



Canadian Solar Industries Association
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Introduction

The Canadian Solar Industries Association (“CanSIA”) is a national trade association representing more than 400 solar energy companies, the majority of which are located in Ontario. Our mission is to develop a strong, efficient, ethical and professional Canadian solar industry that is able to provide innovative solar energy solutions and play a major role as the world transitions to a sustainable future.

On February 23rd 2009, the Ontario Government introduced Bill 150 – The Green Energy Act. Its vision is to make Ontario a global leader in the development of clean, green energy; creating jobs, economic prosperity and energy security.

As part of the Green Energy Act, the Ontario Ministry of the Environment established the Renewable Energy Approval (REA), which stipulates the new provincial process, including definitions, standards and requirements, for renewable energy projects. The Ontario Government passed the new Renewable Energy Approval Regulation (O. Reg. 359/09) of the Environmental Protection Act into law on September 24, 2009.

CanSIA has reviewed the REA with its members and has identified several items listed in Table 1 that will have a significant impact on solar developers and their projects. The remainder of this submission discusses the identified items in more detail and discusses the implications and recommendations. CanSIA appreciates the consideration that the MOE has given to a number of its recommendations regarding the REA. In particular, we would like to thank the Ministry for considering industry feedback and removing the REA requirement for rooftop systems. We look forward to working cooperatively with the MOE to ensure that the REA process is streamlined, efficient and effective.

Table 1 – Impact of Proposed REA Regulation on solar PV projects

Item	MOE’s Proposed REA Requirements	Impact
A	Confirmation of Exemption	High
B	Transition Projects	High
C	Consultation – Forms and Formats	Medium
D	Other Permits	Medium
E	Timing of Responses	Medium
F	Timing of Appeals	Medium

A	Confirmation of Exemption	High
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Many solar PV Renewable Energy Standard Offer Program (“RESOP”) contracted projects will fall under the exemptions granted by Section 47.3, Part III, Article 9.(1)-5.

On a day before the day Part V.0.1 of the Act comes into force,

i. a power purchase agreement was entered into with the Ontario Power Authority in respect of the supply of renewable energy from the renewable energy generation facility,

ii. the use of the land at the project location was not prohibited by a zoning by-law or order under Part V of the Planning Act, and

iii. the facility was not an undertaking that was designated to be subject to the Environmental Assessment Act pursuant to a regulation made under that Act.

This exemption is necessary and welcomed by the solar industry however proponents require further clarification regarding this exemption process. Written confirmation of a project’s exemption from the REA process by the MOE will be necessary in order to secure financing. An expedited manner of obtaining confirmation is required to ensure that hundreds of megawatts of contracts issued under the OPA’s RESOP program are installed.

Confirmation of Exemption Recommendation:

Provide solar PV projects that are exempt under Article 9.(1) with an expedited process that provides MOE confirmation of their exemption.

B	Transition Projects	Medium
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The EPA amendments move all projects that are not exempt under Article 9.(1) into the REA process. Many projects have already completed the consultation and planning studies that were previously required of solar PV projects at different stages of approvals and these may be resubmitted under the REA. However, developers are uncertain as to what recognition will be given to work already completed. There are difficulties in migrating from the old process. For example, in the many cases where projects have completed comprehensive consultation with the public and aboriginal communities, notification prior to consultation may not have been carried out in the exact manner specified by Reg. 359/09.

Transition Projects Recommendation:

Developers should be exempted from certain requirements as they resubmit their projects under the REA process. In addition, the MOE should provide solar PV projects that are not exempt under Article 9.(1) with an expedited process that provides MOE recognition of prior work carried out by developers, and confirmation of outstanding requirements.

C	Consultation – Forms and Formats	Medium
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Several portions of O. Reg. 359/09 refer to the preparation of applications, reports, documentation and notices “in a form or format approved by the Director”. CanSIA would like clarification as to when and where these approved forms and formats will be specified. In addition, there is also direction within O. Reg. 359/09 for applicants to obtain from the Director a list of aboriginal communities with whom the applicant shall consult. CanSIA would like to know if these lists are currently available and requests clarification as to how a proponent goes about obtaining these lists.

Consultation – Forms and Format Recommendation:

To ensure consistency with the MOE’s requirements and reduce delay of applications, CanSIA requests further clarification regarding forms, formats and lists to be provided by the Director.

D	Other Permits	Medium
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O. Reg. 359/09 now covers site planning, but does not include building permit requirements for projects. However, CanSIA would like clarification as to the whether other permits such as entranceway permits, bed-level permits and right of way permits, that are included in site plans, and were previously provided by municipal officials will now be covered by the REA.

Other Permits Recommendation:

CanSIA requests further clarification regarding which “other permits” are now covered by the REA process.

E	Timing of Responses	Medium
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The REA has specific requirements regarding consultation with municipal and aboriginal communities. However, CanSIA is unable to ascertain if there is a requirement for these communities to respond to applicants within a given timeframe.

Timing of Responses Recommendation:

CanSIA recommends that municipal and aboriginal communities be held to a 30-day timeline in responding to applicants regarding their projects. If no response is received within this window, applicants should be permitted to proceed with their REA applications.

F

Timing of Tribunal Hearings

Medium

In relation to third party appeals, the REA specifies that *“the time period be 6 months from the day that the notice is served upon the Tribunal.”*

CanSIA agrees that a right to third party appeal and sufficient time to render a decision is an important component of an approval process. However, in relation to low-impact solar PV projects, we are concerned with the 30 day window for appeal of an REA decision posted on the Environmental Registry and we are also concerned with the time lag between the request for a hearing and a final decision by the Tribunal. Due to solar’s benign nature these projects are low impact with limited grounds for appeal.

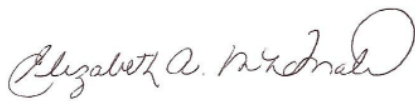
Timing of Tribunal Hearings Recommendation:

CanSIA proposes that the window for launching an appeal of an REA decision related to a solar PV project be reduced to 15 days. CanSIA also proposes that the time period for the issuance of a decision by the Tribunal be reduced to 3 months for all solar PV projects.

Closing

CanSIA appreciates this opportunity to provide input regarding the Renewable Energy Approval Regulation and looks forward to working cooperatively with the MOE to ensure this process is streamlined and effectively structured. Furthermore, CanSIA requests the opportunity to meet with the Ministry of Environment in order to discuss this submission in further detail.

Yours Truly,



Elizabeth A. McDonald
President