

Ontario Relaxes Approvals for Routine Water-Taking

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April 8, 2016

The Ministry of the Environment and Climate Change (MOECC) is planning to ease or remove the requirement for permits to take water (PTTW) for certain routine water takings which do not pose a significant environmental risk. The Ministry is developing a regulation to allow certain short-term, non-recurring water taking activities (including surface water takings for road construction and construction dewatering) to instead be registered on the Environmental Activity and Sector Registry (EASR). The original proposal was posted on the Environmental Registry for public comment back in March 2015 (EBR Registry #012-0580)¹ and the final decision to proceed was posted on April 1, 2016.² An accompanying Technical Discussion Paper covers in greater detail the proposed regulatory changes, as well as modifications to the PTTW program and EASR requirements.

Background on the PTTW system

Under section 34 of the *Ontario Water Resources Act* and section 4.2 of O. Reg. 387/04 (Water taking and Transfer) under the *Act*, with a few exceptions, any person taking more than a total of 50,000 litres of water on any day, by any means, must do so in accordance with a PTTW issued by the Director. PTTWs are generally required for the taking of water for most uses, including sale, crop irrigation, watering golf courses, industrial and manufacturing processes, supplying public utility or municipal drinking water systems, recreation, construction, and quarry dewatering. In addition, water taking projects may require authorizations from other regulatory agencies (e.g., conservation authorities, municipalities, the Ministry of Natural Resources and Forestry, and/or Fisheries and Oceans Canada), as well as an Environmental Compliance Approval (ECA) under s.53 of the *OWRA* or be subject to licensing, permitting or approval requirements under the *Safe Drinking Water Act, 2002*. O. Reg. 387/04 also sets out notification, consultation, data collection and reporting requirements associated with PTTWs. The application for a PTTW may involve studies, Aboriginal consultation and MOECC review that could take several months or longer.

¹ <http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTIxMTAz&statusId=MTgxMjk1>

² <http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTIxMTAz&statusId=MTkzNjcy&language=en>

Proposed Changes to the EASR

The Environmental Activity and Sector Registry (EASR) is a public, web-based registry system, intended for activities that are routine, well understood and have minimal environmental impacts when complying with standard regulatory requirements. The Ministry is proposing that the following water takings be prescribed activities for the purposes of the EASR:

- ♦ takings of surface water related to road and bridge construction, repair and maintenance that meet specified restrictions on the purpose, rate or location of the water taking (examples of eligible activities may include dust suppression, compaction, hydraulic seeding, sodding, mulching and landscaping, hydrodemolition, cleaning, and the on-site preparation of materials); and
- ♦ construction dewatering involving less than 400,000 L/day (construction dewatering of ground and surface water may involve the use of wells, sumps or other structures to ensure that the construction site remains dry).

The Technical Paper that accompanies the EBR posting sets out proposed EASR eligibility criteria, record keeping and operating requirements for these activities.³

In addition, the Ministry intends to clarify by regulation that the following specified activities will not be considered water takings for the purposes of the *OWRA* and exempt, subject to conditions, from subsection 34(1) of the *Act*:

- ♦ Diversion of the natural flow of a watercourse or lake for the purpose of isolating, creating or maintaining a construction site located wholly or partially within the water body where the water is directly returned to (or remains in) the same water body;
- ♦ Pumping of water from a watercourse for the purpose of creating and maintaining a dewatered construction site located wholly or partially within a watercourse;
- ♦ The taking of water solely for certain wetland restoration, management and conservation projects; and
- ♦ The taking of water by means of an existing structure or works built across a watercourse for the diversion or storage of water from a surface source of supply if the structure or works is intended solely to allow all natural watercourse flow to pass freely over the crest of the structure (this proposed exemption would not include any structures that are utilized in hydro-electric projects).

In addition, certain conditions (e.g., relating to erosion control, sedimentation, release of contaminants, etc.) must be met, and the proposed exemption only exempts eligible water takings from requiring a PTTW. It does not exempt them from complying with other approval requirements relating to the activity.

Additional information on the PTTW application and review process is available on the Ministry's Permits to Take Water webpage (<https://www.ontario.ca/page/permits-take-water>)

³ Technical Paper on the Environmental Activity and Sector Registry and Short-Term Water Takings (see pages 12-21).

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