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**Type of Posting:** Regulation

**Ministry:** Environment

**Status of Posting:** Proposal

**Date Proposal Loaded:** 2003/01/14

**Comment Period:** 60 day(s)

Written submissions may be made between January 14, 2003 and March 15, 2003.

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## **NOTICE OF PROPOSAL FOR REGULATION**

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This document has been re-posted to include a hyper-link to a french version of the compendium document (January 15, 2003)

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### **Proposal Title:**

New Drinking Water Regulation under the Safe Drinking Water Act, 2002

### **Short Description:**

The proposed regulation, made under the Safe Drinking Water Act (SDWA), is a new regulation which includes provisions of Ontario Regulation 459/00 and Ontario Regulation 505/01 and extends its application to other drinking water systems including smaller residential systems and commercial and institutional systems that serve the drinking water to the public.

The following is a overview of each section of the new Drinking Water Protection Regulation as it appears in the attached document.

#### Section 1 - Interpretation

This section of the proposed new regulation defines a number of terms used in the regulation. This includes a definition for "designated facilities" which is an expanded definition from the one found in Ontario Regulation 505/01 and now includes children's camps.

The proposed regulation also defines new categories of drinking-water systems which are easy-to-understand and have their own risk-based regulatory requirements. The regulation tailors the requirements to each category of drinking-water systems.

The proposed categories of drinking-water systems are:

"Municipal - Residential" - Means a municipal drinking-water system that serves six private residences or more.

"Municipal - Non-Residential - Large" - Means a municipal drinking-water system that serves five private residences and is capable of producing water at a rate of 250,000 Litres/day.

"Municipal - Non-Residential - Small" - Means a municipal drinking-water system that serves five private residences or fewer, and is not capable of producing water at a rate of 250,000 Litres/day.

"Non-Municipal - Commercial & Institutional - Small" - Means a non-municipal drinking-water system that serves five private residences or fewer, is not capable of producing 250,000 Litres/day, and provides water to a facility that provides water to the public for commercial or institutional purposes.

"Non-Municipal - Industrial, Commercial & Institutional - Large" - Means a non-municipal drinking-water system that is capable of producing 250,000 Litres/day and serves five private residences or fewer.

"Non-Municipal - Residential" - Means a non-municipal drinking-water system that serves six private residences or more, and is not a seasonal works.

"Non-Municipal - Seasonal Residential" - means a non-municipal drinking water system that serves six private residences or more and is closed for 60 consecutive days during a year.

The following Sections (2 - 18) of the new Drinking Water Protection Regulation applies to all categories of drinking-water systems. In many instances, a section is followed by a series of Schedules that sets out requirements related to a specific category of drinking-water system.

Section 2 - This section prescribes the Drinking Water Quality Standards for the SDWA. These include the the Chemical/Physical Standards (Schedule 2-1), the Indicators of Adverse Water Quality (Schedule 10-1).

#### Section 3 - Application

This section of the proposed regulation prescribes the categories of non-municipal drinking-water systems that are prescribed as "regulated non-municipal drinking-water systems" for various provisions of the SDWA.

#### Section 4 - Approvals

All Municipal- Residential drinking-water systems would require an approval under section 31 of the Safe Drinking Water Act.

All other categories would be required to provide a report prepared by a professional engineer certifying that the minimum treatment and operational checks are in compliance the regulatory requirements.

#### Section 5- Minimum Level of Treatment

The proposed regulation contains performance based criteria which enables owners of non-municipal systems and specified municipal systems to choose the technology that meet the required performance. The regulation includes deadlines for meeting the minimum treatment by drinking-water category.

#### Section 6 - Application for Relief from Treatment Requirements

The proposed regulation allows all owners of drinking-water systems with high quality ground water to apply to the Ministry for relief from the requirements for minimum treatment (i.e. disinfection). The application must contain a risk analysis and management plan to show that

the source water is of high quality. The proposed regulation outlines the components of the risk analysis and management plan and the requirements for the application. The approval for relief from all treatment requirements would be reviewed every five years.

#### Section 7 - Flushing - Schools and Day Nurseries

The proposed regulation provides requirements for schools, private schools or day nurseries to flush their systems.

#### Section 8 - Operational Checks, Sampling and Testing

The proposed regulation provides schedules (Schedule 8) for the sampling and testing requirements by category. Newly captured regulated non-municipal systems, "non-municipal commercial and institutional - small" that do not serve a designated facility are given a two-year period to come into compliance with this section.

An allowance for reductions in sampling and testing frequencies is built into the regulation for systems that do not detect any adverse test results.

#### Section 9 - Testing of Samples

The proposed regulation requires that all testing of drinking-water must be carried out by an accredited laboratory.

#### Section 10 - Reporting Adverse Test Results and Other Problems

The proposed regulation outlines indicators of adverse water quality which require immediate notification under section 18 of the SDWA. The proposed regulation includes strict notification requirements.

#### Section 11 - Corrective Action

The proposed regulation outlines corrective actions for different types of indicators of adverse water quality and for different categories of systems. The proposed regulation will also include a more detailed procedure relating to corrective actions for systems that are not currently required to provide minimum treatment.

#### Section 12- Warning Notice, Non-Compliance

The proposed regulation requires the owners to post a warning notice if he/she is not complying with the microbiological testing and/or did not carry out corrective actions as stipulated by the regulation. Posting a notice of non-compliance does not exempt the owner from meeting the regulatory requirements.

#### Section 13 - Warning Notice, Election

Newly captured regulated systems, "non-municipal commercial and institutional - small", with the exception of drinking-water systems that serve designated facilities, would have the option of posting notices at every tap that informs users that the water has not been tested or treated in accordance with the regulation. The proposed regulation outlines requirements for the sign posting option (Schedule 13 -1). Signs can be removed only when all regulatory requirements are met.

#### Section 14 - Information to be Available

The proposed regulation stipulates the type of information that must be available for inspection by provincial officers or any member of the public.

#### Section 15- Annual Reports

The proposed regulation requires the submission of reports to be annual for all municipal and regulated non-municipal systems.

#### Section 16- Retention of Documents and other Records

The proposed regulation requires specific periods that different reports must be retained by the owner.

#### Section 17 - Forms

This section of the proposed regulation informs the regulated communities of forms that are available for written notices, warning notices, or reports.

#### Section 18 - Purpose of Notice to Interested Authorities

The proposed regulation explains that notice given to interested authorities regarding compliance with the regulation is for information purposes.

### **Purpose of the Proposal:**

To develop a single drinking water regulation under the Safe Drinking Water Act (SDWA) that incorporates existing drinking water regulatory requirements, new requirements imposed by the SDWA and recommendations made by Commissioner O'Connor in his Part Two -Report of the Walkerton Inquiry.

### **Other Relevant Information:**

Attached to this posting is the proposed Drinking Water Regulation and a compendium to the regulation.

It should be noted that the final legal wording of the text will likely change to ensure consistencies in legal drafting within the regulation, with the Safe Drinking Water Act, and with other legislation and regulations, and to ensure the regulation reads clearly and accurately. The final legal wording may involve changes to the terms used, to the specific wording of definitions and provisions, and to the organization and format of the regulation.

### **Other Public Consultation:**

In the two years since Ontario brought in its first drinking water regulations, there has been considerable demands for changes from stakeholders in the municipal sector, non-municipal communal water systems owners and users, small business people, the tourism and hospitality industry, as well as the public. A significant volume of letters and written submissions from individual Ontarians and stakeholder groups continues to be received by the Minister of the Environment requesting change. Commissioner O'Connor himself stated that the requirements of O.Reg. 459/00 may have been unnecessarily strict: "[O.Reg. 459/00] stiffened some requirements and imposed new costs... It may also have made a few matters more rigid and universal than they need to be."(p.474). In response to these concerns, the Ministry has consulted with affected stakeholders to obtain input into changes that streamline requirements for different kinds of water systems without increasing risk to public health from the drinking water provided.

The Ministry is also planning to further consult with stakeholders during the sixty-day review period.

**Comments should be directed to the following Contact Person:**

Yousry Hamdy, Senior Industrial Specialist  
Water Policy  
135 St. Clair Avenue west, 6th floor  
Toronto, Ontario, M4V 1P5  
PHONE: (416) 314-4188 FAX: (416) 314-3918

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

Water Policy Branch  
135 St. Clair Avenue West  
11th floor, Toronto, Ontario, M4V 1P5  
PHONE: (416) 314-4188 FAX: (416) 314-3918

**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/RA03E0001-reg.pdf](http://www.ene.gov.on.ca/envision/env_reg/er/documents/2003/RA03E0001-reg.pdf)  
[http://www.ene.gov.on.ca/envision/env\\_reg/er/documents/2003/RA03E0001-comp.pdf](http://www.ene.gov.on.ca/envision/env_reg/er/documents/2003/RA03E0001-comp.pdf)  
[http://www.ene.gov.on.ca/envision/env\\_reg/er/documents/2003/RA03E0001-proc.pdf](http://www.ene.gov.on.ca/envision/env_reg/er/documents/2003/RA03E0001-proc.pdf)  
[http://www.ene.gov.on.ca/envision/env\\_reg/er/documents/2003/RA03E0001-comp-fr.pdf](http://www.ene.gov.on.ca/envision/env_reg/er/documents/2003/RA03E0001-comp-fr.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.**