

ERO Posting 019-6963: Streamlining environmental permissions for waste management systems under the Environmental Activity and Sector Registry (EASR)

These comments are being provided on behalf of Niagara Region – Wastewater Services division, in respect to waste management systems for the transportation of hauled sewage. Niagara Region accepts hauled sewage from approximately 30 sewage haulers at eight (8) wastewater treatment plants (WWTP) across the Niagara Region. The Region has a permitting process to approve haulers. Part of the permitting process requires haulers to have valid approvals to haul sewage in Ontario as well as liability insurance.

In general, we are in favour of the proposed regulatory change. Currently, about half of the approved sewage haulers in our program are operating under older Certificate of Approvals (CofA) or Environmental Compliance Approvals (ECA). During our permitting approval process, checking to see if the hauler has a valid approval from the MECP is difficult due to the differences in the appearance of their MECP approvals and the differing requirements depending on the year of registration. We have been told that the reason haulers have not had to update to the new registration system to date is due to the inclusion of a condition for overnight storage in their respective approvals. Each year, Niagara Region staff confirm that approved sewage haulers continue to have appropriate MECP approval to carry out business as a sewage hauler. By having all haulers be required to update to the new registration system, the task of confirming that haulers continue to have proper approvals in place would be easier and available to be viewed through Access Environment for confirmation. As well, requiring the remainder of haulers to update to an EASR will ensure regulatory requirements are consistently applied to all sewage haulers and all requirements for haulers are modernized/updated.

Two general requirements we would like to be considered for mandatory inclusion in the proposed regulatory updates:

- 1. Older CofA's included the following wording:

“Hauled Sewage hauled by the waste management system may only be deposited at:
a. A Sewage Works, but only if the municipality or its agent has authorized in writing the deposit and only in accordance with any additional rules imposed by the municipality”

We strongly recommend the inclusion of this or similar wording as Niagara Region would like it to be clear to sewage haulers that an approval/registration with the MECP is not permission to deposit sewage at any WWTP. Haulers must apply, be approved and issued a permit to dispose of hauled sewage at any of the Niagara Region WWTPs that accept hauled sewage. We also have additional rules in place including that only sewage originating from within the boundaries of Niagara Region can be disposed of as well as sewage generator approval requirements. These conditions are in place to ensure capacity at our WWTP for residents of Niagara as well as to protect the WWTP from disposal of waste that may impact the treatment process or cause non-compliance with applicable plant legislated/regulated requirements.

- 2. Ensure condition for waste management vehicle cleanout between waste types is clear

O.Reg. 347, section 16.(1) 13.requires that:

“13. If the waste management system is used for hauled sewage, the operator of the system shall ensure that any part of the system that comes into contact with hauled sewage is not used for the collection, handling, treatment, transportation, storage or processing of any material other than hauled sewage or a material approved in writing by the Director.”

However, this wording is not observed in O.Reg. 351/12. It would be beneficial to have all requirements imposed on waste management systems to be consolidated in one regulation for clarity.

As a receiver, we want to ensure we are not accepting hauled sewage that may be potentially contaminated with another waste type, especially with the proposed expansion of waste types to be allowable under the Environmental Activity Sector Registration program.

A further general comment is to ensure sufficient resources are available at the MECP inspection and enforcement level to ensure waste management systems are meeting the regulatory requirements. We are seeing more new sewage hauler companies applying to participate in the hauled sewage program at Niagara Region with EASR approvals. As part of our due diligence, we are ensuring they have a valid MECP approval (ECA or EASR) and meet the insurance requirements of the program. We are not ensuring that the haulers meet the requirements of O.Reg. 351/12 or 347.

Below are some of the ERO discussion paper questions with response from Niagara Region Wastewater Services division.

Waste Type Eligibility Criteria Discussion Question:

- 1. Do you have feedback or comments on the proposed EASR candidates listed above?

No. We would just like clear conditions included in O.Reg. 351/12 that waste must be taken to a facility approved for receipt of that waste type as well as ensure waste management vehicles are cleaned out between haulage of different waste types

- 2. Are there any proposed waste types that should be added or removed from the list?

No comment.

Waste Type Eligibility (Storage) Discussion Question:

- 1. Do you agree with the ministry's approach to include in-transit storage of waste as an activity eligible for self-registration on EASR?

Yes – this would require all sewage haulers to transition to EASR. All sewage haulers would then be required to follow a consistent, modernized set of conditions.

2. Are there other any operational circumstances that should exclude a waste management system from an EASR registration?

No comment.

Proposed General Requirements Discussion Question:

1. Are there any additional general requirements applicable to all eligible waste types that the ministry should consider including in the amended EASR regulation?

Include condition that includes wording that hauled sewage may only be deposited at a Sewage Works, but only if the municipality or its agent has authorized in writing the deposit and only in accordance with any additional rules imposed by the municipality

As discussed above, we would like this condition included to make it clear that additional permissions and rules may apply above and beyond MECP approval.

General comment that it would be better for the regulated community to have all conditions of operations in one regulation. Consider removing references to O. Reg. 347 and include all necessary requirements in one document.

2. Do you agree with the ministry's approach to require that the fleet information be part of the self-registration process and be updated within fourteen days of any fleet changes?

Yes – as part of our program we require vehicle information updates as well.

In Transit Storage Discussion Question:

1. Do you agree with the conditions the ministry is proposing for the in-transit storage of waste?

Yes – we are very much in favour of the wording for hauled sewage to be allowed to be stored until **next business day**. Currently our locations are open on weekends because many haulers are not allowed to store hauled sewage for any period. This can become problematic where breakdown/repair is required. Maintenance staff are not regularly scheduled on weekends or holidays and must be called in to address any issues encountered during these times. This results in additional overtime expenses to be incurred. With this wording, this gives Niagara Region the flexibility to limit or restrict operating hours to days where maintenance staff are in attendance at the site.

2. Are there additional requirements for the in-transit storage of waste that the ministry should consider including in the amended EASR regulation?

No comments.

Proposed Insurance Discussion Question:

1. Do you agree with the ministry's proposal to change the language in Ontario Regulation 351/12 discussing insurance to include separate conditions for spill clean-up coverage?

Yes. Currently we require all haulers to have \$2,000,000 commercial general liability but it is unclear if this covers only spills of fuel or oil from the vehicle and not the contents of the load itself. It has been a topic of discussion whether municipalities should require haulers to carry specific pollution liability insurance. Inclusion of specific insurance requirements in the regulation would ensure all haulers have the proper insurance in the event of a spill from their waste management system.

It should be kept in mind though that including the requirement for pollution liability specifically may be a financial burden for small companies (e.g. one to two trucks).

2. Do you agree with the ministry's proposal to require an insurance policy of minimum \$2,000,000 that would apply to all waste types including liquid industrial, hazardous, and biomedical waste? Please explain your answer.

We are in favour however the MECP should check with the insurance industry to ensure there is coverage for the various types of waste and use the names that insurers use for these types of policies in their requirements for clarity.

3. Do you agree with the ministry's proposal to set an amount for the portion of the insurance policy covering liability resulting from spills of at least:

- \$100,000 for non-hazardous waste, and
- \$500,000 for liquid industrial, hazardous, and biomedical waste.

Please explain your answer.

Yes – similar answer to above – by having different criteria for different waste types may help ease the financial impacts this will have on smaller sewage haulers. As well, please use the terminology that the insurance companies in Ontario that provide this insurance will use. Commercial General Liability is a requirement and this may cover incidental spills from the vehicle but not spills related to the load as mentioned above. The amounts listed may also not be available for the various types and the insurance industry should be contacted to see if it's possible to get insurance for these classifications.

4. How is the current proposal similar to or different from existing insurance policies for your waste management system(s)? Please provide the type of waste(s) being managed, when explaining your answer.

No comment

5. What are the implications of adopting the proposed set amount for the portion of the insurance policy covering liability resulting from spills? Please explain your answer.

As mentioned above, this may be more impactful to smaller waste management systems (owners of a single vehicle). The insurance industry should be contacted to make sure this is possible to be done as some policies may exclude using the coverage to pay for spills related to a vehicle accident, unknown contamination of a load (fuel in water), leakage vs damage etc.

Transition Discussion Question:

1. Is there a need to extend the transition period to allow enough time for existing eligible waste management system ECA holders to register and comply with the requirements of the EASR regulation? If yes, what is a practical timeframe and why?

Niagara Region Wastewater Services is in favour of the proposed changes and would like to see the transition from CofA to EASR occur as soon as reasonably possible.

For further information or clarification, please feel free to reach out to the below contacts:

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