

ONTARIO REGULATION 287/07

made under the

CLEAN WATER ACT, 2006

Made: June 27, 2007

Filed: June 28, 2007

Published on e-Laws: June 29, 2007

Printed in *The Ontario Gazette*: July 14, 2007

TERMS OF REFERENCE

Definitions

1. In this Regulation,

“band” has the same meaning as in the *Indian Act* (Canada);

“operating authority” has, with respect to a drinking-water system, the same meaning as in the *Safe Drinking Water Act, 2002*;

“owner” has, with respect to a drinking-water system, the same meaning as in the *Safe Drinking Water Act, 2002*;

“reserve” has the same meaning as in the *Indian Act* (Canada).

Notice when preparation begins

2. (1) If any part of a municipality is included in a source protection area, the source protection committee shall give the clerk of the municipality notice when the committee begins preparation of the terms of reference for the source protection area.

(2) If any part of the reserve of a band is included in a source protection area, the source protection committee shall give the chief of the band notice when the committee begins preparation of the terms of reference for the source protection area.

(3) A notice under subsection (1) or (2) shall include an invitation to discuss with the source protection committee the development of the work plan that must be included in the terms of reference under paragraph 9 of subsection 3 (1).

Contents of terms of reference

3. (1) The terms of reference for a source protection area shall be in a form approved by the Director and shall contain the following:

1. A map showing the boundaries of the source protection area and the boundaries of every municipality in which any part of the source protection area is located.
2. If the source protection area is part of a source protection region, a map showing the boundaries of the source protection region, the boundaries of every source protection area located in the region and the boundaries of every municipality in which any part of the source protection region is located.
3. A list of all of the municipalities in which any part of the source protection area is located.
4. A copy of any resolutions passed by councils of municipalities under,
 - i. subsection 8 (3) or (6) of the Act, or
 - ii. subsection 5 (1), (2) or (4) of Ontario Regulation 286/07 (Miscellaneous) made under the Act.
5. A table setting out the following information for each existing and planned drinking-water system to which clause 15 (2) (e) of the Act applies for the purpose of preparing the assessment report:
 - i. The drinking water system number of the drinking-water system, if one has been assigned.
 - ii. The name of the drinking-water system.
 - iii. The owner of the drinking-water system.
 - iv. The operating authority for the drinking-water system.
 - v. Whether the drinking-water system obtains water from a raw water supply that is groundwater or surface water.
6. A table setting out the information referred to in subparagraphs 5 i to v for each existing municipal drinking-water system to which, pursuant to subsection 5 (1) of Ontario Regulation 286/07 (Miscellaneous) made under the Act, subclause 15 (2) (e) (i) of the Act does not apply for the purpose of preparing the assessment report.

7. If the Minister has notified the source protection committee that, when he or she receives the proposed terms of reference under section 10 of the Act, he or she may consider requiring an amendment to the terms of reference to provide, for the purposes of subclause 15 (2) (e) (iii) of the Act, that the assessment report consider one or more existing or planned drinking-water systems that are located in the source protection area and are specified by the Minister, a table setting out the information referred to in subparagraphs 5 i to v for each of the specified systems.
8. A list of matters that require consultation with a source protection committee for another source protection area during the preparation of the assessment report and source protection plan, and, for each matter, the name of the other source protection area and a description of the matter.
9. A work plan that identifies all of the major tasks to be completed in the preparation of the assessment report and source protection plan and that includes the following information for each task:
 - i. The person or body responsible for performing the task.
 - ii. An estimate of the date by which the task is expected to be completed.
 - iii. An estimate of the costs that are expected to be incurred in performing the task.
10. The date by which, pursuant to section 3 of Ontario Regulation 285/07 (Time Limits) made under the Act, the source protection authority is required to submit the proposed source protection plan to the Minister and take the other steps that are required for it to comply with section 25 of the Act.

(2) For the purpose of subparagraph 5 v of subsection (1), section 2 of Ontario Regulation 170/03 (Drinking-Water Systems) made under the *Safe Drinking Water Act, 2002* applies, with necessary modifications, to the determination of whether a drinking-water system obtains water from a raw water supply that is groundwater or surface water.

(3) If information is required to be included in terms of reference under paragraph 7 of subsection (1) for one or more drinking-water systems, the source protection committee shall take those systems into account in preparing the terms of reference, including the list required by paragraph 8 of subsection (1) and the work plan required by paragraph 9 of subsection (1).

Performance of tasks by municipality

4. (1) If the council of a municipality in which any part of a source protection area is located has passed a resolution consenting to perform a task identified by the source protection committee in connection with the preparation of the assessment report or source protection plan for the source protection area, the terms of reference shall require the municipality to perform the task.

(2) Despite subsection (1), if the councils of two or more municipalities pass resolutions described in that subsection consenting to perform the same task, the terms of reference may,

- (a) require one of the municipalities to perform the task;
- (b) require two or more of the municipalities to jointly perform the task; or
- (c) divide responsibility for performing the task between the municipalities in such other manner as is set out in the terms of reference.

(3) The terms of reference shall not require a municipality to perform a task unless the council of the municipality has passed a resolution described in subsection (1).

(4) If the terms of reference require a municipality to perform a task, the source protection committee shall consult with the municipality on,

- (a) the estimated date by which the task is expected to be completed; and
- (b) the estimated costs that are expected to be incurred in performing the task.

(5) This section does not apply to a requirement that a municipality perform a task if the requirement is included in the terms of reference pursuant to a decision of the Minister under section 10 or 13 of the Act.

Great Lakes-St. Lawrence River agreements

5. (1) If section 14 of the Act deems terms of reference to require consideration of documents referred to in that section, the terms of reference shall include a provision that requires consideration of those documents.

(2) If a source protection area contains water that flows into the St. Lawrence River but does not flow into the Great Lakes, the terms of reference for the preparation of an assessment report and source protection plan for the source protection area shall include a provision that requires consideration of the documents referred to in section 14 of the Act.

Consultation on draft terms of reference

6. (1) A source protection committee that is preparing terms of reference for a source protection area shall, before submitting proposed terms of reference to the source protection authority under section 9 of the Act, prepare a draft of the proposed terms of reference and,

- (a) publish the draft on the Internet and make it available for inspection by the public at one or more locations that, in the opinion of the source protection committee, are sufficiently accessible to give the public in the source protection area a reasonable opportunity to inspect the draft; and
- (b) give a copy of the draft to,
 - (i) the clerk of each municipality in which any part of the source protection area is located,
 - (ii) if any part of the reserve of a band is included in the source protection area, the chief of the band,
 - (iii) the chair of every other source protection committee for which the draft lists a matter that requires consultation during the preparation of the assessment report or source protection plan, and
 - (iv) every person or body that,
 - (A) is established pursuant to the Great Lakes Water Quality Agreement of 1978 that is referred to in paragraph 1 of subsection 14 (1) of the Act, and
 - (B) is involved in the development or implementation of a remedial action plan or lakewide management plan in accordance with Annex 2 of the Agreement.

(2) As soon as reasonably possible after publishing the draft on the Internet, the source protection committee shall publish a notice advising the public of the opportunity to,

- (a) view the draft on the Internet;
 - (b) inspect the draft, during times specified in the notice, at a location specified in the notice;
 - (c) attend a public meeting on the draft on a date, at a time and at a location specified in the notice; and
 - (d) submit written comments on the draft to the source protection committee within 35 days after the notice is published.
- (3) The source protection committee shall,
- (a) publish the notice referred to in subsection (2) in one or more newspapers that, in the opinion of the source protection committee, are of sufficiently general circulation to bring the notice to the attention of the public in the source protection area; and
 - (b) make the notice referred to in subsection (2) available for inspection by the public at one or more locations that, in the opinion of the source protection committee, are sufficiently accessible to give the public in the source protection area a reasonable opportunity to inspect the notice.
- (4) The source protection committee shall hold at least one public meeting, at a location in the source protection area, at least 21 days after the notice is published under subsection (2), for the purpose of giving the public an opportunity to review the draft, ask questions and make comments.
- (5) In finalizing the proposed terms of reference, the source protection committee shall consider,
- (a) written comments on the draft that are submitted to the source protection committee within 35 days after the notice was published under subsection (2);
 - (b) comments made at the public meeting; and
 - (c) written comments on the draft that are submitted to the source protection committee in response to the giving of copies of the draft under clause (1) (b).
- (6) This section also applies, with necessary modifications, to the preparation of an amendment to the terms of reference.

Submission of proposed terms of reference to source protection authority

7. (1) When the source protection committee submits the proposed terms of reference to the source protection authority under clause 9 (a) of the Act, it shall,

- (a) give the source protection authority a summary of any concerns that were raised by bands during the preparation of the terms of reference and that were not resolved to the satisfaction of the bands; and
- (b) give a copy of the proposed terms of reference and the summary referred to in clause (a) to each chief of a band to whom a notice was required to be given under section 2.

(2) For the purpose of clause 9 (c) of the Act, the invitation to submit written comments to the source protection authority shall invite comments to be submitted within 30 days after the publication of the proposed terms of reference on the Internet under that clause.

Submission of proposed terms of reference to Minister

8. When the source protection authority submits the proposed terms of reference to the Minister under subsection 10 (1) of the Act, it shall,

- (a) give the Minister the summary of concerns referred to in clause 7 (1) (a) of this Regulation; and
- (b) give the source protection committee copies of the comments referred to in clauses 10 (1) (a) and (c) of the Act.

Amendments proposed by source protection committee

9. For the purpose of subsection 13 (1) of the Act, the source protection committee may propose amendments to the terms of reference in the following circumstances:

1. The boundaries of the source protection area for which the terms of reference were prepared have been altered.
2. The council of a municipality in which any part of the source protection area is located has passed a resolution under subsection 8 (3) or (6) of the Act since the terms of reference were approved under section 10 of the Act.
3. The council of a municipality in which any part of the source protection area is located has passed a resolution under subsection 5 (1), (2) or (4) of Ontario Regulation 286/07 (Miscellaneous) made under the Act since the terms of reference were approved under section 10 of the Act.
4. The source protection committee is of the opinion that a significant change is required to the work plan that is included in the terms of reference, including a change to the portion of the work plan that identifies the body responsible for performing a task.
5. The terms of reference contain an error that, if left uncorrected, will affect the preparation of the assessment report or source protection plan.

Commencement

10. This Regulation comes into force on July 3, 2007.