

Integrating Source Protection into Municipal Planning Documents

Ministry of the Environment and Climate Change, April 2016

(updated July 13, 2016)

Note: This document is intended for source protection staff at conservation authorities who are familiar with the Clean Water Act and source protection.

1. Purpose

The purpose of this document is to summarize the recommended content for municipal planning documents to be consistent with the [2014 Provincial Policy Statement](#), as well as requirements for these planning documents to achieve conformity with source protection plans.

2. Legislative Authority for Protecting Drinking Water Sources through Land Use Planning

In his [2002 report on the Walkerton Inquiry](#), Justice Dennis O'Connor stated that municipal official plans and decisions on planning matters are key to the success of watershed-based source protection plans. In anticipation of the *Clean Water Act*, a policy addressing the protection of drinking water sources was added to the water section of the [2005 Provincial Policy Statement](#). This policy enabled planning authorities to use the information from approved assessment reports, including the identification of designated vulnerable areas, to protect municipal sources of drinking water through their decisions on planning matters. This policy was maintained in the 2014 Provincial Policy Statement. In 2006, the *Clean Water Act* enabled source protection plans to affect decisions on planning matters.

The *Planning Act* and the Provincial Policy Statement apply across the province, while source protection plan policies apply to specific geographic locations where vulnerable areas have been delineated for the protection of municipal residential drinking water sources. Figure 1 illustrates how source protection plans fit into Ontario's land use planning system.

The Provincial Policy Statement (PPS, 2014) included additional direction around protecting water resources. The PPS, 2014 plays a key role in Ontario's planning system by providing the policy foundation for regulating the

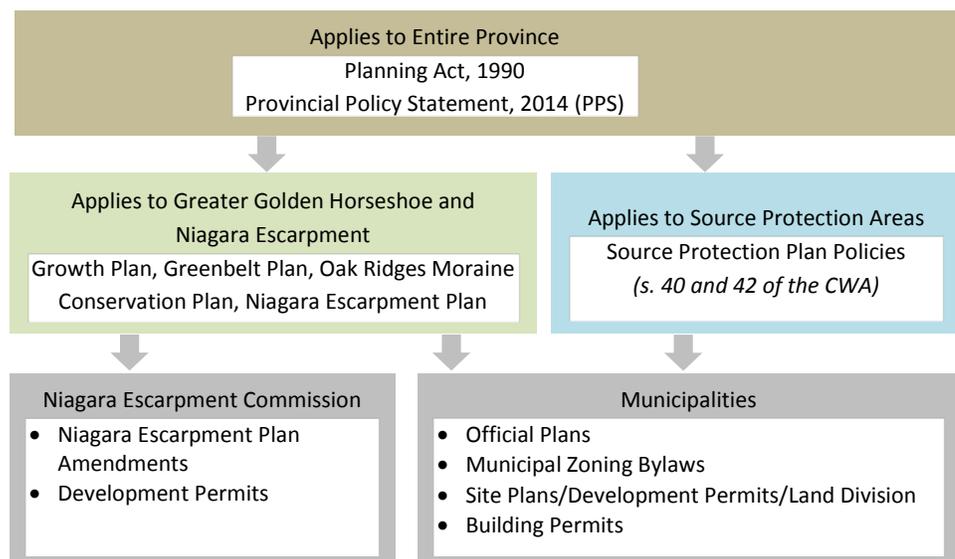


Figure 1 Relationship of Source Protection Plans to Ontario's Land Use Planning System

development and use of land. Regardless of whether they have any obligations to conform with or have regard to source protection plan policies, planning authorities should consider the type and location of their drinking water supplies and vulnerable areas as they plan their communities and allocate growth, including decisions for water and wastewater services. To ensure that decisions on planning matters meet the requirements of the *Planning Act* they must be consistent with the PPS, 2014 (see section 4.1 “Consistency with 2.2.1. (e) of the Provincial Policy Statement, 2014” below.)

To ensure that decisions on planning matters meet the requirements of the *Clean Water Act*, they must conform with significant threat policies and have regard to moderate and low threat policies that apply to *Planning Act* decisions on the day the source protection plan takes effect (see section 4.2.

“Conformity with Source Protection Plans - Policies on Lists A and B in the Appendix of the Source Protection Plan” below.)

3. The *Clean Water Act* and Source Protection

3.1. Designated Vulnerable Areas for the Protection of Drinking Water

The Director’s Technical Rules define four types of *designated vulnerable areas* for the protection of drinking water sources:

1. Wellhead protection areas (WHPAs)

These are areas near a municipal groundwater well which are either a set distance or delineated based on the time it would take for water entering the ground to get to the well and indicate their sensitivity to contamination or depletion (see Figure 2). These are areas where threats to drinking water could be significant, moderate or low.

2. Surface water intake protection zones (IPZs)

These are areas close to a municipal surface water intake (lake or river) which are either set distances, delineated based on the time it would take to respond to a spill, or based on the catchment area of the intake (see Figure 3). These are areas where threats to drinking water could be significant, moderate or low

3. Significant groundwater recharge areas (SGRAs)

These are areas which are known to replenish an aquifer, such as sand and gravel deposits. These areas may be considered in decisions on planning matters to protect sensitive groundwater features and hydrologic functions such as recharge.

4. Highly vulnerable aquifers (HVAs)

These are areas which make an aquifer susceptible to contamination such as fractured bedrock or sand and gravel deposits. Drinking water threats in these areas could be moderate and low. These areas may also be considered in decisions on planning matters to protect sensitive groundwater features and sources of drinking water other than those included in source protection plans.

The four vulnerable areas described above are included on schedules to the source protection plan and can be obtained as mapping files from local conservation authorities. All source protection plans are available to be viewed by the public through links on the Conservation Ontario website at:

<http://www.conservation-ontario.on.ca/uncategorised/143-otherswpreionsindex>

In some areas, WHPAs and IPZs may also have an associated issue contributing area (ICA). An ICA is delineated when there have been documented water quality problems at an intake or well, for example levels of contaminants (e.g. nitrates) that are above provincial standards or objectives. In the ICA portion of a WHPA or IPZ, activities that contribute to the issue (e.g. nitrates) are considered a significant threat, and policies in the source protection plan that address these significant threats would apply.

3.2. Drinking Water Threats

The *Clean Water Act* defines 21 activities as drinking water threats. Drinking water threats are listed in section 1.1 (1) of O. Reg. 287/07 and can be grouped into two main categories:

1. Activities that can impair water quality by introducing chemicals or pathogens that could contaminate sources of drinking water; and
2. Activities that can impair water quantity and/or deplete water supplies.

Source protection plans address these threat activities where they pose a risk to the quality or quantity of drinking water sources. Most threats also include threat sub-categories, with specific circumstances that set out when activities pose a risk to drinking water. These categories and circumstances are listed in the provincial [Tables of Drinking Water Threats](#). The Tables of Drinking Water Threats are highly technical documents, and planning staff should request assistance from source protection authority staff, risk management officials, or other staff with appropriate training if it is necessary to determine whether a drinking water threat may be occurring.

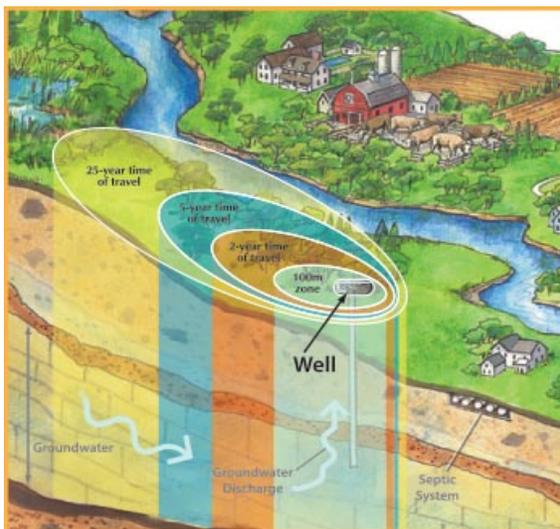


Figure 1 Wellhead Protection Area (WHPA)

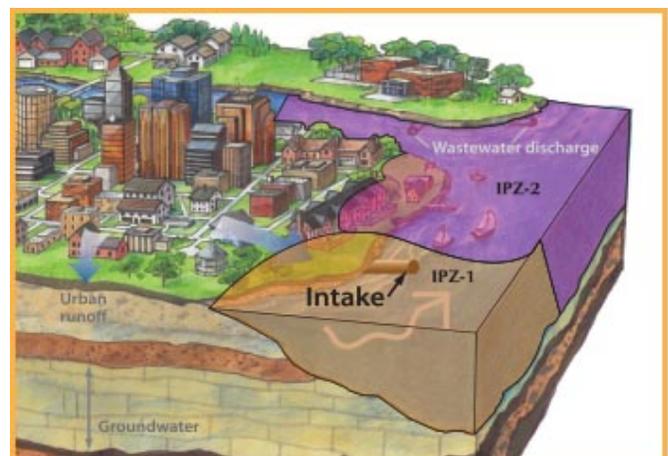


Figure 3 Surface Water Intake Protection Zone (IPZ)

In addition to the 21 threats listed in the regulation, the *Clean Water Act* allows source protection committees to submit a request for Ministry of the Environment and Climate Change (MOECC) approval to identify a threat activity that could occur locally. For example, Sudbury and North Bay-Mattawa Source Protection Committees have had a local threat approved, defined as “the transportation of hazardous materials (specifically sulphuric acid, septage, and fuel),” and have included policies in their source protection plans to address this threat. When the source protection committee receives approval for a local threat, the plan must then address the threat in areas where the threat could be significant.

3.3. Part IV of the Clean Water Act

The *Clean Water Act* recognizes that existing legislation, such as the *Planning Act*, may help address threats to drinking water through land use controls. The *Clean Water Act* also recognizes that these legislative authorities may not address all types or occurrences of threats. For example, the *Planning Act* addresses future development, and generally does not regulate existing development. In addition, land use planning in Ontario can only address land uses, buildings and structures, and not activities that may occur within the uses, buildings or structures. Therefore, Part IV of the *Clean Water Act* was intended to address activities that could not be addressed by existing legislation.

The authority given by Part IV of the *Clean Water Act* is powerful; it provides the ability to prohibit existing and future activities (section 57), and the ability to manage activities on a site-by-site basis using a formal risk management plan (section 58). Risk management plans address specific activities that are designated for the purposes of section 58 by a policy in a source protection plan. This means that in order to engage in the specific activity in an area where it would be a significant threat, a risk management plan is required.

Part IV authorities can only be used in areas of a WHPA or IPZ where drinking water threats have been identified as significant, and when designated by the source protection plan policies. These authorities are administered by a risk management official and risk management inspectors, who receive training by the Province to enforce prohibitions and risk management plans. The enforcement body for the purpose of Part IV is the municipality that has the authority under section 11 of the *Municipal Act* to pass by-laws respecting water production, treatment and storage (essentially those municipalities that own or operate water treatment plants). To centralize the Part IV enforcement authority and share resources, many municipalities have chosen to delegate their enforcement authority to another municipality or the source protection authority (which is most often a conservation authority). The public body that is responsible for administering Part IV (i.e. a municipality or a conservation authority) is then required to appoint a risk management official and risk management inspectors.

Prohibition and risk management plans are tools authorized by the *Clean Water Act* and enabled by a source protection plan. These tools do not require official plan or zoning amendments, or other municipal by-laws to take effect. In addition, municipal planning documents do not have the authority to set out provisions for the enforcement of Part IV, including the contents of risk management plans.

3.3.1. Part IV section 59 Notice to Proceed

Section 59 of the *Clean Water Act* provides for a process for reviewing development and building permit applications for potential significant drinking water threats that are prohibited (section 57) or require a risk management plan (section 58). Generally, a policy in the source protection plan designates land uses where development or building permit applications must be reviewed by the risk management official, as per section 59. This process is intended to be used as a tool to ensure that development and building proposals are scrutinized by the risk management official, who is knowledgeable about drinking water threats and the source protection plan policies, to determine whether the proposal will include activities that are prohibited or require risk management plans. Once the risk management official has reviewed the proposal, they will provide a notice to the proponent. The notice will state that either (a) neither section 57 nor section 58 applies to the development proposal or (b) if section 58 applies to the development proposal, a risk management plan has been agreed to or established for the significant threat activity that requires a risk management plan; for example the storage of fuel.

If the section 59 policy is included in List A of the source protection plan, then the official plan must identify the areas where development or building permit applications must be submitted with the section 59 notice, either in text or on a schedule (see Appendix A). If the policy is not included in List A of the source protection plan, municipalities may still choose to identify requirements for development applications in an official plan to provide clarity for proponents.

The section 59 notice from the risk management official is part of the applicable law provisions in the Building Code and municipalities are encouraged to include the notice as part of the complete application requirements in their official plan (see Appendix A).

3.4. Conflict Provisions

If a conflict arises between a significant threat policy in a source protection plan that applies to *Planning Act* decisions (List A) and a provision of an official plan or zoning by-law, the provision that provides the greatest protection to the quality and quantity of the source of drinking water prevails. There may be potential for this to occur if a municipality's official plan and zoning by-laws have not yet been brought into conformity with the source protection plan. If a conflict arises between the PPS and a policy in a source protection plan that applies to *Planning Act* decisions (List A), the provision that provides the greatest protection to the drinking water source prevails. Similarly, if a conflict arises between a provision of a provincial plan such as the Growth Plan for the Greater Golden Horseshoe or the Greenbelt Plan and a significant threat *Planning Act* policy in a source protection plan (List A), whichever provides the greatest protection to the source of drinking water prevails.

4. Municipal Planning Documents

With the approval of assessment reports and source protection plans under the *Clean Water Act*, municipalities may need to amend planning documents to be consistent with the PPS, 2014, and conform with, or have regard to, source protection plan policies. When a municipality amends its official plan to conform with the local source protection plan policies, they may choose to do so either as an issue-specific amendment under section 17 of the *Planning Act*, or wait until the mandatory

comprehensive five-year review of their official plan under section 26 of the Planning Act. Most source protection plans have set out a conformity deadline of 5 years, or “at the time of the comprehensive review”. Regardless of when the official plan is amended, decisions on planning matters must conform with, or have regard to, source protection plan policies; and should be consistent with the PPS, 2014.

4.1. Consistency with 2.2.1. (e) of the 2014 Provincial Policy Statement

Policy 2.2.1 (e) (1) of the PPS, 2014 states that planning authorities shall protect, improve or restore the quality and quantity of water by: implementing necessary restrictions on development and site alteration to protect all municipal drinking water supplies and designated vulnerable areas.

2.2.1 Planning authorities shall protect, improve or restore the *quality and quantity of water* by:
e) implementing necessary restrictions on *development and site alteration* to:
1. protect all municipal drinking water supplies and *designated vulnerable areas*;
2. protect, improve or restore *vulnerable surface and ground water, sensitive surface water features and sensitive ground water features*, and their *hydrologic functions*.

The term “designated vulnerable areas” in the PPS, 2014 is defined as areas “vulnerable, in accordance with provincial standards, by virtue of their importance as a drinking water source.” The four types of vulnerable areas in source protection plans are delineated in accordance with provincial standards (the Director’s Technical Rules) under section 107 of the *Clean Water Act*, 2006.

In addition to the delineation of vulnerable areas, the technical work done for source protection plans also generated information that municipalities can use to achieve the objectives of the PPS, 2014 including watershed characterizations and water budgets. Planning authorities should consider the location of HVAs to protect aquifers from contamination (quality) and SGRAs to protect aquifers from depletion (quantity), and may choose to require additional information or studies (e.g. planning justification report, environmental impact statement), to ensure that any proposed development or site alteration would not pose a risk to sources of drinking water.

In order to be consistent with policy 2.2.1(e) 1 of the PPS, 2014, MOECC/SPPB recommends that ALL *designated vulnerable areas* (WHPAs, IPZs, SGRAs, and HVAs) be included in the official plan both in text and on maps or schedules to the official plans (see Appendix A). However, where HVAs or SGRAs cover vast areas of the province, showing the extent of this vulnerable area on a map may not be useful. A simple reference in the text can state that HVAs cover the majority of the municipality and impacts to groundwater quality will be considered in planning decisions.

4.2. Conformity with Source Protection Plans

Policies on Lists A and B in the Appendix of the Source Protection Plan

Source protection plans identify where threats to sources of drinking water could be significant, moderate, or low. Significant drinking water threats can only occur in certain parts of WHPAs and IPZs, (generally closest to wells or intakes), depending on the vulnerability of the area and whether it is within an ICA (see section 3.1. “Designated Vulnerable Areas for the Protection of Drinking Water” above.) In addition, each source protection plan includes an appendix that lists the policies according to the provisions that give them legal effect under the *Clean Water Act*. Policies on Lists A and B are to be

implemented through decisions on planning matters, including approvals or amendments to official plans and zoning by-laws (see sections 39 (1), 40 and 42 of the *Clean Water Act*). All land use planning decisions must “conform with” policies on List A (significant drinking water threats that affect *Planning Act* decisions) and must “have regard to” policies on List B (low and moderate drinking water threats that affect *Planning Act* decisions). To show where significant drinking water threat policies apply, WHPAs and IPZs must be identified in an official plan, zoning by-law or other planning document.

It is important to note that source protection plan policies are written to conform to the requirements of the *Clean Water Act*, and should not be copied verbatim into municipal planning documents. Decisions on planning matters, including official plan and zoning by-law conformity amendments, must meet the intent and requirements of the *Planning Act* and be written in a manner appropriate for a planning document.

The appendix also lists policies that are implemented through “prescribed instruments,” which are instruments issued under other legislation, as specified in the section 1.01 of O. Reg. 287/07 under the *Clean Water Act*. Examples include Environmental Compliance Approvals under the *Environmental Protection Act* or Permits To Take Water under the *Ontario Water Resources Act* that are implemented by provincial ministries.

Integrating Source Protection Plan Policies into Municipal Official Plans

Using Lists A and B, a reader can then locate which source protection plan policies they are required to implement. The policy text will provide information about the land uses that are prohibited or require management in vulnerable areas to protect sources of drinking water. To conform with source protection plan policies, a municipality may have to amend their official plan to prohibit or manage certain land uses or types of facilities. For example, they may prohibit uses such as gas stations or marinas, or storage structures for large volumes of fuel or manure. Alternatively, uses and structures may be managed through planning controls, such as requiring hydrogeological studies to determine appropriate lot sizes for development that requires septic systems, or requiring low impact development techniques for the management of stormwater. A municipality may also allow a primary land use to occur, such as agriculture, however buildings ancillary to agriculture, such as barns and other structures for storing materials would have to be located outside the part of the WHPA or IPZ where these would be significant threats. For example, if the threat is significant in WHPA A (i.e.: within 100m of a municipal well), these structures could instead be located where it would be a moderate threat, possibly in WHPA B.

Unlike zoning by-laws, official plans may include policies that require the submission of studies or reports with planning applications to show that certain activities or operations can be carried out in a way that meets applicable planning policies (e.g. hydrogeological studies, section 59 notice, etc.); however, the actual issuance of provincial instruments or section 58 risk management plans that may be required for these activities related to a development application is done outside of the *Planning Act*.

Integrating Source Protection Plan Policies into Municipal Zoning By-Laws

A zoning by-law controls the use of land, and is used to implement official plan policies by stating exactly what uses are permitted (e.g., commercial, residential), and what standards are required (e.g. building size and location) in each zone. In a zoning by-law, a regulation is a rule or requirement dealing with the use of land and buildings that has the force of law. It is through the zoning by-law that a municipality controls and restricts certain uses, such as development in wetlands or vulnerable areas as identified in a source protection plan. The *Planning Act* provides specific authority for municipal zoning by-laws to prohibit any use of land, buildings or structures on land that is within a vulnerable area as identified in a source protection plan (Paragraph 3.1 (iii) under subsection 34 (1).)

Not every source protection policy in the official plan can or should be integrated into a municipal zoning by-law. A zoning by-law regulation states specifically whether a use, building, or structure is prohibited or permitted, as well as governs matters like the general location, size, layout of lots, buildings and roads, whereas official plan policies are usually broad and outcome- or goal-oriented. Municipalities should review whether each source protection official plan policy is appropriate for inclusion in the zoning by-law.

To implement the source protection policies from the official plan in a zoning by-law, the zoning by-law should have a section that contains all the zoning regulations that apply to designated vulnerable areas (e.g. WHPA or IPZ) for the protection of drinking water sources (for example as part of the general provisions section or as a separate section in the bylaw.) These vulnerable areas should be mapped either on the zoning maps or on a separate zoning schedule. This way, the designated vulnerable area would be subject to the regulations of the underlying zones as well as the regulations specific to the vulnerable areas. See Appendix B for examples of best practices for zoning by-law implementation.

There are no conditions prescribed for subsection 34 (16) under the *Planning Act* to allow for conditional zoning. This means that a zoning by-law cannot include regulations that permit a use, building, or structure subject to certain conditions being fulfilled, like the submission of a study, report, or section 59 notice.

4.3. Municipal Planning Process

The Ministry of Municipal Affairs and Housing (MMAH) is generally the approval authority for all upper tier and single tier official plans, although some exceptions apply. Where the province remains the approval authority, a one window planning service for provincial input, review, approval and appeal of planning applications is in place. When upper and single tier municipalities develop, update, or amend an official plan under the *Planning Act*, these plans are submitted to MMAH for review through One Window Planning Service (OWPS). The one window approach provides a single provincial position that integrates the perspective of several ministries.

Under the OWPS the municipality's document(s) (i.e., official plans/amendments) are circulated to partner ministries for review. The MOECC is part of this partner ministry review team. Through the OWPS, Source Protection Programs Branch (SPPB) reviews municipal planning documents to ensure consistency with section 2.2.1 (e) of the PPS, 2014 and to ensure conformity with relevant source

protection plan policies. Examples of typical SPPB comments provided to municipalities through the OWPS are included in Appendix C.

5. Municipal Requests for Advice

MMAH's [Municipal Services Offices](#) are the primary points of contact for municipalities when they need advice on planning matters.

For technical support related to source water protection, SPPB/MOECC planners will provide information to a municipality on:

- *Clean Water Act* and regulations, including:
 - the delineation of vulnerable areas (location and extent) and vulnerable areas scoring
 - the [Director's Technical Rules](#) for the preparation of assessment reports, and associated guidance
 - [Tables of Drinking Water Threats](#) (circumstances under which threats are significant, moderate or low), and associated guidance
- availability of the source protection plan and explanatory document including information on effective date(s), transition provision(s), and legal effect lists

MOECC will work with MMAH to provide any requested advice to the municipality and will attend a meeting where necessary with MMAH and the municipality to discuss any questions about integrating source water protection into their planning documents.

Similarly, if a Project Manager at a Source Protection Authority (SPA) is approached by a municipality for advice on their official plan amendment or official plan review, the Project Manager can provide advice or guidance with respect to interpreting the intent of the source protection plan policies, identifying which policies apply to the municipality and the tools that the municipality must use to implement them, advising on the types of activities and uses that that source protection plan policies may affect, and providing appropriate mapping and definitions for vulnerable areas. Generally, project managers are not trained planners and should *not* provide draft policy wording for inclusion in the official plan or a zoning by-law. Unless they are qualified land use planners, providing specific wording for official plans or zoning by-laws could result in policies that can't be implemented or legal challenges and associated costs to the municipality. Source protection authorities should seek legal advice to assess the risks related to providing draft policy wording for municipal planning documents.

Appendix A

Source protection conformity requirements for municipal planning documents

Action	Official Plan Conformity Amendment (s. 17 Planning Act)			Official Plan Comprehensive Review (s. 26 Planning Act)			Zoning By-Law		
	Required	Recommended	Not Applicable	Required	Recommended	Not Applicable	Required	Recommended	Not Applicable
Include List A <i>Planning Act</i> policies	X			X			X		
Include List B <i>Planning Act</i> policies		X		X					X
Mapping:									
• WHPAs & IPZs (where policies apply)	X			X			X		
• HVAs & SGRAs		X		X				X*	
Require additional reports (e.g. hydrogeological studies, environmental impact statements, etc.)	X*	X		X*	X				
Revise complete application requirements to include:		X			X				
• s. 59 notice									
• studies, etc. depending on the policy									
Include other SPP policies			X			X			X

* Requirements will depend on the policy in the source protection plan.

Appendix B

Zoning By-law Implementation Best Practices

The following are some examples of best practices for implementation of source protection policies in zoning by-laws.

Topic	Best Practices
Mapping the Vulnerable Areas on Zoning Schedules	<ul style="list-style-type: none">• Determine to which types of vulnerable areas the zoning by-law regulations will apply to e.g., which wellhead protection areas and intake protection zones, and will it be limited to certain vulnerability scores. This may require using the maps from the assessment report and source protection plan. WHPAs and IPZs should be shown either on the zoning maps or on a separate by-law map or schedule. Only map those vulnerable areas that will be regulated by the zoning by-law.• The text in the zoning by-law regulations could refer to the vulnerable areas with words such as “The lands shown as WHPA-A on Schedule X, are subject to the following regulations.”• Be mindful of terms; do not identify the area as a WHPA Zone or IPZ Zone. Use terms such as an ‘area’ or ‘district’ but not a zone. Otherwise, the by-law would appear to either be changing or possibly creating a second zoning on the same lands. The existing zoning remains on the lands since it is what sets out the permitted uses and development regulations.• The map base should be clear showing roads and, where possible, property lines so that someone reading it can determine whether their property is located within the vulnerable area.
Uses to Prohibit in the Zoning By-law	<ul style="list-style-type: none">• Not every vulnerable area will have significant drinking water threats, and not all source protection plans will have policies that prohibit threats through land use planning.• To determine which uses to prohibit in the zoning by-law, identify the official plan policies that prohibit uses for the protection of drinking water sources, and where the policies apply within a WHPA and/or IPZ.• To determine where significant threat policies apply, refer to the source protection plan policies and maps, and possibly the assessment report to identify the threat activity/use, the applicable vulnerable area and its vulnerability score. It is the combination of these elements that determines where an activity/use is a significant threat and is to be prohibited.• Request mapping support from the source protection authority to ensure the accuracy.

<p>Retroactively prohibiting existing uses that are drinking water threats</p>	<p>Zoning regulations cannot be applied retroactively to a use that already legally exists. Section 34(9) of the <i>Planning Act</i> states that a zoning by-law that prohibits a use does not apply to any land, building or structure that was lawfully used for such purpose on the day of the passing of the by-law. Consequently, the adoption of a zoning regulation prohibiting a specific use would not apply to an existing, legally established use that is a significant drinking water threat. In most cases, where the source protection plan seeks to prohibit or manage an existing use that is a significant drinking water threat, the source protection plan has another policy to be implemented outside of the planning framework, for example, designating the use for the purpose of applying Part IV Section 57 or 58 of the CWA. If a source protection plan prohibits an existing use, it sets out a date by which the use must be phased out.</p>
<p>Identify the threat activities as uses in the Zoning By-law</p>	<p>Translate the source protection plan threat activities into land uses. For example, if the source protection plan prohibits the storage of organic solvents, the zoning by-law should identify the use as a storage facility for organic solvents to ensure the threat can effectively be regulated through zoning. Some drinking water threat activities identified in source protection plan policies cannot be regulated through zoning. For example:</p> <ul style="list-style-type: none"> • Handling of organic solvents – “handling” is not a land use, but facilities for the storage of organic solvents would be a land use. • Application of pesticide to land – the “application” of a chemical is not a land use, the land use would be agriculture or recreational.
<p>Development regulations</p>	<p>Beyond the prohibition of uses, municipalities can also include a variety of development regulations and standards in their zoning by-laws to protect vulnerable areas from threats to source water and implement some source protection plan policies.</p> <p>For example:</p> <ul style="list-style-type: none"> • Regulating the amount or percentage of impervious surfaces or landscaping on a site in order to promote ground water infiltration and minimize runoff. • Applying minimum distances or setbacks for uses, buildings or structures from environmentally sensitive features such as municipal wells, rivers and streams, and designated vulnerable areas. • Requiring connection to municipal sewage services for new development and the creation of new lots. • Regulating the size and location of outdoor storage areas. <p>While these types of development regulations and standards already exist in many municipal zoning by-laws, applying these regulations to protect vulnerable areas may be considered.</p>

<p>Role of Zoning in the Part IV policy</p>	<p>A source protection plan may include a section 59 policy on List A of their Appendix, therefore municipal planning documents are required to conform to the policy. The zoning by-law would be used to flag to the reader that designated land uses in specified areas are subject to section 59 of the Clean Water Act and that a proponent must contact the risk management official to have the application reviewed by the risk management official before the planning application can proceed.</p> <ul style="list-style-type: none"> • A zoning regulation could state, for example: <i>In WHPA-A, all uses except residential are designated by the source protection plan for the purpose of Section 59 of the Clean Water Act. All applications for development or building permits must be reviewed by the risk management official.</i> • Alternatively, the municipality could include the above text as a note in the zoning by-law as a way to advise the reader of the Section 59 policy. <p>Either way, this serves as a notice to the reader of the need to contact the risk management official.</p>
<p>Avoid Zoning regulations that include conditions</p>	<p>A zoning regulation should not include conditions that have to be fulfilled prior to the use being permitted (e.g. submission of water budget study, road salt management plan, risk management plan). This would be considered conditional zoning, which has not been authorized by the <i>Planning Act</i>.</p>
<p>Avoid a Zoning regulation that sets out requirements for Section 58 Risk Management Plans</p>	<p>A zoning regulation does not have the authority require a risk management plan under section 58 of the <i>Clean Water Act</i>. Only the risk management official has the authority to determine whether a development proposal requires a risk management plan, based on the source protection plan policies, and to determine the content of the risk management plan.</p>
<p>Avoid Zoning regulations that are not clear</p>	<p>Zoning regulations should be clear so that the reader can determine what are the permitted uses and applicable standards.</p> <ul style="list-style-type: none"> • A zoning regulation prohibiting waste disposal sites that generate “small quantities” of waste may not be clear. <ul style="list-style-type: none"> ○ Review the source protection plan to determine exactly what quantity of waste or chemical the policy is regulating. ○ Include in the zoning regulation the specific quantity from the source protection plan. • A zoning regulation prohibiting a fuel storage facility or a storage facility for organic solvents in a wellhead protection area “where it would be a significant drinking water threat” does not specify the WHPAs and portions of a WHPA where it would apply. It is important to specify where this use would be a significant threat and under what circumstance. <ul style="list-style-type: none"> ○ Consult with source protection authority staff to determine the specific areas where the regulations would apply. ○ Identify the specific areas on a zoning schedule and refer to them in the zoning regulation. For example “lands identified as WHPA-B with a vulnerability score of 8.”

Caution on applying a Holding Symbol H to designated vulnerable areas	<p>Applying a Holding symbol to the zoning of a WHPA or IPZ area would prevent the use from proceeding until the H symbol has been removed. This requires the municipality to have policies in its official plan for the use of the holding symbol H. Lifting of the hold also requires a report to municipal Council each time. If the H is applied to WHPA-A and B areas, this could involve several properties, and many reports to Council for the lifting of the H. Once the hold is lifted from a site, there would no longer be any zoning restrictions for any new drinking water threat for that site. Since this type of zoning regulation would only apply on a site until the H is lifted, it would limit the ability to implement the source protection plan policies for any future threats on the same site (e.g. if the operation changed or expanded.) The use of a holding symbol might be considered in very specific circumstances.</p>
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Appendix C

Sample comments

The following are examples of comments that have been provided to municipalities by SPPB through the one-window review process.

Topic	Comment
General	<p>In order to protect municipal drinking water supplies and designated vulnerable areas, municipalities should ensure that their official plans and zoning by-laws are consistent with the broader policies in the PPS, 2014 (section 2.2.1 (e)) as well as conform with/have regard to applicable SPP policies when the SPP takes effect and within the timelines provided by the SPP.</p> <p>Municipalities may also elect to include policies that go beyond the standards established in the policies of the 2014 Provincial Policy Statement and/or the SPP with respect to matters of local interest by including goals, policies, and objectives to protect drinking water sources (including those for non-municipal systems such as private or communal drinking water systems), provided that such policies do not conflict with the protection of any other provincial interests.</p>
Consistency with the 2014 Provincial Policy Statement	<p>Municipalities must ensure that their planning documents satisfy the broad requirements of protecting municipal drinking water supplies and designated vulnerable areas, as directed in policy 2.2.1 (e) of the PPS, 2014 requires that planning authorities “protect, improve, or restore the quality and quantity of water by implementing necessary restrictions on development and site alteration to protect all municipal drinking water supplies and designated vulnerable areas.” To be consistent with policy 2.2.1 (e) of the PPS, 2014, the municipal official plan should include goals, policies, and objectives to ensure that sources of municipal drinking water are appropriately protected. Policy direction may include requiring additional reports to identify how an area will be protected (i.e. planning justification report, chemical storage disclosure report), and/or restricting or directing development away from designated vulnerable areas.</p> <p>The vulnerable areas identified in approved source protection plans (or assessment reports approved by the MOECC Director under the Clean Water Act) are considered “designated vulnerable areas.” These areas are defined in accordance with provincial standards. All designated vulnerable areas should be delineated in official plan schedules as shown in the assessment report, including Well Head Protection Areas (WHPAs), Intake Protection Zones (IPZs), Highly Vulnerable Aquifers (HVAs) and Significant Groundwater Recharge Areas (SGRAs).</p> <p>When the source protection plans take effect, the broader source protection policies of the PPS, 2014 continue to apply and should be complemented by the more specific</p>

	<p>policies of the SPP. Municipalities may also elect to include policies that go beyond the standards established in the policies of the PPS and/or the SPP with respect to matters of local interest by including goals, policies, and objectives to protect drinking water sources (including those for non-municipal systems such as private or communal drinking water systems), provided that such policies do not conflict with the protection of any other provincial interests.</p>
<p>Regulating land uses, not activities</p>	<p><i>Often SPPB will receive official plans or official plan amendments that have included policies to address the policies on List A of the SPP, however, the official plan policies will refer to the ‘activities’ (circumstances) referred to above which may have been listed in threat policies. Under the Planning Act the Official Plan can only regulate ‘land uses’ and as such, the policies as drafted by the municipality may not be able to be implemented and could be challenged at the Ontario Municipal Board. SPPB, through the One Window Planning Service, provides advice to municipalities such that they write policies that they have legislative authority to implement.</i></p> <p>Source protection plan policies are written to achieve the objectives of the Clean Water Act; therefore municipalities must consider how an official plan policy may achieve source protection conformity in language appropriate for an official plan. Some source protection policies direct actions to address drinking water threat activities. Whereas, the powers of the official plan under the <i>Planning Act</i> are limited to the regulation of land uses – not activities. Therefore, municipal staff may need to identify the activity or groups of activities in question (e.g. application of untreated septage to land, landfilling of municipal waste) and relate these activities to land uses and/or types of development that may be associated with the activity (e.g. waste disposal sites). Once this analysis is complete, we recommend that the official plan policies be developed to prohibit or manage these associated types of land uses/development (e.g. waste disposal sites), to complement the SPP policies.</p> <p>Some changes are recommended to ensure the language is appropriate for an official plan. Recommended text additions are shown in red, recommended redactions are shown in strikeout.</p> <ul style="list-style-type: none"> • facilities for the storage of agricultural source material; • facilities for the handling and storage of non-agricultural source material; • facilities for the handling and storage of commercial fertilizer;
<p>Implementing Section 59 Restricted Land Uses (where it is listed on List A – Planning Act)</p>	<p>Some SPPs include policies that implement s.59 of the Clean Water Act on List A of the Appendix of the SPP. Section 59 of the Clean Water Act requires that planning applications and building permits in vulnerable areas where Part IV of the Clean Water Act applies be submitted with a notice from a risk management official (RMO). The notice from the RMO is part of the applicable law provisions under the Building Code Act (s. 1.4.1.3 Definition of Applicable Law – Building Code). The provisions of Part IV of the Clean Water Act, including s. 59 notice requirements take effect when the SPP takes effect. To provide clarity for proponents, municipalities may also include this notice as</p>

	<p>part of the complete application requirements* in their official plans. Municipalities may also indicate vulnerable areas where there may be source protection requirements for planning applications in the official plan schedules, such as using an overlay designation to indicate these areas.</p> <p>*For more information on Complete Application Requirements and how municipalities can use them please refer to the MMAH website (http://www.mah.gov.on.ca/Page7213.aspx)</p>
<p>Conformity with source protection plan policies</p>	<p>The Municipality of ABC is located within the XYZ source protection area. Please note that the XYZ SPP has been approved by the Minister of Environment and Climate Change and takes effect on DATE. The approved SPP and supporting documents (including assessment reports) may be accessed at the XYZ source protection area website.</p> <p>The Municipality's official plan should provide detailed policies to protect their drinking water sources. These policies should provide sufficient direction to ensure that land uses or development associated with threat activities will be prohibited or managed as specified by the SPP policies. The Municipality's official plan should conform with the following significant threat policies [list] and have regard to the following moderate and low threat policies [list if applicable].</p>