



August 20, 2004

Dawn Landry, Policy Adviser
Strategic Policy Branch
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Subject: Draft Drinking Water Source Protection Act (EBR# AA04E0002)

Dear Ms. Landry,

I am writing in response to the Environmental Bill of Rights Registry posting on the draft *Drinking Water Source Protection Act* (EBR# AA04E0002). Conservation Ontario continues to support the direction of the proposed legislation and we look forward to the release of implementation details. We encourage the Province to continue to make progress in this regard.

Conservation Ontario offers the following comments on the draft legislation where further clarification or consideration is required.

Regulations

- Clarification needs to be provided as to how much detail will be left to Regulation and when the Province intends to release the Regulations for public comment. Conservation Ontario looks forward to the release of the Regulations and implementation guidelines in support of Source Protection legislation.

Subsection 5(9) – Exceptions to Source Protection Regions

- Subsection 5 (9) allows for the deviation from one source protection committee to multiple committees if the Minister and the source protection boards agree. In general, Conservation Ontario supports a single source protection committee as this will ease coordination and administration. However, we recognize there will be situations where exceptions will result in more effective local management of source protection plans. The province should provide guidance on the circumstances under which multiple committees will be considered.

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Subsection 7(2) – Content of Assessment Reports

- Under Subsection 7(2) clause iv. appears to be repeated in clause vii. Both appear to be addressing the location of existing and anticipated wells and intakes that are part of the existing and anticipated drinking-water systems. Is there an item that is missing from this section or was the clause mistakenly duplicated?

Section 8 – Source Protection Plans

- Conservation Ontario notes that there is no discussion of municipal endorsement in the approval process. Is this to be dealt with in the regulations?

Section 9 – Failure to Prepare

- Section 9 provides the process for the Ministry of the Environment to take-over a source protection plan if there is failure to complete it. Conservation Ontario strongly advocates that the Ministry must develop clear benchmarks/performance standards upon which this decision will be made. It is also stressed that the Province must ensure that the Ministry of the Environment follows similarly rigid timelines to ensure that that source protection is supported in a timely fashion. The Province must ensure that it has the required capacity to meet timelines for such things as allocation of funding, accessibility of provincial data, approval of plans, etc. This necessitates a required investment into the Ministry of the Environment to ensure that this capacity exists.
- Subsection 9(3)(b) states that the Minister may make an order “*requiring the source protection board, within such time period as may be specified in the order, to repay any amounts paid to them by the Crown in right of Ontario in connection with the preparation of the terms of reference, assessment reports and source protection plans specified under clause (a).*” Clarification must be provided in the legislation as to “repayment” of provincial funds. It is recommended that that “repayment” should be based on completed deliverables and unused funds (i.e. deliverables that were not completed).

Section 12 - Amendments

- Section 12 addresses plan amendments. The section implies that the source protection committee is still active after plan approval but this must be clarified in the legislation. In this regard consideration should be given to the ongoing role of the source protection board vis a vis the source protection committee. It is recommended that the purpose of the source protection committee must be clear in the legislation particularly if an ongoing role is envisioned. For example, once the source protection plan is developed the committee may:
 - oversee implementation;
 - play an on-going monitoring role;
 - review the terms of reference each year;
 - update the plan, etc.

It is noted that many of these functions could be assigned to the source protection board. ...3

- Conservation Ontario also believes that the grounds for amending the source protection plan are quite specific and thus limiting. It is recommended that, in addition to specific triggers, a provision for periodic updates should be included in the legislation.

SCHEDULE

- The Schedule to the legislation does not currently include the five (5) northern Conservation Authorities (i.e., Lakehead Region Conservation Authority, Mattagami Region Conservation Authority, Nickel District Conservation Authority, North Bay-Mattawa Conservation Authority, and Sault Ste. Marie Region Conservation Authority). The Province must give Northern Ontario the same priority as Southern Ontario for source protection. Further discussions are required in this regard.
- Conservation Ontario advocates that the five (5) northern Conservation Authorities are prepared to undertake source protection planning within their current watershed areas in whole or in part. Conservation Ontario can provide a representation of the watershed area which the northern Conservation Authorities can cover for source protection planning.
- Discussions are required as to the inclusion of areas outside of Conservation Authority jurisdiction in the north and the funding and resources that would be required over the long-term to do the necessary work.

Sustainable Funding

Further to the above comments on the draft legislation, Conservation Ontario strongly advocates that the Province must determine a sustainable funding model in support of source protection that will provide 100% of the Conservation Authority cost for source protection planning. This model is required to ensure that the expertise and capacity exist in all parts of the province to deliver source protection planning and implementation.

Ontario's 36 Conservation Authorities are prepared to move forward with source protection planning and we look forward to working with all our partners to ensure the protection of Ontario's drinking water resources. If you have any questions with regard to the above comments please contact Charley Worte (Source Protection Specialist) at (905) 895-0716 ext. 26.

Yours truly,

Richard D. Hunter
General Manager

c.c. CAO/General Managers, all Conservation Authorities