

# Source Protection Plan Bulletin – Overview of Requirements for Assessment Report and Source Protection Plan Amendments under S.36 of the Clean Water Act



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## Introduction

The purpose of the Clean Water Act (CWA) is to protect Ontario's existing and future sources of drinking water as part of an overall commitment to safeguard human health and the environment. A key focus of the legislation is the preparation of science-based assessment reports and locally-developed source protection plans. The source protection plans consist of a range of policies that together, will reduce risks to water quality and quantity.

Under this framework, the source protection planning process ensures that affected and interested parties have opportunities to contribute to the preparation of amendments to source protection plans and assessment reports. Source protection planning is a locally-driven, collaborative process between many partners, and includes significant municipal and public involvement through the source protection committees (SPCs), supported by local source protection authorities (SPAs).

## Plan Revisions under the CWA

The CWA enables assessment reports and source protection plans to be revised using one of four methods: 1) a locally initiated amendment under section 34; 2) a Minister ordered amendment under section 35; 3) an update resulting from a review under section 36; or 4) an amendment under section 51 of O.Reg.287/07 for minor/administrative revisions. Ultimately, the method used will depend on factors such as the level of complexity of the revisions and their time sensitivity.

This bulletin provides guidance for SPAs on considerations for the review of their source protection plan under section 36 of the CWA. Guidance on the considerations and process for reviewing and updating assessment reports and plans under sections 34 and 35 is available under a separate bulletin.

While every effort has been made to ensure the accuracy of the information in this document, it should not be construed as legal advice or relied on as a substitute for the legislation.

## Background

At the time each of the source protection plans were approved, the Minister was required to issue an order to specify which parts of the source protection plan and assessment report were to be reviewed under section 36 of the CWA. When the plans were being approved, we recognized that the review needed to be informed by the first few years of implementation, and that we needed input from the SPAs, SPCs and municipalities on the extent of the review of each plan. Given this, the Minister's order put in place a requirement for one of the following as an initial step in the development of detailed requirements to govern the plan's review:

1. A requirement for a workplan, developed in consultation with the local SPC, SPAs, municipalities and the MOECC, that will set out what aspects of the assessment report and source protection plan should be reviewed. Based on this workplan, the Minister may then issue another order specifying more detailed requirements governing the content and timeframes of the review. This approach is in place for 20 of the 22 plans.
2. A requirement that the SPA align the review of their source protection plan with the timing of the local municipality's official plan update. Based on this review, and following consultation between the MOECC and the SPA, the Minister may then issue another order specifying the content of the review of the plan and submission timelines.

Regardless of the approach set out in the Minister's approval letter, the lead SPA will need to undertake an analysis of the existing assessment report and source protection plan and develop a recommendation on the extent and timeline of their review. The only difference between the two approaches is that 20 of these workplans must be submitted to the province, whereas it's optional for the remaining 2 (Sudbury and Mattagami) to submit their workplans.

Considerations and factors that may help a SPA identify which parts of the assessment report and source protection plan need review are detailed in the 'Factors Influencing the Extent of a Review' section of this document.

When assessing these factors, the SPAs should keep in mind that updates under section 36 of the CWA are not intended to focus on simply making the source protection plans read better, rather the updates are intended to build in new information that advances understanding of risks to sources of drinking water and incorporates local growth.

In general, whether developing a workplan to inform a review or undertaking a review the SPA must take into consideration any experience gained from implementing the plans and information learned from the first annual progress report on implementation. In addition, any workplan must be developed in consultation with the SPC, participating municipalities within the Source Protection Area/Region, other SPAs within the region, and the MOECC.

## Factors Influencing the Extent of a Review

When determining the scope of assessment report and source protection plan updates that will be addressed within the workplan, the SPA should consider the local nature of the source protection plan and continue engaging local stakeholders to further understand local risks, growth and development pressures. The SPA should also consider the cyclical nature of plan updates, and whether they are needed in this cycle, or should be addressed in future cycles.

At a minimum, the SPA should take into account the following considerations and factors when assessing and prioritizing which portions of the assessment report and plan are to be reviewed and potentially updated, and the timelines for the review and/or updates:

- a. Results of environmental monitoring programs (Do the results of local environmental monitoring analysis identify a trend; Do results indicate policy approaches are/are not effective at meeting the 'cease to be significant' test under s22 of the CWA; Is there a need for additional environmental monitoring to inform future decisions and source protection plan updates).
- b. Growth and infrastructure changes (Has there been substantial growth within the Source Protection Area; Is new growth planned that was not considered in the original plan; Are there new drinking water systems; Are any municipalities planning to new or expanded drinking water systems; Are there new wells or intakes in existing systems).
- c. Council resolutions (Has there been any municipal council or First Nation Band council resolutions to add new drinking water systems; Are you aware of any plans for council resolutions to include other types of drinking water systems).
- d. Policy effectiveness (What is your annual report saying about your plan implementation; Is there a need to make changes to address new policy gaps or ineffective policies).
- e. Implementation challenges (Are there local concerns with source protection plan implementation that need to be addressed).
- f. Technical rule changes (Did your assessment report indicate your Great Lakes drinking water systems were more vulnerable to contamination than deeper systems; Are there Changes in the Tables of Drinking Water Threats that affect activities in your Area/Region; Are there changes to the Director Technical Rules that significantly changes the conclusions of your assessment report, or the outcomes of your source protection plan).
- g. Where your plan used prohibition policies for agricultural activities outside of the WHPA-A, you should undertake an assessment of the impacts of these prohibition policies on the agricultural community. The analysis should include an assessment of the effectiveness and impact of the prohibition policies versus what could be achieved through possible management approaches to the agricultural drinking water risks.
- h. Specific directions in your approval letters which is applicable to: North Bay-Mattawa; Essex; Thames-Sydenham; Saugeen, Grey Sauble, Northern Bruce

Peninsula; Lake Erie-Long Point; Lake Erie-Grand River.

- i. Other local considerations.

It is important to document your analysis in the submitted workplans to the MOECC as this will inform any recommendations to the Minister on the review of your plans.

## Workplan Content

Once the SPA has completed the preliminary assessment noted above, they should develop their workplan outlining the recommended content and timelines for their assessment report and plan review. Early engagement with the MOECC and municipalities on the contents of your proposed workplan is advisable. Based on this early feedback received from the MOECC and affected municipalities, the SPAs would then develop the workplan.

At this time, the MOECC is not prescribing a specific format or limits for the workplan; however, the workplan must be completed in a 'word' document and contain the following information:

1. Insert the names of all the source protection plans that this workplan applies to.
2. A brief description of your source protection area/region that specifies the upper and lower tier municipalities, their drinking water systems, and the number of current and planned wells and intakes associated with each.
3. Highlight the experience gained from implementing the plan(s) to date.
4. Highlight information from the first annual progress report on plan(s) implementation that helped you arrive at this workplan proposal.
5. Additional requirements as outlined in your initial Minister plan(s) approval letter (if applicable).
6. Identify the portions of the assessment report and plan that warrant further review, detailed rationale for including each portion, and who will carry out the review and associated updates, where updates are necessary.
7. The detailed steps for carrying out the review.
8. The timeframes for each step of the review.
9. Include the roles and responsibilities for plan amendments and identify if any municipality within your Source Protection Area/Region passed a council resolution consenting to perform a task identified by the SPC in connection with the preparation of the assessment report or source protection plan.
10. The consultation that will be undertaken as part of the review.

## Workplan Consultation

While the initial workplan content will be developed by the SPA (or lead SPA identified in the Minister plan approval letter), effective engagement with a number of key stakeholders throughout the process is necessary to ensure a comprehensive/local

workplan is submitted to the MOECC.

Participating Municipalities within the Source Protection Area/Region: Regularly engaging municipalities is important in order to identify potential new sources of drinking water (wells or intakes) or new systems that local municipalities plan to bring on-line in the future, and better understand local risks. Furthermore, consulting with local municipalities affords them the opportunity to identify a desire to lead any technical work and/or plan updates going forward.

Other SPAs within the Region: Consultation with other SPAs within the source protection region will help identify local concerns in plan implementation and afford opportunities to find efficiencies.

SPC: The local SPC should play an active role in the development of the workplan. This will help ensure local stakeholder content is addressed and will ensure the knowledge and experience of the SPC informs the plan review.

MOECC: Consultation with the MOECC on the proposed workplan in order to identify any potential issues of concern, as well as appropriate content.

## Workplan Submission and Review/Approval Process

Completed workplans are required to be submitted electronically to the [source.protection@ontario.ca](mailto:source.protection@ontario.ca) email address by the date prescribed in your initial Minister plan(s) approval letter (see Table 1 for summary).

Following submission of the workplans, the MOECC will review and consult with the lead SPA to finalize the scope of work as prescribed in each workplan. The Minister would then consider the issuance of a further order under section 36 that would set out detailed requirements for review of the assessment report and plans.

SPAs not required to submit a workplan, can choose to follow this same process. Their workplans will be considered in the same way as the mandatory workplans.

## Resources Available

When developing the workplan, and also during consultation on the workplan proposal with the MOECC, SPAs can contact your local Liaison Officer as well as the [source.protection@ontario.ca](mailto:source.protection@ontario.ca) email address.

Table 1: Workplan submission deadlines

<b>Source Protection Plan</b>	<b>Plan Effective Date</b>	<b>Date First Annual Progress Report Due</b>	<b>Workplan Due</b>
1.Lakehead	October 1, 2013	May 2016	November 30, 2017
2.Niagara Peninsula	October 1, 2014	May 2017	November 30, 2017
3.Mattagami	October 1, 2014	May 2017	N/A: A workplan was not formally requested; however, could be developed and submitted.
4. Mississippi-Rideau	January 1, 2015	May 2018	November 30, 2018
5.Lake Erie -Kettle Creek	January 1, 2015	May 2018	November 30, 2018
6.Quinte	January 1, 2015	May 2018	November 30, 2018
7.Lake Erie -Catfish Creek	January 1, 2015	May 2018	November 30, 2018
8.Sudbury	April 1, 2015	May 2018	N/A: A workplan was not formally requested; however, could be developed and submitted.
9.TCC	January 1, 2015	May 2018	November 30, 2018
10.Raisin South Nation	April 1, 2015	May 2018	November 30, 2018
11.Cataraqui	April 1, 2015	May 2018	November 30, 2018
12.Ausable Bayfield Maitland Valley	April 1, 2015	May 2018	November 30, 2018
13.South Georgian Bay Lake Simcoe	July 1, 2015	May 2018	November 30, 2018
14.North Bay Mattawa	July 1, 2015	May 2018	November 30, 2018
15.Sault Ste. Marie	July 1, 2015	May 2018	November 30, 2018
16.Essex	October 1, 2015	May 2018	November 30, 2018
17.CTC	December 31, 2015	May 2018	November 30, 2018
18.Halton-Hamilton	December 31, 2015	May 2018	November 30, 2018
19. Thames Sydenham	December 31, 2015	May 2018	November 30, 2018
20.Saugeen Grey Sauble Northern Bruce Peninsula	July 1, 2016	May 2019	November 30, 2019
21.Lake Erie -LongPoint	July 1, 2016	May 2019	November 30, 2019
22. Lake Erie -Grand River	July 1, 2016	May 2019	November 30, 2019