

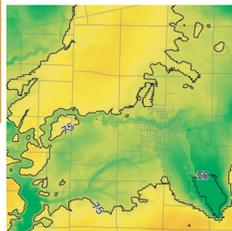
# Explanatory Document

September 19, 2014

## Catfish Creek *Source Protection Plan*

Prepared on behalf of the Lake Erie Region  
Source Protection Committee

Under the Clean Water Act, 2006  
(Ontario Regulation 287/07)



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## Catfish Creek Source Protection Area

# SOURCE PROTECTION PLAN

## EXPLANATORY DOCUMENT

*Prepared on behalf of:  
Lake Erie Region Source Protection Committee*

*Under the Clean Water Act, 2006  
(Ontario Regulation 287/07)*

**September 19, 2014**

**Explanatory Document  
to support the  
Source Protection Plan  
for the  
Catfish Creek Source Protection Area  
within the  
Lake Erie Source Protection Region**

**September 19, 2014**

This project has been made possible through funding support from the Government of Ontario.

Additional copies of this Explanatory Document may be obtained by contacting:

Grand River Conservation Authority  
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For more information on the *Clean Water Act, 2006* and how you can play a role in protecting drinking water sources in the Lake Erie Source Protection Region, please visit our website:  
[www.sourcewater.ca](http://www.sourcewater.ca)

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## 1.0 INTRODUCTION

The Explanatory Document provides stakeholders, the general public, other interested parties, as well as the Source Protection Committee, Source Protection Authority and the Ministry of the Environment and Climate Change, with the intent and rationale behind the policy decisions made in the Source Protection Plan Policies (Volume II). Information on the context of the Source Protection Plan and the planning process is presented in Volume I of this Source Protection Plan.

**Volume I** of the Catfish Creek Source Protection Plan provides the context for the overall Plan, including a brief history of source protection planning and the *Clean Water Act, 2006*, Source Protection Plan objectives, and a description of the watershed/source protection area. This volume also includes a description of Source Protection Plan components, key steps in the planning process, public consultation, interaction with other Source Protection Regions, source water threats, guidance on how to read the Source Protection Plan, and details on Source Protection Plan implementation and enforcement.

The **Assessment Report** is a key component of the Source Protection Plan. Since 2005, numerous technical studies were completed and are summarized in the Catfish Creek Source Protection Area Assessment Report. The Assessment Report is available online at [www.sourcewater.ca](http://www.sourcewater.ca).

**Volume II** of the Catfish Creek Source Protection Plan contains the Source Protection Plan policies. These policies address both existing (where applicable) and future drinking water threats. Volume II only includes policies for significant drinking water threats, local threats, and optional content. Future updates to the Source Protection Plan may include policies for moderate and low threats. The appendices associated with this volume include information as required by section 34 of O. Reg. 287/07:

The **Explanatory Document**, as stated in section 40 of Ontario Regulation 287/07 of the *Clean Water Act, 2006*, contains the following information:

- An explanation of the reasons for each policy set out in the Source Protection Plan.
- An explanation of the reasons for designating an activity under paragraph 1 of subsection 22 (3) of the *Clean Water Act, 2006*, including the reasons relied on by the Committee to form the opinion that the activity must be prohibited in order to ensure that it ceases to be a significant drinking water threat.
- A summary of the comments received under sections 35 to 39 and an explanation of how the comments affected the development of the policies set out in the Source Protection Plan.
- An explanation of how the summary referred to in paragraph 7 of subsection 13 (1) affected the development of the policies set out in the Source Protection Plan.
- A summary of how the consideration of the potential financial implications for persons and bodies that would be implementing or affected by the Source Protection Plan influenced the development of the policies set out in the Plan.

- If a policy described in subsection 22 (7) of the *Clean Water Act, 2006* or paragraph 1 of section 26 of this Regulation is the only policy set out in a Source Protection Plan to deal with an activity that has been identified as a significant drinking water threat, a statement that the Source Protection Committee is of the opinion that,
  - the policy, if implemented, will promote the achievement of the objectives of the plan in accordance with paragraph 2 of subsection 22 (2) of the Act, and
  - a policy to regulate or prohibit the activity is not necessary to achieve those objectives.

This document was submitted to the Ministry of the Environment and Climate Change with the Source Protection Plan under section 22(16) of the *Clean Water Act, 2006* and under section 43(1) of O. Reg. 287/07.

Before submission, this document was updated to reflect changes made to the Proposed Catfish Creek Source Protection Plan and to include a brief explanation of the effect, if any, of comments received during public consultation under section 41 of O. Reg. 287/07 on the development of the Source Protection Plan.

## 2.0 OVERVIEW OF POLICY DEVELOPMENT WITHIN THE LAKE ERIE SOURCE PROTECTION REGION

The following sections present an overview of policy development within the Lake Erie Source Protection Region, specifically for the Catfish Creek Source Protection Area, and the necessary information that guided the policy development process. The policies were developed to meet the objectives of the *Clean Water Act, 2006*, as described in the *Clean Water Act, 2006*, and Volume I of this Source Protection Plan. All documents referenced are available online at [www.sourcewater.ca](http://www.sourcewater.ca).

### 2.1 Policy Development within the Lake Erie Source Protection Region

#### 2.1.1 Municipal Process

As outlined in Volume I of the Source Protection Plan, the municipal role as defined by the approved Terms of Reference for the Source Protection Plan development is critical to the success of the program. Municipalities within the Catfish Creek Source Protection Area together with the Grand River, Kettle Creek, Catfish Creek and Long Point Region Conservation Authorities have been actively involved in the development of the Source Protection Plan policies.

In addition, municipal councils have been actively informed about the Source Protection Plan policies throughout the development process. This collaborative process ensured that local conditions and needs were considered and accounted for. Further information on the process completed is presented within Section 5 - County of Oxford Policy Rationale.

#### 2.1.2 Financial Considerations

As of the date of this Source Protection Plan, there has been no clear indication from the Ministry of the Environment and Climate Change as to the level of financial commitment from the Province of Ontario for the implementation of Source Protection Plan policies.

The Province of Ontario has fully funded source protection planning, including capacity building at each conservation authority, and completion of the technical documents required to contribute to the completion of the Assessment Reports and Source Protection Plans. The Grand River Conservation Authority has responsibility for fiscal management with parties undertaking tasks in the Lake Erie Source Protection Region. Where a municipality has taken the lead for specific tasks, a Memorandum of Agreement between the Grand River Conservation Authority and the municipality was required, setting out the legal and financial obligations, technical deliverables and schedules.

Financial assistance has been made available to those whose activities and properties may be affected by the implementation of the Source Protection Plan through section 97 of the *Clean Water Act, 2006* which established the Ontario Drinking Water Stewardship Program. The program also provides for outreach and education programs to raise awareness of the importance and opportunities for individuals to take actions to protect sources of drinking water. O.Reg.287/07 further clarifies the details of the Ontario Drinking Water Stewardship Program.

The Ontario Drinking Water Stewardship Program, funded by the Ministry of the Environment and Climate Change, has been directing grants to landowners within close proximity to municipal wells or surface water intakes. Such funding allows them to undertake projects that reduce existing potential contamination sources, and supports communications and outreach efforts to persons and businesses within these areas. For the first three years (2008-2010), the program's grant funding was concentrated on undertaking early actions close to municipal drinking water systems, in advance of approved Source Protection Plans. In 2010-2013, the program prioritized funding of voluntary projects that address significant threats identified in Assessment Reports prepared under the *Clean Water Act, 2006*. The Lake Erie Region Source Protection Committee requests that the Province continues to fund the Ontario Drinking Water Stewardship Program beyond 2013 to provide financial assistance to property owners affected by new policies and risk reduction strategies that may result from approved Source Protection Plans.

Source water protection is a responsibility that crosses watershed and municipal boundaries; therefore, arriving at a fair and equitable manner to share the financial responsibilities of implementation of the Source Protection Plan is complicated.

Within the *Clean Water Act, 2006* some provisions are set out for financing various aspects of source protection implementation, including stewardship programs and the collection of fees for Part IV policies. As stated in the *Clean Water Act, 2006* fees can be collected for applications received under section 58, 59 or 60, for agreeing to or establishing a Part IV Risk Management Plan under section 56 or 58, for issuing a notice under section 59, for accepting a risk assessment under section 60, or for entering property or exercising any other powers under section 62.

The Lake Erie Region Source Protection Committee has, from the onset of the planning process, empowered the municipalities to direct the Source Protection Plans to meet their needs. The Lake Erie Region has been unique in this approach allowing municipalities to take the lead on policy development. This has resulted in Source Protection Plans that have been designed with the financial means of the municipality in mind.

The financial implications, and the question about what agency would ultimately be responsible for funding source water protection implementation in the Catfish Creek Source Protection Area was strongly considered in the development of the source protection policies. The goal of the source protection policies was to, whenever possible; protect the municipal drinking water supply with the least possible expense to the implementing body.

The *Clean Water Act, 2006* and the source protection planning process were introduced by the Province of Ontario in response to a province-wide concern about the safety of municipal drinking water. The Lake Erie Region Source Protection Committee strongly believes that the Province should continue to fund the implementation of the Catfish Creek Source Protection Plan and is committed to requesting that this be done.

### 2.1.3 Industry Stakeholder Meetings and Discussion Papers

Industry specific experts were invited to attend a series of workshops between February and April 2011 to aid in the development, of the policy tool analysis presented in the appendices of the Discussion Papers. These workshops provided an opportunity for Source Protection Committee Members, staff, municipalities, and industry experts to discuss each of the drinking water threats and determine policy tool options that would be best suited to meet the objectives of the *Clean Water Act, 2006*. The Discussion Papers did not make specific recommendations on the tools to be used but identified the most promising policy options to address the specific drinking water threats. These Discussion Papers are available online at [www.sourcewater.ca](http://www.sourcewater.ca).

### 2.1.4 Post Discussion Papers

After publishing the Discussion Papers in 2011, additional information on the drinking water threats was provided by a variety of stakeholders and implementing bodies that allowed for the further refinement of the policy approaches for each of the drinking water threats. This is reflected in the policies presented in Volume II of the Source Protection Plan. Discussion on the specific details of further refinement of the Source Protection Plan policies is presented, where applicable, for each of the drinking water threats.

### 2.1.5 Early Engagement Process

An “early engagement” process was initiated prior to the Source Protection Plan being released for official public consultation. Implementing bodies were provided with the opportunity to provide feedback on the source protection policies to ensure that they are implementable.

Within the Catfish Creek Source Protection Area, municipal and conservation authority staff participated in the Lake Erie Region Source Protection Planning Project Team and held meetings with neighbouring municipalities to discuss the draft Source Protection Plan policies. Further information is presented in this Explanatory Document.

This process provided the municipalities with the opportunity to shape the source protection policies to ensure they are implementable. The following is a summary of the “early engagement” process for the Catfish Creek Source Protection Area:

- Staff from the municipalities with policy leads participated on a staff working group called the Source Protection Planning Project Team.
- Early engagement meetings were held in the County of Oxford with local municipalities, abutting Counties affected by WHPA’s associated with the County of Oxford drinking water wells and the Thames Sydenham and Region Source Protection Committee and staff.
- Staff meetings were held with various neighbouring Source Protection Regions to discuss proposed policies and policy development.

## 2.2 Additional Source Protection Plan Information

The following section provides clarification on issues and concerns raised throughout the source protection planning process by the Lake Erie Region Source Protection Committee, other interested bodies and the general public. The Source Protection Committee felt that it was important to provide clarification as to why certain activities, that the public or other agencies may expect to be included in the Source Protection Plan, were not included.

### **Climate Change**

Predictions on climate change have implications for both water quality and quantity. With respect to water quality, the increase in air temperature and greater occurrence of extreme precipitation events is predicted to degrade water quality, including lower dissolved oxygen rates and higher stream temperatures. In terms of water quantity, climate change is expected to shift the timing of seasonal events, including an earlier and lower spring freshet, and change levels in Lake Erie due to increased lake surface temperatures. Further information on the potential effects of climate change is presented in the Catfish Creek Assessment Report available online at [www.sourcewater.ca](http://www.sourcewater.ca).

On January 13, 2011 the Source Protection Committee passed a resolution not to include policies for data collection for climate change in this initial Source Protection Plan.

### **Emerging Contaminants: Pharmaceuticals in Drinking Water Supplies**

Certain pharmaceuticals are potentially a new class of water pollutants. Drugs such as antibiotics, anti-depressants, birth control pills, seizure medication, cancer treatments, pain killers, tranquilizers and cholesterol-lowering compounds have been detected in varied water sources.

Pharmaceutical industries, hospitals, and other medical facilities are obvious sources of these compounds, but households also contribute a significant share. People often dispose of unused medicines by flushing them down toilets, and human excreta can contain varied incompletely metabolized medicines. These drugs can pass intact through conventional sewage treatment facilities, into waterways, lakes and aquifers. Further, discarded pharmaceuticals often end up at dumps and landfills, posing a threat to underlying groundwater.

Farm animals also are a source of pharmaceuticals entering the environment, through their ingestion of hormones, antibiotics and veterinary medicines. Manure containing traces of such pharmaceuticals is spread on land and can then wash off into surface water and percolate into groundwater.

Future source protection planning initiatives should consider the impacts of these sources of contaminants as potential threats to drinking water sources.

### **Policies for Incentive Programs or Education and Outreach Programs for Drinking Water Systems outside of the Terms of Reference**

Policies in the Source Protection Plans can generally only address threats related to drinking water systems included in the Terms of Reference. Although there is a process for municipalities to add drinking water systems to the Terms of Reference if they meet certain criteria, no municipality in the Lake Erie Source Protection Region has chosen to do this to date. The *Clean Water Act, 2006* allows for policies for incentive programs or education and outreach programs to be developed for drinking water systems outside the Terms of Reference. There is, however, no data available on the number or location of non-municipal residential systems in the Lake Erie Region.

On January 13, 2011 the Source Protection Committee passed a resolution not to include incentive program or education and outreach program policies for drinking water systems not included in the Terms of Reference in this initial Source Protection Plan

**Dead Stock**

As of the date of this Source Protection Plan, the disposal of dead stock is not included as a drinking water threat. This activity was included as a drinking water threat in the 2008 version of the Ministry of the Environment and Climate Change *Tables of Drinking Water Threats*, but has since been removed due to changes in legislation. The *Dead Animal Disposal Act* (1968) was replaced by the Disposal of Dead Farm Animals regulation under the *Nutrient Management Act, 2002* (NMA) and the Disposal of Dead stock regulation under the *Food Safety and Quality Act*.

This regulation provides more disposal options for livestock producers and meat plant operators, with measures that will protect the environment. To be included as a drinking water threat in a future Source Protection Plan, an application for inclusion as a local threat must be made by the Source Protection Committee to the Director of the Ministry of the Environment and Climate Change. As of the date of this Source Protection Plan, this request has not been made by the Lake Erie Region Source Protection Committee.

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## 3.0 WATERSHED WIDE POLICY DEVELOPMENT CONSIDERATION FOR PRESCRIBED DRINKING WATER THREATS

The following sections describe the decision making process behind the drafting of the Source Protection Plan policies by the policy developers for the management or prohibition of the prescribed drinking water threats as outlined in the *Clean Water Act, 2006*. Further information on policy development, including the intent and rationale for the selection of specific policy tools is presented in Section 5.

A detailed description of the prescribed and non-prescribed drinking water quality threats can be found in Appendix B of Volume I of this Source Protection Plan. Drinking water threat circumstance details are available online at [www.sourcewater.ca](http://www.sourcewater.ca).

As required by the *Clean Water Act, 2006*, policies must be written to address existing drinking water threats that meet the objectives of the *Clean Water Act, 2006*. Where the policy developers and Source Protection Committee were confident that no existing drinking water threats were in existence, outreach and education policies and incentive policies were developed. The *Clean Water Act, 2006* also requires policies for addressing future drinking water threats that meet the objectives of the *Clean Water Act, 2006*. Some of the policies presented in Volume II of the Source Protection Plan were included because of this requirement even though, in the opinion of the municipality and the Source Protection Committee, these drinking water threats are very unlikely to occur in the future.

### 3.1 The Establishment, Operation or Maintenance of a Waste Disposal Site within the Meaning of Part V of the Environmental Protection Act

#### Discussion Paper Summary

The main consideration for policy development is to reduce or eliminate the risks from existing and future waste sites and, more specifically, to ensure that any discharge from the sites does not result in a significant risk to drinking water through appropriate measures to mitigate the threat. The following is a summary of early discussions that were held regarding the potential policy options for each of the Waste Disposal Site sub-threats.

#### Application of Untreated Septage (Hauled sewage) to Land

The land application of hauled sewage is governed by an Environmental Compliance Approval, a prescribed instrument, which contains terms and conditions designed to protect both the local groundwater and surface water supplies from adverse impacts associated with land application of this material. This may include, for example, stipulated separation distances from wells and surface water bodies, and restrictions on winter spreading to reduce the risk of run-off. Therefore, the Discussion Papers identified the use of Prescribed Instruments as an option to address this threat.

Policies could be written to require that Environmental Compliance Approvals for activities located within significant drinking water threat areas that receive hauled sewage be reviewed and, if necessary, amended to ensure they contain terms and conditions that adequately protect drinking water and meet the objectives of the *Clean Water Act, 2006*.

The Discussion Papers also identified education and outreach as possible tools to promote implementation of best management and alternative practices by farmers and operators of sites that receive septage.

#### Storage, Treatment and Discharge of Tailings from Mines

##### Waste Disposal Site- Landfarming (disposal) of Petroleum Refining Waste

##### Waste Disposal Site- Liquid Industrial Waste Injection into a well

As of the date of the completion of the Assessment Report enumeration, there were no known existing activities identified in the Lake Erie Source Protection Region for the prescribed drinking water sub- categories listed above. Therefore, only policies to prevent future significant threats were identified as necessary. With the exception of mine tailing ponds, all of the above sub threats are required to have an Environmental Compliance Approval under Part V of the *Environmental Protection Act*, therefore, the Prescribed Instrument tool was identified as the most promising.

Mine tailing ponds are required to have an Environmental Compliance Approval under the *Ontario Water Resources Act*, thus; the Prescribed Instrument was also identified as the most promising policy tool.

##### Waste Disposal Sites- Landfilling of Hazardous Waste, Municipal Waste, and solid Non-Hazardous Industrial or Commercial Waste

The Prescribed Instrument tool was identified by the Discussion Papers as a policy tool option because it is available for most threats associated with landfilling activities. Policies could be written to require that Environmental Compliance Approvals are reviewed and, if necessary, amended by the Ministry of the Environment and Climate Change to ensure the protection of drinking water in vulnerable areas where these threats are significant. Terms and conditions for the Environmental Compliance Approval could be based on advanced best management practices and could include requirements for training of staff, and ongoing monitoring.

Other approaches for managing landfilling and hazardous waste activities are associated with encouraging and supporting proper waste disposal by business and home owners. For example, the Discussion Papers identified education and outreach programs as a policy option to educate the public about the disposal of household hazardous waste, electronics, compost and recyclables.

##### Waste Disposal Sites- PCB Waste Storage, Storage of Hazardous Waste at disposal sites

##### Storage of Wastes as described in clause (p), (q), (r), (s), (t) or (u) of the definition of hazardous waste

Similar policy approaches to Waste Disposal Sites- Landfilling of Hazardous Waste, Municipal Waste, and solid Non-Hazardous Industrial or Commercial Waste have been identified in the Discussion Papers to address regulated waste disposal sites. However, there are a number of activities and types of waste disposal activities that are exempt from the Environmental Compliance Approval process under the *Environmental Protection Act*. For example, hardware stores that collect and store hazardous waste are not required to have an Environmental Compliance Approval, even if the activity meets the criteria for a significant drinking water threat. Therefore, Risk Management Plans have been identified as an effective way to manage this activity, as Part IV provides policy tools for where no Prescribed Instruments are available.

### Post Discussion Paper

Since the finalization of the Waste Disposal Sites Discussion Paper in September 2011, additional guidance was provided by the Ministry of the Environment on the ability of certain activities to be managed through the Environmental Compliance Approval process. This guidance aided policy developers in their specific decision making progress.

In most cases, policies were developed using the Prescribed Instrument tool because it was determined to be the most efficient way to manage this activity. Using existing regulatory requirements, the Ministry of the Environment and Climate Change must review and, if necessary, amend Environmental Compliance Approvals for these activities. Further, policies were drafted to require the Ministry of the Environment and Climate Change to include terms and conditions when issuing new Environmental Compliance Approvals that, when implemented, will ensure these waste sites do not become significant drinking water threats. For those activities not regulated within the Environmental Compliance Approval process, the use of Part IV Risk Management Plans was selected in most cases to manage these activities.

Prohibition of these activities was also selected where, based on current and future land uses, this activity was unlikely to occur and/or where further protection was required based on the vulnerability of the area to contamination from this activity.

## 3.2 The Establishment, Operation or Maintenance of a System That Collects, Stores, Transmits, Treats or Disposes of Sewage

### Discussion Paper Summary

The Prescribed Instrument tool (Environmental Compliance Approval under the *Environmental Protection Act* or *Ontario Water Resources Act*) was identified as the most promising policy tool for managing and prohibiting significant drinking water threats related to sewage. A policy could be developed to require review of existing activities or prohibition of future sewage system activities to ensure adequate protection of drinking water sources. Part IV tools are unavailable for use for sewage system activities where there is an existing Prescribed Instrument tool available. Where there is no Prescribed Instrument, the Part IV tools were identified as an option to manage or prohibit activities.

On January 1, 2011, updates to the *Ontario Building Code Act, 1992* came into effect to recognize vulnerable areas identified within the Assessment Report. The updates require mandatory inspection programs for sewage systems regulated under the *Ontario Building Code Act, 1992* in areas where they are identified as significant drinking water threats in an approved Assessment Report.

### Post Discussion Paper

To address these drinking water threat activities, policy developers typically selected the most promising policy tools as identified in the Discussion Papers. Since the publication of the Discussion Papers, refinements were made to the selected policy tools, based on clarifications of where land use planning can be used to address certain threats. Specific discussion included the ability to require tertiary treatment systems within the limitations of the Ontario *Building Code Act, 1992*. It was concluded that these systems could be encouraged, but not made mandatory due to the current building approval processes.

In most cases, policies were developed using the Prescribed Instrument tool because it was determined to be the most efficient way to manage this activity. Using existing regulatory requirements, the Ministry of the Environment and Climate Change must review and, if necessary, amend Environmental Compliance Approvals for these activities. Further, policies were drafted to require the Ministry of the Environment and Climate Change to include terms and conditions when issuing new Environmental Compliance Approvals that, when implemented, will ensure these activities do not become significant drinking water threats.

## 3.3 The Application and Storage of Agricultural Source Material to Land

### Discussion Paper Summary

For agricultural properties that are regulated under the *Nutrient Management Act, 2002*, the Prescribed Instrument tool was identified as a policy option. A policy could be written to ensure that the Nutrient Management Plan and Strategy under the *Nutrient Management Act, 2002* effectively protects drinking water sources from the application and storage of agricultural source material. For agricultural properties that are not regulated under the *Nutrient Management Act, 2002*, Part IV Risk Management Plans for the application and/or storage of agricultural source material were identified as a favourable tool for managing threats related to agricultural source material. The site specific plan could incorporate components of the requirements under the *Nutrient Management Act, 2002*, as well as additional or enhanced requirements to address the gaps in the existing legislation, such as monitoring or more restrictive nutrient application rates.

Education, outreach and incentive programs were identified as additional policy options to complement the Prescribed Instrument and Part IV Risk Management Plan policies.

### Post Discussion Paper

Further guidance was presented to the policy developers and Source Protection Committee by the Ministry of the Environment and the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), on the applicability of the *Nutrient Management Act, 2002* to protect drinking water sources. Policies contained in the Source Protection Plan reflect this guidance and comments received during the pre-consultation processes.

In their technical guidance, RA stated that where the *Nutrient Management Act, 2002* can be applied (i.e. farms that are phased in under the *Nutrient Management Act, 2002*), this Prescribed Instrument should be utilized. However, where the *Nutrient Management Act, 2002* does not apply, OMAFRA recommended the use of a Part IV Risk Management Plans.

### 3.4 The Management of Agricultural Source Material

This Source Protection Plan only addresses significant drinking water threats. Policies addressing the management of agricultural source material (aquaculture) are therefore not included in this Source Protection Plan as this activity cannot be a significant drinking water threat in the Lake Erie Source Protection Region under the current Technical Rules for the prescribed drinking water threat tables.

### 3.5 The Application, Handling and Storage of Non-Agricultural Source Material (NASM) To Land

#### Discussion Paper Summary

Both Environmental Compliance Approvals (issued by the Ministry of the Environment and Climate Change under the *Environmental Protection Act*) and NASM Plans (issued by OMAFRA under the *Nutrient Management Act, 2002*) are Prescribed Instruments under the *Clean Water Act, 2006* and have been identified as policy tool options to address these drinking water threats. Where NASM is currently regulated under the *Nutrient Management Act, 2002*, a policy was typically written to require OMAFRA to review existing and new NASM plans in significant threat areas to ensure that they protect drinking water sources. Similarly, where NASM is currently regulated under S.39 of the *Environmental Protection Act* policies were drafted to require the Ministry of the Environment and Climate Change to review and amend, if necessary, existing Environmental Compliance Approvals in the significant threat areas to ensure that they protect drinking water sources.

The prohibition tool is also available for NASM and could be applied to vulnerable areas for future threats. The application of NASM is currently prohibited under the *Nutrient Management Act, 2002* within 100 metres of a municipal well.

#### Post Discussion Paper

The acquisition of new information regarding NASM has been minimal, and few additional discussions have taken place since the finalization of the Discussion Paper.

### 3.6 The Application, Handling and Storage of Commercial Fertilizer to Land

#### Discussion Paper Summary

In cases where the application of commercial fertilizer to land is addressed through Nutrient Management Plans developed under the *Nutrient Management Act, 2002*, the Discussion Paper identified a specify action policy as a potential option. Specify action policies could be written to request that the Ministry of the Environment and Climate Change prioritize inspections for properties where the application of commercial fertilizer is considered a significant threat to ensure that the threat is appropriately managed. Nutrient Management Plans are created by a trained and certified individual - either a farmer or a consultant. Therefore, if a Source Protection Plan policy requires that specific management practices be included in Nutrient Management Plans using the Prescribed Instrument tool, OMAFRA and the affected farmers would need to be informed during consultation periods. This was identified as a significant challenge based on additional correspondence provided by the Ministry of the Environment.

Where commercial fertilizer is not regulated under the *Nutrient Management Act, 2002*, Part IV tools were identified as a favourable policy option, meaning a policy could be written to require a Part IV Risk Management Plan for activities involving the application, handling and/or storage of commercial fertilizer in significant threat areas.

The Part IV Risk Management Plan could incorporate components of Nutrient Management Plans and other existing standards for commercial fertilizer, as well as requirements for inspection and monitoring. This tool would also effectively manage activities not occurring on a farm such as a retail storage facility.

Education and outreach programs were identified as another policy option to address drinking water threats related to commercial fertilizer. These programs could be targeted towards fertilizer application technicians, or towards homeowners who may not be aware of best management practices for fertilizer and the potential threats to drinking water sources.

### **Post Discussion Paper**

Further discussions were held on the ability to effectively manage this activity using the *Nutrient Management Act, 2002* as a Prescribed Instrument tool. It was determined that, due to the limited ability to add additional requirements to the Nutrient Management Plans, it would be difficult to ensure reduced risk to drinking water sources. Thus, in many cases, Part IV Risk Management Plans were selected by policy developers to manage this activity, as this tool will better achieve the objectives of the *Clean Water Act, 2006*. In specific cases, prohibition of this activity was selected based on a review of current and future land use within the applicable vulnerable areas where this activity is or would be a significant drinking water threat.

## **3.7 The Application, Handling and Storage of Pesticide to Land**

### **Discussion Paper Summary**

Part IV Risk Management Plans were identified as the most promising policy options for activities involving the application, handling and storage of pesticides in significant threat areas. Where further restrictions are required, the Prescribed Instrument tool was identified as an option, as it could require the Ministry of the Environment and Climate Change to revoke, or not issue, pesticide permits where pesticide activities are considered significant threats.

Education and outreach programs were identified as supporting policy options. These programs could be developed to inform the various audiences involved in the application and storage of pesticide about best management practices, Integrated Pest Management, or alternatives to pesticides that are less harmful to the environment, specifically drinking water sources. Focus could be placed on retail storage of pesticide, which is less regulated than pesticide application.

### **Post Discussion Paper**

Further review of the *Pesticide Act* revealed that there were few situations where a pesticide permit would actually be required on land uses surrounding municipal intakes. Therefore, the use of the Prescribed Instrument tool to address this drinking water threat was determined to be very limited. In many cases, policy developers selected the prohibition and management of future and existing activities using Part IV tools.

## **3.8 The Application, Handling and Storage of Road Salt**

### **Discussion Paper Summary**

Addressing significant drinking water threats from road salt can be achieved by requiring Part IV Risk Management Plans for activities associated with the application and storage of road salt by road authorities. This can also be achieved by requiring Smart about Salt™ accreditation for property owners. However, Part IV Risk Management Plans were not considered feasible for all municipalities based on the resources required to implement them.

For such cases, the Discussion Papers also identified specify action policies that could be written to require municipal road authorities, and encourage the Ministry of Transportation and private contractors, to develop or amend existing salt management plans. These developments and/or amendments would ensure that salt management plans contain policies for vulnerable areas to protect drinking water sources. Such a policy could require that the plan be submitted annually to Environment Canada.

Education and outreach programs were also identified in the Discussion Papers as an option for promoting responsible salt storage and application and the use of alternative de-icers. Such programs could be targeted towards the residential, industrial, commercial and institutional sectors, as well as to the public at large and local decision makers. The goal of this approach would be to improve industry practices and raise awareness about the link between salt application and water quality.

For future threats, Part IV prohibition and land-use planning tools were available, and could be used to prohibit certain activities associated with the storage of road salt. However, as road salt application is required to prevent winter related accidents, prohibiting this activity was considered an unrealistic option, and if possible, limited to smaller areas.

### **Post Discussion Paper**

After the publication of the Discussion Papers, additional discussion on alternative options to address this drinking water threat was minimal. Further guidance was provided by the Ministry of Transportation on their ability to amend salt management plans. Most policy developers selected land use planning and Part IV tools to manage and prohibit existing and future activities. In most cases these policies were complemented with education and outreach programs.

For the application of road salt to be considered a significant drinking water threat the impervious area must be equal to or greater than 80%. This circumstance does not currently exist within the Catfish Creek Source Protection Area and therefore policies were not included in this Source Protection Plan to address this threat.

## **3.9 The Storage of Snow**

### **Discussion Paper Summary**

The Discussion Paper identified Part IV Risk Management Plans to address existing threats from the storage of snow as an effective policy option for snow storage areas located within 100 metres of municipal drinking water sources. Other available policy options would require the development of salt management plans or amend existing plans to include conditions to protect municipal drinking water sources. Establishing an education and stewardship program for private contractors was identified as another option. This program could inform contractors about the responsibilities of storing and transporting snow in vulnerable areas and provide recognition for those who follow best management practices.

For future threats, land-use planning tools were identified as available to prohibit large scale storage areas in the most vulnerable areas. Future storage facilities within vulnerable areas could also be permitted subject to the provisions of a Part IV Risk Management Plan, satisfactory to the municipality.

### Post Discussion Paper

Following the publication of the Discussion Papers, further discussion on policy tool options for this drinking water threat was minimal. In most cases, the land use planning tool was selected by policy developers to manage or prohibit these activities from occurring in the future. There were few existing drinking water threats identified in the Assessment Report enumeration for the Catfish Creek Source Protection Area.

## 3.10 The Handling and Storage of Fuel

### Discussion Paper Summary

The Discussion Paper identified Part IV Risk Management Plans as an effective policy option to address significant threat activities involving the handling and storage of liquid fuel. A Part IV Risk Management Plan could incorporate components of O. Reg. 217/01 and its code, as well as other measures to ensure the protection of drinking water sources. Education and outreach and incentive programs were also identified as an available policy option to address drinking water threats from liquid fuels. Various players involved in the handling and storage of liquid fuel could be the target of such education programs. The Discussion Paper suggested that programs targeted at liquid fuel distributors would be especially valuable.

In certain cases, instruments relating to liquid fuel storage are issued under the *Aggregate Resources Act* and the *Safe Drinking Water Act, 2002* for aggregate operations and municipal residential drinking water facilities, respectively. For these circumstances, the Prescribed Instrument policy tool was identified as an effective policy option. A Prescribed Instrument policy could require that these instruments incorporate drinking water protection and contain appropriate spill contingency measures.

### Post Discussion Paper

The Ministry of Consumer Services and the Technical Standards and Safety Authority provided guidance to policy developers to aid in their development of the Source Protection Plan policies. This included a description of their abilities to implement certain policies with respect to the codes they promote. This discussion has been reflected in the current Source Protection Plan policies. As a result, the majority of policy developers decided not to direct the policies towards The Ministry of Consumer Services and the Technical Standards and Safety Authority.

## 3.11 The Handling and Storage of Dense Non-Aqueous Phase Liquid (DNAPLS)

### Discussion Paper Summary

Part IV Risk Management Plans were identified in the Discussion Papers as an effective tool to address drinking water threats from dense non-aqueous phase liquids (DNAPLS). These plans could address operating practices, such as containment and management, employee training, spill contingency plans, periodic testing of storage systems, as well as other items. If the requirements of the Part IV Risk Management Plan are not met, then the storage site would be prohibited.

An alternative policy approach identified to address threats from DNAPLS was for municipalities to establish bylaws that prohibit the discharge of DNAPLS into municipal sewer systems, or to prohibit storage within 100 metres of the municipal drinking water source.

By utilizing the specify action tool, a policy could be written to require municipalities to enact sewer use bylaws that address threats from DNAPLS, such as requirements for compliance programs and pollution prevention planning and reporting on DNAPL use.

Softer' tools such as education and outreach and incentive programs were also identified to effectively address threats, especially for where DNAPLs are used in smaller volumes, such as in residential areas. Policies could be written to promote the use of alternative non-toxic products and/or proper waste disposal.

### **Post Discussion Paper**

During the development of Source Protection Plan policies further discussions included determining the scope of work required, as the threat circumstances for DNAPLs do not stipulate a quantity threshold. Therefore, even a very small quantity is regarded as a significant drinking water threat. Policies typically reflect this and tend to be more restrictive closer to the municipal intake. In some cases, separate policies have been written for commercial and industrial versus residential users. As the Ministry of the Environment and Climate Change did not provide any guidance on quantity thresholds in the circumstance tables, the policy developers decided not to assign a quantity threshold.

## **3.12 The Handling and Storage of an Organic Solvent**

### **Discussion Paper Summary**

The Discussion Paper identified Part IV Risk Management Plans as an effective policy tool to manage significant drinking water threats from organic solvents. These plans could address operating practices such as containment and management, employee training, spill contingency plans, periodic testing of storage systems, as well as other items. If the requirements of the Part IV Risk Management Plan are not met, then the storage site would be prohibited.

Another policy approach identified to address significant drinking water threats from organic solvents is for municipalities to establish bylaws that prohibit the discharge of organic solvents into municipal sewer systems, or to prohibit storage within 100 metres of the municipal drinking water source. Through a specify action policy municipalities could be required to enact sewer use bylaws that address threats from organic solvents, such as requirements for compliance programs and pollution prevention planning.

Education and outreach programs were also identified as proactive tools for addressing threats from organic solvents, most likely to be used in support of other policy approaches. Programs could be directed at businesses that store organic solvents and could address pollution prevention approaches, best management practices and safe disposal in industries storing organic solvents, with priority on significant threat areas.

### **Post Discussion Paper**

After the publication of the Discussion Papers there was little further discussion on this drinking water threat. In the majority of cases, policy developers selected the Part IV tools to manage or prohibit these activities. Prohibition (using Part IV or land use planning tools) was often selected when there was future potential for this activity to occur within 100 metres of the municipal drinking water source or where the vulnerability score was high enough to regard this activity as significant.

### **3.13 The Management of Runoff That Contains Chemicals Used In the De-Icing of Aircraft**

#### **Discussion Paper Summary**

There are no existing occurrences of this significant drinking water threat identified within the Catfish Creek Source Protection Area. Further, based on land use activities surrounding existing municipal intakes, the potential for an airport to be constructed in the future that is of a size that would rank as a significant drinking water threat is minimal.

It is possible to affect decision-making on airport lands, provided that the functioning of the site is not impeded. Although the Federal Government has immunity from Provincial law, the Federal Government can waive that immunity by contract/agreement or conduct. Where a municipality has the responsibility for establishing Risk Management Plans, a Source Protection Plan policy can direct a municipality to negotiate a Part IV Risk Management Plan under the *Clean Water Act, 2006* with the Airport Authority.

#### **Post Discussion Paper**

Although it is unlikely for this activity to occur in the Catfish Creek Source Protection Area in the foreseeable future, policies must be included as per the rules under the *Clean Water Act, 2006*. Therefore, as new airports would require the completion of an Environmental Assessment, the municipalities would in their review of this Environmental Assessment be able to provide comments to the Airport Authority on the effects of this activity on their drinking water supply, specifically for the de-icing of aircrafts. This was most often determined to be the most effective method to manage these future activities. In addition, a non-binding policy was selected in many cases, requesting that the Airport Authority review all applications to ensure that this activity ceases to be a significant drinking water threat on future airport site development

### **3.14 An Activity that Takes Water from an Aquifer or a Surface Water Body without Returning the Water Taken From the Same Aquifer or Surface Water Body and an Activity that Reduces the Recharge of an Aquifer**

There were no Discussion Papers developed for these prescribed drinking water quantity threats. The Catfish Creek Source Protection Plan does not contain policies relating to water quantity (#19 and #20). As the potential for water quantity stress is low in the Catfish Creek watershed, and is not expected to increase significantly in the future, these policies were not required.

### **3.15 The Use of Land as Livestock Grazing or Pasturing Land, an Outdoor Confinement Area or a Farm Animal Yard.**

#### **Discussion Paper Summary**

##### Outdoor Confinement Areas and/or Farm Animal Yards

The *Nutrient Management Act, 2002* is a Prescribed Instrument under the *Clean Water Act 2006*, meaning Nutrient Management Strategies can be used to implement policies. These tools and the legislative framework are already in place, making them an effective approach for addressing existing and future drinking water threats from farm animal yards and outdoor confinement areas. The Prescribed Instrument tool was identified in the Discussion Paper stating that a policy could require OMAFRA to ensure existing and proposed Nutrient Management Strategies in significant threat areas effectively protect municipal drinking water supplies. The policy could require that such strategies contain contingencies in case municipal groundwater monitoring shows concerns relating to nitrogen and pathogens.

Nutrient Management Strategies only apply to outdoor confinement areas and farm animal yards on properties regulated under the *Nutrient Management Act, 2002*. Therefore, for properties with outdoor confinement areas or farm animal yards that pose a significant threat to drinking water that are not regulated under the *Nutrient Management Act, 2002*, policies were drafted to require a Part IV Risk Management Plan, which could be applied to both existing and future threats. A Part IV Risk Management Plan could effectively deal with the diversity of farm animal yards and outdoor confinement areas types by applying best management practices. These include components of the Environmental Farm Plan on a site by site basis and requirements for ongoing monitoring and reporting to the Risk Management Official.

The Part IV Risk Management Plan could also include aspects of a Nutrient Management Strategy, as it relates to outdoor confinement areas, to maintain consistency with current regulations.

#### Livestock Grazing and Pasturing Land

Livestock grazing and pasturing lands are not defined under the *Nutrient Management Act, 2002*, and therefore, these threats cannot be managed through the use of the prescribed instruments tool. Instead, a policy could be written to require Part IV Risk Management Plans for properties with grazing and pasturing lands that pose significant drinking water threats.

In both cases, ‘softer’ tools such as education and outreach and incentive programs can be used to address livestock threats. These tools will support implementation of regulations, but they can also be used on their own. Incentive programs could also be developed to support the implementation of education programs or other policy options, such as voluntary Nutrient Management Strategies, to increase the likelihood of adopting best management practices.

#### **Post Discussion Paper**

Within 100 metres of a municipal well, or within an Intake Protection Zone-1, it was determined that these areas should be considered “no go” zones for livestock grazing and/or pasturing. This is due to the close proximity to the municipal well or intake and the need to protect this area from any possible activities that may impact or damage the source. Therefore, in a majority of cases, most policies require prohibition of this activity within these areas. This position of prohibition within 100 metres of the well and/or within IPZ-1 was not supported by OMAFRA, based on their technical guidance received during the consultation period.

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## 4.0 WATERSHED WIDE POLICY DEVELOPMENT, INTENT AND RATIONALE FOR NON-PRESCRIBED DRINKING WATER THREATS

The following section describes the decision making process for the selection of policy tools made by the policy development teams for non-prescribed drinking water threats. A brief summary has been provided where the outcomes published within the Discussion Paper were available. Further information on policy development including the intent and rationale for the selection of specific policy tools is presented in Section 5 – County of Oxford Policy Rationale.

### 4.1 Optional Content

#### Discussion Paper Summary

On January 13, 2011 the Lake Erie Region Source Protection Committee passed a resolution (Res. No. 05-11) which determined that policies for the following optional content shall be included within the Source Protection Plans as outlined in O. Reg. 287/07:

1. Policies on conditions that have been identified as significant drinking water threats in the Assessment Reports;
2. Policies to update spill prevention, spill contingency or emergency response plans along highways, railways or shipping lanes in Intake Protection Zones (IPZ) or Wellhead Protection Areas (WHPA);
3. Policies that govern transport pathways;
4. Policies for the monitoring of moderate and low drinking water threats in specific situations;
5. Anything that will assist in understanding the plan; and
6. Dates for when the policies take effect.

#### Conditions

Conditions are contaminated sites for which there is evidence of off-site contamination from a past activity that may have an immediate impact on drinking water quality, as outlined Part XI.3, Rule 126 of the *Clean Water Act, 2006*, Technical Rules. There were no condition sites identified in the Cattfish Creek Source Protection Area.

#### Spill Prevention, Spill Contingency or Emergency Response Plans

Spill prevention plans outline the appropriate handling and storage (action plan) of potentially harmful substances, and may include preventative maintenance standards and reporting. Spill prevention and contingency plans are outlined in the *Environmental Protection Act, 1990*, O. Reg. 224/07 and are developed by industries as described in O. Reg. 222/07, Environmental Penalties. This includes, but is not limited to, industrial facilities (Table 1 of the Regulation) and facilities that discharge sewage other than storm water to a watercourse.

Policies for spill prevention, spill contingency or emergency response plans can only be included in the Source Protection Plan if they relate to a highway (as defined by the *Highway Traffic Act, 1990*), railway line or a shipping lane (i.e., along a transportation corridor). This does not include properties that are along highways and also within the vulnerable area (O. Reg. 287/07 section 26(6)).

Every municipality is responsible for creating an emergency response plan governing the provision of necessary services during an emergency, and the procedures under and the manner in which employees of the municipality and other persons will respond to the emergency. Outdated plans may be a threat to drinking water sources, as they may not contain the most recent data and most appropriate response (i.e. personnel) to an emergency or spill.

Municipal emergency services are often the first responders to events that may adversely impact a source of municipal drinking water. Quick and effective response to spills could prevent an emergency from affecting a municipal drinking water source. Therefore, policies were written in all cases to encourage the appropriate party(ies) to update their response/prevention/contingency plans to include the vulnerability mapping, allowing the appropriate party to have immediate access to this information when needed. This may also modify the development of these plans to ensure that if a spill occurred, a heightened response to the activities would occur because of the threat to the municipal drinking water supply.

Additionally, updates to the current spill prevention and contingency / response plans could act as a communication tool for the municipalities and the public, as well as ensure that people are aware of the location of wellhead protection areas and knowledgeable regarding the appropriate response in the event of a spill in these areas.

#### Transport Pathways

Transport pathways are defined in the *Clean Water Act, 2006* O. Reg. 287/07. Transport pathways are a land condition, resulting from human activity, which increases the vulnerability of a municipal drinking water system's raw water supply. Transport pathways, such as an abandoned well, may facilitate the movement of contaminants vertically or laterally below grade, and can result in greater impact from activities identified as a drinking water threat.

Policies for a specific transport pathway could support ongoing stewardship programs to provide funding to decommission abandoned wells, thereby reducing the ability of contaminants to enter the groundwater within the vulnerable areas. This may further reduce the vulnerability of an area and the amount of enumerated threats. For transport pathways not related to drinking water wells, a policy to support best management practices and the approval of installation of new municipal infrastructure by a qualified professional would aid in the protection of municipal drinking water sources.

A broad transport pathway policy could include requesting municipalities to determine which transport pathways exist within the identified vulnerable areas and develop policies once completed to protect municipal drinking water sources.

Abandoned wells were the only transport pathways identified as a concern for the Catfish Creek Source Protection Area surrounding the Brownsville wellhead protection area. As such, this is the only transport pathway addressed in this Source Protection Plan.

To ensure that groundwater vulnerability is not increased due to an abandoned well, the policies typically support the provincial efforts to encourage the decommissioning of abandoned wells as per O. Reg. 903. Often these wells are located on private property and the cost to properly decommission or upgrade the structure may be prohibitive. A specific transport pathway policy to support ongoing stewardship programs to decommission abandoned wells could reduce the ability of contaminants to enter the groundwater within the vulnerable areas. This may further reduce the vulnerability of an area and the amount of enumerated threats.

### Monitoring of Moderate and Low Drinking Water Threats

The monitoring of moderate and low drinking water threats must be included in the Source Protection Plans where the Source Protection Committee determines that this is advisable to ensure they do not become significant drinking water threats. Currently, there are no locations within the Lake Erie Source Protection Region where the Source Protection Committee has determined it is advisable to monitor moderate and low threats.

No further discussion occurred within the Catfish Creek Source Protection Area with respect to the development of policies for monitoring of moderate and low drinking water threats.

## **4.2 Transitional Policies**

Unlike most land use related legislation (e.g. *Planning Act*, *Ontario Building Code Act, 1992*), which tends to focus primarily on regulating future development/activities, the *Clean Water Act, 2006* requires the development of policies to address existing and future occurrences of a significant threat. Therefore, the policy approach for addressing existing threats may vary markedly from the policy approach used to address potential future threats, particularly given that the *Clean Water Act, 2006* puts a much greater onus on the Source Protection Committee to justify the use of certain policy tools, such as Part IV prohibition, for addressing existing threats.

The current guidance provided as to how the Source Protection Plan can differentiate between existing and future instances of a threat seems to be simply that, a significant threat activity existing at the date the Source Protection Plan takes effect (or at some point prior to that date) is considered to be existing, with any other circumstance considered to be future. Unfortunately, from a policy and practical implementation perspective, such a distinction may not necessarily be reasonable or appropriate in all situations. Therefore, some form of transitional regulation and/or policy and associated guidance will likely be required to deal with circumstances that do not fit cleanly within such a definition. These circumstances included:

- Potential uses/activities that would constitute a significant threat being proposed through applications for Building Permit or development approval under the *Planning Act* initiated before the Source Protection Plan is enacted, or certain policies within the Source Protection Plan are enacted;
- Expansions to and replacement of existing threats, uses permitted under existing zoning without any further approvals, but not necessarily established as of the date of Source Protection Plan approval etc.; and
- Threat policies in the Source Protection Plan that establish a policy implementation date that is later than the date of approval of the Source Protection Plan.

## **4.3 Part IV, Section 59: Restricted Land Use**

The intent of these policies is to designate all land uses where activities have been designated for the purposes of Section 57 and/or 58 of the *Clean Water Act, 2006* as Restricted Land uses under Section 59 of the *Clean Water Act, 2006*.

These policies were developed to require all applications made under the *Planning Act*, *Condominium Act, 1998* and *Building Code Act, 1992*, for areas where activities could be significant drinking water threats, to be reviewed by the Risk Management Official. The Risk Management Official would then advise the applicant if section 57 (prohibition) or section 58 (Risk Management Plans) of the *Clean Water Act, 2006* apply.

The policies enable the Risk Management Official to pre-screen applications for land uses and activities identified as a significant drinking water threat within vulnerable areas.

In some cases, residential uses have been excluded from this policy to limit the number of applications the Risk Management Official may be required to review. As most of the drinking water threats would not apply on a residential property, based on the circumstances required, it was determined this was a way to reduce the burden of implementation.

#### **4.4 Implementation and Timing**

The timing policies were grouped according to Section 40, 43, 57, 58, 59; under the *Clean Water Act, 2006*, and education and outreach. Each policy grouping was assigned an implementation deadline.

All policies in the Source Protection Plan will take effect on the date set by the Minister of the Environment and Climate Change. Many of the policies will be implemented immediately. However, some of the policies will take additional time to fully implement, due to: other legislative requirements and timelines that must be met; timeframes to develop and implement new programs; and budgetary constraints. As such, this policy specifies the time in which the policies will take effect so that they are not required to be implemented immediately.

The provincial ministries' request for a three (3) year implementation timeline was included in the policies. However, the Ministry of the Environment and Climate Change provided further comment regarding their desired timeframe for implementation of the Prescribed Instrument tool and Director discretion to determine the timeline for implementation. The request for allowing the Director to determine the timeline for implementation was not included in the Source Protection Plan policies. The policy development team felt that it was not reasonable to allow this flexibility for the Ministry of the Environment and Climate Change and not have this discretion available to other implementing bodies.

#### **4.5 Annual Reporting and Monitoring**

Monitoring and Annual Reporting policies have been included for each policy which addresses significant drinking water threats. In some instances one monitoring policy may apply to a number of different policies as the same information is required from the monitoring body. The intent of these policies is to provide the Source Protection Authority with the appropriate information to complete the required Annual Report.

To gauge the effectiveness of the policies within the Source Protection Plan it is imperative that the Source Protection Authority track the Plan's policy implementation. In most instances, this is accomplished by requiring the implementing body to report details of their accomplishments to the Source Protection Authority. In general, this information is to be provided to the Source Protection Authority before February 1 of each year so that an annual report can be provided to the Ministry of the Environment and Climate Change as required by the *Clean Water Act, 2006*.

These policies also require the municipalities to amend their Official Plans and Zoning By-laws to ensure conformity with the Source Protection Plan. The purpose of the monitoring policy is to provide notice as to what was amended/included in the Official Plan and Zoning Bylaw to implement the Source Protection Plan.

#### 4.6 Incentive Programs

The intent of including policies for incentive programs is to encourage the development and implementation of incentive programs to aid in the implementation of Source Water Protection initiatives. Further, policy developers and the Source Protection Committee felt strongly that the Ministry of the Environment and Climate Change should be requested to continue to fund the Ontario Drinking Water Stewardship Program to assist landowners to manage or cease activities that are identified as significant drinking water threats on their properties.

Source Water Protection is a provincial initiative and affects the entire province. The policy developers and the Source Protection Committee strongly feel that the Province of Ontario should continue to fund the Ontario Drinking Water Stewardship Program as this program is one of the most effective tools available to eliminate existing significant drinking water threats.

#### 4.7 Interpretation of the Source Protection Plan

The Lake Erie Region Project Team discussed the need for an Interpretation section to assist the reader in understanding what was to be considered the legal part of each Source Protection Plan policy. This included adding additional text to Volume I and II to aid the reader in how to read the policies using the policy applicability mapping and sidebar information. It was important to note in the Source Protection Plan policy section (Volume II), that the Source Protection Plan consists of both the written policy text and the Schedules.

The interpretation policy is intended to ensure the Schedules become a legal component of the Source Protection Plan. This policy was adapted from similar policies which appear in current Official Planning documents and was included in the Source Protection Plan under Section 29 of O. Reg. 287/07.

The intent of the Schedules in the Source Protection Plan is to identify the areas where the policies of the Source Protection Plan apply. The boundaries for circumstances shown on the Plan Schedules are general and more detailed interpretation of the boundaries rely on the mapping in the approved Assessment Report and the Specific Circumstances found in the Tables of Drinking Water Threats, *Clean Water Act*, 2006.

The second part of this policy addresses updates to Acts and regulations that may occur at any time. This part allows for these updates to occur without triggering a need for an update to the Source Protection Plan policies.

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## 5.0 THE COUNTY OF OXFORD POLICY RATIONALE

### 5.1 Municipal Support

To date, the municipalities within the Catfish Creek Source Protection Area have been given the opportunity to participate in the development of the Source Protection Plan policies.

Specifically, the County of Oxford has been present at various meetings hosted by the Lake Erie Source Protection Region over the past two years in order to develop locally implementable policies. These policies have been reviewed by municipal staff and council. Early engagement with the municipal council began in the fall of 2011 with staff presentations and participation at various committee and council meetings.

Further, the County of Oxford municipal council has been engaged on the following occasions:

#### **Municipal Support from the County of Oxford**

A report from the County's Community and Strategic Planning Office (Report C-4 2012-310) containing the proposed draft policies for the Lake Erie and Thames Sydenham Source Protection Regions was presented to County Council at their August 8<sup>th</sup>, 2012 meeting. At that meeting, County Council passed the following resolution:

*"That the draft Source Protection Plan policies for Oxford County, as attached to Report No. C-4 2012-210, be endorsed by County Council for the purposes of public consultation and that the policies be forwarded to the Lake Erie Region and Thames Sydenham Region Source Protection Committees so that they may initiate the public consultation process, as required by the Clean Water Act, 2006."*

*"Further, that a copy of this report be distributed to the Area Municipalities for their information."*

### 5.2 Financial Considerations

The County's involvement in the development of Source Protection Plan policies has had financial implications for the County in terms of the considerable commitment of policy, technical and support staff to the projects. In the development of the Source Protection Plan policies and, in particular, the selection of the most appropriate policy tools, the potential financial impacts on the County and other implementing bodies and businesses and landowners were key considerations. Although the policy approaches proposed were selected, first and foremost, for being the most effective and appropriate for addressing the various significant drinking water threats, every attempt was also made to minimize the potential financial impacts of implementation on the various stakeholders.

There will be direct financial costs to the County and/or local municipalities to fund, train and administer a Risk Management Official and Inspector(s). This position will require on-going administrative and support staff resources to ensure the on-going negotiation, enforcement and monitoring of Risk Management Plans.

The *Clean Water Act, 2006* does make provision for imposing fees associated with the Risk Management Officer/Inspector in order to assist in recovering costs. However, the imposition of such fees will need to be carefully considered, as they may have a financial impact on landowners and business operators.

Further discussions with neighbouring municipalities or Source Protection Regions (e.g. Norfolk County) where Wellhead Protection Areas from the County of Oxford extend into their jurisdictions (or vice versa) will also likely be undertaken to review various implementation options and considerations.

The County of Oxford will also likely incur additional labour and administrative costs to implement the Ontario Building Code requirements for the mandatory septic inspections. Inspections within the most vulnerable wellhead areas will likely be given priority.

Municipal staff resources (primarily County, with some potential local) will also be required to implement education and outreach programs associated with the handling and storage of DNAPLs in household quantities and application of commercial fertilizer in association with residential uses.

There may also be a cost to the County and local municipalities to amend Official Plans and Zoning By-laws to implement the Source Protection Plan policies, in terms of staff resources and *Planning Act* process requirements e.g., public notice requirements. In addition, annual reporting requirements to the Source Protection Authority will require staff resources and may have cost implications to the County and/or local municipalities to prepare and administer.

### **5.3 The County of Oxford Policy Rationale**

With a few exceptions, the general policy approach for the County of Oxford was to manage existing significant threats and prohibit the establishment of new significant threats, where possible and reasonable. Where prohibition was not possible or reasonable, the focus was to adequately manage the threat. Prescribed Instruments were generally used where they were determined to be effective for managing or prohibiting the threat. Part IV tools were used where Prescribed Instruments were not adequate or applicable. Where Section 57 (prohibition) and Section 58 (regulated activities) were used, Section 59 (restricted land use) was used to better integrate these new policy tools and related processes with existing development approval processes. Education and outreach, Incentives and Land Use Planning policy approaches were generally limited to complementary tools for addressing significant threats, as opposed to being the primary policy approach.

#### **5.3.1 Implementation Timing**

**Intent:**

These policies are intended to provide implementing bodies with timing requirements for enactment of policies.

**Rationale:**

Except where otherwise stated in the implementation timing policies or specifically set out in the *Clean Water Act, 2006* all policies in the Source Protection Plan take effect at such time as the Ministry of the Environment and Climate Change approves the Source Protection Plan and posts the notice of approval on the Environmental Registry. The policies pertaining to new/future threats will be implemented immediately. However, the majority of the existing threat policies and some of the new/future threat policies will take additional time to fully implement due to other legislative requirements and timelines that must be met, the time required to develop and implement new programs, and budgetary constraints. As such, this policy specifies implementation timing for these various policies, so that they are not required to be implemented immediately upon approval of the Source Protection Plan.

The timing policies were grouped according to Section 57(1), 58(1), 59(1), 40(2), 43(2) of the *Clean Water Act, 2006* as well as Education and outreach. Each policy grouping was assigned an implementation deadline. It was determined that the implementation timelines for Part IV (Section 57, 58 and 59) and Prescribed Instrument policies should generally be as short as possible, while still being achievable for the implementing bodies, as these are the primary policy approaches being used to ensure that the vast majority of prescribed activities in the *Clean Water Act, 2006* cease to be, or do not become significant drinking water threats. One noted exception is Section 58, Risk Management Plan (RMP) policies for existing threats, where no timeframe has been specified, in order to allow the Risk Management Official the flexibility to establish local priorities for the implementation of RMPs for existing uses, while ensuring that RMPs required for new/future uses are implemented in a reasonable timeframe.

In the case of Education and outreach policies and Section 40 and 43 policies, longer timeframes have been permitted for implementation, as these policies will likely require the development of new programs.

Notwithstanding the permitted implementation timing, the County of Oxford intends to amend their Official Plan and Zoning By-Laws as soon as possible to address and/or communicate the applicable Source Protection Plan policies. These are the primary documents typically consulted by those making land use decisions and are; therefore, a key tool for communicating which land uses/activities may be prohibited, regulated or restricted by the policies of the Source Protection Plan using other tools, such as Part IV prohibition.

**5.3.2 Transition Policies and Related Definitions**

Definitions for 'existing' and 'future/new' have been included in the County of Oxford policies to ensure the policies for existing and future significant threat activities are applied as intended. The definitions of existing and future/new were determined to be critical to understanding the specific circumstances under which an existing or future policy would apply to a threat activity, which is particularly important in instances where the policy approaches for 'existing' and 'future' activities differ. For example, in most cases, future occurrences of a particular significant threat activity are prohibited, while existing occurrences are managed. Generally, if a significant threat activity existed on the date the Source Protection Plan was approved, or existed at some point prior to Plan approval and intended to continue (e.g. an intermittent activity, such as the seasonal storage of commercial fertilizer for retail purposes), it would be considered existing. The intent is that the onus be on the proponent to demonstrate to the satisfaction of the implementing body that a particular significant threat activity was existing.

In addition to providing definitions of 'existing' and 'new/future', transitional policies have been included to identify a number of additional circumstances (e.g. stage in the development approval process) under which an activity or threat may be evaluated in accordance with the policies in the Source Protection Plan pertaining to existing threats. This distinction becomes important for significant threat activities for which 'existing' and 'new/future' occurrences are addressed differently by the Source Protection Plan policies. It is particularly important in instances where a 'new/future' significant threat activity would be prohibited, while an existing occurrence of that activity would be allowed to continue with appropriate risk management. Transitional provisions do not exempt a significant threat activity from complying with the policies of the Source Protection Plan, but rather clarify whether 'existing' or 'new/future' policies will apply. Either way, the threat activity will be addressed by Source Protection Plan policies and will need to satisfy the *Clean Water Act, 2006* test of 'ceasing to be or never becoming' a significant drinking water threat. In the limited circumstances where the transitional provision would apply, this would generally mean that this *Clean Water Act, 2006* test will simply need to be satisfied through management of the activity, rather than its prohibition,

There are two main transition policies included in the County of Oxford Source Protection Plan policies. The first pertains to significant threat activities associated with a development that is being proposed as part of one or more development applications (e.g. zoning, site plan and/or building permit) as of the date the Source Protection Plan takes effect. For example, an applicant has obtained all required local development approvals for a particular use and associated significant threat activity and commenced construction of the related buildings and facilities, but has not yet engaged in the activity when the Source Protection Plan comes into effect. If the significant threat activity associated with the proposed development (e.g. fuel storage as part of a gas station) was prohibited by the Source Protection Plan, that activity would not be able to be engaged in at that location notwithstanding that the proponent may have invested considerable time, money and effort in preparing the material to support the applications and possibly even preparing the site and constructing a building. Therefore, it was determined that it would be fair and reasonable to establish transitional policies to allow a significant threat activity that was clearly intended to be established as part of a formal development proposal prior to the effective date of the Source Protection Plan, to be evaluated as existing for the purposes of applying the Source Protection Plan policies. It was determined that if one or more of these applications had been submitted and deemed to be complete as of the date of Source Protection Plan approval, and the applicant has formally declared that one or more significant threat activities are being proposed as part of the development, that would constitute a sufficient commitment to the establishment of the threat activity to give it transitional consideration. For similar reasons, transitional provisions for significant threat activities proposed through a complete application for a prescribed instrument submitted prior to the effective date of the Source Protection Plan were also included.

The second transitional policy pertains to uses and associated activities that could be established on a property in accordance with existing zoning, with no further local development approvals (e.g. the *Planning Act, 1990* or building permit). A number of prescribed significant threat activities (e.g. storage and handling of commercial fertilizer, pesticides, organic solvents, DNAPLs etc.) would not likely require a building permit, or any other form of local approval, to be established on a property, even after the Source Protection Plan comes into effect. This is most likely in cases where there are existing buildings and structures on a property that are suitable for the proposed use (e.g. storage of DNAPLs in an existing industrial building). For example, a proponent may have purchased or leased a property zoned for industrial purposes and containing existing industrial buildings, with the specific intent of operating a new industry that requires the handling and storage of DNAPLs as an essential part of their process.

Given that there would not likely be any local planning or building permit approvals required, it is quite likely that the proponent would not be aware that their operation involves a significant threat activity regulated by the Source Protection Plan policies. This situation is even more likely if local planning documents (Official Plan and Zoning) have not yet been updated to identify the areas and activities that are subject to the Source Protection Plan policies. In such circumstances, it may also be very difficult for the implementing body for a particular policy to confirm whether such activity was established after the date the Source Protection Plan was approved. For these reasons, it was determined that it would be fair and reasonable to give transitional consideration to significant threat activities in such circumstances. However, it was also felt to be important to include the provision that, at such time as a Risk Management Official (RMO) /Inspector (RMI) has visited the site and documented the threat activities existing at that time, any threat activities not documented as existing will thereafter be considered future. The intent is that once such inspection has occurred, the owner/operator could no longer claim to be unaware of the Source Protection Plan restrictions on significant threat activities and the RMO would have conclusive documentation of the threats that were existing at that point in time. The intent is that the RMO/ RMI on-site inspections and existing threat documentation will be conducted as soon as possible after the Source Protection Plans are approved.

Finally, unless otherwise noted in the threat specific policies, it is intended that replacements, modifications and expansions to existing significant threat activities be considered as part of the existing significant threat activity and, therefore, evaluated in accordance with the policies pertaining to existing threats. A specific policy dealing with replacements, modifications and expansions was included in previous versions of the County of Oxford's policies, however, it was removed based on discussions with MOE staff. These discussions concluded that specific policies were not required to allow for replacements, modifications and expansions to existing significant threats, particularly in cases where Part IV or Prescribed Instrument policies were used. For policies where it was determined that specific provisions for replacements, modification and expansions were necessary (such as where land use planning tools were used), wording was added to those policies.

### 5.3.3 Part IV Policies

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#### Section 57 Prohibition

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**Intent:**

These policies are intended to prohibit activities under Section 57 of the *Clean Water Act, 2006* in vulnerable areas where the activities are or would be a significant drinking water threat.

**Rationale:**

Based on a review of current and projected land uses in the areas where the following activities could be significant drinking water threats, it is believed that prohibition is both reasonable and most effective for addressing a number of the significant drinking water threats in the County of Oxford. Prohibited activities within WHPAs include:

- Establishment, operation, or maintenance of a waste disposal site, within the meaning of Part V of the *Environmental Protection Act*: waste disposal sites that do not require an Environmental Compliance Approval (ECA);
- New or existing application of agricultural source material (WHPA-A);
- New storage of agricultural source material;

- New handling and storage of commercial fertilizer;
- New handling and storage of pesticides greater than 2,500 kilograms;
- New and existing handling, and storage of road salt;
- New storage of snow;
- New handling and storage of fuel;
- New handling and storage of DNAPLs; and
- New handling and storage of an organic solvent.

#### Waste disposal sites that do not require an Environmental Compliance Approval (ECA)

Waste disposal sites are generally regulated under the *Environmental Protection Act* and require an Environmental Compliance Approval (ECA); however, not all aspects of such threats (such as PCB storage) are necessarily regulated under Part V of the *Environmental Protection Act*. Therefore, Section 57 was used as a way to address any potential “gaps” in the Prescribed Instrument in a manner that would be consistent with prohibition through the Prescribed Instrument. It was determined unnecessary to prohibit existing occurrences of this activity where it would be a significant drinking water threat.

However, given the limited area and number of properties in the County of Oxford where such activities could be a significant drinking water threat, it was determined that future waste disposal sites could, and therefore should, be located in areas where they are not a significant threat to drinking water sources. No concerns were raised during pre-consultation with respect to prohibiting future occurrences of this activity in areas where it would be a significant threat to drinking water sources.

#### The application and storage of agricultural source material (ASM)

The *Nutrient Management Act, 2002* prohibits the application and storage of ASM within 100 m of a well (WHPA-A) for farms regulated under the *Nutrient Management Act, 2002*. As such, it was determined that the most effective and consistent policy approach would be to prohibit the existing and future application of ASM and the future storage of ASM within the WHPA-A. This approach is keeping with the County of Oxford’s overall policy approach, which is generally to prevent new/future significant threats from becoming established where achievable and reasonable.

As the *Nutrient Management Act, 2002* does not apply to all agricultural operations, Part IV prohibition was determined to be the most appropriate tool to prohibit this activity, as it would ensure that all agricultural operations undertaking this activity within WHPA-A are subject to the same restrictions, regardless of whether or not they are subject to the NMA. Prohibition was deemed to be a reasonable approach for the future storage of ASM, given the location of existing livestock barns and other farm buildings/structures, the limited area affected and the ample opportunities to locate new facilities outside of significant threat areas in Oxford County. Furthermore, the establishment of ASM storage facilities in the WHPA-A and B is currently prohibited by the water quality policies in the County Official Plan; therefore, the Source Protection Plan policies will reduce the area where such significant threat activities are currently prohibited.

The County of Oxford included prohibition policies for the storage of ASM to apply within a WHPA-B with a vulnerability score of 10 in the Long Point Region and Grand River Source Protection Plans. However, only the WHPA-A for the Brownsville water supply system has a vulnerability score of 10; therefore, this activity is not a significant drinking water threat in the WHPA-B.

**Handling and storage of commercial fertilizer**

Section 57 was determined to be the most appropriate and effective approach for addressing this threat, as it provides the greatest certainty for the protection of municipal drinking water sources, by ensuring no additional significant drinking water threats related to this activity can be established. It was also determined to be a reasonable approach, given that the land area affected is relatively small and alternate locations could be found for any new facilities.

**Handling and storage of pesticides (greater than 2500 kg or 2500 Litres)**

While it was deemed to be unreasonable to prohibit existing storage facilities, it was also determined that new activities should be directed to areas where the risks are not significant. It was determined that Section 57 was the most appropriate and effective approach, as it provides the greatest certainty for protection of municipal drinking water sources by ensuring no additional significant drinking water threats related to this activity can be established.

It was also determined to be reasonable, as the areas where this activity could be a significant threat are relatively small and there are opportunities to locate new facilities in alternative locations.

**Handling and storage of road salt**

Prohibition of both future and existing salt handling and storage through Section 57 was determined to be the most appropriate approach because no existing road salt storage threats were identified, or likely, within the County of Oxford. Furthermore, according to the threat circumstances in the Tables of Drinking Water Threats, at or above grade, only larger quantities of salt stored in a manner where it is exposed to precipitation or runoff is considered a significant threat.

Therefore, prohibition of the significant threat was determined to be the most appropriate policy approach for this activity, as the activity can still continue, or be established, provided that it is constructed in a manner which would not be a significant drinking water threat (not exposed to precipitation or runoff).

**Handling and Storage of snow**

The County of Oxford chose to use Risk Management Plans to address existing occurrences of this activity, as no existing occurrences of this activity were identified and, even if there were, it would not be appropriate to prohibit such activities. However, given the threat circumstances e.g. size of storage area at or above grade and existing and planned land uses in significant threat areas, it was determined to be very unlikely that new significant snow storage activities would be proposed in the County of Oxford. Based on the threat circumstances, the limited area potentially affected and the ample opportunities to locate new facilities outside of significant threat areas, it was determined that Section 57 was the most appropriate approach for future threats. This prohibition provides the greatest certainty for protection of municipal drinking water sources, by ensuring no additional significant drinking water threats related to this activity are established

#### Handling and storage of fuel

The circumstances for this activity in the Tables of Drinking Water Threats indicate that for fuel storage less than 2500 Litres (L), storage above grade is not a significant threat. Therefore, new fuel storage below this size could still be located at, or above grade while fuel storage larger than 2500 L would be prohibited below, at, or above grade in significant threat areas. Given the number of potential existing significant threats associated with this activity, it was not deemed appropriate to prohibit existing storage of fuel. However, Section 57 was determined to be the most appropriate approach for addressing future threats, as it provides the greatest certainty for protection of municipal drinking water sources, by ensuring no additional significant drinking water threats related to this activity are established. Furthermore, it was deemed to be reasonable, given that the areas where this activity would be a significant threat to drinking water are relatively small and there are many other locations where this activity could be undertaken without becoming a significant threat to drinking water.

#### Handling and storage of dense non-aqueous phase liquids (DNAPLs)

Dense non-aqueous phase liquids (DNAPLs) are particularly persistent and toxic chemicals. The *Clean Water Act, 2006* establishes that any quantity of the specified chemicals that are considered DNAPLs is a significant threat in WHPA-A, B and C regardless of vulnerability score. Section 57 was used to prohibit new/future occurrences of this activity in the most vulnerable areas (WHPA-A and B with a vulnerability score of 10), with the exception of DNAPLs in quantities typical of household use in association with residential uses.

The approach was deemed to be more reasonable than prohibition over the entire significant threat area (WHPA-A, B and C), as such a broad prohibition could potentially have resulted in substantial impacts on economic development opportunities in some areas, given the large number of industrial and commercial properties affected. This prohibition was only applied to future activities, as it was felt that prohibition of existing activities could result in undue hardship for existing operations. In recognition of these potential impacts, Section 58 (Risk Management Plans) was applied within the remainder of the WHPA areas where this activity is a significant threat. While prohibition of existing activities was not relied upon to eliminate the threat, this does not limit the Risk Management Official/Inspector from discussing opportunities for using alternatives to the prescribed DNAPL, or relocating to an alternative location as part of the Risk Management Plan negotiation process.

#### Handling and storage of organic solvents

The Tables of Drinking Water Threats identify the quantities (e.g. 25 L) above which the handling and storage of prescribed organic solvents are a significant threat to drinking water sources. Additionally, only the organic solvents specifically identified in the tables are significant drinking water threats. As with many of the other activities that the County of Oxford chose to prohibit, it was determined that prohibition of existing handling and storage was not necessary or appropriate. However, Section 57 was determined to be the most appropriate approach for addressing future threats, as it provides the greatest certainty for protection of municipal drinking water sources, by ensuring no additional significant drinking water threats related to this activity are established. Furthermore, it was deemed to be reasonable, given that the areas where this activity would be a significant threat to drinking water are relatively small and there are ample other locations where this activity could be undertaken without becoming a significant threat to drinking water. As well, there may be alternative chemicals or processes available that would not be a significant drinking water threat if located in a significant threat area.

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**Section 58 Risk Management Plans**

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**Intent:**

The development of Risk Management Plans under Section 58 of the *Clean Water Act, 2006* was used to allow for the management of activities that cannot be managed effectively through land use planning or existing Prescribed Instruments.

**Rationale:**

Risk Management Plans (RMP), in accordance with Section 58 of the *Clean Water Act, 2006*, are used as a tool to manage existing and future drinking water threats. This tool is used to “fill the gap” where a land use planning policy or other existing legislation cannot adequately regulate a significant drinking water threat. This tool is particularly effective in dealing with existing significant drinking water threat activities, where prohibition would likely impose undue hardship on property owners, businesses, etc. RMPs also provide an opportunity to work with property owners/proponents to manage a threat.

The RMP process also serves as a site specific education and outreach opportunity by allowing the Risk Management Official (RMO) to comprehensively review and discuss potential alternatives (e.g. processes, substances or locations) that might eliminate the significant threat, as well as best management practices and any available local incentives with the person undertaking the activity.

The threats that require a RMP within the WHPA-A include:

- Establishment, operation or maintenance of a waste disposal site within the meaning of Part V of the *Environmental Protection Act*: existing waste disposal site that is not subject to an Environmental Compliance Approval;
- New or existing application of agricultural source material (outside of a WHPA-A);
- Existing storage of agricultural source material;
- New or existing application of commercial fertilizer;
- Existing handling and storage of commercial fertilizer (except for residential use);
- New or existing application of pesticides;
- New (less than or equal to 2,500 kg) or existing (any quantity) handling and storage of pesticides;
- Existing storage of snow;
- Existing handling and storage of fuel and new handling and storage of fuel required for back-up generators at municipal supply wells;
- New or existing handling and storage of DNAPLs (except for quantities typical of household use in association with residential uses);
- Existing handling and storage of organic solvents;
- New management of runoff that contains chemicals used in the de-icing of aircraft; and
- New and existing use of land as livestock grazing or pasturing, outdoor confinement area or farm animal yard.

Waste activities that do not require an Environmental Compliance Approval

This policy ensures that existing activities that are part of the waste disposal site circumstances which do not require an Environmental Compliance Approval are adequately managed to ensure they cease to be a significant drinking water threat. Examples include auto-salvaging facilities and hardware stores that collect hazardous waste for disposal. Although there may be financial and staffing implications for the implementing body related to the development and implementation of Risk Management Plans to manage existing storage of waste, it was also determined to be the best option for managing these existing threats, particularly since these activities are not subject to an Environmental Compliance Approval and there are likely few, if any, instances in the County of Oxford where this policy would apply.

The application and storage of agricultural source material (ASM)

Risk Management Plans (RMP) were determined to be the most consistent, appropriate and effective means of regulating the application of ASM in significant threat areas outside of the WHPA-A and existing storage of ASM in all significant threat areas, even in instances where such activities would be subject to a Prescribed Instrument issued under the *Nutrient Management Act, 2002*. Using Section 58 policies ensures that all properties and operations associated with such activities in significant threat areas are subject to the same review process and monitoring and management requirements. As well, properties containing such significant threat activities are also likely to contain other significant threats that would require a RMP. Therefore, the use of RMPs and other Part IV tools to manage the various threats on a property allows for those threat activities to be dealt with consistently by the Risk Management Official (i.e., review processes and monitoring and management requirements). Use of these tools also ensures the Risk Management Official (RMO) is aware of all threats on a property and how they are being managed and provides an opportunity to discuss alternative locations that might eliminate the significant threat, best management practices and any local education and outreach or incentive programs that might be available to assist in managing those threats.

It is intended that the principles of the *Nutrient Management Act, 2002*, and any prescribed instruments issued under that Act, would serve as the general basis for the development of an RMP for such significant drinking water threats and it is anticipated that the RMO will work closely with OMAFRA staff to determine how such principles should be applied.

The application, handling and storage of pesticide

Section 58 was determined to be the most appropriate approach for the application of pesticides and storage of smaller quantities of pesticides, as there are risk management measures which can adequately manage the risks such that the activity ceases to be a significant threat. As well, properties containing such significant threat activities are also likely to contain other significant threats that would require a Risk Management Plan (RMP). Therefore, the RMP process would allow for all threats on a property to be dealt with consistently by the Risk Management Official.

Section 58 was used for existing handling and storage of pesticides at a facility where they are manufactured, distributed or processed to allow activities to only be undertaken when the risk is managed through a RMP. While prohibition of future activities where the volume handled or stored would make it a significant threat was determined to be necessary to manage the risks associated with such pesticide threats, prohibition of existing activities was not deemed to be appropriate and, therefore, management through Section 58 was selected.

Risk management measures have not been specified in these policies to provide flexibility for the Risk Management Official to determine how best to protect municipal drinking water

sources. It is intended that potential opportunities to switch to alternative pesticides or to relocate storage outside of significant threat areas would also be discussed as part of the RMP process.

#### The application, handling, and storage of commercial fertilizer

Risk Management Plans (RMP) were determined to be the most effective and appropriate means of regulating the application of commercial fertilizer and the handling and existing storage of commercial fertilizers in significant threat areas, even in instances where such activities may be subject to a Prescribed Instrument issued under the *Nutrient Management Act, 2002*. Using Section 58 policies would ensure that all properties and operations associated with such activities in significant threat areas are subject to the same review process and monitoring and management requirements.

As well, properties containing such significant threat activities are also likely to contain other significant threats that would require a RMP. The use of RMPs and other Part IV tools to address the various threats on a property allows them to be dealt with consistently by the Risk Management Official. The use of such tools ensures the Risk Management Official is aware of all threats on a property and how they are being managed and provides an opportunity for the Risk Management Official to discuss alternative locations that might eliminate the significant threat, best management practices and any local education and outreach or incentive programs that might be available to assist in managing those threats.

It is intended that the principles of the *Nutrient Management Act, 2002*, and any prescribed instruments issued under that Act, would serve as the general basis for the development of an RMP for the application of commercial fertilizer. However, it is noted that there are no existing significant threat activities concerning the application of commercial fertilizer to land within the vulnerable area identified in this plan. The County is aware that the Nutrient Management Act (NMA, 2002) prohibits the land application of nutrients (including commercial fertilizer) within the WHPA-A for those farming operations regulated (phased in) under the NMA and that risk management officials and inspectors will be made aware of and trained on these requirements.

#### The storage of snow

This activity can only be a significant drinking water threat under certain circumstances (i.e. the storage of snow below grade or, at or above grade if the area where the snow is stored is more than 1 ha.) and the Assessment Report did not identify any existing threats in the County of Oxford, nor are any suspected. Although unlikely, if an existing occurrence of this threat activity were to be discovered, it was determined that a Risk Management Plan would be sufficient to adequately manage the risk such that the activity ceases to be a significant threat. However, County of Oxford chose to use Part IV prohibition for new snow storage and disposal sites for the reasons outlined under Part IV prohibition policy approaches section.

#### The handling and storage of fuel

Although prohibition was determined to be the most appropriate approach for addressing future handling and storage of fuel for the reasons outlined under the Part IV prohibition rationale, given the number of potential existing occurrences of this activity in the County of Oxford, it was determined that a Risk Management Plan was the more appropriate approach for addressing existing threats. This approach was also selected to provide the necessary flexibility to allow for new fuel storage required for back-up generators at municipal wells (which are required for emergency purposes) provided appropriate risk management measures are in place. The Risk Management Plan process can be used to ensure compliance with the requirements of the

*Technical Standards and Safety Act, 2000* and any other requirements deemed necessary by the Risk Management Official to protect municipal drinking water sources.

The handling and storage of a dense non-aqueous phase liquid (DNAPLs) in WHPA-A  
DNAPLs are a significant threat in a WHPA-A, B and C regardless of vulnerability scores. It was determined important to prohibit the establishment of future DNAPL threat activities in WHPA-A, as it is the highest risk area. It was not deemed to be appropriate to apply this prohibition to existing activities or to extend it to all areas where this activity would be a significant threat, due to the large area affected and the potential impact on existing and planned employment uses and associated economic development opportunities.

Although the use of DNAPLs may potentially be associated with residential uses, as the chemicals may be found within many commonly used products, the quantities are likely to be small and manageable through an education and outreach program focused on the safe storage, handling and disposal of these chemicals. However, existing DNAPL handling and storage and future DNAPL handling and storage outside of WHPA-A involving quantities and concentrations of DNAPLs that, in the opinion of the Risk Management Official (RMO) exceed that typical of household use, would still be designated for the purposes of Section 58 and require the establishment of a Risk Management Plan. Specific quantities, concentrations, or risk management measures were not identified in the policies to allow the RMO the flexibility to effectively manage the risks and focus on the instances of this threat that pose the greatest risk to the municipal drinking water systems.

#### The handling and storage of organic solvents

Section 58 was used for existing handling and storage of organic solvents to allow activities to only be undertaken when the risks can be adequately managed through a Risk Management Plan (RMP). While prohibition of future activities was determined to be the most appropriate approach to address new occurrences of this threat for the reasons outlined in the rationale for Section 57 policies, prohibition of existing activities was not deemed to be necessary and therefore, management through the use of Section 58 was selected.

Only specific organic solvents, as listed in the Table of Drinking Water Threats under the *Clean Water Act, 2006* are significant drinking water threats. Alternatives to those chemicals listed may be available and the RMP process can be used to discuss the potential use of different products and/or management of how existing organic solvents are handled and stored (e.g. moving storage above grade, improved containment, spill measures put in place, etc.)

#### The management of runoff that contains chemicals used in the de-icing of aircraft

There were no existing threats associated with aircraft de-icing noted in the Assessment Report for the County of Oxford. Further, the potential for an airport to be constructed that is of a size and in a location that would be considered a significant drinking water threat is minimal. Therefore, the County of Oxford was confident that a policy to address existing occurrences of this threat activity was not required. However a policy was developed to address future occurrences of this threat to encompass the unlikely development of new airports or the reclassification of an existing airport's threat level due to changes in passenger service. While airports and related activities are regulated by the Federal government, it was determined that municipalities should work collaboratively with airport authorities to ensure that activities associated with this drinking water threat never become significant. A Risk Management Plan is a formalization of the collaborative effort between the airport authority and the Risk Management Official.

### The use of land as livestock grazing or pasturing land, an outdoor confinement area or a farm animal yard

Although outdoor confinement areas are regulated by the *Nutrient Management Act, 2002*, not all farms contained within significant threat areas are subject to the *Nutrient Management Act, 2002* and, therefore, required to have Nutrient Management Plans and/or Strategies. In addition, the *Nutrient Management Act, 2002* does not regulate livestock grazing or pasturing activities. Therefore, it was determined that Risk Management Plans (RMP) would be the most consistent, appropriate and effective means of addressing this threat.

Using Section 58 policies would ensure that all properties and operations associated with such activities in significant threat areas are subject to the same review process and monitoring and management requirements. As well, properties containing such significant threat activities are also likely to contain other significant threats that would require a RMP. Therefore, the use of the RMP process and other Part IV tools would allow for all threats on a property to be dealt with consistently by the Risk Management Official. Using such processes also ensures the Risk Management Official is aware of all threats on a property and how they are being managed and provides an opportunity for the Risk Management Official (RMO) to discuss alternative locations that might eliminate the threat, best management practices and any local education and outreach or incentive programs that might be available to assist in managing those threats. It is intended that the principles of the *Nutrient Management Act, 2002*, and any prescribed instruments issued under that Act, would serve as the general basis for the development of a RMP for such significant drinking water threats and it is anticipated that the RMO will work closely with OMAFRA staff to determine how best to apply such principles.

Direct prohibition of future occurrences of this activity was not selected as the preferred approach given the difficulty of differentiating between existing and future occurrences of these activities, which typically do not require a building permit or other development approvals. However, given that no existing outdoor confinement areas have been identified in the County of Oxford within the vulnerable areas and there are few, if any, existing livestock barns located within significant threat areas, it is anticipated that the RMP process can be used to achieve location or relocation of such activities outside of significant threat areas in most cases.

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### **Section 59 Restricted Land Use**

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#### **Intent:**

To designate all land uses, with the exception of residential land uses, in areas where significant threat activities are designated for the purposes of Section 57 and/or 58 of the *Clean Water Act, 2006 (WHPA A, B and C)*, as Restricted Land uses under Section 59 of the *Clean Water Act, 2006* to help ensure that any applicable Part IV tools are considered early in the development process.

The intent of these policies is to 'flag' new *Planning Act* and building permit applications that could result in the establishment of a new significant drinking water threat subject to Part IV policies. This 'flagging' process is intended to ensure that applicants proposing development that may result in the establishment of a significant threat and the planning and building permit approval authorities are made aware of applicable Source Protection Plan policies prior to development approval. This is beneficial to both the municipality and the proponent because it would reduce the need to initiate enforcement of prohibition or risk management measures after a building or land use associated with a significant threat activity has been established. Where Section 58 policies would apply to the activity, the Section 59 policies would require the

proponent to negotiate or otherwise have their Risk Management Plan (RMP) established prior to proceeding with the application. Being aware of the RMP requirements at the outset may also make it easier for the proponent to re-locate the significant threat activity on the site, or undertake other adjustments to the building or facility design/layout or associated processes, to address RMP requirements that may have been more difficult or costly if the activity was already established.

This process also helps to ensure significant threat activities that would be prohibited, or require the establishment of a RMP, are not inadvertently approved, or allowed to establish as a result of a local development approval process, in contravention of the Source Protection Plan policies.

**Rationale:**

These policies were developed to require all applications under the *Planning Act* and *Ontario Building Code Act, 1992* with the exception of those associated with residential uses, within areas where activities are, or would be significant drinking water threat to be reviewed by the Risk Management Official, who would then advise the applicant/landowner if Section 57 (Prohibition) or Section 58 (Risk Management Plans) of the *Clean Water Act, 2006* apply.

Residential land uses were excluded from the restricted land use policy as they are unlikely to be associated with new significant drinking water threat activities that would be prohibited or require Risk Management Plans (RMP). As well, given the number of residential properties located within significant threat areas, the volume of residential building permits that the Risk Management Official (RMO) may have been required to review could be considerable, with very little potential of involving threat activities that would be subject to Section 57 or 58 policies. It was also determined that the Section 59 review of applications for residential uses may have placed unnecessary pressure on limited RMO/RMI staffing resources, resulting in potential delays in development approvals and implementation of other Part IV Source Protection Plan policies (e.g. RMP's for existing activities), while providing little to no implementation benefit.

The only significant threats that would generally be associated with residential land use would be on-site septic systems, application of commercial fertilizer and fuel storage. On-site septic systems and commercial fertilizer application in the County of Oxford are not dealt with by Section 57 or 58 policies, so Section 59 would not apply. Furthermore, Section 59 screening was not seen to be necessary for fuel storage on residential properties, as installation of new underground fuel storage tanks, which would require a Risk Management Plan, was deemed to be unlikely.

The policies also enable the RMO to screen applications for activities identified as significant drinking water threats within vulnerable areas. The policies also contain provisions to allow for the RMO to issue written guidance that would allow for a Planning Authority or Building official to make a determination that the development proposed by a particular *Planning Act* or Building Permit application is not designated for the purposes of Section 59, under specified circumstances. The intent is to allow for the Restricted Land Use process to be refined over time, so that only those applications that are likely to be associated with, or affect, a significant threat activity would require review by the RMO. It is also anticipated that the RMO will establish requirements for the provision of additional documentation or detailed information (e.g. specific nature of the land use and associated activities and location on the site) to assist in the screening and review of development proposals.

### 5.3.4 Prescribed Instruments

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#### Ministry of the Environment: Prohibit Environmental Compliance Approvals(ECA)

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**Intent:**

The Ministry of the Environment and Climate Change is required to prohibit activities within the Environmental Compliance Approval (ECA) process where they would be significant drinking water threats under Subsection 39 of the *Clean Water Act, 2006*.

**Rationale:**New waste disposal site that requires an Environmental Compliance Approval

Although the Environmental Compliance Approval process is considered to be rigorous, prohibition of the activity through the ECA process was determined to be the most appropriate approach. This was for the same reasons as outlined in the rationale provided for the uses of Section 57 prohibition for future occurrences of this threat that are not subject to an ECA.

New septic system requiring an Environmental Compliance Approval; new sewage treatment plant, sewage treatment plant effluent; stormwater management facility discharge

Given that the area affected by these policies is relatively small and there is ample area where these activities could be located without becoming a significant threat, the prohibition of these activities through the Environmental Compliance Approval process was determined reasonable. The prohibition will not have a significant impact on the municipality or on future development opportunities, particularly given that the establishment of new septic systems is already prohibited in the WHPA-A by the water quality policies contained in the County of Oxford's Official Plan.

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#### Ministry of the Environment and Climate Change: Review and Amend Environmental Compliance Approvals

#### Ministry of Agriculture, Food and Rural Affairs: Review and Amend NASM Plans

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**Intent:**

That the Ministry of the Environment and Climate Change and the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) are required to review activities that are subject to Environmental Compliance Approvals (in accordance with the *Environmental Protection Act*) and NASM plans (in accordance with the *Nutrient Management Act, 2002*), respectively, where such activities would be significant drinking water threats under Subsection 39 of the *Clean Water Act, 2006*. Environmental Compliance Approvals and NASM Plans are not to be approved unless terms and conditions are imposed that, when implemented, will ensure that the activity ceases to be or never becomes a significant drinking water threat or, where specified, the activity is prohibited where it is or would be a significant threat.

**Rationale:**

Policies using the Prescribed Instrument tool rely on the authorities of the Ministry of the Environment and Climate Change and OMAFRA to protect drinking water sources through their respective approval processes. It is generally a priority of the County of Oxford to use existing regulatory tools where available and effective for addressing a particular threat activity. Environmental Compliance Approvals have been a longstanding requirement for waste disposal and sewage, and the criteria used to assess these Certificates are thorough. Similarly, NASM Plans under the *Nutrient Management Act, 2002* have comprehensive requirements and criteria that are used to address NASM. Requiring these Ministries to review Environmental Compliance Approvals and NASM Plans in light of the circumstances that make the activity a

significant drinking water threat ensures that terms and conditions are added to these approvals, where necessary.

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**Ministry of Agriculture, Food and Rural Affairs/or MOECC: Prohibit Application or New Storage of Non-Agricultural Source Material through NASM Plans/ECAs**

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**Intent:**

The Ministry of the Environment and Climate Change or the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) as applicable, are required to prohibit the existing and future application of NASM and new storage of NASM through the Environmental Compliance Approval process or the *Nutrient Management Act, 2002*, as applicable, where such activities would be significant drinking water threats under Subsection 39 of the *Clean Water Act, 2006*.

**Rationale:**

As the application (both existing and future) or new storage of non-agricultural source material (NASM) appears to be comprehensively regulated by the applicable Prescribed Instruments (no gaps or exceptions were identified), the County of Oxford determined that these existing regulatory tools were the most appropriate for achieving the desired prohibition of such activities where they would be a significant threat.

The *Nutrient Management Act, 2002* prohibits the application or storage of NASM within 100 m of a well (WHPA-A). Therefore, based on the *Clean Water Act, 2006* science, it was determined that the most appropriate and consistent policy approach would be to prohibit the application of NASM within the WHPA-A. The same policy approach has been applied to both existing and future occurrences of this threat, given that NASM application does not occur on an on-going basis on the same parcel of land and, therefore, in effect there can be no application of NASM that would be considered 'existing' under the County of Oxford's definition.

Given that existing storage of NASM was not identified, or suspected, in significant threat areas in Brownsville, prohibition of existing NASM storage was not deemed necessary. However, it was determined that managing future storage of NASM was not appropriate, when prohibition of future NASM storage was both a reasonable and more precautionary policy approach, particularly given the limited area of agricultural land that would be affected within Brownsville. Prohibition prevents the establishment of new significant threats of this type and therefore, provides the most certainty in achieving the overall goal of protecting municipal drinking water systems.

The County of Oxford included prohibition policies for the application and storage of NASM to apply within a WHPA-B with a vulnerability score of 10 in the Long Point Region and Grand River Source Protection Plans. However, only the WHPA-A for the Brownsville wells has a vulnerability score of 10; therefore, this activity is not a significant drinking water threat in the WHPA-B.

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**Ministry of Agriculture, Food and Rural Affairs and/or MOECC: Review and Amend Existing Non-Agricultural Source Material (NASM) Plans**

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**Intent:**

The Ministry of the Environment and Climate Change or Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) as applicable, are required to review and, if necessary, amend Environmental Compliance Approvals or Non-Agricultural Source Material (NASM) Plans to

ensure the existing storage of NASM is managed such that it ceases to be a significant drinking water threat.

**Rationale:**

As the storage of NASM appears to be comprehensively regulated by the applicable Prescribed Instruments (no gaps or exceptions were identified), the County of Oxford determined that these existing regulatory tools were the most appropriate for managing such activities where they would be a significant threat. Although no existing NASM storage facilities were identified, or suspected, in significant threat areas in the County of Oxford, given the fact that such facilities may involve considerable investment/infrastructure, it was determined that it would be more reasonable to manage these existing facilities in the unlikely event one were to be identified prior to approval of the Source Protection Plan.

**5.3.5 Land Use Planning**

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**Management / Regulation through *Planning Act***

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**Intent:**

The general land use planning policies are intended to ensure local planning documents are amended to include information that will serve as a resource for identifying and communicating the areas and activities that are regulated by the Source Protection Plan to those considering or making land use decisions. Further the policies require Official Plans and Zoning by-laws, as applicable, to be amended to conform with the significant threat policies set out in the Source Protection Plan, which in the case of the County of Oxford pertains to the prohibition of development on septic systems regulated by the Ontario Building Code through land use planning.

**Rationale:**

The purpose of these policies is to provide direction as to what needs to be amended/included in the Official Plan and Zoning Bylaw to ensure all land use planning decisions conform with the significant threat policies contained in the Source Protection Plan. These policies also identify specific uses that will be prohibited or managed through land use planning documents. The transition policies of OC-CW-1.2 also allow for transitioning of certain *Planning Act* and *Building Code Act, 1992* applications to be processed under the “existing” policy requirements.

Official Plans and zoning by-laws are the primary land use documents used by planning authorities (municipalities) to communicate permitted land uses and associated requirements to developers, landowners and the general public. Given that all planning decisions are required to conform with the Source Protection Plan policies on the date the Source Protection Plan takes effect, it is important that local land use planning documents are consistent with the Source Protection Plan as soon as possible. Having local land use planning documents up to date will assist in ensuring that those making local land use decisions e.g. business operators, perspective purchasers, developers, real estate agents and municipal staff and Council are aware of the Source Protection Plan policies and how they may affect land uses or activities in a particular area, before making any such decisions.

New septic systems or septic system holding tanks, with the exception of such tanks and systems which are required for a municipal water supply well

Part IV tools under the *Clean Water Act, 2006* cannot be used to prohibit sewage threats. Therefore, it was determined that the best remaining policy approach to prevent the establishment of new sewage systems regulated under the Ontario Building Code would be to

prohibit/regulate development to be serviced by these types of septic systems through land use planning, in areas where they would be a significant drinking water threat.

Amendments to the County of Oxford's Official Plan and, more importantly, Area Municipal Zoning By-laws would be required to implement this policy. The area affected by this prohibition is limited and, based on review of the properties potentially affected; the impact on future development in the County is anticipated to be minimal. Furthermore, development of new septic systems in the WHPA-A is already prohibited by the water quality policies contained in the County of Oxford's Official Plan, so the proposed policies will reduce the area where such significant threat activities are currently prohibited.

### **5.3.6 Education and Outreach**

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#### **Education and Outreach Programs: Municipality and Conservation Authority delivered**

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##### **Intent:**

The general education and outreach policies are intended to indicate that the County of Oxford, together with the Conservation Authority and other bodies, where possible, may develop education and outreach programs directed at any, or all, significant drinking water threat activities where deemed necessary or appropriate.

The threat-specific education and outreach policies require the County of Oxford to develop mandatory education and outreach programs to address certain significant threat activities. The long-term funding of education and outreach programs is critical to their success and effectiveness. The financial involvement of the Province in these programs will help to ensure their ongoing effectiveness and in maintaining a level of consistency in program messaging across the province.

##### **Rationale:**

Education and outreach can be an effective tool to influence behaviours and practices for individuals and businesses. Therefore, the County of Oxford supports the use of this tool as a complementary policy approach for managing significant drinking water threats, where deemed necessary and/or appropriate. For example, the handling and storage of DNAPLs may be a necessary part of a business process, but if the users of these products are more aware of the risks associated with these products and the need to consider alternatives, this awareness could improve the protection of the drinking water source.

The County of Oxford supports the potential use of education and outreach programs to address significant drinking water threats, where deemed necessary and/or appropriate and subject to available funding. However, education and outreach programs have also been selected as the primary policy tool for addressing the following activities:

##### The handling and storage of dense non-aqueous phase liquids (DNAPLs) - Household Concentrations/Quantities

As DNAPLs are considered a significant drinking water threat in any quantity, the use of small quantities or concentrations of DNAPLs in association with residential uses may potentially be a significant threat, as the chemicals are readily available and may be found within commonly used products. However, given the large number of residential properties that would need to be reviewed to determine whether DNAPLs were present and the likelihood of anything other than small 'household' type quantities being found, it was determined that an education and outreach program focused on the safe storage, handling and disposal of these chemicals would be

adequate to ensure DNAPLs potentially associated with these land uses cease to be, or never become, a significant drinking water threat.

#### The application of commercial fertilizer in association with a residential use

In certain areas, the application of commercial fertilizer to residential properties is considered a significant drinking water threat. However, given the small number of residential properties affected, the very low percentage of the total managed land area in the County of Oxford comprised of residential uses and the fact that any other management approach (e.g. Risk Management Plan) would likely be limited primarily to education, it was determined that an education and outreach program focused on the proper application of commercial fertilizer would be adequate to ensure such activity ceases to be, or never becomes, a significant drinking water threat.

### 5.3.7 Incentive Programs

#### Incentive Programs: Municipality delivered (with MOE and other bodies where possible)

##### **Intent:**

The general incentive policies are intended to indicate that the County of Oxford, together with other bodies, where possible, may develop incentive programs directed at significant drinking water threat activities where deemed necessary or appropriate. These policies also request that the Ministry of the Environment and Climate Change consider providing continued funding for incentive programs, such as the Ontario Drinking Water Stewardship Program.

##### **Rationale:**

Incentives can be an effective tool for influencing behaviours and practices for individuals and businesses. The County of Oxford supports the use of this tool as a complementary policy approach to assist in addressing significant drinking water threats, where deemed necessary and/or appropriate. Although the County of Oxford supports the potential use of Incentive programs to address significant drinking water threats, where deemed necessary and/or appropriate, such programs are dependent on available funding. Continued funding for incentive programs from the Ministry of the Environment and Climate Change will be a key component in assessing the potential financial impacts on the municipality associated with undertaking any such programs. Therefore, the Source Protection Plan includes a policy requesting the Province to consider the provision of continued funding for incentive programs, such as the Ontario Drinking Water Stewardship Program. As Source Protection is a provincial initiative, it was determined that continued provincial funding for incentive programs should be provided to ensure the effective implementation of the Source Protection Plan policies.

### 5.3.8 Stewardship Programs

#### Decommissioning of Abandoned Wells that serve as Transport Pathways

##### **Intent:**

The intent is to ensure transport pathways such as abandoned wells are properly managed to reduce the risks to municipal drinking water sources.

##### **Rationale:**

Abandoned wells are often located on private property and it may be cost prohibitive to properly decommission or upgrade these wells. A specific transport pathway policy to support ongoing stewardship programs to decommission abandoned wells would help reduce the ability of

contaminants to enter the groundwater within vulnerable areas. This may further reduce the vulnerability of an area and the number of identified threats.

### 5.3.9 Specify Action

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#### Spill Prevention, Spill Contingency and Emergency Response Plans along highways, railway lines or shipping lanes

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**Intent:**

To ensure that emergency plans, contingency plans and spill containment plans are updated with respect to spills that occur within WHPAs.

**Rationale:**

Municipal emergency services are often the first responders to events that may adversely impact a source of municipal drinking water. Therefore, spill prevention and contingency/response plans should be updated to include maps that clearly detail the vulnerable areas. Quick and effective response to spills could prevent an emergency from affecting a municipal drinking water source. Additionally, updates to the current spill prevention and contingency/response plans could act as a communication tool for the municipalities and the public and ensure residents are aware of the location of WHPAs and knowledgeable regarding the appropriate response in the event of a spill in these areas.

### 5.3.10 Monitoring Policies

**Intent:**

Monitoring Policies have been included for each policy listed above. In some instance one monitoring policy may apply to a number of different policies as the same information is required from the monitoring body.

**Rationale:**

The *Clean Water Act, 2006* requires the Source Protection Authority to prepare and submit to the Director of the Ministry of the Environment and Climate Change and the Source Protection Committee an annual report that describes the measures taken to implement the Source Protection Plan. In order to prepare this report, the Source Protection Authority requires other implementing bodies to report annually to the Source Protection Authority by February 1<sup>st</sup> of each year. Section 65(8) of O. Reg. 287/07 requires that annual reports from the Risk Management Official be submitted by February 1<sup>st</sup> of each year. The reporting policies use this date as the basis for establishing the reporting deadline for the other implementing bodies.

## 6.0 SUMMARY OF COMMENTS RECEIVED

### 6.1 Source Protection Plan Pre-Consultation

In accordance with Ontario Regulation 287/07 of the *Clean Water Act, 2006*, the County of Oxford completed pre-consultation on behalf of the Source Protection Committee, for the development of the Catfish Creek Source Protection Plan with various implementing bodies affected by the policies.

Each draft policy was circulated to the affected agency for review and comment. Agencies that will act as implementing bodies for policies in the Catfish Creek Source Protection Area are as follows:

- The County of Oxford (the CAO and Clerk's office, Public Health and Emergency Services, Public Works, Community and Strategic Planning);
- The Township of South-West Oxford;
- The Catfish Creek Conservation Authority;
- The Ministry of the Environment and Climate Change;
- The Ministry of Municipal Affairs and Housing;
- The Ontario Ministry of Agriculture, Food and Rural Affairs;
- The Ontario Energy Board; and
- The National Energy Board – Environmental Protection.

This pre-consultation process began on March 12, 2012. Each agency was provided a package that included: worksheets that identified each draft policy which affected their agency; the Explanatory Document which provided the rationale behind the policy; and, maps that identified the areas to which the policy(ies) applied. The MOE Source Protection Programs Branch Liaison Officer for the Lake Erie Region also received the draft policies. For a complete draft of the Source Protection Plan, agencies were directed to [www.sourcewater.ca](http://www.sourcewater.ca).

Agencies were given to April 23, 2012 to provide comments to the County of Oxford. The pre-consultation period of March 12 to April 23, 2012 was the first opportunity for agencies to provide comments on the draft policies.

Comments received after the April 23, 2012 deadline were still incorporated into the Draft Source Protection Plan, as timing permitted, before it was printed for distribution to the Lake Erie Region Source Protection Committee on August 16, 2012.

The following table summarizes the results of the pre-consultation on the County of Oxford policies within the Catfish Creek Source Protection Area.

<b>Table 6-1: Summary of Pre Consultation Comments – The County of Oxford</b>	
<b>Summary of Comment</b>	<b>How Comment was Addressed</b>
<b>Ministry of the Environment (MOE)</b>	
<i>Clarify what is meant by “further municipal approvals”</i>	<ul style="list-style-type: none"> <li>• <i>Text removed</i></li> </ul>
<i>Policy wording for “existing” seems to allow permission to develop anything that could be a threat provided it was permitted before.</i>	<ul style="list-style-type: none"> <li>• <i>Definition of ‘existing’ revised and transitional policies added</i></li> </ul>
<i>Terminology – “Future” vs. “New”</i>	<ul style="list-style-type: none"> <li>• <i>Changed defined term to “future/new” to achieve consistent terminology</i></li> </ul>

<b>Table 6-1: Summary of Pre Consultation Comments – The County of Oxford</b>	
<b>Summary of Comment</b>	<b>How Comment was Addressed</b>
<i>It is not appropriate for policies to refer to the “Province” generally for implementation as the Province of Ontario is not an implementing body per se. Specific ministries or other bodies should be identified.</i>	<ul style="list-style-type: none"> <li>• Policies revised to refer to specific ministries or other bodies, as appropriate, throughout the SPP.</li> </ul>
<i>Recommend including a legend/guidance that explains what the various policy initials mean</i>	<ul style="list-style-type: none"> <li>• To be addressed by the SPA as part of the policy interpretation section of the SPP.</li> <li>•</li> </ul>
<i>Ensure subsection references are corrected or removed.</i>	<ul style="list-style-type: none"> <li>• Revisions made to address this comment throughout the SPP.</li> </ul>
<i>Remove the word “immediately” when referring to the timing of prohibition once the Source Protection Plan comes into effect.</i>	<ul style="list-style-type: none"> <li>• Made recommended revision to the policy</li> </ul>
<i>The phrase “takes effect” should be used, instead of “coming into full force and effect” when referring to the effective date of the Source Protection Plan.</i>	<ul style="list-style-type: none"> <li>• Revisions made to address this comment throughout the SPP.</li> </ul>
<i>Prescribed Instruments shall be completed within three (3) years from the date the plan takes effect, as opposed to two (2) years.</i>	<ul style="list-style-type: none"> <li>• Policies revised to 3 year completion date for prescribed instruments.</li> </ul>
<i>It is recommended that the timelines for OP conformity be set to “no later than the time of the next 5-year review.</i>	<ul style="list-style-type: none"> <li>• Policies revised to reflect comment.</li> </ul>
<i>First sentence – should be rewritten to refer to “the date the SPP takes effect”, and that the thing “not yet approved” is the application</i>	<ul style="list-style-type: none"> <li>• Entire policy revised, including the referred to wording.</li> </ul>
<i>The RMO has only specific review duties related to Part IV policies and will not be responsible for implementing every policy that is not a Prescribed Instrument, nor be requested to review every building permit. The RMO does not have the legal authority to exempt land uses or activities.</i>	<ul style="list-style-type: none"> <li>• Policy revised to address comment.</li> </ul>
<i>The Clean Water Act, 2006 requires the Section 59 policy to relate to areas where Section 57 and/or Section 58 of the Act apply.</i>	<ul style="list-style-type: none"> <li>• Policy revised to address comment</li> </ul>
<i>Official Plans are not effective tools to address threats from activities.</i>	<ul style="list-style-type: none"> <li>• Minor revisions to policy wording to clarify intent, which was to have the Zoning and OP identify the activities prohibited by other Clean Water Act (CWA) tools (e.g. Part IV), to assist in ensuring those making land use decisions are aware of such prohibitions as early as possible in the process.</li> </ul>
<i>Name specific implementing body and “others”</i>	<ul style="list-style-type: none"> <li>• SPP policies revised to include more specific references.</li> </ul>
<i>Contents of the annual report are dictated by the legislation</i>	<ul style="list-style-type: none"> <li>• Revised the policies to remove references to the specific format and contents of the report being determined by the County, in consultation with the SPA”</li> </ul>

<b>Table 6-1: Summary of Pre Consultation Comments – The County of Oxford</b>	
<b>Summary of Comment</b>	<b>How Comment was Addressed</b>
<i>Avoid detailed monitoring policies. A monitoring policy should simply direct the Ministry of the Environment to provide the Source Protection Authority with an annual summary of the actions it has taken to implement the policy.</i>	<ul style="list-style-type: none"> <li>• Revisions made to the monitoring policies to address the comment.</li> </ul>
<i>It is recommended that all Ministry of the Environment-related Prescribed Instruments use the expression “terms and conditions”, rather than the term “conditions” in order to avoid confusion with the use of the term “conditions” as defined under the Clean Water Act, 2006.</i>	<ul style="list-style-type: none"> <li>• Policy wording revised throughout the SPP to address this comment.</li> </ul>
<i>The Ministry does not support policies which specifically refer to “in consultation with municipalities”, as the Clean Water Act, 2006 does not provide authority to SPCs/SPAs/municipalities to become actively involved in the review and approval of Environmental Compliance Approvals.</i>	<ul style="list-style-type: none"> <li>• Policy wording revised to better clarify the intent of the ‘in consultation with municipalities’ policy.</li> </ul>
<i>If this policy is to include some provisions that will allow the establishment of new septic systems under some circumstances, then it does not seem appropriate to identify it here as a prohibition.</i>	<ul style="list-style-type: none"> <li>• Policy revised to better clarify intent. All new septic systems prohibited, with the exception of a new septic systems or holding tank required at a municipal water supply well.</li> </ul>
<i>While this policy does not directly employ Section 58 by designating this activity the wording of the policy (and the apparent intent) suggest that Part IV is being used and this could prove to be confusing.</i>	<ul style="list-style-type: none"> <li>• Have revised the subject policies to address this concern.</li> </ul>
<i>Prohibit activities themselves instead of prohibiting the issuing of an Environmental Compliance Approval.</i>	<ul style="list-style-type: none"> <li>• Policies have generally been revised to address this comment, where appropriate.</li> </ul>
<i>Suggest using term “amend if necessary” rather than just “amend”. It is possible upon review of a PI that it will already adequately address the threat.</i>	<ul style="list-style-type: none"> <li>• Policies revised throughout the SPP to reflect this comment.</li> </ul>
<i>The Ministry of the Environment’s Prescribed Instruments place obligations on the owner/operator of a system, not on the Ministry. Policies should be clear that inspections relate to inspections by the Prescribed Instrument holder.</i>	<ul style="list-style-type: none"> <li>• Policy wording revised to reflect this comment.</li> </ul>
<i>Remove references to stormwater retention ponds and replace with “stormwater management facility”.</i>	<ul style="list-style-type: none"> <li>• Policies revised to include recommended references, where appropriate.</li> </ul>
<i>All Part IV policies need to have text which explicitly “designates” the activities for the purposes of either S. 57 or S.58 of the Clean Water Act, 2006.</i>	<ul style="list-style-type: none"> <li>• Comment addressed throughout the policies.</li> </ul>
<i>The application of road salt cannot be a significant threat in the County as per the current technical guidance.</i>	<ul style="list-style-type: none"> <li>• Under the current technical rules it is not possible to have a significant road salt application threat in the County of Oxford therefore, all policies related to this threat have been removed and will be noted in the rationale.</li> </ul>
<i>Rather than writing the handling and storage of fuel for back-up generators at municipal wells as an exception to a S. 57 policy, it is recommended that this be written as a separate policy.</i>	<ul style="list-style-type: none"> <li>• Policy split into two policies as suggested, one to manage back-up generators at municipal wells using S. 58 and one using S.57 prohibition for all other cases where this would be a significant threat</li> </ul>

<b>Table 6-1: Summary of Pre Consultation Comments – The County of Oxford</b>	
<b>Summary of Comment</b>	<b>How Comment was Addressed</b>
<i>The Part IV Risk Management Plan process does not allow for the County to decide if an RMP is required or not. The SPC must decide if an activity is subject to Part IV and must designate the activity for the purpose of Section 58 of the Clean Water Act. Area exemptions would be achieved through Section 59 policies but site-specific cases cannot be exempt by the RMO.</i>	<ul style="list-style-type: none"> <li>• Wording and structure of DNAPL significant threat policies revised to designate quantities in excess of 'household' quantities for the purposes of Section 58 to address this comment.</li> </ul>
<i>There is no "existing" policy for the management of runoff that contains chemicals used in de-icing of aircraft</i>	<ul style="list-style-type: none"> <li>• There are no existing threats activities of this type in the County of Oxford and, therefore, a policy is not required. Explained in rationale.</li> </ul>
<i>The Ontario Energy Board may not be involved in the development of design standards, monitoring and maintenance practices for pipelines. TSSA by way of adoption has extensive codes that apply to pipelines.</i>	<ul style="list-style-type: none"> <li>• Acknowledged, but specific changes to the policies did not appear to be required.</li> </ul>
<i>It is recommended that the wording "Certificate of Approval" be amended to "Environmental Compliance Approvals" where applicable.</i>	<ul style="list-style-type: none"> <li>• Policy revisions made throughout Source Protection Plan to address this comment.</li> </ul>
<i>It is recommended that mandatory language requiring the ECA contain specific terms and conditions be replaced with language that permits the Director, where the Director considers it appropriate ,to consider the following terms and conditions or content for ECAs (Suggested terms and conditions would then be listed in the policy).</i>	<ul style="list-style-type: none"> <li>• Words "terms and conditions" have been added throughout the policies.</li> </ul>
<b>Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA)</b>	
<i>The Ministry (OMAFRA) recommends that farms phased in under the NMA not be required to have risk management plans (RMPs). Nutrient management measures are precautionary in nature and were developed prior to the Clean Water Act, 2006 (CWA) to protect the environment. Therefore the ministry supports the use of prescribed instruments to mitigate risks to source water."</i>	<ul style="list-style-type: none"> <li>• No changes to policy. The County of Oxford and the SPC remain of the opinion that a RMP is the most appropriate tool for addressing the threat to drinking water from most agricultural related threat activities, for the reasons outlined in the policy rationale. However, the policies have been revised to indicate that RMP's for threat activities addressed by the NMA will be largely based on NMA principles.</li> </ul>
<i>It is recommended that farms phased in under the Nutrient Management Act not be required to have Risk Management Plans. It is also recommended that Risk Management Plans be based on nutrient management standards.</i>	<ul style="list-style-type: none"> <li>• See comment above.</li> </ul>
<i>The Ministry does not support policies which require the Ministry to not approve non-agricultural source material (NASM) plans outside of WHPA 'A'.</i>	<ul style="list-style-type: none"> <li>• No policy revisions made. The County of Oxford and the SPC remain of the opinion that prohibition through the PI process is the most appropriate approach for addressing the threat to drinking water from NASM application and future NASM storage, for the reasons outlined in the policy rationale.</li> </ul>
<i>The Ministry supports policies stating that the Ministry shall review and potentially amend NASM</i>	<ul style="list-style-type: none"> <li>• Revised policy wording for existing storage of NASM to address this comment. No</li> </ul>

<b>Table 6-1: Summary of Pre Consultation Comments – The County of Oxford</b>	
<b>Summary of Comment</b>	<b>How Comment was Addressed</b>
<i>plans to address the storage of NASM.</i>	<i>revisions to future storage of NASM policies, as PI prohibit is the approach being used for the reasons outlined in the rationale.</i>
<i>Prohibition of the existing and future application of agricultural source material and commercial fertilizer and the future use of land as an outdoor confinement area is suggested in WHPA ‘A’ unless it can be shown that the specific site conditions of the area allow for effective and practical management of threats, and this rationale is explicitly included with the policy.</i>	<ul style="list-style-type: none"> <li><i>This is generally the policy approach that is proposed for the noted threat activities. However, in some case it will be achieved through use of Part IV or PI prohibit and in others through the requirements of the RMP.</i></li> </ul>
<i>The ministry also supports prohibition of these activities (the storage of commercial fertilizer, the application and storage of pesticides, and the storage of fuel) within 100m of a municipal well (WHPA-A)</i>	<ul style="list-style-type: none"> <li><i>The proposed policies already generally reflect this comment, as future occurrences of these activities are prohibited, with the exception of application of pesticides, which may be prohibited in such locations through the requirement of the RMP.</i></li> </ul>
<i>The Ministry supports management of existing storage of ASM and existing outdoor confinement areas in WHPA-A using RMPs</i>	<ul style="list-style-type: none"> <li><i>Comment already addressed by proposed policy approach, which is to manage existing activities through RMP</i></li> </ul>
<i>The Ministry also supports the management of existing and future livestock grazing and pasturing in WHPA-A at a soil depth less than 30 cm and where the nutrient units per acre are greater than 1</i>	<ul style="list-style-type: none"> <li><i>Comment already addressed by proposed policy approach, which is to manage such activities through RMP. The suggested criteria can be considered as part of the establishment of the RMP</i></li> </ul>
<i>The Ministry supports the use of Risk Management Plans to address activities outside of WHPA ‘A’.</i>	<ul style="list-style-type: none"> <li><i>Policies for existing activities are generally consistent with this approach. However, some existing and future agriculturally related threat activities prohibition was determined to be the most appropriate approach for the reasons outlined in the policy rationale.</i></li> </ul>
<i>The Ministry supports prohibition of the existing and future application of agricultural source material, and the future storage of agricultural source material in WHPA ‘A’.</i>	<ul style="list-style-type: none"> <li><i>The County of Oxford agrees and to be consistent has also extended this approach to WHPA B with a v-score of 10, as these areas are as, or in some cases, more vulnerable that the WHPA A.</i></li> </ul>
<i>The Ministry supports prohibition of the future storage of commercial fertilizer, pesticides and fuel in WHPA ‘A’.</i>	<ul style="list-style-type: none"> <li><i>Proposed policies would generally prohibit these future activities in the WHPA A.</i></li> </ul>
<i>The Ministry does not support prohibition of the future storage of agricultural source material outside of WHPA ‘A’.</i>  <i>The Ministry does not support prohibition of the future storage of commercial fertilizer, pesticides, and fuel outside of WHPA ‘A’.</i>	<ul style="list-style-type: none"> <li><i>The County of Oxford and the SPC remain of the opinion that it is both appropriate and consistent to also prohibit these activities in a WHPA B, with a vulnerability score 10 for the reasons provided in the policy rationale.</i></li> </ul>
<i>The Ministry does not support the Restricted Land Use designation if it applies outside of the zones</i>	<ul style="list-style-type: none"> <li><i>The restricted land use policy has been revised to clarify that is only pertains to</i></li> </ul>

<b>Table 6-1: Summary of Pre Consultation Comments – The County of Oxford</b>	
<b>Summary of Comment</b>	<b>How Comment was Addressed</b>
identified in the individual Section 57 and Section 58 policies.	areas where activities designated for the purposes of Section 57 and 58 of the Clean Water Act, 2006 could be located.
<b>Ministry of Municipal Affairs and Housing (MMAH)</b>	
Land use planning documents control land uses, not activities – other regulatory tools will need to be considered	<ul style="list-style-type: none"> <li>Wording of general land use policies has been revised to make it clearer that land use planning documents will be used to assist in communicating the potential restrictions on land use resulting from SPP policies, rather than to regulate them, except in the case of new septic systems</li> </ul>
Ensure implementation timing is approved by planning staff	<ul style="list-style-type: none"> <li>The County of Oxford generally approves of the implementation timing for LUP policies contained in the SPP</li> </ul>
Concerned that S. 59 powers will be too restrictive and are too broad – suggest S. 59 be tied specifically to “matters dealt with in S. 57 and S. 58	<ul style="list-style-type: none"> <li>Section 59 policies have been revised to clarify that they apply to activities designated for the purposes of Section 57 and 58.</li> </ul>
Education and outreach policy is too broad – The Buildings and Development Branch note that education and outreach policies form an important part of the plan	<ul style="list-style-type: none"> <li>The importance of education and outreach is recognized, however, as it is generally a supplementary tool versus the primary tool for addressing most threat activities. Therefore, it is intentionally worded to provide implementers with the flexibility to determine local priorities for establishing such programs.</li> </ul>
Annual Reporting – it is unclear when the 30 days takes effect -It is suggested that the SPC work with municipalities to ensure reporting requirements are kept to a minimum	<ul style="list-style-type: none"> <li>The County of Oxford has reviewed these policies and is generally supportive of the proposed wording and timeframes.</li> </ul>
Financial incentives – would a community improvement plan need to be established under the Planning Act in order to provide financial incentives to some operations?	<ul style="list-style-type: none"> <li>Can be reviewed during the SPP implementation phase. Do not think it necessary to address or refer to in SPP policy.</li> </ul>
It may be useful to include the locations where spill prevention applies in emergency response plans	<ul style="list-style-type: none"> <li>See above comment.</li> </ul>
Buildings and Development Branch – recommends that the draft policy include a clarified statement on timing of inspections (for septic systems) and should be taken from the building code.  Also, the requirement for a CBO to issue a building permit is not discretionary, and if a permit meets the technical requirements under the building code and all applicable law, a permit must be issued.  It is noted that an on-site sewage system that meet the standards of the code and are well maintained do not pose a significant threat to	<ul style="list-style-type: none"> <li>Have not added a clarifying statement on timing of inspections for septic systems in the SPP, as it is already specified by the OBC and to avoid any potential policy conflict or confusion. It will be set out in detail as part of the County’s mandatory septic systems implementation program.</li> <li>The County’s use of LUP tool serves as the applicable law for the purposes of prohibiting the establishment of future septic systems in accordance with the policy rationale provided.</li> </ul>

<b>Table 6-1: Summary of Pre Consultation Comments – The County of Oxford</b>	
<b>Summary of Comment</b>	<b>How Comment was Addressed</b>
health and safety	
<b>Long Point Region Conservation Authority (LPRCA)</b>	
No concerns or comments requiring specific response ➤ Noted the Long Point Region Conservation Authority has not been identified as implementing body ➤ LPRCA staff will continue to engage with the County on draft policies and in the development of the Source Protection Plan for the LPRSPA	<ul style="list-style-type: none"> <li>No specific response requested or required.</li> </ul>
<b>Norfolk County</b>	
No concerns or comments requiring specific response	<ul style="list-style-type: none"> <li>No specific response requested or required.</li> </ul>
<b>Oxford County Public Health</b>	
A specific implementation date is required for when the county will start to document the number and location of sewage maintenance inspections	<ul style="list-style-type: none"> <li>Can be established by the County, in consultation with the SPA, as part of the County's SPP implementation program.</li> </ul>
<b>Town of Ingersoll</b>	
Definitions – suggest not referring to other documents. Would suggest clear, stand-alone definitions	<ul style="list-style-type: none"> <li>Revisions to the structure and wording of the CWA definitions included in the lead in interpretation sections in the SPP document.</li> </ul>
More information on the possible timing of implementation	<ul style="list-style-type: none"> <li>County and Area Municipal Councils will continue to be updated throughout the SPP approval process.</li> </ul>
Clarification on who coordinates “education and outreach”	<ul style="list-style-type: none"> <li>General education and outreach policies revised to address this comment.</li> <li></li> </ul>
Clarification on status of transitional matters regarding applications	<ul style="list-style-type: none"> <li>Policies revised to include additional transitional policies and clarification.</li> </ul>
The number of RMOs - Staff is concerned about response times for the review of applications Recommend the RMO positions be at the County-level	<ul style="list-style-type: none"> <li>Will be addressed as part of the County's SPP implementation program development and related budget discussions.</li> </ul>
Chart, Section 1.3 – change “Planning Act” to come before “Building Permit”, as the Act takes precedence	<ul style="list-style-type: none"> <li>Comment addressed – the change was made</li> </ul>
Chart, Section 2.2 – Suggest adding “recorded” or “known” to the definition of “existing”	<ul style="list-style-type: none"> <li>Definition of existing has been revised.</li> </ul>
Clarifying the definition or use of “waste disposal” which would include “landfill”	<ul style="list-style-type: none"> <li>Comment not addressed – this definition is provided under the Clean Water Act</li> </ul>
Clarify where an expansion of a septic system would fall (i.e. would this be considered new or existing?)	<ul style="list-style-type: none"> <li>This is now covered under the definitions and transition policies in the draft Plan, as well as in the policies applying to such threat activities.</li> </ul>
Suggestion that Section 4.2 should be before S. 4.1 (or Section 5.2 is placed prior to S. 5.1 etc.);	<ul style="list-style-type: none"> <li>WHPA A prohibition in 4.2 should be stated</li> </ul>

<b>Table 6-1: Summary of Pre Consultation Comments – The County of Oxford</b>	
<b>Summary of Comment</b>	<b>How Comment was Addressed</b>
<i>consistently throughout the document to highlight that the more prohibitive uses or those within the 100 m “buffer” are more restrictive</i>	<i>first e.g. switched with 4.1. MHBC to ensure this sequence is consistent throughout the document e.g. state prohibition/more restrictive policy first.</i>
<i>Chart, Section 12.1 – “conservation” missing the “a”</i>	<ul style="list-style-type: none"> <li>• <i>Corrected</i></li> </ul>
<i>Need a definition for “non-agricultural source material”</i>	<ul style="list-style-type: none"> <li>• <i>Comment not specifically addressed, as this definition is provided under the Nutrient Management Act and is referenced in the Clean Water Act</i></li> </ul>
<b>The Corporation of the Township of Norwich</b>	
<ul style="list-style-type: none"> <li>➤ <i>Believe the RMO should be an employee of the County and not a lower-tier employee, however they are concerned with the timing of their evaluation</i></li> <li>➤ <i>Appreciate the recommendation that mapping should be included in the County Official Plan and Zoning By-laws</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>The County is the body responsible for the RMO function. RMO resourcing concerns will be addressed as part of the County’s SPP implementation program development and related budget discussions.</i></li> </ul>

## 6.2 Draft Catfish Creek Source Protection Plan

In accordance with O. Reg. 287/07 made under the Ontario *Clean Water Act, 2006*, The Grand River Conservation Authority on behalf of the Lake Erie Source Protection Committee initiated consultation on the Draft Source Protection Plan on August 20, 2012. All comments received before September 24, 2012 were considered in the development of the Proposed Source Protection Plan. One open house was held to invite public comment:

Tuesday September 18, 2012: Brownsville Community Centre

Comments received during this 30-day public consultation were considered in the development of the Proposed Source Protection Plan.

**Table 6-2** summarizes the results of the comments received during the Draft Source Protection Plan consultation period. The Table is a synopsis of the comments received. Comments specific to typos, definition clarifications, or changing in wording are not detailed in the Table, but were addressed. In addition, the Ministry of the Environment provided a number of general comments for the entire Lake Erie Source Protection Region. As these comments were not specific to the Catfish Creek Source Protection Area, they are not included in **Table** , but were nonetheless considered.

<b>Table 6-2: Summary of Comments Received on the Draft Catfish Creek Source Protection Plan</b>		
<b>Comment Received</b>		<b>How Comment will be Addressed</b>
<b>Ministry of the Environment (MOE)- Source Protection Programs Branch (SPPB)- September 24, 2012</b>		
To: Kaitlyn Smith From: Lisa Ross, Liaison Officer		
<b>County of Oxford</b>		
1	MOE has indicated that policies need to be written to cover both potential existing and future occurrences of a significant drinking water threat (SDWT) activity to meet the plan's objectives as set out in the legislation.	Policies were developed to address existing activities where applicable based on the direction from the policy lead/municipality. The "general" education and outreach policy may be applied to existing significant activities where applicable. Where no policies were developed, this was outlined in the Explanatory Document. Further review will be required to determine where changes are required.
2	For Road Salt policies, the criteria which would be necessary to cause the application of road salt to be a SDWT, should be identified on List J rather than E and the wording of the policy adjusted accordingly	Significant drinking water threat policies for the application of Road Salt will be removed based on review of the circumstances outlined in the provincial tables.
3	Noted that Strategic Action is not a tool and therefore should be specify action.	Policies will be revised.
4	OC-CW-1.18, NC-CW-1.18 and HC-CW-1.12 is not a drinking water	LER staff understands that such a policy would be permissible

<b>Table 6-2: Summary of Comments Received on the Draft Catfish Creek Source Protection Plan</b>		
<b>Comment Received</b>		<b>How Comment will be Addressed</b>
	threat policy and not permissible under the general policies of the plan.	under Section 29 of O.Reg. 287/07 which states: “A source protection committee may include anything in a source protection plan that, in the opinion of the Source Protection Committee, will assist in understanding the plan.”
5	Appendix A, List K text is stated incorrectly	Text will be revised.
6	Clarification requested in the Explanatory document as to where the general education and outreach policies will apply and if they are intended to apply to existing drinking water threats.	Revisions to the explanatory document to provide clarification will be completed, if necessary. These policies are intended to only address significant drinking water threats.
7	Explanatory document is missing information about incentive program policies.	Incentive policies are only proposed as a potential complement to the primary policy tool for addressing a particular threat activity. Therefore, it was determined that the general incentive policy rationale already contained in Section 4.7 was sufficient. Additional rationale will be included if determined necessary.
8	Guidance has been provided to the LE SPC and all Source Protection Committee Chairs and Project Managers on June 13, 2012 that requested flexible wording to be included in particular policies that impose obligations on Provincial Ministries. The suggested wording has not been incorporated as requested by MOE and this may cause some implementation issues.	The LER considered these comments and determined that this flexibility was not available to other implementing bodies and should therefore, not be made available to the Ministry.
<b>County of Oxford</b>		
9	Ministry will continue to work with Oxford County and provide further comments on the draft transition policies.	No policy revisions required.
10	Comments were provided with respect to the language for the draft restricted land use policies.	The suggested wording provided by MOE does not capture the intent of this provision, as it gives the discretion/responsibility to the CBO rather than the RMO. Given the separation of these roles/responsibilities in a two tier municipal structure such as Oxford, this approach causes some concern. This issue will require further review with the MOE.
11	Suggested revisions to the general education and outreach policies to include the word “significant” as required by the regulations.	Policy was revised to add the word “significant”.
12	Suggest policy OC-NB-1.7 would be “comply with” rather than “non-legally binding. Further evaluation if this policy’s action to “request funding” will meet the objectives required by significant threat policies.	The policy was reworded so that the implementing body is the Province. The applicable tables were revised based on the change in the legal effect.
13	Suggested policy OC-CW-1.13 be placed in list C and A if not moved to definition section.	Policy will remain as is, however the policy will appear in the appropriate list.
14	OC-NB-1.15, MOE notes that this policy is not supported from the	See response to comment 4.

<b>Table 6-2: Summary of Comments Received on the Draft Catfish Creek Source Protection Plan</b>		
<b>Comment Received</b>		<b>How Comment will be Addressed</b>
	perspective of the implementing body as a prescribed instrument.	
15	Explanatory Document: The explanatory document seems to inaccurately state that only fuel storage larger than 2500L would be prohibited below grade, however the circumstances make the below grade storage of fuel significant between 250 and 2500L as well.	The explanatory document was revised.
<b>Ministry of Consumer Services (MCS) and Technical Standards and Safety Authority (TSSA)- September 24, 2012</b>		
To: Martin Keller From: Nicole Stewart, Director Public Safety Branch (MCS); Wilson Lee, Director, Stakeholder Relations (TSSA)		
16	<p>MCS and TSSA provided a joint response on policy number OC-NB-1.14 and NC-NB-1.14. They indicated that MCS and the TSSA are interested in information-sharing where possible within their respective mandates and subject to both organizations information and privacy policies.</p> <p>They have recommended that his policy be removed from the Source Protection Plan as it is current within their requirements that appropriate design standards and monitoring and maintenance practices to prevent pipeline from being a significant drinking water threat. They further indicated that there are many cases automatic valves that would shut off to reduce spills and proactivity surveying to detect any damages.</p> <p>Any further questions regarding proposed pipelines should be directed to the Ontario Energy Board Pipeline’s Coordination Committee.</p> <p>MCS and the TSSA are further committed to supporting source water initiatives in Ontario</p>	Revisions to this policy were completed based on the comments received.
<b>Public Comments</b>		
17	<i>John Gilvesy</i> , an affected resident/ landowner, indicated that before municipal wells were installed, they were not limited from adding pesticides or nutrients in accordance with any recommendations or from adding a septic system in accordance with good conventional practice. In addition, they were not required to inspect more frequently than other farmers. Although source protection is important, these and other infringements should be addressed so as to not unfairly impact all party rights with possible equalization if no other solution is found.	Policies were drafted with the existing land owners’ interests and livelihoods in mind and the use of existing instruments was used whenever possible. Policies sought to achieve a balance between protecting municipal drinking water sources and allowing activities to be carried out, where possible. Current agricultural practices, if conducted properly, may not be a risk to drinking water sources; however, formal arrangements such as Risk Management Plans may be required to ensure that best management practices and standards are being followed. Property owners have an obligation

Table 6-2: Summary of Comments Received on the Draft Catfish Creek Source Protection Plan	
Comment Received	How Comment will be Addressed
	<p>to maintain their septic systems. Inspections of septic systems will ensure these systems are working properly and do not pose a threat to drinking water.</p> <p>No policy revisions required</p>
18	<p><i>Andy J. Jacko</i>, an affected resident/landowner, commented that if the Plan limits and/or restricts the future use of a property, and the revenues from that property are ultimately reduced, then the land owner should be compensated for any possible loss of income that could have been generated from that property.</p> <p>The Province has communicated, as of the date of this Source Protection Plan, that they will not be providing compensation to affected landowners. The Source Protection Committee has requested that the Province continue funding this Program beyond Plan submission.</p> <p>To address existing activities, the majority of the policies utilize <i>management</i> tools. Therefore, they are not restricting the activity beyond ensuring that they are not a threat to drinking water sources. In cases where the activity is already being managed properly by the landowner, further restriction will unlikely be needed.</p> <p>No policy revisions required</p>
19	<p>Robert C. Wheaton, a member of the general public, made the following comments:</p> <ul style="list-style-type: none"> <li>• lack of clarity regarding Ontario Government’s next role regarding funding</li> <li>• Duplication, i.e., Nutrient Management Plan (NMP) vs. Risk Management Plans (RMP)</li> <li>• Transportation of hazardous goods</li> <li>• Consolidation – Coordination – Cooperation – Communication</li> </ul> <ul style="list-style-type: none"> <li>• Concern that territorial disputes will arise - appeal mechanism</li> <li>• Systemic, some water is taken from lakes and rivers; cross reference in legislation needed</li> </ul> <ul style="list-style-type: none"> <li>• While the Province has funded 100% of the Source Protection Plan development, there has been no commitment from the Province on funding source protection plan implementation as of the date of this Source Protection Plan.</li> <li>• The RMP process has been designed to eliminate duplication wherever possible. If an existing NMP is sufficiently addressing the drinking water threat activity, then the RMP may simply adopt the measures in the NMP.</li> <li>• The policies in the Plan can only address drinking water threats that are prescribed by the <i>Clean Water Act</i> or that are approved as local threats. The Source Protection Committee considered applying to the Province to include the transportation of hazardous materials as a local threat. However, the vulnerability scores for areas with major transportation routes were too low to be considered in this round of source protection planning.</li> <li>• There are mechanisms in place under the <i>Clean Water Act</i>.</li> <li>• The Source Protection Program considers water takings from groundwater (wells) and surface water (rivers and lakes). The <i>Clean Water Act</i> also requires that Great Lakes Agreements</li> </ul>

Table 6-2: Summary of Comments Received on the Draft Catfish Creek Source Protection Plan		
Comment Received		How Comment will be Addressed
		<p>must be considered.</p> <p>No policy revisions required</p>
<p><b>Ontario Ministry of Agriculture Food and Rural Affairs (OMAFRA)- Environmental Management Branch- October 1, 2012</b>                      To: Mr. Keller From: J.D. Richardson, Director</p>		
20	<p>The ministry noted that there are a number of policies proposing prohibition of activities outside of WHPA A and IPZ 1 (policies OC-CW-5.1, OC-MC-6.1, OC-MC-7.2, OC-CW-9.2, OC-CW-11.2, OC-CW-14.2). Please consider the protective measures required under the <i>Nutrient Management Act</i> (NMA), 2002 in Appendix A of this letter. Managing activities using Risk Management Plans (RMP) or prescribed instruments based on these measures makes it possible, in most cases, to effectively manage existing and future agricultural activities outside of Wellhead Protection Area (WHPA) A and Intake Protection Zone (IPZ) 1. For activities that are not regulated under the NMA, appropriate agri-environmental management practices can be incorporated into RMPs.</p>	<p>Further rational will be included in Explanatory Document if required.</p>
21	<p>The ministry noted that there are a number of policies proposing RMPs on farms for activities that are regulated under the NMA (policies OC-CW-4.2, OC-CW-5.2, OC-CW-8.1, OC-CW-18.1). If the intent is to allow farms phased in under the NMA to be regulated using prescribed instruments only, please make this clear in the policy wording and the Explanatory Document. If the intent is to require both prescribed instruments and RMPs for the same activity on a farm, we do not support this approach. Although the RMP process allows all threats on a property to be dealt with through a single process to address concerns for source water protection, farms phased in must still meet the requirements of the NMA. Two management plans for one activity will be unnecessary and duplicative.</p>	<p>The policies were reviewed and revised if necessary. The intent is not to create duplication in effort for the person engaging in the activity but use existing instruments, such as the Nutrient Management Plan, as the basis of a Risk Management Plan.</p>
22	<p>The ministry noted that there are a number of policies proposing management of activities in WHPA A and IPZ 1. Please provide more information in the Explanatory Document that shows why management is more effective than prohibition in these zones, if this has not already been done. Where appropriate rationale has been provided, the ministry understands the decision to manage activities in these zones. (policies OC-CW-9.1, OC-CW-10.1, OC-CW-11.1,</p>	<p>The appropriate Explanatory documents will be revised accordingly.</p>

Table 6-2: Summary of Comments Received on the Draft Catfish Creek Source Protection Plan		
Comment Received	How Comment will be Addressed	
	<p>OC-CW-11.3, OC-CW-14.1). Where the rationale discusses potentially negative impacts on farming communities as a result of prohibition, the ministry understands the decision to manage activities in WHPA A and IPZ 1. We also understand rationale discussing potential issues with non-conforming uses if fuel storage were prohibited in WHPA A and IPZ 1, and the use of RMPs to ensure compliance with TSSA standards.</p> <p>It was also noted that the intention may be to prohibit activities on farms not phased in under the NMA in WHPA A, as some RMP policies indicate that the plans would follow the standards set out in the NMA as a minimum. If this is the case, we ask that this be clearly discussed in the Explanatory Document.</p>	
23	<p>As stated in our previous letters, the ministry does not support prohibition of non-agricultural source material (NASM) application and storage in WHPA B. Please consider the protective measures in the NMA with respect to these activities in Appendix A of this letter (policies OC-MC-6.1, OC-MC-7.2).</p>	<p>The rationale for prohibition has been included in the Explanatory document and is based on the high vulnerability scores noted in the assessment report. No policy revisions required.</p>
24	<p>We noted that some municipalities have identified the location where policies apply in the policy wording. Others indicate that the policies apply to all vulnerable areas where there is a significant drinking water threat, and the side bar identifies the location. We recommend that the areas where the policies apply be identified in the policy wording to avoid confusion for those who are required to implement or adhere to the requirements.</p>	<p>This information was not included in the policies to try and keep the text simple. The reader should consult the Tables of Circumstances to determine where the policies apply as in many cases other factors need to be considered beside the location and vulnerability. No policy revisions required.</p>
25	<p>We request that the exemption of residential land use from the restricted land use policy be reconsidered. We understand that there will be an additional workload for reviewing permits; however, inspections and RMP development could be phased in as staff resources allow. We recommend that exemptions for certain land uses be based on the concerns with risks to source water, rather than concerns with workload. This comment applies to the restricted land use policies for Oxford County</p>	<p>The exemption from residential land use activities was created due to the potential for the activities to occur on residential properties that would require management through the Part IV tools under the <i>Clean Water Act</i>, 2006. This will be reflected in the Explanatory Document.</p>
Oxford County		
26	<p>We recognize that the Oxford County policies may apply to different vulnerable zones depending on which Source Protection Plan they are listed in. Please note that comments on prohibition policies discussed in this letter only refer to those that identify WHPA B. The</p>	<p>Further information will be included in the Explanatory Document as required.</p>

Table 6-2: Summary of Comments Received on the Draft Catfish Creek Source Protection Plan	
Comment Received	How Comment will be Addressed
<p>ministry supports prohibition policies in WHPA A, with the exception of existing outdoor confinement areas, existing agricultural source material (ASM) storages and the existing and future use of land for livestock grazing and pasturing land where the soil depth is greater than 30 cm and there is less than 1 nutrient unit per acre.</p> <p>Page 144 of the Grand River Source Protection Area Explanatory Document indicates that the water quality policies in the Official Plan already prohibit future ASM storages in WHPA B. Although this is the case, we recommend that source protection policies and the Official Plan allow future ASM storages in this zone (policy OC-CW-5.1).</p> <p>Page 152 of the Explanatory Document indicates that the Clean Water Act science is more up to date and well specific than the NMA. Although NASM application in WHPA B can have the same vulnerability score as it does in WHPA A, NMA standards take into account the presence of biologically active soils that attenuate groundwater contaminants on agricultural lands. This natural process would allow for management of activities in most cases, rather than prohibiting them, outside of WHPA A (policy OC-MC-6.1).</p> <p>Page 153 of the Explanatory Document indicates that the storage of NASM appears to be comprehensively regulated by the applicable prescribed instruments, and there were no gaps or exceptions identified. Please provide more explanation indicating why the NMA standards are adequate to address existing NASM storages, but not future storages, in WHPA B (policy OC-MC-7.2).</p> <p>The rationale for prohibiting future commercial fertilizer, pesticide and fuel storage in WHPA B indicates that the area is relatively small and there would be opportunities for storage elsewhere. We ask that rationale be focused on how prohibiting storages in WHPA B relates to the protection of source water and why management is not an effective approach in these zones, rather than discussing the size of the land area (policies OC-CW-9.2, OC-CW-11.2, OC-CW-14.2).</p>	

### **6.3 Proposed Catfish Creek Source Protection Plan Comments**

The Proposed Catfish Creek Source Protection Plan was circulated for an additional 30-day public consultation between November 2, 2012 and December 3, 2012.

The comments received during this second public consultation period were attached to the Proposed Source Protection Plan, and submitted to the Minister of the Environment for his or her consideration.

A letter received on September 17, 2012, from the Ministry of the Environment Source Protection Programs Branch indicated the following:

*“Generally speaking the Act [Clean Water Act, 2006] did not envision changes to the proposed plan before submission to the Minister [of the Environment]; however, there is some flexibility in this depending on the nature of any intended changes. Improvements for readability or clarity that would be helpful in the long run are reasonable changes that could be made. You are encouraged to assess the impacts to stakeholders as a result of potential changes and limit edits to those that would not impact persons/bodies. If changes that may result from these comments would substantively alter the policy and impact any new/additional parties, they are not appropriate at this time or may require additional focused consultation should time permit.”*

Consequently, minor revisions were undertaken if the changes did not alter the direction or intent of the policies, and did not significantly impact stakeholders and implementing bodies.

In the opinion of the Source Protection Authority, comments were provided by the Ministry of the Environment Source Protection Programs Branch that may impact implementing bodies, change the intent of the policy, or change previous direction provided by the Source Protection Committee. These additional changes were not made and are outlined in the Submission Letter to the Director of the Ministry of the Environment.

After the submission of the proposed plan on December 13, 2012 and as part of the review process, the Ministry of Environment formally provided recommended revisions and comments on December 13, 2013. These comments have been addressed and the changes included in the Draft Amended Source Protection Plan. Following the public consultation of the Draft Amended Plan, the Source Protection Committee considered any comments received in finalizing the Proposed Amended Catfish Creek Source Protection Plan. The Plan was submitted to the Minister of the Environment following the Source Protection Authority meeting on April 10, 2014.