

Report To: Halton-Hamilton Source Protection Committee
Report No.: SPC-23-09-03
From: Martin Keller, Senior Manager, Watershed Planning and Source Protection, mkeller@hrca.on.ca
Date: September 26, 2023
Subject: Draft Policy Package – Fuel **(Revised)**

Recommendation

THAT the Halton-Hamilton Source Protection Committee receives for information the staff report SPC-23-09-03 Draft Policy Package – Fuel

Executive Summary

Staff are continuing to analyze the implications of the updated technical framework and revised 2021 Technical Rules under the *Clean Water Act, 2006*, including revised circumstances for identifying significant drinking water threats in the Halton-Hamilton Source Protection Region (HHSPR). Draft policies for the handling and storage of fuel were discussed at the Municipal Working Group meetings on July 26 and September 13, 2023 and are presented to the Source Protection Committee in this report for discussion and feedback.

Report

Background

In December 2021, the Ministry of the Environment, Conservation and Parks (MECP) revised the Technical Rules under the *Clean Water Act, 2006*. The rules are available at: <https://www.ontario.ca/page/2021-technical-rules-under-clean-water-act>

The recently submitted and approved comprehensive HHSPR updates under Section 36 of the *Clean Water Act, 2006* were undertaken following the 2017/2018 Technical Rules. The 2021 Technical Rules will apply to subsequent Assessment Report and Source Protection Plan updates at HHSPR.

Policy Development

Staff developed and presented draft policy text for the handling and storage of fuel to municipal staff and Risk Management Officials (RMO) at the July 26, 2023 Municipal Working Group meeting. Feedback from municipal staff and the RMOs was taken into consideration and revised policy text was presented at the September 13, 2023 Municipal Working Group meeting. Municipal staff and Risk Management Officials (RMO) are in support of the proposed draft policy text. Further changes may be made based on feedback from the Source Protection Committee.

The intent of the policies with respect to fuel is to eliminate or reduce the risk associated with the handling and storage of quantities greater than 250 litres at, partially below and fully below grade.

Following discussions with municipal partners and RMO's, prohibiting the handling and storage of fuel greater than 250 litres, where it would be a significant drinking water threat, is feasible. Exemptions may apply to un-serviced residential properties where fuel is to be used for home heating or agricultural operations, where fuel storage is less than 2500 litres.

Risk Management Plans (RMP) have been identified as an ideal policy tool for mitigating the threat, where the handling and storage of fuel is or would be a significant drinking water threat and is exempt from prohibition. Staff propose that low density residential properties (defined in Appendix A) where fuel is currently used for home heating purposes, would be exempt from RMP and would be subject to Education and Outreach.

Next Steps

Following feedback from Source Protection Committee members, any further policy revisions will be brought forward for discussion to the next Municipal Working Group and future SPC meetings, as applicable.

Signed & respectfully submitted:



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Mardi Bergen
Source Water Information Coordinator, Watershed Planning and Source Protection

2021 Technical Rule Changes – Fuel

Handling and Storage of Fuel

Intent – to eliminate / minimise the future storage and handling of fuel where it is considered a significant threat to drinking water sources and to mitigate/monitor existing handling and storage of fuel.

Tool

- Prohibit the future handling and storage of fuel (250+ litres) in any WHPA Zone with a score of 10 and any WHPA-E with a score of 9. Exclusions for home heating **may** apply.
- Risk management plan to manage the existing storage and handling of fuel (250+ litres), in areas where it would be a significant risk to drinking water sources.

Notes from discussion with CTC staff

- Agree that prohibition of future threats is feasible, with the exclusion of un-serviced residential dwellings and farming operations, that do not store more than 2500 litres.
- RMPs for all existing significant threats and all future un-serviced residential dwellings and farming operations that do not fall under prohibition.

Handling and Storage of Fuel

Activity	Existing /Future	Vulnerable Area	Significant Threat VSA	Threshold	Intent	Tool Options	Applicable to HHSPR	Notes
At or Above Grade, Partially Below Grade, Below Grade	Existing	WHPA WHPA-E	10 9	>250 L	Mitigate Risk	RMP E&O	All WHPA’s Carlisle WHPA-E	
At or Above Grade, Partially Below Grade, Below Grade	Future	WHPA WHPA-E	10 9	>250 L	Prohibit (home heating, exclusions may apply)	Prohibition Land Use Planning	All WHPA’s Carlisle WHPA-E	

Current Fuel Policies

Threat	Education & Outreach	Incentives	Prescribed Instrument	Land Use Planning	Prohibited Activities	Restricted Land Uses	Risk Management Plans	Other
Handling & Storage of Fuel	T-43-C a			T-41-C a T-53-C a			T-40-C a	T-42-S a

Definitions

Un-serviced Residential – means any property classified as residential land use or agricultural land use, that is not serviced by gas.

Low Density Residential – means any residentially zoned lot containing 4 or less units.

Policy Comparison Overview

Handling and Storage of Fuel

Tool	Current Policies (2022)	Current Policy Number	Proposed Policies	New Policy Number
Education and Outreach	Upper tier municipalities to continue their established plans. Within 2 years of plan approval, collaborate with the CAs to implement outreach program to newly identified home fuel tanks. (Stickers with emergency response info)	T-43-C	Upper tier municipalities to continue their established E&O plans. Within 2 years of plan approval, collaborate with the CAs to implement outreach program for newly identified home fuel tanks. (Stickers with emergency response info)	T-43-C
Land Use Planning	Prohibit, through the Planning Act, future gas stations.	T-41-C	Proposed to be repealed.	N/A
Restricted Land Use (S.59)	RMO to screen building permits and Planning Act applications in accordance with policy G-2 Create Risk Management Plans for any future threats.	T-40-C	Proposed to be repealed.	N/A
Risk Management Plans (S.58)	N/A	N/A	New: Risk Management (S. 58) plans for any new (existing) significant threats and future significant threats exempt from prohibition	T-41.1-C T-41.2-C
Prohibition (S. 57)	N/A	N/A	New: Prohibit (S. 57) future handling and storage of fuel over 250 liters except un-serviced residential properties or farming operation with storage less than 2500 liters.	T-40.1-C
Other	Niagara Escarpment is requested to prohibit gas stations in their plan.	T-42-S	Request prohibition of future significant drinking water threat, caused by the handling and storage of fuel, in the Niagara Escarpment Plan.	T-42-S

Policy ID	T-40.1-C
Threat	Handling and Storage of Fuel
Policy Tool	Prohibition
Policy Implementer	Risk Management Official
Policy	<p>a) The handling and storage of fuel shall be designated for the purpose of Section 57 of the CWA and shall be prohibited if all of the following apply:</p> <ol style="list-style-type: none"> 1. The activity would be a significant drinking water threat. 2. The storage of fuel would be greater than 250 litres. 3. The property is used for any land use excluding un-serviced residential or farming operations with fuel storage less than 2500 litres. <p>b) The Risk Management Official shall document in their annual report, in accordance with Section 65 of Ontario Regulation 287/07, actions taken to prohibit storage of fuel and submit this report to the Source Protection Authority by February 1 of each year.</p>
Legal Effect (Appendix C)	<p>a) Must conform with – legally binding. List G (S.57 prohibition policy)</p> <p>b) Must conform with – legally binding. List F (monitoring policy)</p>
Where Policy Applies	<p>See Figures 2 to 11.</p> <p>WHPA-A & B – V. score 10; WHPA-E – V. score 9</p>
When Policy Applies	Future

Policy ID	T-41.1-C
Threat	Handling and Storage of Fuel
Policy Tool	Risk Management Plan
Policy Implementer	Risk Management Official
Policy	<p>a) The handling and storage of Fuel is designated for the purpose of Section 58 of the CWA and a Risk Management Plan shall be required where the following apply:</p> <ol style="list-style-type: none"> 1. The activity is a significant drinking water threat; and 2. Fuel storage is greater than 250 litres; and 3. Fuel storage is not used for heating a low density residential dwelling. <p>b) The Risk Management Plan shall include, at a minimum, the requirements for all storage tanks to comply with the requirements of the Technical Standards and Safety Act and its regulations, for all owners/operators to have an emergency response plan with emergency contact information of the municipality responsible for water services and the Spills Action Centre.</p> <p>c) The Risk Management Official shall document in their annual report, in accordance with Section 65 of Ontario Regulation 287/07, action taken to manage the handling and storage of fuel and submit this report to the Source Protection Authority by February 1 of each year.</p>
Legal Effect (Appendix C)	<p>a) & b) Must conform with - legally binding. List H (S.58 RMP policy)</p> <p>c) Must conform with – legally binding. List F (monitoring policy)</p>
Where Policy Applies	<p>See Figures 2 to 11.</p> <p>WHPA-A & B – V. score 10; WHPA-E – V. score 9</p>
When Policy Applies	Existing

Policy ID	T-41.2-C
Threat	Handling and Storage of Fuel
Policy Tool	Risk Management Plan
Policy Implementer	Risk Management Official
Policy	<p>a) The handling and storage of Fuel is designated for the purpose of Section 58 of the CWA and a Risk Management Plan shall be required where the following apply:</p> <ol style="list-style-type: none"> 1. The activity would be a significant drinking water threat; and 2. The storage of fuel would be greater than 250 litres and would be less than 2500 Litres; and 3. The property is un-serviced, and the land use is residential or a farming operation. <p>b) The Risk Management Plan shall include, at a minimum, the requirements for all storage tanks to comply with the requirements of the Technical Standards and Safety Act and its regulations, for all owners/operators to have an emergency response plan with emergency contact information of the municipality responsible for water services and the Spills Action Centre.</p> <p>c) The Risk Management Official shall document in their annual report, in accordance with Section 65 of Ontario Regulation 287/07, action taken to manage the handling and storage of fuel and submit this report to the Source Protection Authority by February 1 of each year.</p>
Legal Effect (Appendix C)	<p>a) & b) Must conform with - legally binding. List H (S.58 RMP policy)</p> <p>c) Must conform with – legally binding. List F (monitoring policy)</p>
Where Policy Applies	<p>See Figures 2 to 11.</p> <p>WHPA-A & B – V. score 10; WHPA-E – V. score 9</p>
When Policy Applies	Future

Policy ID	T-42-S
Threat	Handling and Storage of Fuel
Policy Tool	Niagara Escarpment Plan
Policy Implementer	Niagara Escarpment Commission
Policy	<p>Where the future handling and storage of fuel would be a significant drinking water threat,</p> <ul style="list-style-type: none"> a) The Niagara Escarpment Commission is requested to prohibit storage of fuel that would be greater than 250 litres and the property is used for any land use (excluding un-serviced residential or farming operations with fuel storage less than 2500 litres), in the Niagara Escarpment Plan. b) The Niagara Escarpment Commission is requested to provide the Source Protection Authority by February 1 of each year a report of the actions taken to prohibit storage of fuel in the Niagara Escarpment Plan.
Legal Effect (Appendix C)	<ul style="list-style-type: none"> a) Strategic – non-legally binding. List K (other bodies) b) Must conform with – legally binding. List F (monitoring policy)
Where Policy Applies	<p>See Figures 2 to 11.</p> <p>WHPA-A & B – V. score 10; WHPA-E – V. score 9</p>
When Policy Applies	Future

Policy ID	T-43-C
Threat	Handling and storage of fuel
Policy Tool	Education and outreach
Policy Implementer	City of Hamilton, Regional Municipality of Halton
Policy	<p>Where the existing and future handling and storage of fuel is or would be a significant drinking water threat,</p> <p>a) the City of Hamilton and Regional Municipality of Halton shall continue their established, related education and outreach programs. In addition, within two years of the date that the Source Protection Plan comes into effect, the City of Hamilton and the Regional Municipality of Halton, in collaboration with the Halton Region and Hamilton Region Conservation Authorities, shall develop and implement an education and outreach program for homeowners with home fuel oil tanks newly identified as significant threats, regarding spill response and the method and timing for contacting the Spills Action Centre. As part of this program, stickers with emergency phone numbers shall be provided to be placed on or near the fuel tanks and fill pipes to ensure immediacy of response if there is a spill or leak detected.</p> <p>b) the City of Hamilton and the Regional Municipality of Halton shall document the nature of any new education and outreach program established regarding home fuel oil tanks, the number of persons contacted, and the location of the participants and report this information to the Source Protection Authority by February 1 of each year.</p>
Legal Effect (Appendix C)	<p>a) Must comply with – legally binding. List E (municipalities)</p> <p>b) Must conform with – legally binding. List F (monitoring policy)</p>
Where Policy Applies	<p>See Figures 2 to 11.</p> <p>WHPA-A & B – V. score 10; WHPA-E – V. score 9</p>
When Policy Applies	Existing and future
Notes	An education and outreach program can help reiterate that the proper installation, inspection, and maintenance of fuel tanks and a rapid clean up of spills could save a fuel tank owner a lot of money and protect the environment.