



Legislative & Planning Services  
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Halton Region  
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July 3, 2021

Sanjay Coelho  
Ministry of the Environment, Conservation and Parks –  
Environmental Policy Branch  
40 St. Clair Avenue West, Floor 10  
Toronto, ON  
M4V 1M2

Dear Sanjay Coelho:

**RE: ERO 019-2785 – Land Use Compatibility Guideline  
ERO 019-2768 – Guideline to Address Odour Mixtures in Ontario**

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Thank you for the opportunity to provide input with respect to the proposed Land Use Compatibility Guideline and the proposed Guideline to Address Odour Mixtures in Ontario. Halton Region welcomes the opportunity to participate in the Ministry of the Environment, Conservation and Parks (MECP) request for comments.

Halton Region Council received Staff Report No. LPS57-21 titled “Provincial Consultation on Proposed Land Use Compatibility Guideline and Proposed Guideline to Address odour Mixtures in Ontario” at its meeting on June 16, 2021. A copy of this report is provided as Attachment #1 to this letter. Regional Council endorsed this report as the basis to prepare a submission to the MECP. This letter represents that submission, and is provided in response to postings ‘019-2785’ and ‘019-2768’ on the Environmental Registry of Ontario (ERO).

### **Comments**

#### **ERO 019-2785: Land Use Compatibility Guideline**

#### **Applicability to Federal and Federally-regulated Facilities**

A significant concern with the proposed Guideline is its approach to federal or federally-regulated facilities. The proposed Guideline introduces a new Ontario approach to federal or federally-regulated facilities such as airports, rail facilities, marine facilities, and oil and gas pipelines that is not consistent with the Provincial Policy Statement (PPS) 2020. The PPS, 2020 provides a two-way standard to address compatibility – i.e., on the one hand, new major facilities must be planned to ensure compatibility with existing or approved sensitive land uses and, on the other hand, new sensitive land uses must be planned to ensure compatibility with existing or approved major facilities. Without rationale, the MECP guideline proposes to depart from the cabinet-approved Provincial Policy Statement by including a novel one-way approach – that new sensitive land uses must be planned to ensure compatibility with existing or approved major federal facilities, but new major federal facilities need not be planned to ensure compatibility with existing or approved sensitive uses. There is no planning policy rationale for

#### **Regional Municipality of Halton**

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introducing this one-way approach and, nor is there any legal rationale for this change. In law, there is no blanket exemption of federal facilities from provincial or municipal law or standards.

The Region is of the opinion that these MECP guidelines should not change the existing policy approved by cabinet in the PPS, 2020. The siting of all new major facilities near sensitive land uses should be subject to this guideline. There should be zero tolerance for any “federally-regulated facility” claiming or receiving blanket exemption from the requirement to ensure compatibility through alternative designs, separation distances or mitigation.

Therefore, it is recommended in the strongest of terms that these guidelines should apply and will prove useful to ensure that new federally-regulated facilities adhere to Ontario’s existing two-way standards and approach to land use compatibility. This is incredibly important for achieving economic prosperity and ensuring protection of the people of Ontario against a range of impacts – including serious health impacts – due to incompatible land uses.

### **Classification of Facilities and Identified Area of Influence (AOI) / Minimum Separation Distance (MSD)**

The Region is generally supportive of the class-specific and facility-specific approach to AOIs and MSDs. The proposed guideline allows for easier implementation by municipalities of AOI and MSD standards through the introduction of the detailed methodology for classifying major facilities into a finer grain five class system as well as assigning certain types of major facilities a specific AOI and MSD.

The substantial increase to AOI and MSD standards in the proposed guideline may present challenges for established employment areas that are in close proximity to or within areas being planned for infill and intensification including strategic growth areas such as major transit station areas. Additional guidance is requested from MECP on what minimization and mitigation approaches may be most appropriate in these contexts including further guidance on planning for transitional land uses in strategic growth areas where there are both major facilities within employment areas and mixed use areas that will accommodate sensitive land uses. These scenarios present competing planning objectives between the Growth Plan, 2019 and the Land Use Compatibility Guideline. While the Guideline does provide some additional flexibility with emphasis on minimization and mitigation, additional guidance on how to address these competing objectives would assist municipalities when assessing land use compatibility considerations and making recommendations.

### **Implementation of Land Use Compatibility in Planning Tools and Potential for Enhanced Provincial Support**

The Region is generally supportive of the guidance provided on how land use compatibility can be addressed in planning tools such as official plans. However, Table 4 of the proposed guideline indicates that official plans should identify or designate areas with existing or planned major facilities and identify the associated AOIs and MSDs for these facilities on a land use schedule. The Region has concerns with this suggestion as the land use schedule would become stale-dated quite quickly as facilities change, expand, or move throughout the Region. Further, there are limited resources available for municipalities to assess and classify major facilities and to track, monitor, and update this information. A more flexible approach to identifying major facilities and their associated AOIs and MSDs at the municipal-level should be considered.

An alternative approach would be consideration of a centralized Provincial database for the classification of facilities. MECP already provides a database for environmental compliance approvals (ECAs) and improvements to the user friendliness of the database to identify when an ECA is no longer active and to assign a classification and AOI or MSD, as per the guideline, would not only assist municipalities across the Province in the assessment of compatibility studies but would align the ECA process with the Province's land use compatibility guidance. As MECP already undertakes tracking of ECAs, the requirement for municipalities to do similar tracking through the classification of facilities on a schedule in official plans may introduce duplication of work. The Land Use Compatibility Guideline should provide clarification on roles and responsibilities between the Province and municipalities.

### **Demonstration of Need Requirements**

The demonstration of need requirement should not only apply where sensitive land uses are proposed near existing or planned major facilities but also where major facilities are proposed near existing or planned sensitive land uses. This approach would align with the PPS, 2020, which requires land use compatibility to be assessed and addressed for both scenarios in order to minimize risk to public health and safety and to ensure the long-term operational and economic viability of major facilities.

### **Applicability to Processes Underway**

Further clarification is requested from MECP on how the guideline will impact projects and processes that are already underway, as many of these initiatives have been undertaken in accordance with the existing D-series guidelines.

### **ERO 019-2768: Guideline to Address Odour Mixtures in Ontario**

Section 5.6 'Odour Minimization/Mitigation Plan' indicates that any odour control implemented at the odour receptor will not be recognized by the Ministry if a nearby major facility submits an application for an Environmental Compliance Approval or ECA amendment. The Region is concerned that this may limit the ability for future expansion of an existing major facility if there are approved sensitive land uses within AOI or MSD with mitigation/control measures at receptor. Especially if the major facility has already implemented reasonable/available control measures. Further clarification on how MECP will address this is requested in the guidelines.

Thank you again for the opportunity to provide input on these proposed guidelines.

Sincerely,



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Att: Attachment #1 – Halton Staff Report No. LPS57-21