



January 30, 2007

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**Re: EBR Registry PA 06E0013
Regulations regarding Source Water Protection Committees**

Pollution Probe supports the Ontario Government's development of a regulation on Source Protection Committees as a positive step in creating an effective and fair process for the implementation of the Clean Water Act.

Attached please find Pollution Probe's comments, concerns and recommendations regarding the Discussion Paper on Source Water Protection Committees. The paper was posted for public comment by the Ministry of the Environment on January 2, 2007. Our recommendations focus on the areas in which we have knowledge and expertise. We intend that they will be useful and constructive.

Pollution Probe looks forward to working with the Ontario Government and with citizens and their businesses and organizations to make source water protection a reality in Ontario.

Sincerely,

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Submission by Pollution Probe Regarding Source Protection Committees

Background on Pollution Probe

Pollution Probe is a non-profit charitable organization that works with all sectors of society to protect health by promoting clean air and clean water. Established in 1969, Pollution Probe is supported by an active donor base of approximately 6,000 donors. Our mandate is to define environmental problems through research; promote understanding through education; and press for practical solutions through advocacy.

Our approach is to not point out problems without pointing out solutions. Working in partnership with industry, governments and communities, Pollution Probe offers innovative and practical policy-oriented solutions to air and water pollution issues and we seek to support measures that will assist in providing a clean, safe and healthy environment.

Source Water Protection and Pollution Probe

Source water protection has been a priority of Pollution Probe since we held a 1998 conference called “The Water We Drink” and subsequently released a report of the same name in 1999. We called for source water protection to become a priority months before the tragedy of Walkerton in 2000, which sadly opened everyone’s eyes to the wide range of issues surrounding the provision of safe drinking water.

Pollution Probe was honoured to be a participant in all phases of the Walkerton Inquiry. In 2004 Pollution Probe joined a number of organizations in the preparation and submission of an NGO Statement of Expectations regarding source water protection. In August 2006 we also contributed a submission to Bill 43, the Clean Water Act, concluding that Bill 43 was a very positive contribution to safer drinking water in Ontario and a solid foundation for a comprehensive protection regime for watersheds in general. In May of 2004 we released our Source Water Protection Primer, and in August 2006 we released Mainstreaming Climate Change in Source Water Protection Planning.

Through these reports and activities, and with our very widely distributed and well received Primers, we believe that Pollution Probe has helped to define the language, debate and direction of source water protection in Ontario.

Comments on Discussion Paper

In this section we provide comments and suggestions to the overall principles presented in the Discussion Paper. In the following section we offer specific responses to the questions posed through out the Discussion Paper.

The Clean Water Act and Human Health

The Clean Water Act was driven by the fundamental need to safeguard human health through the protection of drinking water sources. In doing so, the Act recognized the inherent link between environmental management and human health, and that drinking water is a public health issue. It is with this history and purpose that all regulations supporting the Act should become inclusive of human health perspectives and outcomes, as well as require public health representation within the Source Protection Committee.

Creating an Operational Source Protection Committee

The Source Protection Committee under the direction of the Chair is charged with delivering a Terms of Reference, an Assessment Report and a Source Protection Plan, as well as a public consultation program as part of the source protection process. As such, it is important that the composition, size and rules governing the Committee provide for the creation of a practical and operational team which can effectively and efficiently deliver the source protection program.

The structure of the committee should provide a balance of perspectives and interests, as well as knowledge and skills relating to environmental management and planning. The structure and rules governing the committee should also ensure that Committee meetings do not return to a conversation of the usefulness or applicability of the Clean Water Act, but focus on delivering the documents and process for which the Committee is responsible.

Source Protection Committee Membership

The structure of the Source Protection Committee proposed in the Discussion Paper could be strengthened through two measures. First, the committee should seek to specifically include representation from a number of groups only briefly mentioned in the Paper. This would help to ensure all necessary perspectives are included, as well as to include members which can provide environmental, planning and scientific input which will increase the operational capacity of the Committee.

Suggestions for the composition of a Source Protection Committee

- members from municipal government (upper and lower tier) representing the diversity of municipal interests and perspectives in the source protection area
- member who is a private well user (if applicable to region)
- First Nations member

- member from each of the top three economic sectors in the source protection region
- member from the local public health authority
- member who is staff from each of the conservation authorities within the source protection region
- member who is an ecologist
- members who are hydrologists or hydro-geologists (appropriate to source water type)
- member who is a professional engineer
- member who is a professional planner
- member from an environmental non-governmental group
- member from an “other” non-governmental group, but with expertise in environmental and public health
- member from the general public

In some source protection regions it may be appropriate for the Source Protection Authority and Chair to provide an additional seat or seats for particular perspectives and expertise to be brought into the process.

Responses to Specific Questions in Discussion Document

2.2.1 Qualifications of the Chair

- The Chair should sign a letter of neutrality
- Create a ranking system so that the selection of the Chair can be clearly illustrated through quantifiable evaluation. Assign values to criteria such as years of experience, knowledge in the field, leadership experience etc, and a weighting system for each qualification. This will help to ensure that the process is fair and transparent.
- Minister should be required to appoint the Chair from nominations put forth by the Source Protection Authority, without the opportunity to appoint a candidate outside of those nominated.
- The Chair should have organisational experience, such as working in a range of public and private organisations, and the associated related skill sets.
- The demonstration of an ability to understand source protection science should be extended to include environmental better management practices and how these effect positive health benefits and security.

2.2.4 Roles and Responsibilities for Chair

Chair would:

- Hold ultimate responsibilities for plan submission;
- Meet with Chairs of neighbouring Source Protection Committees to coordinate efforts and disseminate experience and ideas;
- Should ensure adequate consideration of source protection science and appropriate application of policy in Source Protection Committee activities.

2.2.4 Selection of Alternative Chair

- The Alternate Chair should not be appointed by the Chair, in order to avoid possible conflict of interest.
- Selection should be made by the Source Protection Authority with advice from the Source Protection Committee.

2.3.1 Selection of Municipal Members

- The requirement for Municipal members should be included in the regulations pertaining to the selection of the Source Protection Committee.
- Municipalities should nominate members to the Committee, but nominations must be approved by the Chair and the Source Protection Authority

2.4 Residency and Association of Source Protection Committee Members

- Members must reside in the source protection region except when a resident with appropriate qualifications is not available. However they must have the necessary qualifications and have a demonstrated interest or historical involvement in the region.
- If province wide organisations are interested in Committee membership they must demonstrate an interest or historical involvement in the region and issue.
- Members must not be Conservation Authority Board members.

2.4 Qualification of Committee Members

- Selection of committee members should be based on a process that includes a quantifiable selection process similar to that suggested for the Chair.
- All committee members should have a solid understanding of the underlying goals of source water protection, the historical backdrop to the legislation and a broader understanding of the environmental and health considerations that are integral to source protection.
- The demonstration of an ability to understand source protection science should be extended to include environmental better management practices and how these effect positive health benefits and health security.
- Professionals must have relevant expertise.

2.6 Individual Member Responsibilities

- Must commit to the process and the required dedication of time.
- There should be a minimum acceptable attendance.
- Their ability to accept these responsibilities should be included in the member review process.

3.2 Attendance by Teleconference

- If allowing teleconference meetings for extenuating circumstances, then the term “extenuating” should be defined so to avoid inappropriate use and decrease in attendance

3.9 Removal of a Member from the Committee

- The removal of a committee member by the Source Protection Authority should be at arms length from the Source Protection Committee. Complaints should not go through the Chair in the event that the Chair may be part of the problem.

4.3 Composition of Working Groups

- A Working Group should be formed to assess the source to tap security of drinking water supplies as well as associated risks and opportunities within the source protection area. This process should be extended to support rural water supply risk assessments where feasible.
- This information should be reported, inventoried and considered as a benchmark against which to evaluate future improvements.
- This is a fundamental step. The Source Protection Committees must be provided the monies to ensure Working Groups have the resources to complete their tasks, otherwise future efforts will be compromised.

7.0 Financial Compensation

We agree with the statements made by the Canadian Environmental Law Association in reference to financial compensation for the Source Protection Committee.

Additional Recommendations

We recommend that one or more standing committees be established at the provincial level to advise the Source Protection Committees on the handling of emerging threats, widespread cross-boundary issues, and Ontario-wide concerns as well as national developments in watershed-based, source water protection science and policy.

This is particularly relevant when considering the need for watershed-based protection activities for purposes which are complementary to, but also relevant to, the goals of drinking water source protection. The future directions for watershed-based Great Lakes protection and proposed new Canada Ontario and Great Lakes Water Quality Agreements may also have an effect on how watersheds are managed in Ontario and may have an impact on watershed management for source water protection purposes.