

Friday, August 6, 2021

Shannon Boland
Divisional Compliance Officer
Divisional Compliance Branch
135 St Clair Avenue West
Floor 8
Toronto, ON M4V 1P5

Dear Ms. Boland,

RE: Modernizing environmental compliance practices of the Ministry of the Environment, Conservation and Parks (ERO 019-2972)

The City of Guelph (City) appreciates the opportunity to comment on the Ministry of Environment, Conservation and Parks' (MECP) consultation regarding modernizing the province's environmental compliance practices, including compliance policy, tools and service standards.

The City has a keen interest in and appreciates the MECP's efforts in responding to higher-risk incidents to facilities that require a ministry permission and have established regulatory requirements (e.g. landfills, organic waste facilities, energy from waste facilities and steel manufacturing). We also support the general objectives of this modernization initiative and appreciate the proposed utilization of a risk scale to manage potential impacts and associated violations.

When it comes to facilities that require a ministry permission, the City supports case-by-case responses from the MECP that consider the facility and the nature of the impacts being reported that may involve a ministry visit to the site. If an incident is found by compliance officers to not be related to a regulated facility, then no further action should be contemplated. The City of Guelph is also generally supportive of these assessments being conducted using the proposed compliance policy and supporting procedures.

A potential shortcoming with the proposal relates to instances in which the ministry directs a complaint to another agency or a local municipality like the City of Guelph. The ERO proposal references that municipalities have authority under the Municipal Act to establish bylaws to address incidents that are determined to be lower-risk or odour-related. However, despite the existence of this authority, in many cases, the municipality may not have a by-law in place to effectively regulate and protect against potentially harmful incidents. Municipalities like the City of Guelph may also lack the financial resources and capacity to develop, implement and enforce these by-laws, creating a potentially significant gap in the province's proposed environmental compliance policy. As well, the draft Referral tool inaccurately lists certain matters for referral to a municipality's by-law and/or building department, including potential incidents that municipalities lack legislative authority to address and for which only the MECP has applicable regulations. A good example of this is

construction dust. We therefore advise the province to maintain responsibility over environmental compliance incidents where the municipality does not have an authorizing by-law or the resources to implement one and where municipalities lack legislative authority to implement or enforce environmental compliance practices.

Recently, there was a case in Guelph related to lead paint construction dust spreading in a residential neighbourhood. Although the City lacks authority in addressing this issue, the MECP district office continuously advised complainants that the dust was a City matter. While we appreciate the MECP's eventual resolution of and ownership over this matter as the lead agency, and the productive meetings held between City staff and the District office, it is our hope that improvements to this ERO proposal will prevent such miscommunications from happening again. The ERO proposal should be improved by adding clear procedures for the MECP to follow when they are advised that a municipality is not able to address the matter that the MECP is trying to refer. This is especially necessary for the incidents where the MECP remains the only agency with applicable regulations.

Further clarity from the province would also be helpful in the following areas:

- Complainant Notification: clear procedures should be developed to notify the complainant of the findings of the assessments and next steps in the process, including whether or not the facility in question is identified as the incident source or if the assessment finds it to be an adjacent facility.
- En route odour: greater clarity would be appreciated on addressing odours originating from listed sources that are in transport or en route to a facility for processing, and how complaints in these instances should be handled on a case by case basis.

We appreciate the opportunity to provide these comments and welcome any further questions from the MECP.

Sincerely,

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