

November 09, 2020

Dr. George Jacoub
Water Research Scientist – Hydrologist
Source Protection Programs Branch
Ontario Ministry of Environment, Conservation and Parks
14th Flr, 40 St Clair Ave W
Toronto, ON M4V 1M2

Dear Dr. Jacoub:

Re: ERO 019-2219 Proposed Amendments to the Director's Rules

Thank you for the opportunity to provide comments on the Proposed amendments to the Director's Technical Rules (ERO# 019-2219). Below are my comments organized by section of the draft document "2020 Proposed Amendments to Technical Rules: Assessment Report".

Rule 15.1 Alternate Methods: The proposed changes make sense. If an SP Committee is updating an Assessment Report, then the Committee should already be discussing a variance in methodology with MECP. The Assessment Report change will eventually need to be reviewed and approved by MECP.

Rule 15.3 Climate Consideration: The proposed changes allow sufficient flexibility for a SP Committee to either use the tool developed in part by Conservation Ontario in the last couple years or some other reasonable methodology. The proposed wording allows a SP Committee to take into account the level of available data which can vary between SP areas.

Rule 16 and Rule 17: The proposed new term IPZ-ICA (and WHPA-ICA) help to emphasize the fact that an Issue Contributing Area is a subset of either a delineated IPZ or WHPA. In agreement with proposed changes that allow flexibility to define grid size for impervious surface calculations and to make separate calculations for different zones.

Rule 55.1: The opportunity to reclassify intakes under the proposed change is very reasonable given the atypical situation of certain intakes in the province.

Rule 62.1: The proposed change provides consistency with delineation in other IPZ areas.

Rule 78.1: The new term IPZ-ICA makes clear the linkage with the IPZ overall.

Rules 86, 87, 89: The proposed change allows for better refinement for vulnerability scoring of portions of IPZ-2 and IPZ-3, since these could be scored separately based on local conditions.

Rule 119: The addition of Rule 119(2) is very concerning ("an approval is not required to engage in the activity pursuant to any Act (Provincial or Federal)"). Had this clause been in place previously, it is doubtful that current local threats would have been approved. If this proposed subrule 119(2) remains, then it is also doubtful that future local threat submissions could proceed in the approval process.

It is hard to think of an activity that is not regulated in some way. Most of the prescribed threats under O. Reg. 287/07 have regulatory approvals and, yet, source protection planning has clearly demonstrated that the risk of certain activities in particular vulnerable area necessitates the prudent

use of additional management measures or even prohibition. Nearly every currently approved Local Threat is regulated with some type of approval either federally or provincially or both. The current process of identifying a Local Threat involves the community or SPC raising a concern about a contaminant or situation, investigating and collecting information, discussing the matter, submitting material to the Director and having the Director make a determination and listing the circumstances, scoring and threat evaluation. The SPC can then set the appropriate policies in an approved Source Protection Plan. While it is appreciated that the policy opportunities may be somewhat limited in certain cases or the activity may be highly regulated under other legislation, it does not negate the concern from the community, the actual threat at the local level posed by the activity to the local drinking water source, nor the potential for Clean Water Act policy tools to provide a higher standard of protection to the source water.

The proposed subrule 119(2) “an approval is not required to engage in the activity pursuant to any Act (Provincial or Federal)” should be deleted.

Proposed Amendments to the Tables of Drinking Water Threats

Section 1 (3) Wastewater Collection Facility (page 91)

- Combined sewer Presence of one or more pathogens in surface water “; Should there be scores for WHPA-A/B when groundwater is not mentioned in the circumstances?

Section 1 (4) Stormwater Management Facility (page 93)

- “Stormwater management facility outfall Is not more than 20% of the drainage area“; Should there be a lower limit to the range of percentage? Is a facility of, say, less than 1% of the drainage area, sufficient to produce a significant threat?

Section 1 (8) Handling and Storage of DNAPL (page 107)

- There is no corresponding change to the circumstances for handling of DNAPL

Section 1 (15) Waste: Application and Storage of Processed Organic Waste (page 130)

- Under pathogen circumstances, reads “2. The application may result...”
Correct to “2. A spill may result...”

Section 1 (16) Waste: Application and Storage of Hauled Sewage (page 132)

- Header of Application of Hauled Sewage table, reads “Proposed Circumstances (Chemical)”
Correct to “Proposed Circumstances (Pathogen)”

Section 1 (16) Waste: Application and Storage of Hauled Sewage (page 132)

- Circumstances of Storage of Hauled Sewage (Pathogen)
add circumstance “A spill of material may result in the presence of one or more pathogens in groundwater or surface water”

17. General Editorial Amendments. Very little detail is given about proposed 'editorial' changes. Given the lack of detail, there may be inadequate consultation on what is intended here.

The proposed removal of scientific names of chemicals, while making it easier for non-technical readers, may also erode the actual technical and specific qualities of the Tables themselves for those trying to implement or apply the rules. The Threat Tables are based upon a scientific examination of chemical parameters which results in some chemicals having a higher hazard rating than others. Using so-called 'straightforward language' to describe activities by deleting the chemical names may leave the impression among readers that all chemicals in a class are equally a risk, when the supporting scientific assessment clearly would indicate that the chemicals are not equal.

It is recommended that the chemical names remain a component of the circumstances listed in the Tables of Drinking Water Threats. Should the Ministry proceed with the proposal to remove the names, it is recommended that a companion document will need to be provided to source protection practitioners, stakeholders and the public to provide clarity as to which chemicals are of concern.

Thank you for your consideration of these comments on the Proposed Amendments to the Director's Technical Rules. Should you have any questions about these comments, please contact me by email at david.ellingwood@nbmca.ca or phone at (705)471-6338.

Sincerely,



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