



MOE Liaison Officer Program Update

Date: October 8, 2009

1. Terms of reference

- All 19 source protection committees have submitted their proposed terms of reference to the ministry for approval.
- As of Monday, August 17, 2009 all thirty eight terms of reference were approved by the Minister and the decision notices posted to the Environmental Registry.

2. Assessment report

Technical bulletins completed sent to PMs:

- Delineation of Significant Groundwater Recharge Areas
- Addressing Transportation Threats
- Climate Change Requirements
- Water Budget Drought Scenarios
- Groundwater Road Map
- Surface Water Road Map
- Delineation of Intake Protection Zone 3, Using the Event Based Approach (EBA)
- Constructing Earth Energy Systems in Ontario (Geothermal)
- Proposed Methodology for Calculating Percentage of Managed Lands and Livestock Density for Land Application of Agricultural Source of Material, Non-Agricultural Source of Material and Commercial Fertilizer

Technical bulletins in preparation:

- General IPZ delineation guidance
- GUDI delineations
- General groundwater delineation guidance
- Provincial lists of threats and circumstances

Upcoming training:

- Nothing at this time – stay tuned for an update in November.



3. Information management

- The Phase 1 data scanning was completed in July 2009. The Source Protection Authorities should have received an electronic copy of Ministry of the Environment files pertaining to water within the 500 metres of a well or within 1 km of a surface water intake.
- Brownfield's Environmental Site Registry (BESR) data were originally scheduled to be released on the Ministry's CA Portal in August 2009. However, pending a data integrity review, the data will not be available in bulk in an automated fashion until 2010. Individual records of site condition (on a site by site basis) continue to be available on the BESR website by the general public.
- On September 17, 2009 the following data sets were made available to Source Protection Authorities:
 - Drinking Water Information System (DWIS)
 - Drinking Water Surveillance Program (DWSP)
 - Sewage and Water Inspection Program (SWIP)

This information will be available long-term on the FTP site managed by Conservation Ontario.

- Ontario Water Taking and Reporting System data will include the actual water takings submitted to the Water Taking and Reporting System (WTRS) by the Permit To Take Water clients. The anticipated timeline for upload of this information to the Conservation Ontario FTP site is November 2009.
- On September 28, 2009 the Technical Standards and Safety Authority (TSSA) provided the ministry records on bulk fuel storage and retail facilities in Ontario. The TSSA data includes 20,884 records representing the fuel types, storage capacities and other operational data regarding individual fuel tanks at each of 5744 fuel outlets. The data include all of the necessary address information for the determination of geospatial coordinates and this task will need to be completed by individual CAs for their respective data. There are still some questions regarding the metadata around a couple of the fields; therefore, the expected release date is sometime in October. The ministry is currently working on the transfer method to the CAs. The Liaison Officers are currently collecting a



list of all information still needed for assessment reports. If you have outstanding or emerging data needs please contact your Liaison Officer.

4. Recent letters / memos

- Memo from Ian Smith, dated September 25, 2009 - Ministry of Health Liaison Roles and Responsibilities
- Letter from Ian Smith, dated September 25, 2009 - Risk Management Catalogue Update
- Letter from Ian Smith, dated October 1, 2009 – Summary of the Policy Creation of Dry Run Exercise
- Memo from Keith Wilson, dated October 1, 2009 – Section 88 Update

5. EBR postings related to source protection

Technical Rules

- Notices for terms of reference approvals were posted on the Environmental Bill of Rights registry (EBR). The comment period for this posting closed on September 23, 2009. The ministry is currently reviewing the comments received and plan to post the amended technical rules by the end of October, 2009.

Source Protection Planning Discussion Paper

Ministry of the Environment posted the document “*Source Protection Plans under the Clean Water Act, 2006: A Discussion Paper on Requirements for the Content and Preparation of Source Protection Plans*” on the Environmental Bill of Rights (EBR) website www.ebr.gov.on.ca, # **010-6726** on June 25th, 2009 for a 90-day public comment period. The purpose of the document is to stimulate discussion on source protection plans, their content, and how they will be developed, so that the ministry can use the results of the discussion in developing the draft source protection plan regulations. The EBR posting closed on September 23, 2009. The ministry is currently reviewing the comments received. The ministry is aiming to post the draft regulation on the EBR this fall.



6. Ontario Drinking Water Stewardship Program

- The Ministry of the Environment launched the 2009-10 ODWSP on July 17, 2009; there is \$7 million available this year under the program.
- The initial launch of the 2009-10 ODWSP closely mirrors the 2008-09 funding year. Some administrative changes have been made as a part of the continuous improvement strategy of the MOE. Some of these administrative changes include:
 - a streamlined submission process and two application periods/deadlines to better align with fiscal year-end processes and activities
 - strengthened application review and selection criteria
 - more stringent reporting requirements
 - more frequent assessment of approved projects and activities to ensure value for money
- Changes to the program funding projects including the following:
 - Special Projects**
 - Financial assistance for the delivery of ODWSP Early Actions funding moved from Special Projects to Early Actions component of the ODWSP
 - First Nations education and outreach initiatives moved to Education and Outreach component of the ODWSP
 - Education & Outreach**
 - Now includes First Nations initiatives
 - Early Actions**
 - Now includes financial assistance for the delivery of the ODWSP (formerly under Special Projects)
 - Additional agricultural best management practices added
 - Alignment with new Environmental Farm Plan (Growing Forward)
 - Additional erosion and run-off control projects
- Requests for grant proposals and associated applications for Education and Outreach, Special Projects, and Early Actions components are posted on the ministry's website at www.ontario.ca/cleanwater.
- In the fall of 2009 the ODWSP will be undergoing a strategic shift to focus on providing financial assistance to those affected by the Act. On August 20, 2009 an ODWSP Concept Paper was released to the PMs and Chairs for review and comment. The concept for the framework for Early Response was favourably received by stakeholders. It is now proceeding



through final approvals and we expect to communicate its launch by the end of October.

7. First Nations Drinking Water Systems – Update

- To date, the ministry has received two Band Council resolutions, from Kettle and Stony Point First Nation (KSPFN) and Six Nations of the Grand River to include their drinking water systems in the source protection planning process.

Two other First Nations have expressed an interest in making a Band Council resolution: Rama and Mohawks of the Bay of Quinte.

The ministry is considering developing a regulation to include the KSPFN and Six Nations drinking water systems.

The KSPFN Band Council Resolution requests that both the existing on-reserve (Kettle Point) drinking water system, and the nearby system located at Camp Ipperwash (not currently part of the reserve) be included in the source protection planning process. The specific details would be set out in a Memorandum of Understanding between the ministry, KSPFN, and the SPAs/SPCs (e.g. which party will do the technical work, etc.).

The Six Nations Band Council resolution requests that the Ohsweken (Grand River) drinking water intake be included in the drinking water source protection planning process. SPPB staff met with representatives from Six Nations and the GRCA on August 17, 2009. It was agreed that the GRCA will conduct the technical work related to potential threats located off-reserve. The specific details will be set out in a Transfer Payment Agreement between the ministry and the Grand River Conservation Authority. Six Nations staff will be part of the project team overseeing the technical work.

MOE is targeting to have the necessary regulation in place by February 2010. An *Environmental Bill of Rights* Registry proposal is scheduled to be posted mid-October.



First Nations and Capacity Issues

First Nations have indicated that they require capacity funding in order to effectively participate in the overall source protection planning process

SPPB will provide, via an application process, annual funding in the amount of \$10K to First Nations with reserves in a source protection area to enable participation in the overall source protection planning process.

SPPB is currently working on an application form, a guidance document about how to complete the application form and a Grant Funding Agreement template, which will be posted on our website. Once this is complete, we will write to all First Nations with reserves in source protection areas informing them of the availability of capacity funding and directing them to the website for the application form etc. We hope to have this completed within the next few months.

Funding for Technical Work for First Nations Drinking Water Systems

SPPB will provide funding for the work associated with the inclusion of specific First Nations drinking water systems in the source protection planning process:

SPPB will fund the technical assessment (e.g. groundwater studies) and the planning work in the same manner as is done for the technical and planning work for municipal drinking water systems.

8. Recent Questions and Answers

Assessment Report – General

The following questions were raised and answered between August 15th, 2009 to September 30, 2009.

1. Question:

What public bodies are obligated to provide SPAs with data or information?

Answer:

Definitions under Clean Water Act



“public body” means,

- (a) a municipality, local board or conservation authority,
- (b) a ministry, board, commission, agency or official of the Government of Ontario, or
- (c) a body prescribed by the regulations or an official of a body prescribed by the regulations;

Clean Water Act - Obligations of others

87. (1) On request, a person or body listed in subsection (2) shall, for a purpose listed in subsection (3), provide a source protection authority, source protection committee, municipality or ministry with copies of any document or other record in the possession or control of the person or body that relates to the quality or quantity of any water that is or may be used as a source of drinking water, including,

- (a) any technical or scientific studies undertaken by or on behalf of the person or body; and
- (b) any document or other record relating to a drinking water threat. 2006, c. 22, s. 87 (1).

Persons and bodies

(2) The persons and bodies referred to in subsection (1) are:

1. A local board.
2. A ministry, board, commission or agency of the Government of Ontario.
3. A designated administrative authority within the meaning of the Safety and Consumer Statutes Administration Act, 1996 that is prescribed by the regulations. 2006, c. 22, s. 87 (2).

Safety and Consumer Statutes Administration Act, 1996 (O. Reg. 27/05)

Designated Administrative Authorities:

Technical Standards and Safety Act, 2000

5. For the purposes of subsection 3 (2) of the Act, the Technical Standards and Safety Authority, that is incorporated under the laws of the Province of Ontario by letters patent dated August 30, 1996 and with which the Minister of Consumer and Commercial Relations entered into an administrative agreement dated January 13, 1997 for the purposes of section 4 of the Act, is designated as the sole administrative authority for the purpose of administering the provisions of the Technical Standards and Safety Act, 2000



and the regulations made under that Act that are designated legislation under section 1. O. Reg. 27/05, s. 5.

2. Question:

If there is a well cluster associated with a sub-division on which a municipality wanted to have a threats evaluation done, can they designate the system by a council resolution to be included in the program? In this case what rules apply to the vulnerable area delineation?

Response:

If a municipality identifies a cluster of wells, or any other well except a single private well not part of a cluster, that they want to include within the terms of reference, they need to pass a make the council resolution that brings in the system and the terms of reference has to be amended to include the cluster. At that point in time, rule 51 or 52 apply, depending on the tests in the rules. For private wells, which can not be included in the terms of reference, if none serve a designated facility, then rule 52 applies. This requires they delineate the WHPA A and B in accordance with rule 42.

3. Question:

Rule 58 requires the delineation of an intake protection area (IPA) by combining IPZ-1, IPZ-2, IPZ-3 and IPZ-Q. When this happens, pockets/islands can be created. Should those islands be included as part of the IPA or left out?

Similarly, rule 47 requires the delineation of a WHPA for a combination of WHPA-A, -B, -C, -D, -E and -F. Should the islands be filled in or omitted.

Response:

Pockets/islands may be identified in the delineation of the IPZs. Pockets/islands should not be included in the IPZ. With WHPAs, there may be pockets with the WHPA-E and -F delineation, which again should not be pulled into the WHPA. If SPA staff are getting pockets in the delineation of WHPA-A through -D, the staff may need to discuss the methodologies with MOE staff, as these pockets should not occur.

4. Question:

What is the definition of 'high water mark' as it is referenced in the Technical Rules?



Response:

The term 'high water mark' under the Director's Technical Rules is consistent with the definition of 'ordinary high water mark' as defined by Fisheries and Ocean Canada (DFO): The usual or average level to which a body of water rises at its highest point and remains for sufficient time so as to change the characteristics of the land. For the purposes of the Director's Technical Rules:

1. For all types of water body where a long term record of water levels exists: the high water mark can be calculated as the 80th percentile for the month within which the highest water level occurs. This means that 80% of the time the water level is at or below this elevation. For Great lakes and connecting channels water bodies, the 80th percentile elevation has been already calculated and known, this refers to the 80th percentile elevation above chart datum as described in DFO's Fish Habitat Fact Sheet #T-6.
2. For all types of water body where a long term record of water levels does not exist: the high water mark can be estimated as follows:
 - a. For inland rivers - it is the bank full level where a 2 yr flood return period applies.
 - b. For inland lakes and wetlands - it is the level at which flood plains are flooded and leave a mark where natural vegetation changes from predominately aquatic vegetation to terrestrial vegetation.
 - c. For regulated rivers - it is the highest operating water level (Full Supply Level).

Threats and Issues

5. Question:

If more than one chemical is present at a site is it true that you do not need to document which chemicals are there, just that hazardous chemicals are present?

Answer:

Yes this is true. The likely scenario is that the chemicals present at the site will not be known, only the activity will be known and the assumption will be made that the chemicals present are those listed (in the threats tables). This is a sensible approach. Strictly speaking the locations at which an activity is taking place need to be reported – and the activity does not need to include the chemical.



6. Question:

Will the risk management measures catalogue contain guidance for threats to both water quantity and quality?

Response:

Currently, MOE is preparing two separate catalogues of risk management Measures - one for threats to water quality and another for threats to water quantity. The risk management measures described in the catalogues will range from operational practices to technology improvements, with a description of the level of risk reduction that each measure provides. For threats that pose a risk to water quality, the catalogue will include a relative rating of the effectiveness of the measure. For threats to water quantity, the catalogue will refer to management measures that may be considered for application to any activities or conditions that may impact the significance of the threat. The measure would then manage the impact of the activity on a municipal well or intake, and therefore affect the ability of the well or intake to take water at its allocated quantity. (This question was revised on August 27th, 2009).

7. Question:

According to the threats analysis tool a privately owned septic system in a WHPA-A with a vulnerability scoring of 10 is flagged as a significant chemical threat. The tool specifies that the type of threat is "The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage within the meaning of the Ontario Water Resources Act." Upon further review, private septic systems do not fall within the Ontario Water Resources Act guidelines instead the privately owned system falls within the requirements of the Ontario Building Code Act, which therefore means the threat is not significant?

Response:

The actual prescribed threat is called "The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage". The Ontario Water Resources Act reference is incorrect on the reference site and MOE staff are trying to get that fixed. Therefore, there are a number of circumstances under the prescribed threat that apply to systems regulated under the building code. These include:

- Septic systems under the building code.

DRINKING WATER SOURCE PROTECTION

ACT FOR CLEAN WATER

- Chemicals are covered under threat reference numbers 831 to 836. None of these are significant drinking water threats. The circumstances are:
 1. The system is an earth pit privy, privy vault, grey water system, cesspool, or a leaching bed system and its associated treatment unit;
 2. The system is subject to the Ontario Building Code Act, 1992; and,
 3. There is a list of chemicals under circumstance 3.
- The pathogen threat reference is 1955 and the activity is significant in an area that scores 10. The circumstances are:
 1. The system is an earth pit privy, privy vault, cesspool, or a leaching bed system and its associated treatment unit and is a sewage system as defined in section 1 of O. Reg. 350/06 (Building Code) made under the Building Code Act, 1992 or a sewage works as defined in section 1 of the Ontario Water Resources Act; and,
 2. A discharge from the system may result in the presence of one or more pathogens in groundwater or surface water.
- Holding tanks under the building code.
- Chemicals are covered under threat reference numbers 843 to 854. Some of these are significant drinking water threats:
 1. The system requires or uses a holding tank for the retention of hauled sewage at the site where it is produced before its collection by a hauled sewage system;
 2. The system is subject to the Ontario Building Code Act, 1992; and,
 3. There is a list of chemicals under circumstance 3.
- The pathogen threat is reference #1956 and the activity is significant in an area that scores 10. The circumstances are:
- The system requires or uses a holding tank for the retention of hauled sewage at the site where it is produced before its collection by a hauled sewage system.
- A spill from the tank may result in the presence of one or more pathogens in groundwater or surface water.



8. Question:

Is the 1km diameter the maximum extent of the IPZ-1, or does the land setback allow for it to be further out if conditions warrant it? And then the same question comes up with the IPZ-2, though in this case, we could probably include parts of the islands within a 120m setback?

Response:

For IPZ-1, the technical rules allows the setback (120m or Regulation Limit) to extend further than the 1km distance. For example, if the 1km circle only just reaches the shoreline, the setback (120m or Regulation Limit) would extend further inland than the 1km.

For IPZ-2, the delineation is completed based on a minimum 2hr time of travel (TOT). The IPZ-2 delineation includes 2 portions where the TOT calculation is used:

1. Water body (e.g., stream, river, or lake): using the TOT, the extent of IPZ-2 is determined in the water body that contributes water to the intake in that time and the setback is added according to the rules along those portions of the water body that have been included in the IPZ-2. Where the setback (120m or Regulation Limit) is added close to the 2hr TOT boundary, the resulting IPZ-2 can include areas that are more than 2hr TOT away from the intake.
2. 2. Sewer-shed: using the TOT, the extent of the sewer shed is determined that contributes water to the intake in that time. This could mean that the entire sewer shed or only part of it is included in the IPZ-2. For example, if the water takes 1hr from the storm sewer outfall to the intake, then the area in the storm sewer shed is determined based on the residual 1hr. No setbacks are added to this area.

IPZ-2 can be further extended according to Rule 72 to include transport pathways that contribute water to the IPZ-2 area. Rule 73 lists the factors that must be considered when extending IPZ-2 by including transport pathways. Extending IPZ-2 with transport pathways can result in the IPZ-2 including areas that are beyond the 2hr TOT.

9. Question:

How do you delineate an Intake Protection Zone (IPZ) when several islands are located within the IPZ-1 and IPZ-2? In some cases the entire island is located within the 120m of the shoreline, so we can not buffer it from the shoreline. Do we keep the IPZ-1 as the diameter from the intake or given that



the rest of the island is also very close to shore; do we include the entire island?

Response:

When delineating the IPZ-1 where small islands exist, if the 120m setback from both sides of the island intersect, i.e. if the island is less than 240m in diameter, the entire island can be included within the IPZ-1. For bigger islands, a GIS exercise can be undertaken to confirm whether the 120m setback along the island would intersect or not. For islands that are only partially within the 1km distance from the intake, the setbacks along the portions of island shoreline that are within the 1km distance from the island determine the area that would be included in the IPZ-1.

10. Question:

Where WHPA-C (five year time of travel zone) and WHPA-C1 (10 year time of travel zone) have both been delineated prior to April 30, 2005, how should one interpret Technical Rules 47 and 48? Which zone should be identified in the assessment report?

Response:

While the Rules attempted to address the situation of 5 versus 10-year Time of Travels, they did not effectively address the situation where both were delineated prior to the reference date of April 30, 2005. The Rules do NOT, however, allow for both to be used. This discrepancy will be clarified as part of the amendment of the Rules. The intent of Rules 47 and 48 was to use a 5-year TOT for WHPA-C but, where it hadn't been delineated and a 10 year TOT had, then a 10-year TOT for WHPA-C1 could be used in lieu of a 5-year TOT. This was communicated in the training around the WHPA zones over the past two years. To be consistent with the intent of the rules, where both are available the 5-year TOT should be used and the 10-year TOT be removed.

11. Question:

In considering WHAT an issue would be, it was suggested to look at historical data and consider a trigger concentration. One idea was to use the half MAC to trigger a review to consider whether or not that parameter should be an issue. With regard to pathogens, it was suggested that a microbial risk assessment could be conducted to determine an issue. It seems that what we (MOE) intended as "known problems or deterioration with raw water quality and/or treatment" has become something more of a scientific analysis. While



this would certainly improve the defensibility of such a decision in consideration of the science, it may be more than was intended. In which direction should the establishment of issues go?

Response:

The steps to identifying issues are clearly presented in Rules 114 to 116. How that is done is not specified to allow local flexibility.

The basic requirements for issues are as follows:

- Issues can only be identified at an intake, well or monitoring well where a water quality problem was known to exist (e.g. known nitrate contamination). There must be data to support this and it must result in the deterioration of the quality of water for use as drinking water.
- For systems included in the Terms of Reference, issues can be identified for parameters in Schedules 1, 2 or 3 of Ontario Drinking Water Quality Standard (ODWQS) or in Table 4 of the Technical Support Document or for any pathogen for which a Microbial Risk Assessment is completed.
- For systems not in a TofR, only chemical drinking water issues may be included (Schedules 2 and 3 of ODWQS or Table 4 of the Technical Support Document). The Safe Drinking Water Act (SDWA) definition of a drinking water system means any system that takes water for drinking water purposes. This includes any private well or intake.

The “intent” of issues wasn’t to force practitioners to do a detailed review of water sampling data to look for upward trends in data, although several have interpreted it this way as a due diligence approach.

Source Protection Plans

12. Question:

Can policies vary by DWS within the SPA or will it be a requirement for a policy for an activity to be consistent across the SPA?

Response:

The Clean Water Act (CWA) does not restrict the ability to have policies vary by drinking water system or by vulnerable area. For some committees, starting at the individual drinking water system level is unrealistic when they have 50, 100, 300, etc, drinking water systems in their area. The ministry is



currently considering providing guidance that will advise source protection committees (SPCs) to draft a policy for all occurrences of a threat activity in a source protection area (SPA) (based on vulnerability scoring). As SPCs look at the local details and consider local characteristics, if it seems some “tailoring” is needed, then the policy could fraction off and become multiple policies for one threat that differ from one vulnerable area to the next.

13. Question:

What involvement do planners and planning associations have in source protection planning?

Response:

Planners should play a significant role in the source protection planning process in understanding potential threats and definitely in writing and / or reviewing and giving input on policies for the plan. Many SPCs/CAs are already initiating discussions with the planners at the municipal and CA level to get their early input into writing policies.

With respect to Planning Associations (e.g., Ontario Professional Planners Institute {OPPI}) and municipalities, including their planners, both are providing comments to MOE on the source protection plan regulation through the EBR posting.

Municipal planners have met with staff from the SPPB to discuss the SPP Discussion Paper posted on the EBR; their comments will inform the source protection plan regulation and SPP guidance materials under development.

14. Question:

How will SPP policies be enforced in unorganized territories/outside municipal boundaries?

Response:

The Clean Water Act (CWA) is clear that the province is the default for enforcing Part IV activities in these situations (see Section 49(1)); however, the Act also allows the province to enter into agreements with nearby municipalities for them to actually carry out this work. As for other policies (those that don't use Part IV), “enforcement” will occur based on whom is implicated by the policy. For example, if a Certificate of Approval needs to be amended, then the Crown is responsible. If an Official Plan needs to be amended, then the Ministry of Municipal Affairs and Housing is responsible. If



monitoring policies identify a body a responsible and the plan is approved, then that body is responsible (e.g., could be a neighbouring Conservation Authority (CA), etc.)

15. Question:

Can one municipality enforce policies in a neighbouring municipality?

Response:

Yes, the Clean Water Act provides this authority if an agreement is entered into between the municipalities – see Section 47(4) and 47 (5).

16. Question:

For prescribed instruments, if a source protection committee develops a policy governing an instrument, could the public appeal the entire instrument down the road or would the appeal rights be limited to the new conditions developed as a result of the source protection plan?

Response:

Once a source protection plan (SPP) has been approved by the ministry, the Crown will commence its conformity exercise. The Clean Water Act (CWA) states that various bodies must conform with significant threat policies and designated GL policies, including the Crown (S. 39(7) and 43 for instruments; S. 39(1) names the Ontario Municipal Board). The CWA does not remove the existing appeal rights under various instruments, nor the appeal rights that exist under the Planning Act. Thus, even in an appeals process, the governing appeal bodies are required to ensure their decisions meet this requirement. To this end, under the various appeal mechanisms for the various instruments, there are situations where the entire instrument could be appealed to the appropriate authority – this will depend on the manner in which the Crown carries out the amendment. For example, if the amendment simply adds new conditions to an existing approval, then only the new conditions may be appealed. If the Crown determines that they will “revoke and replace” the entire instrument, then the ability to appeal will not be limited to just the new conditions included in an instrument as a result of the SPP.

17. Question:

Could you please explain the difference between the use of the term Restricted Land Use in the Clean Water Act and the Planning Act.

DRINKING WATER SOURCE PROTECTION

ACT FOR CLEAN WATER

Response:

Restricted Land Uses (RLU) under Section 59 of the Clean Water Act is described in the source protection plan discussion paper as a policy approach available to source protection committees as they develop their source protection plans. In accordance with the CWA, the RLU policy approach is only eligible for use when used in combination with prohibition polices (S. 57), or Risk Management Plans (S. 58) as a means to deal with future significant drinking water threats. There is no formal definition for RLU in the CWA. Therefore, for purposes of the CWA, the application of RLU policies may result in a temporary “pause” to allow the Risk Management Official (RMO) time to review either a Planning Act or Building Permit application and/or information provided by the applicant to determine if the proposed future activity, or expansion of an existing activity, would be allowed in accordance with the local source protection plan.

The source protection plan that applies to the municipality will identify the land uses that will be subject to the RLU policies. These RLU policies will apply to new building permit applications or certain new Planning Act applications. The building official or municipal planner will determine if the application is subject to the RLU policies, and will direct the applicant to the RMO. At this point, the RMO will have to determine whether the application relates to one of the restricted land uses designated in the source protection plan and if the activities associated with this application are subject to S. 57 (prohibition) or Section 58 (risk management plans). If the application is not associated with activities that are subject to prohibition or risk management planning, then the applicant receives a notice from the RMO to proceed. On the other hand, if the application is associated with an activity that is prohibited or requires a risk management plan, then the RMO would inform the applicant of the prohibited activities, and would negotiate a risk management plan with the applicant prior to issuing the notice, which would allow them to proceed with the application.

The RLU concept under the CWA is used or applied differently from the “restricted land uses” under the Planning Act. The general practice in applying a restriction or prohibition of a use within the Planning Act framework is an outright ban on a particular new use, for example, “Development and site alteration shall not be permitted within a floodway regardless of ...” On the other hand, sometimes a restriction is placed on a use but the use could be permitted/allowed providing it meets a number of tests. For example ...



“Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas ... unless the ecological function of the adjacent lands has been evaluated, and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions”.

RLU may be seen as similar to the “holding” clause commonly used in the processing of Planning Act applications (however, “holding” under the Planning Act is applied when a development is permitted/allowed but a number of studies are required to be undertaken prior to final approval or release of the “holding” provision. It may take years before the development could proceed. The “holding” is not a refusal, more like “do/fix something, or prepare a study, or change the existing circumstance, before the “holding” is removed).

Other

18. Question:

Is a MISA permit considered a provincial instrument?

Response:

Wastewater (sewage) discharges are regulated under the general terms and conditions of the Environmental Protection Act and Ontario Water Resources Act. Under Section 53 of the Ontario Water Resources Act, all sewage works require a Certificate of Approval that may have specific terms and conditions, such as monitoring, reporting and discharge limits.

In addition, there are sector-specific industrial facilities also subject to one of nine Effluent Monitoring and Effluent Limits regulations that also include specific terms and conditions. The Ministry can include in their Certificate of Approval additional or more stringent requirements if the receiving water requires additional protection. With regards to the Source Protection Program, the Source Protection Committee may use the Prescribed Instrument (proposed that the Certificate of Approval under section 53 of the OWRA be prescribed) policy approach to manage risks associated with significant drinking water threats.



19. Question:

What is the process to remove a "planned" drinking water system from a Terms of Reference?

Answer:

If a Municipality no longer plans to implement a planned drinking water system Section 14, subsection 4 of Ontario Regulation 287/07, General Regulation requires the Municipality to do the following:

- 4) Subclause 15 (2) (e) (i) of the Act does not apply to a planned municipal drinking water system if the council of the municipality that would own the system has;
- (a) passed a resolution stating that the municipality does not intend to establish the drinking water system;
 - (b) published notice of the resolution referred to in clause (a) in one or more newspapers that, in the opinion of the council of the municipality, are of sufficiently general circulation to bring the notice to the attention of the public in the municipality; and
 - (c) sent a copy of the resolution referred to in clause (a) to the source protection committee for the source protection area. O. Reg. 385/08, s. 12

Once the Municipality has completed the above requirements the SPC in which that planned system is located will notify the Ministry in writing, and include all supporting documentation that the municipality no longer plans to implement the planned system. In addition, the project manager shall ensure that a copy of this notification is appended to the Assessment Report and notify the public during the Assessment Report consultation period (and on the AR consultation notice) of the Municipalities decision to not implement the planned system.

20. Question:

What are the consultation requirements in the drinking water source protection process?

Response:

The following flowcharts are attached:

- a. The Terms of Reference;
- b. Assessment Report; and,
- c. Source Protection Planning.

DRINKING WATER SOURCE PROTECTION

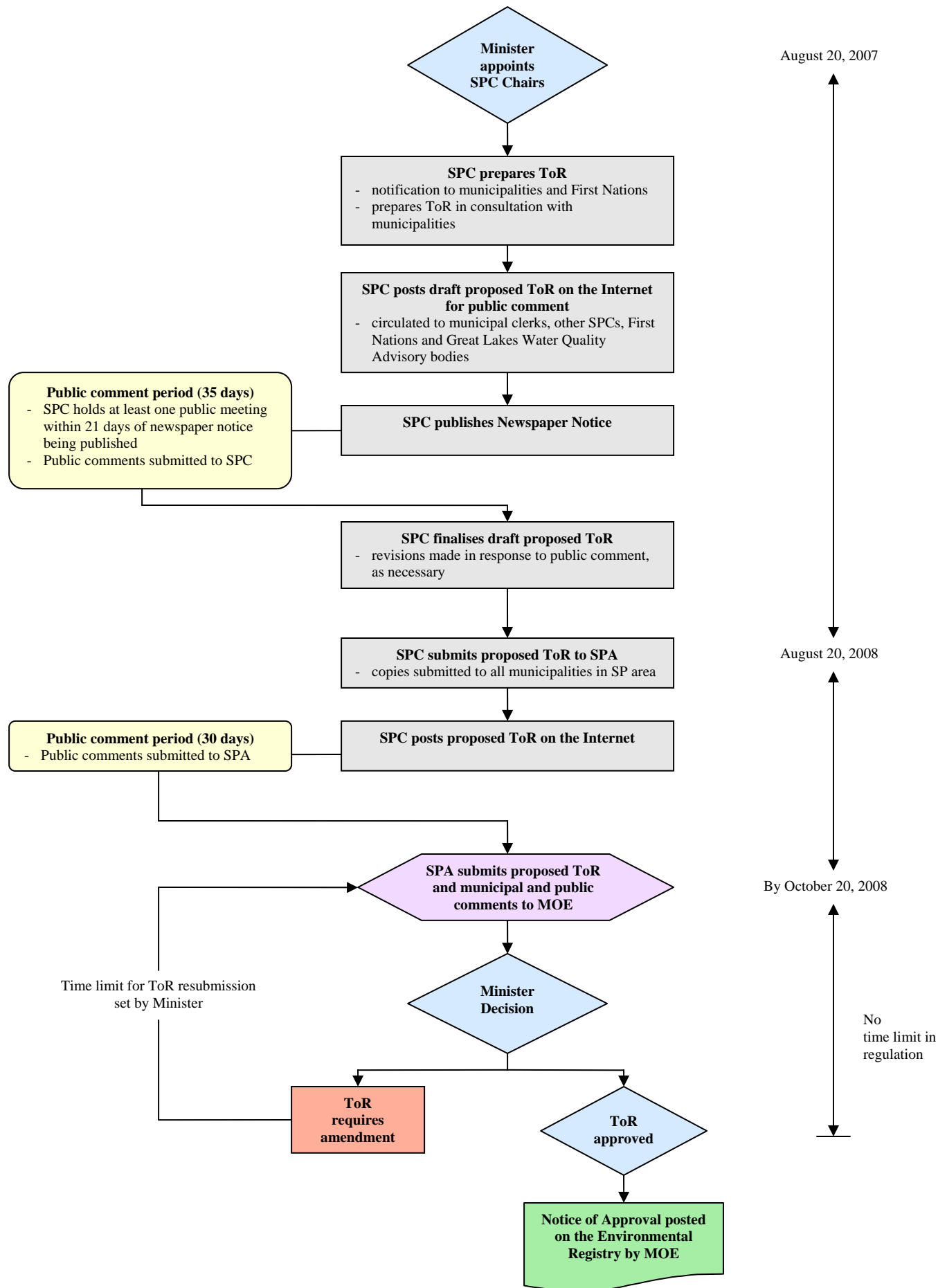
ACT FOR CLEAN WATER

The flowcharts provide a summary of the various consultation requirements for each component of the source protection process.

DRINKING WATER SOURCE PROTECTION

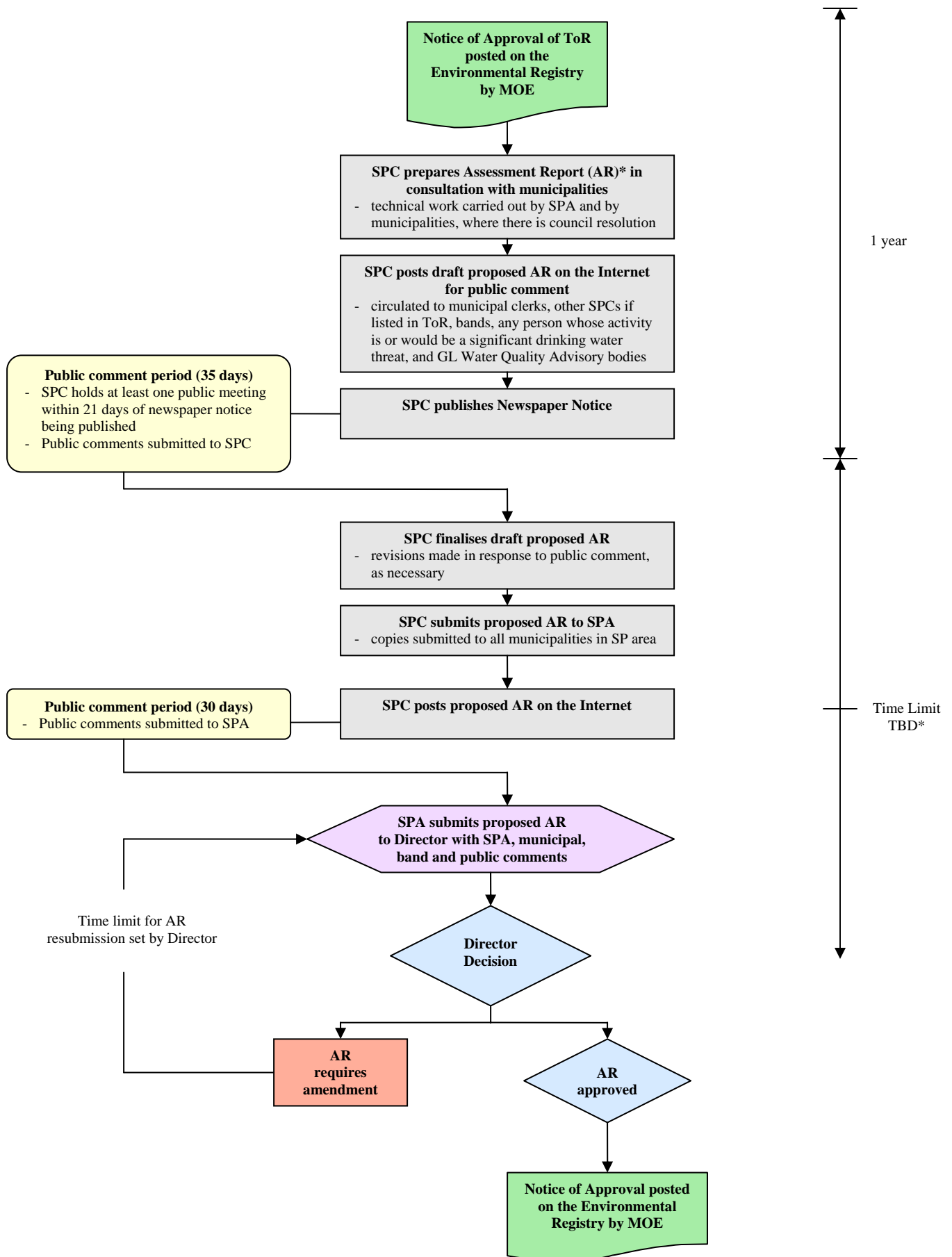
ACT FOR CLEAN WATER

**Clean Water Act, 2006:
Source Protection Planning Process – Terms of Reference Preparation**



This publication is provided for information purposes only. For compliance purposes reference should always be made to the Act or related regulations.

**Clean Water Act, 2006:
Source Protection Planning Process – Assessment Report Preparation**



* Note: The ministry is currently developing the procedures for the review of ARs. Timing for this has not yet been established but may be in the order of up to 6 months.



This publication is provided for information purposes only. For compliance purposes reference should always be made to the Act or related regulations.

**Clean Water Act, 2006:
Source Protection Planning Process – Source Protection Plan Preparation**

