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Type of Posting: Regulation

Ministry: Environment

Status of Posting: Proposal

Date Proposal Loaded: 2003/04/21

Comment Period: 30 day(s)

Written submissions may be made between April 21, 2003 and May 21, 2003.

NOTICE OF PROPOSAL FOR REGULATION

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Proposal Title:

Proposed Amendments to the Water Taking and Transfer Regulation (Reg.285/99 under the Ontario Water Resources Act) and improvements to the Permit to Take Water program.

Short Description:

The Ontario Ministry of the Environment (MOE) is undertaking a review of the Permit to Take Water program and the Water Taking and Transfer Regulation (Reg. 285/99 under the Ontario Water Resources Act) as part of the government's Clean Water Strategy.

Water takings in Ontario are governed by the Ontario Water Resources Act and Ontario Regulation 285/99, the Water Taking and Transfer Regulation. Section 34 of the Ontario Water Resources Act requires anyone taking more than a total of 50,000 Litres of water in a day, with some exceptions, to obtain a Permit from a Director appointed by the Minister under Section 34. Specific uses are exempt from the permitting requirement, namely individual household use, direct watering of livestock and poultry, and water for firefighting. Ontario Regulation 285/99 also prohibits the bulk transfer of water out of specified water basins.

Purpose of the Proposal:

To consult on proposed amendments to the Water Taking and Transfer (Reg. 285/99) and make improvements the Permit to Take Water program that will:

- require permit applicants to notify municipalities, conservation authorities, and adjacent landowners, about proposed water takings;
- require reporting of water use by permit holders; and
- define potential impacts that will be considered when reviewing permit applications.

The Ministry will also consult on the development of a fee structure to recover costs associated with the Permit to Take Water program.

Details of Proposed Improvements:

Stakeholder Consultation – Currently, Reg. 285/99 gives the Director responsible for the permit program the authority to request that an applicant consult with other persons who have

an interest in the taking, including governmental authorities for other jurisdictions.

The Ministry posts notices of proposal to issue permits to take water that would allow the taking of water for over a year. These proposal notices provide the public with a 30-day comment period in which the public can submit formal comments on the proposal to issue. Permits that are issued for the purposes of irrigating agricultural crops are exempt from posting. Upon issuing a permit, where notice of proposal was given, the ministry posts a decision notice, advising the public of the ministry's decision (along with any terms and conditions that may have been imposed).

Proposed program changes would require applicants to notify municipalities, conservation authorities, and adjacent landowners before submitting an application for a Permit to Take Water. Notification will be a pre-submission requirement for all water taking proposals, except:

- for renewals of existing permits for the same amount of water currently permitted or less, provided there are no significant public interest or environmental concerns;
- for permits issued in an emergency, as defined in section 29 of the Environmental Bill of Rights;
- where a substantially equivalent public process has been undertaken or is required to be undertaken.

Section 34 Directors will have the discretion to ask for more consultation if necessary. The Ministry will prepare a stakeholder consultation guide to assist applicants through the consultation process. This guide will detail specific requirements for consultation and assist applicants in determining the level of consultation required for their proposed water taking. The level of consultation required will be based on assessing the impact of the proposed water taking on the environment and the number of interested stakeholders. The applicant would be responsible for resolving concerns identified during this consultation process.

Reporting of Water Use – When a Permit to Take Water is issued, conditions are often attached to the permit. A Director can ask that a permit holder measure the quantities of water taken, at a specified frequency, and submit the data or have the data available for inspection.

Proposed changes to the Permit to Take Water program will require annual reporting of water use by permit holders. This will provide water use information to:

- assist with the sustainable use of water;
- support decisions under the Ontario Low Water Response;
- assist in the preparation of watershed-based water budgets; and
- fulfil Ontario's commitment under the Great Lakes Charter Annex 2001 to report on water use to the eight Great Lakes States and Quebec.

Establishing a mandatory reporting system will place Ontario at the forefront among jurisdictions bordering the Great Lakes. Input is sought regarding the use of electronic reporting and public access to the information, as well as the phasing in of reporting of water use.

Impact Assessment – Currently, Ontario Regulation 285/99 requires that a Director who is considering an application for a water-taking consider the following:

- protection of the natural functions of the ecosystem;

- ground water that may affect or be affected by a proposed surface water taking;
- surface water that may affect or be affected by a proposed ground water taking.

To foster a consistent and transparent basis for assessing the impacts of proposed water takings, the Ministry will define potential impacts that will be considered when reviewing permit applications. Additional details can be found in the revised regulation.

Beginning in 2003, the Ministry will test and calibrate for application in Ontario methods for assessing the impacts of water taking proposals on a watershed basis.

Fees – The Ministry is proposing to develop a service cost recovery fee structure to recover costs associated with the Permit to Take Water program. At present, there are no application fees for permits to take water, although the Ministry does charge fees for most other types of approvals, such as Certificates of Approval for wastewater treatment works.

Regulatory Impact Statement:

The proposed changes to the Water Taking and Transfer Regulation (285/99) will improve the Permit to Take Water program by providing consistency and transparency to permit decisions.

Comments should be directed to the following Contact Person:

Stephen Maude, Senior Policy Analyst
Land Use Policy Branch
135 St. Clair Avenue West, 6th floor
Toronto, Ontario, M4V 1P5
PHONE: (416) 314-6802 FAX: (416) 326-0461

Some Government offices have additional information on this proposal for viewing. These are listed below:

Land Use Policy Branch
135 St. Clair Avenue West, 6th floor
Toronto, Ontario, M4V 1P5
PHONE: (416) 314-7090 FAX: (416) 326-0461

Additional material in support of this notice is available by clicking the following hyperlink(s):

http://www.ene.gov.on.ca/envision/env_reg/er/documents/2003/RA03E0009.pdf

All comments will be considered as part of the decision-making by the Ministry if they:

- a. are submitted in writing;
- b. reference the EBR Registry number; and
- c. are received by the Contact person within the specified comment period.

Please Note: No acknowledgment or individual response will be provided to those who comment. All comments and submissions received will become part of the public record.