, consistent with the intent of Section 41B the Act.

Approvals under Part V of the Act:

As per Section 59 of the Act, written consent from the Minister is required for an approval holder to transfer the approval to another party. A sale of a controlling interest in a business or a transfer of the approval from a parent company to a

subsidiary or an affiliate is deemed to be a transfer requiring consent from the Minister, as per Section 12 of the *Approval and Notification Procedures Regulations*.

### III. INFORMATION FROM THE APPLICANT

If an approval holder (applicant) wishes to transfer the approval to another party, the following information at a minimum should be provided in writing by the applicant:

- A request to transfer the approval
- A statement confirming the proposed new approval holder is subject to the terms and conditions of the approval.
- A statement confirming that the proposed new approval holder will assume all legal and financial responsibilities of the current approval holder under the approval.
- A confirmation that the proposed new approval holder has provided the Province with any financial security required by the Province. Note this is not required for environmental assessment approval transfer requests.
- A confirmation of whether the business transfer has taken place (e.g. provision of an agreement to purchase document).
- Consent (i.e. signatures) of the current and the proposed new approval holders to transfer the approval.  
Note: It is important to ensure the representative signing off on the responsibilities is a person who has the authority to sign on behalf of the corporation or approval holder. They need the authority to legally bind the corporation to the terms and conditions.
- If the current approval holder has posted financial security, proof that any claims against the current approval holder have been made.
- A print out from the Registry of Joint Stocks with the name of the new approval holder.
- The appropriate fee, if the transfer is for any approval under the *Environmental Assessment Regulations* or *Motive Fuel and Fuel Oil Approval Regulations*.
- The existing approval attached as an appendix.

For environmental assessment approvals, the applicant may be required to submit a project description with the transfer application, particularly where project modifications are proposed. The project description will assist NSE to determine whether the proposed project differs significantly from the original project and will require a new environmental assessment as per the *Environment Assessment Regulations*. If a new environmental assessment is required for the modified project, the transfer will not be considered, as the modifications will need to be assessed during the environmental assessment process. A new environmental assessment

approval may be granted to the new owner/applicant if the modified project is approved.

#### **IV. CONSENT FROM THE MINISTER**

Within 60 days of receipt of a formal, complete transfer application or request from the applicant, the Minister shall notify the applicant in writing regarding the request decision, in accordance with subsections 41B(3) or 59(2) of the Act. If additional time is required for decision-making beyond the 60 days, the Minister shall notify the applicant within 10 days of receipt of the request.

If the authority for Sections 59 of the Act has been delegated, whoever has been delegated the authority will provide the written consent.

The following should be considered:

- Is the approval old or dated? If so, additional mitigation and management measures may be imposed along with existing approval terms and conditions.
- Is the current approval holder in full compliance with the existing approval? Refer to DOP on Reviewing an Application for Approval, specifically section H of Appendix D on past performance issues. Information should also be checked through AMANDA for past enforcement issues. Are all fees paid? Are all fine amounts paid? Are there Ministerial Orders or charges pending? If so, staff should consult with their Regional Compliance Inspection Coordinator to determine the best path forward for on-going enforcement issues with pending transfer in place.
- If the current approval holder has posted financial security, ensure that any claims against the current approval holder are made before the security is released.

The Act and regulations do not specify decision options for the Minister. The decision options that are typically recommended to the Minister or whomever has been delegated the authority are:

- Consent to the transfer request, without conditions;
- Consent to the transfer request, with conditions (e.g. additional mitigation measures for old projects); or
- Deny the transfer request with reasons.

The consent letter from the Minister or whomever has been delegated the authority should contain at a minimum the following:

- Indication that consent is granted
- The name and number of the approval(s) to be transferred

- Any conditions for the transfer
- If the actual business transfer has not taken place prior to approval, a statement that the approval transfer is subject to the transfer of the business

See Appendix A for a template of the consent letter.

If the request for transfer is denied, it is recommended that a letter be provided, with reasons for the denial. Information on appeals under section 137 of the Act should be provided if it is a Part V approval.

## **V. PROCEDURES**

(a) Send original of consent letter and transfer request to Central Registry. Retain copy in office where issued.

(b) Send a copy of the consent letter to both the current approval holder and new approval holder.

(c) Notify Central Registry and Environmental Registry of changes.

## **VI. APPENDICES**

Appendix A contains a template for the consent letter

**Appendix A**  
**CONSENT LETTER TEMPLATE**

I, \_\_\_\_\_, Minister of Environment *[or whoever has been delegated the authority]*, consent to the transfer of approval # \_\_\_\_\_, which was originally issued to \_\_\_\_\_, to \_\_\_\_\_, subject to the following conditions *[if required]*:

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*[If the actual business transfer has not taken place prior to approval, include the following statement:]* The transfer of the approval is subject to the completion of the transfer of the business.

Sincerely,