



July 3, 2021

Mr. Sanjay Coelho
Senior Policy Analyst
Ministry of the Environment, Conservation and Parks
Environmental Policy Branch
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RE: WIHL Comments to ERO Posting 019-2785: Land Use Compatibility Guideline

Dear Mr. Coelho,

Walker Industries Holdings Limited (Walker) is pleased to provide comments related to the Land Use Compatibility Guidelines (LUCG) to help municipalities and planning authorities plan sensitive land uses and major facilities. The objective is to help to avoid, minimize and mitigate potential adverse effects from odour, noise, dust and other contaminants. For nearly 130 years, Walker has operated businesses in the aggregates, material recovery, residuals management, and emulsion production sectors in Ontario.

Through our Environmental and Aggregates divisions, Walker has extensive experience with odour and dust management in Ontario through our landfills, compost facilities, pits and quarries. We apply best management practices in our operations to reduce nuisances to our neighbours and are committed to the communities we serve. Thank you for the opportunity to provide comments to the Ministry for consideration.

We are committed to engaging with governments as they develop policies and regulations that are consistent with our principles of sound science, sound environment and a sound economy. To that end, provide the following comments:

WIHL has been consistent in our support of the modernization of all policy and regulations related to the resource recovery/waste management industry. We are also supportive of changes that reduce red-tape and streamline regulations to create a business environment where new and/or improved technologies and methods for recovering the value inherent in our waste stream is for the benefit of Ontarians.

WIHL's concerns can be summarized under three key points, which are;

A) Process Ambiguity: Additional measures introduced in the guidelines, including modelling and planning, create ambiguity for proponents of environmental technologies as the requirements of projects will change based upon the variable application of the guidelines by MECP regional and district offices;

B) Project Uncertainty: Expansion of existing facilities or the development of new facilities will be challenged by guidelines that introduce project uncertainty, which contradicts the government's economic development and environmental protection policies; and

C) Investment Risk: Costs associated with additional environmental studies and resultant mitigation measures or solutions creates investment risk without an environmental benefit, other than potential reduction of complaints, which is a highly subjective metric.

WIHL's General Comments on the Proposal

1. Previous WIHL Submission: WIHL has a history of being supportive of changes to land use planning in Ontario, as evidenced with our submission to the Ministry of Municipal Affairs and Housing's (MMAH) Provincial Policy Statement (PPS) review posted in October 2019. In that submission we strongly suggested that the PPS be augmented with policies that:

- a) Support critical resource recovery and waste disposal infrastructure;
- b) Clarify conflicts between provincial policies regarding land use and this infrastructure;
- c) Reinforce the primacy of provincial policy over local and municipal policies;
- d) Reduce or eliminate duplication between approvals processes; and,
- e) Support designating lands for critical resource recovery and disposal infrastructure.

Our land use guideline submission builds on these five core pillars and we remain consistent in our position that land use planning must consider the critical need and nature of resource recovery/waste management infrastructure to support Ontario's overall environmental and circular economy development objectives.

2. WIHL is Deeply Concerned: WIHL is deeply concerned the proposed guideline, as drafted, present major impediments to the Ontario environmental services industry's ability to deploy and operate the critical infrastructure needed to divert the wide array of residential and commercial waste streams from landfill to create benefit and value in Ontario under the Made-In-Ontario Environment Plan.

In addition, WIHL feels strongly the proposed guideline runs contrary to the Province's stated objective and efforts to reduce GHG emissions. The resource recovery industry, and other industries, may be forced to consider locating greater distances, which translates to more travel from the urban centres and the customers they serve.

Further, the proposal adds to the regulatory burden on industry in Ontario. We feel strongly this guideline, in combination with the odour and compliance proposals, will inhibit the investment in innovative technologies being developed in, or attracted to, the Province. Without this investment, Ontario risks not being able to achieve our waste diversion and circular economy objectives.

3. WIHL Requests Further Consultation Be Undertaken: WIHL recognizes and supports science-based regulation to achieve environmental, social and economic benefit. Further consultation with industry will enable this objective and we respectfully request that the MECP commit to further engagement with industry before finalizing this guideline.

We believe further consultation will ensure that opportunities for environmental benefit, innovation and investment are the likely outcomes from the proposed Land Use Guideline. We also believe the proposed Odour Guideline and the Modernization of Environmental Practices proposal must also include further consultation given all three are linked.

WIHL's Specific Comments And Questions On The Proposal

WIHL has a common purpose with the MECP to protect the environment, deliver the needed resource recovery solutions of the 21st century, and work together and in harmony with all stakeholders. WIHL members have provided significant input in the development of this submission. The detailed comments and questions expressed by the working group follows using the structure presented in the draft guideline.

Part A: Overview And Context - Introduction and Context

1. Previously WIHL advocated for the MMAH to address resource recovery/waste management as critical infrastructure and it appears this message was lost.
2. Official plans need to clarify and be in harmony with the effective and efficient siting of resource recovery/waste management infrastructure. As an example, in the MECP's organics diversion framework PPS, municipalities are to identify lands suitable for organics processing facilities. This guideline does not address this policy.
3. How do municipalities alter their official plans to properly site facilities?
4. Who is responsible for undertaking the Area of Influence study?
5. Sewage treatment facilities are included in the definition of major facilities in this guideline, yet they are exempt from the odour change proposal. Please clarify as to the reasoning, or is this an oversight?
6. Adverse Effect definition is vague and challenging to work with, especially with our changing climate and the hotter, more humid summers, which will become more the norm than an outlier.
7. The sensitive receptor definition needs clarification as it looks to be evolving beyond residences under this proposal and now includes daycare, educational and health facilities. Please clarify and make consistent the definition.
8. It is our understanding the rationale for minimum separation distance is being driven by the historical number of complaints, as opposed to being backed by science. Prevailing winds, weather conditions, etc. all have an impact and need to be considered.
9. The proposal does not address when sensitive uses come within the range of the industrial facility.
10. We are concerned that municipalities will feel empowered to issue moratoriums and other such instruments as a means to delay, defer, or satisfy any resistance to the siting of private resource recovery infrastructure.

Table 1

1. Minimum distance separation is a blunt instrument which will make it extremely difficult to site major industry in the Province.
2. For composting facilities there is a need for further definition as to the types of feedstocks that they handle.
3. How does a farm sited anaerobic digester that receives off-farm organics under the revised NMA proposal fit into this guideline?
4. Farm storage for compost, biosolids, and digestates needs to be addressed.

Table 4

1. Municipalities can't differentiate between their own infrastructure and private sector infrastructure as they have tried this before.
2. It appears that Municipalities will be allowed significant input and the possible actions they could take, such as area or site-specific moratoriums, are problematic.
3. Municipalities should not be able to enact restrictions/covenants in areas that are already regulated by the Province.
4. The use of the term anaerobic landfills is confusing. Other guidelines and definitions simply refer to them as landfills. Please clarify / be consistent across all activities.

Part B: Assessing Land Use Compatibility**Tools To Assess Land Use Compatibility**

1. AOI's cannot be smaller than the MSD in the guideline at the bottom in bold, but in the first paragraph it says planning authorities may determine an alternate AOI that may be smaller or larger? This wording needs some clarification.

2. Will this proposal limit the ability of existing facilities to expand if they are in compliance with environmental legislation and their ECA requirements?

3. In Table 1 landfills and dumps are listed as case by case, while composting and anaerobic digestion are not. Why was a value not assigned here?

4. The concept of “demonstration of deed” is challenging as this is a subjective measure that runs the risk of fostering municipal level posturing and NIMBYism.

5. For compatibility studies, it states they should be prepared by qualified individuals. There is an example in section B5 that says in most cases this should be someone with a license under the Professional Engineers Act. Most cases is a very vague descriptor that requires clarification. What specific scenarios does this apply too?

6. The documentation for studies often duplicates the ECA application requirements. Would the ESDM and AAR suffice as it is already prepared for the ECA? If not the added cost will impact business’s ability to expand in Ontario. Examples include:

- the duration, timing and types of operational activities, shipping, receiving and other transport activities, and outputs/contaminants
- the hours of operation/normal use periods for sensitive land uses
- design details and number, type and location of windows and doors in sensitive land use buildings
- wind patterns (predominant winds, wind roses), topography and natural and man-made barriers/buffers (e.g. elevation, vegetation, walls, berms, ground and surface water) in the study area
- any existing complaint history (where available) associated with the operation of the major facility (or major facilities) which would impact sensitive land uses, and any actions undertaken to address the concerns

7. The guideline will create added cost. This added burden is inconsistent with the Provincial “open for business” and “red tape reduction” strategies and duplicates processes with municipalities that currently execute zoning and planning compatibility reviews.

8. What is the concern about “methane hazards” near landfills?

Implementation And Planning Tools

1. In the Part B, D6 section the compatibility studies do not apply to; a) sewage treatment facilities; b) landfills or dumps, transfer stations and other waste management facilities and waste processing facilities that require a Waste Certificate of Approval; c) roadways (except for ancillary transportation facilities and transportation-related activities for an industrial land use including shipping and receiving); d) airports; e) railways (but it does apply to railway yards and other ancillary rail facilities), and; f) pits and quarries.

Does this mean when an industrial facility applies for an expansion or new build that these elements are not to be included in the compatibility study, or is it that these industries are not required to perform a compatibility study? Or both?

2. The Province has mandated waste diversion from landfill policy across many different waste stream types, such as blue box and hazardous waste. Why would landfills be exempt and not other resource recovery/waste management infrastructure? Shouldn't the expansion of landfills be similarly included?

In Summary

WIHL looks forward to working with the Province to modernize all waste related regulations and implement the needed changes to this proposal by participating in further consultations. We welcome the opportunity to discuss our position and comments further. Please contact Tim Murphy, at TMurphy@walkerind.com or at (905) 351-7995 should you have any questions.



Tim Murphy
VICE PRESIDENT
ENVIRONMENTAL PERFORMANCE DEPARTMENT

cc. Hon. Doug Ford Premiers Office
Hon. David Piccini Environment, Conservation and Parks
Hon. Vic Fedeli Economic Development, Job Creation and Trade



Mr. Giles Gherson
Hon. Steve Clark

Economic Development, Job Creation and Trade
Municipal Affairs and Housing