The following sections contain the details of my findings on each ERO item.

1. Hazardous Waste 019-6928 From ECA Process to EASR Process 019-6951
* There is no evidence provided in the Proposal Materials to indicate the net benefit to the people of Ontario in reducing the “unnecessary burden for businesses” indicated on notice/019-6963. Unless allowing the ministry to focus on “more complex waste management operations” is the net benefit to Ontario.
* There is no evidence provided in the Proposal Materials of the burden imposed on business for using the Environmental Compliance Approval (ECA). How many hours, days, weeks of effort or the associated cost is not provided.
* There is no evidence provided in the Proposal Materials of the types of entries that are one time transport of hazardous materials versus the regular, routine or repetitive transport. A high number of one time transports relative to a low number of repetitive transports would suggest a need for different approaches for each class.
* There is no evidence provided in the Proposal Materials to indicate if the EASR approach for hazardous waste, water takings or storm water management has been tried in other jurisdictions and the relative success of this approach. Such evidence would provide some measure of the risk in this approach.
* There is no evidence provided in the Proposal Materials of the relative maturity of the organizations engaged in hazardous waste, water takings or storm water management. Immature organizations require a higher level of oversight than more mature organizations.
* There is no evidence provided in the Proposal Materials to indicate how frequently and to what extent previous applications under the ECA have required revision after initial submission.
* There is no evidence provided in the Proposal Materials to indicate the range of compliance inspections and cumulative findings to indicate trends.
* There is no evidence provided in the Proposal Materials to indicate violations identified under the regulations.
* There is no indication in the Proposal Materials of what percentage entries in the EASR will be subject to review.
* There is no indication in the Proposal Materials of what percentage of entries in the EASR will be subject to compliance audits and the frequency of compliance audits.

A review of the Ontario Waste Management Association – (W2RO – Waste to Resource Ontario) website, does not list ECA process for hazardous wastes as an issue nor are there any submissions on their website nor are any news items listed concerning this. The focus seems to be on non-hazardous waste, recycling and electronic waste.

A search of the Ontario Trucking Association website returns only one hit on hazardous waste which does not mention the ECA process for hazardous waste as being an issue.

Reports from the Ontario Auditor General do provide some insight into hazardous waste organizations based on items being audited which does not cover all aspects of regulations.

* From the 2007 Annual Report – Section 3.08 Hazardous Waste Management:
	+ Excluding households, Ontario produces approximately 400,000 tonnes of hazardous waste annually, according to ministry estimates. About 30,000 tonnes are disposed of on-site in private landfills or in incinerators, or discharged to approved sewage treatment systems, and the remainder (370,000 tonnes) is transferred off-site for storage, processing, treatment, or disposal.
	+ In Ontario, there are approximately 24,000 generators, 800 carriers, and 800 receivers of hazardous waste.
	+ Operating expenditures for the Ministry’s Hazardous Waste Program totalled $14.6 million in the 2006/07 fiscal year. Most of these expenditures relate to ensuring compliance ($8.2 million), reviewing certificates of approval ($1.2 million), and monitoring waste shipments ($2 million).
	+ Certificates of approval from the Ministry are required for hazardous waste carriers and receivers to establish, operate, enlarge, or extend a site or system. The Ministry reviews certificate applications to ensure that the applicant’s operations will not have an adverse effect on the environment. As of January 2007, we found that of the certificate applications yet to be processed, 50% had been in the assessment stage for more than one year and 20% for more than three years. The Ministry also does not routinely follow up on companies whose applications were refused or that are found to be operating without a certificate of approval, and we found a number of companies that were operating without the required certificate of approval.
	+ We identified over 26,000 shipments of hazardous waste in 2005 where the quantity received was less than the quantity shipped by the generator. The difference was greater than 10% in half of these shipments, with no explanation for or follow-up on the discrepancy. The lack of follow-up and other exceptions noted during our audit indicated that there is a risk that a significant amount of hazardous waste may not be disposed of properly
	+ We identified almost 900 registered hazardous waste generators that apparently had not shipped any hazardous waste for the last three consecutive years—as evidenced by the absence of manifests, which are required to accompany all shipments of hazardous waste. The absence of manifests could indicate that hazardous waste, if not being accumulated on-site, was being shipped without the required documentation and disposed of inappropriately
	+ The Ministry may require carriers and receivers of hazardous waste to provide financial assurance to ensure that the government does not need to pay for hazardous waste cleanup. As of April 2007, the Ministry held $150 million in financial assurance from over 700 carriers and receivers of waste. However, the financial assurance collected is not sufficient to fund cleanup costs when significant problems do arise. For example, a chemical company that provided financial assurance totalling $3.4 million for a landfill site experienced problems with leakage, and cleanup costs have been estimated to be $64 million
	+ Hazardous waste generators are required to pay fees to the Ministry to recover the costs related to the management of hazardous waste in the province. In the last two years, the Ministry spent over $30.6 million to administer the Hazardous Waste Program and collected only $12.4 million.
	+ Ministry inspectors had found a significant level of repeat non-compliance over the last three years. For example, 40% of the inspection reports we reviewed at the Ministry’s district offices showed that similar violations had occurred in the past, but the Ministry had given these repeat violators more severe penalties in only 20% of the cases tested. Overall reported non-compliance rates may also be lower than is actually the case because district offices do not conduct surprise inspections, and inspections of trucks hauling hazardous waste simply verify that a manifest document is on board but do not verify the weight or contents of the vehicle
	+ The Ministry utilizes a checklist to ensure that all required information for certificate of-approval applications is received and documentation is complete. We reviewed a sample of applications processed in the 2005/06 fiscal year and noted that applications for waste disposal sites were generally complete, but over half of the carrier applications tested were missing required documents such as detailed operational plans and proof of specialized driver training
	+ We identified manifests where carriers transported hazardous waste and receivers received hazardous waste even though they were not authorized to do so according to their certificates of approval. All of the uncertified carrier movements were included in carrier exception reports, but only half of the uncertified receipts of waste were included in the receiver exception reports.
	+ We identified over 26,000 shipments of hazardous waste in 2005 where the quantity received was less than the quantity shipped by the generator. We traced a sample back to its original manifests and noted only one instance of data entry error. In all other cases no explanation was provided for the discrepancy. The Ministry responded that the management system is designed to accept a 10% variance between quantity shipped and quantity received. However, over half of these waste shipments had variances in excess of 10%, with some as high as 90%.

* From the 2022 Annual Report – Value-for-Money Audit: Management of Hazardous Spills
	+ Despite requirements in the Act, spillers are not always immediately notifying the Environment Ministry of spills. Between 2016 and 2020, 3,746 (or 9%) of the 40,349 reported spills were not reported until the following day, and 505 took more than 10 days to report.
	+ Despite the Environment Ministry’s policy that allows it to revoke the environmental approvals of entities that repeatedly violate environmental laws and regulations, the Environment Ministry has only ever revoked two companies’ environmental approvals. The Environment Ministry identified to our Office 54 companies as repeat offenders, with 41 of the 54 continuing to operate without being brought into compliance as of October 2021. For example, GFL Environmental (GFL), a waste management company, had 78 reported spills between 2016 and 2020. Although Environment Ministry staff noted that the company “regularly contravenes the acts, regulations and legal documents overseen by the ministry,” the Environment Ministry continues to grant GFL new environmental approvals allowing it to expand its operations. For example, the Environment Ministry found that GFL was contaminating surface water in the township of North Stormont by repeatedly spilling leachate (liquid passed through a landfill) at concentrations resulting in 10% fish mortality, violating its environmental approval. The Environment Ministry also found that GFL was falsely reporting test results showing 0% fish mortality. Despite this, the Environment Ministry approved the expansion of the landfill where this was occurring.
	+ Spills and other sources of pollution contribute to adverse effects in Ontario, including: • 800 annual worker injuries with lost work time due to exposure to chemicals and chemical products, and reported to the Workplace Safety and Insurance Board; • 600 annual cancer cases per year from local sources of air pollution estimated by Public Health Ontario; • 6,600 annual premature deaths from local sources of air pollution estimated by Health Canada; and • $5 billion annual economic costs from local sources of air pollution, including health care and lost productivity estimated by Health Canada.
	+ More than approximately 8,000 spills occur in Ontario each year – not including those that may go unreported and therefore unaddressed by the Environment Ministry. Hazardous spills are discharges of substances to air, land or water that pose a threat to human health or the environment when present in high enough quantities and concentrations. The Environment Ministry assessed that 37,573 of 40,349 spills reported between 2016 and 2020 potentially had negative impacts on human health and/or the environment, based on initially reported information (see Appendix 2). Appendix 3 lists the 14 spills in 2020 the Environment Ministry assessed as having an impact on human health. Based on available data, between 2016 and 2020, 36% of spills in Ontario occurred due to human error, and 21% were due to equipment failure. Other spills can be caused by external factors, such as poor weather, that contribute to vehicle accidents and damage to buildings and infrastructure (Figure 3).
	+ In the 2015 CN Rail train derailment in Jack Township near Gogama, which was caused by a broken track, 2.6 million litres of crude oil and oil products were spilled, resulting in a fire that burned for three days and contaminated over 77,851 tonnes of soil, which had to be sent to landfill to mitigate further impacts. Transformers use mineral oil (619 reported spills) or other transformer oils (1,635 reported spills). A 2015 spill involving a flipped truck carrying transformers resulted in 6,000 litres of spilled mineral oil flowing from the highway and through the sewer system into Mimico Creek. This event killed 37 birds despite the rescue efforts of Toronto Wildlife Centre. Transformer oil can also contain cancer-causing PCBs (polychlorinated biphenyls). PCBs do not readily break down and so accumulate in the environment and in the living tissue of humans and animals. See Appendix 5 for maps of 18,677 reported spills to land (46% of all reported spills) and 9,208 reported spills to water (23% of all reported spills) in Ontario between 2016 and 2020. Some of these spills occurred in or near wellhead protection areas (areas around municipal wells that contribute source water to a drinking water system). See Appendix 6 for a list of the municipalities that have experienced the most spills in or near wellhead protection areas in the past five years
	+ For spills between 2016 and 2020, the Ministry did not completely record the identity of the spiller in 11,512 spills (29%). The Environment Ministry also does not regularly collect useful information such as the root causes of spills, which the Environment Ministry identified as a weakness in its processes after analyzing spills data in 2018/19
	+ Ensuring polluters are held accountable for the full costs of responding to spills encourages potential spillers to modify their operations to reduce the risk of spills. The Environment Ministry has adopted the “polluter pays” principle, where the spiller is responsible for the full cost of promptly cleaning up the spill and remediating the environment. However, our Office’s sampling of 30 spills between 2011 and 2020 (0.04% of the 73,000 spills that occurred over this period) and the three spills where the Ministry pursued cost recovery shows that the Environment Ministry’s method of tracking, calculating, and recovering costs from spillers has resulted in at least $5.6 million in unrecovered response and remediation costs being covered by taxpayers rather than the individuals or companies responsible for the spills.
	+ As per Figure 11, we found that for our sample of spills, the Environment Ministry had incurred about $568,000 for staff time (Section 5.1.4), about $3.6 million for laboratory samples (Section 5.1.5), and about $343,000 related to other costs (for example, administration and spill response equipment). In total, we calculated that the Environment Ministry incurred costs of just over $4.5 million related to these 30 spills, none of which it attempted to recover from the spillers, even though costs exceeded the $10,000 threshold in 87% of the spills we tested. Further, the Environment Ministry is not the only ministry that incurs costs to respond to spills (see Appendix 7 for a listing of the others). In the three instances where the Environment Ministry attempted to recover the costs of its spills response, $606,000 was not recovered (Section 5.1.6). Our audit identified that the Ministry of Transportation had incurred costs of over $495,000 related to the same three spill responses between fiscal years 2016/17 and 2020/21 that has not been recovered from polluters. In total, this is $5.6 million of costs to respond to spills that have not been recovered by the Environment Ministry.
	+ Spill prevention (Section 7) and remediation (Section 6) rely on a strong environmental enforcement regime. However, our audit found that the Environment Ministry’s enforcement regime was inadequate to confirm spillers’ compliance with environmental legislation and regulations to prevent spills and reduce their harm to human health and/ or the environment. This is because the Environment Ministry: • lacks reliable data to inform policy and risk-based inspections (Section 8.1); • is reducing its proactive inspection and enforcement activities (Section 8.2); • has limited ability to penalize spillers (Section 8.3), and is reducing the amount it can penalize spillers (Section 8.4); • rarely investigates, prosecutes, convicts and fines spillers who are not subject to penalties and who harm the environment (Section 8.5); and • allows spillers who repeatedly violate environmental laws and regulations to continue operating and avoid fines from prosecution (Section 8.6). Overall, we found the Environment Ministry’s approach to enforcement was lenient and relied mostly on only asking violators of environmental laws and regulations to comply, instead of using its powers to verify and require compliance. Between 2016 and 2020, the Environment Ministry relied on voluntary plans of action, violation notices and warnings for 22,556 (90%) of the incidents of non-compliance it identified, compared to 2,622 (10%) legally binding orders. Further, the Environment Ministry only occasionally uses financial tools to enforce compliance.
	+ The Environment Ministry has not ensured that spills data is recorded accurately and that all key risk information on entities is completely input into its information system. The resulting lack of complete and accurate data limits the Environment Ministry’s ability to identify and inspect high-risk entities and confirm that they are complying with spill prevention requirements. Further, this lack of reliable data limits the Ministry’s ability to inform and adapt spills policy to address evolving risks. The Environment Ministry’s data limitations to effectively conduct inspections on a risk basis and adjust policy undermines the effectiveness of its laws and regulations to address spills. Historical information on environmental noncompliance, including with respect to spills, can be used to develop risk profiles and understand which activities, industries and entities are at highest risk for hazardous spills. The Environment Ministry said it does not have adequate spills data to effectively analyze and target risk-based inspections to reduce the risks from spills on human health and/or the environment. Further, such information could be used to not only inform risk-based inspections but to inform policy development. For example, had the Environment Ministry effectively recorded and analyzed data identifying the highest risk areas for spills, it should have led it to propose legislation enabling it to apply environmental penalties to deter the most common hazardous chemical spills to air (see Section 2.2.1)
	+ Despite 42% of proactive inspections from 2016 to 2020 identifying non-compliance with environmental requirements, the Environment Ministry continues to reduce the number of inspections it performs. When non-compliance with environmental requirements, such as spill prevention requirements, is identified, the Environment Ministry relies on the offender voluntarily coming into compliance, although the Environment Ministry’s 2019/20 compliance data indicates that this approach has been shown to be ineffective 30% of the times it was used in that period.
	+ The Environment Ministry allows companies that repeatedly spill and violate environmental laws and regulations to continue operating, despite Ministry policy that allows it to revoke environmental approvals. …. Despite the Environment Ministry identifying that 41 of 54 repeat violators remained non-compliant as of October 2021, the Environment Ministry’s implementation of the 2018 strategy has led to only two companies losing their environmental approvals. … The Ministry identified to our Office 41 repeat noncompliant violators, including one of the 30 most frequent spillers in Ontario—GFL Environmental Inc.

The excerpts from the audit reports provide some factual information including:

< (2007) 370,000 tonnes per year are transferred off-site for storage, processing, treatment, or disposal.

< (2007) In Ontario, there are approximately 24,000 generators, 800 carriers, and 800 receivers of hazardous waste.

< (2007) Reviewing Certificates of approval costs about $1.2 million or 10% of the Ministry of the Environment’s budget

< (2007) A number of companies operate without the required certificate of approval. The actual number was not specified.

< (2007) over 26,000 shipments of hazardous waste in 2005 where the quantity received was less than the quantity shipped by the generator. The difference was greater than 10% in half of these shipments - with some as high as 90%.

< (2007) 900 registered hazardous waste generators that apparently had not shipped any hazardous waste for the last three consecutive years – there is a possibility that they were shipping without the required documentation and disposed of inappropriately

< (2007) the financial assurance collected is not sufficient to fund cleanup costs when significant problems do arise – with one spill reported to have caused $67 million

< (2007) Ministry inspectors had found a significant level of repeat non-compliance over the last three years. For example, 40% of the inspection reports we reviewed at the Ministry’s district offices showed that similar violations had occurred in the past

< (2007) In 2005/06 - half of the carrier applications tested were missing required documents such as detailed operational plans and proof of specialized driver training

< (2022) Between 2016 and 2020, 3,746 (or 9%) of the 40,349 reported spills were not reported until the following day, and 505 took more than 10 days to report. There is no indication whether the spills happened with the generator, carrier or receiver of the hazardous waste.

< (2022) repeatedly violate environmental laws and regulations - 54 companies identified as repeat offenders, with 41 of the 54 continuing to operate without being brought into compliance as of October 2021. GFL – a very large, profitable company was identified as one of the repeat offenders - “regularly contravenes the acts, regulations and legal documents overseen by the ministry,”

< (2022) Spills can have major impacts including injury, cancer, premature death and economic loss

< (2022) More than approximately 8,000 spills occur in Ontario each year – not including those that may go unreported - 37,573 of 40,349 spills reported between 2016 and 2020 potentially had negative impacts on human health and/or the environment

< (2022) 18,677 reported spills to land (46% of all reported spills) and 9,208 reported spills to water (23% of all reported spills) in Ontario between 2016 and 2020. Some of these spills occurred in or near wellhead protection areas (areas around municipal wells that contribute source water to a drinking water system).

< (2022) For spills between 2016 and 2020, the Ministry did not completely record the identity of the spiller in 11,512 spills (29%)

< (2022) the Environment Ministry relies on the offender voluntarily coming into compliance, although the Environment Ministry’s 2019/20 compliance data indicates that this approach has been shown to be ineffective 30% of the times it was used in that period.

CONCLUSION:

* The information from the Auditor General reports suggests an immature industry in need of closer management that the ECA process provides rather than EASR process. To put it more bluntly, they need to clean up their act. Hazardous Waste is hazardous and can have profound impacts on human health, land and water (including the source of drinking water for people). The number of spills each year is significant. Larger quantities of hazardous waste and/or those with high impact to human health do need to be managed more closely and a one size fits all process may not be appropriate for dealing with them.
* The 10% quantity of the Ministry’s budget dealing with assessments seems too small to justify changing an entire process for minimal savings. There needs to be more benefit to the people of Ontario.
* The proposed minimum insurance coverage of $2 million for hazardous waste seems too small considering the reported costs of some spills. An alternative would be for each individual company to maintain the $2 million in insurance with the industry obtaining insurance to be used in the event of a large spill (pooled risk).
* Insufficient information is provided in the Proposal Materials to assess whether this process change would achieve the stated benefits and there appears to be no support from industry groups for it.
* Insufficient information is provided in the Proposal Materials to understand why the current ECA process is problematic
* No information is provided in the Proposal Materials to identify jurisdictions where an EASR type approach is in use and the relative success of the approach

RECOMMENDATION

* For the reasons cited in conclusion I suggest that the ECA process be kept for hazardous waste.
* The regulations be modified for each individual company be required to maintain $2 million in insurance coverage for spills and, in addition, an industry fund be setup to fund clean-up of large spills.
1. Stormwater Management 019-6928 From ECA Process to EASR Process
* There is no evidence provided in the Proposal Materials to indicate the net benefit to the people of Ontario.
* There is no evidence provided in the Proposal Materials of the burden imposed on business for using the Environmental Compliance Approval (ECA). How many hours, days, weeks of effort or the associated cost is not provided.
* There is no evidence provided in the Proposal Materials to indicate if the EASR approach for hazardous waste, water takings or storm water management has been tried in other jurisdictions and the relative success of this approach. Such evidence would provide some measure of the risk in this approach.
* There is no evidence provided in the Proposal Materials of the relative maturity of the organizations engaged in hazardous waste, water takings or storm water management. Immature organizations require a higher level of oversight than more mature organizations.
* There is no evidence provided in the Proposal Materials to indicate how frequently and to what extent previous applications under the ECA have required revision after initial submission.
* There is no evidence provided in the Proposal Materials to indicate the range of compliance inspections and cumulative findings to indicate trends.
* There is no evidence provided in the Proposal Materials to indicate violations identified under the regulations.
* There is no indication in the Proposal Materials of what percentage entries in the EASR will be subject to review.
* There is no indication in the Proposal Materials of what percentage of entries in the EASR will be subject to compliance audits and the frequency of compliance audits.

A review of the Council of Ontario Construction Associations (COCA) website, does not list ECA process for stormwater as an issue nor are there any submissions on their website nor are any news items listed concerning this.

A review of the Ontario General Contractors Association (OGCA) website, does not list ECA process for stormwater as an issue nor are there any submissions on their website nor are any news items listed concerning this.

A review of the Building Industry and Land Development Association (BILD) website does not list ECA process for stormwater as an issue nor are there any submissions on their website nor any news items listed concerning this.

A review of the Ontario Homebuilders Association (OHBA) website, does not list the ECA process for stormwater as an issue nor are there any submissions on their website concerning this.

A review of the Ontario Road Builders Association (ORBA) website does not list the ECA process for stormwater as an issue nor are there any submissions on their website concerning this.

A review of the Association of Municipalities Ontario (AMO) website does not list the ECA process for stormwater as an issue nor are there any submissions on their website concerning this. There are, however, a number of items dealing with stormwater, flooding and climate change.

A review of five stormwater environmental consultants does not list ECA process for stormwater as an issue.

Reports from the Ontario Auditor General do provide some insight into stormwater management.

From the 2022 Annual Report – Value-for-Money Audit: Climate Change Adaptation: Reducing Urban Flood Risk:

* Three main factors contribute to an increased risk of urban flooding: • development that results in the loss of green spaces and other pervious surfaces, which absorb water, and the expansion of hard surfaces (such as roads, parking lots and buildings), which prevent stormwater from being absorbed into the ground and increase stormwater runoff; • inadequate or aging stormwater infrastructure, such as sewer drains, pipes and retention tanks, which can increase the risk of urban flooding; and • climate change, which is resulting in more frequent high-intensity rain events.
* There is no one government ministry assigned responsibility for co-ordinating measures to address urban flooding in Ontario. Rather, our audit identified four key provincial ministries—the Ministry of the Environment, Conservation and Parks (Environment Ministry), the Ministry of Natural Resources and Forestry (Natural Resources Ministry), the Ministry of Municipal Affairs and Housing (Municipal Affairs Ministry), and the Ministry of Infrastructure (Infrastructure Ministry)—as having significant responsibilities relating to urban flood management in Ontario.
* The Province is well aware of the need to do more to address this issue. No fewer than four reports and plans—including the Environment Ministry’s 2018 Made-in-Ontario Environment Plan (Environment Plan), the 2019 report from Ontario’s Special Advisor on Flooding, the Natural Resource Ministry’s 2020 Protecting People and Property: Ontario’s Flooding Strategy (Flooding Strategy), and the 2021 Advisory Panel on Climate Change report—have identified specific actions that need to be taken to help Ontario reduce urban flood risk. Yet the Province has never clarified provincial roles for addressing and co-ordinating actions needed to alleviate the risk of urban flooding, with the result that gaps in responsibility persist and actions and commitments have never been implemented.
* We found that the Province has never clarified provincial roles for co-ordinating and managing urban flooding, resulting in gaps in responsibility. The Environment Ministry approves municipal stormwater infrastructure for the purposes of protecting water quality and preventing stream erosion, but does not consider flood control as part of this approval process, as it is outside its mandate; the Infrastructure Ministry is not providing sufficient guidance to support effective implementation of its municipal asset management regulation; the Municipal Affairs Ministry has not taken steps to increase the installation of backwater valves that help prevent basement flooding; and the Natural Resources Ministry has made little progress evaluating and protecting wetlands, which can provide important flood-reduction functions. Finally, we found that the Province is not ensuring that information about the risks of urban flooding, including under future projected climate scenarios, is being shared with municipalities, government agencies, property owners and others to inform decision-making.
* The consolidated linear infrastructure approvals (CLI-ECAs) contain new conditions for monitoring and reporting on the performance of municipal stormwater infrastructure, including the submission of annual performance reports, which will enable the Ministry to make informed decisions on future improvements to the approvals program. In addition, all CLI-ECAs will be reviewed during each renewal cycle (approximately every five years) and updated as needed to address identified risks.
* So that the conditions in Environmental Compliance Approvals for stormwater infrastructure are adhered to and increase oversight and accountability of stormwater management, we recommend that the Ministry of the Environment, Conservation and Parks develop and implement formal procedures with regard to risk-based compliance inspections. ENVIRONMENT MINISTRY’S RESPONSE The Ministry will work to incorporate risk-based compliance inspections of stormwater infrastructure into the Ministry’s annual inspection planning process.

CONCLUSION:

* The Proposal Materials indicates benefits of “Smarter and more efficient environmental permissions processes “ and “EASRs save registrants time and money” but does not identify what is smarter about the EASR process. Insufficient information is provided in the Proposal Materials to assess whether this process change would achieve the stated benefits and there appears to be no support from industry and municipal groups for it.
* The Proposal Materials addresses a singular change without indicating how the impact of multiple unrelated changes in the same geographic area would be managed through an EASR.
* The Proposal Materials does not differentiate between changes of different sizes or complexities or attributes. Is there a maximum size for the EASR process to handle?
* The Proposal Materials does not address either the frequency or scope of inspections for entries in the EASR. No process for conducting risk assessment of the EASR entries is identified.
* The information from the Auditor General reports does identify flood control as an issue. The Audit reports do not provide information related to the compliance inspections for ECAs or violations.
* Insufficient information is provided in the Proposal Materials to assess whether this process change would achieve the stated benefits and there appears to be no support from industry groups for it.
* Insufficient information is provided in the Proposal Materials to understand why the current ECA process is problematic
* Storm Water Management failure can have a profound impact on drinking water and land.
* No information is provided in the Proposal Materials to identify jurisdictions where an EASR type approach is in use and the relative success of the approach

RECOMMENDATION

* For the reasons cited in conclusion I suggest that the ECA process be kept for storm water management.
* Due to the potential cumulative impact of multiple requests, I suggest that the change to amend Ontario Regulation 525/98 under the Ontario Water Resources Act, be removed.
* With the compliance inspection process being unclear for EASR entries, I suggest the change to amend Ontario Regulation 287/07, made under the Clean Water Act, 2006 be removed. Having rigorous plans in place is no guarantee that they will be followed – it just means that rigorous plans are in place.
1. Water Taking for Construction Site Dewatering 019-6853 From ECA Process to EASR Process
* There is no evidence provided in the Proposal Materials to indicate the net benefit to the people of Ontario. “to begin operations faster” is the only benefit identified with no indication of how “faster” is better. There is a suggestion in the Proposal Materials that infrastructure is all good without examining possible disadvantages.
* There is no evidence provided in the Proposal Materials of the burden imposed on business for using the Environmental Compliance Approval (ECA). How many hours, days, weeks of effort or the associated cost is not provided.
* There is no evidence provided in the Proposal Materials to indicate if the EASR approach for hazardous waste, water takings or storm water management has been tried in other jurisdictions and the relative success of this approach. Such evidence would provide some measure of the risk in this approach.
* There is no evidence provided in the Proposal Materials of the relative maturity of the organizations engaged in hazardous waste, water takings or storm water management. Immature organizations require a higher level of oversight than more mature organizations.
* There is no evidence provided in the Proposal Materials to indicate how frequently and to what extent previous applications under the ECA have required revision after initial submission.
* There is no evidence provided in the Proposal Materials to indicate the range of compliance inspections and cumulative findings to indicate trends.
* There is no evidence provided in the Proposal Materials to indicate violations identified under the regulations.
* There is indication in the Proposal Materials that submissions to the EASR will NOT be subject to review. This is a serious concern.
* There is no indication in the Proposal Materials of what percentage of entries in the EASR will be subject to compliance audits and the frequency of compliance audits.
* The Proposal Materials indicates “it’s possible that the prescribed activities may interfere with the water supply for other users and may include discharge to the natural environment, the proposed measures will ensure adequate protection of water resources and the environment and minimize impact on other water users.” No indication is given of how this was tested given the possible significant impact. The Proposal Materials indicates “These benefits may be achieved in addition to mitigating impacts to human health and the environment if the water taking activities are conducted in accordance with regulatory requirements.” As if filing the required paperwork ensures that nothing bad will happen when executing the physical process.
* The Proposal Materials gives no indication of how disputes between water takers will be resolved.
* The Proposal Materials documents indicate “Environmental standards and protections will remain in place and continue to be a top priority for the government” but does not indicate what specifically the government will do to stand behind this statement. It comes across like a message on a 1-800 number – “Your call is important to us” but obviously not important enough to answer a call.
* The Proposal Materials documents indicate “The Proposal Materials would continue to ensure that water takings in Ontario are managed in accordance with the province’s strict environmental standards” but with no review of EASR submissions and no compliance audit commitment, it would appear to be laissez-faire management rather than active management from the Ministry.
* Inclusion on the EASR means that Conservation Areas will no longer be notified on water takings
* Inclusion on the EASR means there will be no public consultation on submitted entries.
* Without knowing why the quantity of 50,000 litres of water was set as the limit for water extraction before a PTTW was required, it is difficult to justify increasing this limit to 400,000 litres per day.

A review of the Council of Ontario Construction Associations (COCA) website, does not list ECA process for dewatering as an issue nor are there any submissions on their website nor are any news items listed concerning this.

A review of the Ontario General Contractors Association (OGCA) website, does not list ECA process for dewatering as an issue nor are there any submissions on their website nor are any news items listed concerning this.

A review of the Building Industry and Land Development Association (BILD) website does not list ECA process for dewatering as an issue nor are there any submissions on their website nor any news items listed concerning this.

A review of the Ontario Homebuilders Association (OHBA) website, **does** have a submission for the EASR process (the ECA process) for water taking (dewatering) although it references a different ER # (019-2525).

A review of the Ontario Road Builders Association (ORBA) website does not list the ECA process for dewatering as an issue nor are there any submissions on their website concerning this.

A review of the Association of Municipalities Ontario (AMO) website does not list the ECA process for dewatering as an issue nor are there any submissions on their website concerning this. There are, however, a number of items dealing with stormwater, flooding and climate change.

A review of Ontario Mining Association (OMA) website indicates they have an Environment Committee which indicates an OMA Strategic Plan goal to “to approach regulators with Proposal Materials for improved efficiencies in approval processes”. The website does not list the ECA process for dewatering as an issue nor are they any submissions on their website concerning this.

A search of Reports from the Ontario Auditor General did not provide insight into dewatering. management.

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transition period – what for