

The Clean Water Act, 2006
Top Questions and Answers

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Scope of CWA

1. Why does Ontario need a *Clean Water Act* and how will *the Clean Water Act, 2006*, protect Ontario's drinking water?

- Everyone in our community has a right to clean water. Unfortunately, history has shown us that if a community is not vigilant, contaminants can enter its drinking water supply, or the supply can be exhausted. Every community has a responsibility to make sure its children and their children are left with enough clean drinking water.
- The *Clean Water Act, 2006*, is part of the Ontario government's commitment to ensure the sustainability of clean, safe drinking water for all Ontarians and to implement the Walkerton Inquiry recommendations.
- The Act establishes a locally driven, science-based, multi-stakeholder process to protect drinking water sources and promote the notion of stewardship – the shared responsibility of all stakeholders to protect the integrity of local sources of public drinking water.
- The Act was developed based on three years of consultations, 600 written submissions and, most recently, stakeholder feedback received through standing committee. Key highlights of the Act include:
 - Directing municipalities and CAs to map sources of municipal drinking water, especially in vulnerable areas, to prevent the supply from being depleted, or contaminated;
 - Requiring scrutiny of activities that could threaten water quality or quantity, and proposing actions to reduce or remove those threats, and
 - Empowering local authorities to take preventative measures before a threat to drinking water can cause harm.
 - A financial assistance program.
 - Ensuring that risk management officials have appropriate training and qualifications.
 - Allowing source protection plans to include policies to assist in achieving Great Lakes targets established by the Minister.
 - Clarifying that municipal decisions under the *Planning Act* or the *Condominium Act* must conform to the significant threat policies and the designated Great Lakes policies in the source protection plan and have regard for non-significant threats.
 - Clarifying that policies in source protection plans may provide for incentive education and outreach programs.
- Regulations and guidance materials will need to be developed in both the short and longer term under the *Clean Water Act, 2006*. The issues to be covered include:

- Naming Source Protection Areas for which source protection plans will be developed and establishing source protection regions to facilitate the development of those plans;
 - Establishing Source Protection Committees to develop plans;
 - Preparation of the Terms of Reference for the development of the Assessment Report and Source Protection Plan;
 - Establishing Protocols related to Imminent Drinking Water Hazard Notification;
 - Establishing a Framework and a regulation for the Ontario Drinking Water Stewardship Program;
 - Preparation of Assessment Report for identifying risks to drinking water sources; and
 - Certifying & Training Officials involved in source protection planning.
- The first phase of draft regulatory components will be posted on the Environmental Registry for a 30-day comment period prior to a series of regional roundtable consultation sessions to be held across the province throughout the month of April, 2007.
 - The Ministry will continue to consult with other ministries and external stakeholders as it moves forward with regulations, director's rules and technical guidance materials on key components.

2. What are the various parts of the *Clean Water Act, 2006*?

- The Act requires that all present and future sources of drinking water, including inland lakes, rivers, groundwater and the Great Lakes be considered in the source protection planning process. Key components of the legislation include the following:
- Part 1: The identification of source protection areas, source protection regions and establishment of source protection authorities and local source protection committees.
- Part 2: Requirements for a local multi-stakeholder source protection committee to consult with municipalities and develop:
 - A terms of reference laying out planning roles and responsibilities;
 - An assessment report identifying and assessing threats to drinking water sources; and
 - A source protection plan, with policies to address these threats.
- Part 3: Includes:
 - Requirements to monitor plan implementation;
 - Requirements that municipal decisions under the Planning Act or the Condominium

- Act and prescribed instruments must conform with the significant threat policies and the designated Great Lake policies in the source protection plan, and have regard to the other policies in the plan; and
- In the case of a conflict between the source protection plan & other provincial plans, the provision most protective of the quality and quantity of drinking water prevails.
- Part 4: Provides legislative authority for municipalities to:
 - Agree to or establish risk management plans to address significant drinking water threats in wellhead protection areas and surface water intake protection zones before and after the source protection plan is approved.
 - Part 5: Other provisions including:
 - Minister's authority to take action on Great Lakes issues by requesting reports, setting targets, and requiring development of policies in the source protection plan to assist in achieving these targets;
 - Enables the use of the Expropriations Act and offence provisions; and
 - Extensive regulation making authority and complementary amendments to other acts, including the *Building Code Act* and the *Conservation Authorities Act*.

3. What is the interim approach for significant drinking water threats?

- The first stage in developing a source protection plan is completing a terms of reference. The second stage is preparing an assessment report, which identifies and evaluates threats to drinking water systems. The third stage will be to put together a plan to address those threats.
- While the source protection plan is being developed, there may be a need to address higher priority significant threats to ensure the protection of public health. Therefore, the Act provides powers for a municipality to address these threats as soon the assessment report is approved by the Ministry of the Environment.
- Based on an approved assessment report, a municipality and a person engaged in an activity that the assessment report identifies as a significant drinking water threat may agree to a risk management plan to reduce the risk posed by the activity. In circumstances set out in regulations, a municipality could establish a risk management plan for the activity if one cannot be agreed upon. This authority only applies to activities that are to be prescribed by regulation and carried on in wellhead protection areas and surface water intake protection zones.
- The risk management plan would detail the site-specific measures that the property owner will take to ensure the risk posed by the activity is reduced by a reasonable amount.

Stewardship Program/Funding

4. Why did the government establish a Drinking Water Stewardship Program in the *Clean Water Act, 2006*?

- Stakeholders emphasized the need for sustainable funding to implement source protection plans. We've listened to them.
- We have established the Ontario Drinking Water Stewardship Program in the *Clean Water Act, 2006*, to provide financial assistance to rural Ontarians, for example, farmers and small businesses, for activities they undertake in relation to source protection plans to better protect drinking water sources.
- An expert panel made up of representatives from rural Ontario has been established to provide expert advice on program design.
- Initially, \$7 million will be available in 2007/08 for early action to protect drinking water in rural Ontario including education and incentive programs.

5. What will the \$7 million cover?

- The \$7 million includes:
 - \$5 million to support early action to protect land and water surrounding water wells (wellhead protection areas) and close to municipal water intakes (intake protection zones); and,
 - \$2 million to support education and outreach related to source protection planning.
- This funding is only one component of the province's commitment to support source protection. The initial \$7 million dollars is designed to provide funding for early actions taken by rural Ontarians to protect drinking water sources.
- As communities complete their source protection plans, strategies on how to effectively direct sustainable future funding will become more evident.

6. Why did the government establish an expert advisory panel?

- It is important that rural Ontarians have a voice in how funding will be invested and that is why we have included agricultural representatives on an expert panel we have established.
- On September 6th, 2006, we announced the establishment and appointment of an expert panel comprised of agricultural, municipal and conservation authority representatives to provide advice on how funding should be administered and allocated in future years.
- The advisory panel's advice will assist the government in developing the Ontario Drinking Water Stewardship Program, a program that will provide sustainable funding to support water protection in rural Ontario.
- Al Lauzon, past chair of the Ontario Rural Council is leading the panel. Other representatives on the panel include agricultural, municipal and conservation authority representatives. In particular, individuals such as Dale Cowan of the Agribusiness Association of Ontario and Ron Bonnett, past-president of the Ontario Federation of Agriculture have been appointed to provide their experience and expertise on this important panel.
- The Panel's work is close to completion. We anticipate that the Panel will be providing its final report and advice to the government in Spring 2007.

7. How much will source protection implementation cost?

- The actual costs of source protection implementation will be quantifiable once technical studies and risk assessments for source protection plans are complete and local watershed characteristics and implementation needs can be determined.
- The protection of drinking water sources is a shared responsibility; therefore the costs of source water protection implementation (i.e. protection measures / responses) will be borne across many sectors (e.g., industry, agriculture, property owners and municipalities).
- To date, examples of the costs of source water protection initiatives to water users in Ontario have been relatively low. They have ranged from a monthly implementation cost of approximately 75 cents a month per water system user in Waterloo to around \$1.50 a month per water system user in Oxford County over ten years.

8. Will funding still be available for hardship cases?

- The province recognizes that there may be “hardship” cases, and is proposing to develop an approach that will articulate what constitutes the need for assistance and address situations on a case-by-case basis.

9. Under the *Clean Water Act, 2006*, could farmers’ land be expropriated without fair compensation?

- No. It is very clear in the Act that expropriation would only occur under the *Expropriations Act* and that Act ensures no land would be expropriated without full compensation.

10. Will the financial assistance program reduce the concern around section 98(6), which provides that regulatory action is not the same as expropriation?

- The financial assistance program will support farmers, small rural businesses, and other rural property owners undertaking activities that reduce threats to drinking water, and support public education and outreach. This should help reduce stakeholder concerns about section 98(6).

11. What are the costs associated with source protection planning? Is this more downloading on municipalities?

- 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 actual costs of source protection implementation will be quantifiable once technical studies and risk assessments for source protection plans are complete and local watershed characteristics and implementation needs can be determined.

Consultation on CWA

12. Did the Government consult with stakeholders on the *Clean Water Act, 2006*, and with whom?

- The development of the *Clean Water Act, 2006*, is based on three years of extensive stakeholder consultations with over 300 associations and individuals and close to 600 written submissions. During the last three years, the government has gone through a comprehensive process of developing a source protection framework:
 - Considering the recommendations of Justice O'Connor (January 2002);
 - Releasing a White Paper to describe the proposed planning components of source water protection legislation (February 2004);
 - Undertaking province-wide public consultation;
 - Posting the draft text of source water protection legislation, followed by a public comment period (June 2004);
 - Establishing two experts committees – the Technical Experts and the Implementation Committees – to provide advice on the implementation of source water protection; and
 - Undertaking a series of sectoral roundtables to solicit feedback on the White Paper, draft planning legislation, and most recently on the CWA.
- Between December 5, 2005 and February 3, 2006, the *Clean Water Act, 2006* was posted on the Environmental Registry for public comment and over 90 submissions were received. In addition, during this time the Ministry met face to face with key stakeholder groups to gain their feedback on the Bill.
- The Standing Committee on Social Policy held public hearings on the CWA the week of August 21-25 in Toronto, Walkerton, Cornwall, Bath and Peterborough. Feedback was received from a broad spectrum of stakeholders, including: ENGOs, agriculture, industry, municipalities, CAs, First Nations and the general public.

Sector	Consultation
Agriculture	<ul style="list-style-type: none"> • The agriculture community has participated in every step of the province's work on source protection. Farmers were represented by 3 officials on the Source Protection Implementation Committee and an OFEC official sat on the Technical Experts Committee. Over 20 agriculture representatives presented at Standing Committee hearings on the CWA and have since voiced their support for the amendments to the CWA (i.e. assistance program, negotiated risk management plans, training for officials). The OFA is represented on the advisory panel for the Ontario Drinking Water Stewardship Program.
Municipalities	<ul style="list-style-type: none"> • Municipal representatives have participated extensively in the development of the CWA. AMO, Oxford County, City of Toronto, City of Temiskaming, York Region, Hastings, Waterloo, Owen Sound & County of Grey, City of Ottawa, and Durham Region have participated through MOE's Implementation Committee, Technical Experts Committee and in sector-specific consultations. Representatives presented at Standing Committee hearings on the CWA and supported the amendments to the CWA (i.e. conformity of municipal decisions with policies to address significant threats only). AMO is represented on the advisory panel for the Ontario Drinking Water Stewardship Program.

Industry	<ul style="list-style-type: none"> Representatives of small and large industry have participated extensively through MOE's Implementation Committee, several roundtable consultations, and comments through the Environmental Registry (Ontario Mining Association, Urban Development Institute, Aggregate Producers Association of Ontario, Ontario Water Works Association, Canadian Federation of Independent Businesses, Ontario Home Builders' Association and Greater Toronto Home Builders' Association). Representatives presented at Standing Committee hearings and supported the CWA amendments (i.e. training and qualifications for officials & negotiated risk management plans).
Non-Governmental Organizations	<ul style="list-style-type: none"> The sector has been generally supportive of the source protection framework and has participated extensively throughout the development of the source protection framework via the Advisory Committee (R. Lindgren), IC and through various stakeholder consultations. Representatives presented at Standing Committee hearings and supported Bill 43 amendments (i.e. Great Lakes & First Nations changes). Rick Smith (Environmental Defence) is on the advisory panel for the Ontario Drinking Water Stewardship Program.
Conservation Authorities	<ul style="list-style-type: none"> Conservation authorities have been extensively involved in the development of the source water protection framework and the Ministry of the Environment continues to meet with them on a regular basis. Representatives presented at Standing Committee hearings and supported Bill 43 amendments. Conservation Ontario is represented on the advisory panel for the Ontario Drinking Water Stewardship Program.
Inter-Ministerial Consultation	<ul style="list-style-type: none"> Ministries have been working closely to ensure an integrated approach to water strategy initiatives. MOE continues to consult with partners including: Ministry of Natural Resources, Ministry of Agriculture and Food and Rural Affairs, Ministry of Public Infrastructure Renewal, Ministry of Health, Ministry of Municipal Affairs & Housing, Ministry of Northern Development & Mines, Ministry of Finance; Ministry of Economic Development & Trade.

- The government will be seeking feedback from key stakeholders on the first phase of draft regulatory components under the *Clean Water Act, 2006* through a posting on the Environmental Registry and regional roundtable sessions to be held across the province throughout the month of April.
- MOE will continue to work extensively with municipalities, conservation authorities and other key stakeholders as we move forward with the development of regulations and guidance materials over the next several months.

Property Owner Rights/Appeals Provisions

13. How are property owner's rights protected under the CWA? (e.g. properties on which activities identified as significant risks are carried out)

- Stakeholders have raised concerns related to the property rights of individual property owners and businesses in the source protection framework. A common feature of

legislation which regulates activities on property is the authority to inspect such properties.

- The Act provides designated municipal and conservation authority employees with the power to enter property for the purpose of preparing assessment reports, source protection plans and annual progress reports (section 88). As well, risk management inspectors may enter property for inspection purposes (section 62) and risk management officials may enter property for the purpose of causing ordered work to be done (section 66). However, the legislation provides important restrictions on the exercise of an entry power. For instance:
 - A property cannot be entered unless prior notice is given to the owner or occupant of the property;
 - A person who has authority to enter property under the legislation cannot enter a dwelling without either the permission of the occupant or an inspection warrant issued by a court;
 - Entries must be conducted at reasonable times;
 - Finally, the legislation requires that where 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.
- Municipalities responsible for enforcing Part IV of the Act would only be able to cause work to be done on individual properties under limited circumstances and would be required to provide notice to any affected property owners before any action is taken.
- The *Clean Water Act, 2006*, also ensures that any risk management plan issued to individual property owners, as well as any decisions to refuse to issue or amend a risk management plan may be appealed to the Environmental Review Tribunal.

14. What is the approach for appeals/hearings?

- For source water protection planning to work, it will need to consider the views of local municipalities, property owners, businesses, industry, environmental groups and others. As such, the source protection framework allows for extensive consultation at all stages throughout the process. Where disputes do arise, dispute resolution techniques will be available throughout the process.
- Hearings
In some cases, the Minister of the Environment may appoint a hearing officer to hear representations on the proposed plan and report back with a recommendation. The hearing officer would prepare written recommendations, with reasons, recommending what action the Minister should take with respect to the proposed source protection plan within 60 days after the conclusion of the hearing.

- Appeals of Risk Management Plans and Orders

If a risk management plan official and a person fail to reach agreement on the plan, the risk management plan official may by order impose a risk management plan with respect to that activity. That order could be appealed to the Environmental Review Tribunal (ERT).

Where a prescribed instrument such as a certificate of approval is amended to make it conform to the source protection plan, and an appeal is provided for the decision to amend that instrument, this appeal provision continues to apply. However, the tribunal hearing the appeal will also be bound to ensure that the instrument conforms with the source protection plan.

Moving Forward

15. Now that the *Clean Water Act, 2006*, has passed how quickly is source protection planning being undertaken?

- Many Municipalities and Conservation Authorities are already working together to undertake the technical and scientific studies including water budgets needed for source water protection. The Ministry of the Environment and the Ministry of Natural Resources recently announced \$67.5 million in funding to support this work.

16. When will regulations and guidelines be developed?

- The Ministry is already working to develop the proposed content of director's rules, guidelines and regulations. We intend to consult with stakeholders.
- The government will be seeking feedback from key stakeholders on the first phase of draft regulatory components under the *Clean Water Act, 2006* through a posting on the Environmental Registry and regional roundtable sessions to be held across the province throughout the month of April, 2007.
- MOE will continue to consult extensively with municipalities, conservation authorities and other key stakeholders as we move forward with the development of regulations, guidance materials and director's rules. This will be achieved through EBR postings and focused consultations, where appropriate, across key sectors in Ontario.

Source Protection Planning

17. How will Source Protection Plans build on, and not duplicate, previous work?

- The source protection framework under the *Clean Water Act, 2006*, is an integrated approach that aims to build upon, rather than replace, the existing work that municipalities and local stakeholders have undertaken to protect their drinking water.
- The Act is designed to ensure that all critical information, both current and historical, may be considered in the development of policies in the source protection plan. People engaging in activities that are identified as significant drinking water threats, will have every opportunity to demonstrate that they have already taken action such as adopting best management practices to mitigate the risk in the development of risk management plans.
- **Municipal Work:** The province recognizes that municipalities have already undertaken a great deal of voluntary work, or have exercised their existing authorities under the *Planning Act* (e.g. zoning), to protect source waters. In many cases these measures may prove to be sufficient.
- **Agriculture Work:** It is intended that the requirements under the legislation will not duplicate farmers' requirements for managing nutrients. However, the Nutrient Management Act (NMA) does not address other potential agricultural and non agricultural sources of contamination including pesticides, fuel/chemical storage and septic systems. The NMA does not currently require the preparation of nutrient management plans or strategies for all farms that exist in vulnerable areas around drinking water supplies. These farms need to be assessed and addressed. Accordingly, there may be some instances in which additional measures will be needed to address a specific risk.
- **Industry Work:** The ministry recognizes that most industries and developers already have to consider source water in the development of site plans. The legislation should not be a burden; it is one additional step to consider vulnerable sources of drinking water when planning for the development of a particular site.

18. What specific types of risk management measures might a rural property owner or a farmer have to undertake as a result of the *Clean Water Act, 2006*?

- Under the Act, a community works together to develop practical, effective plans to address significant risks to their drinking water, such that they cease to be significant risks. A community has many tools at its disposal such as municipal by-laws and land-use planning controls which could be used to mitigate risks.
- To a large extent, existing regulatory requirements or voluntary initiatives may be sufficient to address these risks (e.g. continued use of best management practices).

- However, source protection committees may decide that existing programs and activities, voluntary or otherwise, may not be enough to address some significant threats to municipal drinking water supplies. In these cases, site specific measures may be needed and the risk management official will enter into negotiations to develop a risk management plan with the property owner.
- Negotiated site-specific measures for a rural property owner may include the adoption of best management practices such as creating buffer strips, double-lining a chemical storage tank, laying a concrete pad beneath a chemical storage area or relocating a septic tank.

19. Will Source Protection Plans be consistent and science-based? Will they aim for “zero-risk”?

- Regulations, director’s rules and technical guidance under the *Clean Water Act, 2006*, will contain clear, consistent and science-based procedures for municipalities, CAs and others to follow for source water protection planning and provincial government oversight will be on-going.
- In order to ensure consistency, all assessment reports will be submitted to the MOE Director for approval and source protection plans will be approved by the Minister of the Environment.
- The objective of a source protection plan is not to require that identified threats to drinking water be reduced to ‘zero risk’. The Act requires that action be taken so that every significant threat ceases to be significant. This approach leaves some flexibility for local decision makers to determine what is best in their own communities.

20. How will policies in a source protection plan interact with existing legislation?

- The *Clean Water Act, 2006* requires that the assessment report identify activities that constitute a significant risk to drinking water and that the source protection plan contain policies to address those risks.
- Where a prescribed instrument is managing an existing activity (e.g. provincial certificate of approval) that constitutes a significant risk to drinking water, and the instrument does not conform with a significant threat policy or a designated Great Lake policy set out in an approved source protection plan, the body responsible for the instrument is required to take the appropriate action so that the instrument does conform with the policy.
- Municipalities are required under the legislation to amend their official plans and zoning by-laws to conform with the source protection plan.

- **The Conflict Provision:** Protecting drinking water sources is an important part of protecting natural resources, green spaces and the environment. *The Clean Water Act, 2006* complements other initiatives such as the Provincial Policy Statement, 2005, the Growth Plan for the Greater Golden Horseshoe, the Greenbelt Plan, the Niagara Escarpment Plan and the Oak Ridges Moraine Conservation Plan. The conflict provisions in the *Clean Water Act* are focused to ensure that only when there is a conflict between a provision of a source protection plan and a provision in a plan or policy under other legislation, that may potentially affect the quality or quantity of drinking water in a vulnerable area, the provision that provides the greatest protection to the quality or quantity of drinking water prevails. A conflict is expected to occur very rarely and only where the requirement under both Acts cannot be met.

The MOE recognizes that many agricultural operations have undertaken source protection activities, either through the *Nutrient Management Act, 2002*, (NMA) or through initiatives such as the Environmental Farm Plan.

By providing that in the event of a conflict between a provision of the *Clean Water Act, 2006* and the *Nutrient Management Act* or a regulation or instrument under the NMA, the provision of the *Clean Water Act* prevails, it is ensured that if existing regulated nutrient management actions are assessed as being insufficient to address a significant threat, an instruments used to implement a policy in an approved source protection plan will have primacy over the requirements in the NMA.

21. How pervasive are new municipal powers going to be? What will the negotiated risk management plans under Part IV of the *Clean Water Act, 2006*, involve?

- The legislation and accompanying regulations will set out a framework for source protection planning aimed at ensuring appropriate controls are placed on activities that pose significant risks to drinking water sources. This may be achieved through a provincial approval scheme, official plans and zoning by-laws, voluntary actions, or finally a risk management plan.
- A source protection plan may include policies that would allow a municipality to establish risk management plans for prescribed activities inside wellhead protection areas and intake protection zones that have been identified as significant drinking water threats.
- The municipality or its delegate would be granted powers of entry for inspections, as well as, order powers to compel compliance, cause work to be done where a property owner fails to do so and to recover costs. Municipalities would also have the flexibility to

delegate their enforcement authority by agreement to another municipality, health unit, the province, or CA.

- Many stakeholders have contended that all activities in a wellhead protection area or surface water intake protection zone would need a site-specific risk management plan. This is not the case. The risk management planning scheme is much more focused.
 - First, a risk management plan may only be negotiated if an assessment report has concluded that a prescribed activity poses a significant risk to a drinking water source.
 - Risk management plans could only be required for activities prescribed by regulation.
 - Finally, it is up to local communities through the source protection committee and planning process to determine if site specific risk management plans should be used. The legislation does not compel the use of risk management plans to regulate an activity that poses a significant risk. *The Clean Water Act, 2006*, compels source protection committees to develop policies in a source protection plan that ensures significant risks are no longer significant – and requiring risk management plans is only one option.

Roles and Responsibilities

22. Under the *Clean Water Act, 2006*, what role will stakeholders play in the planning process?

Municipalities: Municipalities already have extensive authority over the delivery of municipal drinking water and land use planning within their boundaries and are therefore in the best position to determine what protections are required for their sources of drinking water. Municipalities would participate through:

- *Source Protection Committees & Working Groups (SPC):* Municipalities would work across the watershed through the Source Protection Committees.
- *Source Protection Authorities (SPA):* The SPA is the Conservation Authority Board (where one exists); the CA Board is comprised of representatives appointed by municipal councils.
- *Municipal Council Resolutions:* *the Clean Water Act, 2006*, contains a provision that a municipal council may pass a resolution expressing its comments on the proposed source protection plan and may submit the resolution to the Source Protection Authority.
- *Responsibilities assigned through the Terms of Reference:* Through the development of a terms of reference the Ministry expects that municipalities would take significant responsibility for delineating surface water intake protection zones and wellhead protection areas and identifying and assessing drinking water threats.
- *Risk Management Officials:* Municipalities would have the authority to appoint a risk management official to issue orders requiring risk management plans where one cannot be agreed to.

Source Protection Authorities (Conservation Authority Boards where they exist): The Act requires that the lead Source Protection Authority for each Source Protection Region establish a multi-stakeholder Source Protection Committee (SPC) for that region.

- The lead SPAs/CAs are primarily responsible for helping to establish the SPC, overseeing and coordinating the planning process and providing administrative, technical and scientific support to the Source Protection Committee.
- SPAs/CAs have no approval role in the legislation and cannot make decisions on behalf of a municipality.
- The Act **does not** give CAs new powers to regulate, or enforce matters related to drinking water. Municipalities will retain their traditional role in developing local solutions to local issues.

Source Protection Committees (SPC): The local multi-stakeholder SPC is responsible for preparing the Terms of Reference, the Assessment Report and the Source Protection Plan and must ensure that stakeholders and the public in the watershed are consulted.

- The SPC regulations will outline the details of committee composition. The aim is that the Source Protection Committee (SPC) will be representative of all key stakeholders in the watershed. It is anticipated that where additional representation is required, working groups and/or sub-committees will be established.
- Through the SPC, local stakeholders will work across the watershed, identifying, assessing/addressing risks within their municipal wellhead & intake protection areas.

Other Issues

23. How does the Act ensure that other provincial instruments and policies conform to source protection plans?

- The Act requires conformity for those measures addressing significant threats and designated Great Lakes policies in the source protection plans.
- Policies addressing non-significant threats (low, medium) do not require conformity and decisions in relation to the issuance or amendment of a prescribed instrument (e.g. CofA) are required to “have regard” for non-significant threat policies.

24. How does the *Clean Water Act, 2006* ensure that communities with non-municipal drinking water systems are protected?

- The Act allows municipalities to add drinking water systems to the planning process by municipal council resolution and provides the Minister with the authority to amend a Terms of Reference or Source Protection Plan for a particular Source Protection Area, to require that the plan consider other drinking water systems.

- To ensure that municipalities do not have unlimited authority to include any private well, the Act also allows regulations to limit the systems that may be included in the planning process through a municipal council resolution.

25. How will source water protection planning be carried out in northern Ontario and in unincorporated areas under the *Clean Water Act, 2006*?

- Approximately 10% of Ontario's population live in areas not covered by a CA. Most of these areas are in northern Ontario where watershed-wide planning is more difficult because of the diversity of local governance structures, a shortage of technical and financial resources and the size of the watersheds.
- The *Clean Water Act, 2006*, allows for the protection of sources for municipal drinking water systems in non-CA areas through a locally driven, scoped planning process, whereby a municipality (or cluster of municipalities) would be permitted to enter into an agreement with the Minister to develop a source protection plan that focuses on specific drinking water threats in specific areas.
- The terms of the agreement would govern the source water protection planning process, and could include a Terms of Reference that would set out the provisions governing the focused planning process.
- A total of 132 municipal supplies located outside CA boundaries have initiated a screening process to determine if threats exist and a scoped source protection plan may be warranted.
- The Act provides that the province is responsible for enforcing Part IV of the Bill in unorganized territory. Therefore, if there is an activity identified in the source protection plan as an activity to which Part IV should apply (ie. the plan requires risk management plans for an activity pursuant to section 58 of the CWA, and designates the areas within a wellhead protection area where section 58 applies) and the activity is located in unorganized territory – then the province would regulate that activity under Part IV.

26. How does the Act address stakeholder concerns regarding the risk management regime & officials in Part IV?

- Throughout consultations and standing committee hearings, stakeholders identified the need for a more collaborative and negotiated approach to managing drinking water risks; one that recognizes voluntary initiatives undertaken by property owners.

- In response, the Act includes a process that will ensure opportunities for local risk management officials to negotiate with local property owners (e.g. farmers & small business) to develop site specific risk management plans.
- The Act ensures that a negotiated approach will be pursued, recognizing voluntary work already undertaken, and that imposing and enforcing a risk management plan will be used only as a last resort.

27. How does the *Clean Water Act, 2006* ensure that risk management officials are properly trained and respect biosecurity protocols?

- Stakeholders have identified the need for explicit requirements related to training and qualifications for officials (including training in biosecurity protocols).
- In response, the legislation explicitly requires that an inspector or official must receive proper training specified by regulations before entering property. This includes training in biosecurity, health & safety and other relevant protocols.

28. What protection does the *Clean Water Act, 2006* provide for the Great Lakes?

- The implementation of source protection plans within the watersheds that drain into the Great Lakes would provide a large measure of protection for the Great Lakes.
- In addition, the Act provides the Minister with considerable authority in relation to protecting the Great Lakes. For example, it gives the Minister the authority to establish advisory committee(s) to provide advice on any matter relating to the use of the Great Lakes as a source of drinking water.
- The Minister may also direct a source protection authority to either prepare a report on a matter relating to the use of the Great Lakes as a source of drinking water or assist another source protection authority in preparing a report.
- The Minister may also establish targets respecting the quality or quantity of water for the source protection area(s) that contribute to the Great Lakes.
- If a target for the Great Lakes is established for a source protection area, the Minister may direct a source protection authority to prepare and submit a report recommending policies for the source protection plan for the area, or steps to be taken, to assist in achieving the target. This would then lead to the development of policies in the source protection plan to assist in achieving the Great Lakes target.

29. How does the *Clean Water Act, 2006*, apply to First Nation communities in the province?

- Although the provision of drinking water to First Nations is a federal responsibility, the province continues to work proactively with the federal government and First Nation communities and representatives to develop a process for protecting drinking water sources in areas under federal jurisdiction.
- First Nations' participation in the source water protection framework will be of a voluntary nature. The Ministry of the Environment will continue to work with First Nations and the federal government to establish a process that ensures their fullest possible participation.
- The Act provides the authority to consider a First Nation's drinking water system as part of the source protection planning process; however the system can only be included if the FN community requests that its system be considered by the source protection plan and a regulation is then made requiring it to be included.
- The Act expressly states that nothing in the Act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal people recognized and affirmed in s. 35 of the *Constitution Act, 1982*.
- The Act provides the authority for SPCs to be required through regulations to work with First Nation communities in their source protection areas and solicit their participation in the process (e.g. through working groups).

30. How does the CWA benefit users of privately-owned drinking water wells?

- The legislation would benefit users of privately-owned wells that are located in vulnerable areas through the identification of threats to local municipal systems and the actions that are taken to protect them from becoming contaminated or depleted.
- As part of the assessment of municipal drinking water sources, private wells situated in wellhead protection areas or surface water protection intake zones would be assessed as a potential pathway to the aquifer. If the well is found to be properly constructed the outcome of the assessment would provide assurances to the property owner regarding the quality of water in their well.
- A local municipality may also pass a council resolution requiring that the Terms of Reference include other existing or planned drinking water systems in the source protection planning process (other than municipal residential systems which the legislation already requires be addressed by the planning process).

- In addition, the Act provides the Minister with the authority to require an amendment to the terms of reference in order to add another drinking water system.

31. Will the CWA require that private wells be metered?

- The provincial government has never stated nor has it had the intention of requiring meters on private, individual wells.

32. How does the Act allow for incentive, education and outreach programs?

- To respond to stakeholder concerns regarding the need for the inclusion of incentive, education and outreach programs in the source water protection framework, and to provide more flexibility in the types of policies to address threats to drinking water, the Act allows for policies governing the inclusion of incentive, education and outreach programs to be included in a source protection plan.
- Allowing these kinds of policies to be included in a source protection plan provides for a more holistic approach to addressing threats to drinking water, complementing the policies that are already required to be included in the plans.