Stormwater Management Proposal for the Environmental Activity and Sector Registry (EASR)

Discussion Paper

August 2023

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Introduction

Provide definition of "multi residential"

The ministry is proposing a new regulation under the *Environmental Protection Act* that will expand Ontario's on-line self-registration program for certain well-understood stormwater management works, including those servicing commercial, institutional, light industrial, and private multi-unit residential developments. The proposed regulation will enable eligible businesses, communities and institutions to self-register stormwater management works in the Environmental Activity and Sector Registry instead of requiring an Environmental Compliance Approval (ECA). The owners and operators of stormwater management works that are eligible for registration must follow rules in the proposed regulation to ensure environmental protections are maintained.

For over ten years, the ministry has been enabling proponents of well understood activities to register these activities on the Environmental Activity and Sector Registry (EASR). EASRs save registrants time and money by allowing them to proceed with their activities immediately after registration without waiting for an ECA. Moving activities to the EASR enables the ministry to focus its review efforts on activities that require an ECA, while still ensuring all permissions have protections in place for the natural environment and human health.

Under the proposed regulation, a Licensed Engineering Practitioner (LEP) must complete a site-specific assessment of the existing or design new stormwater management works. The LEP will prepare technical documents and reports and ensure that the stormwater management works meet the technical requirements in the proposed regulation to ensure the environment will be protected. A LEP means a person who holds a license, limited licence, or temporary licence under the *Professional Engineers Act*.

Once stormwater management works are registered on the EASR, registrants can construct the works, and operations can begin immediately, which saves them time and money. The ministry will audit and inspect stormwater management works that are registered on the EASR to measure and ensure compliance with the proposed regulation.

Ineligible Activities

Ontario is proposing that stormwater management works that service the activities listed below would not be eligible for self-registration at this time due to the variability in contaminants that are discharged and regardless of whether the eligibility criteria can be met. These activities would continue to be reviewed under the Environmental

Compliance Approval process. The ministry will be reviewing all permissions to identify opportunities to develop rules and outcomes appropriate for those sectors and will consult on those separately.
Ineligible sites include:

- vehicle recycling, crushing and shredding activities including automobile recycling facilities, salvage yards and scrap metal recycling facilities,
- waste disposal sites as defined under the *Environmental Protection Act*,
- snow storage and disposal sites or snow melt facilities, i.e., where snow from other properties is stored or disposed of,
- outdoor services for vehicles, equipment and heavy machinery including long term storage, processing (e.g., crushing, shredding, recycling) and maintenance (e.g., repair and cleaning), not including parking lots where the primary purpose is to park vehicles or to store vehicles being offered for sale (auto dealerships, long-term airport parking lot),
- bulk storage of fuel, petroleum and other types of bulk storage plants/stations, fuel distribution terminals and transload facilities/intermodal sites for road, rail, air, or marine shipments,
- golf courses,
- salt storage facilities,
- airports, railway yards, shipyards, and their associated maintenance facilities,
- renewable energy facilities,
- greenhouses,
- outdoor surfaces and roads that have Basic Oxygen Furnace (BOF) slag in the aggregate,
- stormwater management works that receive any discharge of process water, cooling water, wash water, sanitary sewage or stormwater used for any purpose during the activity prior to being disposed,
- activities that fall within the following North American Industry Classification System (NAICS) codes:
    - sites that are engaged in manufacturing that falls within the NAICS code 31 to 33,
    - sites that are engaged in mining, quarrying and oil and gas extraction that falls within the NAICS code 21, and
    - sites that are engaged in generating, transmitting, controlling and distributing electric power and distribute natural gas through mains that falls within the NAICS codes 2211 and 2212;

Activities that are currently ineligible to obtain an environmental compliance approval will also be ineligible to self-register:

- stormwater management works that are identified as a significant drinking water threat, and the relevant source protection plan prohibits the establishment of the works.

1. Discussion Question: The ineligible sites list above provides a list of activities serviced by stormwater management works that would not be eligible for the new stormwater management EASR. Based on this proposal, do you think that the stormwater management works servicing the activities that are listed could be managed by the rules included in this proposal? If yes, please explain.

Stormwater EASR Proposal

Eligibility Criteria

Ontario is proposing the following eligibility criteria to register stormwater management works on the EASR:

1. The stormwater management works must be privately owned, i.e., not owned or to be assumed by a municipality as these works are already captured under the consolidated linear infrastructure approval.
2. The stormwater management works must service only the following types of sites:
    a. institutional, commercial, or light industrial sites, where:
        - any processing, repair or maintenance activities is being conducted indoors; and
        - any outdoor handling or storage of soil, raw material, intermediate, finished or by-products is contained in a manner to ensure there is no contact with stormwater.
    b. multi-unit residential sites, discharging to combined sewers or the natural environment.

What about storm sewers?

Note that many of the criteria listed above are in place to separate out the activities that are eligible for registration on the EASR compared with activities that are exempt.

2. Discussion Questions:

a) The eligibility criteria are designed to capture stormwater management works servicing commercial, institutional and light industrial sites where stormwater has no contact with stored products or materials that may introduce additional contaminants. Would these criteria make your stormwater works ineligible? If yes, what are the limiting criteria? For example, you need to store materials outside during specific months or seasons of the year.

b) We are contemplating additional exemptions for multi-unit residential developments that discharge to the natural environment. How should we define the limits of an exemption for multi-unit residential developments? For example, land size or type of building(s).

Could define by number of parking spaces, quantity of flows discharged.

Eligible Activity Examples

The following list includes examples of potentially eligible sites serviced by stormwater management works that are not exempt from approval requirements under Ontario Regulation 525/98 or the *Ontario Water Resources Act*, that may be able to meet the eligibility criteria. This is not an exhaustive list, and each site must be assessed by a LEP to confirm it meets the eligibility criteria.

Commercial examples:

- Amusement parks
- Commercial/Business parks
- Convention/Conference centres
- Distribution facilities
- Equipment rentals
- Gas stations
- Hotels, motels, lodges and resorts
- Commercial warehouses
- Malls, plazas and shopping centres
- Museums and art galleries
- Nursery stores and garden centers
- Offices
- Parking lots (new and expansions)
- Self storage mini warehouses
- Sports complexes

Institutional examples:

- Childcare centres

- Hospitals and other health care facilities
- Nursing/long-term care homes
- Places of worship
- Post-secondary education – university, community college, etc.
- Retirement homes
- Schools – elementary or secondary, including private
- Other educational institutions – schools for the blind, deaf, special education, training, etc.

Light industrial examples:

- Autobody shops and paint sites
- Automobile dealerships (Cars, RVs, motor homes etc. – used and new)
- Cardlock facilities (unmanned fuel stations for business vehicles i.e., not for public use)
- Industrial warehouses

Multi-unit residential examples:

- Residential buildings
- Condominium townhouses

Does this encompass all types of residential buildings? Break out single family homes, townhouses, low rise, mid rise, and high rise developments.

Owner Requirements

Pre-registration requirements

Ontario is proposing that prior to registration on the EASR, the owner of the stormwater management works must:

1. Retain a LEP to:
    a. conduct an evaluation of the site,
    b. design the stormwater management works to achieve the effluent limits,
    c. identify any nearby receptors that may be negatively impacted (e.g., nearby residents, schools, businesses) by the new or modifications to the existing stormwater management works,
    d. conduct an assessment of whether the works are a significant drinking water threat. A stormwater management works may be a significant drinking water threat where the works are located in a vulnerable area which is delineated in a source protection plan. The LEP can rely on the Ministry's publicly available Source Protection Information Atlas and Source Water Protection Threats Tool (2021) and any relevant source protection plan to complete their assessment.

   e. determine whether the works will be located in the Lake Simcoe watershed, and if so, whether the works will serve a new major development as defined in the Lake Simcoe Protection Plan.

2. Ensure that the LEP has prepared, stamped, dated and signed the following documents: (see technical requirements)
   a. Stormwater Management Works Design (SWM) Report
   b. Operation and Maintenance (O&M) Manual
   c. Erosion and Sediment Control (ESC) Plan (if applicable)
   d. Spill Contingency Plan (SCP) (if applicable)

3. Obtain any authorizations or approvals that may be required by other regulators prior to registration. For example, when discharging to land or sewage works owned by others, authorization from the owner of the land or sewage works where the discharge is directed is required. When discharging to a municipally owned sewer, additional approvals from the local municipality may be required.

Pre-construction requirements

We propose after registration on the EASR, but prior to constructing the stormwater management works, the owner of the stormwater management works must:

1. Ensure that individuals constructing the stormwater management works have reviewed and are following the recommendations from the LEP in the:
   a. SWM Report
   b. ESC Plan (if applicable)
   c. SCP (if applicable)

2. Deliver written notices to nearby receptor(s) which have been identified by the LEP that may be negatively impacted (e.g., nearby residents, schools, businesses) by the new or modifications to the existing stormwater management works. If the works are identified as a significant drinking water threat, notify the relevant Source Protection Authority.
   At a minimum, the notice should include:
   a. a description of the proposed stormwater management works,
   b. the approximate time and duration of associated construction activities,
   c. the EASR registration number, and
   d. the owner's contact information to report any complaints related to the stormwater management works

Operational requirements

Ontario is proposing that during the operational life of the stormwater management works, the owner of the works is required to:

1. Ensure that the stormwater management works are operated by following the O & M manual and that the O & M manual is available to operators of the works for the operational life of the stormwater management works. The owner is responsible for ensuring that the works are operating as designed which may require periodic reviews and updates to the O & M manual by a LEP.

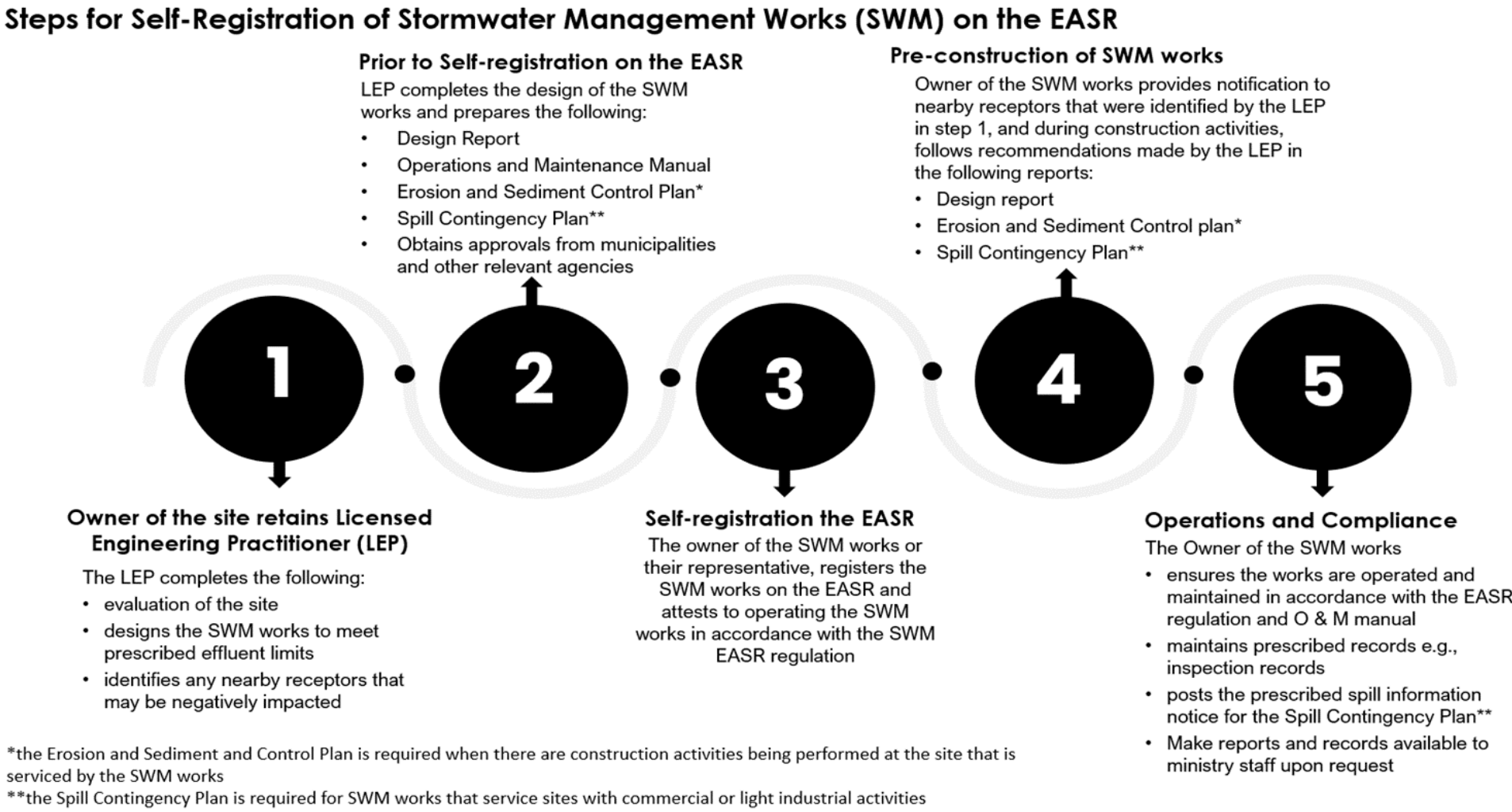
2. Manage, maintain and make available to the ministry upon request the following information:
    a. a list of receptors that were sent the written notification letter about the works,
    b. a copy of the written notice (notification letter), and
    c. details of complaints received, and actions taken
    d. the Design Report, Operations and Maintenance Manual, Erosion and Sediment Control Plan (as applicable) and Spill Contingency Plan (as applicable)

3. Ensure that records created are retained on site for a minimum of five years from the day they were required to be created, or, if they have been updated, then five years from the last day they were updated.

4. Post a spill information notice that is to be followed in the event a spill occurs that could impact the stormwater management works. The notice must be in an easy-to-read format that is easily accessible to all staff at the site and include the following:

    a. procedures for notification of a spill to the parties identified in section 92, Part X of the *Environmental Protection Act*,
    b. steps to be taken to report, contain, clean up and dispose of contaminants following a spill,
    c. notification instructions and contact information for:
        - a local spill remediation company,
        - reporting the spill to the Spills Action Centre at 1 800-268-6060,
        - first responders, municipality and local Ministry District Office

The following graphic identifies the steps to be taken when the owner of an eligible stormwater management works self-registers on the EASR.



caption: There are five (5) steps for self-registration of stormwater management (SWM) works on the EASR. Step 1, the owner retains a licensed engineering practitioner (LEP). Step 2, the LEP prepares Design Report, Operations and Maintenance Manual, Erosion and Sediment Control Plan (to be followed when there are construction activities) and a Spill Contingency Plan (for commercial and light industrial sites only). Step 3, self-registration on the EASR. Step 4, owner of the SWM works follows the recommendations made by the LEP. Step 5, the owner operates and maintains the SWM works in accordance with the manual and maintains prescribed records.

Technical Requirements Summary

Effluent limits

The stormwater management works must be designed, constructed, and operated to achieve the following effluent limits:

Clarify that these effluent limits are only applicable when the ultimate receiver is a waterbody (and not groundwater)

1. The total suspended solids (TSS) concentration must not exceed 25 mg/L.
2. The oil and grease concentration must not exceed 15 mg/L and, oil or petrochemicals should not be present in concentrations that:
    a. are deleterious to resident aquatic organisms,
    b. can be detected as a visible film, sheen, or discolouration on the surface,
    c. can be detected by odour,
    d. can cause tainting of edible aquatic organisms, and
    e. can form deposits on shorelines and bottom sediments that are detectable by sight or odour.

List specific problematic petrochemicals.

3. pH must be maintained within the range of 6.5 – 8.5, to protect aquatic life, and to ensure that the water is not too alkaline or acidic which may cause irritation to anyone using the receiving waterbody for recreational purposes.

PH level is difficult to control and influence from standard storm water management facilities.

The LEP may determine that stricter effluent limits or additional limits may be required to protect water quality based on:

- site specific concerns,
- a direct discharge to a waterbody, or
- input from the municipality or other entities

In these cases, the more stringent effluent limit must be identified at the time of registration. The EASR registration would not supersede other more stringent requirements.

The LEP can rely on the Ministry's Stormwater Management Planning and Design Manual for the design of all stormwater management works.

3. Discussion Question: To allow for quick in-field measurements, without having to collect, store and transport sample bottles for laboratory analysis, we are considering the following discharge requirements (that are the same as the Water Taking EASR) instead of the proposed TSS effluent limit of 25 mg/L:

"The turbidity of the discharge shall not exceed eight Nephelometric Turbidity Units (8 NTUs) above the background levels of the nearest water body."

Are there any concerns with the measurements and results obtained from turbidity meters (nephelometers)? Can you identify any issues with the in-field use and cost of the turbidity meters (nephelometers) and any associated equipment?

Stormwater Management (SWM) Design Report

The owner is required to retain a LEP to design the works and prepare the SWM design report. In accordance with the *Ontario Water Resources Act,* the stormwater management works must be designed to prevent impairment of water quality caused by the discharge of effluent from the stormwater management works.

Ontario is proposing that the LEP must, at a minimum, include the following information in the SWM design report:

Not normally required by the ministry for other SWM related design reports.

General Information

1. The date of the report
2. A summary of the name and qualifications of the LEP that prepared the report.

3. A description of the project area including:
    a. catchment area of the site or any upstream areas that drain to the site and are captured and treated by the proposed stormwater management works; and
    b. any proposed industrial processes/activities and contaminants associated with the activity and contaminants anticipated to be generated from the stormwater runoff at the site

4. An assessment of whether the works are a significant drinking water threat, including the identification of relevant drinking water sources, applicable source protection area, vulnerable areas and vulnerability scores. The LEP can rely on the ministry's publicly available Source Protection Information Atlas and Source Water Protection Threats Tool (2021) and any relevant source protection plan to complete their assessment.

Design Aspects

Provide more detail on this requirement. This seems vague and may be hard to quantify depending on the environmental/weather history information available for the site.

1. Site assessment including, at a minimum:
    a. precipitation patterns,
    b. site contour and hydrogeology,
    c. existing drainage patterns at the site,

d. run-off outlet location(s) and ultimate receiver(s),
e. review of potential risk for contamination of stormwater due to site activities,
f. review of potential risk of deemed impairment of water quality by the activity discharge, as outlined in the *Ontario Water Resources Act*, and
g. site-specific conditions identified during consultation with the municipality and other agencies.

2. Stormwater management criteria including, but not limited to:
    a. the criteria established for the site, including water quantity, water quality (effluent limits), and water balance.
    b. An explanation of how these criteria were established, including considerations given to:
        - maximum post-development flow or allowable peak flowrate of the stormwater discharging from the site, as required by the municipality for discharge to receiving environment/sewers,
        - attenuation of post-development flows to pre-development flows,
        - more stringent quality criteria than the effluent criteria established by the Ministry for the EASR, if recommended by the municipality or other agencies,
        - more stringent quality criteria than the effluent criteria established by the Ministry for the EASR, where the activity is or would be a significant drinking water threat, and
        - watershed/subwatershed studies, stormwater management policies and guidance, Master Stormwater Management Plan, Master Environmental Servicing Plan, Drainage Plan, Class EA, local site study, etc.
    c. A demonstration of how the established criteria will be met.

3. Design details including, but not limited to:
    a. design calculations,
    b. confirmation that stormwater management works can achieve the prescribed effluent limits,
    c. storage/treatment capacity,
    d. details of the type of stormwater management facility and all components of the proposed treatment train,
    e. manufacturer's specifications for any equipment treating stormwater drainage from the site, including Manufactured Treatment Devices (MTDs),
    f. description and calculation of hydraulic routing of the major storms (i.e., 100-year or regional storms) through the works, including hydrographs, and

g. stormwater run-off analysis (during storm events, minor and major systems, hydrologic parameters for pre-development and post-development conditions including flow quantities table, modeling results, level of imperviousness, runoff volume control target, required level of treatment, rational method, runoff coefficients, pre-development and post-development peak flows and volumes, hydraulic capacity of the receiving watercourse or existing storm sewers to accept the design flows).

4. Design considerations for direct discharge into surface waterbodies, including a description of how Guideline B-5-1 “Deriving Receiving Water Based Point Source Effluent Requirements for Ontario Waters” was consulted. If applicable, the LEP must consider conducting an assimilative capacity study and recommend whether more stringent effluent objectives are required.

5. Design considerations for stormwater management works that are identified as a significant drinking water threat. The LEP must consult the Ministry’s publicly available drinking water source protection risk management measures catalog and other available guidance documents and manuals, to select risk management measures or best management practices, if any, with an explanation in the SWM Design Report about how the measures or practices implemented on site manage the risks posed to sources of drinking water by the stormwater management works. For new stormwater management works that are identified as significant drinking water threats, the design must provide “enhanced water quality protection”, as detailed in the Ministry’s Stormwater Management Planning and Design Manual.

6. Design considerations for works that are in protected areas including but not limited to areas included in the Oak Ridges Moraine Conservation Plan, Niagara Escarpment Plan and Lake Simcoe Protection Plan. For example, certain works may require enhanced level protection.

7. Copy of any approvals or clearance obtained from the relevant municipality or other agencies for discharge to natural environment or sewers within 30 meters of the water body, if applicable.

8. Copy of any manufacturer’s specification sheets, O&M manuals and relevant technical documents for prefabricated devices and other equipment.

Monitoring

1. If the discharge is to the natural environment or within 30 meters of the water body, the LEP must assess the potential impact of the discharge on the natural environment and recommend best management practices, including discharge

criteria (if more stringent than the prescribed criteria) and monitoring requirements, as applicable.

2. The LEP must evaluate site specific conditions and concerns and determine whether a monitoring plan is required to monitor the potential impacts of the activity and discharge, and its potential to cause deemed impairment of water quality. The municipality and MNRF, as applicable, may be consulted when making this determination.
3. If the stormwater management works have been identified as a significant drinking water threat, a monitoring plan is required.
4. If the LEP determines that a monitoring plan is needed, a description of the plan, parameters and frequency of measurements, how potential impacts due to the activity will be measured and the circumstances in which monitoring is needed must be described in the report.

Engineering Drawings

Engineering drawings that are prepared, stamped, dated, and signed off by a LEP, and include, at a minimum:

1. The pre-development and post-development catchment areas, including labels for size and associated runoff coefficient/level or imperviousness,
2. The highlighting of areas and components of the stormwater management works that are covered by the registration.
3. A site plan of the existing and/or proposed stormwater management works, with all dimensions and sizes in metric units, including the following information:
    a. property and municipal boundaries, roads, rail tracks,
    b. storage areas, outdoor stockpiles, and loading/unloading areas,
    c. outlet location(s) including detailed cross-section(s) of any outlet control structure(s),
    d. all effluent streams, ditches and sewer systems, municipal drains, emergency overflows; discharge points to the ultimate receiver of discharge and watercourses,
    e. all vulnerable areas for the protection of drinking water sources and municipal drinking water wells and intakes, if applicable,
    f. catchment areas that drain into any proposed or existing stormwater management works, the 100-year flood line, existing and proposed building facilities,

g. locations of existing or proposed monitoring locations and sampling devices, if applicable,
h. design details of each treatment train components (if applicable) of the stormwater management system, and
i. proposed erosion and sedimentation control site plan, if applicable.

Operation and Maintenance (O&M) Manual

As previously discussed, the owner would be required to retain a LEP to prepare an O&M Manual that contains recommended operating and maintenance procedures that are to be followed by the owner/operator of the stormwater management works.

The O & M manual must include at a minimum, the following information and practices:

1. Procedures for the routine operation and maintenance of the stormwater management works, including all components of the treatment train in accordance with the equipment manufacturer's recommendation, as applicable.

2. Procedures to operate and maintain the stormwater management works such that the effluent from the stormwater management works is essentially free of floating and settleable solids and does not contain oil or any other substance in amounts sufficient to create a visible film, sheen, foam, or discoloration on the receiving waters.

3. Procedures to inspect the condition of the stormwater management works, and the inlet and outlet from the stormwater management works, at least once a year and after significant storm events (or more frequently if recommended by the manufacturer of the treatment devices) and after significant storm events (a significant storm event is defined as a minimum of 25 mm of rain in any 24 hours period).

4. Inspection programs, including frequency of inspection, for the stormwater management works and the methods or tests employed to detect when maintenance is necessary, including:
    a. presence of algae and/or invasive species impairing the works (e.g., phragmites, goldfish), and
    b. measurements of sediment depth, manual water levels (staff gauge), minimum liquid retention volumes, and/or visual observations, as appropriate to the stormwater management works.

5. Maintenance and repair programs, including, but not limited to:
    a. the frequency of maintenance and repair for the stormwater management works,
    b. maintenance and cleaning procedures to ensure that sediment, debris, and excessive vegetation are removed from the stormwater management works

to prevent the excessive build-up of sediment, oil/grit, debris and/or decaying vegetation, to avoid reduction of the capacity and/or permeability of the stormwater management works, as applicable,

c. procedures for cleanout of the inlet and outlet from stormwater management works to ensure that these are not obstructed,
d. stormwater pond sediment cleanout, dewatering, and management, if applicable, and
e. excavation, modification, replacement of low impact development soil/media/aggregate/geotextile, such as bioretention cells, green roof, permeable pavement, if applicable.

6. Procedures for routine physical inspection and calibration of monitoring equipment or components in accordance with the Monitoring Program, if applicable.
7. Procedures for receiving, responding, and recording public complaints, including recording any follow-up actions taken.
8. Procedures for recording the results of the inspections and any cleaning and maintenance operations undertaken, including record retention.
9. Additional operational and maintenance requirements for stormwater management works identified as a significant drinking water threat that are necessary to protect and minimize impacts to sources of drinking water, such as those included in the Ministry's drinking water source protection risk management measures catalog and other available guidance documents and manuals.
10. Emergency response (including shutdown protocol) and spill clean-up procedures, spill reporting and contingency plans, and procedures for dealing with equipment breakdowns, potential spills, and any other abnormal situations, including notification to the Spills Action Center, the Medical Officer of Health, municipality, and the District Manager, as applicable.

4. Discussion Question – The ministry is completing a regulatory impact assessment to determine the cost of these proposed changes. If you have hire LEP in the past, or if you are a LEP, please provide comments on the cost of preparing an Operations and Maintenance design report.

The scope of the required operations and maintenance manual outlined above seems to be in excess of what is required for other ministry applications (ECA applications etc.)

Erosion and Sediment Control (ESC) Plan

The owner of the stormwater management works must prepare an Erosion and Sediment Control (ESC) plan prior to registering stormwater management work

EASR. For drainage areas greater than 5 hectares (ha), the owner must retain a LEP to prepare the ESC plan. For drainage areas less than 5 ha, the LEP must develop the ESC plan if:

- the stormwater management works have been identified as a significant drinking water threat, or
- if specified by the municipality or owner of the property where stormwater is discharged.

The ESC plan must be developed and implemented to manage erosion during construction activities and to prevent run-off of sediment carried in stormwater from construction sites. Existing stormwater management works that have an ECA and are eligible to register on the EASR are not required to prepare a new ESC Plan if the construction phase at the site has been completed.

The following guidance documents may be relied upon to prepare the ESC plan:

- Erosion and Sediment Control Guideline for Urban Construction 2019 by TRCA,
- CSA W202:18 Erosion and Sediment Control Inspection and Monitoring Standard, and
- CSA W208:20 Erosion and Sediment Control Installation and Maintenance to determine requirements for the installation and maintenance of the ESC measures.

The ESC plan must, at a minimum:

1. Include requirements for the Owner to:
    a. install and maintain temporary sediment and erosion control measures during the construction phase at the site and at a minimum, conduct inspections once every two weeks and immediately following each significant storm event (a significant storm event is defined as a minimum of 25 mm of rain in any 24 hours period), and
    b. maintain records of inspections and maintenance of the works onsite over the course of construction and retain the records onsite for a minimum of one year after construction activities have concluded. The records would be required to be made available for inspection by the Ministry, upon request. The records would be required to include, at a minimum:
        - the name of the inspector,
        - the inspection date,
        - any issue(s) encountered, and
        - the remedial measures undertaken, if any, to maintain the temporary sediment and erosion control measures.

2. Describe how inspections of ESC measures will be carried out during the construction phase.
3. Specify the frequency and duration of inspections and maintenance of the temporary sediment and erosion control measures when they can be discontinued and when all disturbed areas will be reinstated properly.

5. Discussion Question – The ministry is completing a regulatory impact assessment to determine the cost of these proposed changes. If you have hired a LEP in the past, or if you are a LEP, please provide comments on the cost of preparing an Erosion and Sediment Control plan.

Spill Contingency Plan

The owner must retain a LEP to prepare a spill contingency plan prior to registering certain stormwater management works on the EASR. This applies to commercial and light industrial activities or when the stormwater management works are identified as a significant drinking water threat.

The Spill Contingency Plan (SCP) must be readily accessible to the operator of the works and all staff at the site for reference for the operational life of the stormwater management works. Upon request, the Owner must make the plan available to Ministry staff.

The SCP would be amended from time to time as required by changes in the operation of the stormwater management works. In the event of a spill, information would be recorded in accordance with Section 12 of *O. Reg. 675/98: Classification and exemption of spills and reporting of discharges*, under the *Environmental Protection Act*.

The SCP must, at a minimum, include the following information:

1. The date on which the SCP was prepared (and the dates of any subsequent amendments), and the name, job title and location (address) of the Owner, person in charge, management, or person(s) in control of the facility.
2. The procedures by which the SCP is activated, and the name, job title and 24-hour telephone number of the person(s) responsible for activating the SCP.
3. A site plan drawn to scale showing the facility, nearby buildings, streets, catch-basins and manholes, drainage patterns (including direction(s) of flow in storm sewers), any receiving body(ies) of water that could potentially be significantly

impacted by a spill and any features which need to be considered in terms of potential impacts on access and response (including physical obstructions and location of response and clean-up equipment), and any nearby municipal drinking water system wells or intakes.

4. Safety Data Sheets (SDS) for each hazardous material which may be transported or stored within the area serviced by the stormwater management works.
5. An inventory of response and clean-up equipment available to implement the SCP, location and, date of maintenance/replacement if warranted.
6. A description of spill response training, which must be provided, at least once a year, to all employees assigned to work in the area serviced by the stormwater management works, the date(s) on which the training was provided and by whom.
7. Records of any spill including details listed in Section 12 of *O. Reg. 675/98* would be kept for two years after the spill and during that period would make the record available for inspection upon the request of a provincial officer.

6. Discussion Question – The ministry is completing a regulatory impact assessment to determine the cost of these proposed changes. If you have hired a LEP in the past, or if you are a LEP, please provide comments on the cost of preparing a Spill Contingency Plan.

Records

At a minimum, the following documents or records must be created and retained by the owner for a minimum of five years from the day they were created, or, if they have been updated, then five years from the last day they were updated:

1. Operations and Maintenance Records: a record of the results of the inspections and any cleaning and maintenance operations undertaken, which includes the following information:
    a. facility name, EASR site #, site address/location of the stormwater management works,
    b. the date and results of each inspection, maintenance, and cleaning, including an estimate of the quantity of any materials removed and method of clean-out of the stormwater management works,
    c. name of the person who conducted the inspection and maintenance activity(ies),

d. the date of each spill within the catchment area, including follow-up actions and remedial measures undertaken, and
e. as applicable to the type of works, observations resulting from the inspection including, at a minimum:
    - hydraulic operation of the works (e.g., length of occurrence since the last rainfall event, evidence or occurrence of overflows),
    - condition of vegetation in and around the works,
    - occurrence of obstructions at the inlet and outlet of the works,
    - evidence of spills and/or oil/grease contamination,
    - presence of trash build-up, and
    - measurements of other parameters as required in the monitoring plan, if required.

2. Complaints Records: a record of the complaints received from the public relating to the stormwater management works or on-site activities, which includes the following information:
    a. the date and time when the complaint was received,
    b. a copy of the complaint if it is in writing,
    c. a summary of the complaint, if it is not in writing,
    d. a summary of any measures taken to address the complaint, including notification to the Ministry's District Manager for any complaints that are received relating to the natural environment, within two business days after the complaint is received, and
    e. a record of all communication with the Ministry regarding the complaint.

3. Monitoring Records: a record of the results of the monitoring program established by the LEP and corrective actions taken, if applicable.

4. Drinking Water Source Protection Records: As part of a proposed amendment to a source protection plan, the owner of the stormwater management works may receive a notice that the operation of the works on their land would be a significant drinking water threat and would be governed by the policies in the source protection plan. Where this occurs, the owner must keep a record of such notices. If the owner receives such a notice, the owner must send a notice to the source protection authority describing the stormwater management works, the EASR registration number, and the owner's contact information.

Notice Provisions

A Director may issue a notice to a registrant if the Director has reasonable grounds to believe that there has been a negative impact or there is a likelihood for negative environmental impact(s) from the stormwater management works. For example,

localized flooding, signs of contamination such as dead fish or vegetation around the discharge area, or sediment build-up around the discharge area.
This notice may be for the following:

Monitoring

Notice by the Director requiring the owner of stormwater management works registered on the EASR to retain a LEP to prepare and follow a monitoring plan.

- This provision applies to works where effluent discharge is accessible to collect a sample e.g., pond, storm sewer etc., but not works where there is direct infiltration to the ground (e.g., rain garden, swale, filtration bed).
- The owner, that the Director has given written notice to, shall ensure that the effluent sampling is conducted in accordance with the Director's notice and LEP recommendations and that the results are provided or kept on-site as specified in the notice.

Erosion and Sediment Control Plan

A Director may issue a notice to an owner of a stormwater management works that is registered in the EASR, to retain a LEP to prepare an Erosion and Sediment Control Plan. The ESC plan must be implemented immediately upon completion by the owner or operator of the stormwater management works.

Before the Director gives a person a notice under this section, the Director shall give the person a draft of the notice, with reasons, and an opportunity to make written submissions to the Director during the period that ends 30 days after the draft is given.

Other Requirements

Any changes to the information submitted on the registry must be updated in the registry within 30 days.

Transition Provisions for Existing ECA holders

Ontario is proposing that owners of stormwater management works that have been approved through an ECA but are eligible to self-register on the EASR must do so as follows, whichever occurs first:

- when modifications are made to the works that would require an amendment to the ECA, or
- within five-years of the effective date of this proposed regulation

Ontario is proposing for existing ECA holders, that a LEP be retained to assess the works to determine whether:

- the works have been installed and maintained in accordance with the ECA, and
- the reports meet the requirements of this proposed EASR regulation

For works that have been installed and maintained in accordance with the ECA and the reports meet the requirements of the proposed EASR regulation, the LEP will provide a stamped, signed and dated letter of confirmation that is to be retained by the owner. The owner can self-register the works on the EASR without having to create new reports. For works that require maintenance, upgrades or reports to be generated, the owner must meet the requirements of the proposed EASR regulation and self-register within five-years of the effective date of the regulation.

7. Discussion Question: Is the five (5) year transition timeframe enough time for existing ECA holders to transition to self-registering on the EASR? If not, please explain why?

We Want to Hear from You

You are invited to submit your comments on this proposal online through the Environmental Registry website: https://ero.ontario.ca/. Search by registry number 019-6928.

You can also send your comments by email to: permissions.modernization@ontario.ca

We will review and consider all comments received on the discussion paper prior to making a decision on this proposal.

Comments can be submitted:

- on the Environmental Registry
- via email at permissions.modernization@ontario.ca
- during scheduled engagement sessions with key stakeholders and Indigenous communities

If you wish to join an on-line engagement session about this proposal, please let us know by sending an email to permissions.modernization@ontario.ca.