

Risk Management Officials and Inspectors: Regulation of Drinking Water Threats under Part IV of the *Clean Water Act*

Water is critical to all aspects of our lives and it is important that we ensure that there is a safe and reliable source of water for all our uses – now and in the future. The contamination of the Walkerton drinking water supply in 2000 caused seven deaths and thousands to become ill. It was the catalyst for a public inquiry that led to 121 recommendations to better protect sources of drinking water using a multi-barrier approach, which includes source water protection. Source water is the untreated water in lakes and rivers, and in underground aquifers, that people use for drinking water. Source water protection means protecting our sources of drinking water from contamination and overuse.

In the Cataraqui Source Protection Area (CSPA), about 80 per cent of the population lives in an area that is served by a municipal water system, which draws water from either surface or groundwater. Protection zones are mapped around these drinking water sources. For surface water they are called “intake protection zones” and for groundwater they are called “wellhead protection areas”. The balance of the population relies on drinking water from private intakes or wells.

Although more than 90 per cent of the CSPA has been identified as sensitive groundwater areas, legally binding policies apply to very small geographic areas in the intake protection zones and wellhead protection areas where the drinking water source is most vulnerable to contamination. Threats to sources of municipal drinking water are regulated under the *Clean Water Act, 2006*.

What is the *Clean Water Act*?

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. The intent of the *Clean Water Act* is to protect sources of municipal drinking water including lakes, rivers, and underground aquifers through assessments based on sound science, and develop locally driven Source Protection Plans. As a result of the *Clean Water Act*, 19 multi-stakeholder Source Protection Committees were established across Ontario to develop local Source Protection Plans.

In the CSPA, committee members include representatives from municipalities, agriculture, industry, tourism and recreation, as well as environmental groups, lake associations, and the public. For more information on the development of the Plan, please visit www.cleanwatercataraqui.ca.

The Cataraqui Source Protection Plan was approved by the Ontario Ministry of the Environment and Climate Change (MOECC) on November 26, 2014. It became effective on April 1, 2015. The Plan includes responsibilities and recommendations for provincial ministries, municipalities, the Cataraqui Source Protection Authority and others. Owners of residential, farm, business, or institutional properties have or will soon become aware that certain properties located within vulnerable areas in the CSPA are subject to policies in the Plan that manage or prohibit activities which have been identified as significant drinking water threats.

What is a significant drinking water threat?

A drinking water threat is an activity that has the potential to harm the quality or quantity of water that is used as a source of drinking water.

- A drinking water threat can be an existing activity, or an activity that could become established in the future.
- A significant drinking water threat is an activity that poses a significant inherent risk to the quality or quantity of a drinking water source.

What is Part IV of the *Clean Water Act*?

Part IV of the *Clean Water Act, 2006* provides municipalities with new tools to regulate existing and future activities that are significant drinking water threats due to their potential to pollute drinking water sources.

- Part IV policies apply only to portions of certain vulnerable areas in the CSPA (representing less than one per cent of the total Cataraqui Source Protection Area) because those drinking water supplies are identified as more vulnerable than others.
- Under Part IV, significant drinking water threat activities can be regulated using three tools:
 - Section 57: Prohibition, which ensures that certain activities never become established in areas where they would be a significant drinking water threat.
 - Section 58: Risk Management Plans, which manage existing and future significant drinking water threats through best management practices.
 - Section 59: Restricted Land Use, which flags specific land uses in a given area that are or may be associated with an activity that is prohibited or that requires a risk management plan under Part IV of the *Clean Water Act*.
- Where *Clean Water Act* Part IV policies apply, the property owner/person carrying out an activity will work with the local Risk Management Official (RMO), as well as the Risk Management Inspector (RMI).

Who are Risk Management Officials and Inspectors?

RMOs and RMIs implement and enforce Part IV policies under the *Clean Water Act*.

- Before receiving their certification, RMOs and RMIs must successfully complete a mandatory course approved by the Ministry of the Environment and Climate Change, and be appointed to perform duties in particular jurisdictions.

Part IV policies are the responsibility of the municipality where the policies apply.

- The *Clean Water Act* permits a municipality to maintain their responsibility or to transfer it to another body, such as the conservation authority.
- Within the Cataraqui Source Protection Area, six of the seven municipalities where Part IV policies apply have entered into agreements to transfer enforcement responsibility to the Cataraqui Source Protection Authority (with the exception of the Township of Leeds and the Thousand Islands).

- Staff at the Cataraqui Region Conservation Authority have been appointed as RMOs/RMIs for the Regional Risk Management Office, and a local municipal staff person is providing risk management services for the Township of Leeds and the Thousand Islands.
- Contact information for RMOs/RMIs in the CSPA is provided at the end of this fact sheet.

What are the roles and responsibilities of Risk Management Officials and Inspectors?

RMOs and RMIs have authority to implement Part IV policies in the Cataraqui Source Protection Plan in the municipalities that have hired them.

- RMOs are the administrators of Part IV of the *Clean Water Act*, while RMIs ensure compliance. RMOs and RMIs work together to ensure that requirements under the *Clean Water Act* and the Plan are met.
- RMOs are responsible for negotiating and establishing legally-binding risk management plans with persons engaged in (or who propose to engage in) a significant drinking water threat activity, as required by the source protection plan.
 - New development applications, planning or building permits may be flagged by municipal staff under Section 59 Part IV policies of the Plan. The RMO must then review the flagged application or permit to determine if any policies in the Plan apply to the proposed activity (i.e. determine if the activity is prohibited or requires a risk management plan). Once the RMO has reviewed the application, they will notify the proponent and municipality of their decision via a Notice or Letter under Part IV of the *Clean Water Act*.
 - The RMO also has the authority to issue Orders, and may “cause a thing to be done” if the person who is ordered to do a thing (i.e. to address a significant drinking water threat activity) has refused to comply with the order.
- RMIs ensure compliance with Part IV policies by performing site visits.
 - During a site visit, the RMI can take samples, excavate, take measurements, run tests, record and copy documents, etc.
 - When necessary, RMIs can also issue Orders to cease and desist carrying out an activity to comply with a prohibition, or to set out directions to achieve compliance with a risk management plan.
 - If a person commits an offense under Part IV of the *Clean Water Act*, the RMI can prosecute that person.
 - The RMI submits an annual report to the RMO.
- Annually, the RMO must submit a report to the Cataraqui Source Protection Authority which documents the actions that have been taken to address significant drinking water threat activities, as per the Plan and Part IV of the *Clean Water Act*.

What are landowner/renter rights and responsibilities?

A person who is “engaged in (or proposing to engage in) activities identified as significant drinking water threats” could be a landowner or a renter.

- This person may be required to implement a Risk Management Plan (RMP) for the significant drinking water threat activity.

- The RMP may support best practices that are already in place, and may also require additional actions to be taken to manage the risks associated with the activity.
- The purpose of the RMP is to ensure that activity is no longer, or does not become, a significant drinking water threat.
- The RMP will be negotiated between the RMO and the person undertaking the activity, and it will be a legally-binding public document that establishes an agreement on the risk management actions that will be taken to protect the drinking water source.
- Where an RMO has established a RMP by Order, the person subject to the order has the right to request a hearing with the Environmental Review Tribunal (ERT) to appeal the order.
 - There is also a process for a person to request a hearing to the ERT if there is a disagreement over a particular action required in a RMP.
 - If a hearing is requested, the ERT will decide if the order should be upheld.
 - Once the ERT has made a decision, it cannot be appealed.
- The *Clean Water Act* also provides opportunities for persons to be potentially relieved of obligations of one or more Part IV policies (i.e. prohibition or RMPs) if certain circumstances or requirements are met.
 - These could include consideration of an existing legal instrument (such as a Nutrient Management Plan under the Nutrient Management Act), moving the activity of concern outside vulnerable areas or changing the chemicals used, such that the activity does not become a significant drinking water threat.

Where can I find more information?

Local resources:

- Cataraqui Source Protection Plan Interactive Maps:
 - <http://www.cleanwatercataraqui.ca/interactive-maps-for-the-cataraqi-source-protection-plan>
- Best Practices for Homeowners:
 - <http://www.cleanwatercataraqui.ca/best-practices-for-homeowners>
- CRCA Workshops and Presentations
 - <http://www.cleanwatercataraqui.ca/crca-workshop-and-presentations-for-municipalities>
- CRCA Source Water Protection Guidance Documents
 - <http://www.cleanwatercataraqui.ca/crca-source-water-protection-guidance-documents>
- Fact Sheets (including the Cataraqui Source Protection Plan Primer, FAQs, Quick Facts for Municipalities/Agriculture, Cataraqui Source Protection Plan Part IV Primer, and the Restricted Land Use Interactive Maps):
 - <http://www.cleanwatercataraqui.ca/cataraqi-source-protection-plan-explanatory-document>

Provincial resources:

- Ontario Ministry of the Environment and Climate Change:
 - <http://www.ontario.ca/environment-and-energy/source-protection>
- Ontario Ministry of Agriculture, Food and Rural Affairs:
 - http://www.omafra.gov.on.ca/english/environment/water_swp.htm
- Conservation Ontario:
 - <http://www.conservationontario.ca/>

- Environmental Review Tribunal:
 - http://www.ert.gov.on.ca/files/Guides/Guide_CWA_Nov_15_07.pdf

Who should I contact if I have more questions about source water protection?

If you would like to find out more about the Cataraqui Source Protection Plan and obligations for homeowners in the Cataraqui Source Protection Area, please contact the Cataraqui Region Conservation Authority:

Staff: Holly Evans, Environmental Technician

Phone: 613-546-4228 ext. 233 or 877-956-2722

Email: hevans@crca.ca



(Prepared by CRCA staff, June 2015)



Made possible through the support of the Government of Ontario

This material has been adapted with permission from a fact sheet produced by Conservation Ontario.