

Thames – Sydenham and Region Drinking Water Source Protection Source Protection Committee Discussion Paper

Report to Chair and members
Thames – Sydenham and Region
Source Protection Committee

Agenda # 2010.02.7.c&d

Cc SP Management Committee

Date February 10, 2010

Prepared By Chris Tasker, Project Manager

Re: Upcoming consultation on Source Protection Plan Regulation

Background

- On January 25, 2010 the Ministry of the Environment posted the Regulatory components to support the development and implementation of source protection plans under the Clean Water Act, 2006
<http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTA4NjQ1&statusId=MTYzMTY1&language=en>
- The notice provides a summary of the draft regulation (which would be an amendment to O. Reg 287/07 – the General Regulation under the Act), but does not cover every provision contained in the draft regulation. The posting and proposed regulation is included in the meeting package
- It is posted for a 60 day comment period closing March 26, 2010
- MOE will present the proposed regulations to the SPCs
- MOE will be hosting a series of consultation sessions and is looking for four committee members from each committee to attend. The tentative session dates are:

Date	Location	Source Protection Committees invited
Friday February 19	Kingston	Raisin-South Nation; Mississippi-Rideau; Cataraqui; Quinte
Monday March 1	Milton	Hamilton-Halton; CTC; Niagara; SGSNB
Friday March 5	Sudbury	Sudbury; Lakehead; Mattagami; North Bay-Mattawa; Sault Ste Marie
Wednesday March 10	Toronto	SGBLS; Trent
Friday March 12	London	Lake Erie; Ausable Bayfield Maitland Valley; Thames-Sydenham ; Essex

Discussion

- Although it is possible to attend a session other than the proposed session it is advantageous to attend the session planned for the region (March 12) along with others from the region and the neighbouring regions.
- MOE is asking for 4 volunteers from each Source Protection Committee to attend.
- Details on the location and time will be circulated to those attending
- Some things to think about related to the proposed regulation:
 - Has anything been overlooked?
 - Are the proposals related to prohibition acceptable?
 - The option to include strategic action policies in the Source Protection Plan
 - Consultation and notification especially the early notification of existing significant threats
 - Prescribed instruments



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Regulation Proposal Notice:

Title:

Regulatory components to support the development and implementation of source protection plans under the Clean Water Act, 2006

EBR Registry Number: 010-8766

Ministry:

Ministry of the Environment

Date Proposal loaded to the

Registry:

January 25, 2010

Keyword(s): [Aquifers](#) | [Drinking Water](#) | [Ground Water](#) | [Water](#) | [Legislation](#)

Related Act(s): [Clean Water Act, 2006, S.O. 2006, c. 22](#)

Comment Period: 60 days: submissions may be made between January 25, 2010 and March 26, 2010.

Description of Regulation:

The purpose of the *Clean Water Act, 2006* (Act) is to protect existing and future sources of drinking water, as part of an overall commitment to human health and the environment. A key focus of the legislation is the preparation of locally developed, science-based assessment reports and source protection plans.

The Act sets out the minimum requirements for the contents and preparation of source protection plans and the proposed regulation builds on those requirements and will support source protection committees (SPCs) in the development of their source protection plans. It also contains provisions relating to Part IV of the Act. More specifically, the draft regulation addresses the broad topic areas described below.

This notice provides a summary of the draft regulation (which would be an amendment to O. Reg 287/07 – the General Regulation under the Act), but does not cover every provision contained in the draft regulation. For a complete record of all of the provisions being proposed, please refer to the draft regulation through the link provided in this notice.

1) Source Protection Plans

a. Form (Section 19.2 of the draft regulation)

The draft regulation proposes that the Director may approve a form to be used for source protection plans, and if this is done, the source protection plans must be submitted in this form.

b. Objectives (Section 19.3 of the draft regulation)

The draft regulation proposes a number of objectives that must be included in each source protection plan. They are broad objectives that state that the plans are to protect existing and future drinking water sources, and that they must ensure that activities that are or would be significant drinking water threats either cease to be or never become a significant drinking water threat. The draft regulation also proposes that similar objectives be included in plans that have policies related to conditions resulting from past activities. Further, if the Minister establishes a Great Lakes target for a source protection area and the Minister has further directed that a report be prepared and submitted recommending policies in the source protection plan to assist in achieving the target, the regulation requires that an objective of the plan would be to achieve the specified target. Finally, the draft regulation also proposes

Contact:

All comments on this proposal must be directed to:

Debbie Scanlon
Senior Drinking Water Program
Advisor
Ministry of the Environment
Drinking Water Management
Division
Source Protection Programs
Branch
2 St. Clair Avenue West
Floor 8
Toronto Ontario
M4V 1L5
Phone: (416) 212-8839
Fax: (416) 327-6926

**To submit a comment online,
click the submit button
below:**

[Submit Comment](#)

Additional Information:

The following government offices have additional information regarding this Proposal. To arrange a

that no further objectives be permitted to be included in a plan, thus ensuring that the objectives of the Plan remain within the confines of the *Clean Water Act*.

c. Other Policies That May Be Included In A Source Protection Plan (Sections 19.7 and 19.8 of the draft regulation)

In addition to the types of policies that a source protection committee is permitted to include in a source protection plan under subsection 22 (6) of the Act, the regulation sets out further types of policies that may be included in a plan to deal with drinking water threats or to assist in achieving a Great Lakes target. These include policies respecting:

- stewardship programs
- best management practices
- pilot programs
- research
- actions that should be taken to achieve the plan's objectives
- policies to which decision-makers under the *Planning Act* or *Condominium Act* must have regard
- policies to which decision-makers that make decisions on prescribed instruments must have regard

The draft regulation also proposes that drinking water threat policies specify the areas they apply to and where a policy specifies a program or action it should designate a responsible person or body.

Further, the draft regulation proposes that a source protection plan could contain policies governing incentive or education and outreach programs to deal with other drinking water systems in the source protection area that are not the focus of the assessment report. A source protection plan could also contain policies specifying actions to be taken to ensure that data on climate conditions is gathered for the source protection area on an ongoing basis. In addition, section 19.8 of the draft regulation proposes that a source protection plan may contain policies respecting transport pathways (i.e. a condition of land resulting from human activity that increases the vulnerability of a raw water supply).

d. Identification of Strategic Action Policies (Section 19.12 of the draft regulation)

It is crucial for plan implementation that the plan identify clearly which policies have legal effect under the Act and which policies do not. Therefore, the draft regulation sets out a list of policies that are given legal effect under the Act and where a policy is not one of those specified types of policies, the draft regulation would require that the policy be labelled a "strategic action" policy.

e. Applying Provisions of Part III of the Act to Policies In A Source Protection Plan (Section 19.15 of the draft regulation)

Part III of the Act contains various provisions which give legal effect to a source protection plan. For example, specific provisions require decisions under the *Planning Act* and *Condominium Act* to conform to significant threat policies and have regard to other policies in the plan and that official plans and zoning by-laws be brought into conformity with significant threat policies. Where a policy designates a public authority as being responsible for a monitoring program, Part III of the Act also legally obligates the authority to implement the program. Therefore, it is important that the source protection plans clearly identify when a legal duty is being imposed by a policy on a public authority as a result of the application of Part III of the Act.

For this reason, the draft regulation proposes that where a source protection committee is relying on a legal effect provision of Part III, it must expressly provide that the applicable provisions of Part III of the Act apply to the policy. For instance, if a source protection committee is contemplating a *Planning Act* type policy to manage an activity that has been identified in the assessment report as a significant drinking water threat, it would have to specify in the plan that the applicable

viewing of these documents please call the Ministry Contact or the Office listed below.

Source Protection Programs
Branch
2 St. Clair Avenue West
Floor 8
Toronto Ontario
M4V 1L5
Phone: (416) 212-5296

The documents linked below are provided for the purposes of enhancing public consultation.

All links will open in a new window

1. [Draft Regulation](#)

2. [Clean Water Act information on the Ministry of the Environment website](#)

provisions of Part III of the Act apply to that policy (in this case clause 39 (1) (a), subsection 39 (2) and (4) and sections 40 to 42 of the Act).

The draft regulation also proposes giving the Director the authority to give directions to source protection committees on how to comply with these provisions of the regulation.

f. Additional Plan Contents (Sections 19.9 and 19.10 of the draft regulation)

The draft regulation proposes that a summary of all consultations undertaken for the development of the terms of reference, the assessment report and the source protection plan be included in the plan. The draft regulation also proposes that the SPC may include other information in the source protection plan to provide context and help the public understand the document more easily.

g. Prescribed Instruments (Section 1.0.1 of the draft regulation)

The draft regulation specifies the various provincial instruments that are prescribed under the Act that have to conform to significant threat policies, and have regard to other specified policies of the source protection plans. These include instruments under the *Aggregate Resources Act*, *Environmental Protection Act*, *Lakes and Rivers Improvement Act*, *Nutrient Management Act, 2002*, *Ontario Water Resources Act*, *Pesticides Act*, and the *Safe Drinking Water Act, 2002*. For the specific provisions under these Acts that are prescribed, please refer to the draft regulation.

h. Explanatory Document (Section 19.16 of the draft regulation)

It is being proposed that an explanatory document will be required and submitted with the source protection plan that would contain the rationale behind the policies in the plan (in particular the rationale behind every prohibition policy stating why prohibition is necessary), a summary of comments received during consultations and how they were incorporated into the plan, and an explanation of how climate change considerations were taken into account in the development of the policies in the plan. This document would be made available to the public during consultation for information purposes only. The regulation would also require that this document be submitted to the source protection authority with the proposed plan, and likewise when it is later submitted to the Minister.

i. Records (Section 19.1 of the draft regulation)

The draft regulation proposes to require SPCs to retain records that are acquired or created during the preparation of the source protection plan for 15 years.

j. Consultation (Sections 19, 19.17, 19.21 of the draft regulation)

The draft regulation proposes requirements with respect to consultation during the preparation of source protection plans and consultation on a draft source protection plan once one is completed by the source protection committee. For example, there are a number of notices that would be required, including a notice to municipalities, First Nation bands, and persons believed to be engaged in an activity that is or would be a significant threat at the time the plan development begins. Before including proposed policies in a plan, the draft regulation proposes requiring the source protection committee send a notice to persons or bodies that would be responsible for implementing a policy, a notice to persons or bodies responsible for prescribed provincial instruments if a policy in the plan affects that instrument, and a notice to municipalities if a policy in the plan would affect *Planning Act* decisions. In this way, persons or bodies that would be responsible for implementing a policy would have the opportunity to have input into the development of the policy before the source protection committee includes it in a draft source protection plan. Many of these notices may be combined if they are to be given to the same recipient at the same point in the process. The contents of these various notices are set out in the draft regulation, as are any requirements related to invitations for public comment, and the timelines associated with the commenting period. There are also requirements to provide summaries of specific concerns received to the source protection authority and to the Minister as the plan proceeds through the approvals

process.

k. Hearings (Section 19.27 of the draft regulation)

If a hearing officer is appointed by the Minister to conduct a hearing respecting the proposed source protection plan, the hearing officer must provide a notice related to this hearing. The draft regulation sets out the requirements for this notice including the method of service (i.e. mail, email, fax or personal) and the persons and bodies that must receive the notice, which includes the chair of the SPC, the source protection authority's chief administrative officer, the clerk of any municipalities affected by the matter, and the chief of any bands that fall within the source protection area.

l. Amendments (Sections 19.29 to 19.31 of the draft regulation)

The draft regulation proposes that the source protection authority may propose an amendment to the source protection plan if the authority consults with the SPC, and if the authority and SPC are of the opinion that the amendment is advisable. The regulation requires publication of the amendments on the internet and for public inspection at various locations, as well as an invitation for comments on the proposed amendments. It would also require notice be given to municipalities, chiefs of bands, and every person engaged in an activity that is the subject of a significant threat policy that is being amended. The notices must also invite comments, and where applicable, advise the recipient that they are potentially engaged in an activity that is or would be a significant threat. The regulation also sets out the types of administrative amendments that could be made without being subject to the consultation and approval requirements in the Act (e.g. typographical, grammar, style, references, numbering etc.).

2) Enabling Part IV Powers

Part IV of the *Clean Water Act* provides municipalities with additional authorities to regulate activities that are significant drinking water threats, where such activities are located in intake protection zones or wellhead protection areas. The Act permits source protection committees to use Part IV as a means to manage significant drinking water threats in these areas, if the activity is prescribed. The draft regulation proposes allowing source protection committees to prescribe any activity that is a significant drinking water threat, except for the disposal of waste or the operation of a sewage system (see section 19.4 of the draft regulation). Once the source protection committee has decided to designate an activity for the purpose of Part IV, the Act then permits it, subject to the regulations, to prohibit a person from engaging in the activity in a specified area or to regulate the activity in other specified areas by requiring persons to obtain a risk management plan for the activity. In addition, the draft regulation proposes allowing municipalities to use the interim risk management plan authority in Part IV of the Act (see sections 19.4 and 19.34 of the regulation). Below are the provisions of the draft regulation that would build upon the provisions of Part IV of the Act.

a. Risk Management Plans (Sections 19.35 to 19.37 of the draft regulation)

The draft regulation proposes that, without limiting the generality of the Act, a risk management plan may contain a number of requirements, including remediation of adverse effects and provision of financial assurance. The regulation would also prohibit the transfer of any risk management plan without the written consent of the risk management official. An exemption from the requirements related to risk management plans is being proposed in the situation where the property owner provides a notice to the risk management official indicating that the significant drinking water threat is governed by a prescribed instrument, and that instrument conforms with the applicable policies of the source protection plan.

b. Prohibited Activities (Sections 19.5 and 19.16 of the draft regulation)

The draft regulation proposes that an existing activity may not be prohibited under section 57 of the Act unless the SPC is of the opinion that prohibition is the only means through which the threat may be managed effectively. The rationale for this decision must further be documented in the explanatory document required in the

draft regulation.

c. Provisions Related To Section 59 of the Act (Sections 19.6 and 19.38 of the draft regulation)

Section 59 of the Act provides that, where a proposal requires a prescribed application under the *Planning Act* or the construction of a building for a land use designated in the source protection plan, before the proposal can proceed the person in an area where the activity would be a significant threat must first obtain a notice from the risk management official. The purpose of the section is to ensure that persons consult with the risk management official early in the development approvals process. The draft regulation sets out the list of applications under the *Planning Act* that would be subject to section 59 of the Act, including applications for official plan amendments, zoning by-law amendments, site plan approvals, minor variances, plans of subdivision, and consents. The draft regulation also proposes to allow SPCs to designate any land use for the purpose of section 59 of the Act that is currently specified in an approved official plan or a zoning by-law that is in effect in the municipality.

d. Training and Qualifications (Sections 19.39 to 19.42 of the draft regulation)

The draft regulation would require any person entering property for the purposes of enforcing Part IV of the Act to have taken a Ministry-approved training course within the preceding five years. It is also proposed that there would be an exemption from the requirements for those entering property with the consent of the owner or under a warrant.

The regulation also proposes to require that risk management officials and inspectors take a course covering necessary information related to the preparation and enforcement of Part IV of the Act, including risk management plans.

e. Records (Section 19.33 of the draft regulation)

The draft regulation proposes to require those that enforce Part IV of the Act to retain a number of types of records related to the preparation and enforcement of risk management plans for a period of 15 years.

3) Annual Reports (Section 19.45)

The draft regulation sets out the proposed contents for the annual progress reports under section 46 of the Act. The reports would include a listing and reasons for any failures to meet deadlines established in plan policies, the effectiveness of any policies related to monitoring issues, measures taken to address policies related to conditions from past activities and policies intended to achieve a Great Lakes target, and a description of any measures taken to address any gaps in the available data identified during the preparation of the assessment report.

Consultation Feedback

In addition to the proposals contained in the draft regulation described above, the government welcomes feedback on any aspect of the draft regulation. In particular, comments are invited on the following provisions set out in the draft regulation, which were not included in the source protection plans policy discussion paper (see "Other Information" below) posted on the Environmental Registry in June 2009:

- | *Climate Change Considerations (section 1c above)*
- | *Strategic Action Policies (1d)*
- | *Prescribed Instruments (1g)*
- | *Early Notification Related to Existing Significant Threats (1j)*

Purpose of Regulation:

As a part of the government's commitment to implement all of the recommendations of the Walkerton Inquiry, and to implement the source protection framework set out

by the Act, the government is developing regulations under the Act to support the development and implementation of source protection plans across the province. The posting of the draft regulation provides an opportunity to comment, and therefore assist in the development of the regulatory framework.

Other Information:

A discussion paper containing key policy proposals with respect to the preparation and implementation of source protection plans was posted on the Environmental Registry June 25, 2009 for a 90-day comment period, Environmental Bill of Rights (EBR) Registry Number 010-6726. The purpose of the discussion paper was to seek feedback from the public, stakeholders, communities, and First Nations on the proposed content of regulations governing source protection plans and their implementation. Specifically, the policy discussion paper addressed:

- The various approaches available to policy developers to reduce risks posed by drinking water threats
- Additional requirements under consideration for drinking water threat policies
- Considerations related to policies governing monitoring and the Great Lakes
- A summary and overview of the consultation requirements
- Considerations related to some of the Act's administrative requirements regarding annual progress reports and source protection plan amendments.

There were 63 written submissions received during this period. In addition, focussed discussion sessions were held during the comment period with representatives from the municipal, agricultural, and environmental non-government organization sectors and conservation authorities. The ministry also engaged all SPC Chairs and Project Managers as well as the SPCs during the comment period by asking them to apply the proposals in the discussion paper as a basis upon which they would draft mock source protection plan policies to help the government identify areas where the proposals needed to be changed.

In addition to generating public feedback the paper was designed to help SPCs respond to inquiries about source protection plans, while consulting on their locally developed assessment reports. The Ministry of the Environment developed the discussion paper before the completion of the local assessment reports so that source protection authorities, SPCs, municipalities, the public, and other interested parties would have an opportunity to gain a deeper understanding of the ministry's preliminary views on the analysis needed to develop effective source protection plan policies for their area.

For additional information on the role of SPCs and how the terms of reference and assessment reports are developed, please refer to information on the Act on the Ministry of the Environment's website: www.ontario.ca/cleanwater

The Ministry of the Environment is continuing to develop guidance material to support SPCs and municipalities on this regulatory content.

The Act came into force on July 3, 2007, along with the first five enabling regulations. The General Regulation (O. Reg. 287/07) was amended in late 2008 to include provisions related to assessment reports and definitions of words and expressions used in the Act. Technical Rules under the Act were also approved in late 2008, and subsequently amended in December 2009.

In developing the Act (formerly Bill 43), extensive consultation occurred across the province, including public hearings in Walkerton, Toronto, Cornwall, Bath and Peterborough.

Public Consultation:

This proposal has been posted for a 60 day public review and comment period starting January 25, 2010. If you have any questions, or would like to submit your

comments, please do so by March 26, 2010 to the individual listed under "Contact". Additionally, you may submit your comments on-line.

All comments received prior to March 26, 2010 will be considered as part of the decision-making process by the Ministry of the Environment if they are submitted in writing or electronically using the form provided in this notice and reference EBR Registry number 010-8766.

Please Note: All comments and submissions received will become part of the public record. You will not receive a formal response to your comment, however, relevant comments received as part of the public participation process for this proposal will be considered by the decision maker for this proposal.

Other Public Consultation Opportunities:

Comments on this Regulation Proposal Notice may be submitted electronically, referencing the EBR Registry Number 010-8766, to:

source.protection@ontario.ca

To submit written comments, please forward your response to the contact listed above, and include on the envelope or fax cover sheet "Re: SOURCE PROTECTION PLANS REGULATORY PROPOSAL."

During February and March of 2010 the Ministry of the Environment intends to organize discussion/information sessions to seek feedback on the content of the draft regulations.

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Disclaimer:

This draft regulation is provided solely to facilitate public consultation under section 16 of the *Environmental Bill of Rights, 1993*. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation.

The content, structure and form of the draft regulation are subject to change as a result of the consultation process and as a result of review by the Office of Legislative Counsel.

ONTARIO REGULATION

made under the

CLEAN WATER ACT, 2006

Amending O. Reg. 287/07

(General)

Note: Ontario Regulation 287/07 has previously been amended. For the legislative history of the Regulation, see the Table of Consolidated Regulations – Detailed Legislative History at www.e-Laws.gov.on.ca.

1. Subsection 1 (2) of Ontario Regulation 287/07 is amended by adding the following definitions:

“Great Lakes target” means a target established under section 85 of the Act; (“objectif concernant les Grands Lacs”)

“low drinking water threat” means a drinking water threat that, according to a risk assessment, poses or has the potential to pose a low risk; (“faible menace pour l’eau potable”)

“moderate drinking water threat” means a drinking water threat that, according to a risk assessment, poses or has the potential to pose a moderate risk; (“menace moyenne pour l’eau potable”)

“record” means information however recorded or stored, whether in printed form, on film, by electronic means or otherwise, and includes documents, minutes, correspondence, memoranda, plans, maps, drawings, photographs and films; (“document”)

2. (1) The Regulation is amended by adding the following section:

Prescribed instruments

1.0.1 (1) The following provisions are prescribed for the purposes of the definition of “prescribed instrument” in subsection 2 (1) of the Act:

1. Section 7 of the *Aggregate Resources Act*, with respect to licenses to remove aggregate from pits or quarries.
2. Section 8 of the *Aggregate Resources Act*, with respect to site plans accompanying applications for licenses under section 7.
3. Section 23 of the *Aggregate Resources Act*, with respect to wayside permits to operate pits or quarries.
4. Section 25 of the *Aggregate Resources Act*, with respect to site plans accompanying applications for wayside permits.
5. Section 34 of the *Aggregate Resources Act*, with respect to aggregate permits to excavate aggregate or topsoil.
6. Section 36 of the *Aggregate Resources Act*, with respect to site plans accompanying applications for aggregate permits.
7. Section 39 of the *Environmental Protection Act*, with respect to certificates of approval or provisional certificates of approval issued by the Director for the use, operation, establishment, alteration, enlargement or extension of waste disposal sites or waste management systems.
8. Section 47.5 of the *Environmental Protection Act*, with respect to renewable energy approvals issued or renewed by the Director.
9. Section 14 of the *Lakes and Rivers Improvement Act*, with respect to approvals of the locations or plans and specifications of dams.
10. Section 16 of the *Lakes and Rivers Improvement Act*, with respect to approvals of the plans and specifications for whatever is to be done to alter, improve or repair dams.
11. Section 17.2 of the *Lakes and Rivers Improvement Act*, with respect to approvals of the locations or plans and specifications of dams not approved under section 14 of that Act.
12. Section 9 of Ontario Regulation 267/03 (General) made under the *Nutrient Management Act, 2002*, with respect to nutrient management strategies.

13. Section 13 of Ontario Regulation 267/03 (General) made under the *Nutrient Management Act, 2002*, with respect to nutrient management plans.
14. Section 34 of the *Ontario Water Resources Act*, with respect to permits to take water.
15. Section 53 of the *Ontario Water Resources Act*, with respect to approvals to establish, alter, extend or replace new or existing sewage works.
16. Section 7 of the *Pesticides Act*, with respect to permits for land exterminations, structural exterminations and water exterminations issued by the Director.
17. Section 40 of the *Safe Drinking Water Act, 2002*, with respect to drinking water works permits issued by the Director.
18. Section 44 of the *Safe Drinking Water Act, 2002*, with respect to municipal drinking water licences issued by the Director.

(2) Despite subsection (1), for the purposes of subsection 44 (2) of the Act, every provision of every Act or regulation that authorizes the issuance or creation of an instrument is prescribed for the purposes of the definition of “prescribed instrument” in subsection 2 (1) of the Act.

(2) Subsection 1.0.1 (1) of the Regulation, as made by subsection (1), is amended by adding the following paragraph:

- 13.1 Section 15.1 of Ontario Regulation 267/03 (General) made under the *Nutrient Management Act, 2002*, with respect to NASM plans.

(3) Paragraph 14 of subsection 1.0.1 (1) of the Regulation, as made by subsection (1), is amended by striking out “section 34” and substituting “section 34.1”.

3. The heading before section 2 of the Regulation is revoked and the following substituted:

PREPARATION, APPROVAL AND AMENDMENT OF TERMS OF REFERENCE

4. Subsections 7 (3) and (4) of the Regulation are revoked and the following substituted:

(3) The source protection committee shall submit the proposed terms of reference to the source protection authority and take the other steps that are required to comply with section 9 of the Act not later than 12 months after the appointment of the first chair of the source protection committee.

5. Subsections 8 (2) and (3) of the Regulation are revoked and the following substituted:

(2) The source protection authority shall submit the proposed terms of reference to the Minister and take the other steps that are required to comply with subsection 10 (1) of the Act not later than 14 months after the appointment of the first chair of the source protection committee.

6. The heading before section 11 of the Regulation is revoked and the following substituted:

PREPARATION, APPROVAL AND UPDATING OF ASSESSMENT REPORTS

7. Subsection 11 (2) of the Regulation is revoked.

8. Section 12 of the Regulation is revoked and the following substituted:

Form

12. (1) If the Director approves a form to be used for assessment reports, an assessment report shall be in that form.

(2) If the Director provides the source protection committee with computer software or directs the committee to use a specified computer software for the purpose of preparing an assessment report, the report shall be prepared using the software.

9. Subsection 13 (2) of the Regulation is revoked.

10. Subclause 15 (2) (c) (iii) of the Regulation is revoked and the following substituted:

(iii) every person who the source protection committee believes is engaging in an activity listed under subclause 15 (2) (g) (i) of the Act that is or would be a significant drinking water threat,

11. Section 15 of the Regulation is amended by adding the following subsection:

(3.1) In a notice given under subclause (2) (c) (iii), the source protection committee shall specify,

- (a) that the source protection committee is giving the person the notice because the committee believes the person is engaging in an activity that is or would be a significant drinking water threat; and
- (b) the activity that the source protection committee believes is or would be a significant drinking water threat.

12. Subsection 17 (2) of the Regulation is revoked and the following substituted:

(2) The source protection authority shall submit the proposed assessment report to the Director and take the other steps that are required to comply with subsection 17 (1) of the Act by a date that is not later than the first anniversary of the date that notice of the approval of the terms of reference is published under section 11 of the Act.

13. The heading before section 19 and section 19 of the Regulation are revoked and the following substituted:

PREPARATION, APPROVAL AND AMENDMENT OF SOURCE PROTECTION PLANS

Notice when preparation begins

19. (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 source protection plan for the 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 source protection plan for the area.

(3) The source protection committee shall give every person the committee believes is engaging in an activity that is or would be a significant drinking water threat in the source protection area notice when the committee begins preparation of the source protection plan for the area.

(4) In a notice given under subsection (3), the source protection committee shall specify,

- (a) that the source protection committee is giving the person the notice because the committee believes the person is engaging in an activity that is or would be a significant drinking water threat;
- (b) the activity that the source protection committee believes is or would be a significant drinking water threat; and
- (c) that if the person is engaging in an activity that is regulated by a prescribed instrument, the person shall advise the source protection committee of the number, if any, of the prescribed instrument and a description of the provisions of the prescribed instrument that regulate the activity.

Records

19.1 A source protection committee shall retain every record that it creates or acquires for the purpose of preparing or amending a source protection plan for a period of 15 years after the later of the following dates:

1. The date the record is created or acquired.
2. The date the source protection plan is approved by the Minister under section 29 of the Act.

Form

19.2 (1) If the Director approves a form to be used for source protection plans, a source protection plan shall be in that form.

(2) If the Director provides the source protection committee with computer software or directs the committee to use a specified computer software for the purpose of preparing a source protection plan, the plan shall be prepared using the software.

Objectives

19.3 (1) Every source protection plan shall set out the following as objectives of the plan:

1. To protect existing and future drinking water sources in the source protection area.
2. To ensure that, for every area identified in an assessment report as an area where an activity is or would be a significant drinking water threat,
 - i. the activity never becomes a significant drinking water threat, or
 - ii. if the activity is occurring when the source protection plan takes effect, the activity ceases to be a significant drinking water threat.

(2) If a source protection plan sets out policies relating to conditions resulting from past activities, the plan shall set out that an objective of the plan is to ensure that for every area identified in the assessment report as an area where a condition that results from a past activity is a significant drinking water threat, the condition ceases to be a significant drinking water threat.

(3) If, under subsection 85 (6) of the Act, the Minister has directed that a report be prepared and submitted that recommends policies that should be set out in the source protection plan for the source protection area to assist in achieving a Great Lakes target, the plan shall set out that an objective of the plan is to achieve the target for the source protection area.

(4) No objectives other than the objectives set out in subsections (1) to (3) shall be contained in a source protection plan.

Designated activities, ss. 56 to 58 of the Act

19.4 (1) Subject to subsections (2) and (3), the activities set out in paragraphs 1 to 21 of subsection 1.1 (1) of this Regulation are prescribed for the purposes of subsection 22 (9) and clause 56 (1) (a) of the Act.

(2) The establishment, operation or maintenance of a waste disposal site within the meaning of Part V of the *Environmental Protection Act* is not prescribed as an activity for the purposes of subsection 22 (9) and clause 56 (1) (a) of the *Clean Water Act, 2006* if a certificate of approval or a provisional certificate of approval is required under Part V of the *Environmental Protection Act* for the establishment, operation or maintenance of the waste disposal site.

(3) The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage is not a prescribed activity for the purposes of subsection 22 (9) and clause 56 (1) (a) of the Act if,

- (a) an approval for the system is required under section 53 of the *Ontario Water Resources Act*; or
- (b) the *Building Code Act, 1992* applies to the system.

(4) An activity identified as a drinking water threat in an assessment report in accordance with Rule 119 of the rules made by the Director under section 107 of the Act, as amended from time to time, is prescribed for the purposes of subsection 22 (9) and clause 56 (1) (a) of the Act.

Prohibiting existing activities

19.5 An activity that is occurring when a source protection plan takes effect shall not be designated under paragraph 1 of subsection 22 (3) of the Act unless the source protection committee is of the opinion that the activity must be prohibited in order to ensure that it ceases to be a significant drinking water threat.

Designated land uses, s. 59 of the Act

19.6 If a source protection plan designates an area under paragraph 3 of subsection 22 (3) of the Act, land uses described in a zoning by-law that applies to the municipality to which that area belongs or in an official plan that is in effect in the municipality to which that area belongs are prescribed for the purposes of clause 22 (12) (a) of the Act.

Contents of source protection plan, policies

19.7 The following matters are prescribed for the purposes of paragraph 3 of subsection 22 (6) of the Act:

1. Policies with respect to drinking water threats identified in the assessment report or Great Lakes targets that,

- i. establish stewardship programs,
 - ii. specify and promote best management practices,
 - iii. establish pilot programs,
 - iv. govern research, or
 - v. specify the actions to be taken to implement the source protection plan or to achieve the plan's objectives.
2. Policies for the purposes of clause 39 (1) (b) of the Act.
 3. Policies for the purposes of clause 39 (7) (b) of the Act.
 4. Policies governing incentive programs and education and outreach programs, pursuant to subsection 22 (7) of the Act, with respect to drinking water systems in the source protection area that are not set out in clause 15 (2) (e) of the Act.
 5. Policies specifying the actions to be taken by persons or bodies in the source protection area to ensure that data on the climate conditions in the area is gathered on an ongoing basis, including data related to precipitation, stream, flow, temperature, evapotranspiration and solar radiation.

Contents of source protection plan, transport pathways policies

19.8 (1) A source protection plan may set out policies under subsection 22 (7) of the Act or paragraph 1 to 5 of section 19.7 of this Regulation that are intended to ensure that any drinking water threat in the vicinity of a transport pathway ceases to be or will not become a significant drinking water threat.

(2) If a municipality becomes aware of a proposal to engage in an activity that may result in the creation of a new transport pathway or the modification of an existing transport pathway, the municipality shall give the source protection authority and the source protection committee notice of the proposal and shall include a description of the proposal, the identity of the person responsible for the proposal, and a description of the approvals the person requires to engage in the proposed activity.

(3) If a municipality issues a notice described in subsection (2), the municipality shall give a copy of the notice to the person responsible for the proposal.

(4) For the purposes of this section,

“transport pathway” means a condition of land resulting from human activity that increases the vulnerability of a raw water supply of a drinking water system set out in clause 15 (2) (e) of the Act.

Contents of source protection plan, summary of consultations

19.9 For the purposes of paragraph 8 of subsection 22 (2) of the Act, a source protection plan shall set out the following:

1. A summary of all consultations undertaken during the development of the terms of reference.
2. A summary of all consultations undertaken during the preparation of the assessment report.
3. A summary of all consultations undertaken during the development of the source protection plan.

Contents of source protection plan, other

19.10 A source protection committee may include in a source protection plan anything that, in the opinion of the committee, will assist in understanding and implementing the plan.

Designating person or body, policies

19.11 A policy set out in a source protection plan under subsection 22 (7) of the Act or paragraph 1, 4 or 5 of section 19.7 of this Regulation shall designate the person or body responsible for implementing the policy.

Strategic action policies

19.12 Any policy set out in a source protection plan that is not one of the following policies shall be identified in the plan as a strategic action policy:

1. A significant threat policy.
2. A designated Great Lakes policy.
3. A policy to which section 45 of the Act applies.
4. A policy to which clause 39 (1) (b) of the Act applies.
5. A policy to which clause 39 (7) (b) of the Act applies.

Significant threat policies

19.13 A source protection plan shall identify the area to which a significant threat policy applies.

Moderate or low drinking water threat policies

19.14 (1) Any policy set out in a source protection plan that addresses moderate drinking water threats shall be identified in the plan as a moderate drinking water threat policy and shall identify the area to which the policy applies.

(2) Any policy set out in a source protection plan that addresses low drinking water threats shall be identified in the plan as a low drinking water threat policy and shall identify the area to which the policy applies.

Application of provisions if identified in plan

19.15 (1) Clause 39 (1) (a), subsections 39 (2) and (4) and sections 40 to 42 of the Act do not apply to a policy set out in a source protection plan unless the plan states that those provisions apply.

(2) Clause 39 (7) (a), section 43 and subsection 44 (1) of the Act do not apply to a policy set out in a source protection plan unless the plan states that those provisions apply.

(3) None of the following provisions applies to a policy set out in a source protection plan unless the plan states that the provision applies:

1. Section 38 of the Act.
2. Clause 39 (1) (b) of the Act.
3. Subsection 39 (6) of the Act.
4. Clause 39 (7) (b) of the Act.
5. Section 45 of the Act.

(4) If a source protection plan states that the provisions identified in subsection (2) or paragraph 4 of subsection (3) apply to a policy set out in the plan, the plan shall identify the types of prescribed instruments to which the policy applies.

(5) If the Director gives a source protection committee written directions specifying how to comply with subsections (1) to (4), the committee shall comply with the directions.

Explanatory document

19.16 (1) Before publishing a draft of a proposed source protection plan under section 19.21, the source protection committee shall prepare an explanatory document.

(2) An explanatory document shall contain the following:

1. An explanation of the source protection committee's rationale for each policy set out in the source protection plan.
2. An explanation of the source protection committee's rationale for designating an activity under paragraph 1 of subsection 22 (3) of the Act, including the reasons relied on by the committee to form the opinion that the activity must be prohibited in order to ensure that it ceases to be a significant drinking water threat.
3. A summary of the comments received under sections 19.17 to 19.20 and an explanation of how the comments affected the development of the policies set out in the source protection plan.
4. An explanation of how the summary referred to in paragraph 7 of subsection 13 (1) affected the development of the policies set out in the source protection plan.
5. If a policy described in subsection 22 (7) of the Act or paragraph 1 of section 19.7 of this Regulation is the only policy set out in a source protection plan to deal with an activity that has been identified as a significant drinking water threat, a statement that the source protection committee is of the opinion that,
 - i. the policy, if implemented, will promote the achievement of the objectives of the plan in accordance with paragraph 2 of subsection 22 (2) of the Act, and
 - ii. a policy to regulate or prohibit the activity is not necessary to achieve those objectives.

(3) The source protection committee shall make a copy of the explanatory document available for inspection by the public upon request.

(4) If the Director approves a form to be used for explanatory documents, an explanatory document shall be in that form.

(5) If the Director provides the source protection committee with computer software or directs the committee to use a specified computer software for the purpose of preparing an explanatory document, the document shall be prepared using the software.

Notice of designation

19.17 In a draft of a proposed source protection plan prepared under section 19.21, a source protection committee shall not designate any person or body as responsible for implementing a policy under section 19.11 or a policy respecting monitoring unless the committee,

- (a) provides notice of the proposed policy to the person or body who would be responsible for implementing the policy;

- (b) provides the draft wording of the proposed policy to the person or body referred to in clause (a);
- (c) provides a summary of the reasons for the proposed policy to the person or body referred to in clause (a);
- (d) requests comments on the proposed policy and the designation from the person or body referred to in clause (a); and
- (e) considers the comments received, if any, from the person or body referred to in clause (a).

Notice of policies affecting prescribed instruments

19.18 A source protection committee shall not set out a policy that affects a prescribed instrument in a draft of a proposed source protection plan prepared under section 19.21 unless the committee,

- (a) provides notice of the proposed policy to the person or body responsible for issuing or otherwise creating the prescribed instrument;
- (b) provides the draft wording of the proposed policy to the person or body referred to in clause (a);
- (c) provides a summary of the reasons for the proposed policy to the person or body referred to in clause (a);
- (d) requests comments on the proposed policy from the person or body referred to in clause (a); and
- (e) considers the comments received, if any, from the person or body referred to in clause (a).

Notice of policies affecting decisions under other Acts

19.19 A source protection committee shall not set out a policy that affects decisions made under the *Planning Act* or the *Condominium Act, 1998* in a draft of a proposed source protection plan prepared under section 19.21 unless the committee,

- (a) provides notice of the proposed policy to the municipal counsel, municipal planning authority, planning board or other local board whose decision will be affected;
- (b) provides the wording of the proposed policy to the body referred to in clause (a);
- (c) provides a summary of the reasons for supporting the proposed policy to the body referred to in clause (a);

- (d) requests comments on the proposed policy from the body referred to in clause (a); and
- (e) considers the comments received, if any, from the body referred to in clause (a).

Notice of significant threat policies

19.20 (1) A source protection committee shall not set out a significant threat policy or designated Great Lakes policy that, pursuant to section 38 of the Act, obligates a municipality, local board or source protection authority to comply with the policy in a draft of a proposed source protection plan prepared under section 19.21 of this Regulation unless the committee,

- (a) provides notice of the proposed policy to the municipality, local board or source protection authority who will be affected;
- (b) provides the wording of the proposed policy to the municipality or body referred to in clause (a);
- (c) provides a summary of the reasons for the proposed policy to the municipality or body referred to in clause (a);
- (d) requests comments on the proposed policy from the municipality or body referred to in clause (a); and
- (e) considers the comments received, if any, from the municipality or body referred to in clause (a).

(2) The source protection committee is not required to comply with the notice requirements set out subsection (1) if notice has been given under section 19.17.

Consultation on draft source protection plan

19.21 (1) A source protection committee that is preparing a source protection plan for a source protection area shall, before submitting the proposed plan to the source protection authority under subsection 22 (16) of the Act, prepare a draft of the proposed source protection plan, 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 committee, are sufficiently accessible to give the public in the area a reasonable opportunity to inspect the draft.

(2) As soon as reasonably possible after publishing the draft of the proposed source protection plan on the Internet, the source protection committee shall,

- (a) publish a notice described in subsection (3) 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;

- (b) make the notice referred to in clause (a) 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; and
- (c) give a copy of the notice referred to in clause (a) 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) every person the source protection committee believes is engaging in an activity listed under subclause 15 (2) (g) (i) of the Act that is or would be a significant drinking water threat,
 - (iv) if the terms of reference list a matter that requires consultation with another source protection committee during the preparation of the source protection plan, the chair of the other source protection committee, and
 - (v) 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.

(3) The notice referred to in clause (2) (a) shall advise the public in the source protection area and the persons referred to in clause (2) (c) of the opportunity to,

- (a) view the draft of the proposed source protection plan on the Internet;
- (b) inspect the draft of the proposed source protection plan, during times specified in the notice, at a location specified in the notice;
- (c) attend a public meeting on the draft of the proposed source protection plan on a date, at a time and at a location specified in the notice; and

- (d) submit written comments on the draft of the proposed source protection plan to the source protection committee by a date specified in the notice that is not earlier than 35 days after the notice is first published under clause (2) (a).

(4) In a notice given under subclause (2) (c) (iii), the source protection committee shall specify,

- (a) that the source protection committee is giving the person the notice because the committee believes the person is engaging in an activity that is or would be a significant drinking water threat; and
- (b) the activity that the source protection committee believes is or would be a significant drinking water threat.

(5) 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 of the proposed source protection plan, ask questions and make comments.

(6) In finalizing the proposed source protection plan, the source protection committee shall consider,

- (a) written comments that are submitted to the source protection committee by the date specified under clause (3) (d); and
- (b) comments made at any public meeting held under subsection (5).

Submission of proposed source protection plan to source protection authority

19.22 (1) When the source protection committee submits the proposed source protection plan to the source protection authority under subsection 22 (16) 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 proposed source protection plan and that were not resolved to the satisfaction of the bands;
- (b) give a copy of the proposed source protection plan and the summary referred to in clause (a) to each chief of a band to whom notice was required to be given under subclause 19.21 (2) (c) (ii); and
- (c) give the source protection authority a summary of any concerns that were raised by municipalities during the preparation of the proposed source protection plan and that were not resolved to the satisfaction of the municipalities.

(2) The source protection authority shall give notice of the proposed source protection plan to each person referred to in clause (1) (b) by mail, e-mail, fax or personal service.

(3) The source protection authority shall publish the proposed source protection plan on the Internet or in such other manner as the authority considers appropriate.

(4) The source protection authority shall publish notice of the proposed source protection plan on the Internet inviting the public to submit comments on the plan within 30 days after publishing the notice.

Submission of explanatory document to source protection authority

19.23 (1) The source protection committee shall submit the explanatory document prepared under section 19.16 of this Regulation to the source protection authority when the proposed source protection plan is submitted to the authority under subsection 22 (16) of the Act.

(2) Before submitting the explanatory document to the source protection authority under subsection (1), the document shall be updated to reflect any changes made to the draft of the proposed source protection plan.

Submission of proposed source protection plan to Minister

19.24 When the source protection authority submits the proposed source protection plan to the Minister under section 25 of the Act, it shall,

- (a) give the Minister the summaries of concerns referred to in clauses 19.22 (1) (a) and (c) of this Regulation; and
- (b) give the source protection committee copies of any comments referred to in clause 25 (a) or (b) of the Act and a copy of any resolutions referred to in clause 25 (c) of the Act.

Submission of explanatory document to Minister

19.25 (1) The source protection authority shall submit the explanatory document received under section 19.23 of this Regulation to the Minister when the proposed source protection plan is submitted under section 25 of the Act or resubmitted under subclause 29 (1) (b) (ii) of the Act.

(2) If the Minister requires any amendments to a source protection plan under subclause 29 (1) (b) (i) of the Act or considers any amendments appropriate under clause 29 (2) (b) of the Act, the explanatory document shall be updated to reflect those amendments.

Time limit for submitting proposed source protection plan to Minister

19.26 The source protection authority shall submit the proposed source protection plan to the Minister and take the other steps that are required to comply with section 25 of the Act not later than the fifth anniversary of the appointment of the first chair of the source protection committee.

Notice of hearing

19.27 (1) A notice given under clause 28 (2) (b) of the Act shall be given by mail, e-mail, fax or personal service.

(2) For the purposes of giving notice under clause 28 (2) (b) of the Act, the following persons and public bodies are prescribed:

1. The chair of the source protection committee.
2. If the source protection authority is a conservation authority, the source protection authority's chief administrative officer.
3. If the source protection authority is not a conservation authority, the person who oversees the operation of the source protection authority.
4. If a municipality is located in the source protection area and, in the opinion of the hearing officer is affected by the matter that is referred to a hearing, the clerk of that municipality.
5. If any part of the reserve of a band is included in the source protection area, the chief of the band.

Updating, explanatory document

19.28 If the plan is amended under section 34 or 35 of the Act or subsection 19.31 (1) of this Regulation, the explanatory document shall be updated to reflect the amendment and shall be submitted to the Minister under subsection 34 (4) or 35 (7) of the Act, as the case may be, with the amendment.

Amendments, source protection plan

19.29 (1) A source protection authority may propose an amendment to a source protection plan under section 34 of the Act if,

- (a) the source protection authority consults with the source protection committee about the proposed amendment; and
- (b) the source protection authority and the source protection committee are both of the opinion that the amendment is advisable.

(2) If a source protection authority intends to propose an amendment that relates to the implementation of a proposal to engage in an activity described in subsection 19.8 (2), the authority shall give notice of the authority's intention to propose the amendment to the municipality and the person responsible for the proposal.

Publication and notice of amendments

19.30 (1) The source protection authority shall publish a proposed amendment to a source protection plan on the Internet and make it available for inspection by the public at one or more locations that, in the opinion of the authority, are sufficiently accessible to give the public in the source protection area a reasonable opportunity to inspect the proposed amendment.

(2) The following persons are prescribed for the purpose of clause 34 (3) (b) of the Act:

1. The clerk of each municipality in which any part of the source protection area that is affected by the proposed amendment is located;
2. If any part of the reserve of a band is included in the part of the source protection area that is affected by the proposed amendment, the chief of the band; and
3. If the proposed amendment relates to a significant threat policy, every person the source protection authority believes is engaging in an activity that is a subject of the policy.

(3) Notice under clause 34 (3) (b) of the Act shall be given, as soon as reasonably possible after publishing the proposed amendment on the Internet, to the persons described in paragraphs 1 to 3 of subsection (2) and shall advise those persons of the opportunity to,

- (a) view the proposed amendment on the Internet;
- (b) inspect the proposed amendment, during times specified in the notice, at a location specified in the notice; and
- (c) submit written comments on the proposed amendment to the source protection authority by a date specified in the notice that is not earlier than 35 days after the notice is first published.

(4) Notice under clause 34 (3) (c) of the Act shall be published, as soon as reasonably possible after publishing the proposed amendment on the Internet, in one or more newspapers that, in the opinion of the authority, are of sufficiently general circulation to bring the notice to the attention of the public in the source protection area that is affected by the proposed amendment and shall advise the public of the opportunity to,

- (a) view the proposed amendment on the Internet;
- (b) inspect the proposed amendment, during times specified in the notice, at a location specified in the notice; and

- (c) submit written comments on the proposed amendment to the source protection authority by a date specified in the notice that is not earlier than 35 days after the notice is first published in the newspaper.

(5) In a notice given under subsection (3) to a person described in paragraph 3 of subsection (2), the source protection authority shall specify,

- (a) that the source protection authority is giving the person the notice because the authority believes the person is engaging in an activity that is or would be a significant drinking water threat; and
- (b) the activity that the source protection authority believes is or would be a significant drinking water threat.

Typographical errors, etc.

19.31 (1) Subsections 34 (2) to (5) of the Act and section 19.30 of this Regulation do not apply to the following amendments to a source protection plan:

1. An amendment that is made to correct a clerical, grammatical or typographical error.
2. An amendment that is made to alter the style or presentation of text or graphics in order to improve electronic or print presentation.
3. If the source protection plan contains a provision that is contingent on the occurrence of a future event and the event occurs, an amendment that is made to remove the text referring to the contingency and to make any other related changes.
4. An amendment that is made to change references to a name, title, location or address if the name, title, location or address of a body, office, person, place or thing has changed.
5. An amendment that is made to correct errors in the numbering of provisions of the source protection plan and any related changes in cross-references.
6. An amendment that is made to correct errors, if it is patent that an error has been made and what the correction should be.

(2) If an amendment described in paragraphs 1 to 6 of subsection (1) is made, the source protection authority shall publish the amended source protection plan and a notice describing the amendment on the Internet as soon as reasonably possible after the amendment is made.

Annual progress reports

19.32 (1) An annual report prepared under section 46 of the Act shall include the following information:

1. If the source protection plan sets out a policy that specifies a date by which a particular action shall be taken by a person or body, and the person or body fails to take that action by that date, the report shall identify the failure and the reasons for the failure.
2. If the source protection plan sets out policies governing the monitoring of a drinking water issue under paragraph 4 of subsection 22 (2) of the Act, the report shall describe the effectiveness of the policies in addressing that issue.
3. If the source protection plan sets out a policy that addresses conditions resulting from past activities and those conditions are significant drinking water threats, the report shall describe any measures that have been taken to ensure the conditions cease to be significant drinking water threats.
4. If, under paragraph 3 of subsection 22 (2) of the Act, a source protection plan sets out a policy intended to assist in achieving a Great Lakes target, the report shall describe the measures taken to implement that policy.
5. The report shall describe any steps taken during the reporting period to address any limitations in the information that was used in developing the assessment report set out in the source protection plan.

(2) If the Director approves a form to be used for annual reports prepared under section 46 of the Act, a report shall be in that form.

(3) If the Director provides the source protection authority with computer software or directs the authority to use a specified computer software for the purpose of preparing an annual report under section 46 of the Act, the report shall be prepared using the software.

APPLICATION OF PART IV OF THE ACT

Prescribed records and time periods

19.33 (1) The following records are prescribed for the purposes of subsection 54 (1) of the Act:

1. Every risk management plan agreed to or established under Part IV of the Act and amendments to those plans.
2. Every notice and every order issued by the enforcement authority under Part IV of the Act.
3. Every risk assessment accepted by the risk management official under Part IV of the Act.

4. Every acceptance of a risk assessment by the risk management official under Part IV of the Act.
5. Any other record that is acquired or created by the enforcement authority for the purposes of administering Part IV of the Act.

(2) For the purposes of subsection 54 (1) of the Act, the period of time for which a record shall be retained is determined by the following rules:

1. A risk management plan described in paragraph 1 of subsection (1) shall be retained for 15 years from the date the plan ceases to be in effect.
2. A notice or order described in paragraph 2 of subsection (1) shall be retained for 15 years from the date the notice or order is issued.
3. A risk assessment described in paragraph 3 of subsection (1) shall be retained for 15 years from the date of acceptance.
4. An acceptance of a risk assessment described in paragraph 4 of subsection (1) shall be retained for 15 years from the date of acceptance.
5. A record described in paragraph 5 of subsection (1) shall be retained for 15 years from the date the record is acquired or created.

(3) For the purposes of subsection 54 (3) of the Act, the records described in paragraphs 1, 2 and 4 of subsection (1) are prescribed as records that shall be made available to the public.

Prescribed circumstances, s. 56 of the Act

19.34 A risk management official may give a notice under subsection 56 (3) of the Act with respect to an activity if,

- (a) in the opinion of the risk management official, the activity, if engaged in without a risk management plan, will result in or is likely to result in a drinking water health hazard; and
- (b) the activity is not regulated by a prescribed instrument.

Risk management plan contents

19.35 Without limiting the generality of sections 56 and 58 of the Act, a risk management plan may contain,

- (a) requirements dealing with the remediation of adverse effects caused by the activity to which the plan relates; and

- (b) a requirement to provide financial assurance in a form specified in the plan.

Transfer of risk management plan

19.36 Every risk management plan shall contain a provision stating that it cannot be transferred to another person without the written consent of the risk management official.

Exemption from s. 58 of the Act

19.37 (1) Section 58 of the Act does not apply to an activity if the person who engages in the activity gives the risk management official written notice,

- (a) stating that the activity is governed by a prescribed instrument that contains provisions to ensure that the activity ceases to be or will not become a significant drinking water threat; and
- (b) if a source protection plan is in effect, stating that the provisions referred to in clause (a) conform to the significant threat policies set out in the plan.

(2) The notice given under subsection (1) shall be in a form approved by the Director and shall,

- (a) identify the prescribed instrument; and
- (b) describe the provisions that are contained in the prescribed instrument to ensure that the activity ceases to be or will not become a significant drinking water threat.

(3) The risk management official shall give a copy of the notice given under subsection (1) to the Director and to the person or body responsible for issuing or creating the prescribed instrument.

Prescribed provisions, s. 59 of the Act

19.38 The following provisions of the *Planning Act* are prescribed for the purposes of clause 59 (1) (a) of the *Clean Water Act, 2006*:

1. Section 22 of the *Planning Act*, with respect to requests to amend official plans.
2. Section 34 of the *Planning Act*, with respect to applications to amend zoning by-laws.
3. Section 41 of the *Planning Act*, with respect to applications for approval to undertake development in a site plan control area.
4. Section 45 of the *Planning Act*, with respect to applications for minor variances.

5. Section 51 of the *Planning Act*, with respect to applications for approval of plans of subdivision.
6. Section 53 of the *Planning Act*, with respect to applications for consents.

Powers of entry — risk management — training

19.39 For the purposes of subsections 62 (2) and 66 (2) of the Act, a person shall not enter property unless the person has, in the preceding five years, successfully completed a course that meets the following criteria:

1. The course includes,
 - i. an explanation of the powers to enter property under the Act, and
 - ii. a discussion of protocols for exercising powers of entry under the Act.
2. In the opinion of the Director, the course provides adequate training for persons entering property for the purposes described in subsection 62 (1) and sections 64 and 65 of the Act.

Powers of entry — training — exemption

19.40 Subsection 66 (2) of the Act does not apply to a person who enters property with the consent of an occupier of the property or under the authority of a warrant issued under subsection 66 (4) of the Act.

Prescribed qualifications, s. 53 of the Act

19.41 For the purposes of section 53 of the Act, a risk management official or risk management inspector has the prescribed qualifications if he or she has, in the preceding five years, successfully completed a course that meets the following criteria:

1. The course includes,
 - i. a description of the rules governing the preparation of assessment reports, source protection plans, risk management plans and risk assessments,
 - ii. a description of Part IV of the Act,
 - iii. an overview of procedures before the Environmental Review Tribunal, and
 - iv. a description of the prescribed instruments to which subsection 39 (7) of the Act applies and the way in which they regulate activities that could be identified in a source protection plan as significant drinking water threats.

2. In the opinion of the Director, the course provides adequate training for a person appointed as a risk management official or risk management inspector under the Act.

Prescribed qualifications, ss. 56, 58 and 60 of the Act

19.42 For the purposes of clauses 56 (9) (b), 58 (15) (b) and 60 (2) (b) of the Act, a person has the prescribed qualifications if the person has, in the preceding five years, successfully completed a course that,

- (a) meets the criteria set out in paragraph 1 of section 19.41 of this Regulation; and
- (b) in the opinion of the Director, provides adequate training for a person to provide a statement under those provisions of the Act.

Prescribed circumstances, ss. 56, 58 and 60 of the Act

19.43 Any circumstances that the council of a municipality, board of health, planning board, source protection authority or Minister, as the case may be, considers appropriate are prescribed for the purposes of subsection 55 (5) of the Act.

Notice of abandonment by receiver or trustee in bankruptcy

19.44 A notice given under clause 79 (5) (a) or (b) of the Act by a receiver or trustee in bankruptcy that they have abandoned, disposed of or otherwise released their interest in property shall be given in accordance with section 100 of the Act and shall contain the following information:

1. The name and contact information of the receiver or trustee in bankruptcy.
2. The date the receiver or trustee in bankruptcy abandoned, disposed of or otherwise released their interest in the property.
3. The municipal address of the property to which the notice relates or, if there is no such address, a legally sufficient description of the property.

Annual reports

19.45 (1) An annual report prepared by a risk management official under section 81 of the Act shall contain the following information:

1. The number of risk management plans agreed to by the risk management official under subsection 56 (1) or 58 (5) of the Act and the number of plans established by the official under subsection 56 (6), 58 (10) or (12) of the Act during the reporting period, including, for each plan:
 - i. The location of the property to which the plan relates.

- ii. The wellhead protection area or surface water intake protection zone where the property is located.
 - iii. The activity to which the plan relates.
 2. The number of plans refused by the risk management official under subsection 56 (9), 58 (15) or (16) of the Act, including, for each plan refused:
 - i. The location of the property to which the plan relates.
 - ii. The wellhead protection area or surface water intake protection zone where the property is located.
 - iii. The activity to which the plan relates.
 - iv. The reasons for the refusal.
 3. The number of orders issued under Part IV of the Act during the reporting period, including, for each order:
 - i. A brief description of the circumstances related to the order.
 - ii. The location of the property to which the order relates.
 - iii. The wellhead protection area or surface water intake protection zone where the property is located.
 - iv. The activity to which the order relates.
 4. The number of inspections conducted under section 62 of the Act, and for each inspection the activity to which the inspection related.
 5. A description of any inspection programs conducted under section 62 of the Act.
 6. The number of risk assessments submitted and the number of risk assessments accepted or rejected, including, for each application:
 - i. The location of the property to which the risk assessment relates.
 - ii. The wellhead protection area or surface water intake protection zone where the property is located.
 - iii. The activity to which the risk assessment relates.

7. The number of times the risk management official caused a thing to be done under section 64 of the Act, including, for each instance:
 - i. The location of the property to which the notice under section 64 of the Act relates.
 - ii. The wellhead protection area or the surface water intake protection zone where the property is located.
 - iii. The activity to which the notice under section 64 of the Act relates.
8. The total number of prosecutions and the number of prosecutions that resulted in a conviction under section 106 of the Act, including a brief description of each offence.

(2) If the Director approves a form to be used for annual reports prepared under section 81 of the Act, a report shall be in that form.

(3) If the Director provides the risk management official with computer software or directs the official to use a specified computer software for the purpose of preparing an annual report under section 81 of the Act, the report shall be prepared using the software.

14. (1) Subject to subsections (2) and (3), this Regulation comes into force on the later of July 1, 2010 and the day this Regulation is filed.

(2) Subsection 2 (2) comes into force on the later of the day subsection 2 (1) of this Regulation comes into force and January 1, 2011.

(3) Subsection 2 (3) comes into force on the later of the day subsection 2 (1) of this Regulation comes into force and the day subsection 1 (8) of the *Safeguarding and Sustaining Ontario's Water Act, 2007* comes into force.