



Transportation and Works Department

May 9, 2007

James Scott
Senior Policy Analyst
Strategic Policy Branch
Ministry of Environment
135 St. Clair Avenue West, 11th floor
Toronto, Ontario M4V 1P5

Dear Mr. Scott:

**Re: Draft Regulations under the *Clean Water Act, 2006*: Source Protection Areas and Regions, Source Protection Committees, Terms of Reference, Time Limits, Miscellaneous
EBR Posting 010-0122**

Throughout the consultative process on the *Clean Water Act, 2006* (CWA), the Regional Municipality of York (York Region) has been an active participant and welcomes the opportunity to continue to provide relevant comments, as a provider of safe drinking water to over one million residents. On several previous occasions when the opportunity for comment has been provided, York Region has raised primary concerns to the Province, yet they have not been addressed. This submission is intended to emphasize the importance of previous comments made by York Region.

We again offer the following comments in response to the recent EBR posting concerning regarding draft regulations dealing with 1) Source Protection Areas and Regions, 2) Source Protection Committees, 3) Terms of Reference, 4) Time Limits and 5) Miscellaneous Provisions.

1. Adequate Municipal Representation on Source Protection Committees

Section 1 (1) of draft regulation on Source Protection Committees stipulates the size of these committees for each Source Protection Area or Region as identified in Tables 1, 2 and 3 of the draft regulation for Source Protection Areas and Regions. To this end, CTC and South Georgina Bay-Lake Simcoe Source Protection Regions will have a maximum of 16 members including the chair. Furthermore, Section 2 (1) provides the composition of Source Protection Committees as 1/3 municipalities, 1/3 sectoral and 1/3 other members. Accordingly, this allows for only five (5) municipal representatives for large regions such as CTC and South Georgina Bay-Lake Simcoe Source Protection Regions.

As in previous occasions, York Region reiterates that the current proposal does not allow adequate municipal representation on the Source Protection Committees responsible for the

development of the Terms of Reference (ToR), Assessment Reports (AR), and the Source Protection Plan (SPP); the latest to be implemented at the local level. We are concerned that the draft regulation does not guarantee representation from municipalities responsible for the provision of drinking water services, although the CWA requires these municipalities to administer and implement Source Protection Plans. As such, allocation of municipal members for the Source Protection Committee should be provided to those who own and operate water supply systems as designated under the *Safe Drinking Water Act, 2002*.

We therefore strongly recommend that the Ministry increase the size of the Source Protection Committee for large/complex Source Protection Regions/Areas. ***York Region strongly encourages the Province to allow provisions in the Regulation to increase the committee size to accommodate additional municipal representatives. For CTC and South Georgian Bay - Lake Simcoe Source Protection Committees, we would recommend to increase municipal representatives to a total of eight (8) and trust that York Region is assumed to have a seat at the table.***

This recommendation would propose that the municipalities hold eight seats and the other sector and public seats be equally divided for a total committee composition of 16 members, plus chair. The Region strongly feels there must be adequate municipal representation in the decision-making process of source protection planning to ensure that the final products (Assessment Report and Source Protection Plans) can be implemented at the local level.

We understand from discussions with MOE staff that concerns regarding remuneration for members of Source Protection Committees are a key consideration in limiting numbers of representatives. We therefore suggest that the Province exempt all municipal representatives from the 'members honorarium' and travel expenditures as discussed in Section 6.0 Compensation, in the Source Protection Committee Discussion Paper [EBR Posting PA06E0013]. Municipal representatives are public servants and participation on the Source Protection Committee or working groups is considered within the purview of their existing job descriptions.

Recommendation 1

That the draft Source Protection Committees Regulation is amended to allow exemptions to the committee size (section 1(2)) and composition (section 2 (1)) by the discretion of the Minister.

Recommendation 2

That the size of Source Protection Committees for CTC and South Georgian Bay-Lake Simcoe source protection areas be increased to 17 members including the chair, whereby municipalities, sectoral and other members hold eight, four and four seats respectively.

Recommendation 3

That representatives of municipalities appointed to a Source Protection Committee be exempted from the "members honorarium" and travel expenditures associated to their participation on the Source Protection Committee.

2. Consideration of Reasonable Time Limits

The Province needs to consider reasonable timelines for delivery of key items and respect the municipal Council and reporting processes. We remain of the opinion that there is a fundamental gap in the Province's understanding of the way the municipal council decision making process works. Within York Region, as in other municipalities in Ontario, staff requires at least a three month advance notice in order to give due consideration to initiatives and have these initiatives considered by Committee and Council. The Province must allow flexibility to ensure that they not impose short deadlines that circumvent the Source Protection Committee's ability to have adequate consultation with municipal councils.

The proposed timelines for the formation of the Source Protection Committee must be extended to 180 days, rather than the proposed 80 days. Municipalities need sufficient time to make decisions within the existing democratic process. Although it is agreed the joint selection of the Committee by municipalities is an important task, the proposed timelines do not allow for changes to the Committee, should one municipality disagree or request changes. Staff require sufficient time to prepare reports and submit within the already established municipal framework.

The draft Regulation stipulates time limits to provide information to the Minister as set out in the *Clean Water Act, 2006* but there is no indication as to the Minister's deadlines to approve submissions made by the Source Protection Authority on behalf of the Source Protection Committee. We are concerned that delays in the approval process may negatively impact the process of solving drinking water threats and issues, thereby unnecessarily increasing health risks to residents.

Recommendation 4:

The proposed timelines for the formation of the Source Protection Committee be extended to 180 days.

Recommendation 5:

The Time Limits regulation must include provisions whereby deadlines are established for the Minister to approve the three key documents to be prepared by the Source Protection Committee.

3. Miscellaneous Regulation – Scope of Work

Sections 8(3) and 10(7) of the CWA permit a municipality or the Minister to add additional existing or planned drinking-water systems for consideration during the completion of the Assessment Report. Section 3(1) of the draft Miscellaneous Regulation limits the ability of a municipality or the Minister to add a non-municipal drinking water systems that only serves one private residence, unless the well or intake for the drinking water system is within a cluster of 6 or more wells or intakes; or the system is within a settlement area defined under the Planning Act.

We respectfully ask for clarification to identify who will be responsible for the costs associated with including non-municipal drinking water systems as part of the terms of reference in the circumstances allowed by section 3(1). We appreciate the importance of considering non-

municipal supplies as part of the source protection planning exercise, but we are concerned that there is a lack of direction with respect to roles and responsibilities of relevant stakeholders, and who bears the burden of costs associated with planning and implementing measures to protect these drinking water systems.

In addition, the Regulation does not define a 'cluster' in terms of spatial resolution. We suggest that this term should be clarified.

Recommendation 6:

Provide further detail into section 3(1) regarding to roles and responsibilities and funding obligations associated with the inclusion of non-municipal drinking water systems in the source protection planning process.

Recommendation 7:

There needs to be flexibility for municipalities to define what a "cluster" is according to local conditions or direction from the Minister on how a "cluster" is to be defined.

4. Sustainable Funding for Implementation

Although there is no discussion about funding in the first set of regulations released as part of the current EBR posting, we would like to take this opportunity to again emphasize the need for sustainable funding to implement recommendations arising from source protection plans. York Region is pleased with the Province's acknowledgement to provide 100% funding for the preparation of the three key documents required by the CWA, but remains concerned with respect to the cost associated to implementation and enforcement of source protection plans.

As previously stated, the powers of the Source Protection Committee to implement measures have significant financial implications to municipalities and very little accountability to municipal taxpayers. To date, there has been no commitment by the Province to financially support the implementation measures of this work, nor guidance on how this implementation will happen. There is also no sustainable funding to maintain the Source Protection Authority. The Region is concerned that this financial burden will be downloaded to municipalities, which we consider to be a duplication of the *Conservation Authorities Act*.

Recommendation 8:

That the Province establishes a sustainable, secure and long-term funding program to support the implementation and enforcement of source protection plans.

Due to the limited time for review of this EBR posting, the above comments are submitted in draft and a report will be taken to both the Regional Transportation and Works Committee as well as the Planning and Economic Development Committee and thereafter to Regional Council in June, 2007 for ratification. We will advise you of the outcome of this process.

We thank you for this opportunity to comment and look forward to working with the Province toward a functional solution that protecting drinking water sources and the residents of York Region.

Sincerely,



Debbie Korolnek, P.Eng
General Manager, Water and Wastewater

LA/WK

Copy to: Mr. Bob Panizza, Municipal Clerk, Town of Aurora
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Mrs. Anita Moore, Town Clerk, Town of Newmarket
Mr. Robert Prowse, Town Clerk, Town of Richmond Hill
Mr. John Leach, Clerk, City of Vaughan
Mrs. Michele Kennedy, Clerk, Town of Whitchurch-Stouffville
Mrs. Beverley Thorpe, Project Manager, CTC
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