

Ontario Beefs Up Hazwaste Generator Registration as LDR Provisions Take Effect

Ontario is asking waste generators to provide more details about the materials they truck across the Province, the hazards those materials pose, and the treatment they will receive. On January 1st, the new generator registration requirements, under the General — Waste Management regulations (Reg. 347), went into effect. Tighter restrictions covering on-site storage and processing were enacted March 31, 2006 (see attached table).

The provisions are part of a 2005 package of amendments (O.Reg. 461/05) adopting the U.S. pretreatment standards for the landfilling or landfarming of hazardous wastes. The land disposal restrictions (LDR) are being phased in through December 31, 2009.

Supporting the LDR provisions, definitions for a variety of waste classes have been amended and the extensive Schedules to Reg. 347 have been completely revised. The new Schedules list both specific waste streams and diagnostic criteria, as well as the required treatment for each listed or characteristic waste. Those treatment requirements will be phased in over the next two years.

The expanded registration provisions require that a generator submit all the data, analysis and other information necessary to establish:

1. the quality, quantity and nature of the waste;
2. the required and the planned treatment;

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Land Disposal Requirements Phased in Over Four Years

Sec.	LDR Requirements	Takes Effect
s.1	New/amended definitions for classes of liquid / hazardous waste	Jan. 1 2007
s.14.0.1 & 16(1)	Mixing of hazardous wastes by carriers and disposal site operators, except in accordance with the system/site C of A, is prohibited.	Mar. 31, 2006
s.17.1-17.2	Wastes stored on-site more than 90 days must meet new notification and record keeping provisions; wastes stored more than 2 years require a C of A for continued storage; approval requirements for on-site processing clarified (e.g., C of A needed for combustion, land application, mixing and soil processing); unless permitted under C of A, mixing or dilution of wastes prohibited	Mar. 31, 2006
s.18	During registration, generators must provide additional detail on waste characterization, contaminants, pre-treatment requirement, and intended treatment for hazwastes destined for land disposal	Jan. 1, 2007
ss.74-79	New land disposal restrictions for listed / characteristic inorganic, organic and mixed wastes; wastes to be treated to specified standard and underlying hazardous constituents removed	Aug. 31, 2007, & Dec. 31, 2009
s.84	Generators of wastes that cannot be land disposed must provide receiving facilities with info in most recent annual / supplementary registration report; s.84 also covers record keeping and notification for shipments of characteristic waste that can be land disposed	Aug. 31, 2007
s.85	Generators & disposal site operators must develop and follow a written plan that requires regular, detailed chemical & physical testing of waste samples; records must be kept for at least two years	Aug. 31, 2007
Schedules	Schedules 1-4 replaced, Schedule 5 renumbered as 9, and new Schedules 5-8 and 10-13 added	Jan. 1 2007

3. the intended manner and location of disposal, or (if disposal is not intended) the use to which the waste will be put; and
4. compliance with all legal requirements.

The new reporting requirements apply to all listed or characteristics wastes produced, collected, handled or stored at a facility, including those that have been rendered non-hazardous on-site. Generators must keep copies of all initial, annual and supplementary registration reports at the generation facility for at least three years.

During the 2007 registration period — which runs January 1 to February 15 — generators have to complete a short questionnaire and identify which (if any) of their wastes will be affected by the LDR program. The LDR treatment standards do not apply to liquid

industrial, pathological, or PCB wastes, or to household hazardous waste depots that handle domestic wastes. In addition, small quantity generators — those that produce less than 100 kg of hazwaste a year — are exempt from the pre-treatment requirements.

As part of the registration process, generators are being asked whether treatment is CURRENTLY required for any hazardous wastes that are intended to be land disposed. Since the first LDR treatment deadline doesn't hit until August 31, 2007, the answer (for now) is NO. However, if your waste is identified in Schedules 10 through 13 of Reg. 347, be prepared to update your registration info and complete a supplementary generator registration report when the applicable treatment standards take effect.



The supplementary report must be provided to the Ministry prior to any waste transfer and no later than 15 days after the applicable treatment standard takes effect. The info must also be forwarded to the receiver on or before the first transfer. Generators that complete a paper copy of the supplementary report, rather than register on-line through the HWIN website, should submit their info to the Ministry a month prior to the deadline.

To aid compliance, the Ministry has prepared an updated registration guidance manual and a new LDR handbook, which was posted on the Environmental Registry on February 7, 2007 until March 24, 2007 for public comment. An HWIN notice will also be sent to generators when the documents are ready.

Ontario Streamlines EA Process for Waste Projects

Ontario is moving forward with its overhaul of the environmental assessment process, with new rules for waste management projects. The proposed Waste Management Projects Regulation would establish three classes of projects, each facing a different level of scrutiny commensurate with its type, size and potential environmental impacts. A supporting guide describes the regulatory requirements, assists proponents to determine which projects are subject to EA, and sets out the steps in the screening process.

Large public and private sector projects with significant environmental impacts would be subject to a full assessment under the *EA Act*. Waste projects with known environmental impacts that can be readily mitigated through standard measures would undergo a streamlined screening, which is a proponent driven, self-assessment process. Smaller projects, demonstrated over the years to pose a minimal environmental impact, would be exempted from formal EA.

The proponent would be responsible for undertaking the environmental screening, as set out in the guide, including public consultation, project planning and an assessment of its overall environmental advantages and disadvantages. Upon completion, the screening report must be posted for public review and requests can be submitted to elevate the proposal to a full individual EA.

Waste projects with potential air emissions will continue to require a certificate of approval, while thermal and energy-from-waste facilities will need to meet the Ministry's combustion and air pollution control guide-

Draft EA Reg Splits Waste Proposals into Three Classes	
Class	Examples
Individual EA, covered under s.2 of the reg	Landfill sites with a disposal volume greater than 100,000 m ³ ; thermal degradation facilities (but not EFW plants) handling more than 10 t/day; liquid industrial or hazardous waste disposal sites
Environmental Screening, under s.3	EFW projects, thermal degradation sites (without EFW) handling less than 10 t/day, mid-sized landfills (40,000-100,000 m ³), and treatment centres that process, handle or transfer more than 1,000 t/day
Exemption, under s.5	Certain recycling sites, transfer stations, thermal degradation sites (not designed primarily for wastes) and small landfills (less than 40,000 m ³)

line. The new rules would apply equally to public and private sector waste proposals.

The Ministry contends that the proposals will save "time and money for well-planned waste projects by delivering a faster YES or a faster NO." The proposals were posted on the EBR Environmental Registry on December 7, 2006. The deadline for public comment is March 7, 2007.

Ontario Dismantling Roadblocks to Brownfield Redevelopment

Ontario is looking for some quick and focused feedback on its proposals to reform the legislative and regulatory regime supporting brownfield redevelopment. While it is not ready to draft a package of statutory amendments — at least not without further consultation — the Province has prepared an extensive checklist of action items that would address some of the more troublesome financial, regulatory and liability-related roadblocks to redevelopment.

The action plan was posted on the EBR Environment Registry January 16, 2007. The deadline for public comment is February 15, 2007, just a short 30 days later.

The reforms would limit the scope of the dreaded 'reopeners', exceptions to the limited protection from orders a site owner enjoys after an RSC is filed. The changes would clarify the current qualifiers and allow owners, purchasers and lenders to be more certain about when a clean-up order could be issued.

While it claims protection against civil liability is both limited and extremely rare, the Province has several proposals that could reduce the risk of civil action by third parties for damages and personal injury against anyone connected with a brownfield property. EPA amendments would provide immunity to municipalities issuing building permits or making planning decisions, if the lawsuit

arises from an inaccuracy in a filed RSC.

The Province could also amend the *Proceedings Against the Crown Act* to address contamination problems in a property that has escheated or passed to the Crown without being held in law to have taken "possession and control" of the property. The risk of being in possession can prevent the Government from taking steps to preserve the property, protect the public from dangers that it creates, investigate the history of the site, or transfer the property to someone who is willing to deal responsibly with it.

Similarly, suggested changes to the *Escheats Act* would protect any government funds expended on securing or improving a property if title eventually passes to some legally prevailing private party. This amendment would not apply to claims by municipalities for back taxes incurred before the escheat, and would not prevent municipalities from putting the property up on a tax sale.

There are also plans to deal with the rehabilitation of abandoned mine sites, give the MOE the authority to review an RSC before it is filed, and resolve a series of technical issues. Additional amendments would:

- ◆ provide the authority to amend a RSC to correct inaccuracies;
- ◆ allow order notices to remain on the ESR until an RSC is filed;
- ◆ require owners filing an RSC to retain reports for a prescribed period of time;
- ◆ prescribe conditions for the management of soils after an RSC has been filed.

The Province admits that its package won't solve all the complaints about the current regulatory regime. For example, the Ministry is still considering proposed changes to its Records of Site Condition Regulation (O. Reg. 153/04), including the update of soil and ground water standards and the qualified person (QP) requirements. Any proposed changes would be the subject of further EBR postings and consultations.