

HEALTHY WATERSHEDS, HEALTHY COMMUNITIES:
COMMENTS AND RECOMMENDATIONS ON
THE *CLEAN WATER ACT*, 2005

Submissions of the Canadian Environmental Law Association
to the Ministry of the Environment
Regarding the proposed *Clean Water Act*, 2005
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Executive summary

The *Clean Water Act, 2005 (CWA)* is a positive step towards watershed-based drinking water source protection in this province. Its broad scope encompasses Great Lakes and inland communities, ground water and surface water sources, rivers and lakes, and current and future conditions. Several “conflict” provisions help to ensure the consistent application of the *Act* and all its protective measures. Additionally, a range of new municipal powers, roles and requirements will greatly assist in providing tangible improvements to Ontario’s watersheds. Accordingly, the Canadian Environmental Law Association (CELA) looks forward to the passage of the *CWA* so that the important work protecting drinking water sources can proceed as expeditiously as possible.

Our submissions highlight these important protections, and also identify a number of provisions which should be amended to provide even greater protections to human health and the environment. Overall, CELA commends the Ontario government for its commitment to furthering the source protection initiative, and for its efforts to improve upon the previously proposed *Drinking Water Source Protection Act*.

Introduction

These are CELA’s submissions regarding the proposed *Clean Water Act, 2005 (CWA)* which was released for public comment by the Ministry of the Environment (MOE) on December 5, 2005.

CELA is a public interest law group founded in 1970 for the purposes of using and improving laws to protect public health and the environment. Funded as a legal aid clinic specializing in environmental law, CELA represents individuals and citizens’ groups in the courts and before tribunals on a wide variety of environmental matters. In addition, CELA staff members are involved in various initiatives related to law reform, public education, and community organization.

For the past two decades, CELA’s casework and law reform activities have focused on drinking water quality and quantity issues. More recently, CELA has been involved in a number of drinking water matters, such as:

- representing the Concerned Walkerton Citizens at the Walkerton Inquiry;
- preparing various issue papers for Part II of the Walkerton Inquiry, including *Tragedy on Tap: Why Ontario Needs a Safe Drinking Water Act*;
- submitting model water legislation to entrench watershed planning and water conservation in Ontario;
- commenting on the *Safe Drinking Water Act, Sustainable Water and Sewage Systems Act, 2001*, and *Nutrient Management Act*, and proposed regulations thereunder;
- commenting on various municipal land use planning reforms and amendments to the *Municipal Act*;
- commenting on the MOE *White Paper on Watershed-Based Source Protection Planning*;
- providing input on the Great Lakes Charter Annex international negotiations;
- convening public workshops on source water protection across Ontario;

- facilitating the development of an Ontario-wide network of interested and engaged non-governmental organizations (NGOs);
- preparing joint NGO sign-on letters to numerous Ministers expressing support for the source protection initiative and suggesting areas for improvement; and
- attending public meetings held by the MOE regarding source protection and water-taking initiatives.¹

In addition, CELA has served as a member of several advisory committees established by the Ontario government to consider various aspects of source water protection, such as:

- Advisory Committee on Watershed-Based Source Protection Planning;
- Implementation Committee for Watershed-Based Source Protection;
- Nutrient Management Advisory Committee; and
- Advisory Committee to the Great Lakes Water Management Initiative.

It is against this extensive background and experience that CELA has reviewed the various provisions of the proposed *CWA*. For comparative purposes, we have also considered related documents and reports regarding source protection, including:

- *Source Water Protection Statement of Expectations* (endorsed by NGOs across Ontario);
- the Part I and II Reports of the Walkerton Inquiry;
- *Final Report: Protecting Ontario's Drinking Water – Toward a Watershed-Based Source Protection Program* (April 2003);
- *Summary Report: Consultation Sessions on the White Paper on Watershed-Based Source Protection Planning* (March 1 to 23, 2004);
- MOE briefing materials and related documentation;
- *Watershed Based Source Protection: Implementation Committee Report to the Minister of the Environment* (November 2004); and
- *Watershed-Based Source Protection Planning: Technical Experts Committee Report to the Minister of the Environment* (November 2004).

The first of these documents, the *Source Water Protection Statement of Expectations*, explores sixteen themes which are of key importance and concern to the environmental NGO community. This submission assesses the *CWA* in the context of those priorities. Our comments focus on a number of provisions which either favourably address NGO concerns, or require amendments in order to provide the sought-after level of protection.

CELA commends the Ontario government for its commitment to furthering the source protection initiative, and for its efforts to improve upon the previously proposed *Drinking Water Source Protection Act*. We encourage government to incorporate the recommendations listed below, and we look forward to the passage of the *CWA* so that the important work of protecting Ontario's watersheds can proceed as expeditiously as possible.

It is important to note that this review of the *Clean Water Act, 2005* is based on its content as of December 5, 2005 when it received First Reading. The regulations expected in connection with this *Act* have yet to be introduced, and we may amend or add to our comments once we have had the opportunity to review the regulations.

¹ CELA's water-related briefs, factsheets and reports are available at: www.cela.ca

Theme 1: Integration with Existing Legislation

The *Source Water Protection Statement of Expectations* suggests that the “source water protection regime must be integrated with existing legislation and given primacy where needed.”² This issue is appropriately addressed by the numerous “conflict” provisions contained in the *CWA*. The *CWA* specifies that in the case of conflict with another law, the provision which provides the greatest level of protection will prevail. Moreover, if conflicts arise, the *Clean Water Act* will always prevail over the *Nutrient Management Act*, and the source protection plans will always prevail over official plans and zoning by-laws. These various provisions provide the minimum framework necessary to ensure the consistent application of the *Clean Water Act, 2005* and all of its protective measures.

Theme 2: Universal Level of Protection

The *Statement of Expectations* suggests that the watershed-based source protection planning framework should be required in all watersheds in Ontario. Additionally, that document specifies that:

The new legislation must protect individual well users as well as municipally operated systems. The new legislation must protect watersheds in the north as well as south of the Canadian Shield. The new legislation must protect groundwater and surface water sources from non-point, cumulative and point source threats. The new legislation must protect water sources with respect to both water quality and water quantity.³

The legislation provides a number of new protections for residents relying upon both municipal and private drinking water systems. The *Act*'s broad scope encompasses Great Lakes and inland communities, ground water and surface water sources, rivers and lakes, and current and future conditions. Indeed, the *CWA*'s overall purpose statement is the protection of existing and future sources of drinking water.⁴

Municipal systems in drinking water source protection areas

There are several “tiers” of water users created by the legislation. The first type of water user is one who relies on a municipal system within a source protection area. Those areas over which conservation authorities have jurisdiction are identified as drinking water source protection areas for the purposes of the *CWA*.

This type of water user will benefit from the full range of new protections offered by the *Act*, and can expect to receive strong assurances on the safety, security, and cleanliness of their drinking water. For instance, assessment reports will be created for these areas, and will include the identification and characterization of such features as: water quality and quantity, ground water and surface water flows, groundwater recharge areas and highly vulnerable aquifers, and existing and future drinking water threats in vulnerable areas. Source protection plans will then incorporate the assessment reports, as well as additional standards to assess whether the significant drinking water threats are being successfully halted or prevented.

² T. McClenaghan and D. Finnigan, “Protection Ontario’s Water Now and Forever: A Statement of Expectations for Watershed-Based Source Protection from Ontario Non Governmental Organizations” (Canadian Environmental Law Association & Environmental Defence, November 2004) at 10 [hereinafter “Statement of Expectations”].

³ *Ibid.* at 7.

⁴ Bill 43, *Clean Water Act, 2005*, 2d Sess., 38th Leg., Ontario, 2005, s. 1 [hereinafter *CWA*].

Private systems in drinking water source protection areas

Next, there is the type of water user who draws water from a private system within a source protection area. Although the *Act* is focussed on measures to protect municipal systems, many of the benefits will extend to these private water systems as well. For instance, the assessment reports shall identify *all* groundwater recharge areas and highly vulnerable aquifers in the watersheds, regardless of whether or not they relate to municipal drinking water systems. Once this information is gathered, the source protection plans can, and should, be tailored to require that mandatory measures be taken in these vulnerable areas, thereby improving conditions for municipal and private water users alike. Examples of such measures include septic system maintenance and inspection programs.

Municipalities may also pass resolutions requiring assessment reports to consider “clusters” of private drinking water systems. Where such resolutions are passed, the private systems will receive equal consideration as their municipal counterparts within the source protection areas, and will be subject to the same level of protection. The source protection committees will be required to identify all surface water intake protection zones and wellhead protection areas related to the private systems. Existing and future threats to these vulnerable areas then will be identified, assessed, and addressed. Having said this, the opportunities to protect other private systems should be expanded upon. More specifically, the legislation should provide for additional means by which private water systems can be “nominated”, such as by petition signed by *x* members of the public, or by Ministerial direction.

Municipal and private systems outside drinking water source protection areas

The next type of water user is someone who draws his or her water from a municipal or private system which lies outside of a source protection area. Currently, any municipal or private systems which do not fall within a source protection area will not receive any of the protections offered by this *Act*. The discussion document on the proposed regulations suggests that source protection areas may be extended to municipalities in northern and central Ontario where no conservation authorities exist. The Minister may then designate these municipalities to exercise and perform the powers and duties of source protection authorities.

However, this option may prove to be insufficient since the establishment of new source protection areas is left to the discretion of the Minister. Additionally, it must be emphasized that the provisions of the *CWA* dealing with the establishment of new source protection areas (s. 99(c)) and the designation of persons or bodies to exercise the duties of source protection authorities (s. 5) are **not** limited to municipalities. It is expected and hoped that the Minister will consider a range of stakeholders to act as source protection authorities in these areas, including non-governmental organizations, First Nations peoples, and other provincial ministries.

One option would be to designate the Ministry of Natural Resources district offices as source protection authorities, under the supervision of the regional offices. In this way, the source protection initiative would be more consistently applied across the province, and the public could continue to rely upon a familiar source of information and advice.

It is critical that new source protection areas be established in central and northern Ontario, and that these areas not be limited to municipalities. Additionally, vulnerable areas should be assessed province wide, and significant threats subject to mandatory reductions regardless of the location. In this way, protections may be extended to both municipal and private systems outside of the source protection areas currently proposed. If large portions of the province remain

beyond the scope of this legislation, rural and cottage communities may feel disengaged and overlooked.

The appropriate application of these provisions is of particular importance to Aboriginal persons drinking water from First Nation-supplied systems or private systems on reserve lands. The *Act* contains no mention of First Nations peoples' participation in source water protection planning or implementation activities, and these private systems will receive no protection. Further discussion of First Nations peoples' involvement is included in Theme 5 below.

Recommendation #1: Source protection plans should include mandatory measures to stop significant drinking water threats in vulnerable areas.

Recommendation #2: The legislation should provide additional means by which private water systems can be “nominated”, such as by petition signed by *x* members of the public, or by Ministerial direction.

Recommendation #3: Source protection areas should be established in central and northern Ontario, and a range of stakeholders should be designated as source protection authorities, including non-governmental organization, First Nations peoples, and other provincial ministries where appropriate.

Recommendation #4: The CWA should provide for the mandatory assessment of risks and mandatory reduction of significant drinking water threats in vulnerable areas across the province.

Additionally, we have had the benefit of reviewing Conservation Ontario's *EBR* submissions, dated February 2, 2006, and we support their recommendations on the inclusion of private systems:

Recommendation #5: The wording of Subsection 8(3) should provide guidance to municipalities regarding the purpose of considering private system “clusters.”

Recommendation #6: Source protection committees should be mandated to provide water system owners with information and methodologies to assist them in identifying and preventing drinking water threats.

Recommendation #7: The province should specifically allocate funding for long-term research into existing and future drinking water threats in private system “clusters,” and for the mitigation of these threats. One option is for incentive and subsidy programs to require that risk reduction measures be taken.

Theme 3: Precautionary Principle

The NGO *Statement of Expectations* strongly recommends that source protection planning be based on the precautionary principle.⁵ Similarly, CELA's *EBR* submissions on the proposed

⁵ “Statement of Expectations”, *supra* note 2 at 7.

Drinking Water Source Protection Act note that “the Act should include a clear endorsement of the ‘precautionary principle’ to guide decision-making processes under the legislation.”⁶

In Volume 2 of the *Report of the Walkerton Inquiry*, Justice O’Connor suggests that “when the potential consequences of the hazard in question are large, the precautionary principle has a role to play in practical risk management and should be an integral part of decisions affecting the safety of drinking water.”⁷

The Final Report of the Advisory Committee on Watershed-based Source Protection Planning sets out several principles which are intended to guide decision-making processes. The second principle is entitled *comprehensiveness*, and includes specific reference to the precautionary approach as follows:

All watershed-based source protection plans must take a precautionary approach that uses the best available science and is subject to continuous improvement as our knowledge increases. The plans must be defensible and have the flexibility to accommodate Ontario’s diverse watersheds.⁸

Despite these numerous recommendations, the proposed *CWA* does not contain a single reference to the precautionary principle, an omission which is most glaring in the purpose statement in section 1 and in the content of the source protection plans in section 19.

Recommendation #8: The precautionary principle should be inserted into the *CWA* both as a guiding principle and as an operationalized component of the source protection plans.

It is alarming that Ontario is without a single statute which references the precautionary principle. Certainly, the *CWA* presents the ideal opportunity with which to remedy this shortcoming. In order to establish precaution as a guiding principle for the entire *CWA*, the purpose statement should be amended as recommended below.

Recommendation #9: The purpose statement should be amended to read as follows:

**1. The purpose of this Act is to protect existing and future sources of drinking water.
(2) In the administration of this Act, the Government of Ontario, the Minister, and all bodies subject to the provisions of this Act, including provincial authorities and responsible authorities, shall exercise their powers in a manner that protects the environment and human health and applies the precautionary principle.**⁹

The Statement of Environmental Values for the Ministry of the Environment states that:

The Ministry will exercise a precautionary approach in its decision-making. Especially when there is uncertainty about the risk presented by particular pollutants or classes of pollutants, the Ministry will exercise caution in favour of the environment.¹⁰

⁶ R. Lindgren, “Safeguarding Ontario’s Drinking Water Sources: Essential Elements of Source Protection Legislation” (Canadian Environmental Law Association, August 2004) at 5.

⁷ D.R. O’Connor, *Report of the Walkerton Inquiry: A Strategy for Safe Drinking Water* (Ontario: Queen’s Printer for Ontario, 2002) at 77.

⁸ Advisory Committee on Watershed-based Source Protection Planning, “Protecting Ontario’s Drinking Water: Toward a Watershed-based Source Protection Planning Framework” (April 2003) at recommendation #6.

⁹ A precedent for this provision can be found at section 4(2) of the *Canadian Environmental Assessment Act*, R.S.C. 1992, c. 37 as amended.

¹⁰ Ontario, Ministry of the Environment, *Statement of Environmental Values* at Part III “Environment Protection”, www.ene.gov.on.ca/envision/env_reg/ebr/english/SEVs/moe.htm

The purpose of the Statement of Environmental Values is to guide decision-making processes related to the environment, in order to ensure that “the environment is given due consideration along with economic, social and scientific concerns.”¹¹ In order to integrate precaution-based considerations into source protection planning, it is seen as both appropriate and necessary to operationalize the principle in the section of the *Act* which applies to the preparation of source protection plans.

**Recommendation #10: The following subsection should be added to section 19:
(1.1) In preparing a source protection plan, the source protection committee must apply the precautionary principle, so that where there are threats of serious or irreversible damage to an existing or future source of drinking water, lack of full scientific certainty should not be used as a reason for postponing measures to prevent the threat.**¹²

Theme 4: New Municipal Powers, Roles, and Requirements

The *Source Water Protection Statement of Expectations* submits that appropriate new municipal tools are necessary in order to effectively protect water quality and quantity. Specifically, the document recommends providing municipalities with “the ability to impose water conservation and efficiency requirements on all users, and to collect and report data on water use by sector,” and “the ability to restrict the construction of impervious surfaces in all new developments.”¹³

The *CWA* provides municipalities with a range of new tools and powers relating to the full array of source protection activities. At the planning stage, municipalities may provide input with respect to the scope of the terms of reference, the assessment reports, and the source protection plans. During the implementation phase, municipalities are provided with broad enforcement capabilities. Municipal councils may pass by-laws prescribing classes of permits, and permit inspectors may make orders requiring persons to comply with directions, apply for permits, or cease engaging in prohibited or regulated activities.

Theme 5: First Nations

The *Statement of Expectations* strongly encourages the federal and provincial governments to cooperate fully with First Nations Peoples’ on source water protection, in addition to allocating appropriate resources to facilitate meaningful involvement.¹⁴ As indicated above, the *Act* does not include provisions related to First Nation-supplied systems or private systems on reserve lands. The *Act* does not contain any sections relating to the inclusion of First Nations Peoples in this, or any parallel, source protection process.

Recommendation #11: In recognition and respect of First Nations’ traditional environmental knowledge, as well as their aboriginal and treaty rights and claims, the province must pursue a strategy with the federal government and First Nations that will support the ability of First Nations (and their technical designates) to be full participants in watershed-based source protection planning and implementation.

¹¹ Ontario, Environmental Registry, “What is the Statement of Environmental Values?”, www.ene.gov.on.ca/envision/env_reg/ebr/english/SEVs/SEVs.htm

¹² For similar language, see *114957 Canada Ltee (Spraytech, Societe d’arrosage) v. Hudson (Town)*, [2001] 2 S.C.R. 241 at para. 31, taken from para. 7 of the Bergen Ministerial Declaration of Sustainable Development (1990).

¹³ “Statement of Expectations”, *supra* note 2 at 16.

¹⁴ *Ibid.* at 14.

Theme 6: Integration with Great Lakes Protection

The NGO *Statement of Expectations* highlights the importance of fully involving Great Lakes communities in the source protection initiative, and integrating existing Great Lakes programs, negotiations, inter-jurisdictional agreements, and data collection into watershed planning.¹⁵

The legislation does contain many promising provisions relating to Great Lakes protection, such as establishing targets for source protection areas which contribute to the Great Lakes, forming advisory committees, and requiring the preparation of reports. One provision is mandatory: those source protection areas which contain waters that flow into the Great Lakes are required to consider a number of Great Lakes agreements in their terms of reference. However, other important provisions relating to the Great Lakes (see sections 74-76) are left to the discretion of the Minister. Given the critical importance of providing rigorous and comprehensive Great Lakes protection, these sections must be strengthened and upgraded into mandatory obligations.

Recommendation #12: The new source water protection regime must be fully integrated with Great Lakes protection. When participating in inter-jurisdictional negotiations regarding the Great Lakes, the province must work to incorporate the principles of source water protection. Pursuant to these objectives, sections 74-76 of the *Clean Water Act* should be made into mandatory requirements.

Specifically, these sections should be amended to read as follows:

Great Lakes advisory committees

74. The Minister shall establish one or more advisory committees to provide advice to the Minister on any matter relating to the use of the Great Lakes as a source of drinking water.

Great Lakes reports from source protection authorities

75. (1) The Minister shall direct a source protection authority, if the source protection area contains water that flows into the Great Lakes,
(a) to prepare and submit to the Minister, in accordance with the direction, a report on any matter relating to the use of the Great Lakes as a source of drinking water;
or
(b) to assist another source protection authority in preparing a report under clause (a).

Consultation

(2) In preparing a report under this section, the source protection authority shall consult with all of the municipalities in which any part of the authority's source protection area is located and with such other persons or bodies as are specified by the Minister.

Great Lakes targets

76. (1) The Minister shall establish targets respecting the quality and quantity of water for each source protection area that contributes water to the Great Lakes.
Division of target among source protection areas

¹⁵ *Ibid.* at 23.

(2) The Minister shall direct the source protection authorities for each of the source protection areas under subsection (1) to jointly establish, in accordance with the direction, a target for each of the source protection areas.

Same

(3) If the source protection authorities fail to jointly establish a target for a source protection area under subsection (2), the Minister shall establish the target for that area.

Same

(4) If the Minister is of the opinion that a target established for a source protection area under subsection (2) is not appropriate, the Minister shall establish the target for that area.

Reports on steps to achieve targets

(5) The Minister shall direct each of the source protection authorities under subsection (2) to prepare and submit to the Minister, in accordance with the direction, a report recommending steps that should be taken to assist in achieving the target.

Consultation

(6) In preparing a report under subsection (5), the source protection authorities shall consult with all of the municipalities in which any part of the authorities' source protection area is located and with such other persons or bodies as are specified by the Minister.

Theme 7: Strong Interim Measures

The *Statement of Expectations* expresses the concern that significant threats will be allowed to develop or continue unabated as the source protection plans are being developed and implemented.¹⁶ Accordingly, interim measures are recommended which promote proactive, precautionary action, without diverting undue time or resources from the development of the plans themselves.

The *Act* already contains several positive interim measures. First, source protection authorities are required to submit interim progress reports describing the measures which are being undertaken in vulnerable areas to stop certain existing or anticipated significant threats. Second, permit officials may require risk management plans for prescribed activities which pose significant threats in surface water intake protection zones or wellhead protection areas. Third, employees of source protection authorities or municipalities may enter property to collect information for the preparation of the planning documents. Should they become aware of a discharge which poses an imminent drinking water health hazard, they are required to notify the Ministry immediately. The Director must then provide notice of any action taken within 30 days.

Although these measures provide some reassurances that serious hazards will be addressed in a timely manner, they should be further strengthened by requiring the province, municipalities and conservation authorities to take immediate, *precautionary* action with respect to high-risk activities and land uses, until source protection plans are approved and implemented.

Furthermore, no new policy instruments with the potential to cause significant or irreversible harm to water sources in vulnerable areas (including certificates of approval and permits to take water) should be issued until source protection plans are in place. The Walkerton tragedy is

¹⁶ *Ibid.* at 25.

testament to the fact that the social and economic costs of inaction far outweigh the costs of adopting preventative interim measures.

Recommendation #13: The province, municipalities and conservation authorities should be required to take immediate, precautionary action with respect to high-risk activities and land uses during the interim period. Additionally, no new policy instruments with the potential to cause significant or irreversible harm to water sources in vulnerable areas should be issued before the source protection plans are in effect.

Theme 8: Thorough Public Participation

One of the most fundamental prerequisites for an effective source protection regime is thorough public participation. As noted in the *Statement of Expectations*, members of the public should have the opportunity to participate at both the planning and implementation stages, through, at a minimum, involvement on source protection committees; financial support for participation outside of the committees; easy access to all relevant information; and the opportunity to make *EBR* submissions on the proposed terms of reference, assessment reports, and source protection plans.

At this time, the *Act* contains very few mandatory public consultation provisions. The issue has largely been relegated to the discretionary regulation-making powers of the Lieutenant Governor in Council. While it is possible that the proposed regulations may include strong public participation measures, it is important that the *Act* itself require and provide for public involvement at every stage of the planning and implementation process.

Recommendation #14: Mandatory public consultation and participation provisions should be added throughout the *Clean Water Act*. Specifically, the *Act* should provide for:

- **mandatory public notification and comment period regarding the terms of reference under subsection 8(2), prior to approval by the Minister;**
- **mandatory public notification and comment period regarding the assessment reports under subsection 13(3), prior to approval by the Director;**
- **interim progress reports to be made available to the public *as soon as reasonably possible* after they are submitted to the Director under subsection 18(3); and**
- **annual progress reports to be made available to the public *as soon as reasonably possible* after they are submitted to the Minister under subsection 41(2).**

Theme 9: Adequate funding

The Government of Ontario has neither announced a source of funding for the implementation of source protection, nor has it identified which funding instruments will be considered for this phase of work. As highlighted by the *Source Water Protection Statement of Expectations*, as well as numerous other comments and submissions, it is essential that there be a sustainable and reliable approach to funding the implementation measures contained in source protection plans.

Ideally, part or all of the required resources could be provided through a dedicated fund that is not subject to competing priorities of general revenue in the annual budget-setting exercise. However, there are numerous other funding mechanisms available to government, and the experiences of other jurisdictions have generally indicated a need for multiple revenue streams.

In November, 2004, the Implementation Committee recommended many potential new revenue sources in its report to government. These included water taking charges, rates, pollution charges, per capita charges, incentive programs, and general revenues. The Committee also identified an exciting array of stewardship approaches that build on the work on local groups, NGOs, and conservation organizations.

Regardless of the method chosen, we strenuously urge the provincial government to structure the funding in such a way as to provide for the equitable reallocation of funds. This will help ensure that protective measures are put in place at the locations where they are most needed for the health of the watershed. In many cases, the areas of dire need will not be the same as those areas with a sufficient population base to contribute to costs through water rates and property taxes.

It is important for the funding design to recognize that there may be impacts from upstream users in a watershed, and benefits to downstream users, with the result being that both should be involved in the funding mechanism required to reduce the risks.

The costs of NOT financing source protection are extremely significant. Among them are the absence of a first barrier in protecting drinking water; the potential for illness and even tragedy; the additional costs of treatment; and the lack of public confidence in drinking water. Without adequate funding, we risk promulgating a disjointed approach which could fail to identify watershed scale solutions.

Recommendation #15: The Implementation Committee's recommendations pertaining to funding should be pursued. In particular, as recognized by the Committee,

- **Funding requirements for source protection should be assessed on a continuous basis. The provincial government should consider the ongoing costs related to plan development, implementation, monitoring, and review and updating as source protection proceeds through its various stages.¹⁷**
- **The provincial government, in cooperation with other levels of government and water users, should establish a sustainable, secure and long-term funding program to adequately support both capital and operating expenditures over a multi-year period related to ongoing source protection plan implementation, monitoring, review and updating.¹⁸**
- **Any funding program established needs to give consideration to differences in ability-to-pay, including financial hardship cases; and assistance in areas with limited revenue generation capacity or in areas where additional work or effort is needed to implement source protection.¹⁹**

Conclusions and Recommendations

The CWA is a significant piece of legislation which provides long-awaited protections for watersheds and watershed communities in this province. If passed, the CWA will introduce a process by which threats to drinking water sources are identified and risk management strategies are put into action. It will also provide municipalities with the additional tools and powers they

¹⁷ Implementation Committee, "Watershed Based Source Protection: Implementation Committee Report to the Minister of the Environment" (Ontario: Queen's Printer for Ontario, November 2004) at 75.

¹⁸ *Ibid.* at 76.

¹⁹ *Ibid.*

so desperately need to protect their waters. The legislation supports the implementation of at least 22 of Justice O'Connor's recommendations following the Walkerton Inquiry. As such, it is a significant first step towards the ultimate goal of protecting drinking water sources in all watersheds across Ontario.

In the foregoing analysis, we highlight these important protections, and also identify a number of provisions which should be amended to provide even greater protections to human health and the environment. Summarized below are our recommendations for how the *Act* could be revised. CELA has also appended a chart outlining the gains for source water protection which can be achieved through the *CWA*.

In closing, CELA looks forward to the passage of the *CWA* so that the important work of protecting Ontario's watersheds can proceed as expeditiously as possible. We welcome this opportunity to make submissions on the proposed *Clean Water Act, 2005*, and we look forward to providing further feedback on the development, implementation and funding of source protection in Ontario.

Recommendation #1: Source protection plans should include mandatory measures to stop significant drinking water threats in vulnerable areas.

Recommendation #2: The legislation should provide additional means by which private water systems can be "nominated", such as by petition signed by x members of the public, or by Ministerial direction.

Recommendation #3: Source protection areas should be established in central and northern Ontario, and a range of stakeholders should be designated as source protection authorities, including non-governmental organization, First Nations peoples, and other provincial ministries where appropriate.

Recommendation #4: The *CWA* should provide for the mandatory assessment of risks and mandatory reduction of significant drinking water threats in vulnerable areas across the province.

Recommendation #5: The wording of Subsection 8(3) should provide guidance to municipalities regarding the purpose of considering private system "clusters."

Recommendation #6: Source protection committees should be mandated to provide water system owners with information and methodologies to assist them in identifying and preventing drinking water threats.

Recommendation #7: The province should specifically allocate funding for long-term research into existing and future drinking water threats in private system "clusters," and for the mitigation of these threats. One option is for incentive and subsidy programs to require that risk reduction measures be taken.

Recommendation #8: The precautionary principle should be inserted into the *CWA* both as a guiding principle and as an operationalized component of the source protection plans.

Recommendation #9: The purpose statement should be amended to read as follows:
1. The purpose of this Act is to protect existing and future sources of drinking water.

(2) In the administration of this Act, the Government of Ontario, the Minister, and all bodies subject to the provisions of this Act, including provincial authorities and responsible authorities, shall exercise their powers in a manner that protects the environment and human health and applies the precautionary principle.

Recommendation #10: The following subsection should be added to section 19:

(1.1) In preparing a source protection plan, the source protection committee must apply the precautionary principle, so that where there are threats of serious or irreversible damage to an existing or future source of drinking water, lack of full scientific certainty should not be used as a reason for postponing measures to prevent the threat.

Recommendation #11: In recognition and respect of First Nations' traditional environmental knowledge, as well as their aboriginal and treaty rights and claims, the province must pursue a strategy with the federal government and First Nations that will support the ability of First Nations (and their technical designates) to be full participants in watershed-based source protection planning and implementation.

Recommendation #12: The new source water protection regime must be fully integrated with Great Lakes protection. When participating in inter-jurisdictional negotiations regarding the Great Lakes, the province must work to incorporate the principles of source water protection. Pursuant to these objectives, sections 74-76 of the *Clean Water Act* should be made into mandatory requirements.

Specifically, these sections should amended to read as follows:

Great Lakes advisory committees

74. The Minister shall establish one or more advisory committees to provide advice to the Minister on any matter relating to the use of the Great Lakes as a source of drinking water.

Great Lakes reports from source protection authorities

75. (1) The Minister shall direct a source protection authority, if the source protection area contains water that flows into the Great Lakes,
(a) to prepare and submit to the Minister, in accordance with the direction, a report on any matter relating to the use of the Great Lakes as a source of drinking water;
or
(b) to assist another source protection authority in preparing a report under clause (a).

Consultation

(2) In preparing a report under this section, the source protection authority shall consult with all of the municipalities in which any part of the authority's source protection area is located and with such other persons or bodies as are specified by the Minister.

Great Lakes targets

76. (1) The Minister shall establish targets respecting the quality and quantity of water for each source protection area that contributes water to the Great Lakes.
Division of target among source protection areas

(2) The Minister shall direct the source protection authorities for each of the source protection areas under subsection (1) to jointly establish, in accordance with the direction, a target for each of the source protection areas.

Same

(3) If the source protection authorities fail to jointly establish a target for a source protection area under subsection (2), the Minister shall establish the target for that area.

Same

(4) If the Minister is of the opinion that a target established for a source protection area under subsection (2) is not appropriate, the Minister shall establish the target for that area.

Reports on steps to achieve targets

(5) The Minister shall direct each of the source protection authorities under subsection (2) to prepare and submit to the Minister, in accordance with the direction, a report recommending steps that should be taken to assist in achieving the target.

Consultation

(6) In preparing a report under subsection (5), the source protection authorities shall consult with all of the municipalities in which any part of the authorities' source protection area is located and with such other persons or bodies as are specified by the Minister.

Recommendation #13: The province, municipalities and conservation authorities should be required to take immediate, precautionary action with respect to high-risk activities and land uses during the interim period. Additionally, no new policy instruments with the potential to cause significant or irreversible harm to water sources in vulnerable areas should be issued before the source protection plans are in effect.

Recommendation #14: Mandatory public consultation and participation provisions should be added throughout the *Clean Water Act*. Specifically, the *Act* should provide for:

- mandatory public notification and comment period regarding the terms of reference under subsection 8(2), prior to approval by the Minister;
- mandatory public notification and comment period regarding the assessment reports under subsection 13(3), prior to approval by the Director;
- interim progress reports to be made available to the public *as soon as reasonably possible* after they are submitted to the Director under subsection 18(3); and
- annual progress reports to be made available to the public *as soon as reasonably possible* after they are submitted to the Minister under subsection 41(2).

Recommendation #15: The Implementation Committee's recommendations pertaining to funding should be pursued. In particular, as recognized by the Committee,

- Funding requirements for source protection should be assessed on a continuous basis. The provincial government should consider the ongoing costs related to plan development, implementation, monitoring, and review and updating as source protection proceeds through its various stages.
- The provincial government, in cooperation with other levels of government and water users, should establish a sustainable, secure and long-term funding program to adequately support both capital and operating expenditures over a multi-year period

related to ongoing source protection plan implementation, monitoring, review and updating.

- **Any funding program established needs to give consideration to differences in ability-to-pay, including financial hardship cases; and assistance in areas with limited revenue generation capacity or in areas where additional work or effort is needed to implement source protection.**

Appendix

GAINS FOR SOURCE WATER PROTECTION ACHIEVED THROUGH THE *CLEAN WATER ACT, 2005*

ENGO STATEMENT OF EXPACTATIONS	<i>CLEAN WATER ACT, 2005</i>	MAIN COMMENTS
<p>1.0 – Universal Level of Protection</p> <ul style="list-style-type: none"> • Source water protection planning framework be used in all watersheds in Ontario • Protect individual well users as well as municipally operated systems • Protect watersheds in north as well as south • Protect groundwater and surface water from non-point cumulative threats • Protect groundwater and surface water from point source threats • Protect water sources re both 	<p>Purpose statement: 1. The purpose of this Act is to protect existing and future sources of drinking water.</p> <p>Type of threat covered: 2. (1) "drinking water threat" means an existing activity, <i>possible future activity</i> or existing condition that results from a past activity, (a) that adversely affects or has the potential to adversely affect the <i>quality</i> or <i>quantity</i> of <i>any water</i> that is or may be used as a source of drinking water, or (b) that results in or has the potential to result in the raw water supply of an existing or planned drinking-water system failing to meet any standards prescribed by the regulations respecting the <i>quality</i> or <i>quantity</i> of water, and includes an activity or condition that is prescribed by the regulations as a drinking water threat.</p> <p>Role of the Crown: 95. This Act binds the Crown.</p> <p>Individual well users: 8. (3) The council of a municipality in which any part of the source protection area is located may pass a resolution requiring the terms of reference to provide, for the purpose of subclause 13 (2)(e)(ii), that the assessment report consider any existing or planned drinking-water system specified in the resolution that, (a) is not a drinking-water system referred to in subclause 13(2)(e)(i) [ie. not a municipal drinking water system that serve or is planned to serve major residential developments]; and (b) has a well or intake in the municipality that serves as the source or entry point of raw water supply for the drinking-water system.</p> <p>Location of wells and intakes (4) A resolution passed under subsection (3) is not effective unless it identifies the</p>	<p>The purpose statement of the Act explicitly recognizes both existing and future source of drinking water. Similarly, the definition of “drinking water threat” includes possible future activities that have the potential to adversely affect the quality or quantity of any water that may be used as a source of drinking water.</p> <p>Another positive aspect of the legislation is the inclusion of provisions respecting private water sources, in addition to municipal systems. The option exists for municipalities to extend the planning process to include “clusters” of private systems, such as small rural communities on well water. Other protections to private wells may be implemented in the source protection plans.</p>

<p>quality and quantity</p> <ul style="list-style-type: none"> • Source protection planning based on the precautionary principle • Ministry of Environment remain ultimately accountable and responsible for source protection planning 	<p>location of every well and intake in the municipality that serves as the source or entry point of raw water supply for the drinking-water system.</p>	
<p>2.0 – Appropriate Planning Scale and Scope</p> <ul style="list-style-type: none"> • Plan by watershed with appropriate sharing of resources • Protection of all waters including shorelines, wetlands, woodlands because of integral ecological contribution to source water protection • Recognize intrinsic groundwater – surface water 	<p>SP areas:</p> <ul style="list-style-type: none"> • 2. (1) “source protection area” means a drinking water source protection area established by subsection 4(1) or by the regulations. • 4. (1) The area over which a conservation authority has jurisdiction under the <i>Conservation Authorities Act</i> is established as a drinking water source protection area for the purposes of this Act. • 99. The Minister may make regulations, (a) altering, for the purposes of this Act, the boundaries of a source protection area established by subsection 4 (1); <p>The discussion document on the proposed regulations (posted to the EBR on Dec. 22, 2005) indicates that existing conservation authority boundaries will generally be retained except where changes are necessary to include new lands that contribute to source waters within the watershed. Any changes would affect municipalities either by including them in the SP area or by expanding or reducing the portion of the municipality that is included. The discussion document includes a Table of those municipalities affected by the proposed changes.</p> <ul style="list-style-type: none"> • 99. The Minister may make regulations, (c) establishing and defining the boundaries of drinking water source protection areas in the parts of Ontario that are not covered by the source protection areas established by subsection 4 (1) 	<p>The discussion document on the proposed regulations suggests that the Minister may expand source protection areas beyond existing conservation authority boundaries, in order to include new lands which contribute to source waters.</p> <p>The Minister may establish source protection areas in parts of Ontario that are not covered by the conservation authorities, and municipalities may agree to prepare source protection plans for these areas.</p> <p>Additionally, the Minister may consolidate two or more source protection areas into a source protection region.</p> <p>The regulations are expected to address inter-municipal drinking water</p>

<p>relationship</p>	<ul style="list-style-type: none"> • 23. (1) The Minister and one or more municipalities may enter into an agreement governing the preparation by the municipality or municipalities of a source protection plan for a source protection area established by the regulations in the parts of Ontario that are not covered by the source protection areas established by subsection 4 (1). (2) Sections 7 to 22 do not apply to a source protection area to which subsection (1) applies. (3) In the event of a conflict, an agreement entered into under subsection (1) prevails over, <ul style="list-style-type: none"> (a) a regulation made under clause 100 (1) (a); and (b) the rules. <p>The discussion document on the proposed regulations suggests that the Minister may be expected to establish SP areas in parts of northern and central Ontario where there are municipalities but no CAs. Additionally, where there are no CAs, the Minister may enter into agreements with one or more municipalities to prepare SP plans. Although the plans prepared pursuant to these agreements are not covered by other related provisions of the Act, due to the fact that there are no conservation authorities responsible for the plan, the Minister intends to make a regulation for the purpose of designating those municipalities as SP authorities. This would ensure that provisions such as those governing amendments, annual progress reports, reviews and monitoring programs, continue to apply to such plans.</p> <p>SP authorities:</p> <ul style="list-style-type: none"> • 99. The Minister may make regulations, <ul style="list-style-type: none"> (b) designating, for the purposes of this Act, the participating municipalities for a conservation authority, if the boundaries of a source protection area are altered by a regulation under clause (a); (f) designating a person or body for a source protection area for the purpose of section 5; • 5. If the Minister makes a regulation that establishes a source protection area in the parts of Ontario that are not covered by the source protection areas established by subsection 4 (1) and, for the purpose of this section, the regulation designates a person or body for the source protection area, the person or body shall exercise and perform the powers and duties of a drinking water source protection authority under this Act. 	<p>threats by requiring terms of reference to include the identification of those threats which impact multiple municipalities, as well as those which originate in one municipality yet pose a risk in another.</p>
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The discussion document on the proposed regulations indicates when SP areas are established in parts of Ontario not covered by CAs, the Minister would usually be expected to designate a local municipality as the SP authority.

SP regions:

- **6.** (1) If the Minister makes a regulation consolidating two or more source protection areas into a drinking water source protection region and designating a lead source protection authority, each source protection authority in the source protection region shall exercise and perform the powers and duties of a source protection authority under this Act for its source protection area, subject to any agreement referred to in subsection (3) or order made under subsection (5).
- **99.** The Minister may make regulations,
 - (h) consolidating two or more source protection areas into a drinking water source protection region;
 - (j) designating a source protection authority as the lead source protection authority for a source protection region

The discussion document on the proposed regulations includes a Table of the proposed SP regions.

Terms of reference:

- **100.** (1) The Lieutenant Governor in Council may make regulations,
 - (a) governing the preparation and approval of terms of reference
 - (i) governing the contents of terms of reference...
 - (A) requiring terms of reference...to contain provisions specified by the regulations,
 - (B) restricting the circumstances in which terms of reference...may contain provisions specified by the regulations, or
 - (C) prohibiting terms of reference...from containing provisions specified by the regulations

The discussion document on the proposed regulations suggests that the terms of reference will be required to include:

- an initial delineation of the vulnerable areas
- an identification of drinking water threats which impact more than one

	<p>municipality and those which originate in one municipality/area and pose a risk in another, and the process to be used to address such threats</p> <ul style="list-style-type: none"> ➤ work plan requirements, including detailed description of existing studies relating to water resources in the SP area, a description of additional technical work required (+ anticipated cost), and a description of roles and responsibilities ➤ timeline ➤ ADR approaches ➤ consultative/ outreach/ educational process ➤ due date for submission of terms of ref. 	
<p>3.0 – Thorough Public Participation</p> <ul style="list-style-type: none"> • Members of public can apply to participate on SP committee • Financial support available for participants • Easy access to all relevant information • Terms of Reference, Assessment Reports, and SP Plans are prescribed for notice and comment on the EBR registry 	<p>100. (1) The Lieutenant Governor in Council may make regulations, (a) governing the preparation and approval of terms of reference, assessment reports and source protection plans, including regulations, (ii) governing consultation on proposed terms of reference, assessment reports and source protection plans</p> <p>11. The source protection authority shall ensure that the terms of reference, including any amendments made by Minister, are available to the public as soon as reasonably possible.</p> <p>17. If the Director has approved an assessment report, the source protection authority shall ensure that the report is available to the public.</p> <p>18. (3) The source protection authority shall ensure that the [interim progress] reports are available to the public after they are submitted to the Director.</p> <p>18. (4) The Minister shall include a summary of the reports submitted by source protection authorities under this section in the annual report prepared by the Minister under subsection 3(4) of the <i>Safe Drinking Water Act</i>, 2002.</p> <p>20. The source protection authority shall, (d) publish notice of the proposed source protection plan in accordance with the regulations, together with information on how members of the public may obtain copies of the plan and an invitation to the public to submit written comments on the plan to the source protection authority within the time period prescribed by the regulations.</p>	<p>Most of the public consultation measures are contained in the Lieutenant Governor in Council’s power to pass regulations.</p> <p>The Act does include certain mandatory public consultation. For instance, the terms of reference shall be made available to the public as soon as reasonably possible, and are expected to include a description of the consultative, outreach, and educational activities to be used during the development of the assessment report and source protection plan.</p> <p>The assessment reports, interim progress reports, annual progress reports, and prescribed records are also required to be made available to the public.</p> <p>Additionally, the source protection authority is required to publish notice of the proposed source protection plan with an invitation for public</p>

<p>22. The source protection authority shall submit the proposed source protection plan to the Minister, together with,</p> <p style="padding-left: 40px;">(b) any written comments received by the source protection authority after publication of the plan under section 20;</p> <p>24. If a proposed source protection plan is submitted to the Minister under section 22 or subsection 23 (8), the Minister may confer with any person or body that the Minister considers may have an interest in the proposed source protection plan.</p> <p>25. (1) The Minister may appoint one or more hearing officers for the purpose of conducting one or more hearings within the source protection area or in the general proximity of that area for the purpose of receiving representations respecting the proposed source protection plan, or any matter relating to the proposed source protection plan.</p> <p>27. 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 environmental registry established under the <i>Environmental Bill of Rights, 1993</i>, together with,</p> <p style="padding-left: 40px;">(a) a brief explanation of the effect, if any, of any comments and resolutions submitted under section 22, any comments and other material submitted under subsection 23 (8) and any recommendations made by a hearing officer on the Minister's decision; and</p> <p style="padding-left: 40px;">(b) any other information that the Minister considers appropriate.</p> <p>29. If the Minister has approved a source protection plan, the source protection authority shall ensure that the plan is available to the public on the Internet and in such other manner as the source protection authority considers appropriate.</p> <p>31. (3)(c) and 32. (3)(d) If the council of every municipality whose clerk was given a copy of the proposed amendments [to the source protection plan] passes a resolution endorsing the amendments, or if the amendments only affect unorganized territory, the source protection authority shall,</p> <p style="padding-left: 40px;">publish notice of the proposed amendments in accordance with the regulations, together with information on how members of the public may obtain copies of the amendments and an invitation to the public to submit written comments on the</p>	<p>comments.</p> <p>These comments are then submitted to the Minister, and the Minister has the option of appointing hearing officers to conduct local hearings on the proposed plan. Once the plan is approved, the Minister must post it to the EBR as soon as reasonably possible, and the source protection authority shall ensure that the plan is made available over the internet. Amendments to the plan are dealt with in a similar manner.</p>
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	<p>amendments to the source protection authority within the time period prescribed by the regulations.</p> <p>41.(2) The source protection authority shall ensure that the [annual progress] report is available to the public after it is submitted to the Minister.</p> <p>41.(3) The Minister shall include a summary of the [annual progress] reports submitted by source protection authorities under this section in the annual report prepared by the Minister under subsection 3 (4) of the <i>Safe Drinking Water Act, 2002</i>.</p> <p>46.(3) A person or body that holds records under this section shall make such records as are prescribed by the regulations available to the public.</p>	
<p>4.0 – Integration with Existing Legislation and Municipal Official Plans / zoning by-laws</p> <ul style="list-style-type: none"> • Integration with Great Lakes programs • Integration with flood and drought management plans • Integration with Fisheries protection programs • Integration with risk habitat and species recovery programs • Adoption of more stringent requirements for water quality or 	<p>Conflict</p> <p>96. (1) If there is a conflict between a provision of this Act and a provision of another Act or a regulation made under another Act with respect to a matter that affects or has the potential to affect the quality or quantity of any water that is or may be used as a source of drinking water, the provision that provides the greatest protection to the quality and quantity of the water prevails.</p> <p><i>Nutrient Management Act, 2002</i></p> <p>(2) Despite subsection (1), if there is a conflict between a provision of this Act and a provision of the <i>Nutrient Management Act, 2002</i> or a regulation or instrument made, issued or otherwise created under that Act, the provision of this Act prevails.</p> <p>Effect of plan</p> <p>35. (1) A decision under the <i>Planning Act</i> or the <i>Condominium Act, 1998</i> made by a municipal council, municipal planning authority, planning board, other local board, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, that relates to the source protection area shall conform with the source protection plan.</p> <p>Conflicts re official plans, by-laws</p> <p>(2) Despite any other Act, the source protection plan prevails in the case of conflict between the source protection plan and,</p> <p>(a) an official plan;</p> <p>(b) a zoning by-law; or</p> <p>(c) subject to subsection (4), a policy statement issued under section 3 of the <i>Planning Act</i>.</p>	<p>One of the most important features of the legislation is its impact on other municipal and provincial laws or instruments. Where there is a conflict between the <i>Clean Water Act, 2005</i> and a provision of another Act respecting the quality or quantity of drinking water, the provision that provides the greatest protection prevails. Additionally, in the case of conflict, the <i>Clean Water Act, 2005</i> will prevail over the <i>Nutrient Management Act, 2002</i>, and the source protection plans will prevail over municipalities’ official plans and zoning by-laws.</p>

<p>quantity</p> <ul style="list-style-type: none"> • Official Plans to be updated to be consistent with approved Source Protection Plans • Pesticide and sewer / septic system use by-laws incorporating provincially set standards and provisions 	<p>Limitation</p> <p>(3) Subsection (1) does not apply to a policy statement issued under section 3 of the <i>Planning Act</i> or a minister's order under section 47 of the <i>Planning Act</i>.</p> <p>Conflicts re provisions in plans, policies</p> <p>(4) Despite any Act, but subject to a regulation made under clause 100 (1) (g), (h) or (i), if there is a conflict between a provision of the source protection plan and a provision in a plan or policy that is mentioned in subsection (5) with respect to a matter that affects or has the potential to affect the quality or quantity of any water that is or may be used as a source of drinking water, the provision that provides the greatest protection to the quality and quantity of the water prevails.</p> <p>Plans or policies</p> <p>(5) The plans and policies to which subsection (4) refers are,</p> <ul style="list-style-type: none"> (a) a policy statement issued under section 3 of the <i>Planning Act</i>; (b) the Greenbelt Plan established under section 3 of the <i>Greenbelt Act, 2005</i> and any amendment to the Plan; (c) the Niagara Escarpment Plan established under section 3 of the <i>Niagara Escarpment Planning and Development Act</i> and any amendment to the Plan; (d) the Oak Ridges Moraine Conservation Plan established under section 3 of the <i>Oak Ridges Moraine Conservation Act, 2001</i> and any amendment to the Plan; (e) a growth plan approved under section 7 of the <i>Places to Grow Act, 2005</i> and any amendment to the plan; (f) a plan or policy made under a provision of an Act that is prescribed by the regulations; and (g) a plan or policy prescribed by the regulations, or provisions prescribed by the regulations of a plan or policy, that is made by the Lieutenant Governor in Council, a minister of the Crown, a ministry or a board, commission or agency of the Government of Ontario. <p>Actions to conform to plan</p> <p>(6) Despite any other Act, no municipality or municipal planning authority shall, within the source protection area,</p> <ul style="list-style-type: none"> (a) undertake any public work, improvement of a structural nature or other undertaking that conflicts with the source protection plan; or (b) pass a by-law for any purpose that conflicts with the source protection plan. <p>Prescribed instruments</p> <p>(7) If a prescribed instrument relates to an activity identified in the source protection plan as an activity that is or would be a significant drinking water threat, the person or</p>	
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	<p>body that issues or otherwise creates the instrument shall ensure that the instrument conforms with the plan.</p> <p>Same, amendment or revocation</p> <p>(8) A person or body shall not amend or revoke a prescribed instrument referred to in subsection (7) if the amendment or revocation does not conform with the source protection plan.</p> <p>Official plan and conformity</p> <p>36. (1) The council of a municipality or a municipal planning authority that has jurisdiction in an area to which the source protection plan applies shall amend its official plan to conform with the source protection plan.</p>	
Source Protection Committees	<p>Source protection committees</p> <p>7. (1) Each source protection authority shall establish a drinking water source protection committee for the authority's source protection area.</p> <p>Composition</p> <p>(2) A source protection committee shall be composed of not more than 16 members, including the chair of the committee.</p> <p>Appointment of members</p> <p>(3) Subject to subsection (4), the members of a source protection committee shall be appointed in accordance with the regulations.</p> <p>99. The Minister may make regulations,</p> <p>(k) governing the appointment of source protection committees</p> <p>The discussion document on the proposed regulations suggests that the Minister is considering requiring SP committees to be composed of, at a minimum, 1/3rd municipal representation, 1 member from the public, and 1 member from First Nations.</p> <p>See 7(5)(b) regarding the SP authority's obligation to provide the SP committee with scientific, technical, and administrative support and resources.</p> <p>Also, under 77 and 78, municipalities, local boards, and the Government of Ontario shall, on request, provide copies of any relevant documents or records to SP committees that are preparing terms of reference, assessment reports of SP plans.</p>	<p>The Act facilitates the work of the source protection committees by requiring the source protection authorities to provide them with scientific, technical, and administrative support and resources.</p> <p>Additionally, source protection committees may request relevant documents, including technical or scientific studies, from municipalities, local boards, and the Ontario government. More broadly speaking, municipalities are required to co-operate with the source protection committees in addressing issues that affect the quality or quantity of drinking water sources.</p>
6.0 – Conservation Authorities (Source	2. (1) "source protection authority" means a conservation authority or other person or body that, under subsection 4 (2) or section 5, is required to exercise and perform the	See above 2.0 "Appropriate Planning Scale and Scope" for a discussion of

<p>Protection Authorities)</p> <ul style="list-style-type: none"> • Responsibility and accountability of CA's to be specifically delineated in source protection legislation • CA's and others responsible must be provided with adequate resources • Coordination of adjoining CA's • Technical integration across provincial ministries, public access to databases • Source Protection Planning Committees to be inclusive of the public • Reconsider size of CA's in north 	<p>powers and duties of a drinking water source protection authority under this Act;</p> <p>Responsibilities of source protection authorities include:</p> <ul style="list-style-type: none"> • 18. (1) preparing and submitting interim progress reports to the Director, and (3) ensuring the reports are available to the public • 33. (3) ensuring that the review of the SP plan is conducted in accordance with this Act and the regulations • 41. preparing and submitting to the Minister an annual progress report, and then making it available to the public <p>40. The source protection authority for the source protection area shall conduct a monitoring program in accordance with the regulations for drinking water threats in the vulnerable areas identified in the source protection plan.</p> <p>47. (1) ...a source protection authority that is responsible for the enforcement of this Part and is a conservation authority may make regulations...applicable in the area in which the... source protection authority...has jurisdiction for the enforcement of this Part,</p> <ul style="list-style-type: none"> (a) prescribing classes of permits; (b) establishing and governing an inspection program for the purpose of enforcing this Part; (c) providing for applications under this Part and requiring the applications to be accompanied by such plans, specifications, documents and other information as is set out in the by-law, resolution or regulation; (d) requiring the payment of fees on applications under this Part, on the acceptance of a risk assessment, on the issuance or renewal of a permit or on the issuance of a notice under section 51, requiring the payment of fees for inspections, and prescribing the amounts of the fees; (e) requiring the payment of interest and other penalties, including payment of collection costs, when fees are unpaid or are paid after the due date; (f) providing for refunds of fees under such circumstances as are set out in the by-law, resolution or regulation; (g) prescribing forms respecting permits, acceptances of risk management plans, acceptances of risk assessments, notices under section 51 and applications under this Part, and providing for their use; (h) providing for the transfer of permits. 	<p>the conservation authorities' jurisdiction.</p> <p>Source protection authorities will help maintain the currency of information by preparing interim progress reports (prior to the source protection plans taking effect) and annual progress reports (after the plans take effect), and overseeing the review of the plans. The authorities shall also monitor drinking water threats in vulnerable areas.</p> <p>Where source protection authorities are responsible for enforcement, they may make wide-ranging regulations prescribing classes of permits and establishing inspection programs, among other things. Employees of source protection authorities are also provided with the power to enter property, without consent and without a warrant, for the purpose of collecting relevant information or for monitoring.</p>
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	<p>Fees may be added to tax roll</p> <p>47. (4) Section 398 of the <i>Municipal Act, 2001</i> applies, with necessary modifications, to fees established by a municipality or local board under clause (1) (d) and, with the approval of the treasurer of a local municipality, to fees established under clause (1) (d) by a source protection authority whose area of jurisdiction includes any part of the local municipality.</p> <p>79. (1) Subject to subsection (4), an employee or agent of a source protection authority or a person designated by a source protection authority under subsection (2) may enter property, without the consent of the owner or occupier and without a warrant, if,</p> <p>(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;</p> <p>(b) the entry is for the purpose of collecting information relevant to the preparation of a report under section 18 or 41; or</p> <p>(c) the entry is for the purpose of conducting a monitoring program under section 40.</p> <p>83. A municipality or source protection authority may, for the purpose of implementing a source protection plan, acquire by purchase, lease or otherwise, or, subject to the <i>Expropriations Act</i>, without the consent of the owner, enter upon, take and expropriate and hold any land or interest in land.</p>	
<p>7.0 – New Municipal Powers, Roles and Requirements</p> <ul style="list-style-type: none"> Province to work with municipalities, other stakeholders to develop appropriate new municipal powers for purposes of source water protection Municipal accountability and 	<p>Resolution of municipal council</p> <p>8. (3) The council of a municipality in which any part of the source protection area is located may pass a resolution requiring the terms of reference to provide, for the purpose of subclause 13 (2)(e)(ii), that the assessment report consider any existing or planned drinking-water system specified in the resolution that,</p> <p>(a) is not a drinking-water system referred to in subclause 13. (2)(e)(i) [ie. not a municipal system that serves or will serve major residential developments]; and</p> <p>(b) has a well or intake in the municipality that serves as the source or entry point of raw water supply for the drinking-water system.</p> <p>8. (4) A resolution passed under subsection (3) is not effective unless it identifies the location of every well and intake in the municipality that serves as the source or entry point of raw water supply for the drinking-water system.</p> <ul style="list-style-type: none"> Resolutions of municipal councils: 21. municipal council may pass a resolution expressing its comments on the proposed SP plan 	<p>“They [municipalities] would develop and implement risk management strategies for activities within their jurisdiction, such as municipal wellhead and surface water intake protection areas. They may also spearhead plan development in areas not covered by conservation authorities in accordance with an agreement entered into between the municipality and the Minister of the Environment.” (MOE Fact Sheet, December 2005)</p> <p>For the purposes of restricting regulated activities (see section 50),</p>

<p>authority to be specifically delineated</p> <ul style="list-style-type: none"> • water conservation plans • no net increase in total water use • incentives and rebates for water conservation measures • public education regarding impacts of activities in watershed • downstream municipalities contribute to source protection efforts upstream 	<ul style="list-style-type: none"> • SP plans prepared by municipalities: 23. (1) municipality may enter into agreement with Minister governing the preparation by the municipality of a source protection plan for an area outside of the conservation authorities' jurisdiction • Submission to Minister: 23. (8) municipality shall submit proposed source protection plan to the Minister pursuant to the agreement in 23. (1) <p>Enforcement by municipalities</p> <p>42. (1) The council of a municipality that has authority to pass by-laws respecting water production, treatment and storage under subsection 11 (1) or (2) of the <i>Municipal Act, 2001</i> is responsible for the enforcement of this Part in the municipality, except where otherwise provided.</p> <ul style="list-style-type: none"> • Joint enforcement: 42. (2) two or more municipalities may enter into an agreement for joint enforcement, or (4) for one municipality to be responsible for enforcement in the other municipality • Permit official, permit inspectors: 42. (6) The council of a municipality that is responsible for enforcement shall appoint a permit official and such permit inspectors as are necessary • Agreements re unorganized territory: 45. (1) a municipality adjacent to unorganized territory and the Crown may enter into an agreement providing for enforcement by the municipality in the unorganized territory • Records: 46. (1) Every person or body that has jurisdiction for enforcement shall retain records as prescribed by the regulations <p>By-laws, resolutions, regulations</p> <p>47. (1) The council of a municipality...that is responsible for the enforcement of this Part may pass by-laws...applicable in the area in which the municipality...has jurisdiction for the enforcement of this Part,</p> <ol style="list-style-type: none"> (a) prescribing classes of permits; (b) establishing and governing an inspection program for the purpose of enforcing this Part; (c) providing for applications under this Part and requiring the applications to be accompanied by such plans, specifications, documents and other information as is set out in the by-law, resolution or regulation; (d) requiring the payment of fees on applications under this Part, on the acceptance of a risk assessment, on the issuance or renewal of a permit or on the issuance of a notice 	<p>permit officers can require risk management plans, review and accept risk assessments, and issue or renew permits.</p> <p>Municipalities are generally responsible for enforcement within municipal borders. Additionally, two or more municipalities may enter into an agreement for joint enforcement, or a municipality may enter into an agreement with the Crown to provide enforcement in an adjacent unorganized territory.</p> <p>Where a municipality is responsible for enforcement, the Act provides it with broad new enforcement powers. Its council may pass by-laws prescribing classes of permits and establishing inspection programs, among other things.</p> <p>Permit inspectors may enter property, without consent and without a warrant, if there are reasonable grounds to believe that prescribed activities (under sections 48, 49, or 50) are being engaged in, or that there are documents on the property relating to such an activity. Once on the property, the inspector may take samples, conduct tests, examine documents, and ask questions.</p> <p>When a permit inspector has</p>
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	<p>under section 51, requiring the payment of fees for inspections, and prescribing the amounts of the fees;</p> <p>(e) requiring the payment of interest and other penalties, including payment of collection costs, when fees are unpaid or are paid after the due date;</p> <p>(f) providing for refunds of fees under such circumstances as are set out in the by-law, resolution or regulation;</p> <p>(g) prescribing forms respecting permits, acceptances of risk management plans, acceptances of risk assessments, notices under section 51 and applications under this Part, and providing for their use;</p> <p>(h) providing for the transfer of permits.</p> <ul style="list-style-type: none"> • Order for risk management plan: 48. (1) after the Director has approved an assessment report (but before the SP plan has begun to apply) and, in a specified surface water intake protection zone or wellhead protection area, a person is engaged in an activity that is prescribed as a significant drinking water threat, the permit official may order the person to prepare and submit a risk management plan • Prohibited activities: 49., 19. (3), 19. (6) SP plan may prohibit activities at specified locations or areas, but not if a person was engaging in the activity immediately before the source protection plan took effect. Activity must also be a type of activity prescribed by the regulations; and identified in the assessment report as a possible future activity that would be a significant drinking water threat, and in a surface water intake protection zone or wellhead protection area. • Regulated activities: 50., 19. (4), 19. (6) SP plan may prohibit activities at specified locations or areas, unless a risk assessment concludes that the activity is not a significant drinking water threat and the permit official has accepted the risk assessment; or the person engages in the activity in accordance with a permit issued or renewed under s. 53; or the person is complying with a risk management plan under s. 48. Activity must also be a type of activity prescribed by the regulations; and identified in the assessment report as an existing activity or possible future activity that is a significant drinking water threat, and in a surface water intake protection zone or wellhead protection area. <p>Acceptance of risk assessment: 52. permit official shall accept a risk assessment that concludes that an activity is not a significant drinking water threat if, and only if, the activity has been assessed in accordance with the regs. and rules, and the fees have been paid.</p>	<p>reasonable grounds to believe there's been a contravention, the inspector may make a range of orders, including requiring the person to comply with directions, apply for a permit, or cease engaging in a prohibited or regulated activity.</p> <p>Two or more municipalities may agree to coordinate their enforcement efforts, or a municipality and the Crown could arrange for the municipality to provide enforcement in an unorganized territory.</p>
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Permits: 53. (1) On application, the permit official shall issue or renew a permit for an activity if, and only if,

- (a) the application is made by or with the written consent of the owner of the property where the activity is or will be engaged in;
- (b) the applicant has submitted to the permit official a risk management plan for the activity and a risk assessment prepared on the assumption that the risk management plan is being complied with;
- (c) the permit official is satisfied that the risk management plan complies with any requirements imposed by the source protection plan;
- (d) the permit contains a condition that requires the holder of the permit to comply with the risk management plan;
- (e) the permit official is satisfied that the activity will not be a significant drinking water threat if it is engaged in in accordance with the permit; and
- (f) the applicant has paid all applicable fees.

Conditions

(2) In addition to a condition described in clause (1) (d), the permit official may include in a permit any condition that does not conflict with the source protection plan and that is reasonably necessary to ensure that the activity will not be a significant drinking water threat if it is engaged in in accordance with the permit.

Refusal

(3) Despite subsection (1), the permit official may refuse to issue or renew a permit if the past conduct of the applicant or, if the applicant is corporation, of its officers or directors affords reasonable grounds to believe that the applicant will not engage in the activity in accordance with the permit.

- **Restricted land uses: 51., 19. (5), 19. (6)** SP plan may prohibit an application under the *Planning Act* for the purpose of using land for prescribed land uses at specified locations or areas, and may prohibit the construction or changed use of a building in connection with those land uses, unless **the permit official issues a notice**. Land use must also be a type of land use prescribed by the regulations; and relate to a prohibited or regulated activity as designated by the SP plan; and be identified in the assessment report as a possible future activity that would be a significant drinking water threat, and in a surface water intake protection zone or wellhead protection area.

Issuance of notice

51. (2) The permit official shall, on application, issue a notice to a person for the purpose of subsection (1) if, and only if, the applicant has paid all applicable fees and,

(a) neither section 49 nor section 50 applies to the activity for which the land is to be used; or

(b) section 50 applies to the activity for which the land is to be used and the permit official has,

(i) accepted a risk assessment under section 52 that concludes that the activity for which the land is to be used is not a significant drinking water threat, or

(ii) issued a permit under section 53 that applies to the activity for which the land is to be used.

- **Inspections: 54. (1)** a permit inspector may enter property, without the consent of the owner or occupier and without a warrant, if, (a) the permit inspector has reasonable grounds to believe that an activity to which section 48 [activity subject to interim risk management plan], 49 [prohibited activity] or 50 [regulated activity] applies is being engaged in on the property; or (b) the permit inspector has reasonable grounds to believe that there are documents or data on the property that relate to such an activity
- **Dwellings: 54. (2)** a permit inspector shall not enter a room actually used as a dwelling without the consent of the occupier except under the authority of a warrant
- **Notice: 54. (5)** Must give reasonable notice of entry to occupier of property
- **Powers: 54. (7)** A person who enters property may make excavations; require things to be operated; take samples; conduct tests or take measurements; examine, record or copy any document; require the production of any document; remove documents for the purpose of making copies; and require any person to provide reasonable assistance and to answer reasonable inquiries, orally or in writing.
- **Warrant for entry: 54. (10)** a justice may issue a warrant if there are reasonable grounds to believe that it is appropriate for the enforcement of this Part and if a permit inspector may not be able to effectively carry out his or her duties without a warrant
- **Use of force: 54. (17)** a person authorized by a warrant may call on police officers as necessary and may use force as necessary to do the thing

	<p>Enforcement orders</p> <p>55. (1) If a permit inspector has reasonable grounds to believe that a person is contravening subsection 48 (6) or section 49 or 50, the inspector may make an order requiring the person to do any one or more of the following things:</p> <ol style="list-style-type: none"> 1. Comply, by a date specified in the order, with directions set out in the order relating to achieving compliance with subsection 48 (6) or section 49 or 50. 2. Apply for the acceptance of a risk assessment under section 52. 3. Apply for a permit under section 53. 4. In the case of a contravention of section 49 or 50, cease engaging in the activity to which that section applies. 5. Report to the permit official on compliance with the order, in such manner and at such times as are set out in the order. <ul style="list-style-type: none"> • Permit official may cause things to be done: 56. (1) where an order made under section 55 is not stayed, the permit official may cause to be done any thing required by it if there is non-compliance with the order, or if it would be in the public interest to do so • Person liable unknown: 57. where a permit official is unable to issue an order because the identity of the person is unknown, the permit official may cause the thing to be done • Order to pay: 59. (1) the permit official may issue an order to pay the costs of doing any thing caused to be done by the permit official under section 56 to any person required by an order made under section 55 to do the thing • Hearing by Tribunal: Section 62 outlines the circumstances in which the permit official or permit inspector shall serve notice on a person, and that person may, within 15 days after service of the notice, require a hearing by the Environmental Review Tribunal • Annual reports 73. each permit official shall annually prepare a report that summarizes the actions taken by the permit official and permit inspectors • Obligations of municipalities: 77. (1) a municipality shall co-operate with the source protection authority and source protection committee, with other municipalities, and with ministries of Ontario in addressing issues that affect the quality or quantity of any water that is or may be used as a source of drinking water • Obligations of municipalities: 77. (2) Without limiting the generality of subsection (1), a municipality shall, on request, provide copies of documents, 	
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	<p>including technical or scientific studies, to a SP committee, a SP authority, one or more municipalities, or a ministry; and assist in obtaining relevant information</p> <p>Notice of health hazard or exceeded standard</p> <p>80. (1) A person who has authority to enter property under section 79 shall immediately notify the Ministry in accordance with the regulations if,</p> <p>(a) the person becomes aware that a substance prescribed by the regulations is being discharged or is about to be discharged into the raw water supply of an existing drinking-water system and the person is of the opinion that, as a result of the discharge, an imminent drinking-water health hazard exists; or</p> <p>(b) the person becomes aware that a test conducted on the raw water supply of an existing drinking-water system indicates that the water does not meet a standard prescribed by the regulations.</p> <ul style="list-style-type: none"> • Expropriation: 83. a municipality may, for the purpose of implementing a SP plan, acquire or, without the consent of the owner, enter upon, take and expropriate and hold any land or interest in land 	
<p>9.0 – Conservation</p> <ul style="list-style-type: none"> • Source protection plans must include development of water budgets • Source protection plans must include development of water conservation standards • Based on assessment of cumulative impacts of all water takings in the watersheds • Publicly reported • Reflected in permits to take 	<p>Assessment reports</p> <p>13. (1) The source protection committee for a source protection area shall prepare an assessment report for the source protection area in accordance with the regulations, the rules and the terms of reference.</p> <p>Contents</p> <p>(2) An assessment report shall, in accordance with the regulations, the rules and the terms of reference,</p> <p>(c) set out a water budget for each watershed identified under clause (a) that,</p> <p>(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,</p> <p>(ii) describes the ground water and surface water flows in the watershed,</p> <p>(iii) quantifies the existing and anticipated amounts of water taken from the watershed that require a permit under section 34 of the <i>Ontario Water Resources Act</i>,</p> <p>(iv) quantifies the existing and anticipated amounts of water taken from the watershed that do not require a permit under section 34 of the <i>Ontario Water Resources Act</i>, and</p> <p>(v) having regard to the information referred to in subclauses (i) to (iv), describes any existing or anticipated water shortages in the watershed;</p>	<p>Conservation measures are contained in the assessment report, which is required to include a water budget for each watershed in the source protection area. The water budget will quantify existing and anticipated amounts of water taken from the watershed, and describe any water shortages.</p> <p>A permit shall only be issued or renewed for a regulated activity if a risk management plan and risk assessment have been submitted, if the activity will not be a significant drinking water threat if engaged in in accordance with the permit, and if other conditions have been met.</p>

<p>water with specific, measurable and enforceable conservation requirements of the permit holder</p>	<p>(f) describe the drinking water issues relating to the quality and quantity of water in each of the vulnerable areas identified under clauses (d) and (e);</p> <p>19. (2) A source protection plan shall, in accordance with the regulations and the terms of reference, set out the following:</p> <p>6. Provisions governing the criteria to be used in determining whether to issue or renew permits under section 53 for activities designated under paragraph 4 [regulated activities], including provisions relating to the conditions that are included in those permits.</p> <p>53. (1) On application, the permit official shall issue or renew a permit for an activity if, and only if,</p> <p>(a) the application is made by or with the written consent of the owner of the property where the activity is or will be engaged in;</p> <p>(b) the applicant has submitted to the permit official a risk management plan for the activity and a risk assessment prepared on the assumption that the risk management plan is being complied with;</p> <p>(c) the permit official is satisfied that the risk management plan complies with any requirements imposed by the source protection plan;</p> <p>(d) the permit contains a condition that requires the holder of the permit to comply with the risk management plan;</p> <p>(e) the permit official is satisfied that the activity will not be a significant drinking water threat if it is engaged in in accordance with the permit; and</p> <p>(f) the applicant has paid all applicable fees.</p> <p>Conditions</p> <p>(2) In addition to a condition described in clause (1) (d), the permit official may include in a permit any condition that does not conflict with the source protection plan and that is reasonably necessary to ensure that the activity will not be a significant drinking water threat if it is engaged in in accordance with the permit.</p> <p>Refusal</p> <p>(3) Despite subsection (1), the permit official may refuse to issue or renew a permit if the past conduct of the applicant or, if the applicant is corporation, of its officers or directors affords reasonable grounds to believe that the applicant will not engage in the activity in accordance with the permit.</p> <p>Expiration of permit</p> <p>(4) A permit may provide that it expires on a date set out in the permit.</p>	
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	<p>Amendments, etc.</p> <p>(5) The permit official may,</p> <p>(a) amend or revoke any condition that is included in a permit;</p> <p>(b) add conditions to a permit;</p> <p>(c) amend a risk management plan that a condition of a permit requires the holder of the permit to comply with; or</p> <p>(d) revoke a permit that was issued on the basis of false or misleading information or that is spent or obsolete.</p> <p>97. (2) Every person who fails to comply with a condition included in a permit issued under section 53 is guilty of an offence.</p>	
<p>12.0 – Integration with Great Lakes Protection</p> <ul style="list-style-type: none"> • The new source water protection regime must be fully integrated with Great Lakes protection. • Those who take water from Great Lakes will benefit from and must participate in source water protection. • Great Lakes programs and Source Protection Plans must integrate the knowledge, data and science that they are all gathering 	<p>Great Lakes agreements</p> <p>12. (1) If a source protection area contains water that flows into the Great Lakes, the terms of reference for the preparation of an assessment report and source protection plan for the source protection area shall be deemed to require consideration of the following documents:</p> <ol style="list-style-type: none"> 1. The Great Lakes Water Quality Agreement of 1978 between Canada and the United States of America, signed at Ottawa on November 22, 1978, including any amendments made before or after this section comes into force. 2. The Great Lakes Charter signed by the premiers of Ontario and Quebec and the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin on February 11, 1985, including any amendments made before or after this section comes into force. 3. The Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem 2002 entered into between Her Majesty the Queen in Right of Canada and Her Majesty the Queen in Right of Ontario, effective March 22, 2002, including any amendments made before or after this section comes into force. 4. Any other agreement to which the Government of Ontario or the Government of Canada is a party that relates to the Great Lakes Basin and that is prescribed by the regulations. <p>Replaced documents</p> <p>(2) Subsection (1) does not apply to a document referred to in paragraph 1, 2 or 3 of subsection (1) if the document is replaced by a document referred to in paragraph 4 of subsection (1).</p> <p>Source protection plans prepared by municipalities</p>	<p>The <i>Clean Water Act, 2005</i> is expected to benefit the Great Lakes through a variety of mechanisms. The proposed legislation provides the Minister of the Environment with the authority to establish targets for source protection areas which contribute to the Great Lakes, set up advisory committees, and require the preparation of reports. Additionally, if this legislation is passed in Ontario, it will set an important precedent for watershed-based protection throughout the Great Lakes region.</p>

<ul style="list-style-type: none"> • This information must be publicly accessible • Actual water takings must be tabulated not only on a watershed basis but also on a Great Lakes basin basis • Research in Great Lakes programs and Source Water Protection must be integrated to avoid “silos” of knowledge 	<p>23. (1) The Minister and one or more municipalities may enter into an agreement governing the preparation by the municipality or municipalities of a source protection plan for a source protection area established by the regulations in the parts of Ontario that are not covered by the source protection areas established by subsection 4 (1).</p> <p>Great Lakes agreements</p> <p>(7) In preparing a source protection plan under an agreement under this section, the municipality or municipalities shall, if the source protection area contains water that flows into the Great Lakes, consider the documents referred to in section 12.</p> <p>Great Lakes advisory committees</p> <p>74. The Minister may establish one or more advisory committees to provide advice to the Minister on any matter relating to the use of the Great Lakes as a source of drinking water.</p> <p>Great Lakes reports from source protection authorities</p> <p>75. (1) The Minister may direct a source protection authority,</p> <p>(a) to prepare and submit to the Minister, in accordance with the direction, a report on any matter relating to the use of the Great Lakes as a source of drinking water; or</p> <p>(b) to assist another source protection authority in preparing a report under clause (a).</p> <p>Consultation</p> <p>(2) In preparing a report under this section, the source protection authority shall consult with all of the municipalities in which any part of the authority's source protection area is located and with such other persons or bodies as are specified by the Minister.</p> <p>Great Lakes targets</p> <p>76. (1) The Minister may establish targets respecting the quality or quantity of water for one or more source protection areas that contribute water to the Great Lakes.</p> <p>Division of target among source protection areas</p> <p>(2) If the Minister establishes a target under subsection (1) for a group of source protection areas, the Minister may direct the source protection authorities for those source protection areas to jointly establish, in accordance with the direction, a target for each of the source protection areas.</p> <p>Same</p> <p>(3) If the source protection authorities fail to jointly establish a target for each of the source protection areas under subsection (2), the Minister may establish a target for each source protection area.</p>	
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	<p>Same (4) If the Minister is of the opinion that a target established for a source protection area under subsection (2) is not appropriate, the Minister may establish the target for that area.</p> <p>Reports on steps to achieve targets (5) If a target is established for a source protection area under this section, the Minister may direct the source protection authority for the source protection area to prepare and submit to the Minister, in accordance with the direction, a report recommending steps that should be taken to assist in achieving the target.</p> <p>Consultation (6) In preparing a report under subsection (5), the source protection authority shall consult with all of the municipalities in which any part of the authority's source protection area is located and with such other persons or bodies as are specified by the Minister.</p>	
<p>14.0 – Strong Interim Measures</p> <ul style="list-style-type: none"> The province, municipalities and conservation authorities must use their available powers to protect water sources by taking immediate action with respect to high-risk activities and land uses until Source Protection Plans are approved and implemented Vulnerable or sensitive areas should be identified and preliminary 	<p>Interim progress reports 18. (1) If the Director has approved an assessment report, the source protection authority shall prepare and submit reports to the Director in accordance with this section, at intervals specified under clause (2) (a), that, (a) describe measures being undertaken in the vulnerable areas identified in the assessment report, (i) to ensure that existing activities specified under clause (2) (b) cease to be significant drinking water threats, (ii) to ensure that possible future activities specified under clause (2) (c) do not become significant drinking water threats, (iii) to ensure that existing conditions specified under clause (2) (d) that result from past activities cease to be significant drinking water threats; and (b) contain such other information as is specified under clause (2) (e). Same (2) When the Director approves the assessment report, the Director may, in writing, (a) direct that reports be submitted under this section at intervals specified in the direction; (b) specify existing activities for the purpose of subclause (1) (a) (i); (c) specify possible future activities for the purpose of subclause (1) (a) (ii); (d) specify existing conditions that result from past activities for the purpose of subclause (1) (a) (iii); (e) specify other information for the purpose of clause (1) (b).</p>	<p>As described above [see 6.0 “Conservation Authorities”], the source protection authorities are responsible for preparing interim progress reports (prior to the source protection plans taking effect) which describe measures being undertaken in the vulnerable areas to diminish significant drinking water threats.</p> <p>Also, after the approval of an assessment report, where a person is engaged in a prescribed significant drinking water threat in a wellhead or surface water intake protection area, a permit official can order the preparation of a risk management plan.</p> <p>Finally, employees of source protection authorities or municipalities may enter property to collect information for the preparation of the</p>

<p>measures taken to protect them within one year of the legislation being passed</p> <ul style="list-style-type: none"> • No new policy instruments with the potential to cause significant or irreversible harm to water sources should be issued until source protection plans are in place 	<p>Available to public (3) The source protection authority shall ensure that the reports are available to the public after they are submitted to the Director.</p> <p>Summary of progress reports (4) The Minister shall include a summary of the reports submitted by source protection authorities under this section in the annual report prepared by the Minister under subsection 3 (4) of the <i>Safe Drinking Water Act, 2002</i>.</p> <p>Application (5) This section ceases to apply to a source protection authority when a source protection plan takes effect for the source protection area.</p> <p>Order for risk management plan 48. (1) If the Director has approved an assessment report for a source protection area under section 15 or 16 or under an agreement under section 23 and, in a surface water intake protection zone or wellhead protection area identified in the report, at a location or within an area specified in the report, a person is engaged in an activity that is prescribed by the regulations and is identified in the report as an activity that is or would be a significant drinking water threat at that location or within that area, the permit official may issue an order requiring the person to prepare and submit to the permit official, within such time as is specified in the order, a risk management plan for the activity.</p> <p>Application (2) No order may be issued under subsection (1) with respect to an activity if section 50 has begun to apply to that activity. (ie. before source protection plan is in effect)</p> <p>Notice of health hazard or exceeded standard 80. (1) A person who has authority to enter property under section 79 shall immediately notify the Ministry in accordance with the regulations if, (a) the person becomes aware that a substance prescribed by the regulations is being discharged or is about to be discharged into the raw water supply of an existing drinking-water system and the person is of the opinion that, as a result of the discharge, an imminent drinking-water health hazard exists; or (b) the person becomes aware that a test conducted on the raw water supply of an existing drinking-water system indicates that the water does not meet a standard prescribed by the regulations.</p> <p>Powers of entry</p>	<p>planning documents. Should they become aware of a discharge which poses an imminent drinking water health hazard, they are required to notify the Ministry immediately. The Director must then provide notice of any action taken within 30 days.</p>
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	<p>79. (1) Subject to subsection (4), an employee or agent of a source protection authority or a person designated by a source protection authority under subsection (2) may enter property, without the consent of the owner or occupier and without a warrant, if,</p> <p>(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;</p> <p>(b) the entry is for the purpose of collecting information relevant to the preparation of a report under section 18 or 41; or</p> <p>(c) the entry is for the purpose of conducting a monitoring program under section 40.</p> <p>Designation by source protection authority</p> <p>(2) A source protection authority may in writing designate, for the purposes of subsection (1),</p> <p>(a) an employee or agent of a municipality; or</p> <p>(b) all persons who are members of a class of employees or agents of a municipality.</p> <p>Municipality</p> <p>(3) Subject to subsection (4), an employee or agent of a municipality may enter property, without the consent of the owner or occupier and without a warrant, if the entry is for the purpose of collecting information relevant to the preparation of a source protection plan or report under an agreement under section 23.</p> <p>Dwellings</p> <p>(4) A person shall not enter a room actually used as a dwelling without the consent of the occupier except under the authority of a warrant under subsection 54 (10).</p>	
<p>15.0 – Long-term Monitoring</p> <ul style="list-style-type: none"> Data must be collected and publicly reported for outcome measures listed in the 2003 Source Protection Advisory 	<p>19. (2) A source protection plan shall, in accordance with the regulations and the terms of reference, set out the following:</p> <p>2. Policies intended to achieve the following objectives:</p> <p>i. Ensuring that every existing activity identified in the assessment report as a significant drinking water threat ceases to be a significant drinking water threat.</p> <p>ii. Ensuring that none of the possible future activities identified in the assessment report as activities that would be drinking water threats ever become significant drinking water threats.</p> <p>7. Standards to be used to assess whether the objectives referred to in paragraph 2 are achieved.</p>	<p>The source protection plans shall include standards used to assess whether existing significant drinking water threats cease and whether future ones are avoided.</p> <p>Source protection authorities shall monitor drinking water threats in vulnerable areas. Furthermore, they shall prepare annual progress reports (after the SP plans take effect)</p>

<p>Committee report</p> <ul style="list-style-type: none"> • Technical data on water quality and quantity indicators should be consolidated in a central province-wide, user-friendly database, accessible by the general public 	<p>40. The source protection authority for the source protection area shall conduct a monitoring program in accordance with the regulations for drinking water threats in the vulnerable areas identified in the source protection plan.</p> <p>41. (1) The source protection authority shall annually prepare and submit to the Minister in accordance with the regulations a report that,</p> <p>(a) describes the measures that have been taken to implement the source protection plan, including measures taken to ensure that activities cease to be significant drinking water threats and measures to ensure that activities do not become significant drinking water threats;</p> <p>(b) describes the results of the monitoring program conducted by the source protection authority under section 40;</p> <p>(c) describes the extent to which the objectives set out in the source protection plan are being achieved; and</p> <p>(d) contains such other information as is prescribed by the regulations.</p> <p>Available to public</p> <p>(2) The source protection authority shall ensure that the report is available to the public after it is submitted to the Minister.</p> <p>Summary of progress reports</p> <p>(3) The Minister shall include a summary of the reports submitted by source protection authorities under this section in the annual report prepared by the Minister under subsection 3 (4) of the <i>Safe Drinking Water Act, 2002</i>.</p> <p>73. Each permit official shall annually prepare and submit to the appropriate source protection authority in accordance with the regulations a report that summarizes the actions taken by the permit official and permit inspectors under this Part.</p>	<p>describing the measures that have been taken to implement the SP plans, the results of monitoring, and the success at achieving objectives.</p>
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