

**GUIDELINE D-6**  
**(formerly 07-09)**

**COMPATIBILITY BETWEEN INDUSTRIAL  
FACILITIES AND SENSITIVE LAND USES**

**Legislative Authority:**

5(3)

*Environmental Protection Act, RSO 1990, Section 14*  
*Environmental Assessment Act, RSO 1990, Section*

*Planning Act, RSO 1990, Sections 2 (a) (b) (c) (f)*  
*(g) (h), 17(9), 22(3), 41(4) and 51(3)*

*Condominium Act, RSO 1990, Section 50(3)*

*Niagara Escarpment Planning & Development Act, RSO*  
*1990, Section 9*

**Responsible Director:**

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**Last Revision Date:**

July 1995

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## SYNOPSIS

This guideline is intended to be applied in the land use planning process to prevent or minimize future land use problems due to the encroachment of sensitive land uses and industrial land uses on one another. The guideline is a direct application of Ministry Guideline D-1, "Land Use Compatibility" (formerly Policy 07-03).

This guideline encourages informed decision-making for Ministry staff as well as land use approval authorities and consultants, and assists in determining compatible mixed land uses and compatible intensification of land uses. The guideline is intended to apply when a change in land use is proposed, and the range of situations are set out in Section 2.0 "Application" of Guideline D-1. Responsibilities and various implementation techniques are discussed in Procedure D-1-1, "Land Use Compatibility: Implementation".

Adequate buffering of incompatible land uses is intended to supplement, not replace, controls which are required by legislation for both point source and fugitive emissions at the facility source. These emissions, which are difficult to control on-site, under all circumstances, all of the time, are associated with normal operating procedures. Appendix B contains information on the Ministry's legislative requirements (e.g. Certificates of Approval) which may apply to industrial facilities.

The Ministry shall not be held liable for municipal planning decisions that disregard Ministry policies and guidelines. When there is a contravention of Ministry legislation, Ministry staff shall enforce compliance.

Nothing in this guideline is intended to alter or modify the definition of "adverse effect" in the *Environmental Protection Act*.

### 1.0 INTRODUCTION

#### 1.1 Objective

The objective of this guideline is to prevent or minimize the encroachment of sensitive land use upon industrial land use and vice versa, as these two types of land uses are normally incompatible, due to possible adverse effects on sensitive land use created by industrial operations.

To assist planning authorities in achieving the objective,

Appendix A of this guideline categorizes industrial facilities into three Classes according to the objectionable nature of their emissions, their physical size/scale, production volumes and/or the intensity and scheduling of operations. One or more of these factors may cause an adverse effect.

## 1.2 Scope

### 1.2.1 Sensitive Land Uses

For the purposes of this guideline, (i.e. where industry is concerned) sensitive land use may include:

- ! recreational uses which are deemed by the municipality or provincial agency to be sensitive; and/or
- ! any building or associated amenity area (i.e. may be indoor or outdoor space) which is not directly associated with the industrial use, where humans or the natural environment may be adversely affected by emissions generated by the operation of a nearby industrial facility. For example, the building or amenity area may be associated with residences, senior citizen homes, schools, day care facilities, hospitals, churches and other similar institutional uses, or campgrounds.

See also Section 4.4.4, "Ancillary Land Uses (Sensitive Land Use)" for more information on the types of uses, the land areas and the related activities affected by this guideline.

NOTE: Residential land use shall be considered sensitive 24 hours/day.

### 1.2.2 Industrial Land Uses

The guideline applies to all types of proposed, committed and/or existing industrial land uses which have the potential to produce point source and/or fugitive air emissions such as noise, vibration, odour, dust and others, either through normal operations, procedures, maintenance or storage activities, and/or from associated traffic/transportation.

This guideline also considers ground borne vibration, but does not deal with other emissions into the soil or ground and surface water. These other matters are addressed through the *Environmental Protection Act (EP Act)*, in particular Regulation 346 and Regulation 347, the *Ontario Water*

Resources Act (OWR Act) in general, and the Municipal Industrial Strategy for Abatement (MISA).

### 1.2.3 Non-Stationary Industrial Facilities

This guideline is not intended to apply to non-stationary industrial facilities such as a portable asphalt plant.

### 1.2.4 Other Facilities

This guideline does not apply to the following provincial, municipal or private facilities, land uses or related activities, nor to any on-site industrial-type facilities associated with them, except as noted below:

- ! sewage treatment facilities;
- ! landfills or dumps, transfer stations and other waste management facilities and waste processing facilities that require a Waste Certificate of Approval (e.g. facilities for waste oil refining, waste wood chipping and materials recovery facilities [MRFs]);
- ! agricultural operations;
- ! roadways (except for ancillary transportation facilities and transportation-related activities for an industrial land use including shipping and receiving);
- ! airports;
- ! railways (but it does apply to railway yards and other ancillary rail facilities); and
- ! pits and quarries (However, in the absence of site specific studies, this guideline should be utilized when sensitive land use encroaches on an existing pit and/or quarry. In these situations the appropriate criteria are the potential influence area and recommended minimum separation distance for a Class III industrial facility as set out in Sections 4.1.1 and 4.3 of this guideline.).

A list of publications which deal with land use compatibility for some of these land uses is provided in Procedure D-1-2, "Land Use Compatibility: Specific Applications".

### 1.3 Land Uses Compatible with Industrial Facilities

The land uses listed in Section 1.2.4 above are normally compatible with industrial facilities.

### 1.4 Approach

The general approach in Section 3.0 of Guideline D-1: "Land Use

Compatibility" shall be followed to protect incompatible land uses from each other.

## **2.0 DEFINITIONS**

NOTE: Definitions in addition to those below are provided in Procedure D-1-3, "Land Use Compatibility: Definitions".

### **Amenity Area**

An outdoor space or facility that is used for the enjoyment of persons residing in or utilizing any building(s) on the premises.

### **Class I Industrial Facility**

A place of business for a small scale, self contained plant or building which produces/stores a product which is contained in a package and has low probability of fugitive emissions. Outputs are infrequent, and could be point source or fugitive emissions for any of the following: noise, odour, dust and/or vibration. There are daytime operations only, with infrequent movement of products and/or heavy trucks and no outside storage. See Appendix A of this guideline for classification criteria and examples to categorize a specific industry.

### **Class II Industrial Facility**

A place of business for medium scale processing and manufacturing with outdoor storage of wastes or materials (i.e. it has an open process) and/or there are periodic outputs of minor annoyance. There are occasional outputs of either point source or fugitive emissions for any of the following: noise, odour, dust and/or vibration, and low probability of fugitive emissions. Shift operations are permitted and there is frequent movement of products and/or heavy trucks during daytime hours. See Appendix A of this guideline for classification criteria and examples to categorize a specific industry.

### **Class III Industrial Facility**

A place of business for large scale manufacturing or processing, characterized by: large physical size, outside storage of raw and finished products, large production volumes and continuous movement of products and employees during daily shift operations. It has frequent outputs of major annoyance and there is high probability of fugitive emissions. See Appendix A of this guideline for classification criteria and examples to categorize a specific industry.

### **Fugitive Emissions**



Reasonably expected/predictable contaminant occurrences associated with normal operational practices and procedures (e.g. materials handling or outdoor storage) of industrial facilities, which are generally difficult to practically control at the source or on-site. These emissions are not point sources (i.e. not from stacks or vents). Fugitive emissions are from all sources. These emissions may include odour, noise, vibration and particulate such as dust. Emissions from a breakdown are also not considered 'fugitive'. Breakdown emissions would be covered under a Certificate of Approval contingency plan, or are considered to be a 'spill'.

#### **Industry, Industrial Land Use or Industrial Facility**

A facility or activity relating to: the assemblage and/or storage of substances/goods/raw materials; their processing and/or manufacturing; and/or the packaging and shipping of finished products. Industrial facilities are further refined through categorization into 3 Classes in this guideline (see Appendix A of this guideline).

#### **Infilling**

Development on a vacant lot or an underdeveloped lot within a built-up area; not redevelopment/re-use.

#### **Redevelopment**

Where existing land uses are being phased out and replaced by another type of designated land use as part of a land use plan or proposal which has been substantiated by studies and is in accordance with a municipal official plan policy or other formally approved plan.

### **3.0 APPLICATION**

The information set out Section 2.0 of Guideline D-1, "Land Use Compatibility" shall apply for this guideline also.

### **4.0 IMPLEMENTATION**

Areas of Responsibility for Ministry Staff or the Delegated Authority, Municipalities and Other Planning Authorities and Proponents are identified in Procedure D-1-1, Sections 1, 2 and 3 respectively.

See Procedure D-1-1, "Land Use Compatibility: Implementation" also for general information on legislative and administrative tools.

## **4.1 Influence Area Concept**

### **4.1.1 Potential Influence Areas for Industrial Land Uses**

The Ministry has identified, through case studies and past experience, the following potential influence areas (i.e. areas within which adverse effects may be experienced) for industrial land uses (Illustrated in Appendix C):

Class I - 70 metres\*

Class II - 300 metres\*

Class III - 1000 metres\*

\* See Section 4.4, "Measuring Separation Distance" also.

### **4.1.2 Actual Influence Areas for Industrial Land Uses**

The actual influence area (overall range within which an adverse effect would be or is experienced) for a particular facility is site-specific, and may be defined within, or in exceptional circumstances (see Section 4.5.2, Separation Distance Greater than the Potential Influence Area"), beyond the potential influence area either before, or where applicable, after buffers have been used to reduce, eliminate or otherwise intercept adverse effects.

In the absence of specific substantiating information (normally obtained through technical studies - see Section 4.6, "Studies") which identifies an actual influence area, the potential influence areas set out in Section 4.1.1 of this guideline shall be used.

### **4.1.3 Influence Area Reduced Through Industrial Controls**

Mitigation at the industrial source, if it affects the criteria considered in Appendix A, may enable an industry to be categorized as a lesser Class (e.g. from a Class II to a Class I), thereby reducing the minimum separation distance requirements set out in Section 4.3, "Recommended Minimum Separation Distances". For example, a rendering plant can be an extremely noxious use, but an enzyme digester can make it "cleaner".

In cases where the separation distance is reduced through other buffering techniques, where feasible the Ministry recommends some site-specific notification (e.g. spot zoning or requirement for re-zoning by the municipality) to deal with future changes in use which would not normally require re-zoning.

## **4.2 Land Use Planning**

### **4.2.1 Purpose of General Land Use Plans**

Impacts from industrial sources relate to operating and maintenance procedures rather than general land use. Land use documents normally do not control the operation of a land use, as the operational details are not normally known when lands are designated for industrial use, and most operational aspects cannot be controlled by municipalities through the land use planning process.

As well, municipal official plans (O.P.s) give general policy direction. Official plans and associated policies have no power of enforcement. There is no allowance for 'performance' zoning. Therefore, it is difficult to calculate actual influence areas at the time the O.P. is contemplated. Uses within a given designation or zoning could have totally different influence areas.

### **4.2.2 Determining Permitted Uses Within Industrial Land Use Designations**

Permitted uses should be based on operational aspects (e.g. plant emissions, hours of operation, traffic movement) and mitigation employed. Zoning by-laws, however, do not normally use such factors in the definition of permitted uses. Therefore, it shall be necessary to consult Appendix A of this guideline, to determine permitted uses within a general land use designation.

### **4.2.3 Existing and Committed Industrial Land Use**

When there are existing and committed industrial uses, the Ministry recommends that the category designation of "Class I", "Class II" or "Class III", according to Appendix A of this policy, be indicated in the land use plans by the approval authority.

Plan approval agencies are encouraged to delineate all potential influence areas or, where known, the actual influence areas, around existing and committed industrial land uses within their jurisdiction, to be used as a 'flag' when a change in land use is proposed within them.

This should be done on a scaled land use plan or map, and included in an easily accessible document, such as an official plan schedule.

NOTE #1: The Canadian Urban Institute is producing a guide

to the creation and use of municipal historical inventories which includes a recommended approach to documenting the types and locations of industries and other potentially polluting activities.

NOTE #2: It would be advisable to include locations of former industrial facilities as well, since decommissioning and soil clean up may be required for site re-use. See Section 4.10.8, "Site Clean Up and Decommissioning" also.

#### **4.2.4 On-Site Separation Distance**

There is merit in providing a required separation distance on the facility site. However, there may be a change in industrial land use that does not require a change in zoning, but which nevertheless produces a different influence area not covered off by the existing on-site buffer area.

Therefore, when separation distance is provided partially or entirely on-site, the Ministry recommends that where feasible, some site-specific notification (e.g. spot zoning or requirement for re-zoning by the municipality) is put in place to ensure future changes in use which would not normally require re-zoning will comply with this guideline. The same problem could occur when a buffer area is provided on the sensitive site.

#### **4.2.5 Off-Site Separation Distance**

When the separation distance extends beyond the facility/sensitive site boundary or the industrial/sensitive zoned or designated lands, the intervening lands may be of a use or activity compatible with both the facility and the sensitive land use.

For example, depending upon the amount of intervening space, uses could include: warehousing, various commercial uses that relate to types of industries or the neighbouring lands, open/green space, road allowance or, for Class III and Class II industrial uses, Class I industrial uses. If a lower Class of industrial use is used, there must still be adequate separation and/or buffering as established in this guideline to avoid or eliminate adverse effects on any sensitive land uses in the vicinity.

### **4.3 Recommended Minimum Separation Distances**

No incompatible development other than that identified in Section 4.10, "Redevelopment, Infilling and Mixed Use Areas" should occur

in the areas identified below and illustrated in Appendix C, even if additional mitigation for adverse effects, as discussed in Section 4.2 of Procedure D-1-1, "Types of Buffers", is provided:

**Class I - 20 metres minimum separation distance\***

**Class II - 70 metres minimum separation distance\***

**Class III - 300 metres minimum separation distance\***

\* See Section 4.4, "Measuring Separation Distance" also.

These minimums are based on Ministry studies and historical complaint data. They also make allowance for the fact that conventional zoning classifications usually permit a broad range of uses with varying potential to create land use conflicts.

#### **4.4 Measuring Separation Distance**

Depending upon the situation, separation distances may be measured from different points:

##### **4.4.1. General Land Use Plans**

Measurement shall be from the area(s) designated for industrial use to the area(s) designated for sensitive land use. This would apply for such matters as municipal official plans and Ministry of Natural Resources District Land Guidelines.

##### **4.4.2 Site Specific Plans**

Measurement shall normally be from the closest existing, committed or proposed property/lot line of the industrial land use to the property/lot line of the closest existing, committed or proposed sensitive land use. This approach provides for the full use and enjoyment of both the sensitive land use and the industrial properties. See Sections 4.4.3 and 4.4.4 for exceptional situations.

##### **4.4.3 Zoning/Site Plan Control (Industrial Lands)**

Where site-specific zoning or site plan control precludes the use of the setback for any activity associated with the industrial use that could create an adverse effect such as shipping and receiving or outside storage/stockpiling of materials (e.g. front yard must be landscaped, and functions as a buffer), then the setback can be included as part of the measurement, rather than measuring from the industrial property line.

NOTE: This approach could restrict future expansion of existing land uses.

On-site buffers could be required by a municipality through zoning by-law setback requirements in industrial subdivisions, but this may not be practical, as the provision of very deep lots would be necessary. See Section 4.2.4, "On-Site Separation Distance" also. The use of other forms of mitigation may have to wait until a specific industry and/or sensitive land use has been identified/established.

#### **4.4.4 Ancillary Land Uses (Sensitive Land Use)**

For sensitive land uses, where the established use of on-site lands are not of a sensitive nature, such as a parking lot servicing a hospital, the land area comprising the parking lot may be included within the separation distance (i.e. measure from where the actual sensitive activities occur).

NOTE: This approach could restrict future expansion of existing land uses. See Section 4.2.4, "On-Site Separation Distance" also.

#### **4.4.5 Vacant Industrial Land**

Where there is no existing industrial facility within the area designated/zoned for industrial land use, determination of the potential influence area shall be based upon a hypothetical "worst case scenario" for which the zoned area is committed. Therefore, Ministry staff or the delegated authority shall use the outside range of the potential influence area to determine an appropriate separation distance. See Section 4.2.2, "Determining Permitted Uses Within Industrial Land Use Designations" also.

#### **4.4.6 Changing Industrial Uses**

Where an influence area has been established based upon existing industrial land uses, it will be the responsibility of the local municipality to restrict, through zoning or any other available means, the types of future industrial uses that can occur, so that they are compatible with the influence area used.

NOTE: Zoning by-laws cannot control the level of emissions produced (related to specific products) or technology used,

hours of operation or traffic movements. It is difficult to correlate zoning by-laws with the industrial classifications set out in Appendix A, and therefore site-specific/spot zoning or a requirement for re-zoning by the municipality may be necessary to ensure that the establishment of new industrial uses comply with this guideline. See Section 4.2.2, "Determining Permitted Uses Within Industrial Land Use Designations" also.

#### **4.5 Commenting on Land Use Proposals**

##### **4.5.1 Considerations When a Change in Land Use is Proposed Within an Influence Area or Potential Influence Area**

The potential influence areas, or where known, the actual influence areas (see Section 4.1 of this guideline) should act as a 'flag', and no sensitive land uses shall be permitted within the actual or potential influence areas of Class I, II or III industrial land uses, without evidence to substantiate the absence of a problem. When studies are needed to identify problems and mitigative measures, see Section 4.6, "Studies".

When a land use proposal places sensitive land use beyond a facility's potential influence area, or where known, actual influence area, the Ministry shall not normally object to the change in land use on the basis of land use compatibility. For exceptional situations, see Section 4.5.2 "Separation Distance Greater than the Potential Influence Area".

##### **4.5.2 Separation Distance Greater than the Potential Influence Area**

In exceptional circumstances the Ministry shall recommend separation distances greater than the outer limit of the potential influence areas identified in Section 4.1.1 of this guideline. In such cases, the Ministry shall demonstrate the need for greater distance, such as historical data for similar facilities. Studies (see Section 4.6) may be required even if a separation distance beyond the potential influence area is proposed.

##### **4.5.3 Irreconcilable Incompatibilities**

When impacts from industrial activities cannot be mitigated or prevented to the level of a trivial impact (i.e. no adverse effects), new development, whether it be an

industrial facility or a sensitive land use, shall not be permitted.

There may be situations where development or redevelopment can be phased until such time that an adverse effect would no longer exist (e.g. the facility ceases to operate or the problem is rectified by new technology).

#### **4.6 Studies**

Air quality studies for noise, dust and odour should be provided by the proponent to the approving authority.

NOTE: Studies shall be provided prior to Ministry staff commenting on draft approval, to see if draft approval can be supported (in principle).

##### **4.6.1 Noise**

Noise shall be addressed through Ministry Publication LU-131 for all situations applicable to this guideline.

##### **4.6.2 Dust**

Contaminant emission sources can be classified as point sources or fugitive sources. Most facilities will produce both point source and fugitive emissions, and it is difficult to allocate emissions to one or the other source.

Regulation 346 sets out standards for contaminants, including suspended particulate matter and dust fall. The document entitled "General Information: Certificates of Approval (Air)" that is referenced in Appendix B provides information on the approval requirements and procedures. Details for assessing emissions from point sources such as stacks and vents, and standards and interim standards are also provided.

Even if Regulation 346 standards are met at the property line of the industrial site, there may still be complaints from neighbouring land uses because: (a) dispersion modelling is not 100% accurate and it cannot be guaranteed that point source emissions will be controlled 100% of the time; and (b) the standards, which are based upon acceptable risk with regard to health, odour and vegetation, are based on 1/2 hour averages, and at some point within a 1/2 hour there may be a high level of emissions.

Emissions from fugitive sources such as dust from traffic



and storage piles are more difficult to quantify, and a plan in itself to minimize fugitive emissions also may not be 100% effective. The Ministry is preparing an interim guideline that addresses areas such as measuring and minimizing fugitive emissions. Therefore, separation of incompatible land uses will help to minimize potential adverse effects from fugitive emissions.

#### 4.6.3 Odour

Odorous contaminants are particularly difficult to control on-site. Although the contaminants emitted may meet the Ministry's standards and interim standards, experience indicates that complaints may still be received from residents living in proximity to the industry, for the reasons set out in Section 4.6.2. Emissions of odorous contaminants may result in off-site odour problems which could constitute an 'adverse effect'. An 'adverse effect' is a violation of Section 14 of the *Environmental Protection Act*. Stack testing under a worst case scenario, odour panel tests and odour control equipment may be required to minimize odour concerns.

#### 4.7 Mitigation

Additional mitigation measures (see Procedure D-1-1, "Land Use Compatibility: Implementation", Section 4.2, "Types of Buffers") may need to be incorporated on either the development lands or the surrounding properties, at the expense of the developer, where the industrial facility is operating in compliance with legislated Ministry requirements.

#### 4.8 Legal Agreements

When mitigative controls are to be installed on surrounding properties, the local municipality or other approving authority should require an agreement between the developer and the affected property owners, to ensure mitigation of adverse effects to the greatest degree possible.

The legal agreement between the developer and other affected parties to ensure adequate mitigation should be reviewed and endorsed by Ministry staff and/or the delegated authority prior to development approval.

#### 4.9 Financial Assurance

The Ministry recommends that bonds be required by the approving authority to ensure that mitigation will be carried out.

#### **4.10 Redevelopment, Infilling & Mixed Use Areas**

It may not be possible to achieve the recommended minimum separation distances set out in Section 4.3 of this guideline in areas where infilling, urban redevelopment and/or a transition to mixed use is taking place.

The following requirements shall apply if this Ministry or a delegated authority is to consider proposals for urban redevelopment, infilling and/or a transition to mixed use within less than the Ministry's recommended separation distances set out in Section 4.3 of this guideline:

##### **4.10.1 Official Status**

Such proposals must be in accordance with official plan policy or a formal planning approval process, with the boundaries of the redevelopment, infilling or mixed use area clearly defined by the planning authority.

##### **4.10.2 Zoning**

The Ministry or delegated authority shall only consider redevelopment, infill and mixed use proposals which put industrial and sensitive land uses together within less than the recommended minimum separation distances (see Section 4.3), if the zoning is use specific (i.e. only the existing or proposed industrial or sensitive use is permitted by the municipality or other approving authority), or if planning considerations are based on the "worst case scenario" based on permitted uses in the industrial zoning by-law.

##### **4.10.3 Feasibility Analysis**

When a change in land use is proposed for either industrial or sensitive land use, less than the minimum separation distance set out in Section 4.3 may be acceptable subject to either the municipality or the proponent providing a justifying impact assessment (i.e. a use specific evaluation of the industrial processes and the potential for off-site impacts on existing and proposed sensitive land uses). Mitigation is the key to dealing with less than the minimum to the greatest extent possible.

The overall feasibility of the proposal, from a land use compatibility perspective, should be based on the anticipated adverse effects from each specific industry, and the effectiveness of proposed mitigative measures to lessen impacts on sensitive land uses within the context of planning for the area.

The Ministry or delegated authority shall require the following in order to make an assessment for allowing less than the recommended minimum separation distance:

- ! Detailed mapping showing the area subject to the proposed development and all industrial facilities and any other sources of adverse effects (e.g. rail lines);
- ! Mapping shall also indicate all vacant properties currently zoned and/or designated for industrial use along with relevant excerpts from the official plan and/or zoning by-law to indicate the full range of permitted uses. Attempts shall also be made to predict the types and levels of adverse impact that would result in a "worst case scenario" should an industrial use be developed upon any of the vacant parcels.
- ! Assessment of the types and levels of contaminant discharges being generated by current industrial facilities, including those associated with transportation facilities which serve the industries.
- ! Based upon actual and anticipated impacts, necessary mitigative measures should be identified based upon technical assessments. Noise and other technical studies shall be submitted to appropriate Ministry staff for review. See Sections 4.6 "Studies" and 4.7, "Mitigation" for more details.
- ! An indication shall be given as to the methods by which the mitigative measures (approved by the land use authority) will be implemented, i.e. the types of agreements that must be entered into. See Section 4.8, "Legal Agreements" also.
- ! Where mitigative measures are to be applied off-site to an existing industrial facility, the proponent shall demonstrate that the industrial facility has no objection to the proposed use or to the addition of the necessary mitigative measures. Implementation of approved mitigation measures shall be required as a condition of draft approval.
- ! Proponents should demonstrate to the approving authority that no objections to the proposed use have been raised by area residents, industries, etc. See Section 4.10.5, "Public Consultation".

#### 4.10.4 New Use of Existing Buildings

The requirement for a feasibility analysis identified in Section 4.10.3 above shall apply as well where a new use is proposed for an existing building.

#### **4.10.5 Public Consultation**

When development is proposed at less than the recommended minimum distances identified in Section 4.3, the approving authority is encouraged to require public consultation with all land owners within the influence area or potential influence area of the industrial facility/facilities.

#### **4.10.6 Environmental Warnings for Sensitive Land Uses**

When the new development is sensitive, the Ministry recommends that a warning of anticipated nuisance effects be included in any offers of purchase and sale. A means of notifying ensuing purchasers should be determined by the local municipality. A warning may be included in a document which can be registered on title according to the Ministry of Consumer and Commercial Relations Bulletin No. 91003, "Environmental Warnings/Restrictions" (Appendix D).

#### **4.10.7 Phased/Sequential Development**

When industry is being phased out as part of a large-scale plan, consideration may be given to staging redevelopment and/or infilling to coincide with the closure of those industries which create a significant impact on the proposed sensitive land use(s).

#### **4.10.8 Site Clean Up & Decommissioning**

Guideline C-15 (former Ministry Policy 14-17), "Guidelines for the Clean Up of Contaminated Sites in Ontario" may apply in conjunction with re-use of industrial properties. In such instances, the approving authority should ensure that the level of clean up is appropriate for both the re-use of the site and the protection of sensitive land use receptors.

NOTE: Municipal O.P.s should establish a policy to indicate when site rehabilitation (especially for mixed use, redevelopment and infilling) is required. A policy should also require that there be a qualified individual on-site to oversee the rehabilitation. It is recommended that this requirement be incorporated in a development agreement between the developer and the municipality.

### **4.11 Accessory Residential Uses**

Some municipalities may permit "accessory residential uses" in industrial official plan designations or zoning by-laws (i.e. the owner's residence is on the same property as the business/industry). When the residence will no longer be occupied by the on-site business/industry owner, any re-use of the residence shall be subject to the requirements set out in Section 4.10, "Redevelopment, Infilling & Mixed Use", particularly Section 4.10.4, "New Use of Existing Buildings" and Section 4.10.8, "Site Clean Up & Decommissioning".

Where there are provisions for "accessory residential uses", it may be appropriate for municipalities to prohibit such residential uses where none exist, through an official plan amendment or a site-specific zoning-bylaw (see Section 4.10.2, "Zoning").

## 5.0 REFERENCE DOCUMENTS

- (a) Guideline C-15, "Guidelines for the Clean Up of Contaminated Sites in Ontario"
- (b) Guideline D-1, "Land Use Compatibility"
- (c) Procedure D-1-1, "Land Use Compatibility: Implementation"
- (d) Procedure D-1-2, "Land Use Compatibility: Specific Applications"
- (e) Procedure D-1-3, "Land Use Compatibility: Definitions"
- (f) Publication LU-131, "Noise Assessment Criteria in Land Use Planning"

**PROCEDURE D-6-1**

**APPENDIX A: INDUSTRIAL CATEGORIZATION CRITERIA**

**Last Revision**

July 1995

APPENDIX A

INDUSTRIAL CATEGORIZATION CRITERIA\*

CATE- GORY	OUTPUTS	SCALE	PROCESS	OPERATION /INTENSITY	POSSIBLE EXAMPLES**
Class I	NOISE: Sound not audible off property DUST and/or ODOUR: Infrequent and not intense VIBRATION: No ground borne vibration on plant property	- No outside storage - Small scale plant or scale is irrelevant in relation to all other criteria for this Class	- Self contained plant or building which produces/stores a packaged product. Low probability of fugitive emissions	- Daytime operations only - Infrequent movement of products and/or heavy trucks	- Electronics manuf. and repair - Furniture repair and refinishing - Beverages bottling - Auto parts supply - Packaging and crafting services - Distribution of dairy products - Laundry and linen supply
Class II	NOISE: Sound occasionally audible off property DUST and/or ODOUR: Frequent and occasionally intense VIBRATION: Possible ground-borne vibration, but cannot be perceived off property	- Outside storage permitted - Medium level of production allowed	- Open process - Periodic outputs of minor annoyance - Low probability of fugitive emissions	- Shift operations permitted - Frequent movement of products and/or heavy trucks with the majority of movements during daytime hours	- Magazine printing - Paint spray booths - Metal command electrical production manufacturing - Manufacturing of dairy products - Dry cleaning services - Feed packing plant

<b>Class</b> <b>III</b>	<b>NOISE:</b> sound frequently audible off property <b>DUST and/or ODOUR:</b> Persistent and/or intense <b>VIBRATION:</b> Ground-borne vibration can frequently be perceived off property	- Outside storage of raw and finished products - Large production levels	- Open process - Frequent outputs of major annoyances - High probability of fugitive emissions	- Continuous movement of products and employees - Daily shift operations permitted	- Manufacturing of paint and varnish - Organic chemicals manuf. - Breweries - Solvent recovery plants - Soaps and detergent manuf. - Manufacturing of resins and costing - Metal manufacturing
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**NOTE:** Emissions may be point source or fugitive.

\* **NOTE:** This Table should not be considered a comprehensive list but is to be used to provide examples of industrial categories.

\*\* **NOTE:** The following examples are not limited to the Class indicated on the Table. The categorization of a particular industry will vary with the specifics of the case.

**SOURCE:** The criteria for categorizing industries into Class I, II or III are derived from Ministry experience and the investigation of complaints related to industrial facilities.

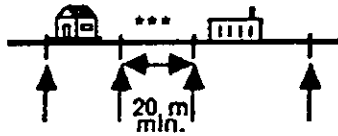


# SEPARATION DISTANCES

(Section View)

## CLASS I INDUSTRIAL:

70 m. potential influence area

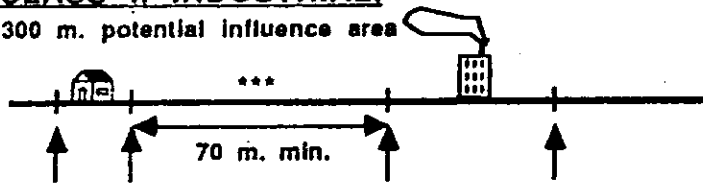


designation, zoning or property lines\*\* of closest existing, committed or proposed Sensitive Land Use

designation, zoning or property lines\* of closest existing, committed or proposed Class I Industrial Use

## CLASS II INDUSTRIAL:

300 m. potential influence area

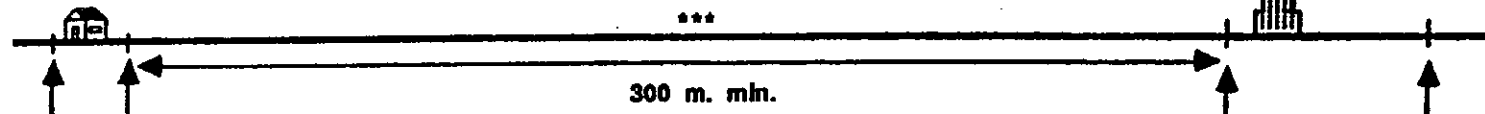


designation, zoning or property lines\*\* of closest existing, committed or proposed Sensitive Land Use

designation, zoning or property lines\* of closest existing, committed or proposed Class II Industrial Use

## CLASS III INDUSTRIAL:

1000 m. potential influence area



designation, zoning or property lines\*\* of closest existing, committed or proposed Sensitive Land Use

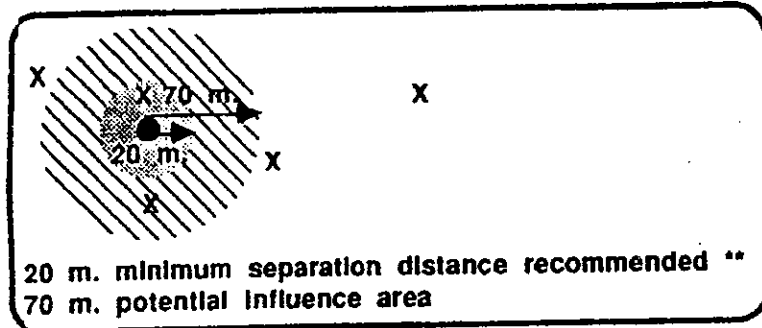
designation, zoning or property lines\* of closest existing, committed or proposed Class III Industrial Use

- \* The set backs established in a zoning by-law can be included in the separation distance measurement if the by-law or site plan control precludes the use of the set back for activities that could create an adverse effect. [See Section 4.4.3, "Zoning/Site Plan Control (Industrial Land Uses)".]
- \*\* Where the established use of on-site & ancillary lands associated with a sensitive land use are not of a sensitive nature (e.g. a parking lot or roadway), measurement may be taken to where the sensitive activities actually begin. [See Section 4.4.2, "Site Specific Plans & Section 4.4.4, "Ancillary Uses (Sensitive Land Use)" .] This approach may be particularly appropriate for redevelopment/infill proposals. [See Section 4.10, "Redevelopment, Infilling ....".]
- \*\*\* No incompatible development should normally take place within the Recommended Minimum. [See Section 4.3, "Recommended Minimum", Section 4.10, "Redevelopment, Infilling & Mixed Use Areas" and Section 4.2.5, "Off-Site Separation Distances".]

# SEPARATION DISTANCES




## CLASS I INDUSTRIAL:

(PLAN VIEW)

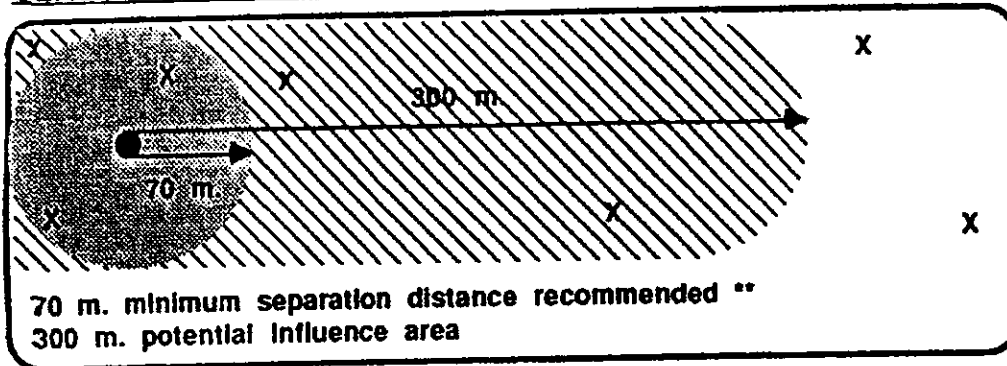


20 m. minimum separation distance recommended \*\*  
70 m. potential influence area

### Legend:

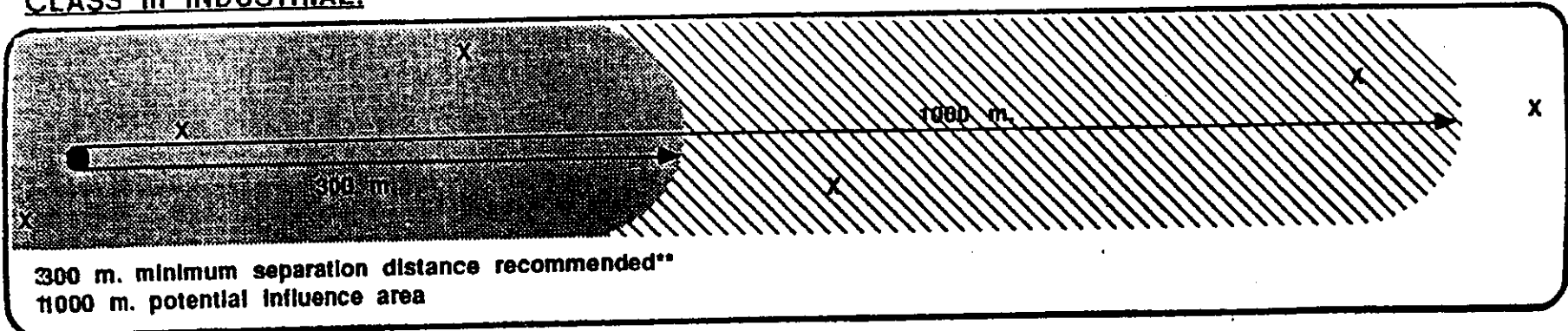
- Existing Land Use
  - X Proposed Land Uses
  -  Recommended Minimum - Incompatible Development should not normally be permitted. [See Section 4.3, "Recommended Minimums" and Section 4.10, "Redevelopment, Infilling ....", for exceptions.]
  -  Potential Influence Area or Actual Influence Area - "Adverse Effects" need to be identified, mitigation proposed, & an assessment made on the acceptability of the proposal. (See Section 4.1, "Influence Area Concept".)
  -  Acceptable Range - Beyond the Potential Influence Area or Actual Influence Area, therefore normally development in this range should not pose a compatibility problem. (See also Section 4.5.2, "Separation Distance Greater than the Potential Influence Area" for exceptions.)
- \* Note: If the existing use is industrial, then the proposed use is sensitive, and vice versa.  
\*\* See Section 4.10, "Redevelopment, Infilling & Mixed Use Areas" for exceptions.

## CLASS II INDUSTRIAL:



70 m. minimum separation distance recommended \*\*  
300 m. potential influence area

## CLASS III INDUSTRIAL:



300 m. minimum separation distance recommended\*\*  
1000 m. potential influence area

See also Section 4.4, "Measuring Separation Distance".

Note: Drawing not to scale.

PROCEDURE D-6-4

APPENDIX D: MCCR BULLETIN NO. 91003

"ENVIRONMENTAL WARNINGS/RESTRICTIONS"

# Ontario

## Ministry of Consumer and Commercial Relations

### Registration Division

#### Real Property Registration Branch

BULLETIN NO. 91003

Environmental Warnings/  
Restrictions

DATE: July 25, 1991

To: All Land Registrars  
Title

Registration Against

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Environmental warnings, even if drafted in the form of a restriction, are not title-related and are not acceptable for registration on title as separate documents. An environmental warning or restriction would be a notification of or an obligation to notify a potential purchaser of some environmental concern such as: noise levels, water quality, sewage disposal, impending construction, maliferous odours, pollutants (chemicals, radiation, radon gas, floodplains, wetlands, etc.).

If environmental warnings/restrictions are included in a document otherwise acceptable for registration, Land Registrars should refuse to register the document as containing non title-related material. There are four exceptions to this general rule:

- a) If a transfer/deed contains a warning/restriction as required by an agreement under s.50(6), 52(2) or 54(4) of the Planning Act, 1983 registered on title prior to January 1, 1988, the transfer/deed should be accepted for registration;
- b) The provisions of Bulletin No. 80023 continue to apply. Certificates of approval respecting private sewage disposal systems and certificates of approval and provisional certificates of approval respecting waste management systems and waste disposal sites under the Environmental Protection Act, or notices thereof under the Land Titles Act, can be registered and any conditions or restrictions affecting the use of land and reasons attached must not be removed;

(Note: Bill 220, the Environmental Protection Statute Law

Amendment Act, 1990, added section 150 to the Environmental Protection Act and section 64a to the Ontario Water Resources Act [copies attached] to provide for registration of certificates of prohibition and certificates of withdrawal of prohibition against title. These certificates will be prescribed by the Ministry of the Environment and a bulletin will subsequently be issued to land registrars.)

- c) Agreements of purchase and sale or cautions based thereon should be accepted if they include such warnings/restrictions; and
- d) Environmental warnings/restrictions may be included in agreements imposed as a condition to the approval of a plan of subdivision under subsection 50(6) of the Planning Act, 1983 and in agreements imposed when dispensing with the requirement of a plan of subdivision under subsections 52(2) or 54(4) of the Planning Act, 1983. This is permissible because there is statutory authority for the inclusion in such an agreement of "such matters as the Minister may consider necessary", which will be construed as permitting environmental warnings/restrictions. The agreement cannot provide that subsequent deeds/transfers must include warnings/restrictions concerning environmental or other matters (eg. lack of schools, poor roads, etc.).

Attached to this Bulletin is a chart indicating in greater detail when environmental warnings/restrictions are and are not acceptable. This Bulletin represents the Branch's long-standing policy on these matters.

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The original of this document was signed by Carol D. Kirsh, Director of Land Registration; and Katherine M. Murray, Director of Titles

REGISTRATION OF ENVIRONMENTAL WARNINGS/  
RESTRICTIONS AGAINST TITLE

Acceptable

Environmental warnings/restrictions may be included in:

1. agreements under subsections 50(6), 52(2) and 54(4) of the Planning Act, 1983;
2. agreements of purchase and sale or cautions based thereon;
3. certificates of approval and provisional certificates of approval respecting waste management systems and waste disposal sites and certificates of approval respecting private sewage disposal systems under the Environmental Protection Act and notices thereof under the Land Titles Act (see Bulletin 80023); and
4. transfers/deeds, only if this is required pursuant to an agreement under subsection 50(6), 52(2) or 54(4) of the Planning Act, 1983 registered prior to January 1, 1988.

Not Acceptable

Environmental warnings/restrictions may not be:

1. registered as separate documents on title;
2. included in condominium declarations;
3. included in agreements under the following sections of the Planning Act, 1983: s.28(10) re: Community Improvement Plan; s.36(4) re: Development Agreement for Height and Density Increases; s.40(10) re: Site Plan Control Agreement; and
4. included in a certificate re: severance consent under s.52(21) of the Planning Act, 1983. (Please note that inclusion of any conditions in such a consent is not acceptable.)

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*Dernière version disponible*  
**À jour au 1er avril 2004**

## L.R.Q., chapitre S-2.3 **Loi sur la sécurité civile**

### **CHAPITRE I**

#### **OBJET ET APPLICATION DE LA LOI**

Objet.

**1.** La présente loi a pour objet la protection des personnes et des biens contre les sinistres. Cette protection est assurée par des mesures de prévention, de préparation des interventions, d'intervention lors d'un sinistre réel ou imminent ainsi que par des mesures de rétablissement de la situation après l'événement.

2001, c. 76, a. 1.

Interprétation.

**2.** Pour l'application de la présente loi, on entend par :

«sinistre majeur»;

1° «sinistre majeur»: un événement dû à un phénomène naturel, une défaillance technologique ou un accident découlant ou non de l'intervention humaine, qui cause de graves préjudices aux personnes ou d'importants dommages aux biens et exige de la collectivité affectée des mesures inhabituelles, notamment une inondation, une secousse sismique, un mouvement de sol, une explosion, une émission toxique ou une pandémie ;

«sinistre mineur»;

2° «sinistre mineur»: un événement exceptionnel de même nature qu'un sinistre majeur mais qui ne porte atteinte qu'à la sécurité d'une ou de quelques personnes;

«autorités responsables de la sécurité civile»;

3° «autorités responsables de la sécurité civile»: les municipalités locales, les autorités à qui celles-ci ont délégué leur responsabilité en matière de sécurité civile et celles qui sont, en vertu de la loi, compétentes à cet égard dans tout ou partie de leur territoire;

«organismes gouvernementaux».

**4° « organismes gouvernementaux»:** les organismes dont le gouvernement ou un ministre nomme la majorité des membres, dont la loi prévoit que le personnel est nommé suivant la Loi sur la fonction publique ( chapitre F-3.1.1) ou dont le fonds social fait partie du domaine de l'État.  
2001, c. 76, a. 2.  
Effet.

**3.** La présente loi n'a pas pour effet de limiter les obligations imposées ou les pouvoirs accordés par d'autres lois ou en vertu de celles-ci en matière de sécurité civile.  
2001, c. 76, a. 3.  
Gouvernement lié.

**4.** La présente loi lie le gouvernement, ses ministères et les organismes mandataires de l'État.  
2001, c. 76, a. 4.

## **CHAPITRE II**

### **LES PERSONNES**

Prévoyance et prudence.

**5.** Toute personne doit faire preuve de prévoyance et de prudence à l'égard des risques de sinistre majeur ou mineur qui sont présents dans son environnement et qui lui sont connus.  
2001, c. 76, a. 5.  
Acceptation du risque.

**6.** Toute personne qui s'installe en un lieu où l'occupation du sol est notoirement soumise à des contraintes particulières en raison de la présence d'un risque de sinistre majeur ou mineur, sans respecter ces contraintes, est présumée en accepter le risque.  
Dénonciation du risque.  
La présomption ne peut toutefois pas lui être opposée par une autorité publique qui a autorisé une telle installation sans lui dénoncer le risque.  
Exception.  
Le présent article ne s'applique pas relativement aux constructions et utilisations existant le 20 décembre 2001, à moins d'un changement de destination de l'immeuble postérieur à cette date, ce qui constitue, pour l'application du présent article, une nouvelle installation.  
2001, c. 76, a. 6.  
Demande refusée.



**7.** Lorsque l'autorité réglementaire compétente a des motifs sérieux de croire qu'il existe, dans un lieu visé par l'article 6, un risque de sinistre tel que l'exécution de travaux ou l'utilisation d'immeubles devrait y être prohibées ou soumises à des conditions d'autorisation plus sévères que celles prescrites par la loi, toute demande d'autorisation d'exercer de telles activités dans ce lieu doit, même si elle a été reçue avant la constatation du risque, être refusée.

Exception.

Toute demande conforme aux exigences de la loi et refusée pour le motif prévu au premier alinéa doit toutefois être acceptée si la prohibition ou les conditions supplémentaires d'autorisation, selon le cas, n'ont pas été mises en application dans un délai de six mois à compter de la demande.

2001, c. 76, a. 7.



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Montréal, le jeudi 5 août 2004

**Mémoire de Mme Dida Berku déposé dans le cadre de la consultation publique sur la révision du Plan d'urbanisme de Montréal**

Dû aux formats des annexes, seule une liste de celles-ci est reproduite. L'original du mémoire, incluant les annexes, est toutefois disponible pour consultation au bureau de l'Office de consultation publique de Montréal, situé au 1550, rue Metcalfe, bureau 1414 à Montréal.

Merci de votre compréhension.

## RISQUE ÉCOLOGIQUE

1. Aménagement et urbanisme – Les composantes du schéma d'aménagement : Le document complémentaire
2. Extrait du Plan Directeur de l'aménagement des berges de Pierrefonds
3. Protection des rives, du littoral et des plaines inondables, préparé par MENVIQ
4. Note préparée par M<sup>me</sup> Dida Berku en vue d'une politique de protection des rives de Pierrefonds

## RISQUE TECHNOLOGIQUE

1. Decision no. 87-R-1999 : Canadian Transportation Agency (voir p. 7)
2. **Jugement de la Cour municipale de Montréal – Le 8 octobre 2003** – M<sup>e</sup> John Donovan vs Cheminde Fer Canadien Pacifique; **Jugement de la Cour supérieure – Le 31 octobre 2002** – Genesse Rail One Inc. Vs Ville d'Outremont; **Jugement de la Cour municipale – Le 4 décembre 2002** – Ville de Westmount vs Canadian Pacific Railways
3. Résolutions de la Ville de Montréal et des arrondissements concernant le rétablissement du mandat de l'office des transports du Canada pour recevoir des plaintes reliées aux activités ferroviaires – en liasse
4. Le bruit du trafic routier et ferroviaire : ses effets sur l'habitation – préparé par la Société canadienne d'hypothèques et de logement
5. Critères d'aménagement du terrain – préparé par la Société centrale d'hypothèques et de logement
6. Letter from City of Côte Saint-Luc dated of May 7, 2001
7. Letter from We want Railway Solutions now (W.W.R.S.N.) dated of October 26, 2000
8. Letter from Office des transports du Canada - Complaint from W.W.R.S.N. regarding noise, pollution and vibrations from CP railway operations, Hamstead, Quebec.
9. Article, La Presse, 14 février 2002 : Demande de recours collectif contre la gare de triage du CP à Outremont