

# **Kettle Creek Source Protection Area**

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## **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**

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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, please visit the [Lake Erie Source Protection Region website](#).

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## 1.0 INTRODUCTION

The Explanatory Document provides stakeholders, the general public, and other interested parties, as well as the Source Protection Committee, the Source Protection Authority and the Ministry of the Environment, 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 the Source Protection Plan.

**Volume I** of the Kettle 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 Kettle Creek watershed/source protection area. This volume also includes a description of the Plan's components, the planning process, public consultation, interaction with other Source Protection Regions, and source water threats, as well as, guidance on how to read the plan, and details on Plan implementation and enforcement.

The **Assessment Report** is a key component of the Source Protection Plan. Since 2005, numerous technical studies were completed to identify the risks to municipal drinking water sources, and these studies are summarized in the Kettle Creek Source Protection Area Assessment Report. The Assessment Report is available on the [Lake Erie Source Protection Region website](#).

**Volume II** of the Kettle 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, and optional content. Future updates to the Source Protection Plan may include policies for moderate and low threats. The appendices associated with Volume II include information as required by Section 34 of O. Reg. 287/07:

The **Explanatory Document**, as stated in Section 40 of O. Reg. 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 Act, 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 Act 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 is submitted to the Ministry of the Environment 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 submittal, this document was updated to reflect any changes made to the Proposed Kettle Creek Source Protection Plan and to include a brief explanation of the effect, if any, of comments received during consultation on the plan 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 Kettle 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 and are described in Volume I of this Source Protection Plan. All documents referenced are available on the Lake Erie Source Protection Region website.

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

#### **2.1.1 Municipal Process**

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 Kettle Creek Source Protection Area together with the Kettle Creek Conservation Authority have been actively involved in the development of the Source Protection Plan policies. Two members of the Lake Erie Region Source Protection Committee are closely connected to the Kettle Creek Source Protection Area. Their intimate involvement with source water protection at the committee level has meant that the Municipality of Central Elgin and the member municipalities of the Elgin Area Primary Water Supply System have been well-informed and able to provide input throughout the planning process. In addition, municipal councils have been actively informed about the Source Protection Plan policies throughout the policy development process. This collaborative process ensured that local conditions and needs were considered and accounted for. Further information on the process completed within the Kettle Creek Source Protection Area is presented in Section 5.0.

#### **2.1.2 Financial Considerations**

As of the Kettle Creek Source Protection Plan's publication date, there has been no clear indication from the Ministry of the Environment about 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 for 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 the

Ontario Drinking Water Stewardship Program, established by Section 97 of the Clean Water Act, 2006. The program also provides for outreach and education programs to raise awareness of the importance of, and opportunities for, taking action to protect sources of drinking water. O. Reg. 287/07 was amended in July 2008 to further clarify the details of the Ontario Drinking Water Stewardship Program.

The Ontario Drinking Water Stewardship Program, funded by the Ministry of the Environment, 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, agreeing to or establishing a Part IV Risk Management Plan under Section 56 or 58, issuing a notice under Section 59, for accepting a risk assessment under Section 60, or 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 development of Source Protection Plans to meet their local needs. The Lake Erie Region has been unique in this approach, allowing municipalities to take the lead on policy development. This has resulted in ~~plans~~ Source Protection Plans that have been designed with the financial means of the municipality in mind.

Financial implications, and the question of which agency will ultimately be responsible for funding source water protection implementation in the Kettle 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 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 Kettle 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 on the [Lake Erie Source Protection Region website](#).

### **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 allowing for 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 for each of the drinking water threats, where applicable, in Section 5.0 of this Explanatory Document.

### **2.1.5 Early Engagement Process**

An “early engagement” process was initiated prior to the Source Protection Plan being released for formal public consultation. This process provided policy implementing bodies with the opportunity to provide feedback on the source protection policies to ensure implementability. Within the Kettle 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 Section 5.0 of the Explanatory Document.

### **2.1.6 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.

O. Reg. 287/07 permits prescribed optional content to be included in Source Protection Plans. Priorities for the optional content needed to be set early in the process because of limited time and capacity.

On January 13, 2011 the Source Protection Committee passed a resolution stating that the Source Protection Plans include policies: governing: significant conditions; updates to spill prevention, spill contingency and emergency response plans; transport pathways; and monitoring of moderate and low threats in specific situations. Due to a lack of specific information, guidance and large scope, the Source Protection Committee did not recommend that the first Source Protection Plans include policies for moderate and low drinking water threats, incentive programs or education/outreach programs for systems outside the Terms of Reference, or policies for climate change data collection.

Further detail on the rationale behind why these items were not included in the Source Protection Plans is provided below.

### **Moderate and Low Threat Policies**

Moderate and low threat policies were considered to have too large of a scope for the work that must be accomplished for the first Source Protection Plan. An assessment of moderate and low drinking water threats has not yet been completed for the Kettle Creek Source Protection Area.

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

Generally, policies in the Source Protection Plans can 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 Region has chosen to do this to date. The Clean Water Act, 2006 allows 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.

Any private wells/intakes or communal systems that are located in close proximity to a municipal residential system may benefit from the protection afforded to its source by the Source Protection Plans. Also, there are incentive programs that currently exist to help landowners to implement selected best management practices that improve water quality. Kettle Creek Clean Water Initiative and the Elgin Clean Water Program offer cost share incentives of up to 50% for landowners willing to undertake stewardship projects on private property that benefit water quality. In addition, the funding provided by the Early Response Program will help landowners identified through the Assessment Report process in addressing activities considered significant drinking water threats.

### **Climate Change**

Predictions on climate change have implications to both water quality and quantity. In terms of 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.

With regard to 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 Kettle Creek Assessment Report available on the [Lake Erie Source Protection Region website](#).

Collecting data for climate change must be undertaken in a coordinated way at a cross-regional scale with all municipalities and other partners involved. Currently, work on the water budget and water quantity components of the Assessment Reports may accomplish some of the data collection regarding climate change, and will provide direction for any potential additional data collection.

The identification of specific data needs and the coordination of climate change data collection should be done in a comprehensive and collaborative way for which there is insufficient time in this first round of source protection planning, given the priorities and mandatory components for these Plans.

### **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.

### **Dead Stock**

At this Source Protection Plan's publication date, 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 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 and the Disposal of Dead stock regulation under the Food Safety and Quality Act. The new regulations came into effect on Friday, March 27, 2009. 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 would need to be made by the Source Protection Committee to the Director.

**Additional Technical Studies- Delineation of IPZ-3**

On May 10, 2012, the Minister of the Environment granted a submission deadline extension for the Source Protection Plans of the Lake Erie Region until December 31, 2012. As a result, there was significant discussion among the Source Protection Committee that the extended time may be an opportunity to complete the delineation of an Intake Protection Zone-3. However, to delineate an Intake Protection Zone-3, additional technical studies were required, which would result in an update to the Assessment Report and a public consultation period. The Ministry of the Environment expressed concerns about updating the Kettle Creek Assessment Report so late in the initial round of source protection planning. Consequently, it was determined that the Kettle Creek Assessment Report and Source Protection Plan would not be updated prior to the submission deadline of December 31, 2012. Since then, additional technical studies have been conducted and their findings are included in the Assessment Report and Source Protection Plan.

### **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 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 5.0.

A detailed description of the prescribed and non-prescribed drinking water quality threats can be found in Appendix B of Volume I of the Source Protection Plan. Drinking water threat circumstance details are available on the [Lake Erie Source Protection Region website](#).

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 Source Protection Committee is of the opinion that these policies will promote the achievement and objectives of the Source Protection Plan where no existing drinking water threats were currently enumerated and/or are believed to come into existence before the approval of the Source Protection Plan. Based on a review of the existing land uses; it is very unlikely that these activities will occur on the subject properties.

The Clean Water Act, 2006 also requires policies 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, despite the municipalities' and the Source Protection Committee's understanding that these drinking water threats are very unlikely to occur in the future.

#### **2.2 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 primary consideration for policy development is to reduce or eliminate the risks from existing and future waste sites. 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 the early discussions on 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 often 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. The Discussion Paper 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 Paper also identified education and outreach as a possible tool 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-Land farming (disposal) of Petroleum Refining Waste and 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 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 being 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, 1990 therefore, the use of the prescribed instrument tool was identified as the most promising policy tool.

Mine tailing ponds are required to have an Environmental Compliance Approval under the Ontario Water Resources Act, 1990 thus, the prescribed instrument tool 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 Paper, as 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 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 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 Paper 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, and 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 were identified in the Discussion Paper to address the 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, 1990.

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 threat. Risk Management Plans were identified as an effective way to manage this activity, as Part IV tools can be utilized if no prescribed instrument tools 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 the 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 must review and, if necessary, amend Environmental Compliance Approvals for these activities. Further, policies were drafted to require the Ministry of the Environment 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 is unlikely to occur. Prohibition was also selected where further protection is required, based on the vulnerability of the area to contamination from this activity.

**3.1 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, 1990 or Ontario Water Resources Act, 1990) was identified as the most promising policy tool for managing and prohibiting significant drinking water threats related to sewage. Using this tool, a policy could be developed to require a 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 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 and 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 must review and, if necessary, amend Environmental Compliance Approvals for these activities. Further, policies were drafted to require the Ministry of the Environment 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.

## **3.2 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 Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), who recently split into the Ontario Ministry of Agriculture and Food (OMAF) and the Ministry of Rural Affairs (MRA), 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, OMAFRA, at the time, 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 Plan.

**3.3 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 under the current Technical Rules.

**3.4 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 under the Environmental Protection Act, 1990) and NASM Plans (issued by OMAF 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 Section 39 of the Environmental Protection Act, 1990 policies were drafted to require the Ministry of the Environment 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 has been minimal and few additional discussions have taken place since the finalization of the Discussion Paper.

### **3.5 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 the Ministry of the Environment to 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, OMAF/MRA 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 potential 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 Plan was 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.

### **3.6 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 to revoke, or not issue, pesticide permits where pesticide activities are considered significant threats.

Education and outreach policies 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 the Part IV tools.

## **3.7 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 may not be feasible in all municipalities based on the resources required to implement them.

The Discussion Paper 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 identified in the Discussion Paper 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 are 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 unlikely 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 WHPA-A of the Belmont wells and therefore policies were not included to address this threat.

## **3.8 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 and further discussions on policy tool options, this drinking water threat was limited. In most cases, the land use planning tool has been selected by policy developers to manage or prohibit these activities in the future.

## **3.9 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 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 the 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.

## **3.10 The Handling and Storage of Dense Non-Aqueous Phase Liquid (DNAPLs)**

### **Discussion Paper Summary**

Part IV Risk Management Plans were identified in the Discussion Paper as an effective tool to address drinking water threats from dense non-aqueous phase liquid (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 did not provide any guidance on quantity thresholds in the circumstance tables, the policy developers decided not to assign a quantity threshold.

### **3.11 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.

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

#### **Discussion Paper Summary**

There are no existing significant drinking water threats identified within the Kettle 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 might 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 Kettle 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 aircraft. 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 most 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.

### **3.13 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**

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 and a policy could require OMAF/MRA 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 Part IV Risk Management Plans that 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 types of outdoor confinement areas 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. Therefore, 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 the municipal intake, or within the Intake Protection Zone-1 it was determined that these areas should be considered "no go" zones. 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 OMAF/MRA, based on their technical guidance received during the consultation period.

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

The following sections describe the decision making process for the selection of policy tools made by the policy developers 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 5.0.

### 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 Area (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 in Part XI.3, Rule 126 of the Clean Water Act, 2006, Technical Rules. No Condition sites have been identified in the Kettle 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.

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.

### **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 result in a more widespread distribution of 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 Kettle Creek Source Protection Area surrounding the Belmont wellhead protection area. As such, this is the only transport pathway addressed in this Source Protection Plan.

### **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.

**Post Discussion Paper**

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

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

The intent of the Source Protection Plan polices is to ensure that spill prevention plans, contingency plans and emergency response plans are updated for the purpose of protecting drinking water sources. 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, 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: Abandoned Wells**

To ensure that groundwater vulnerability is not increased due to future transport pathways with respect 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.

**4.2 Part IV, Section 59: Restricted Land Use**

The intent of these polices 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 and Building Code Act, 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.

### **4.3 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 or at such time that is specified in the plan. 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 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 MOE and not have this discretion available for other implementing bodies.

### **4.4 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 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.

#### **4.5 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 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.

#### **4.6 Interpretation of the Source Protection Plan**

The Lake Erie Region Project Team discussed the need for an Interpretation section in order to assist the reader in understanding what was to be considered the legal part of the 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 sidebars. 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 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.

## 5.0 KETTLE CREEK SOURCE PROTECTION AREA

### 5.1 Overview

The following sections present the intent and rationale of the policies presented in the Source Protection Plan for the Kettle Creek Source Protection Area, and the necessary information that guided the policy development process. The objectives of the policies are to ensure that future activities within the significant threat areas do not become significant drinking water threats. Where existing significant threats are present, the policies were created to manage these threats to municipal drinking water supplies.

### 5.2 Municipal Support

To date, the municipalities within the Kettle Creek Source Protection Area and the Kettle Creek Conservation Authority have been actively involved with the development of the Source Protection Plan policies. Two members of the Lake Erie Region Source Protection Committee are closely connected to the Kettle Creek Source Protection Area. The current Director of Physical Services for the Municipality of Central Elgin and the General Manager of the Elgin Area Primary Water Supply System have been members since the inception of the Source Protection Committee. They serve on the Source Protection Committee as a municipal and public interest representative, respectively. Their intimate involvement with source water protection at the committee level has meant that the Municipality of Central Elgin and the member municipalities of the Elgin Area Primary Water Supply have been well-informed throughout the planning process.

Prior to the Source Protection Plan's release for public consultation, an "early engagement" process was initiated specifically for the municipalities most affected by the policies. This process provided the municipalities with the opportunity to shape the source protection policies with regard to implementation based on available resources. The following is a list of key milestones of that "early engagement" process:

- On August 9, 2011, the Municipality of Central Elgin and Kettle Creek Conservation Authority consulted one-on-one with senior staff members from the Municipality of Thames Centre and the Township of Malahide to confirm prohibition as the policy tool choice for dense non-aqueous phase liquids (DNAPLs); senior staff agreed to update Official Plans accordingly;
- On August 15, 2011, Municipality of Central Elgin staff briefed Council on the current stage of source protection planning and the process to date and sought support in principle for the policy tool choices for the Kettle Creek Source Protection Plan. The following motion was adopted:

THAT: The Council of the Corporation of the Municipality of Central Elgin support, in principal, the policies which are being considered for implementation for the Kettle Creek Source Protection Plan;

AND THAT: Staff be directed to coordinate with the Municipality of Thames Centre and the Township of Malahide revisions to their perspective Official Plan Policies to prohibit land uses that utilize or store DNAPLs on the lands located in WHPA "C", as per Report PW 60-11, prepared by Lloyd J. Perrin, Director of Physical Services.

CARRIED.

- The Municipality of Central Elgin further reviewed the draft source protection policies at their Council Meeting on March 12, 2012. At that meeting the following motion was passed:

THAT: The Council of the Corporation of the Municipality of Central Elgin support the draft policies for Source Water Protection in the Kettle Creek Source Protection Plan;

AND THAT: Council strongly encourages that the cost of implementation, managing and monitoring Source Protection Policies continue to be funded by the Province of Ontario in the future, as per Report PW 21-12, prepared by Lloyd J. Perrin, Director of Physical Services.

- The Municipality of Central Elgin has been proactive on source water protection in its Official Plan. The Municipality is restricting proposed development in Intake Protection Zone-2 and Wellhead Protection Area-A where it includes activities identified by the Ministry of the Environment as a potential threat to municipal drinking water.

### **5.3 Financial Considerations**

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. In the Kettle Creek Watershed, the Elgin Area Primary Water Supply Intake is located in the Municipality of Central Elgin but supplies water to residents in other municipalities. In this case, it may not be fair for the Municipality of Central Elgin to bear the full cost of source protection implementation. Similarly, rural landowners who operate their own wells may be indirectly paying for the protection of municipal drinking water, if the funding of Plan implementation is achieved through increased municipal taxes.

Within the Clean Water Act, 2006, provisions are set out for financing various aspects of source protection implementation including stewardship programs and application of fees for Part IV policies. The financial implications, and the question about what agency would ultimately be responsible for funding source water protection implementation in the Kettle Creek Source Protection Area was strongly considered in the development of the source protection policies.

The majority of drinking water threats within the Kettle Creek Source Protection Area are future significant threats. Moreover, the activities identified – specifically with regard

to the Belmont Wellhead Protection Area - are not currently established and were viewed as unlikely to occur based on the current land use. Therefore, the Municipality of Central Elgin felt that the most cost effective method of ensuring that significant threats are never established was to use Part IV Prohibition, except where existing prescribed instruments could adequately mitigate the threat. While the argument could be made that Part IV Risk Management Plans may adequately mitigate future significant threats, the Municipality of Central Elgin feels strongly that significant threats that do not currently exist should be prevented from occurring. Hence, Risk Management Plans have only been proposed to address the two existing threats in the Elgin Area Primary Water Supply System's Intake Protection Zone (IPZ) 2. Moreover, Risk Management Plans are more time consuming and financially burdensome on the municipality than prohibition.

Finally, the financial implications on other agencies have also been considered in the development of the policies. The majority of policies included in this Plan are requesting implementing bodies to review the Wellhead Protection Areas (WHPAs) and Intake Protection Zones (IPZs) and in their approval process either deny the approvals, provide for measures that would address concerns within the WHPAs and IPZs, or enhance existing programs and services to have regard to significant threat policies and source protection. In many cases, it was decided that these policies should have no financial implications for the implementing body, with the exception of those already assumed within their own internal processes.

#### **5.4 Part IV Policies, Clean Water Act, 2006**

##### **Section 57 Prohibition**

###### **Intent:**

Prohibit activities under Section 57 of the Clean Water Act, 2006 in vulnerable areas where the activities would be significant drinking water threats if they were established.

###### **Rationale: Belmont Wellhead Protection Area**

The Belmont Wellhead Protection Area (WHPA) has no existing significant threats identified in the approved Assessment Report; however, future threats are possible within WHPA-A where the vulnerability score is 10 and in WHPA-B where the vulnerability score is 8. The majority of land within the WHPA-A is owned by the Municipality of Central Elgin and the Kettle Creek Conservation Authority. The current land use is primarily natural heritage or parkland with only a small portion in residential use.

The list of prohibited activities for the Belmont WHPA - A include:

- The application of agricultural source material to land;
- The storage of agricultural source material to land;
- The application of non-agricultural source material to land;

- The handling and storage of non-agriculture source material;
- The application of commercial fertilizer;
- The handling and storage of commercial fertilizer;
- The application of pesticide to land;
- The handling and storage of pesticide;
- The handling and storage of road salt;
- The storage of snow;
- The handling and storage of fuel;
- The handling and storage of an organic solvent;
- The use of land as livestock grazing or pasturing land, an outdoor confinement area of a farm-animal yard; and
- The establishment, operation or maintenance of a waste disposal site within the meaning of Part V of the Environmental Protection Act where a prescribed instrument is not required.

None of the above listed activities are currently established in the WHPA-A, and, based on the current land-use, are not expected to be established or indeed be desired by the municipality at this location. Therefore, the municipality decided that Part IV Prohibition was the best means to ensure that these future threats to drinking water are never established.

The same approach was recommended for the protection against the future threat of dense non-aqueous phase liquids (DNAPLs). However, this is a potential future threat in WHPA-A, B and C. As WHPA-C extends out into the municipalities of Thames Centre and Malahide Township, staff from Kettle Creek Conservation Authority and the Municipality of Central Elgin pre-consulted with these two municipalities to gain staff-consensus on the approach. Based on current land uses and zoning in the WHPA-B and C it is anticipated that prohibition policies will have a minimum impact to future development.

The Ministry of the Environment raised concerns during the public consultation process that there is no minimum threshold identified within the DNAPLs prohibition policy, meaning that even a tiny quantity of DNAPLs that might be found in a household product would be prohibited. The policy developers noted that the Ministry did not identify an exemption quantity in the provincial threat table, meaning that even a tiny quantity of DNAPLs is regarded as a significant drinking water threat. It was determined that identifying and defending an exemption quantity would be very difficult. It is

however recognized that, in implementing the policy, the Risk Management Official may have discretion in enforcing this policy.

**Rationale: Elgin Area Primary Water Supply Intake Protection Zone**

There are two areas in the Elgin Area Primary Water Supply Intake Protection Zone that were identified through events based modeling where specific activities can be significant drinking water threats. These are identified as hatched areas in Schedule B of Volume II. The modelled drinking water threats are the handling and storage of commercial fertilizer greater than 5,000 cubic metres and the handling and storage of fuel greater than 6,000 litres. Additional modeling may be required in future revisions of the Assessment Report to confirm or exclude additional areas where these activities would be significant drinking water threats.

There are financial implications with this policy, as a Risk Management Official will have to be appointed. The Municipality of Central Elgin is exploring options to control this cost including shared responsibilities with neighbouring municipalities or contracting this service out to another public body. The Risk Management Official will have the dual role of monitoring prohibited activities and developing risk management plans for existing activities. The appointment of the Risk Management Official is therefore seen as a cost effective means of managing both existing and future drinking water threats.

**Section 58 Risk Management Plans****Intent:**

Require the development of Risk Management Plans under Section 58 of the Clean Water Act, 2006 for activities on two properties within the Intake Protection Zone-2 where significant threats have been identified and potential future activities on properties in IPZ-3. These properties contain existing significant threats relating to the handling and storage of commercial fertilizer and the handling and storage of fuel, as determined by the event based modelling. This includes:

- The handling and storage of commercial fertilizer at the West Pier and on the East Harbour lands in Port Stanley in the hatched area identified on the map in Schedule B of Volume II of the Source Protection Plan. The hatched area identifies where the activity is a significant drinking water threat as per the threshold determined by the modeling activities described in the approved Kettle Creek Assessment Report.
- The handling and storage of fuel at the Elgin Area Water Treatment Plant in the hatched area identified on the map in Schedule B of Volume II of the Source Protection Plan. The hatched area identifies where the activity is a significant drinking water threat as per the threshold determined by the modeling as described in the approved Kettle Creek Assessment Report.

**Rationale:**

Existing significant threats were identified for the Elgin Area Primary Water Supply Intake through event-based modelling, and pertain specifically to the parcels of land that were the basis of the modelling. The results of the modelling also apply to a broader

area (hatched area in Schedule B of Volume II of the Source Protection Plan) where future activities could become significant drinking water threats.

The Municipality's goal is to prohibit all future threats related to the modelled handling and storage of commercial fertilizer and the handling and storage of fuel above the respective thresholds, while mitigating the current existing threats. This approach means the cost and number of Risk Management Plans that will have to be created are manageable for the Municipality.

There are currently only two properties where these significant activities are occurring. The municipality has consulted with each of the landowners regarding these existing activities.

There are financial implications to this policy for both the landowner and the implementing body – in this case the municipality – as a Risk Management Official will have to be appointed. The Municipality of Central Elgin is exploring options to control this cost including shared responsibilities with neighbouring municipalities or contracting this service out to another public body.

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

#### **Intent:**

Designate all land uses in areas where activities designated under Section 57 and 58 of the Clean Water Act, 2006 could be significant drinking water threats as Restricted Land uses under Section 59 of the Clean Water Act, 2006.

#### **Rationale:**

This policy was developed to require all land use applications under the Planning Act and Condominium Act for areas where activities could be significant drinking water threats to be reviewed by the Risk Management Official, who would then advise the applicant if Section 57 (prohibition) or Section 58 (Risk Management Plans) of the Clean Water Act, 2006 apply. These policies only apply to the Wellhead Protection Area (WHPA) 'A' and areas within Intake Protection Zone (IPZ) 2 as presented in Schedule A and B of Volume II.

There are financial implications for the municipality with this policy in terms of staff time required to review applications and serve notices when required to the Risk Management Official.

These policies are considered to apply to both the Belmont Wellhead Protection Area and the Elgin Area Primary Water Supply Intake Protection Zones.

## **5.5 Prescribed Instruments**

### **Ministry of the Environment: Future Environment Compliance Approvals**

#### **Intent:**

Require the Ministry of the Environment to prohibit future activities within the Environmental Compliance Approval process relating to sewage systems and waste

disposal sites listed as follows, where the activity would be a significant drinking water threat in the Belmont WHPAs under Subsection 39 of the Clean Water Act, 2006:

- Sewage system or sewage works- Septic Systems;
- Sewage system or sewage works- Storage of Sewage;
- Sewage system or sewage works- Sewage Treatment Plant effluent discharges;
- Sewage system or sewage works- Discharge of Stormwater Management Facility;
- Sewage system or sewage works- Septic System Holding Tank;
- Storage, treatment and discharge of tailings from mines;
- Waste Disposal Site- Landfilling of petroleum refining waste;
- Waste Disposal Site- Landfilling (Hazardous Waste);
- Waste Disposal Site- Landfilling (Municipal Waste);
- Waste Disposal Site- Landfilling (Solid Non Hazardous Industrial or Commercial);
- Waste Disposal Site- Liquid Waste Injection into a well;
- Waste Disposal Site- PCB Waste Storage
- Waste Disposal Site- Storage of Hazardous Waste at Disposal Sites;
- Waste Disposal Site- Storage of wastes described in clauses (p), (q), (r), (s), (t), or (u) of the definition of hazardous waste; and
- Application of Untreated Septage to Land.

**Rationale:**

There are currently no existing significant threats in the Belmont WHPA enumerated in the Assessment Report. There is the potential for significant threats to develop as a result of activities related to sewage systems and waste disposal sites for the Belmont WHPA-A where the vulnerability score is 10 and WHPA-B where the vulnerability score is 8.

To be consistent with not allowing other future significant threat activities in the most vulnerable WHPAs, the Municipality of Central Elgin desired to prohibit these activities. However, Part IV under the Clean Water Act, 2006 cannot be used to prohibit all sewage and waste disposal threats, as existing instruments (e.g. Environmental Compliance Approvals) are available as a policy tool. Hence, it was decided that the best approach to prevent activities of this nature in the future was to require the Ministry

of the Environment to prohibit any future activities related to sewage systems and waste disposal sites where these activities would be a significant drinking water threat within the Environmental Compliance Approvals process.

The majority of land within the WHPA-A is owned by the Municipality of Central Elgin and the Kettle Creek Conservation Authority and the current land use is primarily natural heritage or parkland. Therefore, it is anticipated that restricting approvals within the Environment Compliance Approval process will have a negligible impact to future development.

There are no financial implications to this policy beyond those already assumed by the Ministry of the Environment's internal processes.

### **Ministry of the Environment: Future Environment Compliance Approvals (with exceptions)**

#### **Intent:**

Require the Ministry of the Environment to prohibit activities relating to sewage systems or sewage works where they would be significant drinking water threats in the Belmont WHPA 'A' under Subsection 39 of the Clean Water Act, 2006 within the Environment Compliance Approvals process, unless conditions are imposed that, when implemented, will ensure that the sewage system or sewage works- sanitary sewers and related pipes do not become a significant drinking water threat.

#### **Rationale:**

There are currently no existing significant threats in the Belmont WHPA with respect to sewage systems or sewage works- sanitary sewers and related pipes as identified in the Approved Assessment Report. There is the potential for significant threats to develop as a result of activities related to sewage systems or sewage works (sanitary sewers and related pipes) for the Belmont WHPA-A where the vulnerability score is 10 and WHPA-B where the vulnerability score is 10. Therefore, this future activity is to be managed by ensuring that appropriate terms and conditions are placed on approvals to protect municipal drinking water sources so this activity never becomes a significant drinking water threat.

To be consistent with its approach to future significant threats in the most vulnerable WHPAs, the Municipality of Central Elgin desired to prohibit these activities. However, as there may be a potential for future development in the significant drinking water threat areas that would require the installation of sanitary sewers and related pipes, prohibition of this activity is not appropriate. Therefore, allowing this activity as part of the approval of the required Environmental Compliance Approval, with specific terms and conditions to reduce the risk to drinking water sources, would effectively manage this future activity.

This policy recognizes that, for sanitary sewers and pipes, terms and conditions can be imposed to ensure the safety of the municipal drinking water system.

There are no financial implications to this policy beyond those already assumed by the Ministry of the Environment's internal processes.

## **5.6 Land Use Planning**

### **Intent:**

Identify to implementing municipalities the requirement under the Clean Water Act, 2006 to amend Official Plans, Zoning and/or By-laws to reflect land use planning policies in areas where activities could be significant drinking water threats.

### **Rationale:**

These policies were developed to require all applications under the Planning Act and Condominium Act for areas where activities could be significant drinking water threats to be identified through municipal planning documents. Further, the update of these documents will aid staff in the review of any municipal planning applications received for the vulnerable areas. The timeline presented for this updated is consistent with the current Official Plan planning cycle of 5 years.

It is understood that land uses where the activity could occur will be identified in the Official Plan, not the specific activity.

There are financial implications for the municipality with this policy in terms of staff time required to review applications and serve notices when required to the Risk Management Official.

These policies are considered watershed-wide policies, applying both to the Belmont Wellhead Protection Area and the Elgin Area Primary Water Supply Intake Protection Zones.

## **5.7 Education and Outreach and Stewardship Programs**

### **Intent:**

Request the Municipality of Central Elgin to work with other implementing bodies where desirable to develop, continue or enhance stewardship and outreach and education programs directed at any, or all, significant drinking water threat activities prescribed under the Clean Water Act, 2006 where it may be deemed necessary and subject to funding.

As the Source Protection Committee is confident that there are no existing significant threats in the Belmont Wellhead Protection Area and only the two identified for the Elgin Primary Water Supply intake, the Committee is of the opinion that these education and outreach policies will promote the achievement and objectives of the Source Protection Plan and policies to regulate or prohibit these activities, unless otherwise stated, are not required.

### **Rationale:**

Education and outreach programs were originally discussed separately for individual drinking water threats. It was found that the same requirements were being repeated for

each education and outreach policy. To minimize duplication, this single policy wording was developed to list all of the activities for which it was decided that education and outreach should be used as a policy approach.

Both the Municipality of Central Elgin and the Kettle Creek Conservation Authority have existing outreach and education programs that could be tailored or enhanced to deliver the required source protection message to the target audience. For instance, messaging could be included in the Central Elgin Buzz newsletter, tax bills and web sites, thereby minimizing costs.

The source protection message would be best delivered by an agency whose mandate is watershed-wide such as the Kettle Creek Conservation Authority. However, Kettle Creek Conservation Authority has no guarantee of funding dollars for Source Protection Plan implementation beyond 2012.

Alternate funding sources may also have to be explored to ensure consistent and equitable distribution. For instance, while the Elgin Area Primary Water Supply Intake is located in the Municipality of Central Elgin, a number of other municipalities benefit from the supply of water. Therefore, it would be reasonable that all benefitting municipalities would share the full costs of an outreach and education campaign or stewardship program that would help protect a shared water supply.

## **5.8 Incentive Programs**

### **Intent:**

Encourage the Ministry of the Environment 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. Further, to encourage the Municipality of Central Elgin, together with other implementing bodies, to develop and implement incentive programs directed at significant threat activities where it is deemed necessary and appropriate subject to funding.

The Source Protection Committee is confident that there are no existing significant threats in the Belmont Wellhead Protection Area and only the two identified for the Elgin Primary Water Supply intake. As such, the Committee is of the opinion that these incentive policies will promote the achievement and objectives of the Source Protection Plan, and policies to regulate or prohibit these activities, unless otherwise stated, are not required.

### **Rationale:**

Source water protection is a provincial initiative and affects the entire province. Municipalities feel strongly 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.

Incentives for stewardship programs within the Kettle Creek Source Protection Area would recognize that the source water for the Elgin Area Primary Water Supply System is impacted by activities far beyond the Intake Protection Zone-1 and Intake Protection

Zone-2. Ongoing support is required to aid landowners with the process of implementing measures to protect municipal drinking water supplies.

## **5.9 Specify Action**

### **Design Standards for New Airports: Airport Authority**

#### **Intent:**

Require the Airport Authority to consider appropriate design standards and management practices for new airports within the Belmont Wellhead Protection Area 'A' (WHPA) to ensure that the management of runoff that contains chemicals used in the de-icing of aircraft ceases to be a significant drinking water threat.

#### **Rationale:**

Airports are not a significant drinking water threat to municipal source water; however, the potential exists for the run-off from airport de-icing facilities to negatively impact drinking water. Moreover, airports are within federal jurisdiction and cannot be affected by the Clean Water Act, 2006. Consequently, a general consensus was reached that the best way to control this future drinking water threat in the Belmont WHPA was to require the Airport Authority to consider the management practices for aircraft de-icing in all future designs.

Based on current and projected future land-uses of the area within WHPA-A (100 metres surrounding the municipal well) it is very unlikely that an airport would ever be established in the vicinity. However, because this is a prescribed drinking water threat, it must be addressed within the Source Protection Plan.

### **Increase Vulnerable Area Signage**

#### **Intent:**

Recommend that the Ministry of Transportation, in collaboration with the Ministry of the Environment, as well as in consultation with Source Protection Authorities, should design a sign to the appropriate Provincial standards, to identify the locations of Wellhead Protection Areas (WHPA) and Intake Protection Zones (IPZ) within the Kettle Creek Source Protection Area. These policies are recommendations and the implementing bodies are not legally bound to enact them.

#### **Rationale:**

While local residents may be aware of the general location of the IPZs and WHPAs, visitors to the area and emergency personnel may not. Signs located along major roads would be a visual reminder to all that they are entering a vulnerable area and that there is a need to use caution to protect the drinking water source. Signage would ensure that in the event of a contaminant release near a municipal drinking water source appropriate and timely response for both pollution containment and closure of the public water supply will occur before human health and lives are endangered. Signs currently exist within the Kettle Creek Source Protection Area, and these would be replaced with the provincial signs over time. The aim of this policy is to maintain consistency in the Source Water Protection messaging across the province.

Some signs have already been erected as part of an outreach and education grant. Therefore, financial implications are expected to be minimal concentrating on maintenance and erection of additional signage and replacement. In the future, the Municipality aims to utilize signs that are standardized by the Province of Ontario.

## **5.10 Strategic Action**

### **Transport Pathways: Improperly Abandoned Wells**

#### **Intent:**

Encourage the Municipality of Central Elgin to notify the Ministry of the Environment when it becomes aware of improperly abandoned wells in Wellhead Protection Area 'A' and 'B' to aid in the enforcement of Ontario Regulation 903.

#### **Rationale:**

Unused and poorly constructed wells are known transport pathways that may facilitate the movement of contaminants vertically or laterally below grade, resulting in a more widespread distribution of a drinking water threat. Often these wells are located on private property and the cost to properly decommission or upgrade the structure is cost prohibitive. There are currently 16 wells identified in the affected area.

### **Spill Prevention, Contingency or Response Plans along Highways, Railways or Shipping Lanes**

#### **Intent:**

Recommend that certain implementing bodies within the Kettle Creek Source Protection Area take action with regard to legislation or policy and procedures under their care that may help to reduce the risk of activities becoming significant threats. These policies are recommendations and the implementing bodies are not legally bound to enact them.

#### **Rationale:**

#### **Canadian Coast Guard Reporting Protocol**

The Canadian Coast Guard is the first agency to receive reports of boating accidents that may result in significant spills. A spill within the Intake Protection Zone-1 (IPZ), which is entirely within Lake Erie, can reach the Elgin Area Primary Water Supply Intake within one hour. A spill anywhere in the IPZ-2 can reach the Intake within two hours.

Currently, there are no requirements for the Canadian Coast Guard to advise the Elgin Area Primary Water Supply System (EAPWSS) of a boating accident. Consequently, the EAPWSS is often informed of spills days afterwards through the media or word-of-mouth.

This policy is intended to be a proactive approach to educate the Canadian Coast Guard on the vulnerable area and to develop a reporting protocol providing the EAPWSS with sufficient notice to take any necessary precautions.

#### **Update contact information/Procedure Cards: Ministry of the Environment**

In the event of a spill, the first phone call should always be to the Ministry of the Environment's Spills Action Centre. It is imperative that this Centre has the most up to date mapping to effectively deal with a spill that may impact a municipal drinking water source.

**Emergency Management Plans: Municipality of Central Elgin, Thames Centre, Township of Malahide**

Municipal emergency services are often the first responders to events that may adversely impact a source of municipal drinking water. Therefore, emergency management plans should be updated to include maps that clearly detail the vulnerable areas. Such plans should also include requirements to contain water and chemicals used to suppress fires and respond to spills from septic haulage, highway accidents, railway derailments and IPZ-2 boating accidents.

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## 6.0 SUMMARY OF COMMENTS RECEIVED

### 6.1 Source Protection Plan Pre-Consultation

In accordance with O. Reg. 287/07 made under the Ontario Clean Water Act, 2006, the Kettle Creek Conservation Authority initiated pre-consultation for the development of the Kettle Creek Source Protection Plan with the various implementing bodies affected by the plan.

Copies of the draft policies were circulated to implementing bodies for review and comment, during a pre-consultation process that began on January 2, 2012. Each agency was provided a package, which included worksheets that identified each draft policy affecting their agency, and a rationale document, which provided the rationale behind the policy and maps depicting where the policy(ies) apply.

Implementing agencies were given until February 3, 2012 to provide comments to the Kettle Creek Conservation Authority for consideration in the Draft Kettle Creek Source Protection Plan. The January 2 to February 3, 2012 pre-consultation period was the first opportunity for agencies to provide comments on the draft policies, and comments received after the February 3, 2012 deadline were still incorporated into the Draft Source Protection Plan.

**Table 6-1** summarizes the results of the comments received during the pre-consultation period. The chart is a synopsis of the comments received. Comments specific to typos, definition clarifications, or changing in wording are not detailed in the chart, 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 Kettle Creek Source Protection Area, they are not included in **Table 6-1**, but were nonetheless considered.

### 6.2 Draft Source Protection Plan Consultation

In accordance with O. Reg. 287/07 made under the Ontario Clean Water Act, 2006, Kettle Creek Conservation Authority initiated consultation on the Draft Source Protection Plan on March 5, 2012. All comments received before April 10, 2012 were considered in the development of the Proposed Source Protection Plan. Two open houses were held to invite public comment:

- Tuesday, March 27 at 7 p.m. - Port Stanley Arena, 332 Carlow Rd.
- Wednesday, March 28 at 7 p.m. - Belmont Arena, 14020 Belmont Rd.

Comments received during this 37-day public consultation are summarized in **Table 6-1**.

### 6.3 Proposed Source Protection Plan Comments

The Proposed Source Protection Plan was circulated for an additional 30-day public consultation between August 17, 2012 and September 17 2012.

The comments received during this second public consultation period are attached to the Proposed Source Protection Plan, and submitted to the Minister of the Environment for his or her consideration. As such, these comments are *not* summarized in **Table 6-1**.

In their letter received on September 17, 2012, containing comments on the Proposed Kettle Creek Source Protection Plan, 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. This included removing the road salt policy (previously BE-CW-5.1), as road salt application is not, nor could be, a significant drinking water threat at the percentage of impervious surface currently identified in the Assessment Report. Revisions also included adopting, in part, the Ministry of Transportation’s preferred wording for the signage policy KCSPA-CW-1.12.

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 October 17, 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 are included in the Draft Amended Source Protection Plan. Following public consultation, the Source Protection Committee considered any comments received in finalizing the Proposed Amended Kettle Creek Source Protection Plan. The Plan will be submitted to the Minister of the Environment by the end of March 2014.

**Table 6-1: Summary of Comments and Responses to the Pre-Consultation and Draft Kettle Creek Source Protection Plan Policies**

Summary of Comments	Response
<p>Ontario Ministry of Food and Rural Affairs                      The Ministry supports prohibition of agricultural activities in WHPA A, with the exception of the use of land for livestock grazing and pasturing. This comment was received on March 2 and reiterated on April 4, 2012.</p>	<p>The municipality is confident that based on current land use and ownership prohibition of livestock grazing and pasturing would not be impeded through this policy. Explanatory Document was updated to reinforce municipal perspective.</p>
<p>Ontario Ministry of Food and Rural Affairs                      The Ministry does not support the prohibition of fuel and commercial fertilizer in IPZ-2 and recommend that the threats be managed using appropriate management practices (policy PS-CW-7.2).</p> <p>Further recommended that Risk Management Plans be based on appropriate agr-environmental management practices.</p>	<p>The future use of fuel (&gt;6,000 litres and commercial fertilizer &gt;5,000 cubic metres) is prohibited only on the parcels of land identified through the modelling not the entire extent of the IPZ-2. Further existing activities are being managed through Risk Management Plans. The parcels of land affected by Risk Management Plans in the IPZ are not in agricultural use, nor are they expected to be. The Explanatory Document was updated to clearly note that policies only apply to the parcels of land identified through the modelling.</p>
<p>Ontario Ministry of Food and Rural Affairs                      The ministry recommended wording changes in BE.7.MC and BE.M3 to state Non-Agricultural Source Material (NASM) Plans rather than Nutrient Management Plans (NMP) and Strategies NMS. Further, the Ministry does not anticipate any regulatory amendments at this time as would be required by KCSPA.5.NB.</p>	<p>In review of BE.7.MC and KCSPA.5.NB the policies were reviewed as duplication as the activities are already prohibited under BE-CW-2.1. Policies were deleted.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of Consumer Services                      In reference to KCSPA.1.NB, MCS clarified that their role is to promote consumer protection and public safety. Neither MCS nor TSSA have an environmental protection mandate; therefore, source water protection falls beyond their expertise and authority. Environmental protection is the core mandate and expertise of the MOE.</p> <p>MCS and TSSA recommended that consideration be given to Ontario’s existing regulatory framework for fuel works, as it is continually updated and already manages the risk to source water effectively, by reducing the probability of leaks and spills.</p> <p>On this basis, MCS and TSSA noted that they have no plans to review the regulatory framework, as suggested in the draft policy wording.</p> <p>Additionally, recommendations for provincial action to protect source water are the responsibility of the MOE.</p> <p>If additional measures are necessary, beyond the provincial regulatory framework, MCS and TSSA suggested that the most efficient and effective approach would be the establishment of Risk Management Plans (RMP). Inspection of local fuel storage tanks and tank replacement could be requirements of the RMP, and the Risk Management Official could ensure the requirement is fulfilled when the RMP is evaluated.</p>	<p>KCSPA.1.NB has been removed in its entirety. Additional policies already effectively address the handling and storage of fuel, and inclusion of this policy was determined unnecessary.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of the Environment                      Encouraged the use of complementary land use planning policies to prohibit the approval of land uses for those policies where the Ministry was being asked to prohibit the issuance of a new Certificate of Approval. This would help inform proponents/land owners at the beginning of the development process whether certain uses or activities would be prohibited by source protection plan policies</p>	<p>Policy KCSPA-MC-1.4 was added to address this comment.</p>
<p>Ministry of the Environment Source Protection Branch                      The Ministry recommended including existing threat policies even where none are believed to exist to ensure no activities are established on the landscape between the time the proposed SPP is posted and the SPP gets approved.</p>	<p>Due to the limited area where policies could apply in Belmont and the modelling completed in Port Stanley, the policy developers have a very high level of certainty that there is no possibility that an existing threat could exist or be established before the SPP comes into effect. The area is small enough to confirm no existing activities exist beyond where currently noted. The Explanatory Document has been updated to reflect this rationale. All mapping has been updated as well.</p>
<p>Ministry of the Environment Source Protection Branch                      The Ministry noted confusion around the use of the term “strategic action” and the use of “SA” in naming the policies throughout the document, i.e. whether it is a tool or legal effect. Comments below refer to this issue as well. Strategic Action is not a legal effect or a tool. It refers to a group of policies identified under s.33 of O. Reg 287/07.</p>	<p>Staff consulted with MOE to better understand the distinction. Consequently, all SA changed to NB – Legally non-binding as noted in Section 2.1 where applicable. Further changes were made to the legal effects and policy headers to address these comments.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of the Environment Source Protection Branch                      Also for Policy BE.1.CW: Subcategory “storage, treatment and discharge of tailings from mines” this threat subcategory is already addressed in Policy BE.4.MC, which relies on “sewage” prescribed instrument approvals.</p>	<p>Policy text was updated to reflect this comment.</p>
<p>Ministry of the Environment Source Protection Branch                      The ministry asked to consider implication of policy BE.2.CW – prohibiting handling and storage of DNAPLS. There is no minimum threshold for the DNAPL threat in the circumstances, therefore even a tiny quantity of DNAPL, that might be found in a household would be prohibited.</p>	<p>In the MOE drinking water threat circumstance tables, a quantity was not listed meaning that even a tiny quantity of DNAPLS is regarded as a significant drinking water threat; therefore it is very difficult to identify an exemption quantity for this policy. The Explanatory Document was updated to explain rationale of policy choice. The policy direction has not changed.</p>
<p>Ministry of the Environment Source Protection Branch                      Recommended the use of one policy directed at the issuance of prescribed instruments, such as:</p> <p>“The following activities are designated for the purpose of S 57 of the Clean Water Act, these activities are therefore prohibited within the areas that they could be a significant threat as per the map in Schedule A. The Municipality of Central Elgin shall ensure that all planning decisions conform and they shall amend their planning documents to reflect this prohibition at the time of the next comprehensive review or within five years of the date of the Source Protection plan approval, whichever comes first.”Then as per the Director’s Instructions for S 34 this policy is subject to List A, List C, and List G.</p>	<p>The way the policies have been written are very easy for the public to read and understand and are already grouped in a comprehensive manner. No further edits were completed.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of the Environment Source Protection Branch                      Policy BE.6.MC permits a sewage treatment plant or sanitary sewer to exist within WHPA-A if the CoA includes appropriate terms and conditions; however, an earlier policy prohibits septic systems. Since both policies are currently dealing with future activities only why would SPC permit a STP and not a single residential septic system within WHPA-A?</p>	<p>There is the potential for sewage lines to cross the WHPA –A in the future (i.e. if the park chose to put in a bathroom – it would be preferred to have this on sewage rather than a septic tank). Perception noted and policy updated to reflect this comment.</p>
<p>Ministry of the Environment Source Protection Branch                      BE.7.MC Considering the challenges/limitations of using the NMA to address NASM/ASM land applications for phased in farms, as long as these activities are covered under S 57 and 59 policies, it might not be necessary to have a policy that is complicated like this one. You could ensure that these PIs are covered by including them in the appropriate List. Further OMRAFA often does not review or approve NM strategies.</p>	<p>This policy was removed as the activities are prohibited under Section 57.</p>
<p>Ministry of the Environment Source Protection Branch                      Policy BE.8.CW – Any reason ASM/NASM activities not included with this policy?</p>	<p>ASM/NASM now included.</p>
<p>Ministry of the Environment Source Protection Branch                      Policy BE.9.CW – Consider the province wide MTO signage initiative being worked on. You may wish to ensure this policy consistent with that initiative.</p>	<p>BE.9.CW changed to KCSPA-NB-1.12                      Adopted in part the province wide MTO signage policy.</p>
<p>Ministry of the Environment Source Protection Branch                      Policy BE.M5 cannot name a Federal body as the responsible party for a S 45 monitoring policy – all monitoring policies need to name a public body – so they could put that the SPA is responsible for gathering any available information from Transport Canada.</p>	<p>Monitoring policy updated accordingly.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of the Environment Source Protection Branch It should be clear in the wording of Policy BE.11.SA that this is a transport pathway policy. This should be clear in the policy wording.</p>	<p>Policy has been revised.</p>
<p>Ministry of the Environment Source Protection Branch It should be clear in the preamble of this section and in all policies that the future threat policies in this section only apply in the two locations that were modeled to show that these threats are significant.</p>	<p>Revision completed, no action required.</p>
<p>Ministry of the Environment Source Protection Branch Policy PS.5.SA – is this a Section 26(6) policy? If so consider making clear in the text this requirement is linked to updating spill prevention/spill contingency plans</p>	<p>Policy revised to reflect Section 26(6).</p>
<p>Ministry of the Environment Source Protection Branch Policy PS.6.SA – laudable concept but as written it sounds like this policy applies to the entire watershed; CWA only allows policies to be written for vulnerable areas.</p>	<p>Policy PS.6.SA deleted. KCSPA.CW.1.5 revised to include where desirable the Municipality of Central Elgin may implement stewardship projects with other implementing bodies.</p>
<p>Ministry of the Environment Source Protection Branch Policy KCSPA.1.SA – Policy appears to be requesting legislative change to TSSA fuel and oil codes. If this is the intent it would likely be appropriate to name both Ministry of Consumer Services as well as TSSA as implementation bodies.</p>	<p>Revision completed, no action required. Policy was later deleted based on feedback from MCS and TSSA.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of the Environment Source Protection Branch                      Policy KCSPA.3.SA – Recommend using more general/high level wording. SAC cards themselves do not typically contain the level of detail described in the policy, this information is kept elsewhere. Consider just asking SAC to update their emergency response info/procedures in general to include the information in question.</p>	<p>Policy has been revised.</p>
<p>Ministry of the Environment Source Protection Branch                      Section 3 of the draft plan has taken great liberties with the direction that they could include “anything that will assist in understanding the plan”. The Ministry suggested reviewing this with the lens of the Minister, who will be ultimately responsible for review and approval of the plan, and if they don’t think the Minister would agree that something helps to better understand the plan then it should be removed – such as Excavation that breaches the Aquitard, Emerging Contaminants, and Dead Stock.</p>	<p>Section has been revised to reflect these comments. The Source Protection Committee feels that this information is important for the reader of the Source Protection Plan to understand to determine why certain activities have not been addressed. The content was moved to the Explanatory Document.</p>
<p>Ministry of the Environment Source Protection Branch                      After checking with colleagues in our technical section, it was confirmed that the UAR for Kettle Creek can only include those areas identified through the events based modeling where the two existing activities were located. Given that, then an activity can only be considered a SDWT at the specific site in question and SDWT policies must be limited to this area.</p> <p>Our guidance on the event based modelling was that if the SPC wished to identify areas beyond the two properties in question where each activity would be a SDWT, it would be necessary to do additional modelling and identify those areas in updated version of the AR.</p> <p>Comment applied to PS.CW.7.1 and PS.CW.7.2</p>	<p>Staff sought clarification from the consultant who conducted the event-based modeling to support their interpretation that the significant threat policies should apply to the hashed area outlined in Schedule B.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of the Environment Source Protection Branch                      MOE OD division has indicated that they prefer more general wording to prohibit the activity, rather than speaking directly to the actions of the MOE - please refer to comments from MOE Operations Division and Planners FAQs dated January 26, 2012 for sample wording.</p> <p>Also, please refer to tables of circumstances, the list of waste activities is missing at least one subcategory...waste disposal site – storage of hazardous wastes (see circumstances 1884 to 1913)</p> <p>Finally, be advised typically there is no CoA required for some of the waste activities listed (e.g. PCB storage site, hazardous waste generators etc); therefore, we strongly recommend you have a back-up S. 57 policies for these waste sites (see City of Guelph draft policies). Also, see the waste Q&amp;A document provided with pre-consultation feedback for information on these waste activities where a waste approval is not necessary.</p>	<p>More general wording was added.</p> <p>Waste disposal site – storage of hazardous wastes was added.</p> <p>A back-up Section 57 policy is not required as the municipality did not want to prohibit future sewer lines.</p>
<p>Ministry of the Environment Source Protection Branch                      Policy BE.9.CW as written this appears to have the effect of prohibiting the activity of salt and snow storage...how does this differ from the S. 57 prohibition set out in BE.1.CW. Is this policy intended just to have the salt management plans reflect the S. 57 prohibition. If so, consider rewording this a bit to make this clearer.</p>	<p>Bullet two was deleted.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of the Environment Source Protection Branch                      Since monitoring policy BE.M5 is related to policy BE.10.NB - a significant threat policy - the CWA stipulates it is not permissible to identify a Federal body for its implementation. Only a public body as defined by the CWA is permitted to be the implementer (see s.2 of the CWA for the definition of public body for the purpose of the act).</p> <p>The policy could be rephrased to say something to the effect that, "KCSPA will obtain a copy of... from Transport Canada....." By naming the SPA responsible for gathering any available information from Transport Canada, the policy will meet the legislative requirement for this monitoring policy, as set out in ss.22(5) of the CWA.</p>	<p>Suggestions were incorporated into the re-writing of BE-NB-5.2</p>
<p>Ministry of the Environment Source Protection Branch                      A number of notes were made regarding the appendices including the addition of List K for significant threat policies targeted to bodies other than municipalities, local boards or source protection authorities for implementation.</p>	<p>All appendixes finalized following edits.</p>
<p>Ministry of the Environment Source Protection Branch                      Recommend ensuring all maps have descriptive title for ease of use by readers.</p>	<p>Completed.</p>
<p>Ministry of the Environment Source Protection Branch                      Various comments were received asking for definitions to be clarified or included, consistency in terminology such as "shall" and "should" and typos or wording changes.</p>	<p>Comments were considered and appropriate changes made.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of Municipal Affairs and Housing                      Recommend amending Policy KCSPA-CW-1.1 to state that Official Plan conformity with the Source Protection Plan occurs by the next 5 year Official Plan update as required under Subsection 26(1) of the Planning Act or within five years of the Source Protection Plan taking effect, whichever comes first. This would integrate the Municipal Official Plan conformity exercise with the 5 Year Official Plan requirement of the Planning Act.</p> <p>Consideration should be given to including the County of Elgin into this Section. General policy guidance could possibly be included into the County Official Plan. Local Official Plan (the Municipality of Central Elgin and Malahide) must conform to the County Official Plan.</p>	<p>Amended as requested.</p> <p>County of Elgin added.</p>
<p>Ministry of Municipal Affairs and Housing                      Question the use of the word “may” in KCSPA-CW-1.2. The conditions under which a notice of approval is needed from the Risk Management Official should be clearly stated to avoid misunderstanding for landowners and municipal delays in the review of development proposals.</p>	<p>The word may was changed to “will be required”</p>
<p>Ministry of Municipal Affairs and Housing                      KCSPA-MC-1.4 should be amended, specifically item c, as land use planning tools can only control the use of land, not activities that could occur on the land.</p>	<p>Edited from “Prohibit any activities that area also prohibited through Prescribed Instruments ... “ to</p> <p>“Prohibit the land use for any significant drinking water threat activities that are also prohibited through Prescribed Instruments ... “</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Ministry of Municipal Affairs and Housing It may be useful to describe the targeted audience for the education and outreach programs identified in KCSPA-CW-1.6 and BE-CW-4.1.</p>	<p>Because the policy only pertains to the vulnerable areas, the audience is the vulnerable area community. Policy writers felt a revision was unnecessary.</p>
<p>Ministry of Municipal Affairs and Housing The last phrase of KCSPA-CW-1.9 should be changed to, "they shall provide notice within 30 days of the amendment(s) coming into effect."</p> <p>The reason for this change is based on the fact that Official Plan and Zoning By-law amendments do not necessarily come into effect immediately after Council adoption. For example, when an Official Plan amendments is adopted by Council, it does not go into effect until the approval authority has approved it. In addition, an Official Plan amendment or zoning by-law amendment decision can be appealed to the Ontario Municipal Board. If an appeal is lodged, the entire amendment, or portions, does not come into effect or force until the Ontario Municipal Board renders a decision.</p>	<p>Change made as suggested.</p>
<p>Ministry of Municipal Affairs and Housing Policy BE-MC-3.1 states the Ministry of the Environment (MOE) shall prohibit several activities where they could be a significant drinking water threat in the Belmont Wellhead Protection Area. It is understood that MOE does not approve small septic systems. MOE comments should be canvassed on this Policy.</p>	<p>MOE did not identify this as a concern; no changes were made.</p>
<p>Canadian Fertilizer Institute Letter provided December 20, 2012 with no specific comments or suggested changes on draft policies. General information was provided on fertilizer stewardship and best management practices that could be utilized in risk management plans or outreach and education programs.</p>	<p>No action required.</p>

<b>Summary of Comments</b>	<b>Response</b>
<p>Transport Canada No specific comments or suggested changes on draft policies.</p>	<p>No action required.</p>
<p>Municipality of Central Elgin Letter received March 13, 2012 advising that the draft policies had been considered at the March 12, 2012 Council Meeting and the following motion passed:</p> <p>THAT: The Council of the Corporation of the Municipality of Central Elgin support the draft policies for Source Water Protection in the Kettle Creek Source Protection Plan;</p> <p>AND THAT: Council strongly encourages that the cost of implementation, managing and monitoring Source Protection Policies continue to be funded by the Province of Ontario in the future, as per Report PW 21-12, prepared by Lloyd J. Perrin, Director of Physical Services.</p>	<p>No action required.</p>
<p>Township of Malahide Council has no comments at this time</p>	<p>No action Required</p>
<p>Municipality of Thames Centre Resolved that the Council has no comments at this time.</p>	<p>No action Required</p>
<p>Kettle Creek Source Protection Authority Requested that KCSPA.5.NB be revised to provide financial assistance to landowners who may be required to complete a Nutrient Management Plan and Strategy within 100 metres of a municipal well intake.</p>	<p>KCSPA.5.NB was revised as suggested. Revision forwarded to OMAFRA as per Lake Erie Source Protection Committee's request March 1, 2012. Policy deleted on April 26, 2012 based on feedback from OMAFRA and staff review of relevancy.</p>