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Ministry of the Environment, Conservation and Parks
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**RE: Ontario Environment Industry Association (ONEIA) Comments With Respect To
ERO Posting 019-2768: Guideline To Address Odour Mixtures In Ontario**

Dear Mr. Avery,

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 Environmental Registry Ontario (ERO) posting that addresses how the Ministry of Environment, Conservation and Parks (MECP) and the regulated community can anticipate, prevent and address odour issues that could be of concern to local residences.

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 Guideline to Address Odour Mixtures in Ontario.

ONEIA's general comments on the proposal

ONEIA appreciates the opportunity to comment on the proposed changes and commends the MECP's efforts to modernize regulations. 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 more of the value within our waste stream for the benefit of Ontarians.

We believe that the proposed policy could have a dramatic impact on other industries that work/operate in the province and would have indirect impacts on the rest of the ONEIA membership and have outlined our general concerns as follows:

- 1. *Serious concerns about impact on critical infrastructure:*** ONEIA is deeply concerned the guidelines, 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, 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;

A) *Process Ambiguity:* Additional measures introduced in this guideline, 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 will create investment risk without an environmental benefit (it could result in a lower number of complaints, which is a highly subjective metric).

- 2. *ONEIA requests further consultation:*** ONEIA 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 Odour Guideline modernization. We also believe the proposed Land Use Guidelines and the Modernization of Environmental Practices proposal must also include further consultation given the obvious interdependence between them.

ONEIA's specific comments and questions on the proposal

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 expressed by the working group follows using the structure presented in the draft guideline.

Section 1.0 Background

1. The proposal does not address official plans and the resource recovery/waste management industry as critical infrastructure under the Ministry of Municipal Affairs and Housing (MMAH) Provincial Policy Statement.
2. The modelling uses outdated climate data and eliminating extreme weather conditions is problematic given most of the situations that lead to adverse effects are related to hot, humid conditions. As the impacts of climate change grow, the frequency of these conditions and their impact is also expected to increase.
3. ONEIA has requested development of a D-Series guideline for the design of odour management systems at organic facilities in the past to allow for consistency in design and implementation of odour control systems. This would ensure that appropriate negative pressure systems, using engineered treatment systems that are well within the operating parameters, are used.

Section 2.0 Addressing odour-based mixtures

1. How does the proposal address co-location sites such as landfills, composting, anaerobic digestion, waste water treatment facilities and industrial corn milling?
2. Proximity to the 401 and other major highway corridors, the area terrain, and other site-specific conditions will have a significant impact to the outcome and such factors need to be addressed in the modelling.
3. We are unclear as to why the policy does not apply to hauled sewage facilities.
4. What if the odours are not hazardous to human health but rather a nuisance and all required testing shows that levels are met?
5. The proposal does not address the proposed/expected changes to the Nutrient Management Act (NMA) to allow for expanded volumes of residential and commercial organics to be received at farm-sited anaerobic digesters. The NMA policy change includes odour control equipment and odour plans.

Section 3.0 Odour-based requirements for ECA applications

1. The Adverse Effect definition is ambiguous and needs clarification.
2. Are facilities with ECA's that only receive and recycle O. Reg. 347 exempt waste streams subject to this guideline?

Section 5.0 Assessing odour in compatibility studies for planning act applications

1. There is a concern that municipalities could "pick and choose" whether they have an issue with private or public infrastructure.
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 and a barrier for existing industry operations and potential future investment.

Appendix A Tiers for odourous activities and processes

1. The use of setback distances is a blunt instrument that does not account for the influencing elements such as engineering controls, topography and wind directions.
2. What rationale/detail was used to determine the setback requirements for each tier of activities/processes?
3. The *Farming and Food Production Protection Act* (FFPPA) protects farmers against complaints made by neighbours about nuisance disturbances such as odour if the farmer is following normal farm practices. Is a farm based anaerobic digester considered normal farm practice under this proposal?
4. The Tier 1 description differentiates industrial wastewater treatment from municipal or private communal systems. As an example, food processing facilities often have wastewater treatment on-site. They are listed as an odourous process, so consequently does this mean that their wastewater treatment odour would not be assessed during this process?
5. Under Table F, Tier 3, there is a reference to anaerobic digesters with **. The descriptor below only shows one *, but the statement is that communal wastewater facilities with an anaerobic digester that only process wastewater sludge are not included. These systems/processes can also be odourous especially if it is sewage wastewater. Any wastewater with an organic component has the potential to create odour, so why would these be excluded?

Technical Bulletin: Methodology for completing an odour assessment for odour mixtures

1. In the Frequency, Intensity, Duration, Offensiveness and Location (FIDOL) approach it mentions "... offensiveness is subjective and cannot be qualified objectively". If Emission Summary and Dispersion Modelling (ESDM) and source testing show compliance with required standards, does this mean that the facility is in compliance regardless of if the odour is offensive to some?
2. References to land use planning as a tool to help mitigate odours are made throughout this proposal. How does this relate to existing facilities where growth in the community already has residential and industrial neighbours in close proximity?
3. The proposal refers to different scales of odour units that can be applied but it also states that source testing uses the Odour Unit (OU) method. How will odour investigations be performed in the field to assess odour to a standard so that it can be assessed against an appropriate scale? Will all ministry and other offices make observations that are then subjective still?
4. Under 6.0 it states that that ambient air monitoring is not a requirement of an odour assessment, but field surveys and community engagement results can be useful. How in this case can the policy ensure that odour studies are not based on subjective means?
5. Under 8.0 it states, "... an odour assessment cannot necessarily determine if an adverse effect will occur." In a case where all of the factual testing documentation is provided and theoretically it falls within the requirements, what would the ministry's plan of action be if a neighbour complained that there was an adverse effect and there was already source testing and an up-to-date ESDM that showed otherwise?
6. Many facilities have a dust and odour plan in place that has looked at the same or similar conditions outlined in the proposal, including employing best management practices. Does the MECP view the odour assessment as a replacement to the current requirement for a dust and odour plan?
7. For clarity, will there be a requirement for facilities currently regulated by an ECA to complete any odour assessments or develop a Best Management. Practice Plan

(BMPP) or will current facilities only be impacted by this guideline if/when they apply for an ECA amendment to an odour source/activity?

8. Will completing the newly proposed guideline tools impact the MECP's ability to deliver on the 1-year service standard expectation?
9. Did the MECP consult with odour study service providers and the resource recovery/waste management industry regarding the increased cost this proposal creates to satisfy the prescribed assessments?

Policy and Forms Impact Analysis (PFIA) template

1. What body or professional will serve as the arbiter that determines whether a facility is potentially odorous?
2. Industry will require a fair and balanced approach across Ontario, as ONEIA member firms often experienced issues related to the uneven application of odour requirements for facilities due to the hedonic tone of the emissions. The use of hedonic tone is challenging as it leads to subjectivity on what is considered an "offensive odour." Therefore, the design and approval process is focused on the 1 OU requirement, however, the field application of the standard is left to the field officers as to what is deemed to be adverse effect.
3. ONEIA requests that we work with the Province to determine how this policy will apply in a fair and consistent approach to odour of all types.

In 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

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| 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 |