

**Caution:**

*This consultation draft of the proposed amendments to the Regulation is intended to facilitate dialogue concerning the proposed implementation guidance. Should the decision be made to proceed with the proposal, the content, structure, form and wording of the consultation draft are subject to change, and to editing and correction by the Office of Legislative Counsel. This draft is confidential and not to be shared.*

**CONSULTATION DRAFT**

**ONTARIO REGULATION**

To be made under the

**ONTARIO WATER RESOURCES ACT**

Amending O. Reg. 387/04

(WATER TAKING AND TRANSFER)

**1. The definitions of “Average Annual Flow Map” and “Summer Low Flow Map” in subsection 2 (1) of Ontario Regulation 387/04 are revoked.**

**2. Subsection 3 (2) of the Regulation is revoked.**

**3. (1) Subparagraph 2 iii of subsection 4 (2) of the Regulation is revoked and the following substituted:**

- iii. whether the water taking or proposed water taking is from a ground or surface source of supply that the Director has determined under subsection (5) to be under stress, and

**(2) Paragraph 3 of subsection 4 (2) of the Regulation is amended by striking out “and” at the end of subparagraph ii, by adding “and” at the end of subparagraph iii and by adding the following subparagraph:**

- iv. the categories of priorities of water use set out in subsection (4).

**(3) Section 4 of the Regulation is amended by adding the following subsections:**

**(4) The following are the priorities of water use for the purposes of subparagraph 3 iv of subsection (2):**

1. Highest priority category of water use, being,
  - i. water used to protect the natural functions of the ecosystem as described in paragraph 1 of subsection (2),
  - ii. water used to supply water for one or more drinking water systems within the meaning of section 2 of the *Safe Drinking Water Act, 2002*, and
  - iii. water used to support farm animal production and aquaculture.
2. Second priority category of water use, being,
  - i. water used for the irrigation of agricultural crops, and
  - ii. water used for on-farm washing activities.
3. Third priority category of water use, being any water used for a purpose not mentioned in the first, second or fourth priority category, including any water used for an industrial or commercial purpose, including for watering golf courses.
4. Fourth priority category of water use, being any water used for an aesthetic purpose, including water used for a water feature or for landscaping purposes.

(5) Where the Director determines, having regard to all the information available to the Director, that one or more ground or surface sources of supply are under stress, in whole or in part, the Director shall post an information notice to that effect on the environmental registry pursuant to section 6 of the *Environmental Bill of Rights*, delineating the geographic area where the source or sources of supply are under stress and providing a summary of the information and analysis the Director relied on in making the determination.

(6) An information notice under subsection (5) shall indicate the Director's intention to prepare and consult on a strategy to manage the permitted water takers within the geographic area mentioned in subsection (5).

(7) In every case where the Director has published an information notice under subsection (5), the Director shall proceed to prepare and consult on the strategy mentioned in subsection (6).

(8) After consulting on the strategy mentioned in subsection (6), the Director shall proceed to finalize the strategy and shall have regard to it to the extent that it is relevant when considering a matter to which this section applies.

#### **4. Section 5 of the Regulation is revoked.**

**5. The Regulation is amended by adding the following section:**

**Publication**

**9.1** The Director may publish on a Government of Ontario website or otherwise make available to the public the following data, whether collected before or after the coming into force of this section:

1. Any data collected under section 9.
2. Any data required to be reported to the Director under Ontario Regulation 63/16 (Registrations under Part II.2 of the Act – Water Taking) made under the *Environmental Protection Act*.
3. Any other data that the Ministry collects from a holder of a permit that relates to the holder's water taking.

**Commencement**

**6. [Commencement]**