



**Source Protection Committee
Wednesday, September 25, 2013
Holmesville Community Centre, Holmesville**

MEMBERS PRESENT

Marilyn Miltenberg, Gerry Rupke, Don Jones, Karen Galbraith, David Blaney, Ian Brebner, Keith Black, Matt Pearson, John Vander Burgt

LIAISONS PRESENT

Acting MOE Liaison, Kate Turner; Ausable Bayfield Acting SPA Liaison, Tom Prout; Maitland Valley SPA Liaison, Phil Beard

WITH REGRETS

Health Unit Liaison, Jean-Guy Albert; SPC Chair: Larry Brown; SPC Members: Gib Dow, Al Hamilton, Mike McElhone, Bill Rowat, Meridith Schneider, Rowena Wallace

DWSP STAFF PRESENT

Jenna Allain, Tim Cumming, Mary Lynn MacDonald, Donna Clarkson
Judith Parker, Recording Secretary

OTHERS PRESENT

Hugh Simpson, Program Analyst, Ontario Ministry of Agriculture and Food

CALL TO ORDER

Acting Chair, Matt Pearson, called the meeting to order at 9:43 a.m. and stated he held the voting proxy for Mike McElhone which would make a quorum for the meeting. It was also announced that MOE Liaison, Lisa Ross has taken another position with the Ministry effective September 30th. Lisa was unable to attend the meeting so Kate Turner was welcomed as the Acting Liaison for the Ministry of Environment.

AGENDA

MOTION #SPC: 2013-09-01

Moved by Gerry Rupke
Seconded by Karen Galbraith

That the agenda be approved as amended.

Carried by Consensus.

MINUTES FROM June 26, 2013

MOTION #SPC: 2013-09-02

Moved by Ian Brebner
Seconded by Don Jones

**That the SPC minutes from June 26, 2013 be approved as presented.
Carried by Consensus.**

BUSINESS OUT OF THE MINUTES

None

DECLARATION OF PECUNIARY INTEREST

None

MOE COMMENTS ON SOURCE PROTECTION PLANS

Jenna Allain, Program Supervisor, provided a review of the 21 drinking water threats and the policy approaches the SPC took to address those threats in the the AB & MV Proposed Source Protection Plans. A first round of comments on the source protection plans were received from the Ministry of Environment in August. Additional comments are expected later this fall. The comments received to date have been broken down into recommended revisions and comments for discussion by the SPC.

Recommended Revisions

1. Modifications to the standard preamble for Policies 4.1, 4.2, 4.3 and 4.11 to adequately separate out the threat subcategory that is not being prohibited.
2. Remove reference to industrial effluent discharges in Policies 4.1, 4.6, 4.8 and 4.10.
3. Add a statement and additional rationale to the explanatory document indicating that the SPC is comfortable managing the handling/storage of 25L or less of DNAPLs with only education and outreach.
4. Add description to Appendix C describing the distribution of the notice of plan preparation.
5. Five monitoring policies are included on list F indicating they are monitoring policies referred to subsection 22(2) of the Act. However, these monitoring policies have been applied to optional content policies which are outside the intent of the Act and should be removed.
6. Policy A/C.9.3 and A/C.9.4 should both reference the storage of ASM in any quantity.
7. Policy A.9.6 should read fertilizer and pesticide *application* instead of *storage*.
8. Revise the text box on page 13 to accurately reflect when the storage of DNAPLs can be a significant threat.

MOTION #SPC: 2013-09-03

Moved by Marilyn Miltenburg
Seconded by Gerry Rupke

That revisions #1 through 8 recommended in the comments by MOE be approved as presented.

Carried by Consensus.

Section C of the Program Supervisors' report was a table of recommended revisions from MOE that the SPC had already reviewed at the August 12th, 2012 meeting. The comments were received during the final 30-day consultation period prior to plan submission, and the Committee had agreed to make the recommended revisions while the plans were under review..

MOTION #SPC: 2013-09-04

Moved by Don Jones
Seconded by Karen Galbraith

That the MOE comments received during the proposed consultation period be approved as presented.

Carried by Consensus.

Comments for Discussion

1. At the August 2012 meeting, a comment from MOE was reviewed asking the SPC to remove the salt application policies (not the salt storage policies) since salt application can never be a significant threat in the ABMV Region. However, the committee chose to leave the policies in the Plans when they were submitted. MOE has recommended that the SPC insert a footnote to Policies 8.1, 8.2 and 8.3 clarifying why salt application cannot be a significant threat.

MOTION #SPC: 2013 -09-05

Moved by John Vander Burgt
Seconded by Keith Black

That a footnote be added under the salt application policies in the plans to explain why salt application policies do not apply in the ABMV region.

Carried by Consensus.

2. Policy 5.8 was created because of concern about landfills located in HVAs and SGRAs. The SPC included it as a way of monitoring landfills in these areas even though this is a non-legally binding policy. MOE comments suggest that the actions set out in this policy are out of scope for what can be included in a source protection plan. MOE is suggesting that this policy could be changed to a general education and outreach policy.

MOTION #SPC: 2013 -09-06

Moved by Gerry Rupke
Seconded by Ian Brebner

That Policy 5.8 be changed to a general education and outreach policy.

Carried by Consensus.

3. Where a policy in the plan refers to an “existing” threat, it is generally understood to mean an activity that commenced on a day before the plan comes into effect. A “future” threat activity is generally understood to mean an activity that commences on a day on or after the day the plan comes into effect. However, despite these definitions, in order to be fair to bona fide applications in process and to recognize approvals obtained, it is important to allow certain “future” prohibited activities to be treated as “existing” activities and therefore subject to the policies that apply to “existing” activities. This is achieved by the inclusion of a transition policy. MOE identified several implementation challenges with the existing transition policy in the proposed plans. Staff recommended changing the transition policy (P.12.12) to more closely match the example provided by MOE.

Motion #SPC: 2013-09-07

Moved by Karen Galbraith
Seconded by David Blaney

That the wording of the transition policy P.12.12 be changed to the wording recommended by MOE.

Carried by Consensus.

4. This comment recommends that the SPC consider how the definition of existing threats in the Plan would be applied to activities on existing agricultural properties to better understand the impacts of several future prohibition policies. The SPC agreed to defer this discussion until the agenda item on agricultural policies.
5. Policies 5.2 and 5.5 address waste disposal threats when there is no prescribed instrument required (e.g. Environmental Compliance Approvals). MOE wants to ensure that the SPC is aware of all the different circumstances and activities that can be identified as a ‘waste disposal site’ threat and would be prohibited in the future. Staff presented examples such as municipal shops, hospitals, pharmacies, mechanic shops.

Motion #SPC: 2013 -09-08

Moved by Don Jones
Seconded by Gerry Rupke

That the waste disposal policies in the AB and MV plans remain as is.

Carried by Consensus.

6. At the August 2012 meeting the SPC passed a motion to remove the prescribed instrument policies A.9.5 and C.9.5 through an addendum to the plan. It was agreed by consensus to discuss the handling of NASM threats later in the agenda under Agricultural Policy discussion.

ABMV AGRICULTURAL POLICIES

Jenna Allain provided an overview of how the SPC chose to address agricultural-related drinking water threats. Examples were given of how agricultural policies will impact existing farm properties around the region.

Acting Chair Matt Pearson announced the SPC meeting would break for lunch at 12 noon.

The afternoon portion of the meeting was called to order by Acting Chair Matt Pearson at 12:47 p.m. Tim Cumming was named as the recording secretary for the remainder of the meeting.

Program Supervisor, Jenna Allain returned to the topic of source protection policies related to agricultural land uses, and outlined three specific concerns OMAF had expressed with certain policies in the proposed source protection plans. OMAF has expressed concern about the prohibition of existing storage of agricultural source material (ASM) and non-agricultural source material (NASM) in the 100-metre capture zone (WHPA-A). Jenna explained that based on the threat verification work conducted by staff, no properties have been identified as having existing ASM or NASM storage in WHPA-A.

OMAF has also expressed concerns about the prohibition of future storage of pesticides, commercial fertilizer, ASM, and NASM in the 2-year time-of-travel (WHPA-B). Jenna explained that most farms in the Region have only small areas (primarily agricultural fields) that would be affected by future prohibition policies.

Finally, OMAF has expressed concerns about the use of risk management plans in cases where farms are phased in under the *Nutrient Management Act*. Jenna explained that the risk management plan policies specify that RMP's should be based on *Nutrient Management Act (NMA)* standards. The SPC chose to use RMP's since not all instruments under the *NMA* require approval, and Part IV powers give the ability to enforce, monitor, and ensure a plan does not sit on the shelf. Jenna also noted that with a letter from OMAF, a farm property could opt out of a risk management plan if OMAF provides a letter indicating that the threat activities (such as manure application) are already being managed to meet the requirements of the source protection plan policies through an existing Prescribed Instrument, such as a Nutrient Management Plan or Nutrient Management Strategy.

The Chair invited Hugh Simpson, Policy Analyst with the Ontario Ministry of Agriculture and Food, to speak to OMAF's comments. Mr. Simpson explained to the Committee that OMAF is not an approval agency, and that inspections of farm properties are done by the Ontario Ministry of the Environment (MOE). He spoke to the potential for appeals or civil actions if the wording and expectations of the source protection plan policies are not at the appropriate detail. He

suggested the policies may need to be either more detailed or more generic and that if the policy is “ambiguous” it could be open to appeal or action. Mr. Simpson indicated that OMAF may not be in a position to write a letter to facilitate the opt-out provision for a landowner with an existing prescribed instrument, as the risk management plan policies are not clear about what the risk management plan would say, and whether existing prescribed instruments would meet the policy requirements.

The Committee agreed to retain the existing policy approach for addressing agricultural-related threats. However, they recommended that staff work with OMAF and MOE bring back some recommendations about how the risk management plan policies could be reworded to satisfy the Committee’s intent and OMAF’s concerns.

OTHER ABMV POLICY CONSIDERATIONS

Report on Section 59 Policy

Program Supervisor, Jenna Allain reviewed the purpose of the Section 59 tool known as the ‘flagging’ tool. The existing Section 59 policy in the ABMV plans will require any building permit application or *Planning Act* application to be sent to the municipal Risk Management Official (RMO) before the application can proceed. The RMO would ascertain whether the activity is prohibited or requires risk management and then issue a Section 59 notice. This would require every application (even a permit to build a deck) to go to the RMO first. The Program Supervisor explained that the Thames-Sydenham and Region has included wording in their Section 59 policy that gives the RMO the ability to give direction to municipal staff to determine which applications would need to go to the RMO for screening. This approach was recommended to the committee as a way to reduce the workload for RMO’s. The Committee discussed how much development is anticipated in the region and the local implications of the existing Section 59 policy. There might be as many as 7,500 properties in the region where threats could be significant, but it is anticipated only a small percentage of those properties would require an application each year.

MOTION #SPC: 2013-09-09

Moved by John Vander Burgt
Seconded by Karen Galbraith

That the SPC leave the Section 59 policy as it is currently stated.

Carried by Consensus

Report on Monitoring Mandatory Septic System Inspections

Jenna Allain provided background about the mandatory on-site septic system inspections that are now required under the Ontario Building Code for any septic system that is considered a significant drinking water threat. The Ministry of Municipal Affairs and Housing has provided guidelines for these mandatory inspections, but there is no current requirement for municipalities to report to the SPC or the SPA’s about the results of these inspections. Since septic systems are one of the most prominent threats in the region, the Program Supervisor suggested that the plan

should contain a policy that would require municipalities to report on the progress of the mandatory inspections. A policy from the Mattagami Region SPP was referred to as an example.

There Committee discussed whether a policy change like this would be substantive enough to require a new round of consultation. Ontario Ministry of the Environment liaison Kate Turner said a decision on whether new consultation is needed is often left to the SPC to decide but that some MOE guidance on this question would follow. She noted that Building Code requirements are already in place so the policy would provide no extra burden on property owners or tenants. However, with a number of changes to the proposed plans (e.g., some wells going off line, Water Budget, etc.), a new consultation might be advised or required. If so, a single 30-day consultation period would likely be sufficient to consult on all changes.

MOTION #SPC: 2013-09-8

Moved by Don Jones
Seconded by John VanderBurgt

That the proposed policy requiring implementation of the Ontario Building Code requirements with respect to septic systems, and requiring implementing bodies to report annually about those requirements be added to the SPP's.

Carried by consensus.

PREPARING FOR IMPLEMENTATION – PROGRAM UPDATE

Jenna Allain commended source protection staff Donna Clarkson and Mary Lynn MacDonald for their work with property owners and tenants to verify the actual number of drinking water threat activities. She indicated that a positive co-benefit of this work has been the opportunity to reach out and educate landowners, and make them aware of financial incentive opportunities to improve their properties and protect water through grants under the Ontario Drinking Water Stewardship Program (ODWSP). It is because of this direct contact with property owners that the number of landowner projects to protect drinking water this year has been above expectations.

The Program Supervisor also indicated that staff have been meeting with the nine municipalities that have implementation responsibilities under the source protection plans to convey the results of the threats verification work. Municipalities seem encouraged that the Province of Ontario has announced \$13.5 million to assist small rural municipalities with implementation.

Acting Chair Matt Pearson thanked Acting MOE Liaison Kate Turner for having attended the meeting and also thanked Lisa Ross, the previous liaison from MOE, who has moved to another position in the Ministry.

NEXT MEETING

The next meeting is scheduled for Wednesday, November 27, 2013.

Matt Pearson
Acting Chair

Judith Parker / Tim Cumming
Recording Secretary