



# DRINKING WATER SOURCE PROTECTION

ACT FOR CLEAN WATER

## **Clean Water Act, 2006 and Source Protection Plans**

### **Regulation Amendments to O. Reg. 287/07**

**Overview to South Georgian Bay Lake Simcoe Source Protection Committee  
July 22nd, 2010**

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## Presentation Outline

- Context
- Source protection plan content – mandatory and optional
- Policy development process
- Range of approaches / tools
- Consultation / notification
- Explanatory document
- Progress reports
- Next Steps

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## Context

### Source Protection Plan (SPP) Regulation:

- Enables **preparation** of SPP; prescribes **content** and **consultation**; enables range of **approaches / tools**.
- Allows **flexibility** to address local circumstances.
- Reflects **EBR** comments and input resulting from a policy paper (summer 2009) and consultations on draft regulation (winter 2010).

### SPPs Timeline:

- Draft policies completed in 2011; public consultation begins early 2012; submitted to Minister by August 2012.

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SPP Policies  
(as per CWA)

## Mandatory:

Policies that:

- address activities set out in AR that are or would be significant threats
- monitor significant threats
- Achieve Great Lakes targets and monitor their implementation and effectiveness (*only* if targets set and Minister directs SPCs to do so)

If and where advisable – policies that:

- monitor moderate and low threats
- monitor issues

## Optional:

Policies that:

- Address conditions that result from past activity
- Address activities set out in AR that are or would be moderate or low threats
- Govern incentive programs and education & outreach programs
- Policies authorized by regulations (next slide)

Designated policies:

- Identify which GL policy(ies) are designated

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## Additional SPP Content

*Additional permissible discretionary policies (s. 26):*

- Policies wrt drinking water threats / GL targets:
  - stewardship programs
  - programs that promote best management practices
  - pilot programs
  - research
  - specifying actions to be taken to implement SPP or achieve its objectives
- Policies governing incentive and education/outreach programs for non-ToR (i.e. non-municipal, private) drinking water systems
- Climate change data – policies specifying actions to ensure data on climate conditions in area is gathered on an ongoing basis
- Policies that address spill prevention, contingency or response plans along highways, railways, or shipping lanes

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...con't  
Additional  
Content

*...con't Discretionary content:*

- Transport pathways (TP) - policies intended to ensure threats in the vicinity of TP cease to be or will not become significant, **or that the TP ceases to endanger the raw water supply** (*note – after SPP approved, future notification requirement by munic to SPA/SPC when person **applies** for proposal that may create new TP*) (s. 27)
- May include anything that will assist in understanding SPP (s. 29)

*Mandatory content:*

- Must include summary of consultation activities (s. 28)
- Type, legal effect, person responsible and applicable area for each policy must be clearly identified in SPP (sections 30 to 34)

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## Policy Development Process

Context: Risk assessments based on intrinsic risk; Existing risk management measures not considered in assessment reports.

Consider pros + cons of various options

Goal / Outcome

Manage activity?

Prohibit activity?

How? (eg, ABC required to manage threat)

Which way?

- Voluntary basis (eg E&O, incentives)?
- Regulated? (eg Planning Act –type policies, provincial instrument type-policies, municipal by-laws, RMP)

Who? (eg CAs, municipality, crown)

How/Who?

- Planning Act –type policies (CWA requires Official Plan & Zoning by-law conformity following SPP approval)
- Prescribed Instruments –type policies (CWA requires Crown conformity after SPP approved)
- S. 57 Prohibition –type policies (new power in CWA)

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## Range of Approaches / Tools

- Act and regulations authorize a spectrum of approaches / tools for committees to address threats to source water:
    - Education and Outreach
    - Incentive Programs
    - Planning Approaches (e.g. OP, Zoning, Site Plan Control)
    - Provincial Instruments
    - Risk Management Plans & Interim RMPs
    - Prohibition
    - Restricted Land Uses
    - Other (relying on other existing legislative authority previously granted to the implementing body (Municipal Act) or section 38 obligations of CWA)
- Enabled through regulation**
- Test? Must meet objectives in Section 22(2) and (6) of CWA – *ceases to be / does not become significant threat (i.e. adequately managed)*

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Tools  
...con't

- *Education and Outreach, Incentives* – permitted in Act, no limits in regulation.
- *Planning Approaches* (e.g. Official Plan, Zoning, Site Plan Control)
  - **Mandatory** OP and ZBL **conformity** provisions in Act;
  - Planning Act type policies may be included in SPP, provided threat and desired action **within scope of PA authorities** (e.g. policies may relate to: siting, setbacks; location/density of development related to impervious surfaces; exterior design that focus on sustainable design elements, such as green roof or permeable paving (water quantity threats); brownfields cleanup with Community Improvement Plans).
- *Prescribed Instruments, s 1.0.1* (e.g. Permits, Certificates of Approval)
  - **Mandatory** prescribed instrument **conformity** provisions in Act;
  - Prescribed instrument type policies may be included in SPP, provided threat and desired action is **within scope of instrument authorities** (e.g. policies may relate to waste, sewage, nutrient management, water takings, etc).

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## Tools ...con't Prescribed Instruments

### *MOE Issued Instruments:*

- Certificates of Approval
  - Waste disposal sites (EPA)
  - Waste management systems (EPA)
  - Organic soil conditioning sites (EPA)
  - Sewage works (OWRA)
- Permits to Take Water
- Pesticide Permits
- Drinking Water Works Permit and Licence
- Renewable Energy Approval

### *MNR\* Issued instruments (MTO):*

- Aggregate licences, permits and wayside permits and site plans

### *OMAFRA Issued Instruments*

- Nutrient Management Strategies and Plans
- Non-Agricultural Source Material Plans

*\*Lakes and Rivers Improvement Act approvals not included – no legal authority to amend instrument*

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## Tools ...con't Part IV Authorities

- New authorities ***address gap*** where SDWT cannot be addressed by existing planning tools or regulatory instruments
  - Interim Risk Management Plans (transition / temporary)
  - Risk Management Plans (site specific, negotiated plans, after SPP approved)
  - S. 57 Prohibition – enabled differently when applied to:
    - future activities (activities that do not currently exist in area)
    - existing activities (activities that currently exist in area)

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## Tools ...con't Part IV Authorities

- Part IV enabled for any significant DWT, except waste disposal/management\* and operation of sewage system\* that requires prescribed instrument or is under Building Code (s. 23)
- S. 57 prohibition\*\* of *existing* significant threats limited unless SPC of opinion prohibition required / risk management not sufficient to ensure threat ceases to be significant (s. 24)
- During plan implementation – local landowner/business with prescribed instrument may opt-out from S. 58 RMP policies only if provide notice to RMO and statement from issuing body that instrument conforms with policy (s. 61)

*\*these threats must still have SPP policies; may rely on prescribed instruments (PI) or Building Code authorities for existing occurrences, as well as Planning Act (PA) for future*

*\*\* prohibition of moderate or low threats (using PA or PI policies) not permissible (s. 32)*

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## Consultation / Notification

### Early notification and **information** gathering (s. 19):

- **Notify** municipalities, chief of bands, and individuals engaged in SDWT when committee begins preparation of SPP.
- Specify **reasons** for notice (SPC believes person engaging in SDWT)
- Request persons engaged in SDWT to **indicate** if activity is governed by **prescribed instrument**, describe provisions

### **Involve** responsible party before finalizing (**pre-consultation**, s. 35 - 39):

- Give **notice** and invite comment from public bodies or person responsible for implementing various policies **prior to finalizing policy** in draft SPP (eg, Planning Act and Prescribed Instrument type policies, E&O policies, Monitoring, etc)

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Consultation  
/ Notification  
...con't

Post draft (s. 41) and proposed SPP (s. 42) on Internet; notice provisions;  
public meetings:

- Modeled after assessment report posting, notice requirements
- **Notify** municipalities, chief of bands, individuals engaged in SDWT, **bodies notified in pre-consultation**
- Specify **reasons** for notice
- For chiefs of bands notice of draft SPP, include **offer** to discuss SPP
- For proposed SPP notice, public and stakeholder comments due in 30 days; SPA has **discretion** to provide **longer** period for **municipalities and bands**

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## Explanatory Document

SPC prepares explanatory document; makes it **publicly available** for information purposes (s. 40):

- Explain policy decisions
- Highlight “prohibition of existing SDWT” decisions
- Summary of how comments received during pre-consultation considered
- Explanation for how climate change considerations summary in AR affected policy development
- **Summary of how financial implications for persons or bodies implementing or affected by the SPP influenced policy development**
- If education/outreach/incentives or other discretionary policies (s. 26 (1.)) are the only means to address SDWT, statement that SPC is of opinion that policy will meet Act’s objectives and that policy to regulate/prohibit not necessary

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## Progress Reports

- Act requires annual progress reports be prepared by SPA and sets out content (describe measures taken to implement SPP; results of monitoring; extent to which objectives of SPP achieved; other specified in regulation – section 52):
  - List and reasons for policies that do not meet timelines included in SPP
  - Steps taken to address gaps in information used for assessment report
  - Summary of RMO report on RMO/RMI activities
  - Other info SPA considers advisable
  - Calendar year reporting; due May 1 of following year
  - 2 year exemption (first report due 2nd calendar year after SPP in effect)

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## Next Steps

- Committees and CA staff carrying out activities to prepare for plan development (gathering local knowledge, experience)
- Conservation Ontario advisory committee working to assist SPCs:
  - SPP policy drafting process/framework
  - Establish means to work collaboratively, minimize unnecessary duplication of effort, achieve consistency where necessary
- Ministry topic-based guidance materials (e.g., Notice of Plan Development; Policy Development Process; Various approaches/tools, etc) – beginning summer 2010
- SPC training on regulation – fall 2010