



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

Drinking Water Source Protection Act, 2004

(CELA DRAFT #1 - FOR DISCUSSION PURPOSES ONLY)

Publication #479

*Supplementary document to
Safeguarding Ontario's Drinking Water Sources:
Essential Elements of Source Protection Legislation*

NOTE: This draft legislation has been prepared by the Canadian Environmental Law Association (“CELA”) to facilitate public discussion of the form, content and structure of Ontario’s source water protection statute. This draft legislation should be read in conjunction with CELA’s submissions to the Ministry of the Environment regarding the proposed *Drinking Water Source Protection Act* - EBR Registry No. AA04E0002. Please note that CELA’s draft legislation may be revised or expanded to reflect recommendations contained in the forthcoming reports by the provincial Implementation Committee and Technical Experts Committee regarding source protection.

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

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

“First Nation” means a band as defined in the *Indian Act* (Canada);

“Minister” means the Minister of the Environment or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*;

“Ministry” means the ministry of the Minister;

“raw water supply” has the same meaning as in the *Safe Drinking Water Act, 2002*;

“regulations” means the regulations made under this Act;

“source protection area” means a drinking water source protection area referred to in section 7;

“source protection board” means a drinking water source protection board referred to in section 8;

“source protection committee” means a drinking water source protection committee established under section 9 or 10;

“source protection plan” means a drinking water source protection plan developed under section 14;

“source protection region” means a drinking water source protection region referred to in section 10;

“water” means surface water or ground water;

“water risk” means an existing or anticipated activity or thing prescribed by the regulations that contributes or has the potential to contribute to,

- (a) a reduction in the quality or quantity of a water in a watershed, or
- (b) water in a watershed failing to meet any standards prescribed by the regulations respecting the quality or quantity of water.

“watershed” means an area drained by a river and its tributaries;

[xx – placeholder: additional definitions]

PART I ADMINISTRATION

Purposes of Act

2. (1) The purposes of this Act are to:
- (a) promote human health by protecting the quality and quantity of current and future sources of drinking-water;
 - (b) facilitate ecosystem-based watershed management and ensure sustainable water uses; and
 - (c) integrate source protection plans with other environmental and land use decision-making processes.

Idem

- (2) The purposes set out in subsection (1) include the following:
- (a) undertaking an ecosystem approach to identify and protect sources of drinking-water against degradation or depletion;
 - (b) conserving and restoring natural resources and ecological processes that are necessary to ensure water quality or quantity;
 - (c) identifying, prohibiting, eliminating, and mitigating water risks;
 - (d) preventing or reducing the discharge of contaminants into the environment that may create a water risk; and
 - (e) ensuring meaningful public participation in the development and implementation of source protection planning.

Precautionary principle

(3) Where water risks have been identified under this Act, the lack of full scientific certainty shall not be used as a reason to avoid or defer measures to prohibit, eliminate or mitigate such risks.

Extra-provincial environment

(4) No action taken under this Act is invalid by reason only that the action was taken in relation to water risks caused by activities or things outside of Ontario’s borders.

Powers and duties of Minister

3. (1) The Minister shall be responsible for overseeing the quality and quantity of sources of drinking-water in Ontario and, in that capacity and for the administration of this Act and the regulations, the Minister may,

- (a) investigate concerns and recommend standards regarding the identification, protection or restoration of sources of drinking-water;
- (b) conduct or fund research programs, and prepare or publish statistics relating to the identification, protection or restoration of sources of drinking-water;
- (c) convene or fund conferences, seminars, educational and training programs relating to the identification, protection or restoration of sources of drinking-water;
- (d) develop and disseminate model terms of reference, assessment reports, or source protection plans;
- (e) provide or fund technical advice regarding the preparation or implementation of source protection plans;
- (f) appoint committees to perform such advisory functions as the Minister considers advisable;
- (g) engage in joint discussions and initiatives with other jurisdictions and levels of government regarding the identification, protection or restoration of sources of drinking-water; and
- (h) perform such other functions or carry such other duties as may be assigned from time to time by the Lieutenant Governor in Council.

Delegation

(2) The Minister may in writing delegate any of his powers or duties under this Act to an employee of the Ministry specified in the delegation, other than the power to approve a source protection plan and the power to make a regulation under this Act.

Agreements

(3) The Minister may enter into agreements with such persons, entities or organizations as the Minister considers appropriate for the purposes of this Act.

Source Protection Fund

4. (1) Within 90 days after this Act comes into force, the Minister shall establish a special purpose account, known as the “Source Protection Fund”, in the Consolidated Revenue Fund.

Money in account

(2) All amounts received by the Crown under this Act, and under such other Acts as may be prescribed by regulation, shall be held in the Source Protection Fund, including all fines, fees, and proceeds from sales under this Act and other prescribed Acts, including sales of things forfeited to the Crown.

Idem

(3) Money standing to the credit of the Source Protection Fund is, for the purpose of the *Financial Administration Act*, money paid to Ontario for a special purpose.

Payments out of account

(4) The Minister shall direct that money be paid out of the Source Protection Fund to source protection boards under this Act at a level sufficient to enable such boards to develop terms of reference, assessment reports, and source protection plans in accordance with this Act and the regulations.

Idem

(5) The Minister shall direct that money be paid out of the Source Protection Fund, in such amounts and upon such terms as the Minister considers advisable, to any person, agency, ministry, municipality, entity or organization that requests financial assistance in order to implement an approved source protection plan.

Annual report

(6) The Minister shall ensure that a report is prepared annually on the operation and financial affairs of the Source Protection Fund.

Tabling of report

(7) The Minister shall submit the report required by subsection (6) to the Lieutenant Governor in Council and shall table the report with the Speaker of the Legislative Assembly.

Conflict

5. (1) Where a conflict appears between any provision of this Act or the regulations and any other Act or regulation in a matter related to drinking-water sources or a matter specifically dealt with under this Act or the regulations, the provision of this Act or the regulations shall prevail.

Idem

(2) Subsection (1) applies irrespective of when the other Act is enacted or the regulation is made under the other Act.

Idem

(3) Subsection (1) does not apply if the other Act referred to in subsection (1) expressly states that a provision of that Act or of a regulation under it prevails over the provisions of this Act or the regulations.

Crown bound

6. This Act binds the Crown.

PART II SOURCE PROTECTION PLANNING

Source protection areas

7. (1) The area over which a conservation authority listed in Schedule I of this Act or prescribed by the regulations has jurisdiction under the *Conservation Authorities Act* is established as a drinking water source protection area for the purposes of this Act.

Idem

(2) Within 45 days after this Act comes into force, the Minister shall establish by regulation drinking water source protection areas in the parts of Ontario that are not covered by the source protection areas established by subsection (1).

Dissolution of conservation authorities

(3) Subsection (1) does not apply to the area of jurisdiction of a conservation authority that is dissolved under the *Conservation Authorities Act*.

Renamed conservation authorities

(4) If a conservation authority referred to in subsection (1) is renamed under the *Conservation Authorities Act*, subsection (1) continues to apply to the conservation authority's area of jurisdiction.

Source protection boards

8. (1) In the case of a source protection area established under subsection 7(1), the conservation authority shall exercise and perform the powers and duties of a drinking water source protection board under this Act and, for that purpose, a reference in this Act or the regulations to a source protection board shall be deemed to be a reference to the conservation authority.

Idem

(2) In the case of a source protection area established under subsection 7(2), the Minister shall, within 45 days after this Act comes into force, designate by regulation a person or body that shall exercise and perform the powers and duties of a drinking water source protection board under this Act and, for that purpose, a reference in this Act or the regulations to a source protection board shall be deemed to be a reference to the person or body.

Voting and quorum: conservation authorities

(3) Section 16 of the *Conservation Authorities Act* applies, with necessary modifications, to a conservation authority that exercises and performs the powers and duties of a source protection board under this Act.

Source protection committees

9. (1) Within 90 days after this Act comes into force, each source protection board shall establish a drinking water source protection committee for the source protection area.

Composition

(2) A source protection committee shall be composed of not more than 16 members, including the chair of the committee.

Appointment of members

(3) Subject to subsection (4) and the regulations, the members of a source protection committee shall be appointed as follows:

- (a) one-third of the members shall be municipal representatives;
- (b) one-third of the members shall be provincial, First Nation, and federal representatives; and

- (c) one-third of the members shall representatives of local public health agencies, environmental organizations, and other persons or bodies as may be appropriate.

Appointment of chair

(4) The Minister shall appoint the chair of each source protection committee, after considering any recommendations from the source protection board.

Assistance from source protection board

- (5) A source protection board shall,
 - (a) assist the source protection committee that it establishes in exercising and performing the committee's powers and duties under this Act; and
 - (b) provide scientific, technical and administrative support and resources to the source protection committee that it establishes.

Powers of Committee

- (6) In the exercise of its powers and duties under this Act, the source protection committee may,
- (a) obtain technical or scientific assistance related to source protection planning;
 - (b) establish sub-committees or working groups consisting of experts or other persons interested in, or potentially affected by, source protection planning;
 - (c) enter into agreements with such persons, entities or levels of government as the committee considers advisable;
 - (d) conduct seminars or publish educational information related to source protection planning; and
 - (e) perform such other functions or tasks as may be specified by the source protection board or prescribed by the regulations.

Source protection regions

10. (1) Within 45 days after this Act comes into force, the Minister may make a regulation consolidating two or more source protection areas into a drinking water source protection region and designating a lead source protection board.

Factors to be considered

(2) In deciding whether to make a regulation under subsection (1), the Minister shall consider the following factors:

- (a) the purposes of the Act;
- (b) any comments submitted by any person, entity or conservation authority regarding the source protection region;
- (c) the watershed boundaries and linkages within the source protection region; and
- (d) whether consolidating source protection areas will facilitate the pooling of resources, the sharing of expertise, or otherwise ensure efficient and effective source protection planning

Idem

- (3) If the Minister makes a regulation under subsection (1),
- (a) subsection 9(1) does not apply to the source protection areas in the source protection region;
 - (b) the lead source protection board shall establish a drinking water source protection committee for the source protection region;
 - (c) the source protection committee established under clause (b) shall exercise and perform the powers and duties of a source protection committee under this Act for each of the source protection areas in the source protection region; and
 - (d) the source protection board established for each source protection area in the source protection region shall exercise and perform the powers and duties of a source protection board under this Act for that area, subject to any agreement referred to in subsection (5) or order made under subsection (8).

Application of subss. 9(2-4)

(4) Subsections 9(2) to (4) apply, with necessary modifications, to a source protection committee established under clause (1) (b).

Application of subs. 9(5-6)

(5) Subsections 9(5) to (6) apply, with necessary modifications, to a source protection committee established under clause (1) (b), subject to any agreement referred to in subsection (7) or order made under subsection (10).

Responsibilities of lead source protection board

(6) The lead source protection board shall, in accordance with the agreement referred to in subsection (7) or an order under subsection (10),

- (a) assist the other source protection boards in the source protection region in exercising and performing their powers and duties under this Act;
- (b) provide scientific, technical and administrative support and resources to the other source protection boards in the source protection region;
- (c) serve as a liaison between the Ministry and the other source protection boards in the source protection region;
- (d) co-ordinate the preparation of terms of reference, assessment reports and source protection plans for the source protection areas in the source protection region so that they do not conflict with each another; and
- (e) carry out any other functions prescribed by the regulations.

Agreement

(7) The lead conservation authority and the other source protection boards in the source protection region shall, within 90 days after the establishment of the region, enter into an agreement that deals with,

- (a) the exercise and performance of the lead conservation authority's powers and duties; and
- (b) other matters related to the relationship between the lead conservation authority and the other source protection boards in the source protection region.

Copy of agreement for Minister

(8) If an agreement is entered into under subsection (7), the lead conservation authority shall promptly submit a copy of the agreement to the Minister.

Amendment by Minister

(9) The Minister may, within the time period prescribed by the regulations, make such amendments to an agreement entered into under subsection (7) as he or she considers appropriate.

Minister's order

(10) If no agreement is entered into within the 90-day period referred to in subsection (7), the Minister may make an order directed to the source protection boards in the source protection region governing any matter referred to in subsection (7).

Exception

(11) Clauses (3) (a), (b) and (c) do not apply if the Minister and the source protection boards for each source protection area in the source protection region agree.

Public Consultation

11. (1) When preparing proposed terms of reference, assessment reports, and source protection plans under this Act, the source protection committee shall consult with such persons as may be interested in or affected by the matters under consideration by the board.

Notice

(2) Without limiting the generality of subsection (1), the source protection committee shall provide notice of proposed terms of reference, assessment reports, and source protection plans as early as practicable in the planning process through the following means:

- (a) media releases or advertisements;
- (b) mailings to local residents;
- (c) door to door flyers;
- (d) notice on the board's website and the environmental registry under section 5 of the *Environmental Bill of Rights, 1993*;
- (e) actual notice to community leaders, political representatives, and non-governmental organizations;
- (f) any means of providing notice that would facilitate more informed public consultation; and

- (g) any means of providing notice as may be prescribed by the regulations.

Idem

- (3) The notice required under subsection (2) shall include the following:
 - (a) a brief description of the proposal;
 - (b) a statement of the manner by which and time within that members of the public may submit comments on the proposal;
 - (c) a description of where and when members of the public may review written information about the proposal;
 - (d) any other information that the source protection committee considers appropriate; and
 - (e) any other information as may be prescribed by the regulations.

Timing of notice

- (4) The notice required under subsection (2) shall be provided,
 - (a) at least 45 days before the source protection board decides whether to adopt and submit to the proposed terms of reference or assessment report to the Minister; and
 - (b) at least 90 days before the source protection board decides whether to adopt and submit the proposed source protection plan to the Minister.

Public comments

(5) The source protection committee that is required to give notice under subsection (2) shall undertake one or more of the following means of obtaining public comments on the proposed terms of reference, assessment reports and source protection plans:

- (a) public meetings or workshops;
- (b) focus groups;
- (c) open houses;
- (d) mediation;
- (e) any other process that would facilitate more informed public consultation on the proposal; and
- (f) any other process as may be prescribed by the regulations.

Response to comments

(6) The source protection committee that is required to give notice under subsection (2) shall consider and, where reasonable or appropriate, address or accommodate all comments received from members of the public, and shall document the committee's response to public comments on proposed terms of reference, assessment reports, and source protection plans.

Terms of reference

12. (1) Each source protection committee for a source protection area shall, in accordance with the regulations, prepare terms of reference for the preparation of assessment reports and source protection plans under this Act.

Contents

(2) The terms of reference shall identify each watershed in the source protection area for which an assessment report and source protection plan will be prepared and, for each watershed that is identified, shall include the following:

1. A statement of the reasons for preparing an assessment report and source protection plan for the watershed.
2. A description of the boundaries of the watershed and an explanation of how the boundaries were determined.
3. A work plan for the preparation of the assessment report and source protection plan for the watershed.
4. A work plan for identifying and protecting vulnerable or sensitive sources of drinking water pending the approval and implementation of the source protection plan.
5. A description of information that is relevant to the preparation of the assessment report and source protection plan for the watershed, including,
 - i. a description of studies and reports that have already been prepared that deal with the water resources in the watershed, including any water risks related to those resources, and a summary of those studies and reports, and
 - ii. a description of the scientific and technical field work that will be done to assist in the preparation of the assessment report and source protection plan, including the sampling and analysis that will be done.

6. A consultation plan for the preparation of the assessment report and source protection plan for the watershed, including,
 - i. a description of any advisory committees that will be established to assist in the preparation of the assessment report and source protection plan, including a description of how members of the committees will be appointed and how the committees will operate,
 - ii. a description of how public comments will be obtained and considered in the preparation of the assessment report and source protection plan, and
 - iii. a description of the methods that will be used, in the preparation of the assessment report and source protection plan, to resolve concerns of municipalities, First Nations and interested persons and to obtain their support.

Idem

- (3) The terms of reference shall also include the following:
 1. A map that shows the watersheds that are identified.
 2. A description of the human resources that will be required to prepare assessment reports and source protection plans for the watersheds that are identified, including scientific, technical and administrative staff.
 3. A list of the members of the source protection committee.
 4. Such other matters as are prescribed by the regulations.

Submission to source protection board

(4) The source protection committee shall submit proposed terms of reference to the source protection board for the source protection area no later than 6 months after the date that the committee was appointed under this Act.

Approval by source protection board

(5) The source protection board shall, within 30 days of receiving the proposed terms of reference from the source protection committee,

- (a) approve the terms of reference without amendment; or

- (b) if the source protection board is of the opinion that the terms of reference do not comply with the regulations, approve the terms of reference with such amendments as the board considers necessary to bring them into compliance.

Submission to Minister

(6) The source protection board shall submit the approved terms of reference to the Minister within 7 days after the date that the board approves the terms of reference.

Amendment by Minister

(7) The Minister may make such amendments to the terms of reference as he or she considers appropriate,

- (a) within 30 days after receiving the approved terms of reference from the source protection board; or
- (b) at any time, if there is a change in circumstances or new information concerning the preparation of the assessment report or source protection plan under this Act.

Available to public

(8) The source protection board shall ensure that the approved terms of reference are available to the public.

Assessment reports

13. (1) The source protection committee for a source protection area shall prepare an assessment report, in accordance with the regulations and the terms of reference approved under section 12, for each watershed identified in the terms of reference.

Contents

- (2) The assessment report shall include the following:
 - 1. One or more detailed maps of the watershed that show,

- i. the location of natural features, including,
 - A. lakes, rivers and streams,
 - B. aquifers,
 - C. groundwater recharge zones, and
 - D. wetlands, seepage areas and springs,
 - ii. the location of the hydrologically sensitive areas in the watershed,
 - iii. the location of every water risk in the watershed,
 - iv. the location of all existing and anticipated wells and intakes that are part of existing and anticipated drinking-water systems that belong to any of the classes of drinking-water systems prescribed by the regulations for the purpose of this subparagraph,
 - v. for each well referred to in subparagraph iv, the location of the wellhead protection zone,
 - vi. for each intake referred to in subparagraph iv, the location of the surface water intake protection zone, and
 - vii. the location of all existing wells that are in use or abandoned, and aquifer protection zones, within the watershed.
2. A description of the natural features in the watershed.
3. A general assessment of the quality and quantity of the water in the watershed, including,
 - i. an evaluation of whether surface water currently meets the Provincial Water Quality Objectives;
 - ii. an evaluation of whether ground water currently meets the Ontario Drinking-Water Quality Standards; and
 - iii. an evaluation of cumulative impacts and assimilative capacity within the watershed.
4. An assessment of any linkages between the watershed and adjacent watersheds, including consideration of whether there are any hydrologically sensitive areas in the watershed that relate to an existing or anticipated well or intake in an adjacent watershed that is part of an

existing or anticipated drinking-water system that belongs to any of the classes of drinking-water systems prescribed by the regulations for the purpose of subparagraph 1 iv.

5. A water budget for the watershed that,
 - i. identifies the different ways that water enters and leaves the watershed and quantifies the amount of water that enters or leaves in each way,
 - ii. describes the ground water and surface water flows in the watershed,
 - iii. quantifies the existing and anticipated amounts of water taken from the watershed that require a permit under section 34 of the *Ontario Water Resources Act*,
 - iv. quantifies the existing and anticipated amounts of water taken from the watershed that do not require a permit under section 34 of the *Ontario Water Resources Act*, and
 - v. describes any existing or anticipated water shortages in the watershed.
6. A detailed analysis of the quality and quantity of the water in,
 - i. the hydrologically sensitive areas referred to in subparagraph 1 ii,
 - ii. the wellhead protection zones referred to in subparagraph 1 v,
 - iii. the surface water intake protection zones referred to in subparagraph 1 vi, and
 - iv. the aquifer protection zones referred to in subparagraph 1 vii.
7. A general assessment of the water risks referred to in subparagraph 1 iii.
8. A detailed analysis of the water risks that,
 - i. relate to the raw water supplies of the drinking-water systems referred to in subparagraph 1 iv and existing wells referred to in subparagraph 1 vii, and
 - ii. are located in,

- A. the hydrologically sensitive areas referred to in subparagraph 1 ii,
 - B. the wellhead protection zones referred to in subparagraph 1 v,
 - C. the surface water intake protection zones referred to in subparagraph 1 vi, or
 - D. the aquifer protection zones referred to in subparagraph 1 vii.
9. A classification in accordance with the regulations of each water risk referred to in paragraphs 7 and 8 and a preliminary indication of,
- i. which water risks should be addressed on a priority basis in the source protection plan prepared under section 14,
 - ii. which water risks should be addressed by provisions setting out mandatory measures in the source protection plan prepared under section 14, and
 - iii. for each risk identified under subparagraph i or ii, the objective that should be established in the source protection plan prepared under section 14.
10. A description of steps that should be taken to address gaps in information that have been identified during the preparation of the assessment report.
11. A description of other issues related to the protection of water resources in the watershed and any existing or anticipated programs to deal with those issues.
12. Such other matters as are prescribed by the regulations.

Submission to source protection board

(3) The source protection committee shall submit the proposed assessment report to the source protection board for the source protection area within 12 months after the date that the terms of reference were approved under this Act.

Approval by source protection board

(4) The source protection board shall, within 60 days of receiving the proposed assessment report from the source protection committee,

- (a) approve the assessment report without amendment; or
- (b) if the source protection board is of the opinion that the assessment report does not comply with the regulations, approve the assessment report with such amendments as the board considers necessary to bring it into compliance.

Submission to Minister

(5) The source protection board shall submit the assessment report to the Minister within 7 days after the date that the board approves the assessment report.

Minister's options

(6) The Minister shall, within 30 days of receiving the assessment report from the source protection board,

- (a) approve the assessment report without amendment; or
- (b) require the source protection board, within such time period as is specified by the Minister, to amend the assessment report in accordance with the directions of the Minister and resubmit it to the Minister.

Resubmission

(7) Subsection (6) applies, with necessary modifications, when an assessment report is resubmitted to the Minister under clause (6) (b).

Available to public

(8) The source protection board shall ensure that the assessment report is available to the public after it is approved by the Minister.

Source protection plan

14. (1) The source protection committee for a source protection area shall, in accordance with the regulations and the terms of reference prepared under section 12, prepare a source protection plan for each watershed for which an assessment report is prepared under section 13.

Contents

- (2) The source protection plan shall include the following:
- (a) the terms of reference prepared under section 12;
 - (b) the assessment report approved by the Minister under section 13;
 - (c) measurable objectives, goals and targets for the plan;
 - (d) hydrological and hydrogeological information regarding contaminant pathways and time of travel within the watershed;
 - (e) maps that identify,
 1. areas of high, medium and low vulnerability and sensitive water resources;
 2. natural features that contribute to the protection of drinking water sources;
 3. baseline conditions and watershed characteristics;
 4. existing and potential land uses within the watershed;
 5. areas of significant water takings and areas experiencing low water conditions;
 6. major point and non-point sources of contaminants and high risk land uses that pose a direct threat to drinking water sources
 - (f) an implementation plan and schedule for mandatory and voluntary measures to prohibit, manage or mitigate things or activities identified as water risks within the watershed;
 - (g) a plan for addressing remediation or restoration opportunities;
 - (h) a monitoring and reporting plan;
 - (i) a description of how and when the plan will be reviewed and updated;
 - (j) a description of outstanding issues or unresolved concerns will be addressed; and
 - (k) such other matters as may be prescribed by the regulations.

Responsible persons or bodies

(3) The implementation plan and schedule required under subsection (2)(f) shall identify the persons or bodies responsible for implementing mandatory and voluntary measures set out in the source protection plan.

Mandatory measures

(4) The implementation plan and schedule required under subsection (2)(f) shall include mandatory measures to prohibit the following things and activities in areas of high vulnerability:

- (a) new or expanded waste management systems or waste disposal sites ;
- (b) new or expanded underground fuel storage tanks;
- (c) new or expanded facilities for chemical production or storage;
- (d) new or expanded major industrial, commercial, insitutional or residential development;
- (e) new or expanded septic systems or sewage works;
- (f) new or expanded intensive livestock operations;
- (g) applications of biosolids, septage and manure;
- (h) new or expanded water takings;
- (i) other high risk land uses or activities as identified in the assessment report;
- (j) such further matters as may be prescribed by regulation.

Idem

(5) The implementation plan and schedule required under subsection (2)(f) shall include mandatory measures to manage or mitigate the following things and activities in areas of high and medium vulnerability:

- (a) existing land uses or activities that pose a water risk;
- (b) re-development of brownfield sites; and
- (c) such further matters as may be prescribed by the regulations.

Idem

(6) The implementation plan and schedule required under subsection (2)(f) shall include mandatory and voluntary measures to address existing land uses and activities within areas of low vulnerability.

Additional mandatory measures

(7) Nothing in this Act prevents a source protection plan from containing mandatory measures in relation to things and activities that have not been identified in this Act or prescribed in the regulations as requiring mandatory measures.

Submission to source protection board

(8) The source protection committee shall submit the proposed source protection plan to the source protection board for the source protection area within 2 years after the date that the assessment report was approved under this Act.

Approval by source protection board

(9) The source protection board shall, within 90 days of receiving the proposed source protection plan from the source protection committee,

- (a) approve the source protection plan without amendment; or
- (b) if the source protection board is of the opinion that the proposed source protection plan does not comply with the regulations, approve the plan with such amendments as the board considers advisable to bring them into compliance.

Submission to Minister

(10) The source protection board shall submit the source protection plan to the Minister within 7 days after the date that the board approved the plan, and may submit any comments that the source protection board wishes to make in relation to the plan.

Notice of proposed plan

(11) Within 30 days of receiving the source protection plan from the source protection board, the Minister shall publish notice of the proposed plan on the registry established under section 5 of the *Environmental Bill of Rights, 1993*, including,

- (a) a brief description of the proposed plan;
- (b) a statement of the manner by which and time within that that members of the public may submit comments on the proposed plan;
- (c) a description of where and when members of the public may review written information or records regarding the proposed plan; and
- (d) any other information that the Minister considers advisable; or
- (e) other matters as may be prescribed by the regulations.

Minister's options

(12) Subject to subsection (13), the Minister shall, within 120 days of publishing notice of the proposed plan under subsection (11), and after considering any written comments that are made within the comment period described in the notice,

- (a) approve the source protection plan without amendment;
- (b) require the source protection board, within such time period as is specified by the Minister, to amend the source protection plan in accordance with the directions of the Minister and resubmit it to the Minister; or
- (c) approve part of the source protection plan without amendment and require the source protection board, within such time period as is specified by the Minister, to amend the other part in accordance with the directions of the Minister and resubmit it to the Minister.

Limitation

(13) Clauses (12) (b) and (c) apply only if the Minister is of the opinion that the proposed source protection plan does not include mandatory measures that adequately protect against a water risk,

- (a) related to the raw water supply of a drinking-water system referred to in subparagraph 1 iv of subsection 13(2) in the assessment report prepared for the watershed;
- (b) related to the raw water supply of existing wells referred to in subparagraph 1 vii of subsection 13(2) in the assessment report prepared for the the watershed.

Partial approval

(14) If one or more parts of a source protection plan are approved under clause (12) (c), those parts of the plan shall be deemed to be a separate source protection plan for the purposes of this Act, until such time as the entire plan is approved by the Minister.

Resubmission

(15) When a source protection plan or part of a source protection plan is resubmitted to the Minister under clause (12) (b) or (c), the Minister may,

- (a) approve the source protection plan or part; or
- (b) make such amendments to the source protection plan or part as the Minister considers appropriate to carry out the directions referred to in subclause (12) (b) or (c).

Publication of approval

(16) As soon as reasonably possible after a source protection plan is approved by the Minister, the Minister shall publish notice of the approval on the registry established under section 5 of the *Environmental Bill of Rights, 1993*, together with,

- (a) a brief explanation of the effect, if any, of the written comments that were made within the comment period on the proposed plan;
- (b) any other information that the Minister considers appropriate.

Available to public

(17) The source protection board shall ensure that the source protection plan is available to the public after it is approved by the Minister.

Failure to prepare

15. (1) If a source protection board fails to submit terms of reference, an assessment report or a source protection plan to the Minister by the date prescribed by this Act or the regulations, or if the Minister is of the opinion that the board will not submit terms of reference, an assessment report or a source protection plan to the Minister by the date prescribed by this Act or the regulations, the Minister may give the board written notice of his or her intention to issue an order under subsection (3).

Response

(2) The source protection board may, within 15 days of receiving the notice, give the Minister a written response indicating why the Minister should not make an order under subsection (3).

Order

(3) After considering any written response given by the source protection board within the 15-day period referred to in subsection (2), the Minister may make an order,

- (a) requiring the source protection board and the source protection committee to deliver to the Minister, in such manner and within such time period as may be specified in the order, documents and other information that are within their control and that are relevant to the preparation of any terms of reference, assessment reports or source protection plans specified in the order; and
- (b) requiring the source protection board, within such time period as may be specified in the order, to repay any amounts paid to them by the Crown in right of Ontario in connection with the preparation of the terms of reference, assessment reports and source protection plans specified under clause (a).

Ministry shall prepare

(4) Subject to subsection (5), if the Minister makes an order under subsection (3), the Ministry or another ministry of the Government of Ontario shall prepare the terms of reference, assessment reports and source protection plans specified under clause (3) (a) in place of the source protection committee and source protection board, and sections 11 to 14 apply, with necessary modifications, for that purpose.

Rescission of order

(5) The Minister may, by order, rescind an order made under subsection (3), in whole or in part, and require the source protection committee and source protection board to prepare terms of reference, an assessment report or a source protection report in accordance with this Act, subject to such conditions as the Minister may specify.

Repayment order enforced as Court judgment

(6) An order by the Minister requiring a source protection board to repay funding under clause (3)(b) may be filed with a local registrar of the Superior Court of Justice and enforced as if it were an order of the court.

Interest

(7) Section 129 of the *Courts of Justice Act* applies in respect of an order by the Minister requiring a source protection board to repay funding under clause (3)(b), and for that purpose, the date of filing the order shall be deemed to be the date of the order.

No right of appeal

(8) No appeal lies to the Environmental Review Tribunal in respect of an order by the Minister requiring a source protection board to repay funding under clause (3)(b).

Appeals of plans

16. (1) A person may appeal to the Environmental Review Tribunal from the Minister's approval of a source protection plan for a watershed if,

- (a) the person is directly and adversely affected by the source protection plan; or
- (b) the person has a residence in the source protection area in which the watershed is located and made written comments on the source protection plan within the comment period described in the notice published under subsection 14(11).

Notice of appeal

- (2) The notice of appeal shall,
 - (a) identify the specific part of the approved source protection plan to which the notice applies, if the notice does not apply to the entire plan;
 - (b) set out the grounds for the appeal;
 - (c) be served upon the Minister and the source protection board; and
 - (d) be filed, accompanied by the prescribed fee, with the Tribunal within 15 days after the day that the Minister gives notice of the plan approval on the registry established under section 5 of the *Environmental Bill of Rights, 1993*.

Effect of contents of notice

(3) At the Tribunal hearing, the person who filed the appeal is not entitled to appeal any part of the approved source protection plan, or to rely upon any ground, that is not set out in the notice of appeal, except with leave by the Tribunal.

Findings by Tribunal

(4) After holding a hearing, the Tribunal shall not allow the appeal nor grant any relief unless Tribunal finds that the approved source protection plan,

- (a) fundamentally fails to comply with this Act or the regulations;
- (b) was prepared in contravention of the terms of reference, including the public consultation requirements; or
- (c) inadequately addresses water risks identified in the assessment report.

No automatic stay on appeal

(5) The filing of the notice of appeal does not stay the operation of the approved source protection plan, or any part of the plan, unless otherwise ordered by the Tribunal upon application by the person who filed the notice.

Parties to hearing

(6) The person filing the notice of appeal, the Minister, the source protection board, and any other person specified by the Tribunal are parties to the hearing.

Dismissal without hearing

(7) Despite the *Statutory Powers Procedure Act* and subsection (3), the Tribunal may, on its own motion or on motion by any party, dismiss all or any part of an appeal without holding a hearing if the Tribunal is of the opinion that,

- (a) the notice of appeal does not disclose any grounds upon which the Tribunal could allow the appeal or grant any relief under this Act;
- (b) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (c) the appellant did not pay the prescribed fee for filing the notice of appeal; or
- (d) the appellant did not comply with directions from the Tribunal, or did not respond to requests by the Tribunal for further information within the time specified by the Tribunal.

Appeal to court

(8) Any party to the hearing may appeal the decision of the Tribunal on a question of law to the Divisional Court in accordance with the rules of court.

Appeal to Cabinet

(9) Any party to the hearing may appeal the decision of the Tribunal on any matter other than a question of law to the Lieutenant Governor in Council, or such ministers of the Crown as may be designated by the Lieutenant Governor in Council, within 30 days of the Tribunal's decision.

Disposition of appeal to Cabinet

(10) In an appeal under subsection (9), the Lieutenant Governor in Council, or the designated ministers, may,

- (a) confirm, alter or revoke the decision of the Tribunal;
- (b) substitute his, her or their decision for the decision of the Tribunal; or
- (c) require the Tribunal to hold a new hearing respecting all or part of the source protection plan under appeal.

Court or Cabinet may grant or set aside stay

(11) Where a decision of the Tribunal is appealed to the Divisional Court or to the Lieutenant Governor in Council, the Divisional Court or the Lieutenant Governor in Council may,

- (a) stay the operation of the Tribunal's decision; or
- (b) set aside a stay ordered by the Tribunal under subsection (4).

Annual progress reports

17. (1) Each source protection board shall annually prepare and submit to the Minister in accordance with the regulations a progress report that describes the measures that have been taken to implement the source protection plans that apply in the board's source protection area and the extent to which the objectives set out in the plans are being achieved.

Contents of report

- (2) The annual progress report shall include,

- (a) information on the quality and quantity of the source water within the watershed, including the water budget;
- (b) a description of water risks identified within the watershed;
- (c) a summary of all surface water and ground water monitoring programs undertaken by or for the board;
- (d) an identification and discussion of any regulated drinking water contaminants detected in the source water in the watershed;
- (e) an assessment of the effectiveness of the mandatory and voluntary measures contained within the source protection plan;
- (f) discussion of any non-compliance with mandatory measures contained within the source protection plans, and steps taken to address such non-compliance;
- (g) discussion of potential changes to the source protection plan to address new or emerging threats to the source water in the watershed;
- (h) directions for contacting the board for further information; and
- (i) any other matter as may be prescribed by the regulations.

Available to public

(3) The source protection board shall ensure that the annual progress report is available to the public after it is submitted to the Minister, and shall,

- (a) post the annual progress report on the board's website;
- (b) submit a copy of the annual progress report to the Environmental Commissioner;
- (c) provide copies of the annual report free of charge upon request by any person; and
- (d) ensure that all records, data, or documents discussed or summarized in the annual progress report are posted electronically on the board's website, and available for public inspection in the board offices during regular business hours.

Submission of report

(4) The annual progress report for a calendar year shall be submitted by the source protection board to the Minister and the Environmental Commissioner on or before April 1 of the following calendar year.

Minister's summary of reports

(5) The Minister shall include a summary of all annual progress reports submitted under this Act in the annual report prepared by the Minister under subsection 3(4) of the *Safe Drinking Water Act, 2002*.

Contents of Minister's summary

- (6) The summary required under subsection (5) shall include:
- (a) an overview of the status of source protection plan implementation and monitoring programs across Ontario;
 - (b) a description of provincial activities undertaken in support of source protection plan implementation and monitoring;
 - (c) issue identification and trend analysis respecting source protection plan implementation and monitoring; and
 - (d) any other matter as may be prescribed by the regulations.

Review of plan

18.(1) The source protection committee shall, at least every five years from the date that the source protection plan is approved by the Minister, ensure that a public review of the plan is undertaken for the purpose of determining the need for a revision of the plan.

Revision of plan

(2) Where the source protection committee determines under subsection (1) that there is a need to revise the plan, the committee shall immediately prepare proposed revisions, and sections 11, 14 and 15 of this Act apply with necessary modifications to such revisions.

Minister's direction to review

(3) Despite subsection (1), the Minister may, at any time, direct the source protection committee to undertake a review of the approved source plan, and when so directed, the committee shall cause the review to be undertaken forthwith.

Amendments

19. A source protection committee shall, in accordance with the regulations, amend terms of reference, an assessment report or a source protection plan if,

- (a) the Minister makes an order requiring amendments to reflect a new regulation, or an amendment to a regulation, that has been made under this Act governing the preparation and approval of terms and reference, assessment reports or source protection plans;
- (c) the source protection committee or the source protection board is of the opinion that a source protection plan does not adequately protect against a water risk,
 - i. related to the raw water supply of a drinking-water system referred to in subparagraph 1 iv of subsection 13(2) in the assessment report prepared for the watershed; or
 - ii. related to the raw water supply of existing wells referred to in subparagraph 1 vii of subsection 13(2) in the assessment report prepared for the the watershed.

PART III INSPECTIONS, INVESTIGATIONS AND ENFORCEMENT

Provincial officers

20. (1) The Minister shall in writing designate such persons and classes of persons as the Minister considers necessary as provincial officers in respect of one or more provisions of this Act or the regulations, as specified in the designation.

Limitation of authority

(2) The Minister may, in a designation of a provincial officer, limit the authority of the provincial officer in such manner as the Minister considers necessary.

Peace officer

(3) A provincial officer is a peace officer for the purpose of enforcing this Act.

Investigation and prosecution

(4) A provincial officer may investigate offences under this Act and may prosecute any person whom the provincial officer reasonably believes is guilty of an offence under this Act.

Powers of entry

21. (1) A provincial officer, or an employee or agent of a source protection board or a person designated by a source protection board under subsection (10), may enter private property, other than a dwelling, without the consent of the owner or occupier and without a warrant, if,

- (a) the entry is for the purpose of collecting information relevant to the preparation of an assessment report or source protection plan under this Act; or
- (b) the entry is for the purpose of determining whether a water risk related to a raw water supply exists on, in or under the property.

Other persons

(2) A person who is authorized to enter private property under subsection (1) may be accompanied by any person possessing expert or special knowledge that is related to the purpose of the entry.

Time

(3) Subject to subsection (4), the power to enter property under subsection (1) may be exercised at any reasonable time.

Notice

(4) The power to enter property under subsection (1) shall not be exercised unless reasonable notice of the entry has been given to the occupier of the property.

Limitation on the use of force

(5) A provincial officer who enters property under subsection (1) may use such force as is reasonably necessary,

- (a) to carry out an order issued under this Act;
- (b) to execute a warrant issued under the *Provincial Offences Act*; or
- (c) to prevent the destruction of any thing or document that the provincial officer reasonably believes may afford evidence of an offence under this Act.

Powers

(6) A person who enters property under subsection (1) or (2) may, for the purpose for which the entry is made under subsection (1),

- (a) make necessary excavations;
- (b) require that any thing be operated, used or set in motion under conditions specified by the person;
- (c) take samples for analysis;
- (d) conduct tests or take measurements;
- (e) examine, record or copy any document or data, in any form, by any method;
- (f) require the production of any document or data, in any form, related to the purpose of the entry;
- (g) remove from a place documents or data, in any form, produced under clause (f) for the purpose of making copies; and
- (h) make reasonable inquiries of any person, orally or in writing.

Limitation re removal of documents, data

(7) A person who enters property under subsection (1) or (2) shall not remove documents or data under clause (6) (g) without giving a receipt for them and shall promptly return the documents or data to the person who produced them.

Identification

(8) On request, a person who enters property under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry.

Offence

(9) Any person who prevents or obstructs a person who is entitled to enter property under subsection (1) or (2) from entering the property is guilty of an offence.

Designation by board

(10) A source protection board may in writing designate, for the purposes of this section,

- (a) an employee or agent of a municipality; or
- (b) all persons who are members of a class of employees or agents of a municipality.

Police assistance

(12) A person who enters upon property under subsection (1) or (2) may take such steps or issue such directions as may be required to accomplish the purpose of the entry, and may, if obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required.

Duty of police

(13) Where a request for police assistance is made under subsection (1), it is the duty of every member of a police force to render such assistance forthwith.

Entry to dwellings

(14) A person shall not exercise a power under this Act to enter a room actually used as a dwelling without the consent of the occupier, except under authority of an order issued under section 24.

Requirement to stop

22. (1) For the administration of this Act and the regulations, a provincial officer may signal a vehicle or vessel to stop.

Idem

(2) On the provincial officer's signal to stop, the operator of the vehicle or vessel shall immediately come to a safe stop.

Inspection

(3) Where the operator of a vehicle or vessel is stopped under subsection (1), the provincial officer may,

- (a) make reasonable inquiries of the operator;
- (b) request the operator to produce for inspection any document or instrument relating to the ownership or operation of the vehicle or vessel, or relating to the cargo or container, if any, being transported by the operator;
- (c) require the operator to open any cargo hold, container or other means of containment in or attached to the vehicle or vessel; and
- (d) exercise any powers described in subsection 21(6) as are reasonably required for the administration of this Act or the regulations.

Power to administer other Acts

23. A provincial officer who exercises any powers under sections 21 or 22 may, if the provincial officer is designated as such under the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act* or the *Safe Drinking Water Act, 2002*, as the case may be, do anything authorized by,

- (a) section 156, 156.1, 160, 161 or 161.1 of the *Environmental Protection Act*;
- (b) section 13, 14, or 23 of the *Nutrient Management Act, 2002*;

- (c) section 15, 15.1, 19, 20 or 20.1 of the *Ontario Water Resources Act*;
- (d) section 19, 19.1, 22, 23 or 23.1 of the *Pesticides Act*; or
- (e) Part VIII of the *Safe Drinking Water Act, 2002*.

Order by justice

24. (1) A justice may issue an order authorizing a provincial officer to do anything set out in sections 21 and 22 if the justice is satisfied, on evidence under oath by a provincial officer, that there are reasonable grounds to believe that it is appropriate for the administration of this Act and the regulations for the provincial officer to do it, and that the provincial officer may not be able to effectively carry out his or her duties without an order under this section because,

- (a) no occupier is present to grant access to a place that is locked other otherwise inaccessible;
- (b) a person has prevented a provincial officer from doing anything under sections 21 or 22;
- (c) there are reasonable grounds to believe that a person may prevent a provincial officer from doing anything set out in sections 21 or 22;
- (d) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the provincial officer to obtain an order under this section without delay if access is denied; or
- (e) there are reasonable grounds to believe that an attempt by the provincial officer to do anything set out in sections 21 or 22 without the order might not achieve its purpose, might endanger human health or safety, or might damage property.

Expiry of order

(2) Unless renewed, an order under this section expires on the earlier of the expiry date specified in the order and the date that is 30 days after the order was made.

Renewal of order

(3) An order under this section may be renewed in the circumstances in which an order may be made under subsection (1), before or after expiry, for one or more periods each of which shall not exceed 30 days.

When order to be executed

(4) An order under this section shall be carried out between 6:00 a.m. and 9:00 p.m., unless the order otherwise authorizes.

Application without notice

(5) An order under this section may be issued or renewed on application without notice.

Seizure during inspection

25. During an inspection under sections 21, 22 or 24, a provincial officer may, without a warrant or court order, seize any thing or document that is produced to the provincial officer or is in plain view, if,

- (a) the provincial officer reasonably believes that the thing or document may afford evidence of an offence under this Act;
- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence under this Act, and that seizure is necessary to prevent to continuation or repetition of the offence; or
- (c) the provincial officer reasonably believes that the thing may result in a water risk.

Order by provincial officer

26. (1) A provincial officer may issue an order to any person that the provincial officer reasonably believes is contravening or has contravened,

- (a) a provision of this Act or the regulations;

- (b) a provision of an order or direction made under this Act; or
- (c) a provision of an approved source protection plan.

Contents of order

- (2) An order issued under subsection (1) shall,
 - (a) specify the provision, term or condition that the provincial officer believes is being contravened or has been contravened;
 - (b) briefly describe the nature or location of the contravention;
 - (c) state that a review of the order may be requested in accordance with section 27.

What order may require

- (3) The order may require the person to whom it is directed to comply within any directions set out in the order within the time specified relating to:
 - (a) achieving compliance with the contravened provision, term or condition;
 - (b) preventing the continuation or repetition of the contravention;
 - (c) the securing of any land, place or things;
 - (d) monitoring, sampling, analysis or reporting in relation to the quality or quantity of water;
 - (e) eliminating, mitigating or managing a water risk;
 - (f) providing alternate drinking-water supplies where the contravention has damaged or threatened any drinking-water source;
 - (g) retaining consultants or submitting plans in order to come into compliance with the provision, term or condition;
 - (h) submitting an application for an approval, licence, permit or other instrument;
 - (i) posting notice of the order; and

- (j) requiring other measures or actions as may be prescribed by the regulations.

Review of order

27. (1) A person to whom an order is directed under section 26 may, within 7 days after being served with a copy of the order, request in writing that the Ministry review the order.

Ministry employees

(2) The review requested under section 27 shall be carried out by such Ministry employees or classes of employees as may be designated by the Minister for that purpose.

Contents of request for review

- (3) A written request for review under subsection (1) shall include,
 - (a) the parts of the order for which the review is requested;
 - (b) any comments or documents in support of the requested review;
 - (c) an address for service by mail or facsimile transmission; and
 - (d) any other information as may be prescribed by the regulations.

No automatic stay

- (4) A request for review under subsection (1) does not stay the order.

Decision regarding review

(5) The Ministry employee designated by the Minister under subsection (2) to carry out the review may,

- (a) revoke the order of the provincial officer, in whole or in part, with or without conditions; or
- (b) by order directed to the person requesting the review, confirm or amend the order of the provincial officer.

Idem

(6) For the purposes of subsection (5), the Ministry employee designated to carry out the review may substitute his or her own opinion for that of the provincial officer.

Notice of decision

(7) The Ministry employee who carries out the review and makes a decision under subsection (5) shall provide a copy of the decision, with reasons, to the person who requested the review.

Automatic confirmation of order

(8) If, within 7 days of receiving the written request for review under subsection (1), the Ministry employee designated to carry out the review does not make a decision under subsection (5) and does not provide notice of a decision to the person who requested the review, the order of the provincial officer shall be deemed to have been confirmed.

No right of appeal

(9) No appeal lies to the Environmental Review Tribunal from a decision under subsection (5) or a deemed confirmation of the provincial officer's order under subsection (8).

XX [placeholder: additional provisions relating to inspection, investigation and enforcement]

PART IV GENERAL PROVISIONS

Extensions of time

28. (1) The Minister may in writing extend the time for doing anything required under this Act, before or after the time for doing the thing has expired.

Grounds for extending time

(2) The Minister shall not grant a time extension under subsection (1) unless:

- (a) the person requesting the time extension has applied in writing to the Minister for the extension and has provided reasons in support of the request;
- (b) the person requesting the time extension has provided public notice and comment opportunities in relation to the proposed extension; and
- (c) the Minister is satisfied that a time extension is in the public interest and is necessary in order to achieve the purposes of this Act.

Terms

(3) In granting a time extension under subsection (1), the Minister may specify such further deadlines or impose such terms as the Minister considers advisable.

Limitation on time extensions

(4) Despite subsection (3), the Minister shall not grant a time extension under subsection (1) for a term that exceeds one year.

General offence

29. (1) Every person who contravenes this Act or the regulations is guilty of an offence.

Idem

(2) Every person who contravenes a prohibition or restriction contained in a source protection plan approved under this Act is guilty of an offence.

Idem

(3) Every person who fails to comply with an order made under this Act is guilty of an offence.

Penalty: individuals

(4) An individual who is guilty of an offence under subsections (1), (2) or (3) is liable, on conviction,

- (a) in the case of a first conviction, a fine of not more than \$50,000 for each day or part of a day on which the offence occurs or continues; and
- (b) in the case of a subsequent conviction, to a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues.

Penalty: corporations

(5) A corporation that is guilty of an offence described in subsections (1), (2) or (3) is liable, on conviction,

- (a) in the case of a first conviction, a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues; and
- (b) in the case of a subsequent conviction, a fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues.

Offence: directors or officers

(6) If a corporation commits an offence under subsections (1), (2) or (3), a director, officer, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or failed to take all reasonable care to prevent the commission of the offence, or who participated in the commission of the offence, is guilty of an offence under subsections (1), (2) or (3), whether the corporation has been prosecuted for the offence or not.

Orders by court

(7) The court that convicts a person under subsections (1), (2) or (3) may, on its own initiative or on motion of counsel for the prosecutor, make one or more of the following orders:

- (a) an order prohibiting the continuation or repetition of the offence by the person;
- (b) an order imposing requirements that the court considers appropriate to prevent similar unlawful conduct or to contribute to the person's rehabilitation; or
- (c) an order requiring the person, within the period and upon terms specified in the order, to,
 1. comply with the Act, regulations, approved source protection plan or order;
 2. take specified actions to prevent, decrease or eliminate water risks that have been caused, or may be caused, by the commission of the offence;
 3. restore or rehabilitate any source of drinking-water that has been, or may be, degraded or depleted by the commission of the offence;
 4. pay to the Minister an amount of money as compensation, in whole or in part, for the cost of any remedial or preventive action taken or caused to be taken on behalf of the Minister as a result of the commission of the offence;

5. pay to the Minister an amount of money the court considers appropriate for the purpose of promoting the identification, protection or restoration of sources of drinking-water; or
6. publish, in any manner the court considers appropriate, the facts relating to the commission of the offence.

Other remedies unaffected

- (8) Subsection (7) is in addition to any other remedy or penalty provided by law.

Limitation

- (9) A proceeding under subsections (1), (2) or (3) shall not be commenced more than two years after the day on which the offence was alleged to have been committed.

Power to restrain by action

30. (1) Where any provision of this Act or the regulations, or of an order made or source protection plan approved under this Act, is contravened, in addition to any other remedy or penalty imposed by law, such contravention may be restrained by action at the instance of the Minister or any other person resident in Ontario.

Powers of court

- (2) In an action under subsection (1), the court may issue a temporary or permanent injunction ordering any person named in the action to,
 - (a) refrain any act or thing that it appears to the court may constitute or be directed towards a contravention of this Act or the regulations, or a contravention of an order made or source protection plan approved under this Act; or
 - (b) do any act or thing that it appears to the court may prevent a contravention of this Act or the regulations, or a contravention of an order made or source protection plan approved under this Act.

Notice

- (3) No injunction may be issued in an action under subsection (1) except where 24 hours notice is given to the person named in the action, unless the court considers that the urgency of the situation is such that service of notice is not in the public interest.

Undertaking to pay damages

(4) Where a plaintiff obtains an interlocutory injunction in an action under subsection (1), the court shall not require the plaintiff to provide an undertaking to pay damages in an amount greater than \$500.

Instruments

31. (1) In this section,

“instrument” means any document of legal effect issued under an Act or regulation, and includes a permit, licence, approval, by-law, authorization, direction or order issued under an Act or regulation; and

“issuing authority” means the person, agency, ministry, or municipality that has issued or granted an instrument.

Limitation on certain instruments

(2) Despite any other general or special Act, no person, agency, ministry, municipality, board, tribunal or commission shall issue or amend an instrument for a project, development, undertaking or activity that,

- (a) contravenes a prohibition or restriction contained in a source protection plan approved under this Act; or
- (b) causes, or may cause, a water risk.

Limitation on certain financial assistance

(3) No agency, ministry, municipality, board, tribunal or commission shall give or approve a loan, grant, subsidy or guarantee for a project, development, undertaking or activity that,

- (a) contravenes a prohibition or restriction contained in a source protection plan approved under this Act; or
- (b) causes, or may cause, a water risk.

Limitation on certain public works

(4) No agency, ministry, municipality, local board, tribunal or commission shall undertake any public project, development, undertaking or activity that,

- (a) contravenes a prohibition or restriction contained in a source protection plan approved under this Act; or
- (b) causes, or may cause, a water risk.

Review of existing instruments

(5) Within three years after the date that this Act comes into force, every instrument shall be reviewed and, where necessary, revised or revoked by the issuing authority to ensure that the instrument conforms with approved source protection plans.

Regulations

32. (1) The Minister may make regulations,

- (a) prescribing anything referred to in this Act as prescribed by the regulations;
- (b) altering the boundaries of a source protection area established by subsection 7(1) for the purposes of this Act;
- (c) for the purpose of subsection 7(2), establishing and defining the boundaries of drinking water source protection areas in addition to the areas established under subsection 7(1);
- (d) naming a source protection area;
- (e) designating the participating municipalities for a conservation authority for the purposes of this Act, if the boundaries of a source protection area are altered for the purposes of this Act by a regulation made under clause (b);
- (f) designating a person or body for a source protection area for the purpose of subsection 8(2);
- (g) governing the quorum for meetings of a person or body designated under clause (f);
- (h) governing voting at meetings of a person or body designated under clause (f);
- (i) consolidating two or more source protection areas into a drinking water source protection region;

- (j) naming a source protection region established under clause (i);
- (k) designating a conservation authority as the lead conservation authority for a source protection region;
- (l) governing the appointment of source protection committees;
- (m) authorizing the Minister, on application, to grant exemptions from the regulations made under clause (l), subject to such conditions and restrictions as the Minister may impose, and governing those applications and exemptions;
- (n) governing the preparation and approval of terms and reference, assessment reports and source protection plans, including regulations respecting,
 - (i) the time period within which terms and reference, assessment reports and source protection plans must be submitted to the source protection board or the Minister;
 - (ii) the contents of terms and reference, assessment reports and source protection plans, including regulations respecting the matters referred to in each paragraph of subsections 12(2) and (3), 13(2) and 14(2); and
 - (iii) consultation on proposed terms and reference, assessment reports and source protection plans.
- (o) governing the preparation and approval of amended terms and reference, assessment reports and source protection plans under section 19, including regulations making any provision of this Act or the regulations applicable, with such modifications as are specified in the regulations;
- (p) governing annual progress reports required by section 17;
- (q) prescribing requirements that must be satisfied in making determinations of whether something is,
 - (i) a water risk,
 - (ii) a hydrologically sensitive area,
 - (iii) a wellhead protection zone, or
 - (iv) a surface water intake protection zone;

- (r) defining any word or expression used in this Act that is not already defined in this Act; or
- (s) exempting any person or thing from this Act or any provision of this Act.

General or particular

- (2) A regulation made under this Act may be general or particular in its application.

Effect of regulation made under cl. (1) (e)

(3) If a regulation is made under clause (1) (e) designating participating municipalities for a conservation authority for the purposes of this Act, section 14 of the *Conservation Authorities Act* applies, with necessary modifications, for the purposes of this Act.

Deadline for certain regulations

(5) Despite subsection (1), the Minister shall, within 6 months after this Act comes into force, make regulations,

- (a) establishing, defining or revising the boundaries of source protection areas or regions;
- (b) designating a person or body as a source protection board for areas or regions not under the jurisdiction of a conservation authority;
- (c) governing the preparation, content and approval of terms of reference, assessment reports, and source protection plans, including regulations that specify timeframes or deadlines; and
- (d) describing the scope, nature and content of public consultation programs undertaken in relation to terms of reference, assessment reports, and source protection plans.

PART V CONSEQUENTIAL AMENDMENTS, TRANSITIONAL PROVISIONS, AND COMING INTO FORCE

Review of Act

33. (1) Every five years after the coming into force of this Act, the administration of this Act shall be referred by the Minister to such committee of the Legislative Assembly as may be designated or established for such purpose.

Report on review

(2) The committee designated or established under subsection (1) shall, as soon as practicable, undertake a comprehensive public review of the provisions and operation of this Act, and shall table its report, including any recommended changes to this Act or its administration, with the Speaker of the Legislative Assembly within one year after the completion of the review.

Consequential amendments

XX. [placeholder: amendments to other statutes]

Decisions shall comply

34. (1) Every statutory power of decision that is exercised by a municipal council, local board, planning authority, agency, board, commission or tribunal under prescribed Acts shall conform with this Act, regulations, and approved source protection plans.

Idem

(2) Subsection (1) applies with respect to applications, matters or proceedings commenced on or after this Act comes into force.

Idem

(3) Subsection (1) applies to applications, matters or proceedings commenced before this Act comes into force if a decision has not been made before that date in respect of the application, matter or proceeding.

Deemed decision

(4) For the purposes of subsection (3), a decision shall be deemed to be made,

- (a) in the case of an instrument, on the day that the approval authority, or appellate body, decided to approve or uphold the issuance of the instrument;
- (b) in the case of an amendment to an official plan or zoning by-law, on the day that the approval authority, or the Ontario Municipal Board, decided to approve or uphold the amendment; and
- (c) in all other cases, on such days as may be prescribed by regulation.

Definition

(5) In this section, “statutory power of decision” has the same meaning as the *Judicial Review Procedure Act*.

Commencement

35. This Act comes into force on that it receives Royal Assent.

Short title

36. The short title of this Act is the Drinking Water Source Protection Act, 2004.

SCHEDULE I

(See subsection 7 (1))

1. Ausable Bayfield Conservation Authority
2. Cataraqui Region Conservation Authority
3. Catfish Creek Conservation Authority
4. Central Lake Ontario Conservation Authority
5. Credit Valley Conservation Authority
6. Crowe Valley Conservation Authority
7. Essex Region Conservation Authority
8. Ganaraska River Conservation Authority
9. Grand River Conservation Authority
10. Grey Sauble Conservation Authority
11. Halton Region Conservation Authority
12. Hamilton Region Conservation Authority
13. Kawartha Region Conservation Authority
14. Kettle Creek Conservation Authority
15. Lake Simcoe Region Conservation Authority
16. Long Point Region Conservation Authority
17. Lower Thames Valley Conservation Authority
18. Lower Trent Region Conservation Authority
19. Maitland Valley Conservation Authority
20. Mississippi Valley Conservation Authority
21. Moira River Conservation Authority
22. Napanee Region Conservation Authority
23. Niagara Peninsula Conservation Authority
24. Nottawasaga Valley Conservation Authority
25. Otonabee Region Conservation Authority

26. Prince Edward Region Conservation Authority
27. Raisin Region Conservation Authority
28. Rideau Valley Conservation Authority
29. Saugeen Valley Conservation Authority
30. South Nation River Conservation Authority
31. St. Clair Region Conservation Authority
32. Toronto and Region Conservation Authority
33. Upper Thames River Conservation Authority