

Chair
Terry Obal
Bureau Veritas

Izzie Abrams
Waste Connections

Robyn Gray
Sussex Strategy

Michele Grenier
Ontario Water Works Association

Irene Hassas
Aslan Technologies

Denise Lacchin
Golder

Brent Langille
RWDI

Duncan McKinnon
ALS Global

Brandon Moffatt
StormFisher

Tim Murphy
Walker Environmental Group

Sean Thompsom
Pisgryph

Joanna Vince
Willms & Shier Environmental Lawyers

Grant Walsom
XCG Consulting Ltd.

Derek Webb
BIOREM Technologies

Agnes Wiertzynski
Accuworx

ONEIA
192 Spadina Avenue
Suite 306
Toronto, ON M5T 2C2

Executive Director
Michelle Noble

Operations Manager
Janelle Yanishewski

Tel: (416) 531-7884
info@oneia.ca
www.oneia.ca

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Shannon Boland
Senior Policy Analyst
Divisional Compliance Branch
Ministry of the Environment, Conservation and Parks
135 St. Clair Avenue West Floor 8
Toronto, ON M4V 1P5
Shannon.boland@ontario.ca

RE: ERO Posting #019-4108 - Expanding Administrative Penalties for Environmental Contraventions

Dear Ms. Bolland,

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 on Ontario's proposed new framework to provide a single consistent approach for applying penalties across the Ministry of the Environment, Conservation and Parks (MECP) compliance and enforcement activities.

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.

ONEIA members 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 the resource recovery sector to review the administrative penalties proposal and attend the February 15 information webinar. Our resource recovery members provide a diverse range of services including collection and transfer, organic and blue box recycling solutions, alternative energy systems, and landfill and waste to energy disposal.

Previous Submission Comments

In November 2019, ONEIA submitted a response to the first public consultation, ERO# 019-0750, designed to help the MECP determine whether to proceed with regulatory changes to update and

expand the use of administrative monetary penalties (AMP) to hold polluters accountable. As we stated then, ONEIA supports efforts to ensure polluters in Ontario are held accountable. We also identified the following four areas of concern:

1. Expansion of this regulatory tool into the waste and resource recovery sector
2. Enforcement that is applied consistently given the field level authority to issue an AMP
3. Penalty amounts given prosecution remained open in cases of serious EPA violations
4. Lack of clarity with respect to the use of the funds for environmental benefit

Current Proposal Comments

While we recognize and appreciate that there have been some changes from the initial proposal that address several of the initial concerns of ONEIA members, our members continue to have concerns with some elements. We have organized our current comments to be consistent with our previous submission.

1. AMP in the Waste Sector

ONEIA members continue to believe that there are sufficient regulatory enforcement tools, from voluntary abatement to prosecutions, to ensure compliance in the already heavily regulated waste sector without expanding the MECP toolkit to include AMP. Our members encourage voluntary abatement approaches first, particularly in such a heavily regulated sector and particularly for non-compliance that is subjective, such as odour.

An unintended risk when including the waste sector is the negative impact these penalties can have when they are recorded on the corporate record. As an example, the move to engrain ESG commitments into daily business practices is often a discussion our members have when securing project financing, financial assurance, and insurance.

2. Consistent Enforcement

ONEIA members raised a concern previously that AMPs will be unevenly enforced across the province as some provincial officers (PO) may use the tool more or less often than others and apply it to different situations. AMPs may be a useful tool to encourage compliance within industries but only where they are used consistently across industries and across the province.

We believe the consistent use of regulatory tools by regulators is the most effective way to hold polluters accountable and increase overall compliance with Ontario's environmental laws. While a PO issued AMP will be limited to lower fines and single day contraventions, ONEIA members continue to have a "fairness/consistency" concern with the proposal.

3. Penalty Amounts

In our previous submission we recommended that penalty amounts be limited to less than \$100,000, as the \$200,000 envisioned is a significant penalty and may in fact exceed the amount of many fines imposed in prosecutions under the Environmental Protection Act. Such a penalty could also be considered overly punitive in nature. ONEIA members remain concerned in this regard and we request additional dialogue on this matter.

We recognize a significant change was made to provide protection from future prosecution where the incident may contravene. Our members see this as a positive step to improve the proposed regulation.

4. Use of Funds

Initially our members were seeking clarity regarding the use of funds and we are very supportive of the specified benefactor being the Ontario Community Environment Fund to support environmental projects that help restore areas in Ontario that have been impacted by pollution.

We welcome the opportunity to discuss our position and recommendations further. Please contact our office at info@oneia.ca or at (416) 531-7884 should you have any questions.

Yours truly,



Michelle Noble
Executive Director, ONEIA