

November 26, 2019

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Public Works

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Re: ERO 019-0750- Holding polluters accountable by expanding the use of administrative monetary penalties for environmental contraventions

Dear Mr. Martin:

Thank you for providing us the opportunity to comment on ERO 019-0750- Holding polluters accountable by expanding the use of administrative monetary penalties for environmental contraventions. Region of Peel staff support the Ministry's proposal on funds collected from the newly introduced or expanded monetary penalties being designed to support local communities with their environmental improvement activities and the implementation of the Made-In-Ontario Environment Plan, and have a few comments on this legislative proposal.

Expanding Use of Administrative Penalties for Environmental Violations

Region of Peel staff generally support the intent of the legislative amendment that would expand the use of administrative monetary penalties (AMPs) for environmental violations to various legislative Acts. This change will help the Ministry of Environment, Conservation and Parks (the Ministry) to close the gap in the enforcement program for events of non-compliance with environmental legislation. Administrative monetary penalties not only increase compliance, they also reduce collection and court administration costs and are more efficient than other types of penalties.

When moving forward with implementation of this system, it is important that the Ministry issue AMPs for environmental violations in a consistent manner and that the established methodology be reliable and shall remove any opportunity for interpretation or discretion. Consistency should be achieved through regular calibration of penalty administration that considers different types of violations and their potential impact on the environment and/or public health. The Region would appreciate further consultation with Ministry on how the administration of the penalties would be introduced and enforced.

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Annual Reporting of Administrative Penalties in the Calendar Year

The regular reporting of AMPs for environmental violations supports transparency. While Regional staff are supportive of this in principle, it is suggested that the Ministry considers exempting the reporting of certain penalties. These would include penalties associated with findings of non-compliance that are administrative in nature and with no impact or no suspected impact on the environment or public health.

Maximum Penalty Scheme

Region of Peel staff ask that the Ministry consider modifying its proposal for maximum AMPs for environmental violations to replace the existing framework. The penalties set out in the current legislation, with provision for cumulative daily fine structure, have proven to be an effective compliance instrument for events where there is a long-term environmental impact (e.g. spill into waterways). Replacing these daily fines with administrative fines, which have a maximum cap, may not successfully deter or cease an enduring violation. It is therefore, recommended that the Ministry retains these daily fines in the various Acts that are being amended (Environmental Protection Act (EPA), Nutrient Management Act, 2002, Ontario Water Resources Act, Pesticides Act, Safe Drinking Water Act, 2002

Clarification on devolution of enforcement and administrative penalties

Currently enforcement and penalties under the EPA Part X Spills are the responsibility of municipalities. Region of Peel staff would like clarification on whether enforcement and penalties associated with violation/non-compliance with the mentioned Acts will remain with the province or if provision to devolve enforcement responsibilities to the municipal level of government is planned (like EPA Part X Spills). This would have a significant impact on local by-laws and enforcement programs as well as having human resource and financial implications.

Clarification on Current Abatement process

We also request clarification on whether changes are proposed to the current abatement process. This would be limited to where the response to a finding of non-compliance or a violation results in a Ministry order for specific action to restore or reduce the risk of adverse effects to public health or the environment, and to assess the control measures in place to prevent occurrence of events. It would be expected that the Ministry will assess the event and select the most appropriate

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enforcement method to cause action to mitigate the impacts of the violation and re-establish regulatory compliance before monetary penalties are applied.

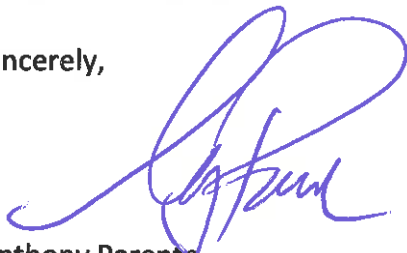
Funding Program

The Region supports the use of the administrative monetary penalties collected under the various acts to support the creation of a fund that would be available to support local environmental improvement activities. As the Ministry moves forward with the implementation of this legislative proposal, it is recommended that the Ministry consult with municipalities and other stakeholders regarding the design of the fund including parameters such eligibility and allocation method.

Conclusion

Thank you for the opportunity to comment on the Ministry's legislative amendments regarding the expansion of environmental monetary penalties. If you have any questions, please contact Justyna Burkiewicz, Manager of Water and Wastewater compliance at justyna.burkiewicz@peelregion.ca

Sincerely,



Anthony Parente
General Manager, Water and Wastewater Divisions
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Region of Peel