

October 30, 2023

Permissions Modernization Team
Client Services and Permissions Branch
135 St. Clair Avenue West, Floor 1
Toronto M4V1P5

****SUBMITTED ELECTRONICALLY****

RE: Environmental Registry of Ontario Posting 019-9628: Streamlining Stormwater Management under EASR

Please accept this letter in response to Environmental Register of Ontario (ERO) proposal 019-9628 regarding the proposed new regulation to allow some stormwater management works to be registered on the Environmental Activity and Sector Registry (EASR). Staff have undertaken a review of the proposal and offer the following comments.

Proposal Summary

Stormwater runoff must be managed effectively to minimize any negative impacts on the quality on local watercourses and groundwater. A new regulation under the *Environmental Protection Act* will allow certain owners of stormwater management works to self-register on the EASR rather than obtaining an Environmental Compliance Approval (ECA).

Discussion Question Responses

Comments associated with the discussion questions provided in the Stormwater Management Proposal for the Environmental Activity and Sector Registry (EASR) Discussion Paper, August 2023 are found below:

Discussion Question 1: 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.

1. Based on the ineligible list provided, the City of Barrie Environmental Risk Management and Compliance agrees that these activities should not be managed by the rules included in this proposal, as these activities have a higher risk for contamination and impacted runoff to the storm sewer and natural environment.
 - a. Page 3 of the guidance document lists "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” as ineligible for registration but page 5 lists “gas stations” as eligible for registration. It is unclear as to why a gas station would be eligible, as they would have bulk storage of petroleum products on site. Clarification is required. The City of Barrie recommends that gas stations be considered ineligible for new stormwater management EASR.

Discussion Question 2A: 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.

2. A) The eligibility criteria for SWM works serving commercial, institutional, and light industrial sites appears to be clear. A consideration would be to provide the criteria that would make SWM works ineligible, such as types of chemicals being used on site and the level of risk of these chemicals from entering the SWM works (i.e. commercial sites where hydrocarbons or nutrients such as phosphorus are used), risk of spills that would enter into the SWM works or off site impacts, risk to impacting groundwater would result in these site remain being managed through an ECA. If these locations were to change to be self-managed, they may not understand their environmental obligations for conducting the required monitoring and the importance of ensure compliance with stormwater runoff. These establishments will require clear direction of the expectations under the EASR and the actions taken for enforcement if the site is non-compliance, and if the site identifies non-compliance.

Discussion Question 2B: 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).

2. B) Additional exemptions for multi-residential developments that discharge to the natural environment could be defined by the quantity of runoff generated from the site, number of units proposed or if pretreatment of stormwater has been proposed (i.e OGS or Underground Stormwater Management System). At a minimum the EASR requirements should match the existing requirements.

Discussion Question 3: 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.”

3. The concerns the City of Barrie Environmental Risk Management and Compliance has with the measurements and results obtained from turbidity meters (nephelometers) is associated with the meters calibration and associated records. If the meters are improperly stored or calibrated, inaccurate readings can result. If the meter is unable to provide an accurate reading, the measurement or requirement expectations should be defined. Definitions should be provided of what the Ministries expectations are for use to ensure accurate readings and how to determine if in-field measurements are acceptable. The Ministry should provide direction or expectation if the in-field measurements exceed the 8 NTU's (example, if 8 NTUs are recorded, a sample is collected and submitted to an accredited laboratory and an investigation is preformed to determine the exceedance, is this exceedance a spill?). Contingency measures should be defined. Furthermore, as many Municipal by-laws do not have turbidity concentration, these site will also require TSS concentrations to ensure compliance with the Municipal by-laws.

Discussion Question 4: 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 Operations and Maintenance design report.

4. No comment.

Discussion Question 5: 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.

5. No comment.

Discussion Question 6: 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.

6. No comment.

Discussion Question 7: 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?

7. A five-year transition timeframe for existing ECA holders to transition to self-registering on the EASR may be adequate as the conditions and records required under the ECA are also required when registering on the EASR. Those facilities that are already built and being monitored would already have the required information for the transition. Those facilities that are in the process of being developed or

considered prior to the legislation change may struggle to meet this timeframe. A phased-in approach may be required.

General Comments:

1. City of Barrie Environmental Risk Management and Compliance do not support the EASR registration of significant drinking water threats (SDWT). Policies under the Sourcewater Protection Plan were developed with the understanding that SWM SDWT would be managed by the Ministry. Policies generally permit most proposed SWM works that were potential SDWTs with the understanding/requirement that the Ministry would ensure they did not become SDWTs. A significant reduction in Ministry oversight for stormwater SDWT weakens the Ministry-approved Sourcewater Protection Plan policies. It is recommend that stormwater works within vulnerable areas where the activity would be significant continue to be managed through ECAs. Existing and future works that are prohibited in SPP through ECAs will continue to be prohibited through EASR registration. If these proposed changes are implemented, the SPPs should be updated accordingly prior to implementation date for EASR registration.
2. The City of Barrie Environmental Risk Management and Compliance are concerned with privately owned SWM works that will now be eligible for EASRs in WHPAs/IPZ's. If these works are transferred to municipalities without having gone through a formal review by the province, there may be increased risks to the drinking water sources. We recommend that the Ministry establish a list of minimum measures for EASR registration to match the current requirements for a stormwater ECA. This list should be provided to LEPs to reduce uncertainty and provide consistency. Meeting minimum requirements would also provide additional protection for municipalities and drinking water sources.
3. It is also unclear whether the EASR's supporting documents have to be submitted with the registration, as should be the case. City of Barrie recommend the MECP publish metrics for EASR registrations to be audited each year, and annual reports of audit results. As indicated in Comment #1 above, proposed SWM works that were potential SDWTs have been managed through Ministry ECAs. Will the Ministry be providing a list of potential SDWTs registered through EASR to keep the City of Barrie's threat tally current?
4. City of Barrie Environmental Risk Management and Compliance does not support changes to Ontario Regulation 525/98 for LID exemption from ECAs. LIDs on industrial/commercial/institutional properties could infiltrate sodium and chloride into groundwater, potentially degrading municipal drinking water supplies and exacerbating the Issues Containing Area for sodium and/or chloride in the City of Barrie. LID works should be subject to MECP oversight to ensure the protection of municipal drinking water supplies. LID Works should also adhere to the MECP's Low Impact Development Stormwater Management Guidance Manual, including the

prohibition on enhanced / engineered infiltration of salt-laden stormwater.

5. There are fees associated with the type of EASR activity. Will there be a specific fee for SWM works EASR? If so, has this fee been determined?
6. It should be very clear of the accountability and expectations to those facilities that meet the self-registering on the EASR requirements. Often it is viewed that ECA's are held with a higher regard to meet the conditions and record keeping. Private property owners need to understand that they are responsible for ensuring that the EASR requirements are being maintained. Example, MTD's are installed and then forgotten once in the ground.
7. Enforcement processes for non-compliance should be clearly defined.
8. Stormwater discharge from private property into municipal infrastructure must meet the municipalities storm sewer limits.

Sincerely,

Melissa Green
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Risk Management Inspector