

Chapter 3 - Implementation



3.1 General Responsibilities

The Source Protection Plan identifies municipalities, provincial ministries and the Cataraqui Source Protection Authority as the main implementing bodies of the Plan. **Appendices B and C** provide these bodies with a quick reference of the legal effect of the policies in the Plan, as well as which policies apply to them and the timelines for implementation. Other agencies are identified in the Plan as potential contributors to the effort of these bodies.

The following sections provide a generalized overview of these responsibilities.

3.1.1 Municipalities

Municipalities are generally responsible for:

- Enforcing Part IV of the *Clean Water Act* related to prohibition, risk management plan and restricted land use policies identified in the Plan. Making decisions under the *Planning Act* and *Condominium Act* that conform with significant threat policies, and that have regard to other policies in the Plan.
- Ensuring that their Official Plans conform with the Source Protection Plan policies that address significant threats no later than at the time of the next five year review required under section 26 of the *Planning Act*.
- Updating existing municipal operations and programs.
- Collaborating on research studies, education and outreach programs, and incentive programs.
- Reporting on the implementation of source protection policies to the Cataraqui Source Protection Authority.

Municipalities have responsibilities under the *Clean Water Act* and Ontario Regulation 287/07 (General) that are independent of the Source Protection Plan, including the requirement to notify the Source Protection Authority and Source Protection Committee of proposals that could change the delineation and vulnerability score of a wellhead protection area or intake protection zone (see subsection 3.5.1).

The Ontario Building Code also requires municipalities to establish mandatory on-site sewage system maintenance inspection programs for those areas where septic systems are or would be significant drinking water threats, as identified in the Assessment Report.

3.1.2 Provincial Ministries

Provincial ministries are generally responsible for:

- Making decisions about prescribed instruments that conform with significant threat
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policies, and that have regard to other policies in the Plan.

- Updating existing provincial programs.
- Collaborating on research studies, education and outreach programs, and incentive programs.
- Reporting on the implementation of source protection policies to the Cataraqui Source Protection Authority.

3.1.3 Cataraqui Source Protection Authority

The Source Protection Authority is generally responsible for:

- Collaborating on research studies, education and outreach programs, and incentive programs.
- Reporting on the implementation of source protection policies to the Ministry of the Environment, as required by the *Clean Water Act*.

The Source Protection Authority should also share the Assessment Report and the Source Protection Plan with agencies whose programs and operations can impact sources of drinking water, but who are not obligated to take action under the *Clean Water Act*. These agencies should be encouraged to consider this information and use it to make more informed decisions related to their operations, such as in their responses to emergencies and spills. These agencies include Prince Edward County, Transport Canada, the Canadian Coast Guard, CN Rail, St. Lawrence Seaway Management Corporation, and the New York Department of Environmental Conservation.

3.2 Legal Effect of Policies

The *Clean Water Act* requires municipalities, local boards (e.g., health units) or source protection authorities to comply with any obligations imposed on it to address a significant drinking water threat, regardless of the particular tool or approach used in the policy.

The Act requires decisions under the *Planning Act, 1990* and *Condominium Act, 1998* to conform with policies on significant threats, and to have regard to policies on moderate and low threats. It also requires decisions related to prescribed instruments (e.g., environmental compliance approvals) to conform with policies on significant threats, and to have regard to policies on moderate and low threats.

Persons engaged in activities that are significant drinking water threats must conform with policies that use Part IV powers under the *Clean Water Act*.

Public bodies designated in the source protection plan to carry out monitoring required by the *Clean Water Act* must conform with the obligations set out in the monitoring policies.

Other types of policies that, while the Committee has determined are important to achieving the Plan's objectives, are not given legal effect by the Act. These include:

- policies on significant, moderate and low threats to be implemented by bodies other than municipalities, local boards or source protection authorities and which do not rely on Part

IV, prescribed instrument or *Planning Act* tools

- other permitted policies governing:
 - incentive programs and education and outreach programs that are not specifically for a wellhead protection area or intake protection zone (e.g., private wells)
 - the update of spills prevention, contingency and response plans for highways, railways or shipping lanes in wellhead protection areas and intake protection zones
 - transport pathways in wellhead protection areas and intake protection zones.

Implementing bodies should consider the non-binding policies in the context of their existing and planned policies, procedures and programs as well as their financial means. They will need to prioritize actions based on best practices and community goals and objectives.

The types of policies identified in section 34 of Ontario Regulation 287/07 (General) do not have legal effect under the *Clean Water Act* unless the Plan specifies which provision of Part III of the Act applies to those policies. **Appendix C** satisfies this regulatory requirement, by listing the following types of policy and the applicable type of legal effect:

- significant threat policies that affect decisions under the *Planning Act* or *Condominium Act, 1998*
- moderate and low threat policies that affect decisions under the *Planning Act* or *Condominium Act, 1998*
- significant threat policies that affect prescribed instrument decisions
- moderate and low threat policies that affect prescribed instrument decisions
- significant threat policies that impose obligations on municipalities, source protection authorities and local boards
- monitoring policies, specifically those referred to in subsection 22(2) of the *Clean Water Act, 2006*.

3.3 Timeline for Implementation

The Plan specifies when a given policy will take effect. If a date is not specified, it is effective the day on which the Plan takes effect, which is immediately upon the date of the posting on the Environmental Registry of the Notice of Approval of the Source Protection Plan by the Minister of the Environment. The notice is published as an information notice on the Environmental Registry, as required by section 30 of the *Clean Water Act*, and is for information only.

In setting dates, there was a need to balance the urgency of addressing significant drinking water threats versus the capacity of the implementing body to act (i.e., staffing, funding, other requirements).

The provincial Environmental Registry contains public notices about environmental matters being proposed by government ministries covered by the Environmental Bill of Rights. The registry is located at www.ebr.gov.on.ca.

Appendix D lists the source protection policies by implementing body and by timeline for implementation.

3.4 Annual Reporting to the Ministry of the Environment

Under subsection 46(1) of the *Clean Water Act*, the Cataraqui Source Protection Authority is required to prepare and submit a progress report annually to the Director of the Source Protection Programs Branch of the Ministry of the Environment, and to the Cataraqui Source Protection Committee, that:

- describes the measures that have been taken to implement the Source Protection Plan, particularly relating to activities that are or would be significant drinking water threats
- describes the result of any monitoring program
- describes the extent to which the objectives set out in the plan are being achieved
- includes other information such as:
 - i. a description of any failure by a person or body to take action in accordance with a policy by a specified date, and the reason for the failure
 - ii. a description of any steps taken to address any deficiencies in the information that was used in the development of the assessment report set out in the Source Protection Plan and
 - iii. a summary of the report prepared and submitted by the risk management official(s).

Ontario Regulation 287/07 (General) specifies that this report must be submitted to the Ministry by May 1 of each year.

In order to facilitate the preparation of the annual progress reports, this Plan includes policies that require and/or request information from implementing bodies. The implementing bodies may be asked to provide information on a one-time basis or regular occurrence depending on the policy of interest. The Source Protection Authority should work with the implementing bodies to develop a standardized reporting framework or protocol if necessary.

The Plan does not include monitoring policies related to implementation of Part IV of the *Clean Water Act* since section 81 of the Act specifies the annual reporting requirements of the risk management official to the Source Protection Authority.

3.5 Review and Amendment

The Source Protection Plan may be amended by the Cataraqui Source Protection Authority from time to time to reflect the changing needs of the Cataraqui Source Protection Area related to the prescribed drinking water threats that were identified in the Assessment Report. The procedures for amending the plan are specified in Ontario Regulation 287/07 (General). It must also be reviewed and updated by the date specified by the Minister of the Environment upon approval of the Plan.

3.5.1 Changes to the Wellhead Protection Areas and Intake Protection Zones

The creation of new transport pathways and the modification of existing transport pathways may increase or reduce the delineation (i.e., boundary) and/or vulnerability score of a wellhead protection area or an intake protection zone. Additional landowners and business owners may become subject to source protection policies as a result of an increase to the delineation or vulnerability score.

Transport pathways to wellheads include poorly constructed and improperly abandoned wells, ditches, and service (utility) trenches. Transport pathways to surface water intakes include new and modified storm sewers, roadside ditches, sanitary sewers, and tile drainage.

Subsection 27(3) of Ontario Regulation 287/07 (General) under the *Clean Water Act* requires that:

If a person applies to a municipality for approval of a proposal to engage in an activity within a wellhead protection area or intake protection zone that may result in the creation of a new transport pathway or the modification of an existing transport pathway, the municipality shall give the source protection authority and the source protection committee notice of the proposal and shall include a description of the proposal, the identity of the person responsible for the proposal and a description of the approvals the person requires to engage in the proposed activity.

The purpose of the notification is to provide a means by which the municipalities, Source Protection Authority and Committee can work together to keep local wellhead protection areas and intake protection zones up-to-date.

If the Source Protection Authority finds that the activity may result in changes to the delineation and/or vulnerability score of the vulnerable area, then the Regulation enables it to make recommendations to the municipality in response to those applications and/or propose an amendment to the Source Protection Plan that relates to the implementation of the proposal, as per subsection 48(2).

A local protocol for notification under the Regulation will need to be developed with the mutual agreement of the Cataraqui Source Protection Authority and the municipalities. Subsection 27(3) is not intended to apply to municipal activities.

In the interest of maintaining reliable information on changes that might affect an intake protection zone or wellhead protection area, the Cataraqui Source Protection Authority and municipalities may also wish to share their knowledge of selected municipal activities related to transport pathways (such as substantial rehabilitation work or new work) and adjacent activities that have a reasonable likelihood of contributing water to the vulnerable area.