

Source Protection Planning Bulletin – Certificates of Approval



March 2011

Introduction

The purpose of the Clean Water Act (“the act” or “CWA”) is to protect Ontario’s existing and future drinking water sources, as part of an overall commitment to safeguard human health and the environment. A key focus of the legislation is the preparation of locally developed terms of reference, science-based assessment reports and source protection plans. For additional information on the CWA and how the terms of reference and assessment reports were developed, readers may refer to the Ministry of the Environment’s website www.Ontario.ca/cleanwater.

The source protection plans will consist of a range of policies that together, will reduce the risks posed by threats to water quality and quantity. This document is one in a series of planning bulletins intended to assist local source protection committees in preparing source protection plans and policies.

Purpose

This document provides source protection committee (SPC) members with information related to Certificates of Approval – Waste issued under the Environmental Protection Act and Certificates of Approval – Sewage issued under the Ontario Water Resources Act. Both are prescribed instruments under the CWA and may be used as tools to address threats to drinking water. There are seven (7) additional bulletins that set out details about each of the instruments prescribed in the General Regulation - Ontario Regulation 287/07 (“the Regulation”) and a general Overview Bulletin about policy development as it relates to prescribed instruments. The bulletins will help SPC members understand the general scope of each of the prescribed instruments, the types of drinking water threats each instrument may have the mandate to address and how terms and conditions are used within the instrument to manage the threats.

Together the act and its regulations (“the legislation”), in particular the Regulation, establish a legal framework for drinking water source protection in Ontario. Amendments to the Regulation setting out some of these requirements took effect on July 1, 2010. All section references relate to the Regulation unless otherwise stated.

While every effort has been made to ensure the accuracy of the information in this document, it should not be construed as legal advice or relied on as a substitute for the legislation.

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Appendix S-1: Sample Sewage Treatment Plant Approval

1 General Information about Certificates of Approval

1.1 Purpose and Legislative/Regulatory Authority

- The mandate of the Ministry of the Environment (MOE or ministry) is to ensure the protection, and where degraded, rehabilitation of the natural environment. This mandate also includes preservation of natural resources for the enjoyment and benefit of present and future generations, both human and animal.
- This mandate is legislated by several pieces of legislation in the Province of Ontario, some of which include the CWA, Ontario Water Resources Act (OWRA), the Environmental Protection Act (EPA), the Environmental Assessment Act (EAA), and the Environmental Bill of Rights, 1993 (EBR), together with numerous regulations made under these acts.
- These acts and regulations establish the authority and responsibility of the ministry, the legal requirements for Applicants of various proposals, obligations of the owners of existing facilities and equipment with respect to their impact on public health and the environment, and the rights of residents of Ontario with respect to those proposals, facilities and equipment. These requirements and rights include the need to obtain approvals or permits prior to the implementation of proposals that may have the potential to impact public health and/or the environment. This also includes the right of the residents of Ontario to be made aware of proposals in order that the public has the opportunity to comment on those proposals.

1.2 Types of Certificates of Approval

There are three main types of Certificates of Approval (CofA):

- **Air & Noise** Approval: is required for facilities that release contaminants to the atmosphere (section 9, Environmental Protection Act)
- **Sewage** Approval (i.e., wastewater): is required for facilities that collect, transmit, treat and/or dispose of sewage (section 53, Ontario Water Resources Act)
- **Waste** Approval – is required for facilities that manage, store, transport, process and/or dispose of waste (section 27, Environmental Protection Act)¹

Types of Certificates of Approval

1. Air
2. **Sewage**
3. **Waste**

Only sewage and waste Certificates of Approval are “Prescribed Instruments” for the purpose of source protection planning.

¹ Note, under the EPA, a property that was formally a waste disposal site cannot be used for any purpose until 25 years after it has ceased to be used as a waste disposal site unless a Certificate of Approval is issued by the ministry that authorizes the development of the property for a specified use (see section 46, EPA)

It should be noted that a given proposal for the construction, expansion or alteration of a facility may require multiple approvals, licenses and/or permits from the MOE, other Ontario ministries and/or other levels of government (e.g., federal or municipal).

For example, other MOE approvals that may apply to a waste facility proposal include an environmental assessment under the Environmental Assessment Act, a CofA – Air & Noise under section 9 of the EPA (e.g., for a flare used to burn off methane gas collected from the waste cells), and/or a CofA – Sewage under section 53 of the Ontario Water Resources Act (e.g., for a storm water management pond). It must be emphasized that approval under one section of an act does not abrogate the requirement to obtain approval under other sections of the CWA, other acts or any other legislation.

What is Not a Certificate of Approval?

A CofA must be distinguished from other types of authorizations issued by the ministry (e.g., pesticide permits and licenses, Permits to Take Water). Of particular note, a CofA should be distinguished from:

- **Renewable energy approvals (REA):** Issued under section 47.3 of the Environmental Protection Act (passed into law in 2009). Renewable energy projects do not need to obtain a Certificate of Approval, instead, they require a Renewable Energy Approval (see bulletin on REA for more details).
- Authorizations for **drinking water facilities** (i.e., water works or water treatment plants): Historically, drinking water facilities were required to obtain a CofA under section 52, Ontario Water Resources Act in order to operate. These approvals have been replaced by a set of permits/licences/approvals issued under the Safe Drinking Water Act (see bulletin on municipal drinking water works permits and licences for more details).

1.3 Key Characteristics and Limitations of a Certificate of Approval

- The legal requirement to obtain a CofA is specified in legislation. A CofA must normally be obtained prior to construction, alteration and/or commencement of the operation of a proposed facility or when a change is being proposed to a facility.
- A CofA reflects the ministry's environmental requirements in effect at the time it was issued.
- CofAs are site specific and tailored to the characteristics of the facility and its local environment
- A CofA is a legally enforceable document and may place legally-binding requirements on the owner/operator of the facility.

Scope/Limitations

- The content of a CofA is generally limited by the legislative authority and purpose of the enabling legislation (i.e., the law that requires an approval be obtained for a particular activity), as well as MOE's legislation, policies and guidelines that are in effect at the time the approval is issued.
- The primary purpose of both sewage and waste CofAs is to protect human health and the environment by preventing harmful effects potentially arising from the use, operation, establishment, alteration, enlargement or extension of a facility.

1.4 Structure of Certificates of Approval

- Although the content can vary substantially between CofAs, they generally consist of five main sections.

1. Preamble

- The Preamble identifies the person responsible for compliance with the CofA. It also broadly describes what equipment and processes have been approved as well as the location of the equipment and processes.

2. Terms and Conditions

- It is not mandatory for the ministry to include terms and conditions in a CofA; it can be issued with or without terms and conditions. When terms and conditions are included in a CofA, they are based on the legislation, regulations, policies and guidelines (i.e., “Environmental Compliance Requirements”) in effect at the time the approval is issued. Where terms and conditions are included in a CofA, they are usually² legally enforceable requirements.
- Terms and Conditions can generally be categorized into four different types.
 - Definitions: A definition section ensures that terminology used in the Terms and Conditions is well understood.
 - Performance requirements: These outline how the approved facility is expected to perform so as to protect human health and the environment. They may include emission/effluent discharge criteria for the facility, expressed in the form of allowable loadings and/or concentrations of contaminants.
 - Monitoring, recording and reporting requirements: These outline how the owner or operator of the facility is to demonstrate ongoing compliance with the CofA and other ministry requirements.
 - Operational and maintenance requirements: These outline how the facility is expected to be run.

² In some cases, requirements set out in a CofA are not legally enforceable. For example a CofA for a sewage works may include a condition that sets out “objectives” for effluent discharge quality that are “best practices” rather than legally enforceable “effluent discharge criteria”.

3. *Reasons for Conditions*

- These are only included if the CofA also includes Terms and Conditions. They outline the technical or other reasons why the various Terms and Conditions have been included in the approval. They help the applicant in understanding why each Term and Condition was included.

4. *Appeal Instructions*

- These explain to the applicant how and when they can appeal the decision on the CofA, including the Terms and Conditions included in the approval.

5. *Signing Director's Signature*

- The appropriate signing director must sign-off on the CofA before it is considered “issued” as a legally enforceable document.

1.5 Certificates of Approval & the Environmental Bill of Rights Registry

The Environmental Bill of Rights (EBR) requires provincial government ministries that are responsible for reviewing certain types of proposals that relate to or could affect the environment to take public comments into consideration when making a final decision on the proposal.

- For certain types of approvals/permits/licenses (including certain waste and sewage CofAs) information on the proposal must be posted on the web-based Environmental Registry for a minimum 30 day period. In the case of CofAs, this includes providing notice of both the proponent’s application as well as the ministry’s final decision on the application. In making a decision on a CofA application, the ministry considers all comments it receives in response to the posting of the proposal.
- In addition to posting the proposal on the Environmental Registry, in certain situations the EBR requires additional public participation be promoted through measures such as news releases, mailings to the public, or notices to community leaders and organizations.
- The EBR also allows Ontario residents the right to request the opportunity to appeal a decision to approve or not approve certain CofAs and/or to request a review of a decision on certain CofAs.

Details on the EBR and how it applies to various instruments including CofAs are contained in the guide entitled, “The Requirements of the EBR for Prescribed Instruments”, PIBS 3323e. It is available at the following website:

<http://www.ene.gov.on.ca/envision/gp/3323e.pdf>

1.6 Future of Certificates of Approval

Under the Ministry of Environment’s Modernization of Approvals Project, CofAs are undergoing a transformation, affecting when and how they are issued.

Further details on Modernization of Approvals can be obtained at the following MOE website:

http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/modernization_of_approvals/index.htm

Should there be specific changes to the issuance of CofAs in the future this bulletin will be updated.

1.7 Where to Get Additional Information

Information on Certificates of Approval is available at the following MOE website:

http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/environmental_approvals/index.htm

2 General Information about Certificates of Approval – Waste

2.1 History

The Ministry of the Environment has been regulating waste facilities with Certificates of Approval issued under the Environmental Protection Act (EPA) since the early 1970s.

2.2 Purpose and Legislative/Regulatory Authority

The principle legislation that regulates waste management activities in Ontario is the Environmental Protection Act (in particular Part V of the Act), along with a number of regulations made under the Act. The purpose of the EPA is to “*provide for the protection and conservation of the natural environment*” (see subsection 3(1) of the EPA).

The statutory requirement for waste approvals is contained in Part V, section 27 of the EPA.

- Section 27(1) reads as follows:

No person shall use, operate, establish, alter, enlarge or extend, a waste management system; or a waste disposal site, unless a certificate of approval or provisional certificate of approval therefore has been issued by the Director and except in accordance with any conditions set out in such certificate.

- Subsections 26, 27(3) and 47.3(2) of the EPA, Ontario Regulation 101/94 (made under the EPA), Ontario Regulation 362 (made under the EPA) and Ontario Regulation 347 (made under the EPA), exempt certain wastes, waste disposal sites and/or waste management systems from the approval requirements of the Act. A description of some of the types of waste facilities exempt from the need for an EPA waste approval are provided in subsection 2.5 of this bulletin.

2.3 Waste Related Definitions

Section 25, of the Environmental Protection Act includes the following definitions:

“waste” includes ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other materials as are designated in the regulations

“waste disposal site” means,

(a) any land upon, into, in or through which, or building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed, and

(b) any operation carried out or machinery or equipment used in connection with the depositing, disposal, handling, storage, transfer, treatment or processing referred to in clause (a)

“waste management system” means any facilities or equipment used in, and any operations carried out for, the management of waste including the collection,

handling, transportation, storage, processing or disposal of waste, and may include one or more waste disposal sites.

Section 1 of Ontario Regulation 347 (“General Waste”), made under the EPA includes a number of definitions of different types or classes of wastes³. Among those definitions are:

“subject waste” means,

(a) liquid industrial waste,

(b) hazardous waste, and

(b.1) waste that was characteristic waste but that has been treated so that it is no longer characteristic waste⁴, if the waste may not be disposed of by land disposal under subsection 79 (1),

but does not include waste described in subsection (3)⁵;

As is evident from the definitions listed above, the scope of the term “waste” as described by the EPA, is broad in nature. The “General Waste” regulation (O. Reg. 347) provides additional clarification on different types/classes of waste⁶.

2.4 Scope/Type of Certificates of Approval – Waste

Certificates of Approval – Waste can be divided into two broad categories

- Waste Disposal Site Approvals, and
- Waste Management System Approvals.

Information on the scope of each general type of Certificate of Approval – Waste is provided below.

Certificates of Approval – Waste Disposal Site

The term “waste disposal site” is broad, and includes facilities where waste is only temporarily handled, stored or processed as well as sites where waste is permanently deposited. Waste disposal site Certificates of Approval may be issued for all of these types of activities.

The actual title used in the approval document for these various waste disposal site activities has evolved over the years. The title used in the instrument tends to be linked to the specific type of activity being undertaken. The Table below provides some examples of the more common titles for Certificates of Approval for disposal sites that may be used or have been used in the past and the types of activities associated with

³ Note, assorted waste definitions are also provided in other regulations made under the EPA, including O. Reg. 362 (“Waste Management – PCBs”) and O. Reg. 101 (“Recycling and Composting of Municipal Waste”).

⁴ For the definition of “characteristic waste” as described by O. Reg. 347 refer to Appendix W-1.

⁵ Subsection 3 of O. Reg. 347 lists various wastes/waste activities that are exempt from Part V of the EPA and the Regulation.

⁶ Further clarification is also provided in other regulations such as O. Reg. 362 (“Waste Management – PCBs”) and O. Reg. 101 (“Recycling and Composting of Municipal Waste”).

those approvals (note, this should not be considered to be a comprehensive list of titles or waste disposal site activities).

Examples of Waste Disposal Site Certificate of Approval Titles And Related Activities

Title of Waste Disposal Site Certificate of Approval	Description of Waste Disposal Site Activity
Waste Disposal Site Approval	Term most often used for permanent waste disposal sites (e.g., facilities such as landfills and incinerators).
Waste Storage Site Approval Waste Transfer Site Approval Waste Transfer Station Approval	Facilities that involve the temporary storage of waste materials (i.e., these are not final destination sites).
Waste Processing Site Approval	Facilities where waste is treated in some way, but not permanently disposed of at the facility (e.g., some anaerobic digesters, a facility where used tires are processed into crumb rubber)
Organic Soil Conditioning Site Approval* Processed Organic Waste Site Approval* Biosolid Site Approval*	Each of these refers to the land application of organic waste material that is generated by a non agricultural source. The material in question is most often processed sludge from a sewage treatment plant, but it may involve other kinds of organic wastes (e.g., food wastes) or lime. Most often the land to which the material is applied is agricultural land, but in some cases the material may be applied to other lands (e.g., tailings ponds).
Hauled Sewage Site Approval Septage Site Approval	Both of these refer to the land application of "hauled sewage" (i.e., "septage") that is pumped from septic tanks and land applied, without any processing or treatment, to agricultural land.

* Beginning in January 2011 the Ministry of Agriculture, Food and Rural Affairs (OMAFRA) took over the function of issuing approvals for the application of non-agricultural source materials (NASM) to farm land for the purposes of soil conditioning. For additional details refer to section 3 of this bulletin as well as the MOE bulletin on Prescribed Instruments issued under the Nutrient Management Act.

It should be noted that waste disposal site CofAs may be issued for activities related to both solid non-hazardous wastes and to "subject wastes".

Despite the differences in titles for waste disposal site CofAs, they are all issued based on the legal authority set out in section 39 of the EPA. Section 39 has been prescribed to the CWA for the purposes of prescribed instruments and therefore any instrument issued under section 39 is considered a prescribed instrument for source protection planning.

Certificate of Approval – Waste Management System

The term “waste management system” includes most aspects of waste management including the transportation of waste materials along with the operation of all “waste disposal sites”. The one waste related activity not included in the definition of a “waste management system” is the generation of waste.

In practice, waste management system CofAs are typically issued for activities that involve the transportation of waste materials. In some cases this may include mobile processing of the waste (e.g., adding lime to waste being transported by truck and having the lime mix with the waste in transit). It may also include the in-transit short-term storage of waste in transport vehicles (e.g., a truck containing waste may be allowed to park overnight at a designated location).

There are some instances where waste disposal site activities are approved using a waste management system certificate of approval (recall the EPA definition of a “waste management system” does include waste disposal sites). Specifically, waste management system CofAs have been used to approve the following waste disposal site activities:

- The land application of organic waste materials (i.e., biosolids or processed organic waste);⁷ and
- The land application of hauled sewage (i.e., septage).

2.5 Limitations of Certificates of Approval – Waste

As indicated in Section 2.2 of this bulletin, section 27 of the EPA requires approval for the use, operation, establishment, alteration, enlargement or extension of a waste management system or a waste disposal site.

Exemptions to this approval requirement are set out in the EPA and a number of its associated regulations.

These exemptions are too numerous and detailed to list in this document. Reference should be made to the identified legislation below for a comprehensive description of these exemptions. However, the following is an overview of some of the key exemptions:

- the EPA
 - (e.g., sections 26 and 47.3(2))
 - on-site storage or disposal of domestic waste, unless it causes a nuisance
 - waste management related activities carried out by any sewage works to which the OWRA or it’s regulations apply

⁷ Note that in some instances the waste management system approval may also include an approval for the on-site storage of the organic waste material.

- renewable energy projects
- O. Reg. 101/94 under the EPA (e.g., sections 5, 6, 16, 20, 27 and 32 to 34)
 - recycling materials and facilities (e.g. blue box, leaf and yard waste and composting)
- O. Reg. 103/94 under the EPA (e.g., sections 3 and 4)
 - source separation programs where recyclables and compostable items are separated from a general stream of waste collection
- O. Reg. 362 under the EPA (e.g., section 5)
 - PCB waste disposal sites
- O. Reg. 347 under the EPA (e.g., sections 1, 3, 5, 5.02, 5.2, 6 to 8, 17.1, 27, 28 to 28.3, 29.3 to 29.5, 32, 33, 39, 40, 46 and 63)
 - various materials including agricultural wastes⁸, dead farm animals, inert fill, rock fill or mill tailings from a mine
 - recycled/reused materials and facilities
 - facilities regulated under the Nutrient Management Act (e.g., regulated mixed anaerobic digestion facilities, sites approved in a NASM plan area)
 - changes in landfill service areas
 - used tire facilities where fewer than 5000 tire units are stored
 - haulers of used tires
 - thermal treatment facilities, including inc
 - incinerators, wood waste combustors, and waste-derived fuel sites
 - “field operation” activities⁹
 - refrigerant disposal facilities
 - pesticide container depots

2.6 Issuance/Creation of the Instrument

The majority of Waste Disposal Site CofAs and all Waste Management System CofAs are issued by the ministry’s Environmental Assessment and Approvals Branch (EAAB). The remainder of Section 2 of this bulletin applies to these waste approvals.

CofAs – Waste that are issued for the land application of organic waste materials (i.e., “biosolids” or “processed organic wastes”) are discussed in Section 3 of this bulletin and CofAs – Waste that are issued for the land application of hauled sewage (i.e., “septage”) are discussed in Section 4 of this bulletin. These types of CofAs – Waste are

⁸ For the definition of “Agricultural Waste” as described by O. Reg. 347 refer to Appendix W-1.

⁹ For the definition of “Field Operation” as described by O. Reg. 347 refer to Appendix W-1.

dealt with separately as some of the processes and practices that are in place for the issuance of these types of waste approvals are somewhat unique.

Application Requirements

Persons/bodies (i.e., the applicant) wishing to operate a facility that requires a CofA – Waste must submit an application to the MOE. An application is also required if a person/body currently operating an approved waste facility wishes to make any significant alterations to the existing operation.

In general, an application for a CofA – Waste must include, among other things:

- The required application fee;
- A properly completed and signed application form and cover letter;
- All supporting information and documentation identified in the application forms and guidance materials (may include design and operations report, hydrogeological assessment report, drainage study and/or financial assurance estimate); and,
- The applicant must demonstrate, through the application that their proposal complies with all relevant legislation, policies and guidelines, also referred to as environmental compliance requirements (ECRs).

It should be noted that the ECRs for CofAs – Waste vary substantially, depending on the type of facility that is the subject of the CofA application (e.g., is the application for a waste disposal site such as a landfill, a waste processing site, a waste transfer site and/or waste hauling equipment). For additional details on the application requirements for a waste CofA, refer to Appendix W-1.

Consultation Requirements

For many waste CofA applications, consultation is required as part of the application process, including consultation conducted during the environmental assessment for a facility and pre-application consultation with the ministry (i.e., before the application is submitted), and possibly other stakeholders (e.g., municipalities and adjacent property owners).

Also, as was noted in Section 1.5 of this bulletin, in some instances applications for a CofA – Waste are posted by the ministry on the EBR Registry where members of the public are given the opportunity to provide comment on the application. The ministry must take these comments into consideration when making a final decision on a proposal.

Director's Decision

CofA – Waste application decisions are made by a Signing Director who has been designated under the EPA. The Signing Director's authority to issue CofAs is set out in section 39 of the EPA.

- When reviewing an application for a new or amended waste approval the Signing Director has the authority to¹⁰:
 - a) refuse to issue or renew the approval;
 - b) suspend or revoke (an existing) approval; or
 - c) impose, alter or revoke Terms and Conditions in a CofA

In order to refuse to issue an approval or suspend or revoke an existing approval the Signing Director must be of the opinion that:

- the facility/proposed facility does not comply with the EPA or the relevant regulations; or
- the use, establishment, operation, alteration, enlargement or extension of the facility may create a nuisance, is not in the public interest or may result in a hazard to the health or safety of any person.

For more details on the Signing Director's authority refer to Appendix W-1.

Requirement for Hearings before the Environmental Review Tribunal

In certain circumstances, a hearing is held before the Environmental Review Tribunal (ERT) in advance of the Signing Director making a decision about the application. Section 30 of the EPA describes the types of applications that are subject to a mandatory hearing, and section 32 of the EPA describes those that are subject to a discretionary hearing.

- Generally, applications for new or expanded facilities for the final disposal of domestic waste (i.e., household waste) generated by the equivalent of 1500 or more persons, or for hauled liquid industrial waste or hazardous waste, require a mandatory hearing.
- Other proposals are subject to a discretionary hearing.
- Under the Environmental Assessment Act (EAA), issuing bodies such as the ministry are prohibited from granting an approval under any Ontario law for an undertaking subject to the EAA unless all applicable requirements of the EAA have first been satisfied (note, not all waste CofAs are subject to the EAA). Therefore, the Signing Director cannot issue a CofA – Waste under section 39 of the EPA until all applicable requirements under the EAA have been fulfilled.

For more details on ERT Hearings refer to Appendix W-1.

¹⁰ Authority provided by subsection 39(2) of the EPA

Renewal frequency & Amendment of Certificates of Approval – Waste

CofAs – Waste are not usually issued with expiry dates. However, amendments/updates of CofAs – Waste may be triggered in a number of ways including:

- A waste facility owner may apply to amend their existing CofA – Waste to reflect changes to the existing equipment, processes, production rates or for an expansion of capacity; or
- Ministry field officers, through the course of inspection or enforcement activities, may identify a facility whose existing approval is deemed to require amendment¹¹. Under these circumstances the MOE field officer may alert EAAB and request that the CofA be reviewed and amended if appropriate;
- The ministry may select specific sectors and/or types of facilities to have their facility inspected and their CofA – Waste reviewed and possibly amended. The sectors selected for inspection/review are typically those identified by the ministry as having significant potential environmental or health impacts;
- For applications subject to the EBR, the public may apply for review of an existing CofA – Waste; or

MOE has developed a protocol that outlines the detailed criteria and processes used to amend/update CofAs – Waste: it is entitled the “Protocol for Updating Certificates of Approval for Waste Management”, PIBS 5017e. This protocol is available on the MOE website at: http://www.ene.gov.on.ca/environment/en/resources/STD01_076018.html

2.7 Structure/Terms & Conditions: Certificate of Approval – Waste

For information on the basic structure of any CofA refer to Section 1.4 of this bulletin. This subsection focuses on the types of terms and conditions that may be contained within a CofA – Waste.

As noted earlier, not all CofAs – Waste contain a Terms and Conditions section as it is not a mandatory requirement of an approval. Where terms or conditions are included, they are usually legally enforceable requirements. Terms and conditions are typically designed to ensure that the proposed facility is established, used, operated, altered, enlarged or extended in accordance with MOE requirements in effect at the time the approval is issued, including generally accepted engineering practices at that time.

The types of terms and conditions included in the approval can vary substantially depending on the type of waste activity being approved. For example, more extensive environmental monitoring may be required for a permanent disposal facility (e.g., a municipal or private landfill) as compared to a facility where waste is only temporarily stored.

¹¹For example, the ministry field officer that conducts inspections may be of the opinion that the approval is out of date and/or that certain Terms or Conditions should be amended or added to the CofA to better protect human health and/or the environment.

Some examples of the types of terms and conditions that may be associated with a CofA – Waste are provided below (note, this should not be considered to be a comprehensive list):

- Restrictions on the type and/or quantity of waste that can be accepted at the site.
- Restrictions of the type and/or quantity of waste that can be transported (for waste haulers) or processed (for waste processors).
- Restrictions on where/how the waste can be stored/processed/disposed.
- Requirement for the posting of Financial Assurance (typically only required for privately owned waste facilities).
- Operational requirements relating to things such as:
 - hours of operation,
 - signage requirements,
 - provision of security (e.g., gates/fencing),
 - prohibition of certain activities (e.g., burning of waste, scavenging),
 - daily/interim/final cover requirements (for landfills),
 - conditions relating to processing activities (for waste processing sites),
 - conditions relating to maintenance of equipment at the site (e.g., leachate collection system, for landfills) or a fleet of vehicles (for waste haulers),
 - nuisance control requirements (e.g., litter, odour, noise and vector/vermin control),
 - training requirements for staff.
- Monitoring and reporting requirements such as:
 - requirement to carry out surface water and/or groundwater monitoring at specified locations (may include a requirement to take action in the event that monitoring indicates the facility is having unacceptable impacts to the environment),
 - requirement to track the type/volume of wastes received at the site,
 - requirement to maintain a written record of daily operations at the site including any emergency situations/problems that occur,
 - requirement to maintain a written record of complaints, received/actions taken to address complaints,
 - requirement to generate and submit reports at a specified interval (e.g., annually or bi-annually) documenting site operations, quantity of waste received/processed/transported, information on waste placement activities (for landfills), environmental monitoring results etc.,
 - requirement to notify MOE in the event specified circumstances occur (e.g., leachate outbreaks or failure of leachate collection system at landfill).

2.8 How the Instrument (CofA – Waste) Manages Drinking Water Threats

- As described in Section 2.7 above, a CofA – Waste may include assorted terms and conditions designed to protect the environment from adverse impacts associated with the operation of a waste disposal site or waste management system. This may include terms and conditions directly intended to prevent adverse off-site impacts from the waste facility to both the local groundwater and surface water supplies.
- CofAs – Waste may also require the owner/operator of a waste disposal or waste storage site to undertake monitoring of the local groundwater and/or surface water supplies. Where monitoring is required, the CofA – Waste may also require the owner/operator of the facility to take action in the event that the monitoring suggests unacceptable impacts are occurring to the local groundwater or surface water.
- As part of the ongoing development of the Risk Management Measures Catalogue (RMMC), work is underway to flag any measures that may be implemented through a prescribed instrument and link them to the affected prescribed instrument(s).

2.9 Compliance program

- MOE field staff (i.e., “Environmental Officers”) from the ministry’s local District Offices typically undertake annual inspections at a subset of waste facilities located within their geographic area of responsibility. These inspections may include municipal and/or private disposal sites, waste processing sites, storage/transfer sites as well as waste haulers.
- MOE field staff may also carry out site visits/inspections of waste facilities in response to complaints or reports of non-compliance, spills or other environmental concerns.
- Where issues of non-compliance with regulatory requirements¹² are identified, Environmental Officers have the authority to require the facility owner/operator to take action to bring the facility into compliance¹³.

¹² This includes requirements set out in the EPA or one of its regulations and also includes any requirements associated with the specific Terms and Conditions listed in the facility’s CofA – Waste.

¹³ For example, Environmental Officers have the authority to issue a Provincial Officer’s Order, which is a legally enforceable instrument that can require the owner/operator of the facility to take specified actions. They can also refer the matter to the MOE’s Investigation and Enforcement Branch and request an investigation be undertaken and, if appropriate, a prosecution be carried out.

2.10 Appeal and/or Review Mechanisms

Appeal

- Section 139 of the EPA allows the applicant for a CofA to request a hearing by the Environmental Review Tribunal if the Director:
 - refuses to issue or renew a CofA
 - suspends or revokes a CofA
 - imposes Terms and Conditions in issuing a CofA or
 - alters the Terms and Conditions or imposes new Terms and Conditions on a CofA after it is issued.
- As noted in Section 1.5 of this bulletin, residents of Ontario have third party appeal rights under the EBR and may ask the Environmental Review Tribunal for the opportunity to appeal a CofA decision.
- A decision by the Environmental Review Tribunal may be appealed to the Divisional Court on a matter of law, and to the Minister of the Environment on all other matters.

Review

- As noted in Section 1.5 of this guide, under the EBR, residents of Ontario may request a review of a decision on certain Certificates of Approval.

2.11 Example Instruments

Appendix W-2 contains two sample waste CofAs issued by the ministry's EAAB including a waste disposal site CofA for a municipal landfill and a waste management system CofA for a waste hauler.

2.12 Where to Get Additional Information

- The following MOE website contains information on CofAs:
http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/environmental_approvals/index.htm
- The following MOE website contains information on the Modernization of Approvals initiative:
http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/modernization_of_approvals/index.htm
- The following MOE website contains a searchable database of CofAs (note, this website only includes approvals that have been issued by the MOE's EAAB since 1999; approvals issued prior to 1999 and those issued by the MOE's District Offices are not available on this website):
<http://www.environet.ene.gov.on.ca/eCofAWeb/ecofa/GoSearch.action>
- The following MOE website contains information on CofAs – Waste Disposal Sites:

http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/environmental_approvals/STDPROD_080591.html

- The following MOE website contains information on CofAs – Waste Management Systems:
http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/environmental_approvals/STDPROD_080602.html
- The following are sources of information, in addition to the websites noted above, available for obtaining copies of legislation, policy and guidelines regarding CofAs – Waste:
 - Legislation:
 - Access Ontario’s e-Laws website at www.e-laws.gov.on.ca
 - Alternatively, contact Service Ontario by telephone at 416-326-5300 (toll free at 1-800-668-9938) or by e-mail to e-laws@ontario.ca
 - Policy and Guidelines:
 - Forms Manuals and Guidelines can be accessed through the ministry’s “Resources” web page at:
<http://www.ene.gov.on.ca/environment/en/resources/results/index.htm?txtSearchType=library&txtSearchValue=Forms,%20Manuals%20and%20Guidelines>

In particular refer to the following:

- **“Guide for Applying for Approval of Waste Disposal Sites”**, PIBS 4183e is available at:
http://www.ene.gov.on.ca/environment/en/resources/STD01_076008.html
- **“Guide for Applying for Approval of a Hauled Sewage (Septage) or Processed Organic Waste (Biosolids) Waste Disposal Site”¹⁴**, PIBS 4182e is available at:
http://www.ene.gov.on.ca/environment/en/resources/STD01_076033.html
- **“Guide for Applying for Approval of a Waste Management System”**, PIBS 4185e is available at:
http://www.ene.gov.on.ca/environment/en/resources/STD01_076014.html
- **“Guide for Applying for Approval of a Waste Management System for Mobile Waste Processing”**, PIBS 6992e is available at:
http://www.ene.gov.on.ca/environment/en/resources/STD01_076197.html

¹⁴ Note, details of Processed Organic Waste (i.e., “organic waste” or “biosolid”) and Hauled Sewage (i.e., “septage”) approvals are provided in Sections 3 and 4 of this bulletin respectively.

- **“The Requirements of the Environmental Bill of Rights for Prescribed Instruments”¹⁵**, PIBS 3323e is available at: http://www.ene.gov.on.ca/environment/en/resources/STD01_076114.html
 - **“Protocol for Updating Certificates of Approval for Waste Management”**, PIBS 5017e is available at: http://www.ene.gov.on.ca/environment/en/resources/STD01_076018.html
- Alternatively, contact the EAAB by telephone at 416-314-8001 (toll free at 1-800-461-6290) or by e-mail to eaabgen.moe@ontario.ca.

¹⁵ It is important to note that the list of “Prescribed Instruments” referred to in this guide is not the same as the list of Prescribed Instruments identified in O. Reg. 287/07. In this context “Prescribed Instruments” refers to instruments that are required to be posted to the EBR.

3 Organic Soil Conditioning Site Approvals

The land application of organic waste materials (i.e., “biosolids” and/or “processed organic waste”) has historically been approved through MOE issued CofAs – Waste.

It should be noted that this activity is sometimes approved using a stand alone waste disposal site CofA (i.e., “Organic Soil Conditioning Site”). However, approval for this activity can also be provided as part of an organic waste hauler’s approval (i.e., Waste Management System Certificate of Approval). In these cases, the Waste Management System approval (i.e., “Processed Organic Waste System” approval) has terms and conditions built into it that enable the application of specified organic waste materials to land at designated locations (i.e., at certain approved organic soil conditioning sites).

This section of the bulletin provides information specific to CofAs – Waste issued for the transport and land application of organic waste/processed organic waste materials generated by non-agricultural sources.

Processed organic wastes¹⁶ include materials such as sewage biosolids, pulp and paper biosolids and, other commercial and industrial byproducts that have beneficial nutrient or soil amendment properties.

3.1 History

- Historically MOE has regulated the land application of processed organic waste as a waste under Part V of the EPA.
- The Nutrient Management Act (NMA) was introduced in 2002 to regulate the application of nutrients on agricultural lands. The NMA includes standards and approval requirements for the land application of agricultural source materials (ASM), such as manure, and non-agricultural source material (NASM) including processed organic waste (e.g., sewage biosolids).
 - Regulatory amendments were passed in September 2009 to address duplicative approval requirements under the EPA and NMA. Under these amendments regulation of the application of processed organic waste on agricultural land transitioned from the EPA to the NMA beginning January 1, 2011. It should be noted that the application of processed organic waste to land other than farm land will continue to be approved by MOE using waste approvals issued under section 39, Part V of the EPA.

Please refer to the MOE bulletin on prescribed instruments issued under the NMA for further details.

- The NMA is jointly administered by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and the MOE. OMAFRA is responsible for the issuance of approvals and for licencing and certification under the NMA. The MOE is responsible for compliance and enforcement of the NMA.

¹⁶ For the definition of “Processed Organic Waste” as described by O. Reg. 347 refer to Appendix W-1.

3.2 Purpose and Legislative/Regulatory Authority

- To ensure that the beneficial use of processed organic waste as a plant nutrient or soil amendment is carried out in a manner that is protective of human health and the environment.
- The legislative requirement for waste approvals for the land application of organic waste materials (generated by non-agricultural sources) is contained in section 27, Part V of the EPA¹⁷. Both Organic Soil Conditioning Site and Waste Management System (Processed Organic Waste) CofAs are issued under section 39, Part V of the EPA.

3.3 Limitations of the Instruments

- These approvals do not apply to wastes that have been exempted such as agricultural wastes (e.g., manure or other agricultural source materials) or materials derived from wastes that are sold as a commercial fertilizer (e.g., palletized sewage sludge).
- Recent regulatory amendments noted earlier in this bulletin have seen the regulation of the application of processed organic waste to agricultural land transition to the NMA. These amendments mean that:
 - The MOE ceased to issue approvals for land application of processed organic waste to agricultural land as of December 31, 2010.
 - Commencing January 1, 2011 new sites established on agricultural land for the application of processed organic waste are regulated under O. Reg. 267 made under the NMA. Please refer to the MOE bulletin on prescribed instruments under the NMA for further details.
 - Land applicators may continue to use existing approvals issued under the EPA until the earlier of: i) the date they expire; or ii) January 1, 2016 (after which time applying these materials to agricultural land will be regulated under the NMA).

3.4 Creation/Issuing of the Instrument

- Waste Management System Approval (i.e., Processed Organic Waste Management System Certificate of Approval) – required for the transportation of processed organic waste. In some cases these documents include terms and conditions dealing with the land application of processed organic wastes to designated approved sites.
 - These approvals are issued by the EAAB of the ministry.
 - The MOE has prepared a document entitled “**Guide for Applying for Approval of a Waste Management System – November 1999**” along with a standardized “**Application for Approval of a Waste Management System**”. These documents are available on the MOE’s public internet site (see link to the guide in Section 2.12 of this bulletin).
 - In general these approvals do not contain expiry dates.

¹⁷ See section 2.2 of this bulletin for more information on the requirements of section 27 of the EPA.

- Public consultation and EBR posting is not typically required for these approvals.
- Waste Disposal Site Approval (i.e., Organic Soil Conditioning Site Certificate of Approval) – required for sites where processed organic waste is land applied.
 - These CofAs are issued by local District and Area Offices of the MOE.
 - Guidance on applying for this approval is available in the document entitled “**Guide for Applying for Approval of Hauled Sewage (septage) or Processed Organic Waste (biosolids) Disposal Site – November 1999**”. A standardized application form titled “**Application for Approval of a Hauled Sewage (septage) or Processed Organic Waste (biosolids) Disposal Site**” is also available. These documents may be obtained from the MOE’s public internet site (links provided in Section 3.10 of this bulletin).
 - Information submitted with the application includes material quality analysis, receiving soil quality analysis, delineation of the land application areas (including a site sketch), and identification of sensitive receptors (e.g., surface water bodies, drinking water wells, residential subdivisions, etc).
 - These approvals are typically issued with a five year expiry date.
 - Public consultation and posting on the EBR are not typically required for these types of waste disposal site approvals.

Sites where processed organic waste is stored or processed may also be subject to the requirement for a Waste Disposal Site approval for the activity in question (i.e., a Storage, Transfer, or Processing Waste Site Certificate of Approval) – see Section 2.4 of this bulletin for details on waste approvals issued for these types of activities.

3.5 Structure/Terms and Conditions Associated With the Approvals

For information on the basic structure of any CofA refer to Section 1.4 of this bulletin. This subsection focuses on the types of terms and conditions that may be contained within an approval issued for the application of non-agricultural processed organic waste materials to land.

The terms and conditions related to processed organic waste approvals are based on the standards provided in the joint MOE/OMAFRA publication “[Guidelines for the Utilization of Sewage Biosolids and Other Wastes on Agricultural Lands](#)” (the “[Guidelines](#)”). [A link to the Guidelines is provided in Section 3.10 of this bulletin.](#) These Guidelines set out standards to ensure that processed organic waste is land applied in a manner that is protective of human health and the environment. Standards in the Guidelines include:

- Minimum separation distances to wells, groundwater, surface water, bedrock and residences;
- Maximum application rates;
- Material quality standards for land applied materials;

- The requirement that land applied materials are stabilized, where necessary, to reduce pathogens and odour potential;
- Winter spreading restrictions; and
- Minimum waiting periods between land application and the harvesting of crops or grazing of animals.
- Waste Management System (Processed Organic Waste) – This approval contains terms and conditions to ensure the safe transport of processed organic waste and general conditions with respect to land application including:
 - Limitations on where processed organic waste may be land applied (i.e., only at designated approved Organic Soil Conditioning Sites); and
 - General requirement to land apply materials in accordance with the Guidelines.
- Waste Disposal Site (Organic Soil Conditioning) – Conditions in these approvals relate to the land application of processed organic waste at a specific site and contain:
 - Identification of the source and type of processed organic waste that may be applied at the site;
 - Specific location of the land application site; and
 - Site specific terms and conditions, where necessary, related to land application consistent with those described in the Guidelines.

3.6 How the Instrument (CofA – Waste) Manages Drinking Water Threats

- As described in Section 3.5 above, a CofA – Waste issued for the land application of processed organic waste materials often contains terms and conditions designed to protect the local groundwater and surface water supplies from adverse impacts associated with the operation in question (e.g., stipulated land application separation distances from wells and surface water bodies, prohibition on land applying organic wastes on frozen ground to reduce the risk of run-off, etc.).
- As part of the ongoing development of the RMMC, work is underway to flag any measures that may be implemented through a prescribed instrument and link them to the affected prescribed instrument(s).

3.7 Compliance Program

- MOE field staff (i.e., “Environmental Officers”) from local District Offices undertake a number of compliance and enforcement activities each year to ensure that processed organic waste is land applied in accordance with current standards set out in the NMA and it’s associated regulations as well as the terms and conditions of any applicable waste CofA. Compliance activities may include:
 - Conducting proactive inspections of land application activities to ensure compliance with the CofA and other legislative requirements; and
 - Responding to complaints or reports of non-compliance, spills or other environmental concerns.

- Where issues of non-compliance with regulatory requirements are identified, Environmental Officers have the authority to require the holder of the Certificate of Approval – Waste to take action to bring the operation into compliance with all applicable legal requirements¹⁸.

3.8 Appeal and/or Review Mechanisms

- As with other waste approvals, section 139 of the EPA allows the applicant of both Organic Soil Conditioning Site approvals and Processed Organic Waste Management System approvals to request a hearing by the Environmental Review Tribunal to appeal:
 - The Signing Director’s decision regarding the application; and/or
 - One or more of the terms and conditions imposed by the approval.

3.9 Example of Instruments

Organic Soil *Conditioning* Site approvals may be issued in one of two formats (examples of both formats are provided in Appendix W-3)

1. Schedule C format – where the applicant is operating under a Waste Management System CofA the site may be approved by completing “Schedule C” of the Waste Management System approval and submitting it to the local District Office for approval.
2. Stand Alone Approval Format – where the applicant does not hold a Waste Management System CofA (i.e., is not a hauler) the site approval may be issued as a stand alone approval document. Stand alone approvals are generally lengthier as they must include the land application terms and conditions typically contained in a Waste Management System approval.

3.10 Where to Get Additional Information

- MOE Internet Site
 - Forms Manuals and Guidelines can be accessed through the ministry’s “Resources” web page at:
<http://www.ene.gov.on.ca/environment/en/resources/results/index.htm?txtSearchType=library&txtSearchValue=Forms,%20Manuals%20and%20Guidelines>
 - Nutrient Management/Biosolids Page
http://www.ene.gov.on.ca/environment/en/subject/nutrient_management/SDPROD_079166.html
 - Link to map and listing of MOE Regional and local District Offices

¹⁸ Environmental Officers have the authority to issue a Provincial Officer’s Order, which is a legally enforceable instrument that can require the owner/operator of the facility to take specified actions. They can also refer the matter to the MOE’s Investigation and Enforcement Branch and request an investigation be undertaken and, if appropriate, a prosecution be carried out.

http://www.ene.gov.on.ca/environment/en/about/regional_district_offices/index.htm

- OMAFRA Internet Site
 - Non-Agricultural Source Materials Page
<http://www.omafra.gov.on.ca/english/nm/nasm.html>

4 Hauled Sewage Land Application Site Approvals

The land application of “hauled sewage” (i.e., “septage”) is approved through MOE issued CofAs – Waste¹⁹.

It should be noted that this activity is sometimes approved using a stand alone waste disposal site CofA (i.e., “Hauled Sewage Site Certificate of Approval”). However, approval for this activity can also be provided as part of a Hauled Sewage hauler’s approval (i.e., Waste Management System Certificate of Approval). In these cases, the Waste Management System approval has terms and conditions built into it that enable the application of “hauled sewage” to land at designated locations (i.e., at certain approved hauled sewage sites).

Key Characteristics of Hauled Sewage

- Hauled sewage includes domestic waste that is human body waste, toilet or other bathroom waste, waste from other showers or tubs, liquid or water borne culinary or sink waste or laundry waste, and may include other waste that is suitable for storage, treatment or disposal in a sewage system regulated under Part 8 of the Building Code made under the Building Code Act.
- Hauled sewage differs from sewage biosolids in that it has generally not been stabilized (e.g., by anaerobic or aerobic digestion) to reduce pathogens and odours.

This section of the guide provides information specific to CofAs - Waste issued for the transport and land application of “hauled sewage”.

4.1 History

- Historically the management of septage including the installation of septic systems, transportation and disposal of hauled sewage was regulated under Part VIII of the EPA.
- In 1998 regulatory requirements for the installation of septic systems was transferred to the Building Code Act (for small systems with a capacity of <10,000 litres/day) and the Ontario Water Resources Act (for large systems with a capacity of >10,000 litres/day). The regulatory requirements for the disposal of hauled sewage were transferred to Part V (Waste Management) of the EPA.

4.2 Purpose and Legislative/Regulatory Authority

- To ensure that hauled sewage is disposed of in a manner that is protective of human health and the environment.
- The statutory requirement for waste approvals for the land application of hauled sewage is contained in section 27 of the EPA²⁰. Both Hauled Sewage Site and

¹⁹ For the definition of “hauled sewage” as described by O. Reg. 347 refer to Appendix W-1.

²⁰ See section 2.2 of this bulletin for more information on the requirements of section 27 of the EPA.

Hauled Sewage Waste Management System CofA are issued under section 39, Part V of the EPA.

4.3 Limitations of the Instruments

- The MOE is working with stakeholders including municipalities and the septage hauling industry to promote the development of septage treatment capacity in the province as an alternative to land application of untreated septage.
- As a first step, regulations to prohibit the land application of untreated portable toilet waste were passed in 2003. Where portable toilet waste is treated it may be land applied at an Organic Soil Conditioning Site under the EPA or, after January 1, 2011, at a site with an approved “Non Agricultural Source Material” (NASM) Plan under the NMA.

4.4 Creation/Issuing of Instrument

- Waste Management System Approval (i.e., Hauled Sewage Waste Management System Certificate of Approval) – required for the transportation of hauled sewage.
 - These Certificates of Approval are issued by the EAAB of the MOE;
 - The MOE has prepared the “**Guide for Applying for Approval of a Waste Management System – November 1999**” and a standardized “**Application for Approval of a Waste Management System**”, which are available on the MOE’s public internet site (see link to the guide in Section 2.12 of this bulletin); and
 - In general these approvals do not contain expiry dates.
 - Public consultation and EBR posting is not typically required.
- Waste Disposal Site (i.e., Hauled Sewage Disposal Site Certificate of Approval) – required for sites where hauled sewage is land applied.
 - These CofAs are issued by local District and Area Offices of the MOE;
 - Guidance on applying for this approval is available in the document entitled “**Guide for Applying for Approval of Hauled Sewage (septage) or Processed Organic Waste (biosolids) Disposal Site – November 1999**”. A standardized application form titled “**Application for Approval of a Hauled Sewage (septage) or Processed Organic Waste (biosolids) Disposal Site**” is also available. These documents may be obtained from the MOE public internet site (see links provided in Section 4.10); and
 - These approvals are typically issued with a three year expiry date.
 - Public consultation and posting on the EBR are not typically required for these types of approvals.

Sites where hauled sewage is stored or processed may also be subject to the requirement for a Waste Disposal Site approval for the activity in question (i.e., a Storage, Transfer, or Processing Waste Site CofA) – see Section 2.4 of this bulletin for details on waste approvals issued for these types of activities.

4.5 Structure/Terms and Conditions Associated with the Approvals

- Waste Management System (Hauled Sewage) – This approval contains terms and conditions to ensure the safe transport of hauled sewage and general conditions with respect to land application/disposal including:
 - Limitations on where hauled sewage may be land applied or disposed (i.e., at an approved Hauled Sewage Site, Sewage Treatment Plant, or other EPA approved Waste Disposal Site such as a landfill);
 - Standard conditions for the land application of hauled sewage (refer to “Schedule D” of the approval) including:
 - Maximum application rates
 - Minimum setbacks to
 - Residences and residential areas
 - Surface water
 - Water wells
 - Public roadways
 - Winter spreading restrictions
 - Standard conditions for temporary storage and treatment of the hauled sewage.
- Waste Disposal Site (Hauled Sewage) – This approval contains terms and conditions related to the land application of hauled sewage at a specific site and typically includes:
 - The identification of the specific location of the land application site; and
 - Site specific conditions relating to the land application of hauled sewage, where necessary.

4.6 How the Instrument (CofA – Waste) Manages Drinking Water Threats

- As described in Section 4.5 above, a CofA – Waste issued for the land application of hauled sewage often contains terms and conditions designed to protect both the local groundwater and surface water supplies from adverse impacts associated with land application of this material (e.g., may include stipulated separation distances from wells and surface water bodies, restrictions on winter spreading to reduce the risk of run-off, etc.).
- As part of the ongoing development of the RMMC, work is underway to flag any measures that may be implemented through a prescribed instrument and link them to the affected prescribed instrument(s).

4.7 Compliance Program

- MOE field staff (i.e., “Environmental Officers”) from local District Offices undertake a number of compliance and enforcement activities each year to ensure that hauled sewage is land applied in accordance with current standards and the Terms and Conditions of the applicable waste site/system CofA. Compliance activities may include:

- Conducting proactive inspections of land application activities to ensure compliance with the CofA and other legislative requirements; and
- Responding to complaints or reports of non-compliance, spills or other environmental concerns.
- Where issues of non-compliance with regulatory requirements are identified, Environmental Officers have the authority to require the holder of the CofA – Waste to take action to bring the operation into compliance with all applicable legal requirements²¹.

4.8 Appeal and/or Review Mechanisms

- As with other waste approvals, section 139 of the EPA allows the applicant of both Hauled Sewage Site approvals and Hauled Sewage Waste Management System approvals to request a hearing by the Environmental Review Tribunal to appeal:
 - The Signing Director’s Decision regarding the application; and/or
 - One or more of the Terms and Conditions imposed by the approval.

4.9 Example of Instruments

- Approvals for Hauled Sewage Sites may be issued in one of two formats (copies of both these formats are included in Appendix W-4)
 1. Schedule C format – where the applicant is operating under a Waste Management System approval the site may be approved by completing Schedule C of the Waste Management System approval and submitting it to the local District Office for approval
 2. Stand Alone Approval Format – where the applicant does not hold a Waste Management System approval (i.e., is not a hauler) the site approval may be issued as a stand alone approval. Stand alone approvals are generally lengthier as they must include the land application standards typically contained in Schedule D of the Waste Management System approval.

4.10 Where to Get Additional Information

- MOE Internet Site
 - Forms Manuals and Guidelines can be accessed through the ministry’s “Resources” web page at:
<http://www.ene.gov.on.ca/environment/en/resources/results/index.htm?txtSearchType=library&txtSearchValue=Forms,%20Manuals%20and%20Guidelines>

²¹ Environmental Officers have the authority to issue a Provincial Officer’s Order, which is a legally enforceable instrument that can require the owner/operator of the facility to take specified actions. They can also refer the matter to the MOE’s Investigation and Enforcement Branch and request an investigation be undertaken and, if appropriate, a prosecution be carried out.

- Fact Sheet for haulers of hauled sewage:
http://www.ene.gov.on.ca/environment/en/resources/STD01_076031.html
- Link to map and listing of MOE Regional and local District Offices
http://www.ene.gov.on.ca/environment/en/about/regional_district_offices/index.htm

5 Certificates of Approval – Sewage Works

5.1 History

MOE has been regulating sewage works with CofAs issued under the OWRA since the early 1970s.

5.2 Purpose and Legislative/Regulatory Authority

The statutory requirement for sewage works approvals is contained in section 53 of the OWRA.

- Section 53(1), OWRA reads as follows:
Subject to Section 47.3²² of the Environmental Protection Act, no person shall establish, alter, extend or replace new or existing sewage works except under and in accordance with an approval granted by a Director.
- Section 53 of the OWRA, section 47.3(2)²³ of the EPA and Ontario Regulation 525/98 (made under the OWRA), exempt certain sewage works from the approval requirements of the OWRA. A description of the types of sewage works exempt from the need for a CofA – Sewage is provided in subsection 5.4 of this bulletin.

5.3 Sewage Related Definitions

Section 1 of the OWRA, prescribes the following definitions:

“sewage” includes drainage, storm water, commercial wastes and industrial wastes and such other matter or substance as is specified by the regulations

“sewage works” means any works for the collection, transmission, treatment and disposal of sewage or any part of such works, but does not include plumbing to which the Building Code Act, 1992 applies

It should also be noted that the reference to sewage in this section of the bulletin includes industrial sewage effluent as well as sanitary sewage, stormwater and combined sewer overflows (CSO).

5.4 Limitations of Certificate of Approval – Sewage

- As indicated in Section 5.2 of this bulletin, the OWRA requires approval for the establishment, alteration, extension, and replacement of new or existing sewage works, which include the collection, transmission, treatment or disposal of sewage.

Exemptions to this approval requirement are set out in the OWRA, the EPA and associated regulations.

²² This subsection of the EPA deals with Renewable Energy Approvals (REA)

²³ This subsection of the EPA deals with Renewable Energy Approvals (REA)

Reference should be made to the legislation for a comprehensive description of these exemptions. However, the following is an overview of some of the key exemptions:

- exemptions listed in the OWRA (e.g., see section 53(6))
 - sewage works from which sewage is not to drain or be discharged directly or indirectly into a ditch, drain or storm sewer or a well, lake, river, pond, spring, stream, reservoir or other water or watercourse. However, this exemption *does not apply* in the following cases (i.e. the following systems *do need* a ministry sewage approval)²⁴:
 - a sewage works that has a design capacity in excess of 10,000 litres per day (e.g., a “large” sewage holding tank),
 - a subsurface sewage disposal systems with a design capacity greater than 10,000 litres per day (i.e., a “large” septic system”)
 - more than one sewage works is located on a lot or parcel of land and they have, *in total*, a design capacity in excess of 10,000 litres per day (e.g., multiple small septic systems are located on one property and their combined daily capacity exceeds 10,000 litres per day),
 - a subsurface sewage disposal system that crosses over property boundaries (e.g., a small residential system where a septic tank is located on one property while the tile bed is located on a neighbouring property);
 - privately-owned sewage works for the partial treatment of sewage before discharge to a sanitary sewer;
 - a sewage system subject to the Building Code Act (e.g., a small residential septic system that has a design capacity less than 10,000 litres per day and whose components are completely contained on a single property); and
 - a drainage works under the Drainage Act, the Cemeteries Act, the Public Transportation and Highway Improvement Act or The Railways Act, or a sewage works to drain land for agricultural purposes.
- exemptions listed in the EPA (e.g., see section 47.3(2))
 - renewable energy projects
- exemptions listed in O. Reg. 525/98 under the OWRA (e.g., see sections 2 to 3.2)
 - establishment or change in a “service connection” (i.e., the pipe that extends from the sewer to the property serviced by the sewer);
 - establishment or change in an “appurtenance” of a sewer (e.g., valve, hydrant, flow meter, manhole, catch basin), if the appurtenance does not disrupt the operation of the sewage works;

²⁴ See subsection 53(6.1) of the Ontario Water Resources Act.

- relining of a sewer, if the new lining does not disrupt the operation of the sewage works;
- replacement of an existing sewer that has similar dimensions, performance criteria and location, if the existing sewer was established in accordance with an approval granted by a Director;
- establishment or change in a storm water management facility that services one parcel of land, discharges to a storm sewer that is not a combined sewer, does not service industrial land and is not located on industrial land²⁵;
- sewage works that is part of a large or small “municipal residential system”, as defined in O.Reg.170/03 under the Safe Drinking Water Act; and
- a vegetated filter strip system that manages runoff from an agricultural operation, unless the vegetated filter strip system is part of a sewage works already approved under a CofA – Sewage.

In the context of the CWA and drinking water threats and circumstances, most circumstances listed in the threats tables would require a CofA – Sewage with the exception of when the Ontario Building Code regulates the activity such as small/private septic systems and storage tanks

5.5 Creation/Issuing of the Instrument

Who issues a Certificate of Approval – Sewage?

- The decision to issue, amend or revoke a CofA is made by a Signing Director in the EAAB of the MOE.

Authority of Person/Body who issues a Certificate of Approval – Sewage

- Signing Directors for CofAs – Sewage are to ensure that any decision they make is in the public interest. They have the following options when making a decision on an application for a CofA – Sewage as set out in section 53(4) of the OWRA:
 - refuse to grant the approval;
 - grant the approval on such terms and conditions as the Director considers necessary;
 - impose new terms and conditions to the (existing) approval;
 - alter the terms and conditions of the (existing) approval; or
 - revoke or suspend the approval.

²⁵ In O. Reg. 525/98 “Industrial Land” is defined as land used for the production, processing, repair, maintenance, or storage of goods or materials, or the processing, storage, transfer or disposal of waste, but does not include land used primarily for the purpose of buying or selling,

(a) goods or materials other than fuel, or
 (b) services other than vehicle repair services;

- In certain circumstances, a hearing is held before the Environmental Review Tribunal in advance of the Signing Director making a decision on an application. Section 54 of the OWRA describes the types of applications that are subject to a mandatory hearing, and section 55 describes those that are subject to a discretionary hearing.
 - Generally, a hearing is mandatory where the proposed sewage works crosses municipal boundaries; and
 - Other proposals for sewage works are subject to a discretionary hearing.

Application Requirements

- Complete details on application requirements for CofAs – Sewage are contained in the “**Guide for Applying for Approval of Sewage Works**”, PIBS 7339e available on the MOE website at: http://www.ene.gov.on.ca/environment/fr/resources/STD01_077745.html
- A given sewage works proposal may require other approvals and/or permits from the MOE, from other Ontario ministries and/or from other levels of government (e.g., federal or municipal). For example, other MOE approvals that may apply to a sewage works proposal includes an environmental assessment under the Environmental Assessment Act (EAA), a CofA – Air & Noise under section 9 of the EPA.
It should be noted that a sewage works with an OWRA section 53 approval is normally exempt from the requirement for a CofA – Waste (see section 26 of the EPA). However, if the sewage works has equipment that falls outside of the definition of a “sewage works” (e.g., an on-site incinerator that burns sewage sludge) a CofA –Waste would be required.
It is emphasized that approval under one act does not abrogate the requirement to obtain approval under other acts or any other legislation.
- Under the EAA, issuing bodies are prohibited from granting an approval under any Ontario law for an undertaking subject to the EAA unless all applicable requirements of the EAA have first been satisfied (note, not all CofAs – Sewage are subject to the EAA). Therefore, the Signing Director cannot grant a CofA – Sewage until all applicable requirements under the EAA have been fulfilled.
- In general, a complete application for a CofA – Sewage consists of:
 - A properly completed and signed application form;
 - All supporting information and documentation identified in the application forms and guidance materials (may include engineering drawings, environmental impact analysis including hydrogeological and/or surface water impact reports, site plan, design brief, detailed description of processes, financial assurance estimate and/or municipal responsibility agreement);
 - The required application fee; and
 - A cover letter.

- The applicant must demonstrate through the application that their proposal complies with all relevant legislation, policies and guidelines, also referred to as environmental compliance requirements (ECRs).
- The ECRs for CofAs – Sewage vary widely depending on the type of facility that is the subject of the application. (e.g., is the application for a municipal or private sewage works that treats domestic sewage and/or storm water runoff versus an industrial sewage works versus a storm/sanitary sewer distribution line). Some notable ECR requirements for CofAs – Sewage include, but are not limited to:
 - Regulations:
 - Certain facilities from specified industrial sectors²⁶ that generate wastewater are subject to the requirements of industry specific regulations, collectively known as the Clean Water Regulations for Industrial Sewage (also known as the “MISA regulations”). These include the following: O. Reg. 537/93, O. Reg. 760/93, O. Reg. 560/94, O. Reg. 561/94, O. Reg. 562/94, O. Reg. 63/95, O. Reg. 64/95, O. Reg. 214/95, O. Reg. 215/95 and O. Reg. 169/96 (all made under the EPA)

Industrial sewage works subject to the MISA regulations are not exempted from the need for an OWRA section 53 CofA – Sewage. However, SPCs should be aware of the fact that key aspects of these industrial sewage works operations may be regulated by the applicable MISA regulation as opposed to through the CofA– Sewage. For example, the MISA regulations often stipulate the effluent sampling requirements and effluent discharge criteria for the sewage works along with the notification and reporting requirements.

- Guidelines or Policies:
 - **Guideline B-1-2: Water Management - Policies, Guidelines, Provincial Water Quality Objectives of the Ministry of the Environment;**
 - **Procedure B-1-5: Deriving Receiving Water Based, Point Source Effluent Requirements for Ontario Waters;**
 - **Guideline B-7: Incorporation of the Reasonable Use Concept into MOEE Groundwater Management Activities;**
 - **Procedure D-5-2: Application of Municipal Responsibility for Communal Water and Sewage Services;**
 - **Guideline F-5: Levels of Treatment for Municipal and Private Sewage Treatment Works Discharging to Surface Waters;**

²⁶ Sectors that fall under the MISA Regulations include: metal mining, electric power generators, industrial minerals (i.e. pits and quarries), inorganic chemical manufacturers, iron and steel manufacturers, the metal casting sector, organic chemical manufacturers, the petroleum sector and the pulp and paper sector.

- Guideline F-8: **Provision and Operation of Phosphorus Removal Facilities at Municipal, Institutional and Private Sewage Treatment Works;**
- Procedure F-10: **Sampling and Analysis Requirements for Municipal and Private Sewage Treatment Works (Liquid Waste Streams Only);**
- **Design Guidelines for Sewage Works 2008;** and
- **Stormwater Management Planning and Design Manual 2003.**

How and By Whom a Certificate of Approval – Sewage is written/developed

- Details on the processing of CofAs – Sewage are contained in Part 1 of the “**Guide for Applying for Approval of Sewage Works**”, PIBS 7339e, available on the MOE website at:
http://www.ene.gov.on.ca/environment/fr/resources/STD01_077745.html

Consultation Requirements

- Details on consultations required as part of the processing of CofAs – Sewage are contained in the “**Guide for Applying for Approval of Sewage Works**”, PIBS 7339e, available on the MOE website at:
http://www.ene.gov.on.ca/environment/fr/resources/STD01_077745.html
- Required consultations for a CofA – Sewage are derived from a number of sources including through the *Environmental Assessment* process and through pre-application consultation with the ministry and other stakeholders.
- As was noted in Section 1.5 of this bulletin, in some instances applications for a CofA – Sewage are posted by the ministry on the EBR Registry where members of the public are given the opportunity to provide comment on the application. The ministry must take these comments into consideration when making a final decision on a proposal.

Renewal frequency and amendment of Certificates of Approval – Sewage

- The following protocol outlines the detailed criteria and processes used to amend/update CofAs – Sewage: “**Protocol for Updating Certificates of Approval for Sewage Works**”, PIBS 5019e. This protocol is available on the MOE website at:
http://www.ene.gov.on.ca/environment/en/resources/STD01_076035.html
- CofAs – Sewage are not usually issued with expiry dates. However, amendments/updates of CofAs – Sewage may be triggered in a number of ways including:
 - A sewage works owner may apply to amend their existing CofA – Sewage to reflect changes to the existing equipment, processes, production rates or for an expansion of plant capacity;

- Ministry field officers, through the course of compliance, inspection or enforcement activities, may identify a facility whose existing approval is deemed to require an amendment²⁷. Under these circumstances the MOE field officer may alert EAAB and request that the CofA be reviewed and possibly amended;
- The ministry may select specific sectors and/or types of facilities to have their facility inspected and their CofA – Sewage reviewed and possibly amended. The sectors selected for inspection/review are typically those identified by the ministry as having significant potential for environmental or health impacts;
- As noted in Section 1.5 of this bulletin, for applications subject to the Environmental Bill of Rights, the public may apply for review of an existing CofA – Sewage.

5.6 Structure/Terms & Conditions: Certificate of Approval – Sewage

For information on the basic structure of any CofA refer to Section 1.4 of this bulletin. This subsection focuses on the types of terms and conditions that may be contained within a CofA – Sewage.

As noted earlier, not all CofAs – Sewage contain a Terms and Conditions section as they are not a mandatory requirement of an approval. Where terms or conditions are included, they are usually legally enforceable requirements. The terms and conditions are typically designed to ensure that the proposed facility is established, used, operated, altered, enlarged or extended in accordance with MOE requirements in effect at the time the approval is issued, including generally accepted engineering practices at that time.

The types of terms and conditions included in the approval can vary depending on the type of sewage facility being approved (e.g., a large sewage treatment plant versus a pumping station versus a sanitary sewer distribution line).

Some examples of the types of terms and conditions that may be associated with a CofA – Sewage are provided below (note, this should not be considered to be a comprehensive list).

- Requirement for the posting of Financial Assurance (typically only required for some privately owned sewage facilities).
- Performance requirements relating to things such as:
 - the quality of effluent that can be discharged to the environment (may include both effluent objectives and legally enforceable effluent discharge criteria); and
 - the quantity of effluent that can be discharged to the environment (may include volume limits and/or contaminant loading limits).

²⁷ For example, MOE field officers conducting inspections may be of the opinion that the existing approval is out of date and/or that certain Terms and Conditions should be added and/or updated in the approval document to better protect human health and/or the environment.

- Operational requirements relating to things such as:
 - restrictions on the type and/or quantity of sewage that can be processed through the facility;
 - conditions relating to maintenance and repair of equipment at the facility; and
 - training requirements for staff.
- Monitoring and reporting requirements such as:
 - requirement to sample and analyze influent (i.e. sewage entering the facility) and/or effluent quality (sewage being discharged from the facility);
 - requirement to sample and analyze receiving waters (i.e. surface water and/or groundwater potentially impacted by the facility/activity)
 - requirement to track flow volumes through the facility;
 - requirement to maintain a written record of daily operations at the site including any emergency situations/problems that occur;
 - requirement to maintain a written record of complaints received/actions taken to address complaints;
 - requirement to generate and submit reports at specified intervals (e.g. monthly effluent discharge reports, quarterly report, annual reports) documenting various aspects of the site operations; and
 - requirement to notify MOE in the event specified circumstances occur (e.g. laboratory results indicate effluent discharged by the facility exceeded discharge criteria, a sewage by-pass occurred, etc.).

5.7 How the Instrument (CofA – Sewage) Manages Drinking Water Threats

- As described in Section 5.6 above, a CofA – Sewage may contain assorted terms and conditions designed to protect the environment from adverse impacts associated with operation of the sewage works. This may include terms and conditions directly intended to prevent adverse off-site impacts from the sewage facility to both local groundwater and surface water supplies (e.g., effluent discharge criteria for a sewage treatment facility or a large communal septic system).
- As part of the ongoing development of the RMMC, work is underway to flag any measures that may be implemented through a prescribed instrument and link them to the affected prescribed instrument(s).

5.8 Compliance Program

- MOE field staff (i.e., “Environmental Officers”) from the ministry’s local District Offices typically undertake annual inspections at a subset of sewage facilities located within their local geographic area of responsibility. These inspections are not limited to municipal sewage treatment facilities; they also can include inspections of industrial sewage works and other private communal sewage systems (including large communal septic systems).

- Inspections of facilities subject to the MISA regulations are also conducted; in the case of these facilities the inspection includes an assessment of compliance with both the requirements set out in the applicable MISA regulation as well as compliance with any Terms and Conditions in the facility's CofA – Sewage.
- Where issues of non-compliance are identified, Environmental Officers have the authority to require the facility owner/operator to take action to bring the facility into compliance²⁸.

5.9 Appeal and/or Review Mechanisms

Appeal

When an appeal is made it is usually made through the Environmental Review Tribunal.

- Section 100 of the OWRA allows the applicant to request a hearing before the Environmental Review Tribunal if the Director:
 - refuses to issue, grant or renew, or cancels, suspends or revokes a CofA;
 - imposes terms and conditions in issuing a CofA; or
 - alters the terms and conditions or imposes new terms and conditions on a CofA after it is issued.
- As noted in Section 1.5 of this bulletin, residents of Ontario have third party appeal rights under the EBR and may ask the Environmental Review Tribunal for the opportunity to appeal a CofA decision.
- A decision by the Environmental Review Tribunal may be appealed to the Divisional Court on a matter of law, and to the Minister of the Environment on all other matters.

Review

- As noted in Section 1.5 of this bulletin, under the EBR, residents of Ontario may request a review of a decision on certain CofAs after the approval has been issued.

5.10 Example of Instrument

The following are examples of the types of facilities that would be managed by a CofA – Sewage:

- Municipal/private/industrial sewage treatment/disposal lagoons.

²⁸ Environmental Officers have the authority to issue a Provincial Officer's Order, which is a legally enforceable instrument that can require the owner/operator of the facility to take specified actions. They can also refer the matter to the MOE's Investigation and Enforcement Branch and request an investigation be undertaken and, if appropriate, a prosecution be carried out.

- Subsurface sewage disposal systems with a design capacity >10,000 litres per day or a subsurface system (of any design capacity) whose components cross over property boundaries.
- Municipal or private/industrial mechanical sewage treatment plants.
- Sewage pumping stations.
- Storm water management facilities.
- Sanitary and storm sewers.
- Industrial process and cooling water treatment facilities that discharge wastewater/cooling water.

Examples of existing CofAs – Sewage are available at the following MOE website by selecting “Industrial Sewage” and/or “Municipal and Private Sewage” from the “Approval Type” search criteria box:

<http://www.environet.ene.gov.on.ca/eCofAWeb/ecofa/GoSearch.action?search=advanced>

A sample approval for a municipal sewage treatment plant is also provided in Appendix S-1.

5.11 Where to Get Additional Information

Website links, fact sheets, training materials, etc.

- The following MOE website contains information on CofAs:
http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/environmental_approvals/index.htm
- The following MOE website contains information on the Modernization of Approvals initiative:
http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/modernization_of_approvals/index.htm
- The following MOE website contains a searchable database of CofAs. It should be noted that this database is not comprehensive. There is no information available for any CofAs - Sewage issued prior to 1999.
<http://www.environet.ene.gov.on.ca/eCofAWeb/ecofa/GoSearch.action?search=advanced>
- The following MOE website contains information on CofAs – Sewage:
http://www.ene.gov.on.ca/environment/en/industry/assessment_and_approvals/environmental_approvals/STDPROD_080604
- The following are sources of information, in addition to the websites noted above, available for obtaining copies of legislation, policy and guidelines regarding CofAs - Sewage:
 - Legislation:

- Access Ontario's e-Laws website at www.e-laws.gov.on.ca
- Alternatively, contact Service Ontario by telephone at 416-326-5300 (toll free at 1-800-668-9938) or by e-mail to e-laws@ontario.ca
- Policy and Guidelines:
 - Forms Manuals and Guidelines can be accessed through the ministry's "Resources" web page at:
<http://www.ene.gov.on.ca/environment/en/resources/results/index.htm?txtSearchType=library&txtSearchValue=Forms,%20Manuals%20and%20Guidelines>
 - In particular:
 - **"Guide to Applying for Approval of Sewage Works"**, PIBS 7339e is available at:
http://www.ene.gov.on.ca/environment/fr/resources/STD01_077745.html
 - **"The Requirements of the Environmental Bill of Rights for Prescribed Instruments"**, PIBS 3323e is available at:
http://www.ene.gov.on.ca/environment/en/resources/STD01_076114.html
 - **"Protocol for Updating Certificates of Approval for Sewage Works"**, PIBS 5019e is available at:
http://www.ene.gov.on.ca/environment/en/resources/STD01_076035.html
 - Alternatively, contact the Environmental Assessment and Approvals Branch by telephone at 416-314-8001 (toll free at 1-800-461-6290) or by e-mail to eaabgen.moe@ontario.ca.

Summary

This Bulletin has provided a comprehensive overview of two basic types of prescribed instruments, namely Certificates of Approval – Waste and Certificates of Approval – Sewage. Both of these prescribed instruments may be used as tools to manage threats to drinking water. This bulletin was developed to help SPC members understand the general scope of each of the prescribed instruments, the types of drinking water threats each instrument may have the mandate to address and how terms and conditions are used within the instrument to manage the threats. It is not expected that SPC members know each instrument to the level of detail contained in this bulletin rather this document can be used as a resource guide to support SPC members as they draft policies for the source protection plan.

Policy developers are encouraged to utilize prescribed instruments whenever there is a prescribed instrument that can legally manage the risks associated with an activity that has been identified as a drinking water threat in the assessment report. If such a prescribed instrument has already been issued for an activity identified as a significant drinking water threat, the Province recommends that utilizing that instrument should be the policy developers' first consideration.

Additional Sources of Information

Ministry of the Environment's Clean Water Act Website – www.Ontario.ca/cleanwater

Clean Water Act and O. Reg. 287/07 "General" on the e-Laws Website (www.e-laws.gov.on.ca)