

Draft legislation to change the PTTW process is now posted on EBR

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The Ministry of Environment and Climate Change (MOECC) has posted draft legislation on the EBR website that will change the Permit To Take Water (PTTW) process for most road related construction projects, including bridge, sewer and water main work. The proposed changes were posted on November 20, 2015, and the 45 day comment period will close on January 4, 2016. The MOECC is targeting the release of the final legislation before the summer of 2016.

Given that the road construction permits likely account for most of the PTTW's issued in Ontario, hydrogeologists may wish to review the proposed changes and provide their input before the comment period closes. The EBR posting can be found at the following link: <http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTI2NTg0&statusId=MTkxMDg4&language=en>

While individual projects will be affected differently, the following is a brief summary of some of the key changes and their possible implications:

1. The change will allow water takings of up to 400,000 L/day, for up to a year, for some construction projects without a PTTW. Instead, the proponent will self-register the taking on EASR web portal (described at https://www.apgo.net/newsletters/mview/2015Dec3_article2.pdf). These self-registered takings will not undergo review by MOECC staff and the takings will automatically be allowed. Types of eligible projects include: road related construction including bridges, sewers and water mains; and surface water takings for operations like compaction, dust suppression, and seeding.

2. The taking of surface water for road works requires a brief desktop assessment to ensure that the surface water feature is large enough that it will not be adversely affected, and for the proponent to inform the local Conservation Authority. However, the Conservation Authority cannot comment or deny the taking and approval is automatic.

3. The groundwater taking for construction dewatering will not require any environmental assessment, as long as the "normal" taking is less than 400,000 L/day, although a plan is required to discharge the water back to the natural environment. "Normal" operation is not defined in the legislation, and could be interpreted to mean just the groundwater portion of the takings, particularly in the summer and winter when rain events are less frequent. This could effectively mean that construction takes of up to 400,000 L/day of groundwater and for up to a year will not require an assessment of potential impacts to local wetlands, creeks, or wells. This is a significant change, because even the existing, simplified Category 2 PTTW application for takings of less than 30 days, requires a qualified person to evaluate impacts to wells, surface water features, contaminated sites, and sensitive soils.

4. The discharge plan requires the proponent to provide an estimate of the volumes of discharge. However, the proposed changes do not cover pumping tests even when they are related to road construction projects. Pumping tests are frequently the best tool available to hydrogeologists to help predict long term, larger takings, and their absence from the proposed legislation may result in construction projects being held up for permits for pumping tests.

5. The changes are only applicable to projects for public roads. Mining and quarry related projects are stated exclusions from the new process. This is an unusual distinction given that each summer there will be hundreds of road construction projects compared to relatively few eligible takings for mines and quarries.

Some of the above points may be addressed in guidelines that will be developed in 2016. However, interested hydrogeologists should provide their comments now if they would like to see them incorporated either into the legislation or the new guidelines.

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