

CLEAN WATER ACT, 2005:
COMMENTS AND RECOMMENDATIONS REGARDING
THE PROPOSED MATTERS TO BE ADDRESSED IN
REGULATIONS

Submissions of the Canadian Environmental Law Association
to the Ministry of the Environment
Regarding EBR Registry No. RA05E0022

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Executive summary

The *Clean Water Act, 2005 (CWA)* is a positive step towards watershed-based drinking water source protection in this province. Its broad scope encompasses Great Lakes and inland communities, ground water and surface water sources, rivers and lakes, and current and future conditions. Several “conflict” provisions help to ensure the consistent application of the *Act* and all of its protective measures. Additionally, a range of new municipal powers, roles and requirements will greatly assist in providing tangible improvements to Ontario’s watersheds. Accordingly, the Canadian Environmental Law Association (CELA) looks forward to the passage of the *CWA* so that the important work of protecting drinking water sources can proceed as expeditiously as possible.

Having said this, the *CWA* relegates several important functions to the discretionary regulation-making powers of the Minister and the Lieutenant Governor in Council. Some of these regulatory powers, such as those pertaining to public participation and consultation, are of such fundamental significance that they should instead be included in the statutory text itself. As it stands now, the ultimate success of the source protection initiative rests, at least in part, with the proposed regulations.

Our submission reviews the questions posed in the discussion document on the proposed regulations, and makes a number of recommendations for how these matters should be addressed. Overall, CELA commends the Ontario government for its commitment to furthering the source protection initiative, and for its efforts to improve upon the previously proposed *Drinking Water Source Protection Act*.

Introduction

This is CELA’s submission regarding the discussion document on the proposed regulations in support of the *Clean Water Act, 2005 (CWA)*. The discussion document was posted for public comment by the Ministry of the Environment (MOE) on December 22, 2005.

CELA is a public interest law group founded in 1970 for the purposes of using and improving laws to protect public health and the environment. Funded as a legal aid clinic specializing in environmental law, CELA represents individuals and citizens’ groups in the courts and before tribunals on a wide variety of environmental matters. In addition, CELA staff members are involved in various initiatives related to law reform, public education, and community organization.

For the past two decades, CELA’s casework and law reform activities have focused on drinking water quality and quantity issues. More recently, CELA has been involved in a number of drinking water matters, such as:

- representing the Concerned Walkerton Citizens at the Walkerton Inquiry;
- preparing various issue papers for Part II of the Walkerton Inquiry, including *Tragedy on Tap: Why Ontario Needs a Safe Drinking Water Act*;
- submitting model water legislation to entrench watershed planning and water conservation in Ontario;
- commenting on the *Safe Drinking Water Act, Sustainable Water and Sewage Systems Act, 2001*, and *Nutrient Management Act*, and proposed regulations thereunder;

- commenting on various municipal land use planning reforms and amendments to the *Municipal Act*;
- commenting on the MOE *White Paper on Watershed-Based Source Protection Planning*;
- providing input on the Great Lakes Charter Annex international negotiations;
- convening public workshops on source water protection across Ontario;
- facilitating the development of an Ontario-wide network of interested and engaged non-governmental organizations (NGOs);
- preparing joint NGO sign-on letters to numerous Ministers expressing support for the source protection initiative and suggesting areas for improvement; and
- attending public meetings held by the MOE regarding source protection and water-taking initiatives.¹

In addition, CELA has served as a member of several advisory committees established by the Ontario government to consider various aspects of source water protection, such as:

- Advisory Committee on Watershed-Based Source Protection Planning;
- Implementation Committee for Watershed-Based Source Protection;
- Nutrient Management Advisory Committee; and
- Advisory Committee to the Great Lakes Water Management Initiative.

It is against this extensive background and experience that CELA has reviewed the various provisions of the proposed CWA. For comparative purposes, we have also considered related documents and reports regarding source protection, including:

- *Source Water Protection Statement of Expectations* (endorsed by NGOs across Ontario);
- the Part I and II Reports of the Walkerton Inquiry;
- *Final Report: Protecting Ontario's Drinking Water – Toward a Watershed-Based Source Protection Program* (April 2003);
- *Summary Report: Consultation Sessions on the White Paper on Watershed-Based Source Protection Planning* (March 1 to 23, 2004);
- MOE briefing materials and related documentation;
- *Watershed Based Source Protection: Implementation Committee Report to the Minister of the Environment* (November 2004); and
- *Watershed-Based Source Protection Planning: Technical Experts Committee Report to the Minister of the Environment* (November 2004).

The first of these documents, the *Source Water Protection Statement of Expectations*, explores sixteen themes which are of key importance and concern to the environmental NGO community. This submission assesses the proposed regulations in the context of those priorities, and we encourage government to incorporate the recommendations listed below.

Theme 1: Universal Level of Protection

The *Statement of Expectations* suggests that the watershed-based source protection planning framework should be required in all watersheds in Ontario. Additionally, that document specifies that:

The new legislation must protect individual well users as well as municipally operated systems. The new legislation must protect watersheds in the north as well as south of the

¹ CELA's water-related briefs, factsheets and reports are available at: www.cela.ca

Canadian Shield. The new legislation must protect groundwater and surface water sources from non-point, cumulative and point source threats. The new legislation must protect water sources with respect to both water quality and water quantity.²

The legislation provides a number of new protections for residents relying upon both municipal and private drinking water systems within source protection areas. The *Act*'s broad scope encompasses Great Lakes and inland communities, ground water and surface water sources, rivers and lakes, and current and future conditions. Indeed, the *CWA*'s overall purpose statement is the protection of existing and future sources of drinking water.³

However, under the proposed *Act*, those municipal or private systems which falls outside of source protection areas will not receive any of the watershed protections. For the purposes of the *CWA*, drinking water source protection areas include those areas over which the conservation authorities have jurisdiction.⁴ There are currently 36 conservation authorities located across most of southern Ontario. The Minister has the discretionary power to make regulations altering the boundaries of these source protection areas and designating participating municipalities for the expanded conservation authorities.⁵

Additionally, new source protection areas may be created in parts of Ontario not covered by conservation authorities, and persons or bodies may be designated to perform the functions of source protection authorities for these new areas, also at the Minister's discretion.⁶ Where new source protection areas have been established, the Minister may choose to enter into agreements with municipalities for the preparation of focussed source protection plans.⁷ In such instances, the terms of the agreements will supersede the provisions of the *CWA* dealing with the preparation of source protection plans, thereby allowing more tailored or streamlined plans to be developed.⁸ After the preparation of the plans, the Minister may choose whether or not to designate the municipalities as assuming the duties of source protection authorities.

The *CWA* and the regulations should provide mandatory safeguards for vulnerable areas throughout the province, not just those located in the southern areas with conservation authorities. Additionally, source protection areas should be created or expanded in parts of Ontario that are not now covered, so that additional water users can receive the full range of protections offered by the legislation. If large portions of the province remain beyond the scope of this legislation, rural and cottage communities may feel disengaged and overlooked.

Recommendation #1: The *CWA* should provide for the mandatory assessment of risks and mandatory reduction of significant drinking water threats in vulnerable areas across the province.

² T. McClenaghan and D. Finnigan, "Protection Ontario's Water Now and Forever: A Statement of Expectations for Watershed-Based Source Protection from Ontario Non Governmental Organizations" (Canadian Environmental Law Association & Environmental Defence, November 2004) at 7 [hereinafter "Statement of Expectations"].

³ Bill 43, *Clean Water Act, 2005*, 2d Sess., 38th Leg., Ontario, 2005, s. 1 [hereinafter *CWA*].

⁴ *Ibid.* at s. 4(1).

⁵ *Ibid.* at s. 99(a) and (b).

⁶ *Ibid.* at s. 99(c) and (f).

⁷ *Ibid.* at s. 23(1).

⁸ *Ibid.* at s. 23(2) and (3).

Recommendation #2: Source protection areas should be created or expanded in parts of Ontario that are not now covered, so that additional water users can receive the full range of protections offered by the legislation.

Altering the Boundaries of Source Protection Areas

The discussion document on the proposed regulations suggests that conservation authority boundaries may be expanded “to include new lands that contribute to the source waters within the watershed.”⁹ CELA generally supports the expansion of the conservation authority boundaries, and corresponding source protection areas, where such changes result in broader geographical protections and promote watershed-scale assessments and risk management solutions.

Source Protection Areas where there are no Conservation Authorities (CAs)

As noted above, any municipal or private systems which do not fall within a source protection area will not receive any of the protections offered by this *Act*. The discussion document on the proposed regulations suggests that new source protection areas may be established in certain municipalities in northern and central Ontario where no conservation authorities exist. Additionally, the document advises that, in most instances, municipalities will be the bodies designated to act as source protection authorities for such areas.

However, this option may prove to be insufficient since the establishment of new source protection areas is left to the discretion of the Minister. Additionally, it must be emphasized that the provisions of the *CWA* dealing with the establishment of new source protection areas and the designation of persons or bodies to act as source protection authorities are **not** limited to municipalities. It is expected and hoped that the Minister will consider a range of stakeholders to fulfill the duties of source protection authorities in these areas, including non-governmental organizations, First Nations peoples, and other provincial ministries.

One option would be to designate the Ministry of Natural Resources district offices as source protection authorities, under the supervision of the regional offices. In this way, the source protection initiative would be more consistently applied across the province, and the public could continue to rely upon a familiar source of information and advice.

Lastly, the discussion document notes that, where new source protection areas have been established by regulation, and agreements have been entered into with municipalities for the preparation of focussed source protection plans, the Ministry will likely designate those municipalities as source protection authorities. This important step will ensure that the municipalities assume the duties of source protection authorities for the remaining provisions of the *CWA*, such as those pertaining to amendments, annual reports, reviews, and monitoring.

The appropriate application of these provisions is of particular importance to Aboriginal persons drinking water from First Nation-supplied systems or private systems on reserve lands. The *Act* contains no mention of First Nations peoples’ participation in source water protection planning or implementation activities, and these private systems will receive no protection under the current scheme.

⁹ Ontario, Ministry of the Environment, *Proposed matters to be addressed in regulations to support the Clean Water Act, 2005*, online: EBR Registry <<http://www.ene.gov.on.ca/envregistry/026965er.htm>> (posted 22 December 2005) [hereinafter *Discussion document on the proposed regulations*].

Recommendation #3: The establishment of new source protection areas in parts of Ontario not currently covered should not be limited to municipalities.

Recommendation #4: A range of stakeholders should be designated as source protection authorities, including non-governmental organization, First Nations peoples, and other provincial ministries where appropriate.

Recommendation #5: In recognition and respect of First Nations' traditional environmental knowledge, as well as their aboriginal and treaty rights and claims, the province must pursue a strategy with the federal government and First Nations that will support the ability of First Nations (and their technical designates) to be full participants in watershed-based source protection planning and implementation.

Source Protection Regions

The discussion document on the proposed regulations suggests that source protection areas will be grouped into regions “to facilitate efficient use of resources and coordination of source water protection planning.”¹⁰ While we recognize and support the need for different areas to share resources, capacity, and expertise, additional factors should be considered prior to forming such regions. For instance, two areas may exhibit such significant hydrogeological dissimilarities that grouping them together becomes impractical. One such case is the division which exists between communities on the Precambrian Shield which rely on surface water, and those to the south which are able to draw on ground water as well.

In order to account for these and other watershed-specific characteristics, it is suggested that the CWA and regulations set out specific criteria to help inform the Minister's discretion regarding the formation of source protection regions. In addition, the Minister should take into account the comments of conservation authorities and other interested parties prior to reaching a final decision.¹¹ The following recommendation reiterates CELA's previous comments in its submission on the proposed *Drinking Water Source Protection Act*.¹²

Recommendation #6: The Act should be amended to provide that when deciding whether to establish or amend a source protection region, the Minister shall consider the following factors:

- (a) the purposes of the Act;**
- (b) any comments submitted by any person, entity or conservation authority regarding the source protection region;**
- (c) the watershed boundaries and linkages within the source protection region;**
- (d) other hydrogeological features which may divide the region; and**
- (e) whether consolidating source protection areas will facilitate the pooling of resources, the sharing of expertise, or otherwise ensure efficient and effective source protection planning.**

¹⁰ *Ibid.*

¹¹ R. Lindgren, “Safeguarding Ontario's Drinking Water Sources: Essential Elements of Source Protection Legislation” (Canadian Environmental Law Association, August 2004) at 14.

¹² *Ibid.*

Theme 2: Thorough Public Participation

One of the most fundamental prerequisites for an effective source protection regime is thorough public participation. As noted in the *Statement of Expectations*, members of the public should have the opportunity to participate at both the planning and implementation stages, through, at a minimum, involvement on source protection committees; financial support for participation outside of the committees; easy access to all relevant information; and the opportunity to make *EBR* submissions on the proposed terms of reference, assessment reports, and source protection plans.

At this time, the *Act* contains very few mandatory public consultation provisions. The issue has largely been relegated to the discretionary regulation-making powers of the Lieutenant Governor in Council. While it is possible that the proposed regulations may include strong public participation measures, it is important that the *Act* itself require and provide for public involvement at every stage of the planning and implementation process.

Recommendation #7: Mandatory public consultation and participation provisions should be added throughout the *Clean Water Act*. Specifically, the *Act* should provide for:

- **mandatory public notification and comment period regarding the terms of reference under subsection 8(2), prior to approval by the Minister;**
- **mandatory public notification and comment period regarding the assessment reports under subsection 13(3), prior to approval by the Director;**
- **interim progress reports to be made available to the public *as soon as reasonably possible* after they are submitted to the Director under subsection 18(3); and**
- **annual progress reports to be made available to the public *as soon as reasonably possible* after they are submitted to the Minister under subsection 41(2).**

Appointment of Source Protection Committees

The discussion document on the proposed regulations contemplates various aspects of the source protection committees. First, it suggests that the composition of the committees consist of one-third municipal representation, 1 member from the general public, 1 member from First Nations and representatives from agriculture, industry, public health bodies, non-governmental organizations, and others. It should be noted that the report of the Advisory Committee on Watershed-based Source Protection Planning recommends that the source protection committees be one-third municipal representatives; one-third provincial, First Nations, and federal representatives; and one-third local public health representatives and other stakeholders.¹³ To add more detail to this proposed template, we recommend that the Medical Officers of Health be mandatory committee members, and that environmental NGOs be considered as a distinct sector from the general public, thereby meriting a distinct place on the committees. The reasoning behind the latter point is that local environmental groups often have separate interests, constituencies, and expertise from the general public, and *visa versa*.

Recognizing that not all interests or knowledgeable parties will be able to directly participate on the source protection committees, it will be necessary to develop sub-committees and working groups around specific sectors and issues. Towards this end, the source protection committees should be provided with the explicit power to establish sub-committees and convene working groups of non-committee members. This is necessary due to the fact that source protection

¹³ Advisory Committee on Watershed-based Source Protection Planning, "Protecting Ontario's Drinking Water: Toward a Watershed-based Source Protection Planning Framework" (April 2003) at recommendation #25.

committees, as “creatures of statute”, only possess that jurisdiction and authority which is granted to them by the legislation.¹⁴ Once established, the sub-committees and working groups can be expected to provide invaluable input through the broader engagement of experts and the public. Particular effort should be made to include, where appropriate, land use planners, hydrogeologists, engineers, water suppliers, developers, lawyers, real estate agents, academics, and health professionals.

Adequate and appropriate funding is critical to the success of the source protection committees and sub-committees. Certain members of the source protection committees (i.e. those representing the public and non-profit groups) should receive financial support to provide them with the capacity for long-term, active engagement. Additionally, specific funds should be earmarked for the sub-committees and working groups, so that these lower tiers of involvement are neither overlooked nor hindered.

Recommendation #8: The Medical Officer of Health should be a mandatory member of the source protection committee.

Recommendation #9: Environmental non-governmental organizations should be treated as a distinct sector from the general public, and their membership on the committees should be provided for accordingly.

Recommendation #10: The Act should be amended to provide that in the exercise of its powers and duties, the source protection committee may,

- (a) obtain technical or scientific assistance related to source protection planning;**
- (b) establish sub-committees or working groups consisting of experts or other persons interested in, or potentially affected by, source protection planning;**
- (c) enter into agreements with such persons, entities or levels of government as the committee considers advisable;**
- (d) conduct seminars or publish educational information related to source protection planning; and**
- (e) perform such other functions or tasks as may be specified by the source protection board or prescribed by the regulations.¹⁵**

Recommendation #11: Adequate funds should be provided to the non-profit and public representatives on the source protection committees; the sub-committees and working groups; and the public participation process as a whole.

Second, the discussion document considers the matter of who should select the committee members and through what means. For sector representatives, we feel it would be most efficient and equitable for the sectors to select their own representatives based on a nomination process. With respect to the public representatives, we support the proposal that the source protection authorities be required “to announce the creation of the committee through various media opportunities and advertise a period when persons may submit a statement of interest to participate on the committee,”¹⁶ and we would encourage the use of such means of communication as media releases; mailings to local residents; door-to-door flyers; notice on the EBR registry; and actual notice to community leaders and local groups. Following the self-

¹⁴ Lindgren, *supra* note 11 at 13-14.

¹⁵ Please see recommendation #11 from Lindgren, *supra* note 11.

¹⁶ *Discussion document on the proposed regulations*, *supra* note 9.

identification of interested members of the public, the ultimate selection should be left to the discretion of the Minister, according to pre-set criteria.

Prior to the final selection of both public or sectoral representatives, the list of possible candidates should be made publicly available and comments from local conservation authorities, municipalities, and others should be considered. This will help to ensure the overall transparency of the selection process.

As noted above, there will need to be criteria upon which all membership is based. For instance, efforts should be made to ensure that the committee's composition reflects the entire geographic area, as well as both rural and urban interests. Additionally, rather than requiring candidates to have formal qualifications or degrees, the province should commit to providing a basic training session to all members at the start of the committee's work.

Once the committees are formed, they should be governed by standardized rules of operation, while permitting some flexibility to account for local variability. Having said this, all committees should be subject to stringent transparency requirements. The committee meetings should be conducted in public, except in the rare circumstances when confidential details are being discussed. The province should provide guidance on privacy issues, and should specify the means by which such information can be publicly disseminated without incurring liability. Certainly, the committees themselves must have access to *all* pertinent information regarding particular parcels of land, including the terms of existing permits and certificates of approval.

In order to truly engage the public in the planning process, the committees should circulate the minutes of all meetings, draft versions of working documents (with qualifications included, as appropriate), and the peer reviews of scientific studies. Plain language explanations of the more technical matters should be provided at key junctures. Further, the committees should organize periodic, interactive focus groups, workshops, open houses, and/or other public input fora. These measures will allow the public to provide feedback before critical decisions are made or impasses are reached, and allow the community to gain a sense of ownership over the source protection initiative.

People will only become engaged if they feel that their input is being heard, and if they are able to control the extent of their participation. Towards this end, members of the public should have a range of involvement opportunities available to them, including reading information, providing comments, observing meetings, and sitting on committees or subcommittees.

Lastly, committees should be governed by timelines and rules regarding conflicts of interest. In terms of timing, the province should require committees to be formed within 90 days of the CWA coming into force, while allowing extensions where warranted. Although committee members should not act as formal representatives, in the sense of needing their sectors to sign-off on position statements or documents, they should avoid conflicts of interest and remain true to the interests of their sector. If a sector no longer feels duly represented by its chosen member, there should be some way in which to reevaluate that member's position on the committee.

Recommendation #12: Sector representatives should be selected via sector nominations.

Recommendation #13: Public representatives should be invited to submit statements of interest, and the Minister should make the final selection based on pre-set criteria.

Recommendation #14: The names of all candidates should be made publicly available prior to the final selection, and a comment period should be provided.

Recommendation #15: Committee membership should be representative of the area's full geographic scope, and should reflect both rural and urban interests.

Recommendation #16: The province should provide basic training to all committee members, rather than requiring them to possess formal qualifications at the outset.

Recommendation #17: Committee meetings should be conducted in public and working documents should be circulated whenever possible. To help facilitate full transparency, the province should provide input on privacy issues.

Recommendation #18: The province should require committees to be formed within 90 days of the CWA coming into force, while allowing extensions where warranted.

Recommendation #19: Committees should be governed by rules regarding conflicts of interest.

Contents of Terms of Reference

The discussion document on the proposed regulations poses four series of questions with regards to the terms of reference. The first series of questions concerns the development of working groups. As noted above, CELA supports the establishment of working groups, and feels that this component of the process will prove invaluable to ensuring that all issues are fully explored, and all sectors adequately heard. In order to add consistency, it is recommended that the province provide guidance on their establishment and set out minimum requirements for their conduct, including requirements around transparency.

The second series of questions relates to the division of labour between municipalities and conservation authorities. The discussion document suggests that municipalities will be responsible for developing the technical work for the assessment reports and source protection plans. While this may be an appropriate arrangement in many instances, the regulations should be flexible enough to allow variations to be negotiated on a watershed-by-watershed basis.

The third series of questions involves the technical qualifications of those individuals or groups that are responsible for preparing the assessment reports and source protection plans. As discussed above, we do not feel that members of the source protection committees should be required to possess formal qualifications; rather, all members should receive basic training from the province at the outset of their work. However, it is recommended that government should require a particular level of expertise from the scientists, land use planners, engineers, academics, and other experts responsible for completing the technical assessment work.

The final question has to do with the amount of time which should be available for the source protection committees to prepare and submit the terms of reference. A reasonable period of time for the completion of this task would be three to four months, including public consultation. Given the severity of existing drinking water problems and the serious implications of any time delays, the province should ensure that each step of the planning process proceeds as expeditiously as possible.

Recommendation #20: Working groups should be established to assist and inform the source protection committees. The province should provide guidance on their establishment and set minimum requirements for their activities.

Recommendation #21: The regulations should allow some flexibility in the division of labour to be negotiated on a watershed-by-watershed basis.

Recommendation #22: Government should require a particular level of expertise from the experts responsible for completing the technical assessment work, though not from the committee members themselves.

Recommendation #23: Source protection committees should be required to prepare and submit their terms of reference within three to four months, including public consultation.

Conclusions and Recommendations

The CWA is a significant piece of legislation which provides long-awaited protections for watersheds and watershed communities in this province. If passed, the CWA will introduce a process by which threats to drinking water sources are identified and risk management strategies are put into action. It will also provide municipalities with the additional tools and powers they so desperately need to protect their waters. The legislation supports the implementation of at least 22 of Justice O'Connor's recommendations following the Walkerton Inquiry. As such, it is a significant first step towards the ultimate goal of protecting drinking water sources in all watersheds across Ontario.

In the foregoing analysis, we comment on several of the critical matters which are left to the discretionary regulation-making powers of the Minister and Lieutenant Governor in Council. Summarized below are our recommendations for how these matters should be addressed. In drafting the regulations, government should bear in mind two overarching goals: first, to provide source water protections province-wide; and second, to create a truly transparent, representative, and interactive public planning and implementation process.

In closing, CELA looks forward to the passage of the CWA so that the important work of protecting Ontario's watersheds can proceed as expeditiously as possible. We welcome this opportunity to make submissions on the proposed matters to be addressed in the regulations, and we look forward to providing further feedback on the development, implementation, and funding of source protection in Ontario.

Recommendation #1: The CWA should provide for the mandatory assessment of risks and mandatory reduction of significant drinking water threats in vulnerable areas across the province.

Recommendation #2: Source protection areas should be created or expanded in parts of Ontario that are not now covered, so that additional water users can receive the full range of protections offered by the legislation.

Recommendation #3: The establishment of new source protection areas in parts of Ontario not currently covered should not be limited to municipalities.

Recommendation #4: A range of stakeholders should be designated as source protection authorities, including non-governmental organization, First Nations peoples, and other provincial ministries where appropriate.

Recommendation #5: In recognition and respect of First Nations' traditional environmental knowledge, as well as their aboriginal and treaty rights and claims, the province must pursue a strategy with the federal government and First Nations that will support the ability of First Nations (and their technical designates) to be full participants in watershed-based source protection planning and implementation.

Recommendation #6: The Act should be amended to provide that when deciding whether to establish or amend a source protection region, the Minister shall consider the following factors:

- (a) the purposes of the Act;
- (b) any comments submitted by any person, entity or conservation authority regarding the source protection region;
- (c) the watershed boundaries and linkages within the source protection region;
- (d) other hydrogeological features which may divide the region; and
- (e) whether consolidating source protection areas will facilitate the pooling of resources, the sharing of expertise, or otherwise ensure efficient and effective source protection planning.

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- interim progress reports to be made available to the public *as soon as reasonably possible* after they are submitted to the Director under subsection 18(3); and
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- (a) obtain technical or scientific assistance related to source protection planning;
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- (c) enter into agreements with such persons, entities or levels of government as the committee considers advisable;

- (d) conduct seminars or publish educational information related to source protection planning; and**
- (e) perform such other functions or tasks as may be specified by the source protection board or prescribed by the regulations.**

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