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via email: nrcan.designatedofficer-responsablesdesignes.nrcan@canada.ca

Re: Response to Discussion Paper: Designated Officer Regulations (the "Discussion Paper")

Imperial Oil Limited (Imperial) appreciates the opportunity to provide our views in response to the Government of Canada's October 2018 Discussion Paper related to the *Canadian Energy Regulator Act* (CER Act) proposed through Bill C-69. We have been engaged in the country's dialogue on changes to this federal environmental legislation since they began in 2016. These are important discussions for all Canadians. We intend to remain fully engaged in this review, and offer our ongoing assistance to government as it now contemplates the creation of regulations under the CER Act. Please find below our responses to the Discussion Paper questions:

In response to the five questions posed, we offer the following edits to the drafted text provided for consideration in the Discussion Paper. Added text is underscored.

Criteria for identifying decisions that are "technical or administrative in nature":

- The decision is unlikely to require weighing competing interests;
- The decision involves technical details for a project that has already been approved;
- There are likely to be few stakeholders directly affected by the decision;
- The decision requires in-depth technical knowledge on a specific topic or topics;
- There are no significant findings of law (e.g. results of court cases) or constitutional considerations;
- There is a "test" or standard to be applied with no or limited ability to exercise discretion (e.g. assessment against quantitative threshold or legal requirement);
- The decision is a requested/required amendment or correction to an existing approval or order;
- There are current approvals or orders that are essentially identical to the requested approval or order, i.e., for "routine" approval/order types; and
- The decision does not have industry-wide impacts.

Circumstances when decisions that are “technical or administrative in nature” should be referred to the Commission rather than designated officers:

- A decision is required as part of a larger application that is being considered by the Commission;
- There is significant interest shown in the application by Indigenous groups, non-governmental organizations, government officials, and the public;
- The designated officer requests that the matter be considered by the Commission;
- The decision requires a balancing of various interests;
- The decision requires weighting of competing interests;
- There are likely to be many stakeholders directly affected by the decision;
- There are no “tests” or standards that can be applied without discretion being exercised;
- The decision would set precedent or have industry-wide impacts; and
- Significant policy or legal issues arise or there are significant findings of law applied.

Additional Considerations

In addition to the suggested edits, we would strongly suggest that designated officers are granted the ability to make timely decisions in emergency situations when any delays from convening the Commission would pose undue risk to people, the environment or infrastructure.

Thank you for your consideration of this written submission. We trust that these suggested edits are self-evident; should that not be the case, we would be very pleased to discuss rationale. Please contact me at (587) 476-3388 or call Helga Shield at (587) 476-3727 if we can be of further assistance. We offer our continued support as you progress this important work.

 For Bob Kerr

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