



VISION 2016 – 2020

Conservation Ontario will be the leader in engaging Conservation Authorities in matters of common interest and in shaping effective policy related to Conservation Authorities

Conservation Ontario Council Report

From: Chitra Gowda, Source Water Protection Lead

Date: April 4, 2018

Subject: Conservation Ontario Submissions on the “Amendments to Ontario Regulation 287/07 “General” under the Clean Water Act, 2006” (EBR # 013-1839) and “Establishment of a regulation under the Safe Drinking Water Act, 2002” (EBR # 013-1840)

Summary

Conservation Ontario (CO) submitted the attached comments on the “Amendments to Ontario Regulation 287/07 “General” under the Clean Water Act, 2006” (EBR # 013-1839) and “Establishment of a regulation under the Safe Drinking Water Act, 2002” (EBR # 013-1840). CO is generally supportive of the intent of both EBR postings.

Recommendation

THAT Council endorse the letter, dated February 20, 2018 on the “Amendments to Ontario Regulation 287/07 “General” under the Clean Water Act, 2006” (EBR # 013-1839) submitted to the Ministry of the Environment and Climate Change.

AND THAT Council endorse the letter, dated February 20, 2018 on the “Establishment of a regulation under the Safe Drinking Water Act, 2002” (EBR # 013-1840) submitted to the Ministry of the Environment and Climate Change.

Background

The Ministry of the Environment and Climate Change (MOECC) has undertaken a review of the Drinking Water Source Protection (DWSP) program, and proposed amendments to O. Reg. 287/07 under the Clean Water Act (2006), and a new regulation under the Safe Drinking Water Act (2002).

The related EBR postings are summarized below.

1. EBR# 013-1839: In order to ensure that the assessment reports and source protection plans remain relevant and up to date, the Ministry of the Environment and Climate Change is

proposing amendments to the O. Reg. 287/07 (under the Clean Water Act, 2006) that improve the regulatory framework, address implementation challenges, and increase transparency.

2. EBR#013-1840: The proposed regulation under the Safe Drinking Water Act (2002) is intended to ensure that source protection plan policies developed under the Clean Water Act (2006) can be put into place for new or expanded drinking water systems prior to the drinking water being provided.

Current Status

CO coordinated comments from Conservation Authorities (CAs) on EBR postings related to drinking water source protection under the Clean Water Act (2006).

The attached final letter on the proposed amendment to O. Reg. 287/07 (EBR# 013-1839) dated February 20, 2018 indicates support of the intent in general, and provides specific comments to strengthen the proposed amendment. It is recommended that the MOECC define 'editorial changes', as some changes may have significant impacts. Further, the Ministry of the Environment and Climate Change should support stakeholder awareness efforts that local source protection committees may deem necessary. The proposal to add liquid hydrocarbon pipeline threats to the list of prescribed drinking water threats is supported. Finally, it is recommended that the MOECC continue to work with the federal government and other agencies as needed to bring about enhanced awareness and buy in for the Clean Water Act (2006).

The attached final letter on the proposed regulation under the Safe Drinking Water Act (2002) (EBR# 013-1840) dated February 20, 2018 indicates support of the intent to ensure that technical work for vulnerable areas delineations and threats identification are completed before a drinking water system or well or intake goes online. However, the proposed regulation appears to change the current workflow process for most technical studies conducted under the Clean Water Act (2006). Currently, these studies are undertaken with oversight by source protection authorities, through funding from the MOECC. The expertise at source protection authorities is heavily relied upon to support science-based technical studies towards assessment reports. The proposed regulation could change this general workflow such that source protection authorities might only receive technical studies after they are completed. The MOECC must ensure that municipalities are not negatively impacted, by considering various factors including the timing of core tasks, the need for specialized knowledge/expertise for technical studies and policy development, funding, and the use of the Municipal Class Environmental Assessment process.

Conclusion

CO staff have submitted the attached final letters on EBR# 013-1839 and EBR# 013-1840 to the Ministry of the Environment and Climate Change by the due date of February 20, 2018. CO staff will continue to monitor these files.



February 20, 2018

Jennifer Moulton
Senior Drinking Water Program Advisor
Ministry of the Environment and Climate Change
Source Protection Programs Branch
40 St Clair Avenue West, Floor 14, Toronto ON M4V 1M2

**Re: Amendments to Ontario Regulation 287/07 "General" under the Clean Water Act, 2006
(EBR #: 013-1839)**

Dear Ms. Moulton:

Thank you for the opportunity to provide comments on the proposed "Amendments to Ontario Regulation 287/07 "General" under the Clean Water Act, 2006". Conservation Ontario is the network of Ontario's 36 Conservation Authorities. Below are comments on the proposed regulation. Overall, Conservation Ontario is supportive of the intent of the proposed regulation. The comments provided below are not intended to limit consideration of comments shared individually by Conservation Authorities.

A. Minor Amendment Provisions

1. Conservation Authorities are generally supportive of the proposal to add other types of minor amendments to source protection plans including assessment reports. It is important however to recognize that certain editorial changes to the Director's Table of Drinking Water Threats could result in significant changes to source protection plans including assessment reports, beyond changes of editorial nature. The resulting changes to source protection plans including assessment reports would have to be determined before applying a S. 51 amendment. It is recommended that the Ministry of the Environment and Climate Change define 'editorial changes to the Director's Table of Drinking Water Threats' to clearly indicate the intent in the context of a minor amendment under S. 51.
2. Where drinking water systems, individual wells or intakes have ceased to operate and been properly decommissioned and so the intake protection zones or wellhead protection areas need to be removed from or amended in the assessment report and source protection plan, it is proposed that besides current requirements, notice should be provided to the Director and relevant implementing bodies. The Ministry of the Environment and Climate Change should aware of and support other stakeholder awareness efforts that local source protection committees may deem necessary, for example: sending letters to landowners to inform them that they are no longer subject to source protection plan policies due to a removal/change in vulnerable area.

B. Continuous Improvement: Hydrocarbon Pipelines

1. Conservation Authorities are generally supportive of the proposal to add liquid hydrocarbon pipeline threats to the list of prescribed drinking water threats. It is important however to recognize that pipeline threats are already included in some source protection plans as 'local threats' and through event based areas method – by modelling spills during extreme events. In the proposed amendment to O. Reg. 287/07, it is unclear how the proposed circumstances (to identify when the liquid hydrocarbon pipeline is a low, moderate, or significant level threat) compare to how pipelines were identified in approved assessment reports. Clarification is needed from the Ministry of the Environment and Climate Change to confirm that the pipelines already identified in the approved assessment reports can remain as such, and that the proposed changes to the circumstances would allow for additional threat identification rather than a removal or change to pipelines already identified as threats. Further, the Ministry of the Environment and Climate Change should confirm if the event based modeling approach can continue to be used to identify pipelines as threats, where local source protection committees deem this method as appropriate.
2. The inability to apply source protection plan policies to federal jurisdictions/property and activities has been one of the challenges of Ontario's drinking water source protection program. It is recommended that the Ministry of the Environment and Climate Change continue to work with the federal government and other agencies as needed to bring about enhanced awareness and buy in for Ontario's Clean Water Act, in order to allow for a collaborative approach in managing identified pipelines threats, for successful drinking water source protection.

Thank you for the opportunity to provide comments on the proposed "Amendments to Ontario Regulation 287/07 "General" under the Clean Water Act, 2006". Should you have any questions about this letter, please contact Chitra Gowda at 905-895-0716 extension 225.

Sincerely,



Chitra Gowda
Source Water Protection Lead

Comment ID: 212800



February 20, 2018

Jennifer Moulton
Senior Drinking Water Program Advisor
Ministry of the Environment and Climate Change (MOECC)
Source Protection Programs Branch
40 St Clair Avenue West, Floor 14, Toronto ON M4V 1M2

Re: Establishment of a regulation under the Safe Drinking Water Act, 2002 (EBR #: 013-1840)

Dear Ms. Moulton:

Thank you for the opportunity to provide comments on the proposed “Establishment of a regulation under the Safe Drinking Water Act, 2002”. Conservation Ontario is the network of Ontario’s 36 Conservation Authorities. Below are comments on the proposed regulation. The comments provided below are not intended to limit consideration of comments shared individually by Conservation Authorities.

1. Conservation Authorities are supportive of the intent to ensure that technical work for vulnerable areas delineations and threats identification are completed before a drinking water system or well or intake goes online.
2. It is unclear what the term ‘certain work’ means. This term is used in the EBR 013-1840 posting: “The new regulation would require that certain work necessary under the Clean Water Act be complete, and be endorsed by municipal council, before a municipality could apply for a drinking water works permit associated with a new or expanding municipal residential drinking water system”.
3. Per the 013-1840 EBR posting: “The proposed regulation would make municipalities responsible for working with local source protection authorities to ensure that work needed to identify the vulnerable areas and to identify and address threats, is completed, endorsed by council and provided to the local source protection authorities in advance of an application for a drinking water works permit”. Relevant comments are provided below.
 - The roles and responsibilities of municipalities, source protection authorities and source protection committees should be in accordance with the Clean Water Act (2006).
 - The proposed regulation appears to change the current workflow process for most technical studies. In general, these studies are currently undertaken with oversight by source protection authorities, through funding from the MOECC. Typically this allows for oversight throughout the technical studies, including review of methodologies and check for consistency across source protection

areas and regions by local source protection authorities. The expertise at source protection authorities is heavily relied upon to support science-based technical studies towards assessment reports. The proposed regulation could change this general workflow such that source protection authorities might only receive technical studies after they are completed. Further, the proposed regulation is unclear on who is responsible to ensure that technical studies are conducted per the Clean Water Act and any applicable methodologies including the Director's Technical Rules.

- The proposed regulation appears to put the onus on municipalities to “address threats” – it is unclear if the intent was that municipalities ensure that source protection policies are in place to address the threats. Different implementing bodies could be responsible for addressing threats depending on the type of threat and policy tool and approach chosen.
- The MOECC must consider the following key aspects such that municipalities are not negatively impacted: the timing of core tasks (technical studies, source protection plan amendments and approvals, etc.); the need for specialized knowledge/expertise for technical studies and policy development; funding; and the use of the Municipal Class Environmental Assessment process.

Thank you for the opportunity to provide comments on the proposed “Establishment of a regulation under the Safe Drinking Water Act, 2002”. Should you have any questions about this letter, please contact Chitra Gowda at 905-895-0716 extension 225.

Sincerely,



Chitra Gowda
Source Water Protection Lead

Comment ID: 212801