

ONTARIO SOURCE WATER PROTECTION STATEMENT OF EXPECTATIONS

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The undersigned environmental and community groups agree that Ontario's new source water protection regime must, at a minimum, include the following provisions in order to ensure that our water resources and aquatic ecosystems remain safe and healthy for future generations.

1. Universal Level of Protection

The government should require that the source water protection planning framework be used in all watersheds in Ontario.

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.

Source protection planning must be based on the precautionary principle.

The Ministry of the Environment must retain ultimate accountability and responsibility for source water protection planning.

2. Appropriate Planning Scale and Scope

Each watershed should have its own source protection plan, with watersheds grouped into appropriate planning areas to enable more effective and efficient sharing of resources among source protection planning authorities.

All waters must be protected, as well as watershed features such as shorelines, wetlands, and woodlands because of their integral ecological contribution to source water protection.

Source protection plans should recognize the intrinsic relationship between groundwater and surface water within and between watersheds.

3. Thorough Public Participation

Thorough public participation in planning and implementing source protection is crucial to successful protection of source waters. At a minimum, public participation means:

- Any member of the public has the opportunity to participate in source protection planning committees through an application process that is open and transparent.
- Those who do participate on source protection steering committees and sub-committees receive some financial support for the costs of their participation.
- The public has easy access, including electronic web access, to all information, including policy instruments and scientific data, relevant to source protection.

- Source Protection Terms of Reference, Assessment Reports and Source Protection Plans, are prescribed for notice and comment in the Environmental Bill of Rights Registry.

4. Integration with Existing Legislation

The new source water protection regime must be integrated with existing legislation and given primacy where needed.

Other relevant legal instruments (including the *Environmental Protection Act*, the *Environmental Assessment Act*, the *Municipal Act*, the *Planning Act*, the *Provincial Policy Statement*, and others) must be reviewed and amended where necessary to be consistent with the source water protection legislation.

Source Protection Plans must supercede all other relevant policy instruments (including Certificates of Approval for discharges to air and water, Permits to Take Water and others).

The legislation should include a paramountcy clause, such as “No person shall issue or amend a prescribed instrument that conflicts with or is inconsistent with an approved Source Protection Plan”. The list of prescribed instruments should be specified in an accompanying regulation, and the province must have the authority to amend the list.

Once Source Protection Plans are in place, all existing relevant provincial and municipal regulatory and policy instruments should be revised in order to be consistent with them.

Source protection plans should be integrated with other federal and provincial water protection programs, including:

- Great Lakes programs
- Flood and drought management plans
- Fisheries protection programs
- Species at Risk habitat protection and species recovery programs
- Historic Canal protection programs

Where those programs include more stringent requirements for water quality or quantity than would otherwise be included in the Source Protection Plan, the Source Protection Plan should adopt the more stringent requirements.

5. First Nations

In recognition and respect of First Nations’ traditional environmental knowledge, as well as their aboriginal and treaty rights, 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 source water protection planning and implementation. This includes facilitating their involvement in the development of the plan, and their participation on source protection planning committees, in the consultation process, and in the implementation of watershed-based source protection planning through agreements.

6. Conservation Authorities

The responsibilities and accountability of Conservation Authorities must be specifically delineated in source protection legislation so that their roles are supported by their governance structures and by the public.

Conservation Authorities, and others responsible for source protection, must be provided with adequate resources (including funding or funding tools, technical expertise and training, etc.) to match their new responsibilities and allow them to carry them out within the necessary timeframes.

7. New Municipal Powers, Roles and Requirements

The province should work with municipalities and other stakeholders to develop appropriate new municipal powers that should be made available for the purposes of source water protection. In particular, these powers should include:

- 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.

Municipal accountability and authority for its role in source protection must be specifically delineated in source protection legislation. The legislation must also clearly describe some prescriptive requirements for municipalities to manage threats to drinking water sources.

Municipalities should be required to update their Official Plans to be consistent with their approved Source Protection Plans.

Municipalities should be required to pass pesticide by-laws and sewer/septic system use by-laws incorporating provincially set standards and provisions.

Municipalities should be required to develop and implement water conservation plans, which in general should include metering for users of municipally supplied water. Municipalities should not be issued any new water-taking permits until a water conservation plan is in place.

Municipalities should be required to provide water to new developments first from what can be saved through conservation measures, before being issued permits to take additional water, with the goal of achieving no net increase in their total water use.

8. Adequate Funding

All authorities responsible for the development and implementation of source protection plans (including Conservation Authorities, municipalities, First Nations and others) must be provided with adequate resources (including funding or funding tools, technical expertise and training, etc.) to match those responsibilities and allow them to carry them out within the necessary timeframes.

9. Cost Recovery and Conservation

All those who impact water quality or quantity, as well as those who benefit from the provision of clean water should contribute to the costs of source protection, to a degree appropriate to their impact or benefit.

Source protection plans must include the development of water budgets and water conservation standards for all watersheds within the planning area. These goals must be:

- based on an assessment of the cumulative impacts of all water takings in the watersheds;
- publicly reported, along with the cumulative impacts assessment; and
- reflected in each and every Permit to Take Water in the planning area, as specific, measurable, and enforceable conservation requirements of the Permit holder.

10. Water Taking Charges

The new source water protection regime must apply charges/levies to water taking activities, and the revenue from those charges should be entirely allocated back to the source protection system. Examples of areas for allocation include:

- development of relevant components of Source Protection Plans
- data collection and dissemination
- research
- public education programs
- implementation of certain source protection measures such as land acquisition, easements and capital works
- monitoring water quality and quantity

None of these areas should depend entirely on the revenue generated by water taking charges to continue operating.

11. Infrastructure

Provincial Class Environmental Assessment processes, as well as other decision-making processes for water, sewer and highway infrastructure must be reviewed and amended where necessary to be consistent with Source Protection Planning legislation.

Approval of new infrastructure should be deferred by the province until Source Protection Plans are completed, and all future approvals must be made consistently with the approved Source Protection Plans.

12. Integration with Great Lakes Protection

The new source water protection regime must be fully integrated with Great Lakes protection. Communities with existing and future Great Lakes demands must be required to fully participate in drinking water source protection, including research, funding and programs for point and non-point discharges.

When participating in inter-jurisdictional negotiations regarding the Great Lakes (including current negotiations around the Great Lakes Charter Annex 2001), the province must work to have the principles of source water protection incorporated into the resulting agreements.

13. Enforceable Timelines

The first Source Protection Plans must be developed and approved in all regions within three years of the legislation being passed.

Where a Source Protection Planning Authority is unable to complete a Source Protection Plan within that time frame, the Province should be prepared to impose a Source Protection Plan.

14. Strong Interim Measures

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 measures taken to protect them, within one year of the legislation being passed; adequate funding for the identification process must be provided, and criteria for identification should be specified by regulation.

No new policy instruments with the potential to cause significant or irreversible harm to water sources (including Certificates of Approval and Permits to Take Water) should be issued until Source Protection Plans are in place.

15. Long-term Monitoring

Data must be collected and publicly reported for, at a minimum, all of the outcome measures listed in the April 2003 Report of the Source Protection Advisory Committee, including:

- the number of completed source protection plans;
- the proportion of the province protected by approved watershed-based source protection plans, as measured geographically and by population;
- the number of municipalities that have well head protection plans;
- the availability of data to the public, academia and public interest groups;
- the level of public reporting and evidence that Ontarians are aware of the effort being made to protect water resources for present and future generations;
- increased industry and public participation in water preservation and conservation activities;
- occurrences of pathogens and viruses in water;
- source water quality after wet weather events, as measured by turbidity, total coliform, E. coli (e.g., number of beach closures);
- levels of inorganic chemicals, nitrates, phosphorous, pesticides and fecal contaminants in surface waters, especially streams, and groundwater where applicable;
- health of biota in surface waters, including wetlands, disclosing less stress and adverse impacts from contaminants;
- number and lengths (kilometers) of surface waters meeting all provincial water quality objectives set by the province;
- fish tissue concentration for key contaminants;
- multi-year average stream base flow volumes and groundwater levels;
- number of municipalities managing within water budget; and
- change in total hectareage or percentage of landscape comprised of wetlands, riparian zones and forested lands that perform a significant hydrological function within the headwater, recharge and discharge zones of a watershed or subwatershed.

All technical data on water quality and quantity indicators (including an inventory of all existing Permits to Take Water) should be consolidated in a central province-wide, user-friendly database, accessible by the general public.

16. Review of Source Protection Plans

Source Protection Plans should be reviewed and updated regularly to reflect emerging data and science regarding water resources, changes in the watershed and the results of outcome monitoring under Source Protection Plans.

Supporting Organizations

Canadian Environmental Law Association
Canadian Federation of University Women Ontario Council
Canadian Institute for Environmental Law and Policy
Citizens Environment Alliance of Southwestern Ontario
Concerned Walkerton Citizens
Environmental Defence
Federation of Ontario Cottagers' Associations
The Federation of Urban Neighbourhoods (Ontario) Inc.
Friends of the Earth Canada
Friends of the Tay Watershed
Georgian Bay Association
Grey Association for Better Planning
King Environmental Groups
Ontario Headwaters Institute
Pembina Institute for Appropriate Development
Pollution Probe
Riversides Stewardship Alliance
Sierra Legal Defence Fund
Toronto Environmental Alliance
The Urban League of London
Walter and Duncan Gordon Foundation
The Waterfront Regeneration Trust
The Watershed Alliance