



October 30, 2023

Permissions Modernization Team
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via email: permissions.modernization@ontario.ca

Subject: Environmental Registry of Ontario No. 019-6928 - Streamlining environmental permissions for stormwater management under the Environmental Activity and Sector Registry

Please accept this letter as official comment to the Ministry of Environment, Conservation, and Parks (MECP) proposal on the Environmental Registry of Ontario (ERO), specifically ERO number (No.) 019-6928, focusing on streamlining environmental permissions for stormwater management under the Environmental Activity and Sector Registry (EASR). Metrolinx supports the MECP's proposal to pursue efficiencies in the environmental permissions process to reduce unnecessary burden when building critical infrastructure whilst protecting the environment.

The new efficiencies in the environmental permissions processes for Metrolinx transit projects and facilities will mitigate project schedule risk, as it brings certainty to the approval process associated with the various types of stormwater management and/or drainage infrastructure works. In reviewing the proposal, Metrolinx has identified additional efficiencies for MECP's consideration. The ERO posting proposes efficiencies for housing and critical infrastructure developments which could also be extended to transit infrastructure development. The purpose of this letter is four-fold:

1. to acknowledge and support the MECP inclusion of exemption considerations for Metrolinx railway projects not currently captured under the Ontario Water Resources Act (OWRA);
2. to request inclusion of a "transit facilities, infrastructure and associated activities" category to the list of Eligible Activities for appropriate Metrolinx facilities that are serviced by stormwater management systems that are not already exempt under Ontario Regulation 525/98 or the OWRA;
3. to clarify the definition of "Rail Yard" as listed in the Ineligibility List; and lastly,
4. to propose an approach to transferring ECAs to EASRs for Metrolinx.

1) Metrolinx and the Ontario Water Resources Act

Metrolinx acknowledges and supports the MECP proposal to exempt Metrolinx railway projects that are not already captured under the OWRA. This proposal is aligned with our letter dated August 24, 2023, which clarified that since Metrolinx's drainage works within the rail corridor are intended to address the same purpose as identified by Section 53(6)(e) of the OWRA, consideration should be made to amend O. Reg 525/98 to include the addition of rail corridor drainage works for Metrolinx projects as one of the exemptions.

2) Inclusion of Metrolinx Transit Facilities, Infrastructure and Associated Activities

In reviewing the discussion paper, *Stormwater Management Proposal for the Environmental Activity and Sector Registry*, that supports the ERO No. 019-6928 posting, under Eligibility Criteria, Section 1, only privately owned stormwater management facilities are included. Metrolinx, as a Crown Agency of the Government of Ontario, maintains and operates its facilities like privately owned facilities. Additionally, many activities that occur within Metrolinx's facilities have similar characteristics to those under institutional, commercial, or light industrial sites that are proposed to be eligible. Therefore, the inclusion of "Transit Facilities, Infrastructure & Associated Activities" under Eligibility Criteria Sections 1 and 2(a) is appropriate, because:

- a) most processing, repair, or maintenance activities at Metrolinx facilities are being conducted indoors;
- b) most outdoor handling or storage of soil, raw material, intermediate, finished or by-products within Metrolinx facilities are contained in a manner to ensure there is no contact with stormwater;
- c) Metrolinx maintains and operates its facilities like privately owned facilities (i.e., municipalities don't assume Metrolinx infrastructure); and,
- d) It allows a streamlined approval for eligible stormwater management works that service essential transit facilities.

Metrolinx requests the inclusion of its facilities, infrastructure, and associated activities to the eligibility list, such that the same benefits and efficiencies that this proposal offers other critical developments in the Province of Ontario, can also be afforded to public transit infrastructure.

Metrolinx recommends adding a designated category for "Transit Facilities, Infrastructure and Associated Activities" under the eligible activities list to provide a framework for future applicants. Below are a list of potentially eligible transit facilities and infrastructure that are serviced by stormwater management systems and are not already exempt under Ontario Regulation 525/98 or the OWRA. This is not an exhaustive list; each facility and infrastructure will be assessed by a Licensed Engineering Practitioner (LEP) to confirm it meets the eligibility criteria for the potential stormwater EASR being proposed.

- a) **Transit Station:** The activities within Metrolinx transit stations are comparable to those currently listed under commercial, mixed-use, and light industrial developments. The typical components of a transit station include:
 - Station buildings (comparable to commercial/business parks, offices, hotels), parking lots, and indoor and outdoor platforms (comparable to paved areas in a parking lot)
- b) **Bus Facility:** The activities within Metrolinx bus facilities are comparable to those currently listed under light industrial examples within the eligible activities list. The typical activities within Metrolinx bus facilities include:
 - Indoor bus maintenance and wash bay (comparable to an autobody shop and automobile dealership), indoor or outdoor bus storage (comparable to automobile dealerships storing cars, RVs, motor homes, etc. and parking lots), and fuel storage and indoor bus refueling services (similar to cardlock facilities)

- c) **Rail Layover Facility:** Metrolinx rail layover facilities are areas where trains are stationed when not in use during the day and night to reduce congestion on the rail corridor and to minimize non-revenue travel. The typical activities performed within Metrolinx layover facilities include:
- Fueling Direct to Locomotive (DTL) and loading diesel exhaust fluid (DEF) into the locomotive tanks (similar to cardlock facilities)
 - Outdoor handling and indoor storage of sand (activities are contained in a manner to ensure there is no contact with stormwater)
 - Permanent fueling infrastructure (comparable to a gas station or cardlock facility)
 - Storage of passenger trains on typically less than five storage rail tracks (activities are comparable to automobile dealerships and parking lots)
- d) **Rail Maintenance & Layover Facility:** Metrolinx maintenance and layover facilities are locations where locomotives and coaches are maintained, repaired, serviced, and washed. These can also be referred to as Maintenance and Storage Facilities. Typical activities include:
- All of the above-listed activities under the Rail Layover Facility
 - Indoor maintenance of locomotives and coaches, wash bays, and paint shop (comparable to an autobody shop, paint shop and automobile dealership)
 - Storage of passenger trains on typically 10 or more storage tracks (comparable to automobile dealerships and parking lots)
- e) **Other transit related infrastructure:** Metrolinx transit development projects can also include stormwater management works and low impact development (LID) works that service other transit related infrastructure, including but not limited to the rail corridor, bridges, and elevated guideways. Where these stormwater management or LID works are servicing transit infrastructure, and are not exempt under O. Reg. 525/98, they should also be considered for the stormwater EASR as they are not identified as sectors in the ineligibility list, and they have similar or less potential environmental concerns than the activities listed in the eligibility list.

Many of the transit infrastructure development and activities taking place within Metrolinx transit stations, bus facilities, rail layover facilities and rail maintenance & layover facilities are comparable to facilities already listed as eligible under the commercial, mixed-use, and/or light industrial development categories as noted above. In the spirit of finding efficiencies, Metrolinx respectfully requests that the MECP include transit facilities, infrastructure, and their associated activities to the eligible activities list for the proposed stormwater EASR.

3) Clarification of the definition of "rail yard" in the Ineligible Activities List

The ERO posting offers a list of ineligible activities that would not benefit from the efficiencies in environmental permissions processes. The list currently includes a "rail yard". Metrolinx understands the MECP does not have a definition for this term in current regulations, however MECP's understanding is that *"Railway yards are a series or systems of non-main railroad tracks used for storing, maintaining, switching, sorting, and loading/unloading of railroad cars and/or locomotives, and for other operational purposes"*.

Metrolinx recommends that this understanding of “rail yard” should exclude Metrolinx facilities, since the facilities in which we operate are related to passenger rail storage, maintenance, and operations only. Metrolinx does not transport chemicals, goods, or raw materials which removes the potential for incidental releases.

4) Approach for Transferring Existing ECAs to EASRs

The ERO posting includes a proposal for current Environmental Compliance Approvals (ECA) to transition to EASRs and for future similar works to be approved under the EASR program, phasing out the ECA program. Current ECA holders must transition to an EASR at the following milestones, whichever occurs first:

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

As part of this transition, ECA holders must retain a LEP to determine if:

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

Metrolinx currently holds many ECAs for its facilities and infrastructure and is also in the process of preparing for upcoming ECA submissions or in process of obtaining ECAs for facilities and infrastructure. In addition to the cost and effort that is currently afforded towards upcoming ECA submissions, if the current proposal is implemented, Metrolinx will need to spend further costs and resources to retain LEPs to complete a re-assessment and re-submission for EASRs within five years of the effective date of the proposed regulation. Therefore, Metrolinx requests that current Metrolinx facilities and infrastructure that have an approved ECA would either:

- Continue to operate under an ECA until such time that modifications to the works require an amendment, with the transition to EASR being considered and implemented only at the time of amendment (*preferred option*); or
- Grant at least ten years of transition period from the effective date of this proposed regulation to allow for appropriate time to budget for the works to transition to an EASR (*less preferred option*).

Respectfully, Metrolinx requests the MECP accept the additional considerations for stormwater management environmental permission efficiencies recommended for Metrolinx facilities, infrastructure and associated activities as outlined above. The inclusion of Metrolinx facilities and infrastructure in ERO posting No. 019-6928 will mitigate project schedule risk as it brings certainty to the stormwater management approval process and enables efficiencies by reducing MECP and Metrolinx staff time in determining the applicability of approval requirements to a particular project or facility. The certainty and ability to utilize exemptions otherwise afforded to other developments for similar works will enable Metrolinx to deliver the Province of Ontario's priority transit projects in a timelier manner.

Thank you for the opportunity to review the proposals and provide comment and recommendations to the Ministry. Please note that the contents of this letter have been provided online through the

comment response option on the ERO posting and is shared with you in letter format for record keeping purposes. Metrolinx would be happy to discuss these considerations to this proposal (ERO No. 019-6928) further and welcomes the opportunity to discuss with the MECP any additional efficiencies in approval processes to support building transit faster.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Anna Lipa', with a stylized flourish at the end.

Anna Lipa
Director, Third Party & Agreements
Metrolinx

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