

Section	<u>Wastewater</u> Proposed amendments to wastewater operator licensing regulation to address impacts of emergencies (019-3515)	<u>Water</u> Proposed amendments to drinking water operator and water quality analyst certification regulation to address impacts of emergencies (019-3513)	Summary/Comments
Proposal Details	<p>We are proposing regulatory changes that would allow the ministry to act quickly to help ensure the province’s sewage works are protected during an emergency. The changes we’re proposing would only be enacted during an emergency and would include such measures as extending operator licences and allowing certain qualified but non-licensed staff to temporarily maintain system operations. Other changes we’re proposing include allowing wastewater training to be averaged over three years, clarifying the process for strike and lock-out plans and harmonizing when the ministry director may revoke/suspend an operator’s certificate or licence.</p> <p>The emergency-related proposed changes align with temporary measures we enacted during the COVID-19 pandemic and would ensure that system owners and operators can maintain continuity of operations and focus on ensuring the protection of our waterways in emergency situations.</p> <p>Working with our partners and municipalities, we will continue to ensure our wastewater systems are held to Ontario’s high safety standards, and that the environment continues to be protected.</p> <p>An overview of the specific changes we’re proposing to O. Reg. 129/04 made under the Ontario Water Resources Act are outlined below.</p> <p>To be clear, the following proposed changes are not intended to override applicable labour laws or collective agreements. Employers would remain obliged to work within their respective labour relations frameworks when availing themselves of any of the proposed amendments.</p>	<p>We are proposing regulatory changes that would allow the ministry to act quickly to help ensure the province’s drinking water is protected during an emergency. The proposed changes include extending operator certificates and allowing certain qualified but non-certified staff to temporarily maintain system operations, and would only be enacted during an emergency.</p> <p>These proposed changes align with temporary measures we enacted during the COVID-19 pandemic and would ensure that system owners and operators can maintain continuity of operations and focus on providing safe drinking water in emergency situations.</p> <p>Ontario’s drinking water remains among the best protected in the world. Working with our partners and municipalities, we will continue to ensure our drinking water is held to Ontario’s high safety standards, and that the environment continues to be protected.</p> <p>An overview of the specific changes we’re proposing to Ontario Regulation 128/04 made under the Safe Drinking Water Act, 2002 are outlined below. To be clear, the following proposed changes are not intended to override applicable labour laws or collective agreements. Employers would remain obliged to work within their respective labour relations frameworks when availing themselves of any of the proposed amendments.</p>	In support
Proposed emergency-related amendments	<p>1. Add a definition of “emergency” to the regulation as this term is not currently defined in the Ontario Water Resources Act or O.Reg. 129/04.</p> <p>The definition is proposed to be consistent with that in the Emergency Management and Civil Protection Act (EMCPA), namely:</p> <p>“emergency” means a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise.</p>	<p>1. Add a definition of “emergency” to the regulation as this term is not currently defined in the Safe Drinking Water Act, 2002 or Ontario Regulation 128/04.</p> <p>The definition is proposed to be consistent with that in the Emergency Management and Civil Protection Act (EMCPA), namely:</p> <p>“emergency” means a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise.</p>	In support
Proposed emergency-related amendments	<p>2. Specify the exceptional situations that could trigger the use of the proposed emergency related provisions by the ministry director with authority for O.Reg. 129/04 or the owner of a wastewater facility, namely:</p> <ol style="list-style-type: none"> 1. If an emergency is declared under the EMCPA (e.g. province-wide, regional or municipal level emergency), and the nature of that emergency is such that it could adversely affect the operation of the facility and thereby pose a significant risk to human health or the natural environment. 2. If Emergency Orders made under the EMCPA have been continued in successor legislation and remain in place during the aftermath of the emergency. 3. If the director is of the opinion that an emergency exists or is impending and could result in a significant risk to human health or the environment, and a provincial officer, a director or the minister has issued or is considering issuing an order related to an emergency situation. 	<p>2. Specify the exceptional situations that could trigger the use of the proposed emergency related provisions by the ministry director with authority for Ontario Regulation 128/04 or the owner or operating authority of a drinking water system, namely:</p> <ol style="list-style-type: none"> 1. If an emergency is declared under the EMCPA (e.g. province-wide, regional or municipal level emergency), and the nature of that emergency is such that it could adversely affect the operation of the subsystem and thereby result in a drinking water health hazard or pose a significant risk to human health or the natural environment. 2. If Emergency Orders made under the EMCPA have been continued in successor legislation and remain in place during the aftermath of the emergency. 3. If the ministry director is of the opinion that an emergency exists or is impending and could result in a drinking water health hazard or significant risk to human health or the environment, and a provincial officer, a director or the minister has issued or is considering issuing an order related to that emergency situation. 	In support

3. In situations described in items 2 (1), (2), and (3) above, provide the ministry director with the authority to extend the expiry date of a wastewater operator's licence for up to 12 months if needed to help facilities focus on emergency response.

In order to perform their work, wastewater operators require a valid licence from the province. Currently, the ministry director does not have the power to change a licence's expiry date without receiving an application and associated fee from an operator.

The proposed amendment would give the ministry director the authority to quickly extend an operator's licence without the need for an application to be submitted. This proposed change would allow operators dealing with an emergency to remain licensed and focused on operating their facility to help ensure the continued protection of our waterways.

3. In situations described in items 2 (1), (2), and (3) above, provide the ministry director with the authority to:

a) Extend the expiry date of a drinking water operator's certificate or water quality analyst's certificate for up to 12 months if needed to help systems focus on emergency response.

In order to perform their work, drinking water operators and water quality analysts require a valid certificate from the province. Currently, the ministry director does not have the power to change a certificate's expiry date without receiving an application and associated fee from an operator.

The proposed amendment would give the ministry director the authority to quickly extend an operator or water quality analyst's certificate without the need for an application to be submitted. This proposed change would:

- allow operators and water quality analysts dealing with an emergency to remain certified and focused on operating their system to help ensure the continued provision of safe drinking water
- provide drinking water operators and water quality analysts more time to complete the training required to renew their certificates, as their ability to complete training may be disrupted because of the emergency

b) Extend the maximum duration of temporary certificate renewals from 6 months to up to 12 months.

Currently, the ministry director may temporarily renew a drinking water certificate for up to 6 months if an operator or water quality analyst has a valid reason for not meeting the usual annual training requirements by the time his or her certificate is set to expire.

In an emergency or its aftermath, an operator or water quality analyst may need more time than usual to complete training needed to meet certificate renewal requirements.

The proposed amendment would allow drinking water system owners and operating authorities greater flexibility when scheduling training in the aftermath of an emergency. This increased flexibility would also help owners and operating authorities continue to meet their staffing and regulatory requirements related to operator certification (e.g. Operator-in-Charge and Overall Responsible Operator).

c) Postpone completion of mandatory training.

Currently, a drinking water operator or water quality analyst seeking to have his or her certificate either renewed or re-issued must complete the appropriate mandatory ministry course provided by the Walkerton Clean Water Centre. For example, Operators-in-Training must complete the Entry-level Course for Drinking Water Operators in order to renew their certificates or upgrade to a Class I certificate. All Class I to IV drinking water operators must complete the Mandatory Renewal Course every three years to renew their certificate.

The proposed amendment would allow for a drinking water operator or water quality analyst's certificate to be renewed or re-issued while deferring the need to complete this mandatory training for 12 months, if needed to help systems focus on emergency response.

Allowing mandatory training to be postponed in this way would:

- enable knowledgeable and skilled personnel with expired certificates to become recertified even during an emergency
- enable drinking water operators and water quality analysts to maintain their certification if they cannot complete mandatory training due to emergency related impacts, or if the mandatory training is temporarily not available

Wastewater specific:

- Licence extensions for wastewater do not explicitly state that extensions may be granted to allow for more time to complete training in the aftermath of an emergency. Comments below (other consultation opportunities item 1) addresses this issue and seeks clarification.

4. Allow owners to temporarily employ certain knowledgeable, experienced but non-licensed personnel to operate a wastewater facility to help ensure its continuity of operations in emergency situations.

Owners would only be able to use this power if:

- an emergency is declared under the EMCPA or if Emergency Orders made under the EMCPA have been continued in successor legislation (as set out in situations 2(1) and 2(2) above)
- the nature of that emergency is such that it could adversely affect the operation of the facility and thereby pose a significant risk to human health or the natural environment.

The proposed amendments would allow facility owners to temporarily employ the following types of substitute personnel to operate a wastewater facility so long as certain conditions are met:

- Licensed Engineering Practitioners (e.g. Professional Engineers)
- people that previously held an operator's licence within the last 5 years (e.g. retired operators)
- Certified Engineering Technologists or Technicians with at least 3 years of experience working in the type of facility to be operated
- managers with at least 5 years of experience working in the type of facility to be operated
- maintenance or technical support personnel who are employed in wastewater facilities and who have at least 5 years of experience relating to the operation of the facility (e.g. millwright, electrician, instrumentation technician, maintenance mechanic, process control technician)

Certified Engineering Technologists or Technicians, managers and maintenance or technical support personnel employed as temporary substitute personnel would need to be trained by a licensed operator, or a person that previously held an operator's licence within the past 5 years, on the operating duties to be performed.

These temporary substitute personnel would only be able to carry out the responsibilities and duties of an Operator-in-Charge (OIC) or Overall Responsible Operator (ORO) if they are Licensed Engineering Practitioners or people who previously held an operator's licence of the appropriate type and class (e.g. Class 1 licence for OIC, Class 3 or higher licence for ORO for a Class 3 facility).

An owner of a facility that uses this power to temporarily employ substitute personnel would be required to:

- notify the ministry director within one day after the first time that substitute personnel are temporarily employed to operate a wastewater facility
- provide a written report to the ministry director within 90 days of the end of the emergency that includes the following for each person temporarily employed to operate a wastewater facility:
 - the person's name
 - qualifications for employment as substitute personnel
 - the position held while temporarily employed to operate the facility
 - summary of operating duties performed (e.g. job description)
 - time spent operating the facility
 - the person's level of responsibility (e.g. Operator-in-Charge or Overall Responsible Operator)
 - the reasons why employing the person was necessary to ensure the continued operation of the facility

4. Allow owners and operating authorities to temporarily employ certain knowledgeable, experienced, but non-certified personnel to operate a drinking water subsystem to help ensure its continuity of operations in emergency situations.

Owners and operating authorities would only be able to use this power if:

- an emergency is declared under the EMCPA or if Emergency Orders made under the EMCPA have been continued in successor legislation (as set out in situations 2(1) and 2(2) above)
- the nature of that emergency is such that it could adversely affect the operation of the subsystem and thereby result in a drinking water health hazard or pose a significant risk to human health or the natural environment

The proposed amendments would allow subsystem owners and operating authorities to temporarily employ the following types of substitute personnel to operate a drinking water subsystem so long as certain conditions are met:

- Licensed Engineering Practitioners (e.g. Professional Engineers)
- people that previously held an operator's certificate within the last 5 years (e.g. retired operators)
- Certified Engineering Technologists or Technicians with at least 3 years of experience working in the type of drinking water subsystem to be operated
- managers with at least 5 years of experience working in the type of drinking water subsystem to be operated
- maintenance or technical support personnel who are employed in drinking water systems and who have at least 5 years of experience relating to the operation of the subsystem (e.g. millwright, electrician, instrumentation technician, maintenance mechanic, process control technician or water quality analyst)

Certified Engineering Technologists or Technicians, managers and maintenance or technical support personnel employed as temporary substitute personnel would need to be trained by a certified operator, or a person that previously held an operator's certificate within the past 5 years, on the operating duties to be performed.

These temporary substitute personnel would only be able to carry out the responsibilities and duties of an Operator-in-Charge (OIC) or Overall Responsible Operator (ORO) if they are Licensed Engineering Practitioners or people who previously held an operator's certificate of the appropriate type and class (e.g. Class 1 certificate for OIC, Class 3 or higher certificate for ORO for a Class 3 subsystem).

An owner or operating authority of a subsystem that uses this power to temporarily employ substitute personnel would be required to:

- notify the ministry director within one day after the first time that substitute personnel are temporarily employed to operate a drinking water subsystem
- provide a written report to the ministry director within 90 days of the end of the emergency that includes the following for each person temporarily employed to operate a drinking water subsystem:
 - the person's name
 - qualifications for employment as substitute personnel
 - the position held while temporarily employed to operate the subsystem
 - summary of operating duties performed (e.g. job description)
 - time spent operating the subsystem

The types of professional expertise required to meet conditions for using uncertified operators is generous (P.Eng., retired operators (within 5 years), C.Tech./C.E.T., uncertified managers with 5 years experience, and maintenance/tech trades with 5 years experience) but not particularly helpful to Niagara Region since majority of the staff that would be filling would still need to perform their regular duties to support our operations.

If a situation arose where operator seats needed to be filled, some municipalities would be better off deploying some staff (that are not currently included within the MECP proposal) and rely on oversight and guidance by certified staff through remote operation, 360 views, and other internal resources. In our opinion, it is easier to operate remotely with a less experienced person at the plant than it is to remotely guide an inexperienced person through a maintenance or technical trade task.

The ministry is correct in limiting the types of experience required for certified operator duties without seeking additional approval. We do not suggest alteration to the requirement list, however, Niagara Region would most likely seek relief based on our unique situation as described above.

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	<p>Allowing these specified kinds of substitute personnel to temporarily operate a wastewater facility would:</p> <ul style="list-style-type: none"> provide staffing flexibility to facility owners by allowing them to access a greater pool of potential workers during an emergency help ensure continuity of operations if wastewater operations staff are impacted by an emergency allow recently retired wastewater operators to use their knowledge and skills to operate facilities quickly without the need to be licensed again 	<ul style="list-style-type: none"> the person's level of responsibility (e.g. Operator-in-Charge or Overall Responsible Operator) the reasons why employing the person was necessary to ensure the continued operation of the subsystem <p>Allowing these specified kinds of substitute personnel to temporarily operate a drinking water subsystem would:</p> <ul style="list-style-type: none"> provide staffing flexibility to subsystem owners and operating authorities by allowing them to access a greater pool of potential workers during an emergency help ensure continuity of operations if drinking water operations staff are impacted by an emergency allow recently retired drinking water operators to use their knowledge and skills to operate systems quickly without the need to become re-certified <p>The ministry is also proposing consequential amendments to O. Reg. 170/03 Drinking Water Systems and O. Reg. 248/03 Drinking Water Testing Services, both under the Safe Drinking Water Act, 2002, to help ensure that owners and operating authorities who use the proposed substitute personnel provisions in O. Reg. 128/04 can remain in compliance with certified operator requirements set out in those other regulations. Requirements to utilize certified operators arise in contexts including making adjustments to treatment equipment, responding to alarms, maintenance and operational checks, and drinking water testing.</p>	
Proposed emergency-related amendments	<p>5. Provide flexibility in terms of when wastewater operators need to complete training to meet their annual training requirements.</p> <p>Currently, wastewater operators are required to complete 40 hours of training each year. The training may include, for example, training on new or revised operating procedures, reviews of existing operating procedures, safety training, and training related to studies and technical skills on environmental subjects. The proposed amendment would allow wastewater operators to complete 120 hours of training at any time over a period of three calendar years. Increased flexibility in terms of when such training may be completed would lessen the impact of emergencies on wastewater operators' ability to complete their required training during the necessary timeframe. For example, if operators were to experience disruptions that temporarily limit the availability of training or the amount of time they can dedicate to attending training events in one year, they would be able to complete their required training in subsequent years. This change would further harmonize the training requirements applicable to wastewater operators and drinking water operators:</p> <ul style="list-style-type: none"> 75 percent of all operators already average their drinking water training over a three-year period approximately 7,600 operators are expected to benefit, including those who only hold wastewater licences and those who hold both wastewater licences and drinking water certificates <p>The proposed amendment would result in greater freedom for wastewater owners and operators when scheduling training.</p>		<p>Allowing 120 training hours to be completed over three calendar years. This is a step in the right direction but it isn't ideal—it would be better to align with water training and follow the individual's renewal cycle for training. In addition, the water specific training related extensions identified in Proposed Emergency-Related Amendments, statement 3, should apply to wastewater as well.</p>

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Administrative /Housekeeping Amendments		1. Revoke an outdated transitional provision (subsection 23 (3), O. Reg. 128/04) that dates to the transition from O. Reg. 435/93 to O. Reg. 128/04 and relates to operators designated as an Overall Responsible Operator of a subsystem.	In support
Administrative /Housekeeping Amendments	<p>1. Harmonize the circumstances in which the ministry director may revoke or suspend a drinking water operator’s certificate or wastewater operator’s licence.</p> <p>Currently, the circumstances in which a wastewater operator’s licence may be revoked or suspended are different than the circumstances in which a drinking water operator’s certificate may be revoked or suspended. The following proposed amendments would make the two regulations more consistent by permitting the ministry director to consider revoking or suspending a wastewater operator’s licence, if one or more of the following circumstances exist:</p> <ul style="list-style-type: none"> • the person has worked as an operator for any length of time without holding a valid wastewater operator’s licence of the type or class of operator he or she worked as, or if the person has held himself or herself out to an owner, the ministry director or any ministry employee as holding a type or class of wastewater operator’s licence that he or she does not hold • the person has previously had either a drinking water operator’s certificate or a wastewater operator’s licence revoked or suspended for any reason and the ministry director has reasonable grounds to believe that the person is not competent to be an operator • the person has failed: <ul style="list-style-type: none"> • to exercise the level of care, diligence and skill in the operation of a wastewater facility that a reasonably prudent operator would be expected to exercise in a similar situation, or • to act honestly, competently and with integrity, with a view to ensuring the protection of human health or the environment • the person has failed to meet or contravened the conditions of his or her licence <p>The ministry director already has comparable powers in relation to drinking water operators’ certificates, under O. Reg. 128/04 made under the Safe Drinking Water Act, 2002. Adding the proposed equivalent provisions to O. Reg. 129/04 would:</p> <ul style="list-style-type: none"> • provide consistency in the reasoning for taking disciplinary action for all operators <p>allow the ministry to implement an Operator Code of Ethics for Wastewater Operators that is similar to the new Operator Code of Ethics for Drinking Water Operators, which would provide clarity and consistency for operators who hold certification in both drinking water and wastewater</p>		In support

1. Formalize and clarify the process through which a wastewater facility owner may request the ministry director's direction to allow a temporary exemption from operator licensing related requirements during a strike or lock-out by:
i) Requiring the owner to submit the facility's Strike or Lock-out Plan to the ministry director at least 14 days in advance of the earliest possible legal strike or lock-out date.

Currently there is no deadline by which the owner must submit the strike or lock-out plan to the ministry director. The addition of a 14-day submission deadline will help ensure that adequate time is available for the ministry director to review the initial plan, request updates by the owner as needed, and make a decision prior to the anticipated strike or lock-out date.

ii) Requiring facility owners to include in the strike or lock-out plan the information needed to satisfy the ministry director that the facility will be operated without significant risk to human health or the natural environment.

The information required would include, at a minimum:

- A list of all persons whom the facility owner proposes to employ in the facility during the strike or lock-out, including each person's:
 - name
 - current position
 - relevant qualifications
 - proposed responsibilities during the strike or lock-out (e.g. operator, OIC, ORO)
- A plan for how the facility will be operated during the strike or lock-out, including:
 - a description of the facility and its technical processes
 - staffing requirements of the facility under normal operating conditions
 - details about what training will be provided by the owner to temporary non-licensed staff
 - information about any planned operational changes during the strike or lock-out period
 - a statement confirming that non-licensed staff will be trained on operating procedures and that such procedures will be readily available to them
 - a statement confirming that all non-licensed staff will have reviewed the emergency procedures for the facility before the strike or lock-out period begins

The process and type of information currently required to satisfy the ministry director is set out in guidance including Obtaining Director's Direction to Use Non-certified Operators in the Event of a Strike and The Strike Plan Template. Setting out the requirements in the regulation, as proposed, would clarify and formalize those expectations.

iii) Adding a step in which the ministry director would provide the wastewater facility owner with a formal notice that signals acceptance or rejection of the submitted strike or lock-out plan.

Currently, as part of the existing process, the ministry director sends a letter to the facility owner in question, to communicate the ministry director's decision on the submitted strike and lock-out plan. The proposed amendment is intended to clarify and formalize this process.

1. Formalize and clarify the process through which an owner or operating authority of a drinking water subsystem may request the ministry director's direction to allow a temporary exemption from operator certification related requirements during a strike or lock-out by:

i) Requiring the owner or operating authority to submit the subsystem's strike or lock-out plan to the ministry director at least 14 days in advance of the earliest possible legal strike or lock-out date.

Currently there is no deadline by which the owner or operating authority must submit the Strike or Lock-out Plan to the director. The addition of a 14-day submission deadline would help ensure that adequate time is available for the director to review the initial plan, request updates by the owner or operating authority as needed and make a decision prior to the anticipated strike or lock-out date.

ii) Requiring system owners or operating authorities to include in the strike or lock-out plan the information needed to satisfy the ministry director that the system will be operated without significant risk to human health or the natural environment. The information required would include, at a minimum:

- a list of all persons whom the system owner or operating authority proposes to employ in the subsystem during the strike or lock-out, including each person's:
 - name
 - current position
 - relevant qualifications
 - proposed responsibilities during the strike or lock-out (e.g. operator, OIC, ORO)
- A plan for how the subsystem will be operated during the strike or lock-out, including:
 - a description of the subsystem and its technical processes
 - staffing requirements of the subsystem under normal operating conditions
 - details about what training will be provided by the owner to temporary non-certified staff
 - information about any planned operational changes during the strike or lock-out period
 - a statement confirming that non-certified staff will be trained on operating procedures and that such procedures will be readily available to them
 - a statement confirming that all non-certified staff will have reviewed the emergency procedures for the subsystem before the strike or lock-out period begins

The process and type of information currently required to satisfy the ministry director is set out in guidance including Obtaining Director's Direction to Use Non-certified Operators in the Event of a Strike and The Strike Plan Template. Setting out the requirements in the regulation, as proposed, would clarify and formalize those expectations.

iii) Adding a step in which the ministry director would provide the drinking water system owner or operating authority with a formal notice that signals acceptance or rejection of the submitted strike or lock-out plan.

Currently, as part of the existing process, the ministry director sends a letter to the system owner or operating authority in question, to communicate the ministry director's decision on the submitted strike and lock-out plan. The proposed amendment is intended to clarify and formalize this process.

In support

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Other Public Consultation Opportunities	The ministry is seeking comments on any or all of the proposed regulatory amendments from any interested stakeholders. The following questions highlight areas of interest to the ministry with respect to some of the proposed changes, but interested stakeholders need not limit comments/concerns exclusively to these questions:	The ministry is seeking comments on any or all of the proposed regulatory amendments from any interested stakeholders. The following questions highlight areas of interest to the ministry with respect to some of the proposed changes, but interested stakeholders need not limit comments/concerns exclusively to these questions:	
Other Public Consultation Opportunities	1. Are there any other types of issues or challenges faced by owners or operators of wastewater facilities related to emergencies, or the aftermath of emergencies, that you would also want to be addressed through the proposed amendments? If so, please explain the issues and ideas for addressing them, if the proposed amendments would not do so.	1. Are there any other types of issues or challenges faced by owners, operating authorities or operators of drinking water systems related to emergencies, or the aftermath of emergencies, that you would also want to be addressed through the proposed amendments? If so, please explain the issues and ideas for addressing them, if the proposed amendments would not do so.	<ul style="list-style-type: none"> – Back-log of required training hours following the emergency. While the emergency staffing provisions may be implemented during the emergency, the training considerations need to extend beyond resolution of the emergency. It looks like this is going to be considered for water certification under item 3(b) of the proposed emergency related amendments for water in relation to temporary certificates; however, item 3 listed under the proposed emergency related amendments for wastewater doesn't seem to take this into account. <ul style="list-style-type: none"> – The water posting is clear in stating: <i>"In an emergency or its aftermath, an operator or water quality analyst may need more time than usual to complete training needed to meet certificate renewal requirements"</i> in regard to extending certificates. This option should clearly be stated for wastewater licences as well. – Delays in certification may be an issue; especially during prolonged emergencies. Permitting OIT exams to be proctored onsite would be beneficial during the emergency to ensure that those staff who wish to become certified have a chance to do so, thus reducing the need for uncertified staff during an emergency.
Other Public Consultation Opportunities	2. Are there any other types of exceptional situations that should trigger the use of the proposed emergency related provisions by the ministry director, or by the owner of a facility?	2. Are there any other types of exceptional situations that should trigger the use of the proposed emergency related provisions by the ministry director, or by the owner or operating authority of a subsystem?	<ul style="list-style-type: none"> – Inclement weather events that may not trigger an emergency declaration (ability for staff to report to work locations, availability of staff to address issues (e.g. frozen services), etc.) – Suspected terrorism (ability for staff to report to work locations, operational considerations for ensuring the safety of staff)

3. Questions on Proposed Emergency Related Amendment 4, i.e. Allowing substitute personnel to temporarily operate a facility:

- a) Are you supportive of the proposal to allow knowledgeable, non-licensed personnel to temporarily operate a wastewater facility if needed to maintain the safe continuity of operations in an emergency? For example, if a disease outbreak were to cause a critical shortage of licensed operators at a wastewater facility due to illness and quarantine requirements.
- b) Do you agree with the proposed list of types of substitute personnel that could be employed to operate a wastewater facility in an emergency? Are there any types of substitute personnel not listed that should be included? Alternatively, are there types of substitute personnel listed that should be removed?
- c) Do you agree that the condition requiring a Certified Engineering Technician or Certified Engineering Technologist have at least 3 years' experience working in a facility is appropriate given the qualifications for these designations?
- d) Do you agree that the condition requiring a manager, or maintenance or technical support personnel, to have at least 5 years' experience working in a facility is appropriate?
- e) If operators of a wastewater facility work in a unionized setting, is there a possibility that the proposed amendments to permit the use of temporary personnel in an emergency would conflict with any aspect of a collective agreement? If so, would these conflicts prevent owners from readily being able to employ non-licensed substitute personnel temporarily to operate a wastewater facility in an emergency if needed? Please explain.

3. Questions on Proposed Emergency Related Amendment 4, i.e. Allowing substitute personnel to temporarily operate a subsystem:

- a) Are you supportive of the proposal to allow knowledgeable, non-certified personnel to temporarily operate drinking water subsystems if needed to maintain the safe continuity of operations in an emergency? For example, if a disease outbreak were to cause a critical shortage of certified operators at a water treatment plant due to illness and quarantine requirements.
- b) Do you agree with the proposed list of types of substitute personnel that could be employed to temporarily operate a drinking water subsystem in an emergency? Are there any types of substitute personnel not listed that should be included? Alternatively, are there types of substitute personnel listed that should be removed?
- c) Do you agree that the condition requiring a Certified Engineering Technician or a Certified Engineering Technologist have at least 3 years' experience working in a subsystem is appropriate given the qualifications for these designations?
- d) Do you agree that the condition requiring a manager, or maintenance or technical support personnel, to have at least 5 years' experience working in a subsystem is appropriate?
- e) If operators of a drinking water subsystem work in a unionized setting, is there a possibility that the proposed amendments to permit the use of temporary personnel in an emergency would conflict with any aspect of a collective agreement? If so, would these conflicts prevent owners and operating authorities from readily being able to employ non-certified substitute personnel temporarily to operate a drinking water subsystem in an emergency if needed? Please explain.
- f) What possible alternatives, if any, do you see to the proposed approach of allowing owners and operating authorities to temporarily employ knowledgeable, experienced but non-certified substitute personnel to operate a drinking water subsystem in an emergency if needed (e.g. critical shortage of certified operators)? Please explain.

- a) Yes, Niagara is in support of allowing knowledgeable, non-certified personnel to temporarily operate provided adequate oversight is in place by the municipality.
- b) Yes. Also consider allowing the municipality to justify other technical roles responsible for the following: laboratory services, quality management, process optimization, compliance, flow monitoring, project management, etc. based on the needs of its operation.
- c) Niagara doesn't feel that the 3 years experience is necessary.
 - Clarification is needed for what constitutes 3 years experience.
 - If staff are already employed in water-wastewater, and familiar with operations, and also have the technical aptitude to obtain their C.E.T. or C.Tech., the 3 years shouldn't be required. Many of these staff would write OIT exams, however, once written they can't upgrade unless they have operations experience.
- d) Yes and no. If this was truly an emergency, we would need our more experienced maintainers available to respond to equipment failure and it would be in our best interest to have the less experienced maintainers set up to train to operate with oversight.
- e) Current collective agreement provisions are suitable if Niagara is pulling unionized staff but does not allow non-union staff to fill the gap. This may be problematic when unionized technical staff need to be redeployed before non-union certified staff.

There could be an issue with utilizing non-licensed/certified staff. O.Reg. 75/20 had additional wording "for greater certainty, the Agency or the owner may implement redeployment plans without complying with provisions of a collective agreement, including lay-off, seniority/service or bumping provisions". This language would be necessary unless an alternative agreement was made with the Union.
- f) Many municipalities do not have the staff compliment to support emergency operations as proposed. In addition to the pre-defined list of suitable experience, allow municipalities to seek relief, where required, through the submission of a plan similar to the strike/lock-out plan. It is understood that this recommendation would be better suited for regional or local emergencies so the ministry can manage the review and acceptance of the plans.

<u>Section</u>	<u>Wastewater</u> Proposed amendments to wastewater operator licensing regulation to address impacts of emergencies (019-3515)	<u>Water</u> Proposed amendments to drinking water operator and water quality analyst certification regulation to address impacts of emergencies (019-3513)	Summary/Comments
	<p>f) What possible alternatives, if any, do you see to the proposed approach of allowing owners to temporarily employ knowledgeable, experienced but non-licensed substitute personnel to operate a wastewater facility in an emergency if needed (e.g. critical shortage of licensed operators)? Please explain.</p>		<p>Other relevant points:</p> <p>Technical support positions, such as quality and compliance staff (process optimization, quality management, compliance), frequently provide direction, train operators, and are considered subject matter experts. Even with this expertise, staff who hold technical positions related to water/wastewater treatment and distribution/collection are in some cases unable to upgrade or have difficulty renewing existing certificates/licences. By allowing personnel to gain experience towards upgrading licenses we gain more trained, and advanced operations staff which would assist in times of emergency.</p> <p>For those who have already completed one year of operations experience and have successfully obtained at least a Class I certificate/licence, the ministry should clarify the process for allowing the abovementioned technical work to count towards the upgrade of a certificate/licence. It is understood that the MECP guides already include case-by-case consideration for these situations, however, additional clarification is requested for what experience would be acceptable when additional OIC or ORO time is not achievable due to collective agreement or other restrictions.</p> <p>In terms of contingency planning, some staff in technical roles that support and direct operations may consider writing OIT exams. The issue that arises with this is that once written, they cannot progress and the certification expires. It is recommended that the ministry consider supporting staff in these roles by including associated tasks as relevant experience to obtain and maintain certification. The MECP operator experience guides should be updated to address these situations in greater detail.</p> <p>In addition, less prescriptive maintenance based operating experience would assist SCADA, instrumentation, and electrical staff as many of their regular duties do not overlap with the majority of maintenance based operating experience examples making it impossible for them to pursue higher levels of certification/licence despite having an intimate knowledge of plant processes and equipment. By allowing personnel to gain experience towards upgrading certificates/licences we gain more trained, and “advanced” operations staff which would assist in times of emergency.</p>

Section	<u>Wastewater</u> Proposed amendments to wastewater operator licensing regulation to address impacts of emergencies (019-3515)	<u>Water</u> Proposed amendments to drinking water operator and water quality analyst certification regulation to address impacts of emergencies (019-3513)	Summary/Comments
Other Public Consultation Opportunities		<p>4. Questions on temporary substitute personnel in relation to drinking water testing. Please refer to Proposed Emergency Related Amendment 4 above and Schedules 7 and 8 of O. Reg. 170/03 for context:</p> <p>a) To ensure that drinking water testing is conducted properly during emergency situations, would it be reasonable to stipulate that the only types of substitute personnel who could act in the place of a certified operator for the purposes of conducting or supervising drinking water testing would be licensed engineering practitioners (e.g. Professional Engineers) or people who previously held an operator’s certificate within the last 5 years (e.g. retired operators)? Or do you think that, in emergencies, substitute personnel other than Professional Engineers and retired operators should be able to act temporarily in the place of certified operators when it comes to drinking water testing? Please explain.</p> <p>b) Should substitute personnel including managers, certified engineering technicians/technologists, and maintenance and technical support personnel (excluding water quality analysts) who conduct drinking water testing do so under the following conditions?</p> <ul style="list-style-type: none"> • be trained by a certified operator to conduct tests • work under the supervision of a certified operator • immediately advise a supervising certified operator of the test results 	<p>a) Substitute personnel should be able to act temporarily in the place of certified operators when it comes to drinking water testing provided there is oversight by certified staff (current or within last 5 years), experienced management staff, or staff with laboratory experience (Chartered Chemist, lab technician, etc.). A designation, such as P.Eng., does not guarantee laboratory experience and other roles within a municipality’s staff compliment may be a more suitable choice for supervision of drinking water testing.</p> <p>Water quality management systems include requirements for documenting sampling, testing, and monitoring activities and responses when quality targets aren’t met. Water systems already have good documentation in place to assist substitute personnel, therefore, any trained substitute personnel should suffice provided adequate oversight is in place.</p> <p>b) Niagara agrees with training and working under supervision. See above as well. We feel that an immediate notification to the supervising certified operator would only be required if quality targets are not met or if specific adjustments need to be made.</p>
Other Public Consultation Opportunities	<p>4. Do you agree that the 14-day deadline for the initial submission of the strike-plan is reasonable? If not, should the proposed number of days be increased or decreased?</p>	<p>5. Do you agree that the 14-day deadline for the initial submission of the strike-plan is reasonable? If not, should the proposed number of days be increased or decreased?</p>	<p>14 days is reasonable given that the MECP will require time to review and may require changes.</p>
Niagara Specific Recommendations			<ul style="list-style-type: none"> - Harmonize water and wastewater training requirements as mentioned in previous comments. Have training hours follow licence/certification renewal timeline, ensure owners make training available, and put the onus on the operator to ensure they get their hours. - Any operating experience gained by non-certified/licenced staff when operating during the emergency or strike/lock-out should be accepted as operational experience if those staff successfully obtain OITs during or within a certain amount of time after the emergency. - The ministry should clarify that certified/licenced staff, that do not hold a regular operator position, will receive 100% of the emergency or strike/lock out operating hours towards upgrading certification/licence. This will avoid confusion when, at time of upgrade, a job description is supplied but does not include all of the performed operator duties.