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From: Joanne Di Maio
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Pages: 6 (includes this cover sheet)

Stephen Maude asked that I send you a copy of the proposed amendments to Ontario Regulation 285/99 that were posted on the EBR website on April 21, 2003. I understand that you had trouble with the pdf file. It may be because you are using an older version of Adobe Acrobat. The file that was posted on the EBR can be opened with Adobe Acrobat version 5.1 which is available for free download from Adobe.

If you have any questions, please let Stephen or myself know.

Sincerely,

Joanne Di Maio
(416) 314-3929

**Proposed Amendments to
Ontario Regulation 285/99
under the *Ontario Water
Resources Act***

April 2003

The following proposed regulation represents how Ontario Regulation 285/99 would appear if it were amended by the proposed amendments described in the EBR Registry Posting. It is being provided for discussion and consultation purposes only. The format and content of the proposed wording of the regulation are subject to change.

Changes have been made to the following provisions as indicated:

- Clauses (a) and (b) have been added to paragraph 1 of subsection 2(1)
- Paragraphs 2 and 3 of subsection 2(1) have been replaced by paragraph 2
- The term may was replaced by the term shall in subsection 2(3)
- Subsections 2(5.1) and (5.2) have been added
- Clause (c) has been added to subsection 2(6), and subsection 2(6) has been generally reworded to be consistent with the new subsections 2(5.1) and (5.2)
- The reference to the Great Lakes Charter has been updated
- Section 2.1 has been added

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Ontario regulation 285/99

As Amended by the Proposed Amendments

WATER TAKING AND TRANSFER

General

1. The purpose of this Regulation is to provide for the conservation, protection and wise use and management of Ontario's waters, because Ontario's water resources are essential to the long-term environmental, social and economic well-being of Ontario.

Permits for Taking Water

2. (1) A Director who is considering an application under section 34 of the Act for a permit to take water shall consider the following matters, to the extent that each is relevant, in accordance with the procedures set out in the Ministry of the Environment publication entitled "Permits to Take Water, Guidelines and Procedures Manual", 1999, as amended from time to time:
 1. Protection of the natural functions of the ecosystem, including potential impacts of the proposed water taking on,
 - (a) the natural variability of flows or levels of waters, including minimum in-stream flows, and
 - (b) habitat that depends upon the flow or levels of waters.
 2. Ground water and surface water that may affect or be affected by the proposed water taking, including potential impacts on,
 - (a) water quality and water balance throughout the watershed, and
 - (b) the sustained aquifer yield.
- (2) A Director who is considering an application under section 34 of the Act for a permit to take water shall consider the interests of persons who have an interest in the taking, to the extent that those interests are relevant. O. Reg. 285/99, s. 2 (2).
- (3) A Director who is considering an application under section 34 of the Act for a permit to take water shall consider the following matters in accordance with the procedures set out in the Ministry of the Environment publication entitled "Permits to Take Water, Guidelines and Procedures Manual", 1999, as amended from time to time:

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1. Existing and planned livestock uses of the water.
 2. Existing and planned municipal water supply and sewage disposal uses of the water.
 3. Existing and planned agricultural uses of the water, other than livestock uses.
 4. Existing and planned private domestic uses of the water.
 5. Other existing and planned uses of the water.
 6. Whether it is in the public interest to grant the permit.
 7. Such other matters as the Director considers relevant. O. Reg. 285/99, s. 2 (3).

(4) A Director who is considering an application under section 34 of the Act for a permit to take water shall ensure that Ontario's obligations under the Great Lakes Charter with respect to the application are complied with. O. Reg. 285/99, s. 2 (4).

(5) Subject to subsection (4), a Director who is considering an application under section 34 of the Act for a permit to take water may ensure that governmental authorities for other jurisdictions are notified of the application and consulted, even if notification and consultation are not required by the Great Lakes Charter. O. Reg. 285/99, s. 2 (5).

(5.1) A Director shall not consider an application under section 34 of the Act for a permit to take water unless the applicant has demonstrated that he or she has notified the following persons in a form and manner approved by the Director:

1. If the water taking is located within a municipality, the upper-tier and lower-tier municipality as applicable.
2. If the water taking is not located within a municipality, the local services board if one has been established.
3. Any conservation authority in which the taking is located.
4. Any adjacent landowners.

(5.2) Subsection (5.1) does not apply:

1. if a person holds a valid permit under section 34 of the Act and, before the permit expires, the person submits an application for a new permit under section 34 of the Act to take the same or less volume of water from the same location and for the same use as permitted under the valid permit.
2. where, in the Director's opinion, the delay involved in giving notice with the persons listed in subsection (5.1) would result in,
 - (a) danger to the health or safety of any person;
 - (b) harm or serious risk of harm to the environment; or
 - (c) injury or damage or serious risk of injury or damage to any property.

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3. where, in the Director's opinion, the proposed water taking will be or has been considered under another public process with substantially equivalent notification and consultation procedures.
 - (6) A Director who is considering an application under section 34 of the Act for a permit to take water may require the applicant to, in addition to the notification required by subsection (5.1), and despite subsection (5.2),
 - (a) notify or consult with other persons, including persons listed in subsection (5.1), who have an interest in the taking, including governmental authorities for other jurisdictions;
 - (b) provide the Director with information on the interests of and responses of the persons notified or consulted under clause (a);
 - (c) provide the Director with information on the efforts that the applicant has taken to resolve any concerns raised by the persons notified or consulted under clause (a); and
 - (d) provide the Director with such other information as is specified by the Director. O. Reg. 285/99, s. 2 (6).
 - (7) In this section,

"Great Lakes Charter" means the Great Lakes Charter signed by the premiers of Ontario and Quebec and the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin on February 11, 1985, as amended by the Great Lakes Charter Annex, dated June 18, 2001, and as may be amended from time to time. O. Reg. 285/99, s. 2 (7).

Data and Reporting

- 2.1 (1) Every person to whom a permit has been issued under section 34 of the Act shall collect and record data on the volume of water withdrawn daily.
- (2) The data collected and recorded in accordance with subsection (1) shall be submitted to the Director annually in a form and manner approved by the Director.
- (3) Subsections (1) and (2) do not prohibit the Director from imposing terms and conditions in a permit that set out different requirements.

Water Transfer

3. (1) For the purposes of this section, Ontario is divided into the following three water basins:
 1. The Great Lakes-St. Lawrence Basin, which consists of Lake Ontario, Lake Erie, Lake Huron, Lake Superior, the St. Lawrence River and the part of Ontario the water of which drains into any of them, including

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the Ottawa River and the part of Ontario the water of which drains into the Ottawa River.

2. The Nelson Basin, which consists of the part of Ontario the water of which drains into the Nelson River.
 3. The Hudson Bay Basin, which consists of the part of Ontario, not included in the Nelson Basin, the water of which drains into Hudson Bay or James Bay. O. Reg. 285/99, s. 3 (1).
- (2) No person shall use water by transferring it out of a water basin. O. Reg. 285/99, s. 3 (2).
 - (3) Subsection (2) does not apply to water that is used in the water basin to manufacture or produce a product that is then transferred out of the water basin. O. Reg. 285/99, s. 3 (3).
 - (4) For the purpose of subsection (3), potable or other water is not a manufactured or produced product. O. Reg. 285/99, s. 3 (4).
 - (5) Subsection (2) does not apply to water that is being transported and that is necessary for the operation of the vehicle, vessel or other form of transport that the water is being transported in, including water that is for the use of people or livestock in or on the vehicle, vessel or other form of transport. O. Reg. 285/99, s. 3 (5).
 - (6) Subsection (2) does not apply to water packaged in a container having a volume of 20 litres or less. O. Reg. 285/99, s. 3 (6).
 - (7) Subsection (2) does not apply to an undertaking that commenced before January 1, 1998 if the amount of water transferred out of a water basin by the undertaking in any calendar year after December 31, 1997 does not exceed the highest amount of water transferred out of the water basin by the undertaking in any calendar year after December 31, 1960 and before January 1, 1998. O. Reg. 285/99, s. 3 (7).
 - (8) Subsection (2) does not apply to water taken pursuant to the order of the Lieutenant Governor in Council dated October 2, 1913 respecting the Greater Winnipeg Water District. O. Reg. 285/99, s. 3 (8).