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Mr. Sanjay Coelho
Senior Policy Analyst
Ministry of the Environment, Conservation and Parks
Environmental Policy Branch
40 St. Clair Avenue West, Floor 10
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mecp.landpolicy@ontario.ca

RE: Ontario Environment Industry Association (ONEIA) Comments on ERO Posting 019-2785: Land Use Compatibility Guideline

Dear Mr. Coelho,

On behalf of Ontario's more than 3,000 environment and cleantech firms, the Ontario Environment Industry Association (ONEIA) is pleased to provide our comments to the above-noted posting where Ontario is proposing an updated Land Use Compatibility Guideline (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.

About ONEIA

Ontario is home to Canada's largest group of environment and cleantech companies. The most recent statistics from the federal government show that Ontario's environment sector employs more than 226,000 people across a range of sub-sectors. This includes firms working in such diverse areas as materials collection and transfer, resource recovery, composting and recycling solutions, alternative energy systems, environmental consulting, brownfield remediation, and water treatment – to name just a few. These companies contribute more than \$25-billion to the provincial economy, with approximately \$5.8-billion of this amount coming from export earnings.

Members of ONEIA 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, we convened a working group of members drawn from across various sectors to review the proposed Land Use Compatibility Guideline.

General comments

ONEIA commends the Ministry of the Environment, Conservation and Parks' (MECP) efforts to modernize regulations and we appreciate the opportunity to comment on the proposed changes to the Land Use Guidelines. ONEIA has been consistent in our support of the modernization of all policy and regulations related to the Ontario environment/cleantech

sector. We also support changes that reduce red-tape and streamline regulations to create a context that supports the use of new and/or improved technologies and methods to recover value inherent in our waste streams.

ONEIA has a history of supporting changes to land use planning in Ontario, as evidenced by our submission to the recent 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.

This submission builds upon these five core concepts. 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.

ONEIA is deeply concerned that the proposed Land Use Compatibility Guideline, as drafted, will impede the ability of Ontario's environmental services industry to deploy and operate the critical infrastructure needed to divert the wide array of residential and commercial waste streams from landfills to create benefit and value in Ontario under the Made-In-Ontario Environment Plan.

In addition, ONEIA 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 more remote siting, which translates to more truck traffic and greater distances travelled from the urban centres and the customers they serve.

Further, the proposal adds to the regulatory burden on industry in Ontario. We feel strongly these guidelines 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.

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

1) ***Process Ambiguity***

Additional measures introduced in the policy and the associated guidelines, including modelling and planning, create ambiguity for proponents of environmental technologies as the project requirements will change based on the variable application of this policy and linked guidelines by MECP regional and district offices;

2) ***Project Uncertainty***

Expansion of existing facilities or the development of new facilities will be challenged by policy and guidelines that introduce uncertainty to the projects. This contradicts the Provincial government's economic development and environmental protection policies; and

3) **Investment Risk**

Costs associated with required additional environmental studies and resultant mitigation measures or solutions will create investment risks without a commensurate environmental benefit. While some measures may lead to fewer citizen complaints, this is a highly subjective metric that is often unrelated to whether a facility is complying with the regulations themselves.

ONEIA recognizes and supports science-based regulation to achieve environmental, social and economic benefit. ONEIA recommends further MECP consultation with industry to enable this objective. We strongly encourage MECP to 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.

Specific comments and questions

ONEIA members share the Ministry's focus on protecting the environment, delivering the needed resource recovery solutions of the 21st century, and working together and in harmony with all stakeholders. ONEIA members have provided significant input in the development of this submission. The detailed comments and questions that follow mirror the structure presented in the draft guideline.

Part A: Overview and context

Introduction and context

1. Previously ONEIA advocated for the MMAH to address resource recovery/waste management as critical infrastructure. It appears this recommendation was not included in the proposed Guideline.
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 supposed 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 provide clarity as to the reasoning (or was this an oversight?).
6. The definition of "adverse effect" is vague and will be challenging to work with, especially with our changing climate. Hotter and more humid summers are becoming the norm rather than the exception.
7. The "sensitive receptor" definition needs clarification. It appears to be expanding 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. Numerous industrial facilities are being sited at rural-urban boundaries across the province. As Ontario continues to grow, we foresee challenges as communities allow residential zoning to intermingle with industrial zoning which leads to issues when the industrial facilities look to expand and grown providing economic development in the host communities.
10. Based in the proposed guideline, we are concerned that municipalities will feel empowered to issue moratoriums and other such instruments as a means of delaying, deferring, or satisfying 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. Composting facilities need 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 a revised Nutrient Management Act (NMA) as proposed, 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. ONEIA members have seen examples where resource recovery facilities financed by the public sector are allowed to move forward while similar facilities that are privately financed facilities face moratoriums and denial of zoning conformance in general industrial and heavy industrial zoned areas.
2. It appears that municipalities will be allowed substantial input based on the Land Use Compatibility Guideline. The ability of municipalities to consequently take actions such as area or site-specific moratoriums would be problematic.
3. We recommend that 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. We recommend that the terminology used across all activities is clear and consistent.

Part B: Assessing Land Use Compatibility

Tools to assess land use compatibility

1. Areas of Influence (AOIs) cannot be smaller than the Minimum Separation Distances (MSDs) 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 is problematic and requires clarification.
2. Will this proposal limit the ability of existing facilities to expand if they are compliant with environmental legislation and site-specific Environmental Compliance Approval (ECA) requirements?
3. Table 1 lists landfills and dumps as case-by-case, while composting and anaerobic digestion facilities are not treated in the same manner. 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 a “not in my back yard” (NIMBY) mentality.
5. The proposed guideline states that compatibility studies 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. To what specific scenarios does this apply?
6. Required documentation for compatibility studies often duplicate ECA application requirements. Would the Emission Summary and Dispersion Modelling (ESDM) and Acoustic Assessment Report (AAR) suffice as they are already prepared for the ECA? If not, the added cost will impact a business’s ability to expand in Ontario. Examples include:
 - a) the duration, timing and types of operational activities, shipping, receiving and other transport activities, and outputs/contaminants;
 - b) the hours of operation/normal use periods for sensitive land uses;
 - c) design details and number, type and location of windows and doors in sensitive land use buildings;
 - d) 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; and,
 - e) 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 proposed guideline will create added costs and 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. Further elaboration is necessary about “methane hazards” near landfills.

Implementation and planning tools

1. In Part B, section D6, the compatibility studies do not apply to; a) sewage treatment facilities; b) landfills or dumps, transfer stations and other waste management and waste processing facilities that require an Environmental Compliance Approval for Waste; 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 that 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 a policy of diverting waste from landfills. This policy encompasses many different types of waste streams, 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?

Summary

ONEIA 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 Alex Gill, ONEIA Executive Director, at agill@oneia.ca or at (416) 531-7884 should you have any questions.

Yours truly,



Alex Gill
Executive Director, ONEIA

cc.	Hon. Doug Ford	Premier of Ontario
	Hon. David Piccini	Minister, Environment, Conservation and Parks
	Hon. Vic Fedeli	Minister, Economic Development, Job Creation and Trade
	Hon. Steve Clark	Minister, Municipal Affairs and Housing
	Giles Gherson	Deputy Minister, Economic Development, Job Creation and Trade