

The Clean Water Act

Facts

The Ontario government has created the Clean Water Act and passed the first set of regulations under the Act. These include the Source Protection Areas and Regions, Source Protection Committees, Terms of Reference, Time Limits, and Miscellaneous Regulations.

While it is not possible to completely remove all risks to our drinking water, the Clean Water Act will help reduce risks by addressing threats to drinking water quantity and quality.

The Act is designed to promote voluntary initiatives but requires mandatory action where needed.

The information collected and made public through source protection planning will be invaluable. It is expected that as people learn more about the location of vulnerable drinking water areas and how their activities may affect drinking water quality or quantity, they will voluntarily take steps to reduce risks.

There is a lot of interest in exactly what the Clean Water Act does and does not do. Here are some facts.

What does the Clean Water Act mean for your community?

For the first time, communities are required to develop plans to protect both the quality and

quantity of their municipal drinking water sources. The act:

- Requires local communities to look at the existing and potential threats to their water and set out and implement the actions necessary to reduce or eliminate significant threats.
- Empowers communities to take action to prevent threats from becoming significant.
- Requires public participation on every local source protection plan. This means everyone in the community gets a chance to contribute to the planning process.
- Requires that all plans and actions are based on sound science.

How will the Clean Water Act benefit users of privately-owned drinking water systems?

The act will benefit private users by identifying vulnerable aquifers and recharge areas and requiring the development of plans to protect them from becoming contaminated or depleted.

A local municipality may pass a council resolution requiring that the source protection planning process include any existing or planned drinking water systems. Further, the legislation authorizes the Minister of the Environment to require that a source protection plan consider other drinking water systems.

Who will be responsible for source protection planning and what will they do?

One of the central principles of the act is that source protection plans are locally developed and implemented. Municipalities are already responsible for the delivery of municipal drinking water and land use planning within their boundaries. They have already done a great deal of work and the source protection process will build on this work. Municipalities will have a strong role in developing and implementing source protection plans in all areas under municipal jurisdiction.

Source Protection Authority: Generally, the source protection authority is the conservation authority board, which is comprised of representatives appointed by municipal councils. The authority will establish a source protection committee and provide support to the committee during the development of the terms of reference, assessment report and the source protection plan.

Source Protection Committee: There will be strong municipal representation on the committee, as well as a range of other stakeholders within the watershed. Municipalities across the watershed will work together through the source protection committee, identifying, assessing and addressing risks to drinking water within their municipal wellhead and intake protection areas. Stakeholders could also participate through working groups, supporting the work of the source protection committee.

The act does not give conservation authorities new regulatory or enforcement powers. However, they will provide source protection committees with local facilitation, coordination and technical support during the assessment and planning process.

Can source protection plans be appealed?

For source protection planning to work, it will need to consider the views of local municipalities, property owners, businesses, industry, farmers, environmental groups and others. That is why the act provides stakeholders including members of the public the right to be involved extensively in the development of the plan.

Individuals who are impacted by the source protection plan may seek a hearing through the Minister of the Environment on an aspect of the source protection plan.

Property owners who are required to establish risk management plans to address significant risks may appeal measures in the plan to the Environmental Review Tribunal.

Implementation instruments, such as by-laws, risk management plans or orders can all be appealed.

How does the Clean Water Act affect property use or rights?

An approved source protection plan may contain policies which restrict or limit certain activities on properties located in designated wellhead protection areas and intake protection zones. Restrictions would only be imposed if scientific assessment clearly shows that an activity at that location poses a significant risk to a municipal drinking water source. Activities that pose a significant risk to drinking water sources may be prohibited or may require a site specific risk management plan. If a significant threat is found, authorities will work with property owners to negotiate and develop a risk management plan that sets out the measures that a property owner will take to ensure the activity is no longer a threat. The person will be required to carry out the activity in accordance with their risk management plan.

All critical information, both current and historical, must be considered. Property owners who have already adopted best management practices will have the opportunity to show that they have taken steps to mitigate significant risks.

Employees or agents of municipalities and conservation authorities will be able to inspect a property to gather information to prepare assessment reports, source protection plans and annual progress reports. Access to the property may be required during the development of the assessment report to assess the level of risk activities on that property pose to the drinking water source. If the activity requires a risk management plan, a risk management inspector may have to enter the property to assess whether

the activity is being conducted in accordance with the plan.

Risk management officials and inspectors will be properly trained before assuming their responsibilities. For instance, officials working with farmers will have training in biosecurity and health and safety protocols.

The legislation puts important restrictions on how inspections are conducted. For instance:

- Property owners must be notified before an inspection can take place.
- An inspector cannot enter a dwelling without the consent of the owner or occupant or a warrant issued by a court.
- Inspections must be conducted at reasonable times and no force can be used to carry out an inspection.
- If property has been adversely affected as a result of an inspection, the person who conducted the inspection must ensure that the property is restored to the condition it was in before the inspection.

The act does not require well owners to install water meters or mandatory annual inspections of septic systems. An assessment report may identify that some or all the septic systems in the community present a significant threat to drinking water. In this case, the source protection committee may decide that the only way to mitigate the threat is by inspecting septic systems regularly.

If an expropriation is proposed it must be carried out under the requirements of the Expropriations Act. This will ensure that the affected property owner receives proper notice and fair compensation.

Is the provincial government going to fund source protection planning?

Neither local taxpayers nor industry will bear the burden of source water protection planning costs – the province has committed to providing the resources to fund source protection planning costs, including groundwater studies, technical assessments and plan development. The government committed approximately \$120 million from 2004 to 2008 to support source

protection planning. This includes funding to enable municipalities and conservation authorities to undertake technical studies to support their efforts to protect drinking water sources.

The act also introduced a new financial assistance program, the Ontario Drinking Water Stewardship Program, for farmers and small rural businesses for activities that reduce threats to drinking water. A panel that included agricultural, municipal and conservation authority representatives provided advice on how the drinking water stewardship program should be administered and allocated. Initially, \$7 million is available in 2007/2008 for early action to protect drinking water.

The actual costs of implementing source water protection plans will depend on the findings of the technical studies and risk assessments for each source protection area or region.

The province recognizes that there may be “hardship” cases, and is proposing to develop a comprehensive approach that will address situations where costs are prohibitive on a case-by-case basis.

Will the Clean Water Act result in costs for individual property owners?

Costs cannot be determined until each watershed community collects the information needed including preparing the assessment report and completing the source protection plan that describes the implementation steps required to address local threats to drinking water sources.

There will be opportunity every step of the way for potentially affected property owners to raise concerns and discuss impacts of possible measures. In most cases these decisions will be a number of years away.

The most cost-effective solutions for all parties will be considered. For example, it may be more cost-effective to implement risk management measures on a number of properties than to relocate a municipal well. In addition, farms can access existing cost-share programs to support their on-farm actions to protect drinking water supplies.

Where can I get more information?

Further information on the Clean Water Act and the regulations can be found on the Ministry of the Environment website at:

www.ontario.ca/cleanwater

More local information on drinking water source protection can be found at:

http://www.conservation-ontario.on.ca/source_protection/otherswpreionsindex.htm

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