

Report To: Halton-Hamilton Source Protection Committee
Report No.: SPC-24-03-06
From: Martin Keller, Senior Manager, Watershed Planning and Source Protection
Date: March 19, 2024
Subject: Draft Policy Package – NASM

Recommendation

THAT the Halton-Hamilton Source Protection Committee endorse the draft policies as presented in report SPC-24-03-06 Draft Policy Package – NASM

Executive Summary

Following the December 5, 2023 Halton-Hamilton Source Protection Committee meeting, staff presented and discussed SPC comments on the proposed draft policies for the application, handling and storage of Non-Agricultural Source Material (NASM) with the Municipal Working Group on January 17, 2024. Staff recommend maintain the proposed prohibition and RMP policies to address the handling and storage, and application of NASM.

Report

Staff have drafted proposed policies for the application, handling, and storage of Non-Agricultural Source Material (NASM) in response to changes to the Technical Rules released in December 2021. Reports addressing policy revision for NASM have been presented to the Halton-Hamilton Source Protection Committee (HHSPC) at the December 5, 2023 committee meeting (report SPC-23-12-06). Comments received from the HHSPC regarding the proposed prohibition and RMP policies for the application, handling, and storage of NASM were presented and discussed at the January 17, 2024 Municipal Working Group meeting.

Municipal Working Group members maintain support for the proposed policies with the intent to prohibit (in WHPA-A) and manage through RMP (outside WHPA-A), the application, handling, and storage of NASM (Categories 1, 2 and 3) where the activity is or would be a significant drinking water threat. Unlike Category 2 & 3, Category 1 NASM does not require a NASM plan. The addition of a S.58 RMP policy ensures activities associated with all NASM categories would be addressed.

Property owners who hold a valid prescribed instrument, e.g., NASM plan, Nutrient Management Plan or Strategy, can apply under S.61 of Ontario Regulation 287/07 for exemption from a Risk Management Plan. Notice of the prescribed instrument must be

provided to the RMO and the RMO must be satisfied with the measures taken to protect drinking water sources.

Appendix A provides the comments from the Source Protection Committee and the Municipal Working Group related to the application, handling and storage of Non-agricultural source material.

Appendix B contains all proposed policies for the application, handling, and storage of non-agricultural source material. No changes have been made to the proposed draft policies and reflect what was presented to the SPC at the December 5, 2023 committee meeting.

Signed & respectfully submitted:



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Appendix A

Application, Handling, and Storage of Non-Agricultural Source Material (NASM)

Comments: Prohibition of Application, Handling & Storage of NASM

Tool	Proposed Policy	Comments from SPC (Dec 5, 2023)	Comments from Municipal Working Group (Jan 17, 2024)	Staff Comments & Rationale for Proposed Policy
Application Handling and Storage of NASM Prohibition (S.57) RMP (S.58)	T-24.1-C – Existing and Future threat; application, handling and storage of NASM in WHPA-A (Prohibition) T-24.2-C – Existing and Future threat; application, handling and storage of NASM outside WHPA-A (RMP)	<ul style="list-style-type: none">- Application of NASM within 100m of a well is prohibited in the Nutrient Management Act and therefore no S.57 Prohibition is needed.- The only real gap in current policy is the application of Category 1 NASM. According to the Nutrient Management Act, if application rates of the material are under 20 tons per hectare, testing or record keeping is not required. This material should be managed by E&O and not Prohibition or RMP.- NASM storage construction with in 100m of a municipal well is prohibited in the Nutrient Management Act.- Temporary storage is the only real gap in our existing policy but is prohibited under the Nutrient Management Act within 100m of a well.	<ul style="list-style-type: none">- The intent of the prohibition and RMP policies, is to ensure that all potential risks, not covered under the Nutrient Management Act	<ul style="list-style-type: none">- Category 1 includes non-farm herbivorous animals and is not currently captured under the Nutrient Management Plan. Prohibition and RMP would cover this material.- Proposed Prohibition and RMP policy would create consistency among neighbouring Source Protection Plans- The policies would create a level of accountability and an avenue for RMOs to investigate adherence to Nutrient Management Plans/Strategies, rather than waiting for MECF inspection triggered by complaint.- Nutrient Management Act only covers farms that generate more than 5 Nutrient Management Units, proposed policy would address those that are not governed through the NMA.

Appendix B

Proposed Policies: Application, Handling and Storage of Non-Agricultural Source Material (NASM)

Policy ID	T-22-S
Threat	Application of agricultural source material (ASM) to land; storage of ASM; application of non-agricultural source material (NASM) or biosolids to land; storage of NASM; application of commercial fertilizer to land; storage of commercial fertilizer; ASM generation (yards or confinement); ASM generation (grazing and pasturing)
Policy Tool	Other tools: compliance inspections of agricultural operations
Policy Implementer	Ministry of the Environment, Conservation and Parks
Policy	<p>To monitor compliance with nutrient management plans and strategies, non-agricultural source material plans, and Ontario Regulation 267/03 requirements for properties located within vulnerable areas where there are now or potentially would be significant drinking water threats due to the application and storage of agricultural source materials, non-agricultural source materials, commercial fertilizer, and land used for outdoor confinement areas and farm-animal yards,</p> <ol style="list-style-type: none"> the Ministry of the Environment, Conservation and Parks is requested to conduct regular compliance inspections of agricultural operations where significant drinking water threats occur, and shall guide farmers to improve compliance performance, when needed. the Ministry of the Environment, Conservation and Parks shall document the number and location of inspections that were compliant and non-compliant with nutrient management plans and strategies, and non-agricultural source material plans, and the actions taken, and report this information to the Source Protection Authority by February 1 of each year.
Legal Effect	Part a - Strategic - non-legally binding. List K (Appendix C - Compliance Lists) (Part b is a monitoring policy)

Where Policy Applies	<p>See Figures 2 to 11.</p> <ul style="list-style-type: none">• Application of ASM to land, storage of ASM, application of NASM, storage of NASM, ASM generation (yards or confinement), ASM generation (grazing and pasturing): WHPA-A & B – V. score 10; WHPA-E – V. score 9 & 8.1.• Application of commercial fertilizer: WHPA-A & B – V. score 10; WHPA-E – V. score 9.• Storage of commercial fertilizer: WHPA-A & B – V. score 10.
When Policy Applies	Existing and future

Policy ID	T-24-C
Threat	Application of non-agricultural source material (NASM) or biosolids to land, and storage of NASM
Policy Tool	Prescribed instrument
Policy Implementer	Ministry of Agriculture, Food and Rural Affairs
Policy	<p>Where the future application, or handling and storage of categories 2 and 3 non-agricultural source material would be significant drinking water threats,</p> <ul style="list-style-type: none"> a. the Ministry of Agriculture, Food and Rural Affairs shall ensure that non-agricultural source material plans (NASM plans) required under the <i>Nutrient Management Act</i> include measures that, when implemented, will ensure that these activities never become significant drinking water threats. b. the Ministry of Agriculture, Food and Rural Affairs shall document the number and locations where non-agricultural source material plans were approved, and the measures included and report this information to the Source Protection Authority by February 1 of each year.
Legal Effect	<p>Part a - Must conform with - legally binding. List C (Appendix C - Compliance Lists).</p> <p>(Part b is a 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 & 8.1</p>
When Policy Applies	Future
Notes	Non-agricultural source material is defined in Ontario Regulation 267/03 – General under the <i>Nutrient Management Act, 2002</i> . An example is biosolids.

Policy ID	T-24.1-C
Threat	Application, Handling and Storage of non-agricultural source material (NASM)
Policy Tool	Prohibition
Policy Implementer	Risk Management Official
Policy	<p>Where the existing and future application, handling and storage of non-agricultural source material (NASM) is or would be a significant drinking water threat in WHPA-A,</p> <ul style="list-style-type: none"> a) the activity is designated for the purpose of Section 57 of the CWA and shall be prohibited. b) The risk management official shall document in their annual report, in accordance with Section 65 of Ontario Regulation 287/07, actions taken regarding the application, handling and storage of NASM and submit this report to the Source Protection Authority by February 1 of each year.
Legal Effect	<ul style="list-style-type: none"> a) Must conform with – legally binding. List G (S.57 prohibition policy) b) Must conform with – legally binding. List F (monitoring policy)
Where Policy Applies	See Figures 2 to 11. WHPA-A
When Policy Applies	Existing/Future
Notes	Non-agricultural source material is defined in Ontario Regulation 267/03 – General under the <i>Nutrient Management Act, 2002</i> . An example is biosolids.

Policy ID	T-24.2-C
Threat	Application, Handling and Storage of non-agricultural source material (NASM)
Policy Tool	Risk Management Plan
Policy Implementer	Risk Management Official
Policy	<p>Where the existing and future application, handling and storage of non-agricultural source material (NASM) is or would be a significant drinking water threat outside WHPA-A,</p> <ul style="list-style-type: none"> a) The activity is designated for the purpose of Section 58 of the CWA and a Risk Management Plan shall be required. b) The risk management official shall document in their annual report, in accordance with Section 65 of Ontario Regulation 287/07, actions taken regarding the application, handling and storage of NASM and submit this report to the Source Protection Authority by February 1 of each year. c) S.61 of Ontario Regulation 287/07 allows for exemption from a Risk Management Plan if proper notice of an existing prescribed instrument is provided to the RMO and they are satisfied with measures taken to protect drinking water sources.
Legal Effect	<ul style="list-style-type: none"> a) Must conform with – legally binding. List H (S.58 prohibition policy) b) Must conform with – legally binding. List F (monitoring policy)
Where Policy Applies	<p>See Figures 2 to 11.</p> <p>WHPA-B – V. score 10; WHPA-E V. score 9-10</p>
When Policy Applies	Existing/Future
Notes	Non-agricultural source material is defined in Ontario Regulation 267/03 – General under the <i>Nutrient Management Act, 2002</i> . An example is biosolids.

Policy ID	T-54-C
Threat	Application, or handling and storage of non-agricultural source material
Policy Tool	Education and outreach
Policy Implementer	City of Hamilton, Regional Municipality of Halton
Policy	<p>Where the future application, or handling and storage of non-agricultural source material would be a significant drinking water threat,</p> <ol style="list-style-type: none"> the City of Hamilton, 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 Region of Halton, in collaboration with the Halton Region and Hamilton Region Conservation Authorities, are requested to develop and implement education and outreach programs to promote best management practices regarding newly identified significant threat activities for the protection of source water. the City of Hamilton and the Region of Halton shall document any new and existing education and outreach programs established regarding the application, handling or storage of category 1 non-agricultural source material, the nature of the programs, 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.
Legal Effect	<p>Part a - Must comply with - legally binding. List E (Appendix C - Compliance Lists)</p> <p>(Part b is a 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 & 8.1</p>
When Policy Applies	Future