

**Guidance on Source Protection Committees under the *Clean
Water Act, 2006***

Purpose

The purpose of this document is to provide guidance for the establishment and operation of source protection committees. It is an accompaniment to the *Clean Water Act, 2006* and the Source Protection Committees regulation that governs these committees. While every effort has been made to ensure the accuracy of the information contained in this guide, it should not be construed as legal advice. If you have any doubts or questions regarding the legal aspects of this guide you should consult legal counsel.

The format and structure of this guidance document follows the process of establishing and operating the source protection committee set out in the Source Protection Committees regulations. At the commencement of each section, where applicable, there is a plain language description of what the regulation states, thereafter, the guidance is described.

If there are concerns, questions or suggestions, please send an email to “Ask the Expert” at source.protection@ontario.ca. The province intends to update this guidance periodically and post it on the Ministry website.

Background

The *Clean Water Act, 2006*, (formerly Bill 43), was introduced for First Reading on December 5th, 2005. Following Second Reading on May 18, 2006 the Bill proceeded to the Standing Committee on Social Policy. Public hearings were held August 21-25, 2006 in Walkerton, Toronto, Cornwall, Bath and Peterborough. Clause by clause review of the Bill took place September 11-12, 2006. The *Clean Water Act, 2006* passed Third Reading on October 18, 2006. The *Clean Water Act* received royal assent on October 19, 2006 and was proclaimed on July 3, 2007.

Consultation on the first phase of regulations began with a 30-day posting on the Environmental Registry of a Discussion Paper on Source Protection Committees on January 2, 2007. The comment period closed February 1, 2007, and 91 submissions were received. These submissions were considered during the development of the draft Source Protection Committees regulation. Comments will continue to be considered during the development of guidance to support the Source Protection Committees regulation.

The first phase of draft regulations was posted on the Environmental Registry on April 12th for a 30-day comment period which closed on May 12th, 2007. Over 90 comments were received from a range of sectors, including the public. Over that period, the Ministry of the Environment held five regional consultation sessions in Sudbury (April 18), Toronto (April 24), London (April 26), Ottawa (April 30), and Orillia (May 9) to consult on the draft regulations. Representatives from conservation authorities, municipalities, agriculture, health, industry, and non-governmental organizations were invited to attend the roundtable sessions. Representatives from a number of provincial ministries (e.g. OMAFRA, MNR, MOH) also attended these sessions.

The Ministry also held three separate information sessions with bands located in the proposed source protection areas to discuss the draft regulations. These sessions were facilitated by the

Mohawks of the Bay of Quinte (May 29), the Six Nations of the Grand River (May 31) and Whitefish Lake (June 5) First Nations.

The draft Source Protection Committees regulation was revised based on feedback received through EBR submissions, regional sessions and consultations with other provincial ministries.

Key concerns were consistently raised on the need for the following:

- Greater transparency in the appointment process for source protection committees;
- Larger source protection committees where needed and flexible operation;
- Number of First Nations members;
- Managing the selection process for municipal representatives; and
- More time to establish committees and for committees to complete the terms of reference for approval by the Minister.

As a result, amendments to the regulations were made and are described below.

Transparency in Source Protection Committees Appointment Process:

Additional requirements have been incorporated into the Source Protection Committees regulation to ensure greater transparency in the appointment and notification processes. Source protection authorities are now required to ensure that notification related to the appointment process is available in public locations such as a conservation authority office and not just via the internet or newspapers. The source protection authority must also post the proposed make-up for the source protection committee and consider public comment before posting the final make-up (and the reasons for the decision on this make-up), and making final membership selections.

Flexibility in Source Protection Committee Size and Operation:

Three key changes were made to allow for greater opportunity for participation and flexibility in the local planning process.

- The regulation has been amended to allow for greater flexibility in committee size. Committees may fall into one of three tiers (10, 16, 22) based on watershed characteristics such as geographic size or number of member municipalities. The ministry has been considering requests by each source protection authority through the EBR process on what size will best meet local circumstances and has tried to meet these requests wherever possible.
- Allowing for the inclusion of three non-voting committee liaisons (e.g. could include representatives from the Crown, source protection authority, medical officers of health).
- Permitting the use of a proxy to act as an alternate for a member when they are unable to attend a source protection committee meeting.

Number of First Nation Members:

The Ministry held regional information sessions, focusing on these draft regulations, for First Nations located in source protection areas. Attendees shared their views with respect to allowing for only one First Nations' representative on larger source protection committees where there are multiple First Nations located in the same source protection area or region.

- The Source Protection Committees regulation has been amended to allow for greater First Nation representation on larger source protection committees that have multiple First Nations in the source protection area. The draft regulation proposed one reserved seat for First Nations in some source protection areas or source protection regions. Based on First

Nations' feedback, the regulation has been revised as follows: one reserved seat for 10-member source protection committees; two reserved seats for 16-member committees; and three reserved seats for 22 member committees (should they wish to participate by passing a band council resolution).

Streamlining the Municipal Selection Process:

Conservation authorities, Conservation Ontario and several municipalities raised concerns about the feasibility of all municipalities in a source protection region or area jointly selecting representatives (i.e. all municipalities must jointly pass a resolution recommending the same members) for appointment to the source protection committee by the source protection authority.

- The Source Protection Committee regulation has been amended to allow the source protection authority to divide the municipalities that are located in the source protection area or region into groups. Source protection authorities will work with municipalities to determine appropriate groupings. The authority would then tell each group how many of the municipal representatives their particular group is to select. Each group of municipalities would then work together to provide a list of names to the source protection authority and the SPA would appoint those people as the municipal representatives on the committee. If a group's list contained more names than they were told to provide, the authority would pick from the list of names provided. The authority would then appoint the number of members of the source protection committee that are assigned to the group from a list of persons that is submitted jointly by the councils of the municipalities that are in the group.

Timelines:

Stakeholders generally agreed that source protection plans should be in place by 2012 but raised concerns about the time required to put in place source protection committees and to prepare the terms of reference for the Minister's approval.

- The timelines have been extended so that source protection authorities now have until late fall to establish source protection committees (i.e. the draft regulation proposed 80 days for formation of the committees, the final regulation proposes to allow 135 days). The Association of Municipalities of Ontario and other municipalities have indicated that municipal councils often don't sit in the summer and need at least two meetings to nominate and select municipal membership on the committee. More time up front will also allow chairs to be in place before committees are appointed.
- Source protection committees now have an additional three months to complete the terms of reference. The terms of reference is now due 14 months from the time the Minister appoints the chair. Section 94 of the *Clean Water Act, 2006* also provides the Minister with the authority to extend time limits for anything under the Act, even if the time limit has already expired.

Next Steps

A number of other regulations will be developed in the coming months including the Assessment Report and Source Protection Plan regulations. In the interim, the *Clean Water Act, 2006*, provides the basic framework on the preparation of assessment reports and source protection plans.

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1.0 Recommending a Chair for Minister's Appointment

What the Legislation says...

The Minister of Environment will appoint the chair of the source protection committee, after considering any recommendations from the source protection authority.

1.1 Chair Qualifications

The following is a list of qualifications that the source protection authorities should consider when selecting candidates to recommend to the Minister as chair for the source protection committee:

- Expressed willingness to remain neutral;
- Demonstrated ability to understand source protection science, concepts, and technical reports;
- Demonstrated involvement in and/or knowledge of past water quality/quantity management activities;
- Advanced negotiating, mediation, facilitation, and consensus-building skills;
- Proven leadership, team-building, and motivation skills;
- Familiarity with the rules of operation for committee processes;
- Understanding of municipal and conservation authority functions and processes;
- Solid problem-solving, analytical, oral and written communication, and organizational skills;
- Knowledge of the local watershed(s), communities, and issues;
- Political acuity; and
- Willingness to travel around the source protection region.

As the *Clean Water Act, 2006* is a locally driven, watershed based process, it is expected that the source protection authorities would initially look for a qualified candidate within the source protection region or area but should it not find one, authorities can also look at suitable candidates from other watersheds.

Letters of interest or applications for the position of chair identify the qualifications and duties outlined in this document and any other additional qualifications that the source protection authority may have specified in its call for applications.

There are a number of mechanisms that the source protection authority could use to seek out potential committee chair candidates. Most commonly, the authority could advertise and/or invite interested parties through advertisements in local newspapers that have wide circulation across the communities in the source protection region or source protection area. The authority could also use other forms of communication such as placing advertisements/flyers in libraries, municipal offices, community centres, universities, etc, specifying minimum qualifications as

well as the application process. Coupled with the other methods for solicitation, the authority could also approach key watershed stakeholders directly and ask them to submit a potential candidate. In considering approaches, the authority should consider public transparency in selecting their methods.

1.2 Duties of the Chair

Potential candidates should be made familiar with the expected roles and responsibilities of the Chair, some of which are outlined below:

Chair must:

- Follow the rules of procedure and code of conduct and conflict of interest policy as developed by the source protection committee;
- Provide quarterly updates to the source protection authority on the status of the committee work; and
- Be prepared to participate in meetings of the committee chairs as requested by the Minister.

While some of these duties may fall into the rules of procedure, the chair should:

- Guide the effective operation of the committee;
- Chair meetings of the committee;
- Where requested by the source protection authority or where time permits, work with the authority in the region to determine the composition of the source protection committee and select members;
- Act as a neutral member;
- Function as the spokesperson for the source protection committee;
- Oversee and provide guidance to the source protection committee through the source protection planning process;
- Work collaboratively with stakeholder groups and other organizations;
- Attend public information sessions and participate in public consultations;
- Attend periodic meetings at the request of the Ministry to discuss program and process matters including consistency and coordination, as well as investigate or explore specific issues such as Great Lakes;
- Liaise with source protection authorities and municipalities on the progress of the planning process; and
- Work with the authorities to address removal of a committee member.

As the chair will have a reporting relationship to the source protection authority as specified in the regulation, it would be a conflict of interest for the chair to be a member or chair of the source protection authority. In the event of being appointed chair, he or she should submit a letter with their application stating their intention to resign from the source protection authority.

1.3 Identification of Potential Chairs for Recommendation

The authority is advised to interview the candidates against the qualifications set out earlier and generate a short list of names of persons. As part of the process, potential candidates should be familiar with the conflict of interest declaration form. The candidates will be required to complete and sign the Declaration of Conflict of Interest form. In addition, the candidates will be required to complete and sign the release for Police and Canadian Police Information Centre (CPIC) check form which constitutes Part II of the Declaration of Conflict of Interest (DCI). **It is essential that these forms be completed accurately and in their entirety.** For example, full name does not mean First Name, Initial, Last Name, it means full complete names. Failure to do so will result in the DCI being returned by the Ontario Provincial Police and an unnecessary delay in the process.

The source protection authorities should have the candidates fill out the DCI as soon as possible. In fact, they should be encouraged to complete the document as part of their application for the position of chair. Completed DCIs (individual or packages) should be sent by courier to:

Manager, Source Protection Approvals,
Ministry of the Environment
Drinking Water Program Management Branch
2 St. Clair Avenue West, 8th floor
Toronto, ON M4V 1L5

The Ministry will send the completed DCIs to the Public Appointment Secretariat (PAS) who will carry out the police records and CPIC checks. The PAS will send back to the Ministry the results of the checks indicating whether the person passed or failed. The Ministry will then courier the results to the source protection authority.

The Ministry will maintain a database to track the status of received DCIs and results of the PAS check.

All applicants can be assured that safe guards are in place to guarantee that all information will be protected in accordance with the *Freedom of Information and Protection of Privacy Act*.

Finally, the source protection authority will forward the names of the top three (3) candidates for the committee chair, along with the applicants' submission packages, to the Minister. The source protection authority is encouraged to forward, as part of this package, a recommended candidate and rationale for the recommendation. This recommendation can be in the form of a numeric ranking or any other means that the source protection authority chooses. It must, however clearly indicate the candidate of preference and be supported by the rationale document.

The recommendation package should include the following:

- A copy of the advertisement or whatever document(s) was used to solicit expressions of interest;
- A copy of the CV and/or expression of interest of each candidate considered;
- If an interview process was utilized, a copy of the questions and the candidates responses;
- A signed copy of the completed Declaration of Conflict of Interest for each candidate;

- A recommendation and rationale of the source protection authority as to the ranking of the candidates submitted;
- List of candidates references; and
- Any other information that the source protection authority deems appropriate to submit to the Minister to assist in the final selection process.

Completed recommendation packages should be couriered by August 3, 2007 to:

Director, Drinking Water Program Management Branch
Ministry of the Environment
Drinking Water Program Management Branch
2 St. Clair Avenue West, 18th floor
Toronto, ON M4V 1L5

1.4 Appointment of the Chairs by the Minister

The Act states that the Minister of the Environment is responsible for appointing chairs of the source protection committees, after considering any recommendations from the source protection authority. Nineteen (19) source protection chairs will be appointed, one for each of the eleven (11) source protection regions and eight (8) stand-alone source protection areas.

Source protection committee chairs will be appointed by the Minister through a Letter of Appointment, which will include the duties, remuneration rate, and the term of appointment. It is anticipated that only under exceptional circumstances would the Minister appoint a chair without a recommendation from the source protection authorities.

All 19 chair appointments will be posted on the Public Appointment Secretariat's (PAS) website for public information.

2.0 Establishing the Source Protection Committee

What the Legislation says...

Under the *Clean Water Act, 2006* (CWA), the source protection committee will develop three pieces of documentation that will complete the source protection planning process: (1) a terms of reference, (2) an assessment report, and (3) a source protection plan. The committee will do this by following the Act, its regulations, Director's rules (in respect of assessment reports), and guidance material.

The source protection authority will establish a source protection committee for a source protection area or a source protection region, if a region exists. The size of the committee and the process to establish it will be outlined in the regulations.

What the regulation says...

The regulation sets out the number of members on each source protection committee (10, 16 or 22 members, including the chair). The members appointed by the source protection authority are divided to represent various interests as follows:

- 1/3 of the members to represent municipal interests;
- 1/3 of the members to represent agricultural, commercial or industrial sectors, which may include small business; and
- 1/3 of the members to represent other interests in the source protection region or area, including environmental, health and the general public interests.

In addition to these members, source protection committees may be increased by 1 to 3 members (depending upon the size of the committee) to include members to represent First Nations.

2.1 Appointment of Municipal Source Protection Committee Members

What the regulation says...

The regulations require the source protection authority to determine groups in consultation with municipalities and must, not later than September 3, 2007, provide a notice to the clerk of each municipality located in the source protection area or region that includes the following information:

- a summary of the functions of the source protection committee;
- the number of municipal members on the committee;
- the groups of municipalities that will select the municipal members;
- the number of municipal members that will be selected by each municipal group; and
- the date by which a joint list from each municipal group will be submitted to the source

protection authority.

Municipalities have 60 days from the time the notice is given to the clerks, to provide the joint list to the source protection authority.

If a group's list contains more or fewer names than their allotted members, the authority would pick from the list of names provided or select additional members, respectively. The regulation also allows the source protection authority to select municipal members if it does not receive the joint list back from the municipalities by the date specified in the notice.

The source protection authority must consult with municipalities on how to develop the groups to ensure that representation reflect the make-up of the watershed.

It is anticipated that grouping municipalities within each source protection area or region will contribute to an effective member selection process. For example, some source protection regions have over 50 municipalities within their region (upper tier, lower tier, or single tier). As a result the voice of a smaller municipality may be lost in a 50-member decision-making process and would be more effective within a smaller group that is represents local interests within the source protection region.

While the number of groups may generally be based on the number of municipal seats available on the source protection committee (for example, 3 municipal seats = 3 groups) it is recognized that this is not always possible or preferable. In such cases, source protection authorities and municipalities may decide that alternate allocations. Depending on the criteria chosen to create the groups, some groups may be assigned more than one seat to the source protection committee.

Some municipalities within a group may feel that if the person selected by the group is not from their particular municipality, their municipality's participation in the process may be limited. As a result, it should be noted that municipalities have multiple avenues to participate in the drinking water source water protection planning process, including contributing to work carried out for the assessment report and source protection plan, participating on municipal working groups, and participating in consultation sessions for the terms of reference, assessment report, and source protection plan.

Key Considerations

Considerations for developing the groups may include watershed or subwatershed boundaries, municipal boundaries, population, area, location of municipal drinking water supplies and by-law making authority. In addition, groups can be established using existing municipal working relationships, such as those currently in place under the *Conservation Authorities Act*.

Once groups are established, a major consideration for selecting municipal representatives to sit on the committee may be to prioritize municipal water providers.

Other considerations may include selecting a range of individuals who bring forth experience in both rural and urban planning, as well as those who have experience in addressing Great Lakes issues.

Overall, a balance between elected officials and technical municipal staff is encouraged.

Key Dates

From the date the notice is sent to the clerks (September 3, 2007), each group of municipalities will have approximately 60 days to work together and pass individual council resolutions that provide a list of endorsed names of municipal representatives to the source protection authority. The authority will then appoint these people as the municipal representatives on the committee. If a group's list contained more names than they were required to provide, the authority would pick from the list of names provided and appoint the appropriate number to the committee. The source protection authority has 15 days after receipt of the list of names from the groups to appoint municipal representatives to the source protection committee.

2.1.1 Possible Scenarios for Determining Groups

The following scenarios may provide possible examples as to how these groups may be established and are provided for illustrative purposes only. Source protection authorities and municipalities are under no obligation to utilize the groups devised for the examples within this document. If lead source protection authorities have established groups in consultation with municipalities, which differ from the examples below, those groups are also acceptable.

Below are two examples of how groups may be established:

- A. Municipal structure; and
- B. Geographic location, specifically by watershed.

A. Groups Determined by Municipal Structure (e.g. upper tier, single tier and lower tier municipalities)

This scenario uses municipal boundaries and structures to determine the groups as they build upon established governance structures and existing working relationships/ agreements between upper tier and lower tier municipalities. The difficulty with using this approach is that the municipal boundaries do not always align with the boundaries of the source protection areas or regions. The maps indicate the location of municipal drinking water systems for reference purposes only.

Lakehead Region Source Protection Area

Lakehead Region Source Protection Area has been designated 3 municipal members (overall 10 members on the committee). However, within this source protection area, there are 8 municipalities, including the City of Thunder Bay (single tier). In addition to municipal structure, this scenario takes into consideration municipalities with responsibilities in providing water treatment services. As a result, both City of Thunder Bay and the Municipality of Oliver Paipooonge have been allocated their own group.

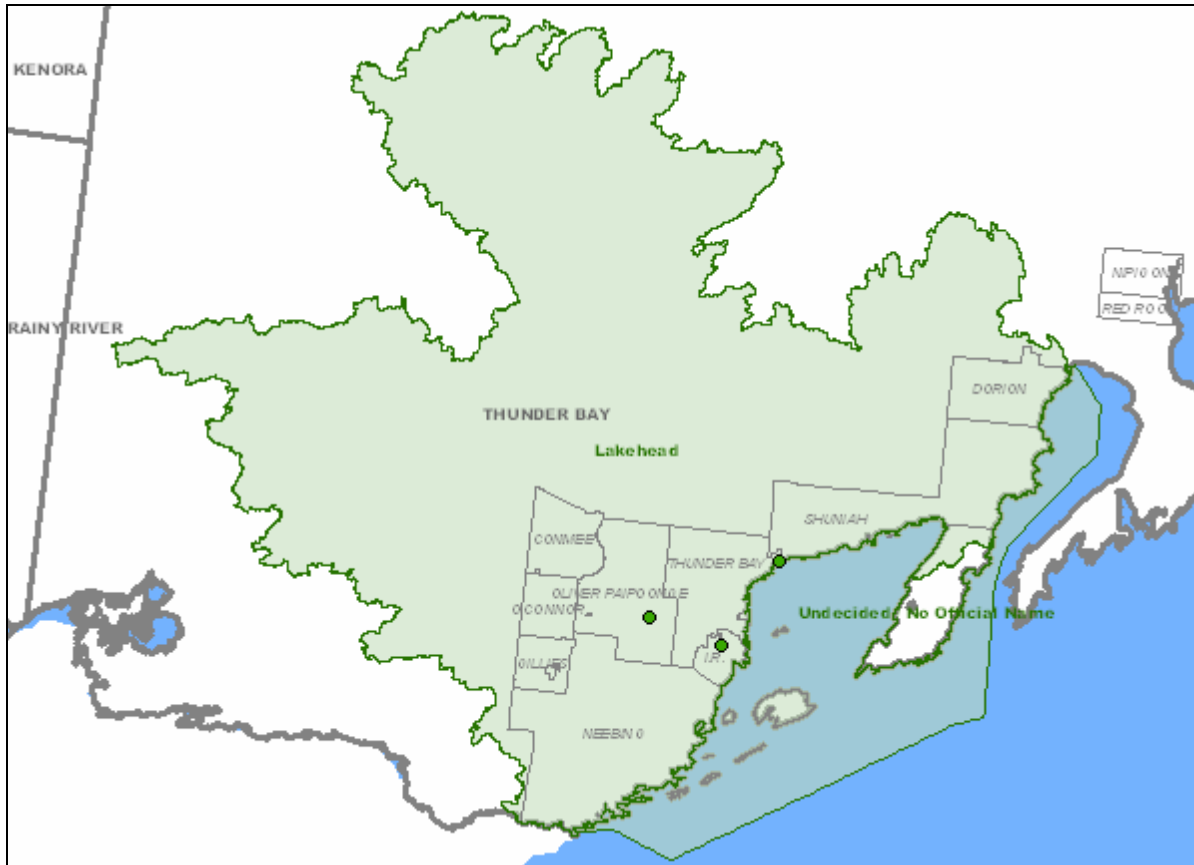


Figure 1: Lakehead Region Source Protection Area (dots represent municipal drinking water systems)

Group #1 – one seat	Group #2 – one seat	Group #3 – one seat
City of Thunder Bay	Municipality of Oliver Paipooonge	Municipality of Neebing Township of Conmee Township of Gillies Township of O'Connor Township of Dorion Township of Shuniah

Halton- Hamilton Source Protection Region

The Halton-Hamilton Source Protection Region has been designated 5 municipal seats (overall 16 members on the committee). However, within this source protection region, there are 13 municipalities, including 1 single tier, 4 upper tier, and 8 lower tier municipalities.

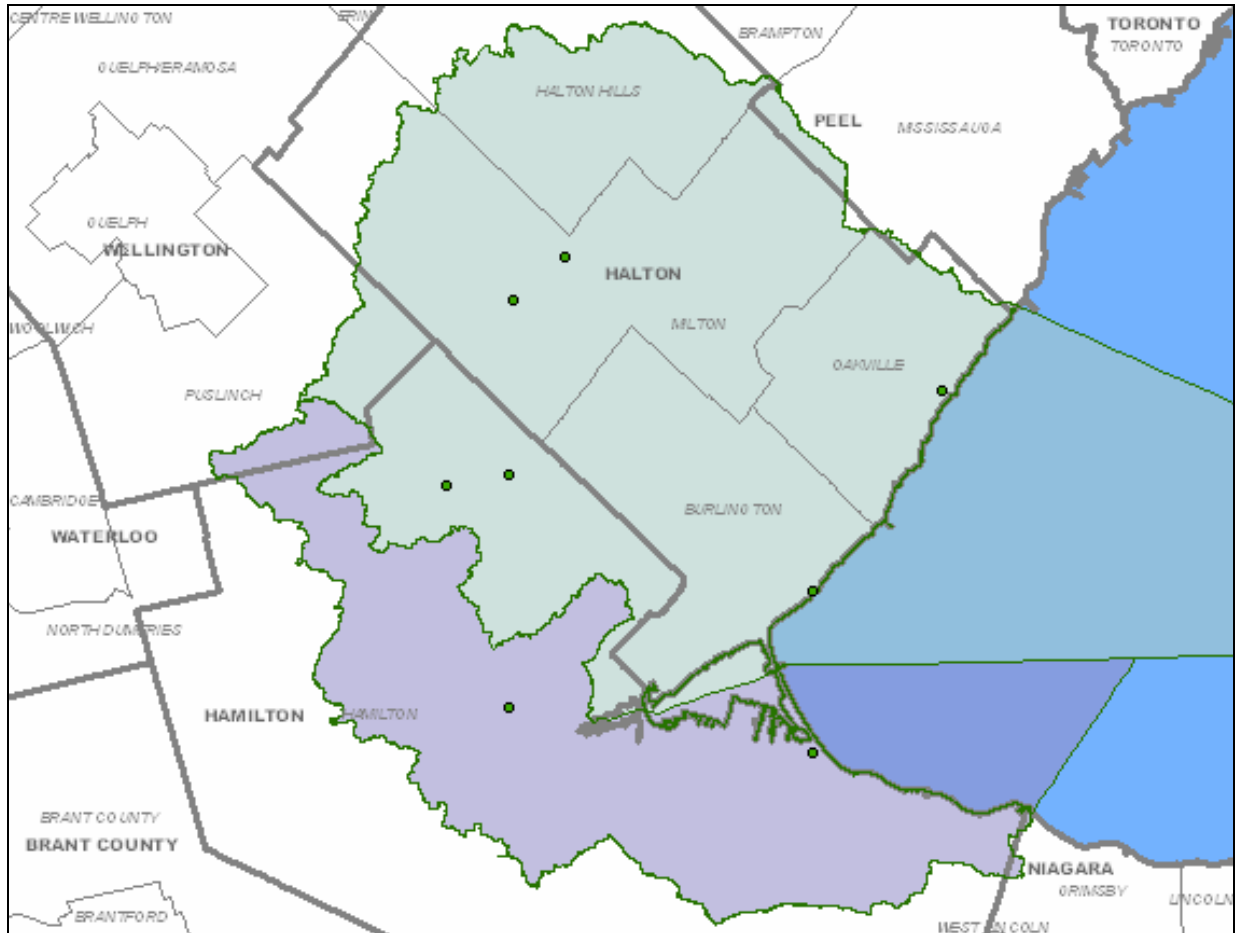


Figure 2: Halton-Hamilton Source Protection Region (dots represent municipal drinking water systems)

Although it is generally recommended that the number of groups selected equal to the number of designated seats, in this potential scenario only three groups have been created based on the following considerations: municipal structure (one single tier municipality and two upper tier municipalities), the size of the source protection region occupied by two large municipalities, and the geographic distribution and proximity of the municipalities to one another.

Group #1 – two seats	Group #2 – two seats	Group #3 – one seat
City of Hamilton <i>Regional Municipality of Niagara, Town of Grimsby*</i>	Regional Municipality of Halton, And lower tier municipalities: Town of Milton, Town of Halton Hills, Town of Oakville, City of Burlington <i>Regional Municipality of Peel, City of Mississauga*</i>	County of Wellington, Township of Puslinch

**These municipalities were included in these groups due to proximity and were not placed in there own group due to the limited size of the area they occupy within the source protection region.*

Lake Erie Source Protection Region

Lake Erie Source Protection Region has been designated 7 municipal member seats (overall 22 committee members). This source protection region is quite large and includes 52 municipalities, 8 single tiers, 9 upper tier and 35 lower tier municipalities.

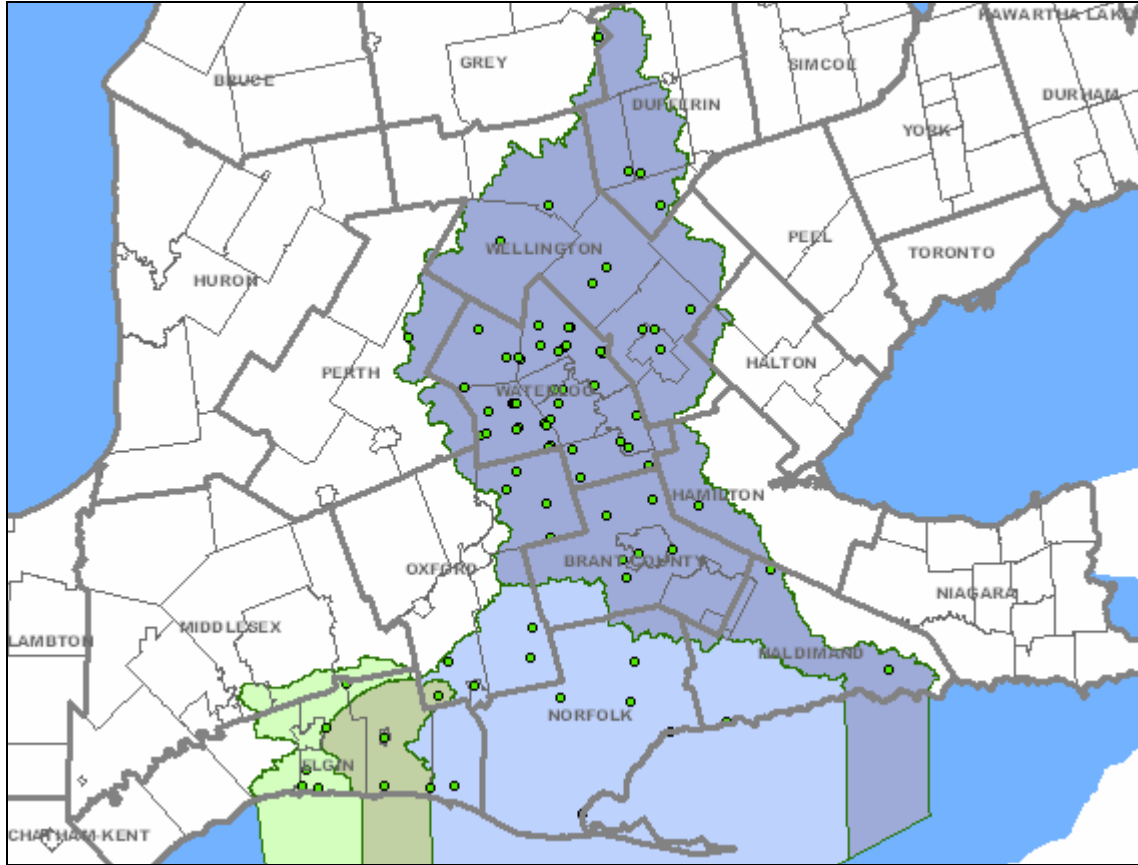


Figure 3: Lake Erie Source Protection Region (dots represent municipal drinking water systems)

The potential groups based on municipal structure could be single tier, upper tiers and lower tiers. This scenario provided below takes into consideration municipal size as a proportion of the source protection region, conservation authority working relationships, population, and the geographic proximity of municipalities to one another.

Group #1 – one seat	Group #2 – one seat	Group #3 – one seat	Group #4 – one seat	Group #5 – one seat	Group #6 – one seat	Group #7 - one seat
Regional Municipality of Waterloo (and lower tier municipalities*)	County of Oxford (and lower tier municipalities*)	City of Waterloo, City of Kitchener, City of Cambridge	County of Wellington (and lower tier municipalities*), City of Guelph	County of Grey (and lower tier municipalities*)	County of Haldimand	County of Elgin (and lower tier municipalities*), City of St. Thomas
County of Perth (and lower tier municipalities*)	County of Norfolk		Regional Municipality of Halton (and lower tier municipalities*)	County of Dufferin (and lower tier municipalities*)	County of Brant, City of Brantford	County of Middlesex, (and lower tier municipalities*), City of London
					City of Hamilton	

*Note: includes only the lower tier municipalities that occur within the source protection region

B. Groups Determined by Geography / Watersheds

This scenario uses geographic or natural boundaries such as watersheds or subwatersheds to group municipalities as it builds upon existing boundaries utilized by the conservation authorities. Although they do not always align with municipal boundaries, geographic boundaries, like watersheds, do allow issues which cross municipal jurisdictions to be acknowledged. While the maps below indicate the location of municipal water systems, this scenario does not take into consideration the main municipal water providers, water operations, owners, or by-law making authority.

Lakehead Region Source Protection Area

As there is only one source protection area, the hydrologic flows to Lake Superior can provide a guide to determining the groups for this area.



Figure 4: Lakehead Source Protection Area. This figure illustrates the water flows in the watershed and how they may be used to divide the municipalities into groups.

Group #1 – one seat	Group #2 – one	Group #3 – one seat
Township of Dorion, Township of Shuniah	City of Thunder Bay	Municipality of Neebing, Municipality of Oliver Paipoonge, Township of Conmee, Township of Gillies, Township of O'Connor

Halton- Hamilton Source Protection Region

There are two source protection areas within this source protection region which provide a natural watershed divide that can be used to determine the municipal groups.

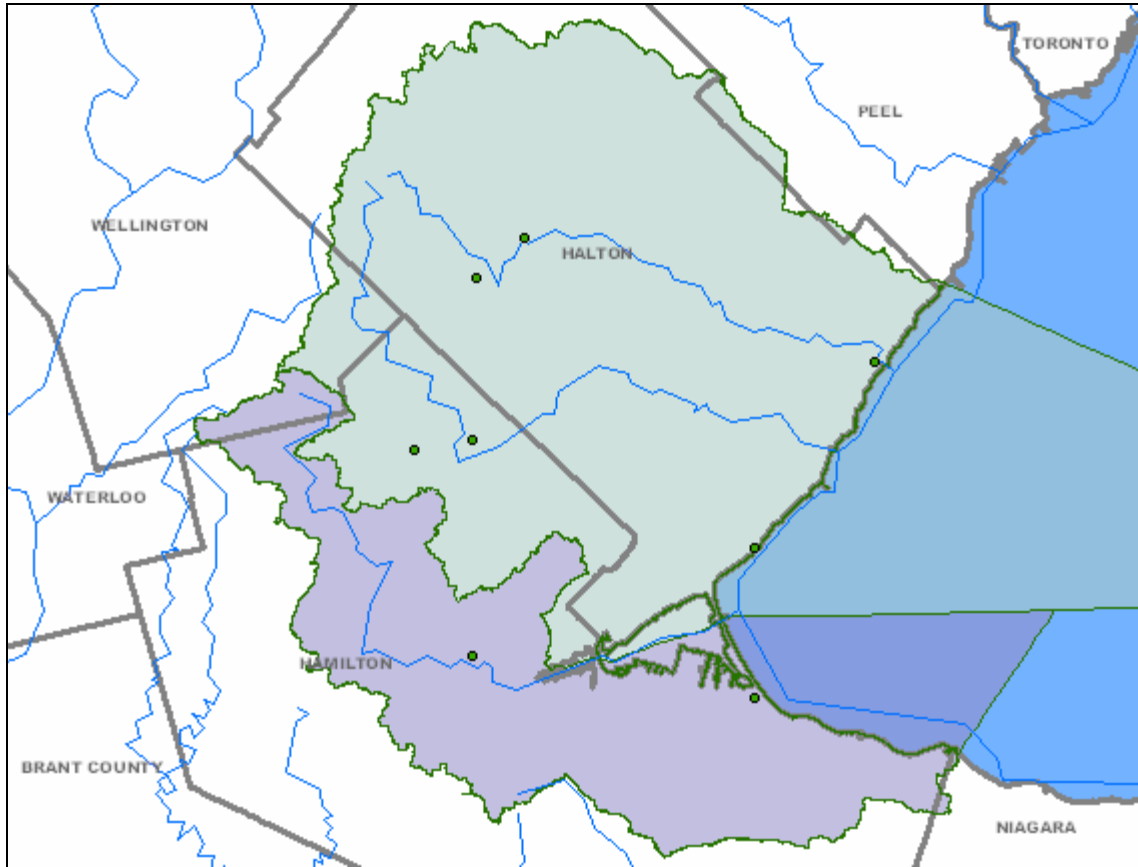


Figure 5: Halton Hamilton Source Protection Region, illustrating its the two main watersheds.

Group #1 (Halton Region Source Protection Area) – three seats	Group #2 (Hamilton Region Source Protection Area) – two seats
Regional Municipality of Halton, Town of Oakville, City of Burlington, Town of Milton, Town of Halton Hills City of Hamilton Regional Municipality of Peel, City of Mississauga County of Wellington , Town of Puslinch	City of Hamilton Regional Municipality of Niagara, Town of Grimsby

Lake Erie Source Protection Region

The Lake Erie Source Protection Region is a complicated watershed which is made up of several source protection authorities that vary in size. A scenario for determining groups on a watershed basis may be structured as follows: Grand River Source Protection Area allotted four (4) groups (and therefore 4 seats) based on its extensive watershed size, while Long Point, Catfish, and

Kettle Creek Source Protection Areas would each be categorized as a group and therefore allotted one seat each on the source protection committee.

For the purposes of this scenario, the Grand River source protection area may be further divided by its major tributaries (subwatersheds), including the Nith, Conestogo, Speed, and Eramosa Rivers. The outcome of this scenario is summarized below. Note that some municipalities which straddle more than one subwatershed may not be listed to avoid duplication; this decision considered factors such as the proportion of a municipality within the subwatershed and population.

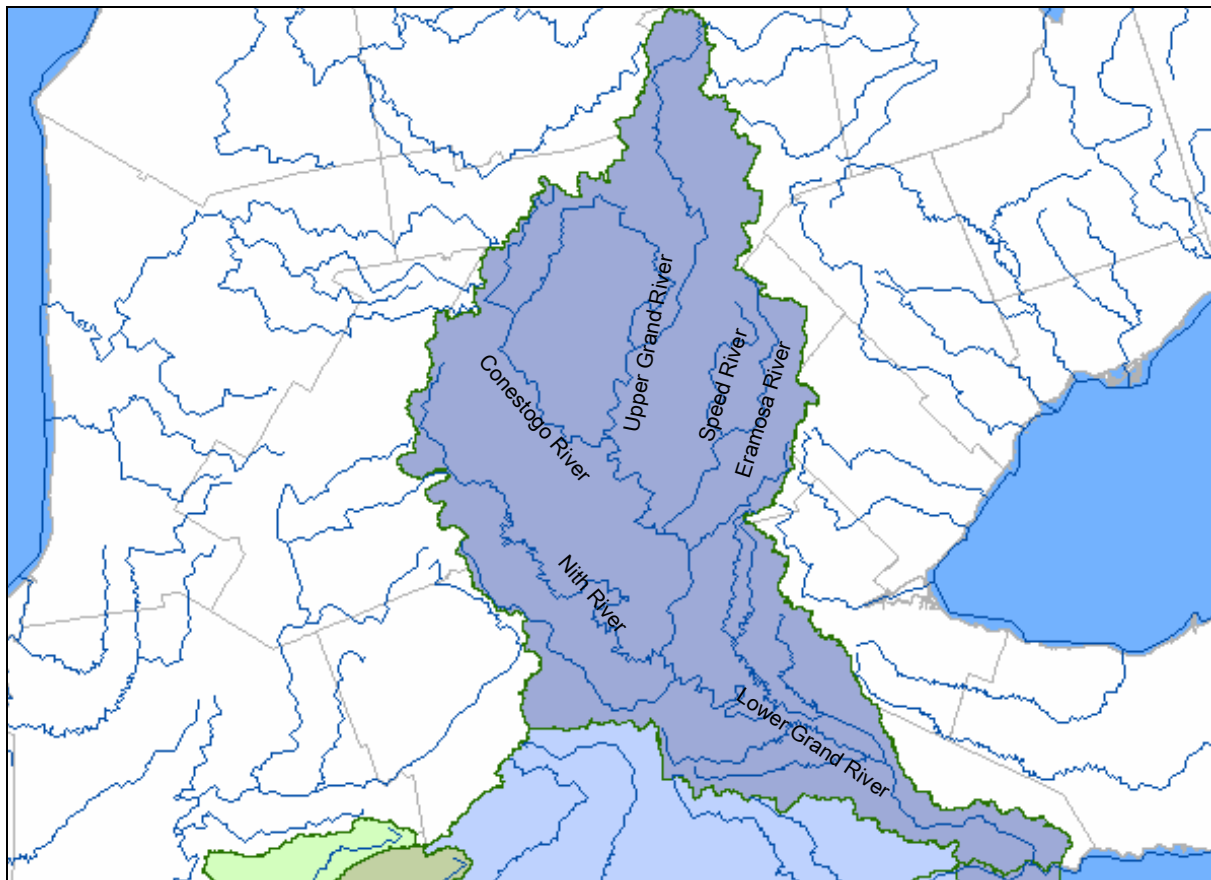


Figure 6: The major stream networks that may be used to develop the municipal groups within the Grand River watershed.

Grand – 4 groups				Group #5 (Longpoint) – one seat	Group #6 (Catfish) – one seat	Group #7 (Kettle) – one seat
Group #1: Conestogo and Main Grand tributaries (to where they meet the combined Speed and Eramosa tribs. – at Cambridge) – one seat	Group #2: Nith River tributary (to where it joins Lower Main Grand tributary) – one seat	Group #3: Speed & Eramosa tributaries (to where they join Main trib. - at Cambridge) – one seat	Group #4: Lower Main Grand (after it joins with Speed & Eramosa) to Lake Erie – one seat			
<p>County of Grey, Twp of Southgate</p> <p>County of Dufferin, Twp of Melancthon, Twp of East Luther Grand Valley, Twp of Amaranth, Twp of East Garafraxa</p> <p>County of Wellington, Twp of Wellington North, Twp of Mapleton, Twp of Centre Wellington</p> <p>Regional Municipality of Waterloo, Twp of Woolwich, Twp of Wellesley, City of Waterloo, City of Kitchener</p>	<p>County of Perth, Twp of Perth East, Municipality of North Perth</p> <p>Twp of Wilmot</p> <p>County of Oxford, Twp of East Zorra-Tavistock, Twp of Blandford-Blenheim</p>	<p>County of Wellington, Town of Erin, Twp of Guelph/Eramosa, City of Guelph, Twp of Puslinch</p> <p>City of Cambridge</p> <p>Regional Municipality of Halton, Town of Milton, Town of Halton Hills</p>	<p>Regional Municipality of Waterloo, Twp of North Dumfries</p> <p>County of Brant, City of Brantford</p> <p>County of Haldimand</p> <p>City of Hamilton</p>	<p>County of Norfolk</p> <p>County of Oxford, Twp of Norwich, Twp of South West Oxford, Town of Tillsonburg</p> <p>County of Haldimand</p> <p>Municipality of Bayham</p>	<p>County of Elgin, Twp of Malahide, Town of Aylmer, Municipality of Central Elgin</p>	<p>County of Middlesex, Municipality of Middlesex Centre, City of London, Municipality of Thames Centre</p> <p>Twp of Southwold, City of St. Thomas, Municipality of Central Elgin</p>

2.2 Appointment of “Agriculture, Commercial and Industrial, including small business” and “Other Members, including environment and health interests”

What the regulation says...

The process to appoint the remaining 2/3^{rds} of the source protection committee begins with a notification posting on the Internet and newspaper(s) by August 3, 2007 with the following contents:

Internet Posting	Newspaper Notification
<ul style="list-style-type: none"> • Summary of the functions of the source protection committee • Summary of obligations of the committee members • Description of the proposed composition of the committee, including a proposal about how to divide the appointments for the sectoral representatives and the appointments of the “other interests” representatives • An invitation to make written submissions on the proposed divisions of appointments within one (1) month of the notice in the newspaper • A description of the information that must be submitted to the source protection authority by applicants • A date by which the applicants must submit the information • The name, address, telephone number of person who may be contacted for more information 	<ul style="list-style-type: none"> • Summary of the functions of the source protection committee • Description of the proposed composition of the committee, including a proposal about how to divide the appointments for the sectoral representatives and the appointments of the “other interests” representatives • A description of the information that must be submitted to the source protection authority by applicants • A date by which the applicants must submit the information • Internet website where the notice is posted • The name, address, telephone number of person who may be contacted for more information

The date referred to in the Internet posting and newspaper notification must not be less than two (2) months of the date the newspaper notification was first published.

In addition to the newspapers and the Internet, the source protection will make the notification available to the public at other locations for public inspection.

The source protection authority may also solicit applications for candidates by other means than the notification process described above.

Within 45 days of the notification being posted, the source protection authority will post the final divisions of the sectoral representatives and the appointment of the “other interests” representatives and provide a rationale for the decision on the Internet. To ensure greater public accessibility, the regulation also requires that the source protection authority publish a notice of the decision in newspapers and make it available at other locations for public inspection.

When the source protection authority reviews the applications to represent the agricultural, commercial or industrial sectors, it will attempt to select and appoint persons who are engaged in agricultural, industrial and commercial activities, including small business that have or will have an impact on existing and future drinking water sources.

2.2.1 Developing the Rationale for Source Protection Committee Composition

The development of the specific composition (i.e. the division of the sectoral and other interest members) should take into consideration the various interests and land uses within the watershed. The source protection authority must come up with a mechanism to determine how this will occur. The municipal members are not included in this composition breakdown because they follow a different process altogether (see section 2.1 of this document).

2.2.1.1 Approach to Dividing the Appointments for 1/3 Agricultural, Commercial and Industrial Sectors, including Small Business

To divide the appointments of sectoral members, the source protection authority may want to map all key, economically-driven activities that occur in the watershed. The intention of including sectoral members on the committee is to give the economic and livelihood perspective to the policies that result from source protection planning. The source protection authority may want to look for the following activities:

- Agricultural – e.g. crop and animal-based
- Industrial – e.g. mining; aggregates; forestry; large industrial plants;
- Commercial – e.g. tourism; small, local shops (e.g. dry cleaners, auto repair shops, gas stations)

When the source protection authority considers small businesses as representatives, they may be considered within the framework of the three sectors listed above.

More often than not, the source protection committee will have more sectoral representatives than seats available, and in dividing the sectoral appointments, the authority may want to consider the following:

- 1) Which sectors have the most land in the source protection area/region?
- 2) Which sectors have experience in working with a multi-stakeholder groups?
- 3) Which sectors have a local association that may endorse candidates to sit on the committee?
- 4) Which sectors have the greatest potential impact on drinking water sources?

Sectoral associations or large economically important industries may approach source protection authorities suggesting or endorsing suitable candidates to sit on the committee. As part of the application package to the source protection authority, the potential candidate may include this letter of endorsement. While source protection authorities may consider candidates with association endorsement, it should be clearly messaged that decisions are based on the member's own experience, knowledge, interests of that sector.

2.2.1.2 Approach to Dividing the Appointments for 1/3rd Other Members, Including Environmental and Health Interests

For the other members, such as non-governmental agencies, public members at large, environmental and public health interest groups, the source protection authority may also want to map out landuses that pertain to environmental and human health efforts and activities. These

members will provide further insight into the effectiveness of the potential policies in protecting drinking water. As with the sector members, in dividing the public interest appointments, the source protection authority may want to consider the following:

- 1) Are there drinking water source protection issues that these non-sectoral members can provide insight into?
- 2) Which of the other members have experience in working with a multi-stakeholder groups?
- 3) Which organization has a local association that the authority can go to for recommendations?

Similarly, associations or key groups representing those in the other member category may approach source protection authorities with suggestions for qualified candidates by submitting endorsement letters. The qualified candidate may submit the letter of endorsement along with any other information that the authority requests for the solicitation process. While source protection authorities may consider candidates with association or group endorsement, it should be clearly messaged that decisions are based on the candidate's own experience, knowledge, interests of that organization.

2.2.1.3 Notifying and Posting Final Decision of Composition

After the initial posting of the proposed divisions of sectoral and other member appointments, the public has one (1) month to comment. The source protection authority has approximately 15 days to review the comments and post the final composition on the Internet, and notify the public that it has done this by publishing a notice in a newspaper(s) and making the notice available in other locations for public inspection.

The regulation requires that the notice be posted at one or more locations determined by the source protection authority to provide sufficient access for public review. This may include the offices of conservation authorities, municipal offices, local libraries, community centres, and post offices. Electronic list-serves are also an effective means of distributing information for those who have access to Internet.

2.2.2 Selecting Candidates to Sit on the Committee

The source protection authority may evaluate the applications and develop a recommendation or a short list of suitable members for more in depth interview and consideration. The source protection authority may wish to confer with the chair of the source protection committee during the selection of members process. The final decisions and supporting rationale for membership should be documented and retained. All considerations for protecting personal information and privacy must be applied when the rationale document is prepared.

2.2.3 Deadline for Appointments

What the regulation says...

The source protection authority will appoint all the members of the committee (including (1) municipal; (2) agriculture, commercial and industrial including small business; and (3) other, including those with environmental and health interests and the general public) no later than 75 days after the later of:

- 1) The date the clerks of the municipalities received notification letter; or
- 2) The date that the notice in newspapers was first published seeking applicants for the committee.

This time limit does not apply to the appointment of band representatives.

Appendix A contains a flow chart that summarizes the overall process for establishing and appointing source protection committee members.

2.3 First Nations

What the regulation says...

If a source protection area or source protection region includes any part of a band's reserve, the source protection authority will, no later than August 3, 2007 and before it establishes the committee, give the chief of the band a notice that,

- Summary of the functions of the source protection committee;
- Summary of obligations of the committee members;
- A list of the chiefs to whom the notice is being given; and
- The number of members that the councils of the bands may jointly select,
 - (i) one person to be appointed as a member of the source protection committee if it is a 10 member committee;
 - (ii) two persons to be appointed as members of the source protection committee if it is a 16 member committee; or
 - (iii) three persons to be appointed as members of the source protection committee, if it is a 22 member committee.

If the councils of the bands jointly provide the source protection authority with the name of a person to be appointed as a member of the source protection committee, the authority will appoint the person as a member, in addition to the number of members appointed as municipal, sectoral and other member representatives.

2.3.1 Notification of Chiefs of Bands

Prior to, or concurrent with, the written notice which would contain the regulatory requirements above, it is advisable that the source protection authority verbally contact each band with a reserve or any part of a reserve located in the source protection area and invite the First Nation to discuss participation on the source protection committee.

Source protection authorities may have already established working relationships with these First Nations. In such cases, source protection authorities are encouraged to use these existing relationships and contacts. Alternatively, the band administrator or band manager should be able to direct the source protection authority to the appropriate contact. The source protection authority should request the First Nation community discuss the matter with their Chief and band council.

Notice of the opportunity to select committee members must be provided to the Chief of each band that has a reserve or part of a reserve in the source protection region or area by August 3, 2007. This notice should be sent by courier and followed-up several days later with a call to the band administrator or manager to ensure it has been received.

As set out in the Source Protection Committees regulation, ten member committees have one additional seat reserved for a First Nations representative, 16 member committees have two additional seats reserved to First Nations representatives, and 22 member committees have three additional seats reserved for First Nations representatives. If there is only one band with a reserve in the source protection region or area then the band council can forward a council resolution to the source protection authority naming the person or persons to be appointed as members of the source protection committee.

In cases where there is more than one band that has a reserve in the source protection region or area, these bands should work together to select their members to sit on the committee. Once agreement has been reached between all the bands with reserves in the source protection region or area, each band council must forward a council resolution to the source protection authority naming the same person or persons to be formally appointed as members of the source protection committee. As provided for in the regulation, the source protection authority will then appoint that person or persons to the source protection committee.

2.4 Qualifications and Responsibilities of the Source Protection Committee

What the regulation says...

The conditions of appointment for source protection committee members are:

- reside in, own or rent property within the source protection area or region, or
- be employed or operate a business within the source protection area or region, or
- be employed by a municipality that is in the source protection area or region.

If a consultant is retained by a person who resides in, owns or rents land in, is employed in or operates a business in the source protection area or source protection region, the consultant is

not, by reason of the retainer, a person who is employed in or operates a business in the source protection area or source protection region.

The source protection authority will not appoint board members or employees of conservation authorities whose areas of jurisdiction are located partially or wholly in the source protection area or region of a committee*. These conditions must remain in place through the duration of the member's term.

The source protection committee member, once appointed, must regularly attend meetings of the source protection committee and must comply with the committee's code of conduct (see section 7.4(1)).

**This could allow board members or employees of conservation authorities whose areas of jurisdiction are located entirely outside the source protection area or region to sit on the committee.*

In addition to the conditions of appointment, the Ministry recommends that the following qualifications be considered when appointing members:

- Demonstrated ability to understand source protection science, concepts, and technical reports;
- Proven ability to act as liaison for the sector(s) being represented;
- Problem-solving, analytical, communication, and organizational skills;
- An openness to working together and with representatives from other sectors;
- Knowledge of local watershed(s), communities, and issues;
- Demonstrated ability to work with group dynamics and team environments;
- Conciliatory decision-making skills; and
- Willingness and ability to travel around the source protection region or area.

Furthermore, the potential member and all appointed members must be aware of what their obligations will be. It is also a requirement of the regulations to post a summary of the obligations. The ministry recommends the following criteria:

- Act as liaisons by bringing forward common concerns from their knowledge and experience in their sector to the committee and assist in communicating the committee's work;
- Make decisions at the committee table;
- Serve on/participate in province-wide committees either on special issues, (for example consistent policies for the aggregates industry) or events (annual meetings) as a representative of the committee at the behest of the chair;
- Attend public information sessions and participate in public consultation forums; and
- Respect confidential information and abide by the process in place to safeguard confidential information.

To regularly attend meetings means that the source protection committee members will be participating in the meetings set out in the six month schedule (see section 7.4 of this document). It is important that the committee members bring forth their knowledge and experience during these meetings and be able to make decisions. How the committees make decisions and conduct themselves will be largely outlined in the rules of procedure, code of conduct and conflict of interest policies that the committees will have to develop as part of their first tasks. The source

protection authority(ies) will be able to provide guidance and direction on how to develop these documents.

The Ministry and the source protection authority will be providing training opportunities for members of the committee including the chair. Members should attend the sessions. The topic areas that will be included in these sessions are described in the table below. It should be noted that some the topics for training sessions may be combined.

Topic of training session	Learning description	Options for training delivery
Overview of the <i>Clean Water Act, 2006</i> and Source Protection Planning	<p>Committee members would get an understanding of the source protection legislation and the regulatory framework.</p> <p>Roles and responsibilities of the program partners (province, municipalities, source protection authority, and source protection committee) would be outlined and clarified.</p> <p>There are additional duties for the chair such as attendance at provincial meetings and providing progress reports to source protection authority. Expectations will be outlined by the province and source protection authority.</p>	<p>Multimedia presentations</p> <p>‘Special Days’</p> <p>Regional Conference (e.g., East and Southwest)</p> <p>Guest speakers and facilitators</p> <p>Hardcopy materials (e.g. learning modules)</p> <p>Workshops</p> <p>Self-learning tools</p>
Terms of Reference	<p>Committee members would be provided with an understanding of the purpose and the regulatory requirements for completing the terms of reference for the source protection area, including any consultation requirements.</p> <p>Coordinating projects, workplanning and addressing cross-jurisdictional issues. Specifically, provide an understanding of Great Lakes agreements as identified in section 14 of the <i>Clean Water Act</i> and the Miscellaneous regulation.</p> <p>Emphasis will be put on engaging with municipalities to ensure full participation.</p>	<p>Other</p>
Establish and manage working groups	<p>Source protection committee may use working groups to provide additional representation from particular sectors that may be affected by source protection planning. Working groups may also be established to provide additional technical expertise.</p> <p>Facilitation skill and conflict management will be emphasized in sessions to build mutual respect.</p>	
Assessment Report	Committee members would be provided	

Topic of training session	Learning description	Options for training delivery
	<p>with an understanding of the regulatory framework that must be followed to complete the assessment report for a source protection area, including consultation requirements. Because the assessment report is also governed by Director's rules, members will be provided with an overview of that as well.</p>	
Source Protection Plan	<p>Committee members would be provided with an understanding of the regulatory framework that must be followed to complete the source protection plan for a source protection area, including consultation requirements.</p> <p>Emphasis will be put on engaging with municipalities to ensure full participation.</p>	

3.0 Term of Appointment

What the regulation says...

The term of appointment of a committee member is three years, except for the initial committee membership formed to produce the first source protection plan for each source protection area. The term of appointment for these members will not expire before notice of the approval of the first plan is published. One-third of the membership, applied equally across all sectors represented on the committee (i.e. municipal, agriculture/industry/commercial and other interest sectors), as well as any members representing the interests of band councils on the committee, will immediately expire at the time this notice is published. At each of the subsequent two anniversaries of the approval notice, one-third of the initial membership involved in preparing the first source protection plan will expire.

For a member filling a vacancy that occurs before the date a former member's term would have expired, the term of the appointment of the new member expires on that date.

Although the duties of the source protection committee may decrease after the approval of the first source protection plan for each source protection area, there is no termination of the committee. A committee will continue to be needed to carry out functions required by the *Clean Water Act, 2006* and its regulations, including reviewing annual progress reports prepared by the source protection authority on the implementation of the approved source protection plan, and preparing the next terms of reference, assessment report, and source protection plan for the source protection area(s) they represent.

Initially, the term of appointment of the members on the source protection committee will not expire before a notice is published of the approval of the first source protection plan for a source protection area, or first source protection plans for all the areas in a source protection region. This initial term is expected to be approximately five to eight years. At the time the notice of approval is published, one-third of the existing committee membership, applied equally across each sector's interests represented on the committee, will expire. As well, the terms of members selected by bands will expire at this time. One year later, one-third of the committee membership involved in preparing the first source protection plan(s) for the source protection area or region, applied equally across each sector's interests, will expire. Finally, the following year, the membership of the remaining one-third of members involved in preparing the first source protection plan(s) will expire.

Generally, the term of a member appointed after the source protection plan(s) for the area or region are approved will be 3 years to ensure that each source protection committee continues to represent the diverse interests of an evolving source protection area or region over time. This term is also expected to minimize committee member fatigue. In order to facilitate continuity in the work of the source protection committee and to minimize disruption of the source protection planning process, no more than one-third of the committee's term of appointments will expire in any one year, applied equally across each sector's interests represented on the committee.

Members appointed to fill a vacancy arising as a result of a member leaving the source protection committee before the end of his or her term, will be appointed for the balance of that term. It is possible that the same person may be re-appointed by the source protection authority for another term.

3.1 Term of Office of Band Selected Members

As with the initial term of office for all committee members, the term of office of any member that represents the interests of one or more band councils will not expire before notice is published of the approval of the first source protection plan for a source protection area, or the first source protection plans for all the areas in a source protection region. Upon publication of this notice, the band council representative(s) term of office will expire and the source protection authority will follow the appointment process set out in the regulations to solicit and appoint new representatives. Thereafter, the term of the appointment will be three years.

The band or bands may choose to select the same member to be re-appointed to the committee.

3.2 Term of Office for Early Vacancies

In the event a vacancy occurs in the committee membership before the date the former member's term would have expired, the term of appointment of the new member will expire on that date.

4.0 Vacancies

What the regulation says...

The source protection authority will fill vacancies that occur in accordance with the requirements set out for filling initial appointments to the committee, with necessary modifications. If the vacancy occurs prior to the expiration of a member's term of office, the provisions relating to the composition and division of the appointments to the committee do not apply.

An exception to following these requirements applies to filling a vacancy created by the removal of a member at the request of the group of municipalities that selected the member. In that situation the group of municipalities must provide another name of a person to be appointed to represent that group.

The source protection authority may also fill a vacancy on an interim basis while the standard requirements are being fulfilled, provided the interim candidate is representative of the interests of the portion of the committee they are intended to replace (i.e. (1) municipal; (2) agricultural, commercial or industrial, including small business; (3) other, including environmental, health and interests of the general public).

To ensure that, over time, the process for appointing committee members continues to remain a transparent process which results in the selection of candidates that represent as many of the stakeholder and public interests of the source protection region as possible, the source protection authority is required to fill a vacancy in accordance with the same requirements for filling the initial committee appointments (sections 2 to 7 of the regulation). Replacements should bring in the knowledge and experience of the sector that the outgoing member possessed.

Vacancies may occur when a member's term of office expires, when a member is removed from office for not satisfying the conditions of appointment, when a member selected by a group of municipalities is removed at the request of the group or if a member decides for personal reasons to leave the committee before the expiration of the member's term of office.

5.0 List of Appointments

What the regulation says...

Every appointment to the source protection committee will be published on the Internet. An up-to-date list of all committee members will be maintained on the Internet, including a brief biography of each member.

The source protection authority is required to publish notice of every appointment to the committee on the drinking water source protection Internet site maintained for the source protection region or area. In addition, the source protection authority must also maintain an up-to-date members list, including a brief biography of each member. The biography should include pertinent information regarding the qualifications that make the member a suitable candidate for the committee, including relevant work experience and academic experience.

It is also recommended that the source protection authority consider posting and maintaining this information in other areas in which the local community has general access. These locations may vary depending on the specific composition and geographic structure of the communities in the source protection region or area. An example would be in a publicly accessible file or location at the conservation authority offices, so that stakeholders without access to the Internet may access this and other information relevant to source protection.

These provisions will ensure interested stakeholders and the public have easy access to information regarding the committee composition.

6.0 Exemptions

What the regulation says...

On application, the Minister may grant exemptions from any provision in sections 3, 4, 5, 7, 8, or 9, which are summarized in the bullets below, subject to such conditions and restrictions imposed by the Minister:

- appointment process, including solicitation, notification, groupings process for municipal representatives, and selection of members
- deadlines associated with committee appointment process
- conditions of the appointment
- term of the appointment
- filling committee vacancies (with the exception of municipal vacancies)

To ensure that unforeseen and exceptional circumstances that arise do not prevent the source protection authority from fulfilling the requirements related to the establishment of source protection committees, the Minister has the ability to grant exemptions.

When exceptional circumstances arise that will prevent the source protection authority from fulfilling its requirements related to the appointment of committee members, the source protection authority may apply to the Minister for an exemption from a specific provision. The application package should contain the following information:

- Name of the source protection authority seeking the exemption;
- Name of the source protection area or region for which the exemption is sought;
- Description of the specific provision(s) from which the exemption is sought;
- Detailed description of the reasons for the application;
- Proposed alternative(s) to the required provision;
- Explanation of how the proposed alternative satisfies the intent and spirit of the *Clean Water Act*, including its public and transparent process requirements; and
- Letter from the clerk of each municipality within the source protection area or region that is affected by the exemption supporting the exemption request.

It should be noted that exemptions are not granted for all parts of the regulation, for example section 2 which describes the 1/3, 1/3, 1/3 division of the committee.

The Minister may impose conditions and restrictions on the decision regarding the exemption request. It is recommended that the source protection authority submit a letter to the Director, Drinking Water Program Management Branch, Ministry of the Environment, upon satisfying the proposed alternative(s) to the required provision(s) and complying with imposed Ministerial conditions and restrictions, if any, describing their actions.

7.0 Rules of Operation

The next section of the guidance will provide insight into the regulated operations of the source protection committee. It is intended to assist the committee in their day-to-day operations as they fulfill the requirements of the *Clean Water Act*.

How the committee operates is integral to the success of the source protection planning process. This section of the guidance document describes many aspects from establishing quorum to keeping minutes. While these matters mainly address internal “house keeping” items, there should be the general understanding that the committee will also be interacting extensively with external stakeholders, program partners and individuals. Establishing good relations which go beyond the regulatory scope are essential. For example, the chair and the members of the committee may wish to contact, organize and make presentations to groups (such as, local farm environment groups, watershed stewardship groups or Guardians, Chambers of Commerce and others) early in the source protection planning process to make the exchange of information easier later on and add credibility to the process. This will also minimize potential conflicts when policies are developed to address drinking water threats and issues.

7.1 Chair and Quorum

What the regulation says...

The chair will preside at all committee meetings and if the chair is absent, the remaining committee members will appoint an acting chair from among themselves.

The committee may conduct business as long as a quorum is maintained. Quorum of the committee is the chair or acting chair, plus at least two thirds of the number of members the source protection authority is authorized to appoint. Vacancies in committee membership does not prevent the committee from meeting as long as the number of remaining members in office is sufficient to maintain a quorum.

All members of the committee are required by regulation, as a condition of their appointment, to regularly attend meetings of the committee. It is expected that members will regularly attend meetings in-person; however, there may be exceptional circumstances that prevent a member from attending the meeting in-person. Telephone / teleconference participation is an option in those circumstances, as is the use of proxies, which are described in section 7.5 of this document.

In rare circumstances participation either in-person, via teleconference or through a proxy may not be possible for all committee members. In such cases, a quorum of the committee is required to hold the meeting and conduct business. In the Source Protection Committees regulation, quorum is defined as at least two-thirds of the number of members that the source protection authority is authorized to appoint to ensure adequate representation of the source protection region during all discussions. It should be noted that the minimum quorum is based on the authorized size of the committee, not the current membership size at the time of each meeting.

7.2 Rules of Procedure

What the regulation says...

The committee will prepare and follow written rules of procedure for conducting business, satisfactory to the source protection authority, within two (2) months after a sufficient number of members to constitute a quorum are appointed. The rules of procedure will be published on the Internet.

The rules will include the following:

- Committee business will occur at meetings with a quorum present;
- Decisions will be made by consensus, and where consensus has not been achieved, by a vote of two thirds of the members present; and
- The chair will not vote.

By developing, following, and publishing written rules of procedure for conducting committee business, a fair and transparent decision-making process will be established. Formalized rules are expected to facilitate and expedite the work carried out by the committee. The rules of procedure should also include information on public participation at meetings of the committee, further discussed in section 7.6 of this guidance document.

It may also be helpful to note that Robert's Rules of Order is a good example of a commonly used set of rules of procedure.

To achieve the most agreeable decision, the consensus-based decision-making process seeks the agreement of most participants and also attempts to resolve or mitigate the objections of the minority.

There are various articles and books available on the topic of consensus decision-making which the committee may find of assistance. Generally, consensus decision-making is considered cooperative and solution-oriented. Participants strive to reach the best possible decision for the group, emphasizing common agreement over differences, and utilizing compromise and other techniques to avoid or resolve mutually-exclusive positions.

All reasonable efforts should be made by the committee to reach decisions using a consensus approach. If the chair finds that the committee has been unable to make a decision by consensus, the chair will have the discretion to put the matter to a vote of the membership. In such cases, the decision may be made by a two-thirds majority vote of the members present, not counting the chair, and including any members participating by teleconference or proxy.

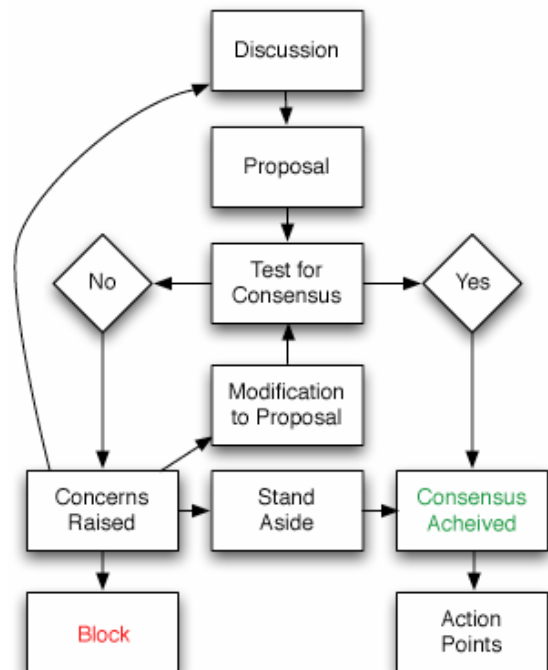


Figure 7: Consensus Flow Chart

7.3 Code of Conduct and Conflict of Interest

What the regulation says...

The committee will prepare and follow a code of conduct, as well as a conflict of interest policy, that are satisfactory to the source protection authority. These will be prepared within two months after a sufficient number of committee members to constitute a quorum are appointed and published on the Internet.

As a condition of appointment, every source protection committee member must comply with the committee's code of conduct and conflict of interest policy. The code of conduct will address, at a minimum, appropriate behaviour of committee members during meetings and public consultation sessions. A conflict of interest policy will assist committee members in avoiding situations in which a conflict of interest could occur and help foster public confidence in the work of the committee. The development and adherence to the code of conduct and conflict of interest policy will ensure that the source protection committee carries out its business with ethical behaviour and does not participate in any situation where an individual member's private interests may be incompatible or in conflict with their responsibilities. In situations where a source protection authority already has and utilizes a code of conduct and/or conflict of interest policy, the committee may choose to adopt these.

It is regular practice for committees to develop a manner of behaviour for members during and after their term of office. The following expectations should be considered for incorporation into a code of conduct:

During their term of office, source protection committee members:

- Will carry out their functions with integrity and good faith;
- Will act responsibly and fairly towards other members of the committee and the chair;
- Will carry out their duties in such a way as to maintain public confidence in the administration of the committee;
- Will not act in such a way that may be deemed as a conflict of interest; and
- Will not use, directly or indirectly, any facilities or services of the committee, source protection authority, conservation authority, or municipality, nor allow them to be used, for personal gain or for purposes other than expressly approved by the committee, source protection authority, conservation authority or municipality.

After leaving office, the members:

- Will respect the confidentiality of information received in the performance of their duties, as well as the confidentiality of the deliberations of the committee; and
- For a period of two years, will not make use of any information obtained in their capacity as a member that is not generally available to the public, in order to derive a benefit or advantage for themselves or that of any family member.

In addition to the code of conduct, the conflict of interest policy will provide valuable guidance to members in their function as a source protection committee. The public perception of the credibility and integrity of drinking water source protection can be affected by the actions of

those who deliver the program. It is in the best interest of the program for committee members to avoid situations which could give rise to a conflict of interest. It is preferable to avoid actual, potential or perceived conflict situations rather than trying to resolve one after the fact.

The following activities or situations are identified as conflicts of interest and should be considered by the committee when developing their conflict of interest policy:

- Soliciting or accepting favours or economic benefits from any individuals, organizations or entities known to be seeking business or contracts associated with the source protection planning process;
- Disclosing any confidential information that the member acquired by virtue of his or her capacity as a member to further his or her own private interests;
- Using confidential information in any private undertaking in which they are involved;
- Helping any outside entities or organizations in any transactions or dealings with the committee; and
- Accepting a fee, benefit or gift in connection with the performance of his or her role as a member.

The policy will need to set out the procedure to be followed when a member has reasonable grounds to believe that he or she has a real or perceived conflict of interest. For example, the committee may establish a procedure whereby the member reports the situation to the chair and to the rest of the committee or reports it privately to the chair. Depending upon the nature of the conflict, the member may be invited to excuse him or herself from participation in discussions or decisions on a particular issue, be temporarily replaced, or permanently replaced.

If the chair has reasonable grounds to believe that he or she has a conflict of interest, the chair will need to report it to the members of the source protection committee, the source protection authority and/or the Minister. Depending upon the nature of the conflict, the chair may: dismiss themselves from a portion of a meeting(s) during which the subject relating to the conflict is being addressed and during which an acting chair from the remaining members will be selected for that portion of the meeting; be replaced by an acting chair for the entire meeting or for a period of time; or be replaced altogether. The Minister may, in consultation with the source protection authority, evaluate potential conflicts that may require replacement of a chair. In this situation the Minister may appoint a new chair from among the members of the committee, appoint another individual as chair from the short list previously submitted by the source protection authority, request the entire solicitation process to be repeated or select an individual and appoint that person after considering any recommendations of the source protection authority.

7.4 Meeting Frequency and Schedule

What the regulation says...

The chair of the committee will determine the time and location of the first meeting of the committee. At that first meeting and every six months thereafter, the committee will establish a meeting schedule for the following six months. The meeting schedule will include at least one meeting each month until the proposed terms of reference are submitted. The meeting schedule after the proposed terms of reference are submitted will

be determined by the committee based on the work plan set out in the terms of reference. The meeting schedule will be published on the Internet and in such other manner as may be determined by the committee.

Members of the committee are required to meet a minimum of once per month until the terms of reference are developed, and thereafter the frequency of meetings of the committee would be based upon the workplan developed in the terms of reference.

In order for the public to be kept informed of committee meetings, the regulation requires that the committee publish its current calendar of meetings on the drinking water source protection Internet web site and in such other manner as the committee determines. The committee should select other manners of making the schedule available that are most likely to increase public awareness of the meetings (e.g. local library notice board, municipal offices, etc). In determining the meeting dates, consideration should be given to the seasonal aspects of the occupations of committee members.

The committee may also consider keeping a list-serve of stakeholder groups, sector associations, working groups (see section 8.0 of this document) and individuals that are interested in the committee business and who would be notified of upcoming meetings through electronic mailing. Notifications should include meeting agendas.

7.5 Proxies

What the regulation says...

Source protection committee members may participate in meetings of the committee by proxy.

As a condition of every appointment to the source protection committee there is a requirement to regularly attend meetings of the committee. In circumstances where attendance is not possible in-person or via teleconference, members may participate by proxy. A proxy is another person authorized to act on behalf on another party. Members participating by proxy are included as part of the quorum.

If a member wishes to use a proxy, they should notify the chair in advance. Minutes will record all decision including those made by proxy and filed.

7.6 Meetings Open to the Public

What the regulation says...

All meetings of the committee are open to the public; however, a meeting or part of a meeting may be closed to the public if the subject matter to be discussed is a personal or

financial matter about an identifiable individual. A resolution will be passed by the committee stating that the meeting or part of the meeting is closed to the public and stating the general nature of the subject matter to be discussed.

Source protection committees comprised of locally selected members are intended to be the best qualified to assess local issues and establish local solutions. To ensure that interested stakeholders, including the general public, are involved and consulted in the source protection process, meetings of the committee are open to the public. To the extent possible, the committee is expected to hold meetings in accessible locations with adequate seating to accommodate both members and observers that may be reasonably expected to attend.

Meetings of the source protection committee should generally include a public input session (i.e. delegations) and records of these representations may be included with the minutes at the discretion of the chair. The amount of time allotted for public input may vary depending on the number of presentations and should be up to the discretion of the chair. Where there are many presenters, it should also be open to the chair to set time limits on such sessions. The rules of procedure for conducting committee business (section 7.2 of this document) should include information that addresses public involvement at meetings of the committee.

A meeting or portion of a meeting may be closed to the public when discussion occurs on a personal or financial matter about an identifiable individual, including matters that may reveal private and proprietary information. These discussions should be held in private, also described as “in-camera”.

If a participating member of the public wishes to raise a matter with the source protection committee that includes personal or financial information, the person may request the committee, or the source protection committee may on its own initiative, move to hold the meeting in camera. A meeting or part of a meeting may only be moved in-camera if the committee has passed a resolution stating the meeting or part of the meeting is closed to the public and states the general nature of the subject to be discussed in the absence of the public.

Where possible, the source protection committee should seek to deal with all matters to be discussed and considered in-camera in one segment of the meeting – either at the beginning or end of the meeting – so as not to disrupt public attendance at the meeting. Otherwise, in appropriate circumstances, the source protection committee may wish to schedule these matters in a special session.

7.7 Committee Liaisons

What the regulation says...

A designated liaison from the source protection authority, Ministry of the Environment, and Medical Officers of Health may attend and participate in discussions at meetings of the source protection committee, including any meeting or part of a meeting that is closed to the public.

To be identified as a committee liaison, the person representing the source protection authority must be designated by the authority. The person representing the Ministry of the Environment must be formally designated by the Minister of the Environment. The Minister of the Environment must also formally designate the person representing the medical officers of health for the health units in which any part of the source protection area or region is located.

The participation of liaisons is expected primarily as a resource for information gathering or sharing. The liaisons do not have voting privileges on the committee. The source protection committee must allow the designated liaisons to attend meetings of the committee, including in-camera sessions. These committee liaisons do not have to follow the same qualification requirements as committee members in that they are not required to reside in, own or rent property, be employed in or operate a business in the source protection area or region. Although the liaisons are also not required to follow the established rules of procedure, code of conduct, and conflict of interest policy adopted by the source protection committee, it is expected that the liaisons will work with the committee as a team member. In essence, the liaisons cannot be removed from the committee by the source protection authority.

7.7.1 Source Protection Authority Liaisons

A member or employee of a conservation authority located in the source protection region or area may not be appointed to the source protection committee by the source protection authority. However, the local watershed knowledge of the source protection authority can be represented directly to the committee by way of a source protection authority liaison. The source protection authority liaison:

- May provide updates on the work completed by source protection authorities;
- May provide advice and recommendations on workplanning issues;
- May provide technical expertise on watershed-wide drinking water issues; and
- May provide technical expertise on Great Lakes wide drinking water issues.

7.7.2 Provincial Liaisons

Liaisons representing the Ministry of the Environment will be a resource for information gathering, and they will provide some guidance on the province's expectations on the source protection planning process. They will not, however, provide any approvals or review services to the committee; rather they will be the conduit between the committee and the Ministry of the Environment and other Ministries. Specifically, the duties of the provincial liaison will include:

- Addressing requests for Crown data and information by the committee;
- Addressing requests for provincial technical staff expertise on specific drinking water planning or municipal conformity issues;
- Providing guidance and educational materials developed by the province to committee members;
- Updating members on the drinking water source protection program should any amendments occur; and
- Assist committees with questions related to the requirements of the *Clean Water Act* and its regulations by interfacing with appropriate approvals staff.

7.7.3 Public Health Liaisons

The main focus of source protection planning is to protect human health from the effects of water contamination and depletion. Therefore, a natural fit as a regular attendee on the committee is a public health liaison. The Ministry of Health and Long-term Care has a list of the public health units across Ontario on their website:

(http://www.health.gov.on.ca/english/public/contact/phu/phuloc_mn.html).

A public health liaison may provide the general perspective of the health units within the source protection region or area and add expertise on existing or emerging drinking water issues. In addition to the designated public health liaison, the chair may want to contact the health units in their source protection region or area, inviting them to attend the meetings and including them in their distribution of the calendar of the scheduled committee meetings, particularly when discussing issues or concerns of a potential health nature in a specific area.

The duties of the public health liaison may include the following:

- Provide technical advice and expertise on health related drinking water issues;
- Provide technical advice on developing and monitoring health policies related to drinking water issues; and
- Update the committee on any emerging drinking water issues.

7.7.4 Other Invited Attendees

The committee may invite other attendees to participate in meetings including parts of meetings that are closed to the public. This is acceptable provided the committee is comfortable that the invited attendees will uphold the spirit of the confidentiality expected during in-camera discussions. Attendees (or those that have not been invited) that come on their own accord due to the transparent nature of committee meetings, should not be allowed to participate during in-camera discussions.

There may also be circumstances where it may be strategic to invite special parties to participate during committee meetings. For example, invitation may also be extended to source protection authorities, municipalities, and source protection committees in other source protection areas or regions. It may also be appropriate to invite a representative of an organization with political affiliations to a meeting which addresses transboundary issues that affect drinking water issues in the source protection area. These parties may be officials from the United States or from other provinces. Prior to any invitation being sent to parties from other provinces, states, or countries, the chair should notify the provincial liaison of this intention and allow the province to provide input into the process.

7.8 Minutes

What the regulation says...

The committee will keep minutes of its meetings and publish them on the Internet.

The purpose of keeping good minutes is to preserve a permanent record of all actions taken at the source protection committee meetings. The source protection committee is required to keep minutes of all meetings. With the exception of the minutes of in-camera discussions, the minutes should be maintained in a public record, including the Internet, and be easily accessible. Minutes of in-camera discussions should be appended to the minutes or kept in a separate set of minutes identified as the in-camera portion of a meeting and should include the reasons why matters were not discussed openly.

The support personnel or other assigned recorder for the committee should take careful notes of all discussions that take place and all action taken, so that the minutes constitute an accurate and full report of the proceedings. Accurate and complete notes should be recorded in clear and concise language.

For those source protection regions or areas with a French population, it is recommended that the committee arrange for the translation of minutes into French that conform to the Province of Ontario's policies for northeastern and southeastern Ontario.

The following is listed as an illustration of what is typically included in the minutes:

- A written agenda should be prepared for each meeting and form the basis of structure for the minutes. This allows everyone in attendance to follow the matters at hand and also allows the recorder to note in advance each item to be discussed. Each discussion should then be summarized, illustrating the key points. Occasionally a comment may be inserted which may explain a statement made or a decision arrived at, but it should be short and to the point.
- Presentations should be included as appropriate.
- Arguments on particular questions and discussions that take place need not be included in the minutes unless a member specifically requests that his/her view be made a matter of record.
- Decisions may be noted as "it was the consensus that" or "each member present expressed approval of" or that "doubt was expressed as to," followed by a statement of facts. Where consensus on decision was not reached, the results of any votes that occur should be recorded.

With regard to approval of the minutes, a copy should be sent to each committee member in advance of the following meeting in order that they may be reviewed and where appropriate, corrections made, before the meeting.

7.9 Quarterly Reports

What the regulation says...

If terms of reference have been approved, the chair of the source protection committee will prepare a report, at least once every three months, on the work of the committee. The status of each major task identified in the workplan included in the approved terms of reference will be included in the report.

A copy of each report will be provided to the source protection authority(ies) within the source protection area or region.

To ensure the accountability of the work of the source protection committee, after the terms of reference for the source protection area have been approved, quarterly reports on the work accomplished by the committee are required to be prepared and submitted to the source protection authority for the source protection area. If the source protection area is part of a source protection region, quarterly reports are submitted to the lead source protection authority.

These reports should include a description of the work of the committee and provide a status update of each major task set out in the workplan included in the terms of reference approved by the Minister, in particular issues or concerns where the advice of the source protection authority may be sought.

7.10 Removal from Office

What the regulations says...

Members appointed by the source protection authority may be removed from office if the authority is of the opinion the member has failed to comply with a condition of the appointment referred to in section 7 of the Source Protection Committee regulation (i.e. must reside in, own, rent, be employed or operate a business in the source protection region or area or be employed by a municipality located in the source protection region or area; not be a member or employee of a conservation authority; regularly attend committee meetings; and comply with the code of conduct and conflict of interest policy).

In addition, members representing municipal interests on the committee may be removed from office if:

- the member was appointed from a list of persons submitted by the municipalities;
- the councils of the municipalities jointly requested the removal; and
- a replacement to fill the vacancy is submitted jointly by the municipalities.

To ensure the committee maintains its integrity throughout the drinking water source protection planning and implementation process, in some circumstances, the removal of a member from the source protection committee may be required. It is expected that removal of a member would be considered as a last resort, to be used only if other attempts to resolve a matter have failed. Where appropriate, the chair may seek the assistance of the source protection authority to resolve a matter with a member before formally recommending the removal of a member.

Reasons for removal include failure to comply with the conditions of appointment to the committee:

- Must reside in, own, rent, be employed or operate a business in the source protection region or area or be employed by a municipality in the region or area;
- Not be a member or employee of a conservation authority whose area of jurisdiction lies in whole or in part within the source protection region or area;
- Failure to attend meetings; and/or
- Engaging in activities that do not satisfy the code of conduct or conflict of interest policy.

Complaints related to the matters above may be received about the member from the source protection authority, the chair, other members of the committee, or from the public.

Removal of a committee member may be proposed at the initiative of the source protection authority, the chair, or for the members representing municipal interests, by the municipalities they represent.

7.10.1 Removal at the Initiative of the Source Protection Authority or Chair

The source protection authority or chair may wish to consult each other on the matter before formally proposing the removal of a committee member. Where attempts to informally resolve a matter have not been successful, the proposed removal of a member initiated by the source protection authority or chair will be documented in writing and include a statement of the reasons for the removal. A copy of the statement will be provided to the member. Both the chair and the member would attend an in-camera meeting of the source protection authority where they are provided the opportunity to make submissions on the matter. The decision on what action to take to resolve the matter would be the responsibility of the source protection authority. Written notice of the decision will be provided to the member, together with the authority's reasons. If the decision is made to remove the member, then the source protection authority would seek to appoint a new member in his or her place in accordance with the requirements of the Source Protection Committees regulation, as described in section 2.0 of these guidelines.

7.10.2 Removal at the Request of the Municipalities in the Source Protection Region or Area

The councils of the municipalities that were grouped to provide a list of municipal representatives to the source protection authority may remove a member appointed from that list if the group of municipal councils jointly request the removal. The source protection authority is required to remove the member from office as soon as reasonably possible upon receiving the request, provided the same municipal councils jointly submit the name of a replacement to fill the vacancy. The source protection authority will promptly appoint the submitted replacement.

8.0 Working Groups

What the regulation says...

The Source Protection Committees regulation does not address working groups. It is anticipated that other regulations to be developed in respect of the preparation of assessment reports and source protection plans may address working groups.

To assist the source protection committee in meeting its responsibilities for completing the assessment report and/or source protection plan, the committee may establish working groups. The committee would have flexibility in determining which types of working groups, if any, it requires. This decision may be influenced by the local knowledge and the expertise of the source protection committee members themselves (and any obvious gaps in that knowledge/expertise), as well as by the unique character of each source protection region. Working groups may be designed to:

- Provide expertise for specific technical work and/or an expert-driven approach (e.g. municipal water works experts, including a hydrologist/hydrogeologist, engineer, etc);
- Support a particular member on the committee (e.g. agricultural sector working group);
- Provide expertise on a particular geographic area;
- Offer a specialized viewpoint (e.g. a working group comprised of local MOH's or health unit representatives to provide a human health perspective); and/or

Provide further representation of interested stakeholders (see section 2.2).

It is suggested that working groups be assigned tasks that move the process ahead and not solely engage in “review and critique” activities. If a source protection committee foresees the establishment and use of working groups, then it is recommended the committee consider developing a “Rules of Operation for Working Groups” to complement the rules of procedure, code of conduct, and conflict of interest policy established for the committee membership.

Working groups are envisioned to meet as needed and informally throughout the development of the tasks assigned to them by the source protection committee.

The number of members on a working group should be limited to assist the group in maintaining an efficient working and decision-making process. The committee will determine the size of a particular working group. Source protection committee members may also participate on a working group at the discretion of the committee.

8.1 Chair/Lead of Working Groups

To facilitate an effective and coordinated means of communication between the source protection committee and working group, the committee may wish to consider having each working group establish their own chair. Working group chairs may be selected from within the working group itself, or it may be desirable to have a member of the source protection committee satisfy this role to streamline liaison and communications.

Although meetings of the working groups are envisioned to be informal and on an as-needed basis, it is anticipated that the information pulled together by the working group may be disseminated to the committee at its regular public meetings. Where appropriate, it is recommended that the working groups take steps to ensure the protection of private and personal information in the materials shared during public sessions of source protection committee meetings.

Appendix A: Overall Timeline for Establishing and Appointing Source Protection Committee Members

