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## Important Notice

This explanatory document pertains to the following source protection plans:

- Trent Source Protection Plan:
  - Crowe Valley Source Protection Area
  - Kawartha – Haliburton Source Protection Area
  - Lower Trent Source Protection Area
  - Otonabee – Peterborough Source Protection Area
  
- Ganaraska Source Protection Plan
  - Ganaraska Region Source Protection Area

Policies and rationale apply to both source protection plans, unless otherwise stated.

This document is not intended to be read independently. Both the *Draft* Proposed and Proposed Ganaraska or Trent Source Protection Plans would assist in understanding the decisions recorded in this document.

## List of Acronyms

ECA	Environmental Compliance Approval
MEDI	Ontario Ministry of Economic Development and Innovation
MMAH	Ontario Ministry of Municipal Affairs and Housing
MOE	Ontario Ministry of the Environment
MTO	Ontario Ministry of Transportation
NMP/S	Nutrient Management Plan/Strategy, <i>Nutrient Management Act, 2002</i>
OMAFRA	Ontario Ministry of Agriculture Food and Rural Affairs
RMP	Risk Management Plan
SDWT	Significant Drinking Water Threat
SMP	Salt Management Plan
SPC	Trent Conservation Coalition Source Protection Committee
TCCSPR	Trent Conservation Coalition Source Protection Region
TSSA	Technical Standards and Safety Authority

## SECTION 1: INTRODUCTION

This explanatory document was prepared by the Trent Conservation Coalition Source Protection Committee (SPC) to supplement the Proposed Trent and Ganaraska Source Protection Plans, in accordance with requirements of the *General Regulation* made under the *Clean Water Act, 2006*. The explanatory document is not part of the source protection plans; however, it provides stakeholders, the general public, other interested parties, source protection authorities, and the Minister of the Environment with information regarding policy decisions. By providing the rationale for the policies, the explanatory document supports a transparent decision-making process.

The explanatory document is required to include the following information:

- Considerations of financial implications (Section 3);
- Considerations of climate change (Section 4);
- An explanation of the SPC's policy decisions (Section 5);
- A summary of pre-consultation comments received and an explanation of how they were considered (Section 5);
- An explanation of reasons for prohibiting certain activities using section 57 of the *Clean Water Act, 2006* (Section 5); and
- An explanation or statement indicating that the SPC is of the opinion that non-regulatory measures are sufficient to address significant threats, when used as a stand-alone tool (Section 5).

## SECTION 2: POLICY DEVELOPMENT PROCESS

This section of the explanatory document addresses the policy development process specific to the Trent Conservation Coalition Source Protection Region. The SPC was supported by five Municipal Working Groups in all stages of policy development (2.1). Prior to the development of any source protection policies, the SPC discussed policy concepts (2.2) that reflected the options available to manage or prohibit various threats. Once an approach had been selected by the SPC, *draft* source protection policies were prepared. These *draft* source protection policies were then circulated to those identified as implementers to encourage dialogue and allow opportunity for differences in opinion to be expressed (2.3). Once feedback had been obtained and reviewed by the SPC, the policies were incorporated into the *Draft Proposed Trent and Ganaraska Source Protection Plans* (2.4).

### 2.1 MUNICIPAL WORKING GROUPS

Five of the seven municipal representatives sitting on the SPC are responsible for leading a municipal working group. Each of these Municipal Working Groups corresponds to one of the five source protection areas within the Trent Conservation Coalition Source Protection Region. Members of these groups are elected officials and staff representing municipalities across the Region. Given the broad representation within these working groups, as well as the range of expertise, the source protection committee in designing the policy development process, used these groups to solicit feedback throughout the entire planning process.

After pre-consultation on the *draft* source protection plan policies had occurred, the SPC felt that further review of policies regarding municipal planning tools would be beneficial. The Planners Working Group was established. This group was composed of municipal and conservation authority planners. Their input was important to ensuring that policies appropriately addressed *Planning Act* provisions.

### 2.2 POLICY CONCEPTS

Prior to the development of any policies, the SPC made a strategic decision to concentrate only on policies to address significant drinking water threats. This decision took into consideration the number of prescribed drinking water threats requiring policies, the range in capacity at municipalities within the Trent Conservation Coalition Source Protection Region (TCC SPR), and the variety of tools that could be used in the policies. Based on these considerations, policies focus on significant drinking water threats and the plans do not contain policies for moderate or low drinking water threats.

In addition to the legally-binding policies pertaining to significant drinking water threats, the Proposed Trent and Ganaraska Source Protection Plans contain many non-legally binding policies that the SPC believes will be effective and appropriate for protecting sources of drinking water. The implementing bodies are encouraged to put these policies into action, even though they are not legally obligated to do so.

Policy development began with a series of *policy concepts* that were developed by staff and then circulated to the Municipal Working Groups for feedback. Suggestions and comments were provided by the Municipal Working Groups regarding these policy concepts, in some cases recommendations for additional considerations, provisions, or approaches (*i.e.*, prohibition versus management) were brought to the SPC's attention.

The Municipal Working Groups and the SPC evaluated each policy concept against a number of criteria to determine the suitability of its approach and merits. These criteria included:

- **Adequacy:** Would the policy address site-specific activities that are or would be significant drinking water threats?
- **Timeliness:** Is the time required to implement the policy and address the threat appropriate given the nature of the threat?
- **Community Response:** Potential for the policy to be accepted by the community, to raise awareness, and encourage participation.
- **Economic Considerations:** What are the economic impacts to the delivery agent, the landowner, or other affected parties?

After the SPC selected an approach (*i.e.*, prohibition versus management) based on which *policy concepts* were supported, direction was provided to staff to develop *draft* source protection policies. These *draft* source protection policies were assessed by the Municipal Working Groups prior to being circulated to the SPC. Municipal Working Groups were asked to review each draft source protection policy in relation to the following considerations:

- Was the *draft* source protection policy easily understood?
- Was the scope of the *draft* source protection policy appropriate for the scale of the threat (number of parcels)?
- Could the *draft* source protection policy be implemented within the existing capacity of the specified implementing body?
- Were there any “loopholes” in the *draft* source protection policy?
- Did the *draft* source protection policy leverage existing programs and successes, where applicable?
- Were local considerations taken into account in the *draft* source protection policy text?

Once this feedback on the *draft* source protection policies was incorporated, the *draft* source protection policies were provided to the SPC. A number of meetings were held to allow the SPC the opportunity to further refine the *draft* source protection policies. After this review, the *draft* source protection policies were circulated for pre-consultation.

## 2.3 PRE-CONSULTATION

The pre-consultation phase of the policy development exercise took place between September 2, 2011 and January 20, 2012. Implementing bodies, as identified in the *draft* source protection policies, were provided with the opportunity to submit feedback to the SPC through written submissions. *Draft* source protection policies, the rationale, policy intent, and mapping products showing where these policies would apply were made available to municipalities, source protection authorities, conservation authorities, agencies, and provincial ministries. Throughout this five month period, meetings were held with staff from these groups to discuss the *draft* source protection policies. In addition, staff provided presentations to municipal councils and organized workshops for the purpose of reviewing the content of the *draft* source protection policies. Some of these workshops were held with neighbouring Source Protection Committees in order to facilitate discussions relating to cross boundary policy concerns and considerations.

The SPC reviewed the comments submitted during the pre-consultation period at four meetings held in January and February 2012. The revisions made to the *draft* source protection policies as a result of this feedback, as well the input brought to the SPC’s attention during pre-consultation, are summarized in Section 5 of this document. Following these revisions, the policies were compiled into the *Draft* Proposed Trent and Ganaraska Source Protection Plans.

As a result of input received during pre-consultation, a number of new policies were developed. Therefore, these policies were publicly reviewed for the first time when the *Draft* Proposed Trent and Ganaraska Source Protection

Plans were posted for the formal consultation process. Please refer to the *Draft* Proposed Trent and Ganaraska Source Protection Plans for revised policy text subsequent to pre-consultation.

## 2.4 DRAFT PROPOSED SOURCE PROTECTION PLANS

Between March 19 and April 23, 2012, the *Draft* Proposed Trent and Ganaraska Source Protection Plans were made available for comment to the public, landowners identified as having significant drinking water threats on their property, municipalities, the province, and other stakeholders. During this time, the SPC actively sought input through suggestions, concerns, and unresolved questions relating to the source protection policies. Once the public consultation period was completed, the SPC reviewed the written comments received and discussed necessary revisions to the policies found in the *Draft* Proposed Trent and Ganaraska Source Protection Plans. Also during this time, Ministry of the Environment staff provided input on the legal implications and implementation of the policies. All substantive changes to the policies originally published in the *Draft* Proposed Trent and Ganaraska Source Protection Plans have been recorded in this document. Please refer to the Proposed Trent and Ganaraska Source Protection Plans for revised policy text subsequent to this first formal consultation.

## 2.5 PROPOSED SOURCE PROTECTION PLANS

Following the consultation period on the *Draft* Proposed Trent and Ganaraska Source Protection Plans, the source protection committee considered feedback as a result of written comments received, and made changes to the document where warranted. The Proposed Trent and Ganaraska Source Protection Plans were then submitted to the Trent Conservation Coalition source protection authorities for final consultation with the public. The Proposed Source Protection Plans were available to the public and implementing bodies for a 31 day consultation period which ran from June 27 through July 27, 2012. All written comments received by the source protection authorities during this consultation period were submitted to the Minister of the Environment with the plans.

## 2.6 MINISTRY OF THE ENVIRONMENT REVIEW

In 2013, the Ministry of the Environment conducted a thorough review of the Proposed Trent and Ganaraska Source Protection Plans and submitted comments to the source protection committee. This review focused on the following considerations:

- Ensuring the plans meet legislative requirements
- Identifying any policy gaps
- Reviewing policies to ensure they are feasible and reasonable to implement
- Addressing stakeholder concerns and balancing local interests
- Analyzing policies from across the province for similarities and differences
- Improving the clarity and wording of policies

The comments were reviewed and considered by the committee and municipal working groups, and draft changes were made to the policies. These draft changes were available for public and implementing body review and comment for a 33 day consultation period between January 13 and February 14, 2014. The public comments were considered by the committee in February 2014 and the revised policies were submitted to the Ministry of the Environment in March 2014.



## 2.7 CONSULTATION ON NEW THREATS

In 2013, two additional technical studies were completed which identified new significant drinking water threats within the Trent Conservation Coalition Source Protection Region. The first was additional event based modeling for extreme events associated with the three Lake Ontario intakes (Bowmanville, Port Hope, and Cobourg); the second was wellhead protection area delineation for the Keene Heights drinking water system to include a new well dug in 2012. Both of these studies resulted in the identification of new significant drinking water threats and as such the relevant policies underwent additional public consultation to ensure the implementing bodies and impacted landowners were made aware of, and had an opportunity to comment on, the policies:

- Lake Ontario threats: Pre-consultation with municipalities and impacted landowners; formal public consultation period between November 18 and December 20, 2013
- Keene Heights threats: Pre-consultation with municipality; formal public consultation period between January 13 and February 14, 2014

In 2018, an updated groundwater model for the Norwood drinking water system was produced to include the decommissioning of one well, and two new wells to come online. This resulted in the delineation of a modified wellhead protection area (WHPA) and assignment of vulnerability scores to the modified WHPA. From this updated modelling, new significant drinking water threats within the Trent Conservation Coalition Source Protection Region were identified. There were no policy changes as a result of these amendments. Pre-consultation occurred between January 18, 2019 and February 28, 2019. Public consultation period occurred between March 28, 2019, and May 3, 2019.

In 2019, the Municipality of Stirling Rawdon added a new production well to the village of Stirling drinking water system. This resulted in the delineation of a modified wellhead protection area (WHPA) and assignment of vulnerability scores to the modified WHPA. From this updated modelling, new significant drinking water threats within the Trent Conservation Coalition Source Protection Region were identified. There were no policy changes as a result of these amendments. Pre-consultation occurred between October 15, 2019 and October 31, 2019. Public consultation period occurred between November 7, 2019, and December 11, 2019.

In 2019, the City of Kawartha Lakes completed upgrades to the Pinewood Municipal Well System including the decommissioning of two wells and the installation of one new well. This resulted in the delineation of a modified wellhead protection area (WHPA) and assignment of vulnerability scores to the modified WHPA. From this updated modelling, new significant drinking water threats within the Trent Conservation Coalition Source Protection Region were identified. There were no policy changes as a result of these amendments. Pre-consultation occurred between October 21, 2019 and November 10, 2019. Public consultation period occurred between December 9, 2019 to January 17, 2020.

In 2019, the wellhead protection areas were modified for the Canadiana Shores Municipal Well System to reflect the new well and the decommissioning of one well. This resulted in changes to the delineation of the wellhead protection area. No new significant drinking water threats within the Trent Conservation Coalition Source Protection Region were identified and no policies were changed as a result of these amendments. Pre-consultation occurred from December 12, 2019 and January 10, 2020. Public consultation occurred from March 12, 2020 to April 16, 2020.

## SECTION 3: FINANCIAL CONSIDERATIONS

Financial considerations were a major concern to the Trent Conservation Coalition Source Protection Committee. Costs to municipalities, other implementing bodies, and landowners were all frequently discussed when reviewing the proposed approach to address an existing significant drinking water threat, or the potential for future occurrences of the significant drinking water threat. The SPC decided that wherever possible policies should consider existing programs and timelines. The SPC's goal was to impose additional costs only when it was required to ensure that their mandate to protect source water was achieved.

Municipalities, through the five Municipal Working Groups, assessed the potential costs for implementing the *draft* source protection policies circulated for pre-consultation. A number of municipalities voiced concerns during the pre-consultation phase of the policy development process with the anticipated costs to implement the source protection policies. The SPC used this information in their consideration of the comments received through pre-consultation. Comments regarding the costs related to specific policies are included in respective subsections throughout Section 5 of this document.

## SECTION 4: CLIMATE CHANGE CONSIDERATIONS

The Trent and Ganaraska Assessment Reports indicate that climate change has the potential to affect some of the results that rely on climatic data. These effects include increasing the size of vulnerable areas and increasing water quantity stress levels identified in the water budget. Further, the assessment reports indicate that climate change modeling should be improved and that the effects of climate change on the quantity and quality of drinking water sources should be considered at both a local level and within the Great Lakes Basin. These recommendations from the assessment reports were addressed by the source protection committee by developing a policy that encourages various parties to collect climate change data on an ongoing basis; encourages the Province of Ontario to provide ongoing funding to local agencies with a mandate to collect climate data; and encourages the Province of Ontario to expand existing climate change data collection programs to include a focus on the potential impacts of climate change on municipal drinking water systems in the Region.

## SECTION 5: POLICIES

When developing the source protection policies for the Proposed Trent and Ganaraska Source Protection Plans, the SPC thoroughly weighed and evaluated different policy options and considerations. These considerations included financial implications, policy effectiveness, appropriate management of the threat, meeting the objectives of the source protection plans, and the level of regulatory burden. In addition, the written feedback obtained through pre-consultation and the first formal phase of public consultation helped shape the source protection policies.

This section provides the rationale for each policy in the source protection plans, the policy wording as circulated during the pre-consultation period, and a summary of the changes made to the policy text as a result of the pre-consultation process and the first public consultation. Changes made to the pre-consultation policy text are shown in *blue font*. Further, for some policies, other matters for consideration were suggested during pre-consultation. For these matters, a summary of how the SPC considered the matter are also shown in *blue font*. Policy feedback that was considered by the SPC following the formal consultation period and how this feedback was addressed is shown in *green font*. For policy comments that were received from the Ministry of the Environment following their comprehensive review in 2013, the SPC considerations and responses are shown in *orange font*. Public consultation comments received on these revisions are also addressed within these responses.

### 5.1 GENERAL

As policies were being developed, it became evident that similar implementation tools were being used for different significant threat activities. In order to minimize policy duplication, the source protection committee decided to create general policies to address multiple significant threat activities.

#### 5.1.1 POLICY G-1: TRANSITION POLICY AND DEFINITION OF “EXISTING” / “FUTURE”

##### **RATIONALE**

These policies were developed by the Planners Working Group. This group assisted in the development of definitions for “existing” and “future” significant drinking water threats. These policies also specify the conditions which determine when an activity is considered to have commenced, and is therefore an existing activity. It was agreed by the Planners Working Group and by the SPC, that provisions that would allow further planning applications related to a particular activity should not be included in the source protection plans because they may encourage the submission of applications for activities that would be significant drinking water threats prior to the approval of the source protection plans.

Although these transition policies were only developed following the first formal consultation period, feedback was received from the Regional Municipality of Durham and the Municipality of Clarington suggesting that there should be consistency across the province in the definitions of existing and future significant drinking water threats, as well as in the text used in transition policies. The Ministry of the Environment provided general guidance to the SPC on content for these definitions and for transition policy text; however, consistent text across the province is not anticipated.

The Ministry of the Environment provided comments in 2013 that resulted in revisions to the policy to clarify the definitions of existing and future threats, and to add a definition of expansion.

## MINISTRY OF THE ENVIRONMENT REVIEW

### 1) Expansion of Activities

**Policy G-2(1)** allows for expansion of future threat activities through a prescribed instrument; **Policy G-8(3)** allows for expansion of both existing and future threat activities using a risk management plan. With the policies drafted as they are, in some cases it appears both the existing and future policies apply to an expansion activity. In addition, instances where an expansion is not covered by a prescribed instrument or a risk management plan must be addressed. Revisions are needed to clarify the intent and potential contradictions among policies.

#### Response

*A definition of “expansion” was added to the policy to clarify what qualifies as an expansion and which policies will apply to the expansion of an existing or future activity. An expansion can occur for both existing and future activities, provided that future threat activities are not prohibited by the policies in the plan. The expansion of an activity is managed by whichever tool is specified in the corresponding policy.*

### 2) Opinion of the Risk Management Official

The policy includes a subjective element "in the opinion of the Risk Management Official or other applicable regulatory authority... "; this should instead be based on fact.

#### Response

*The Risk Management Official Risk Management Official or other applicable regulatory authority will be responsible for determining whether or not an activity has taken place within the last 10 years. This determination will be based on the best available information gathered by that individual. Therefore, the statement “in the opinion of” will be removed.*

### 3) Two year Transition Timeline

The policy only allows for applications that have been in the planning process for two (2) years, prior to the plan coming into effect, to be eligible for transitioning. There have been requests for consistent transition provisions. It is recommended that the timeline clause be removed.

#### Response

*The intention of the 2 year timeline was to prevent a “rush” of applications right before plan took effect; since a rush has not occurred, the SPC agreed that removing this timeline would not alter the policy intent.*

### 4) Listing of Planning Applications

The policy explains Transition by listing various types of Planning Act applications and does not include applications for building permits or for prescribed instruments. The absence of these types of applications in the transition provisions would likely create implementation challenges. Therefore, it is recommended that the policy be amended to include all types of development applications.

#### Response

*The policy has been revised to include applications under the Planning Act, Condominium Act, Building Code Act, and Prescribed Instruments. The list of Planning Act applications will remain in the policy to assist with implementation of the policy for municipal Planners.*

## 5.1.2 POLICY G-2: GENERAL PROVISIONS FOR POLICIES THAT USE PRESCRIBED INSTRUMENTS

### RATIONALE

General policy G-8(3)(c), found in both the Proposed Trent and Ganaraska Source Protection Plans, requires that risk management plans include provisions to ensure that the expansion of any existing activities, where applicable, do not result in significant drinking water threats. It was recognized by the SPC that a similar policy does not exist for expansions of activities requiring prescribed instruments. Therefore, this policy was developed to fill this gap since the SPC supported the expansion of existing activities.

This policy was developed by the SPC following the first formal consultation period (May 2012 SPC meeting to address comments received during the consultation period). Therefore, no comments have been received on the policy text to date. This summary is included here for completeness.

Following the MOE review in 2013, a consolidated monitoring policy was added to G-2 to simplify reporting on policies which use a prescribed instrument administered by MOE or OMAFRA.

## 5.1.3 POLICY G-3: LAND ACQUISITION IN VULNERABLE AREAS (FORMERLY G-1)

### RATIONALE

This policy was expanded from a similar policy concept discussed for the handling and storage of non-agricultural source material. It was suggested that the most effective means to prevent significant drinking water threats would be for the municipality to purchase property in vulnerable areas. It was also pointed out that this approach would be a good idea for all areas where activities could be significant drinking water threats. It was acknowledged that a policy requiring the purchase of land where threats could be significant would be cost prohibitive. Rather than eliminating the concept of land acquisition, the policy was softened to allow for ongoing consideration of land acquisition by municipalities, subject to the availability of funding. This policy encourages municipalities to purchase land where there are or would be significant drinking water threats.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where an activity listed in section 1.1 of the <i>General Regulation</i> made under the <i>Clean Water Act, 2006</i> is a significant drinking water threat:	Municipality	1 Consider the purchase of the affected properties on an ongoing basis, subject to availability of funding.	Ongoing
		2 Report to the Source Protection Authority on any land purchases within a vulnerable area, and how significant drinking water threats were eliminated as a result of the purchase.	As Required

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

1) **Feasibility Criteria**

It was commented that the policy is too vague to be implementable and that the policy should specify the criteria that should be considered to determine if land purchase is feasible. It was also commented that the policy should specify the frequency at which municipalities must consider land purchase.

Response

*The SPC decided to remove the statement “subject to the availability of funding” and to indicate that the criteria for evaluating the feasibility of land acquisition can include, but should not be limited to:*

- a) The nature of any existing drinking water threats; and*
- b) The availability of the lands for purchase.*

*It was agreed by the SPC that the existing wording regarding the frequency of consideration (i.e., “on an ongoing basis”) was sufficient and therefore, was not changed.*

2) **The Role of Land Purchase as a Preventive Measure**

It was commented that the policy should also include the consideration for land purchase where activities would be significant threats in the future (i.e., land where there is no existing threat).

Response

*The SPC revised the policy text to include consideration of future significant drinking water threats.*

3) **Proposed Exemptions**

It was commented that the policy should not be adopted and suggested that alternatively small municipalities and/or rural municipalities should be exempt.

Response

*The SPC felt that since the policy only required the municipality to give consideration to the purchase of land in close proximity to the municipal intake or well, there was sufficient flexibility to accommodate all municipalities, regardless of size. Therefore, no exemptions were added to the policy text.*

4) **Financial Feasibility**

Concern was expressed about the financial feasibility of purchasing land in vulnerable areas

Response

It was acknowledged by the SPC that land purchase may be cost prohibitive in some cases. It was agreed that the wording of the policy was sufficiently flexible as to allow a municipality to not purchase land where it was cost prohibitive to do so. Therefore, the policy remained in the source protection plans.

5) **Municipal Liability**

Concern was expressed regarding the potential liability on a municipality where they have decided not to purchase land in a vulnerable area and activities on that land result in the contamination of source water.

Response

*It was felt by the SPC that the policy was sufficiently flexible as to prevent the municipality from being held liable if land was not purchased in areas where activities are or would be significant threats, particularly if the municipality showed due diligence in investigating the purchase of the property.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

The comments received through consultation on the *Draft* Proposed Trent and Ganaraska Source Protection Plans were very similar to those submitted through pre-consultation. The feedback received by the SPC included:

Feedback (as submitted to the SPC)	Commenting Implementing Body
The cost of purchasing land far exceeds the land itself in many cases. Additional costs can also be anticipated (establishing fencing, maintenance of the property, and loss of tax revenue).	Township of Asphodel – Norwood Township of Havelock – Belmont – Methuen
A request to have all criteria for feasibility outlined in the policy.	City of Kawartha Lakes
Concern that the municipality will be assuming additional liability following the purchase of the property.	City of Kawartha Lakes Otonabee Conservation/Otonabee – Peterborough SPA
Concern that the policy might not be implementable, in particular where the municipal drinking water system is located in a residential area. The municipalities with this feedback have suggested that land acquisition is likely not feasible in urban areas.	Municipality of Clarington Regional Municipality of Durham Township of Galway - Cavendish - Harvey

Response

*The SPC discussed the feedback received through consultation and opted to keep this land acquisition policy since it encourages best practices in the protection of municipal drinking water supplies. It is understood that the purchase of property around a municipal drinking water supply can be difficult, or even unrealistic. The SPC felt that if the municipality can show due diligence in the investigation of the purchase of these surrounding properties, it will have satisfied the intent of the policy. The SPC felt that by not dictating the criteria for assessing feasibility, the municipality will have the flexibility to craft its own case for proceeding with the purchase of the property in question.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

**1) Financial Feasibility**

Policy G-3 intends to “encourage” municipal land acquisition but the policy has a “must conform” legal effect. With the removal of ‘availability of funds and financial feasibility’ criteria from the policy text, the current policy wording does not provide the necessary level of flexibility to municipalities, as originally provided in the draft plan.





**Response**

*The policy requires that the municipality “consider the purchase of properties”; it does not require them to purchase them but rather to show that they considered it as an option. The SPC felt that the financial feasibility was implied, and agreed that stating it explicitly would not change the intent of the policy.*

**5.1.4 POLICY G-4: SUPPORT OF INCENTIVE PROGRAMS (FORMERLY G-2)**

**RATIONALE**

This policy was created to increase participation of property owners in existing incentive programs that encourage the use of best management practices in areas where activities are or would be significant drinking water threats. The policy does not require the creation of new incentive programs, but rather seeks to have conservation authorities support and facilitate the implementation of existing programs and to identify new programs as they arise.

The implementing body for the policy is identified as the conservation authority. At the time the policy was first discussed by the SPC, it was understood that conservation authorities were not defined as implementing bodies under the *Clean Water Act, 2006*. To ensure that the policy had the legal effect associated with an implementing body listed in the *Clean Water Act, 2006*, the SPC originally named the source protection authority as the implementer.

Through further discussion, the SPC decided that since source protection authorities are not involved in stewardship activities, it would be more appropriate to have conservation authorities as the implementer, even if the policy is not legally binding. Some SPC members also brought forward the concern that having the source protection authority as the implementing body for this policy would be problematic for portions of source protection areas outside of conservation authority jurisdiction. Subsequent to these decisions, the Ministry of the Environment confirmed that, naming conservation authorities or source protection authorities as implementing bodies had the same legal effect under the *Clean Water Act, 2006*. This further supports the SPC’s decision to name the conservation authority as the implementing body for this policy.

**DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION**

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where an activity listed in section 1.1 of the <i>General Regulation</i> made under the <i>Clean Water Act, 2006</i> is a significant drinking water threat:	Source protection authority	1	Support and facilitate the implementation of existing incentive programs, such as the Ontario Drinking Water Stewardship Program (ODWSP), that promote the use of best management practices for activities that are significant drinking water threats;	Ongoing
		2	Seek out incentive programs that promote the implementation of best management practices for activities that are significant drinking water threats; and	Ongoing
		3	Report to the SPC on the number and nature of significant drinking water threats that have been addressed using funding from an incentive program.	As Required

**PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS**

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Implementing Body**

Source protection authorities within the Trent Conservation Coalition Source Protection Region commented that the implementing body should be the conservation authority. This comment acknowledges the previous success of the Ontario Drinking Water Stewardship Program and the administrative nature of the Source Protection Authority.

Response

*Naming the source protection authority as the implementing body for this policy has a different legal effect than if naming the conservation authority, therefore, the implementing body did not change. The SPC felt it was important to have an implementing body that would be required to comply with the policy, as opposed to one that simply would likely carry out the policy. The policy text was edited to state that: “The source protection authority will request that the conservation authority carry out the requirement to support incentive programs.”*

**2) Recipients of Reporting**

Require reporting to be directed to the municipality as well as to the SPC.

Response

*The policy was revised to include the requirement that a report be provided to both the SPC “and the municipality” on the number and nature of significant drinking water threats that have been addressed using funding from an incentive program.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

The comments received through consultation on the *Draft* Proposed Trent and Ganaraska Source Protection Plans were very similar to those submitted through pre-consultation. The feedback received by the SPC included:

Feedback (as submitted to the SPC)	Commenting Implementing Body
All five CA/SPA Boards have requested that the conservation authority be named as the implementer, instead of the source protection authority.	Crowe Valley CA/SPA Ganaraska Region CA/SPA Kawartha Conservation/Kawartha – Haliburton SPA Lower Trent Region CA/SPA Otonabee Conservation/Otonabee-Peterborough SPA

Response

*The SPC discussed the proposed change to the implementing body for this policy based on the feedback from the five CA/SPAs. Specifically, the SPC reconsidered the role of the SPA under the Clean Water Act, 2006 - to form the SPC, provide support to the SPC, submit documents to the Ministry, and report on progress during implementation. Clarification was provided by the Ministry of the Environment that having a conservation authority as an implementing body would have the same legal effect as having a source protection authority in this role. Since the resources exist at the conservation authorities to implement this policy, the implementing body was changed.*

### 5.1.5 POLICY G-5: EDUCATION AND OUTREACH PROGRAM (FORMERLY G-3)

#### **RATIONALE**

Education and outreach policies were discussed separately for each individual drinking water threat. It was found that the same requirements were being repeated for each policy; therefore, education and outreach was compiled into this single policy. The wording was developed to capture all the activities for which education and outreach was to be used as a policy approach. The policy requires the development of an education and outreach program that targets persons engaged in activities that are significant drinking water threats. It is further intended to educate landowners and business owners with properties in vulnerable areas where future activities would result in significant drinking water threats.

The appropriate delivery agent for education and outreach policies was debated considerably. It was agreed by the SPC that the municipality should be the delivery agent since municipalities would have the best understanding of the affected areas and would be in a position to identify the required level of education and outreach for their citizens. However, it was also agreed that municipalities should be provided with the option of having a third party, such as the conservation authority, undertake the education and outreach programs where it would be more effective. Where an existing education and outreach program for a particular activity was already in place, the delivery agent should have the option to harmonize the program required by this policy with the existing program. Thus, a clause to this effect was added to increase efficiency and/or effectiveness.

When education and outreach programs were discussed for the handling of fuel (referring in most cases to gas stations), it was felt by the SPC that individuals that handle fuel as a matter of their employment are sufficiently trained in their duties. However, it was felt that a knowledge gap does exist regarding the location of vulnerable areas and the importance of source protection. Further, it was felt that education programs for this activity should also refer specifically to emergency response as it relates to the drinking water system (*e.g.*, notification of the affected water treatment plant in the event of a potentially contaminating spill). Thus, the policy includes a clause that specifies that education and outreach programs for this activity must focus on source protection and emergency response.

When education and outreach programs were discussed for residential home heating oil tanks, it was felt that specific provisions should be included in the policy given the large number of threats identified for this activity. Specifically, it was felt by the SPC that the education and outreach program for this activity should re-iterate the mandatory requirements for tank maintenance (*i.e.*, what tank owners are already required to do under existing legislation), best management practices that could be adopted to further minimize the chances of a tank failure (*i.e.*, above and beyond existing legislation), and include the placement of a sticker on oil tanks and fill pipes to serve as a visual reminder that the tank is located in a vulnerable area.

Following the MOE review in 2013, the policy was revised to specify that the education and outreach program should be ongoing.

## DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

**Delivery Agent:** Municipality

**Policy Tool:** Education & Outreach

**Applicable Area & Activity:** Where any of the following activities is a significant drinking water threat:

- a. The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage;
- b. The application of agricultural source material (ASM) to land;
- c. The storage of agricultural source material
- d. The application of commercial fertilizer to land;
- e. The handling and storage of commercial fertilizer;
- f. The application of pesticide to land;
- g. The handling and storage of pesticide;
- h. The use of land as livestock grazing or pasturing land, an outdoor confinement area, or a farm-animal yard;
- i. The application of non-agricultural source material (NASM) to land;
- j. The application of road salt;
- k. The handling and storage of road salt;
- l. The handling and storage of fuel;
- m. The handling and storage of a dense non-aqueous phase liquid;
- n. The handling and storage of an organic solvent;
- o. The storage of snow; and
- p. Maintaining open areas of mown grass for recreational activities that promote the congregation of waterfowl within or near surface water bodies.

### Requirement for Education & Outreach Program and Monitoring

Name	Requirements		Compliance Date
Education and Outreach Programs	1	Develop and implement an education and outreach program. The program will target anyone engaging in an activity that is a significant drinking water threat and may include, but is not limited to: <ol style="list-style-type: none"> <li>a. The location of vulnerable areas;</li> <li>b. Best management practices that can minimize or eliminate the impacts of the subject activities on the drinking water source; and</li> <li>c. Information regarding the applicability of the property for funding under the Ontario Drinking Water Stewardship Program (ODWSP) or other applicable incentive programs.</li> </ol>	Within one year
	2	Report on the activities undertaken as part of the education and outreach program to the source protection authority.	Annually

**Support Clauses for Education and Outreach Program**

Name	Requirements		Compliance Date
Education and Outreach - General Provisions	1	Notwithstanding G-6, the municipality may enter into an agreement with a conservation authority or other third party that identifies the third party as the implementing body for the education and outreach program required by G-6 and/or any related reporting.	Within one year
Existing Education and Outreach Programs	2	The education and outreach program required by G-6 can be harmonized with existing education and outreach programs, such as the Ontario Drinking Water Stewardship Program (ODWSP), where this would result in an increase in efficiency or cost-effectiveness.	Annually
Specific Requirements for Fuel Storage Education Program	3	Where an education and outreach program required by G-6 is developed to address the storage of liquid fuel in a tank at a facility as defined in section 1 of O. Reg. 213/01 (Fuel Oil) made under the <i>Technical Standards and Safety Act, 2000</i> , the program will include, at a minimum: a. The mandatory requirements for fuel tank usage and maintenance; b. Best management practices for fuel tank usage and maintenance; and c. Distribution of a sticker to be placed on oil tanks and fill pipes that indicates that the tank is located in a vulnerable area and provides a procedure to follow in the event of a fuel spill or leak, a spill response contact number.	Ongoing
			As required
			As required
Specific Requirements for Fuel Handling Education Program	4	Where an education and outreach program required by G-6 is developed to address the handling of liquid fuel in relation to its storage at a facility as defined in section 1 of O. Reg. 213/01 (Fuel Oil) made under the <i>Technical Standards and Safety Act, 2000</i> or a facility as defined in section 1 of O. Reg. 217/01 (Liquid Fuels) made under the <i>Technical Standards and Safety Act, 2000</i> , the program will focus on source protection and emergency response.	Ongoing

**PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS**

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Policy Order and Numbering****Response**

*Some of the requirements of the education and outreach policy as circulated for pre-consultation were given as separate policies. For simplicity, all of the related policies were added as clauses to a single consolidated education and outreach policy, and headers were added to clarify the intent of each clause.*

**2) Requirements for Educational Programs**

Education and outreach for some prescribed drinking water threats may require the expertise of relevant ministries and industry associations (e.g., Ontario Soil & Crop Association, Ontario Federation of Agriculture, TSSA, Ontario Good Roads Association, etc.). Further, municipalities themselves will be the audience for education in some cases.

**Response**

*The policy was revised to include a new clause “Consult with relevant provincial ministries, industry associations and other relevant organizations during the development of the education and outreach programs.”*

3) **Softened Wording**

It was suggested that the wording of the requirement regarding the “target” individuals for the education and outreach be softened.

Response

*The policy was revised to use the wording “seek to educate”.*

4) **Applicability for Future Threats**

The policy should also seek to address future significant drinking water threats.

Response

*The policy was revised to extend to anyone engaging in an activity that is or would be a significant drinking water threat.*

5) **Provincial Consistency**

Education and outreach should be consistent across the province. The Province should develop education and outreach materials that can be modified to include local information.

Response

*A clause was added to have those developing education and outreach programs consult with the relevant provincial ministries in an effort to encourage provincial consistency.*

6) **Coordination with Technical Standards and Safety Authority (TSSA)**

It was recommended the education and outreach program for fuel storage be developed in coordination with TSSA.

Response

*The clause requiring those developing education and outreach programs to consult with the relevant industry associations will satisfy this comment.*

7) **Monitoring of Effectiveness**

Clarification was sought on how the results of the education and outreach programs will be monitored or assessed to judge their effectiveness?

Response

The reporting clause requires the implementer of the education and outreach programs to report to the source protection authority on activities undertaken as part of these programs. There are no specific provisions regarding the monitoring of the success of the program.

8) **Implementing Body**

It was also recommended that the implementing body should be changed to the conservation authority.

Response

*It was felt by the SPC that the municipality should be the default delivery agent because municipalities would have a greater understanding of the affected areas and may be in a better position to identify the*

*required level of education and outreach. Further, the SPC noted that municipalities have the option of having a third party undertake the education and outreach program.*

9) **Minimum Content**

Set out the minimum expectations for education and outreach programs.

Response

*It was felt by the SPC that the policy provided sufficient detail regarding the expectations of the education and outreach programs.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
The time frame to develop and implement an education and outreach program should be longer than one year.	City of Kawartha Lakes Ministry of the Environment
Waste disposal sites, the handling and storage of NASM, and aircraft de-icing were not included on the list of activities for which education and outreach would be provided.	Ministry of the Environment

Response

*The SPC opted to change the timeline for implementation to two years.*

*The handling and storage of NASM and waste disposal sites were added to the list of activities for which education and outreach would apply. The management of runoff as a result of aircraft de-icing was not added to the list as it is captured under a threat specific policy.*

**CONSULTATION ON NEW THREATS – LAKE ONTARIO**

The new event based modeling lead to the identification of new existing significant drinking water threats: fuel storage. As such, Policy G-5 would apply to these new properties and landowners. Consultation on this policy was conducted with the municipalities and impacted landowners.

Regional Municipality of Durham: It is inappropriate for the municipality to be creating an educational program. This should be done by the TSSA, MOE, or Conservation Ontario to ensure consistency in the material produced and eliminate duplication of efforts.

*The SPC recognizes the need for consistency and efficiencies in the education and outreach program and has included provision with that policy to allow implementation by another body to harmonization with other programs. The SPC also noted that TCC staff, MOE, and Conservation Ontario are working collaboratively to assist with implementation of education and outreach programs across the province.*



**5.1.6 POLICY G-6: SIGNAGE FOR VULNERABLE AREAS (FORMERLY G-4)**

**RATIONALE**

The intent of this policy is to ensure that there are signs installed along main roads at locations where these roads enter vulnerable areas with high vulnerability scores. The purpose of the signage is to increase the awareness of the location of vulnerable areas. The policy includes clauses to ensure that signs are developed consistently across the province and to address signage that has already been installed.

This policy was developed by the SPC following pre-consultation, therefore no comments were received prior to formal consultation.

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
MTO would not allow for the installation of these signs in Durham on Provincial highways.	Municipality of Clarington Regional Municipality of Durham

**Response**

*The only change to this policy was the removal of the word “arterial”. The policy text as written requires the Ministry of Transportation to install signage on provincial highways. The municipality is responsible for the purchase, installation, and maintenance of signage only on roads considered under their jurisdiction.*

**5.1.7 POLICY G-7: MONITORING AND LAND USE PLANNING FOR POLICIES THAT USE SECTION 57 PROHIBITION (FORMERLY G-5)**

**RATIONALE**

This policy has two components applicable to all policies in the source protection plan relying on section 57 Prohibition. Originally, this policy required inspections of properties where activities are or would be significant drinking water threats. The intent was to require these inspections as a means to ensure that no prohibited activities were taking place where they would be significant threats.

The policy evolved into a single general policy which could be used for all activities in the source protection plans subject to a section 57 prohibition.

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
Unnecessary to re-iterate duties prescribed in the Act ( <i>i.e.</i> , power to enter property already in sections 88, 62, and 66).	Township of Havelock – Belmont – Methuen
Section 81 of the <i>Clean Water Act, 2006</i> requires that the Risk Management Official, not the Risk Management Inspector report annually to the Source Protection Authority based on annual inspections.	Township of Havelock – Belmont – Methuen
The actions described in this policy are already requirements under the <i>Clean Water Act, 2006</i> ; the Risk Management Official’s reporting requirements include a summary of inspections conducted.	Ministry of the Environment

**Response**

*The SPC agreed with the recommendation to remove the policy text requiring regular inspections of properties where activities are or would be significant drinking water threats on an ongoing basis since the Clean Water Act, 2006 already specifies these responsibilities. The revised policy text requires the Risk Management Official to undertake the reporting requirements specified in section 65 of the General Regulation.*

*The Planners Working Group recommended an additional clause under this general policy requiring that land use planning documents not permit land uses where they would be a future significant drinking water threat. These land uses must also be prohibited by specific source protection plan policies. Therefore, this provision was added to accommodate this recommendation.*

*The revised policy identifies storage threats, aquaculture (Trent Source Protection Plan), and livestock threats that rely on section 57 as land uses that are not permitted. Policy text also specifies that land uses that facilitate application and handling of threats are not permitted.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

**1) Prohibition of Land Uses**

Policy G-7(2), as written, could have the effect of prohibiting very broad land uses, when the intent is to prohibit only the listed activities. To address this, the words “land uses” in line one should be replaced with “land use activities”.

**Response**

*The SPC agreed that the intent of the policy was to facilitate the implementation of prohibition policies within the plan that are specific to threat activities. The SPC agreed to replace “land uses” with “land use activities” as suggested; however, they felt that a definition/explanation of the differences between land use activities (under the CWA) and land uses (under the Planning Act) was necessary. These definitions were added to the Glossary of the Source Protection Plan.*

### 5.1.8 POLICY G-8: GENERAL PROVISIONS FOR POLICIES THAT USE SECTION 58 RISK MANAGEMENT PLANS (FORMERLY G-6)

#### **RATIONALE**

Risk Management Plan (RMP) policies were originally developed separately for different activities. Early in the policy development process, it was found that many of the same details were being repeated for each policy. To minimize this duplication, all of the policies that require RMPs were simplified to include a statement designating the activity as subject to section 58 of the *Clean Water Act, 2006*. The details that are common to all RMPs required by the source protection plan are included in this general policy, and each RMP policy includes a reference to this policy. These common considerations include timelines, factors to be considered during the development of RMPs, and monitoring requirements.

Timelines for RMPs were developed based on the anticipated workload for the Risk Management Official (RMO) and in consideration of the potential time and cost demands for landowners. Given that there are a large number of RMPs required in the TCC SPR, it was felt by the SPC that a time period of five years would be required to develop RMPs. Further, understanding that the provisions of the RMP should be established in a reasonable timeframe, a second timeline of two years was set on the implementation of the provisions of the RMP.

Several clauses were included to address the location and circumstances of activities that require RMPs. First, the SPC acknowledged that on many properties in the Region RMPs would be required for more than one activity. For simplicity and efficiency, the RMO and landowner should have the option of developing a single RMP to address all of the activities on the property that require an RMP (*i.e.*, rather than separate RMPs for each activity). Next, the SPC acknowledged that there are cases where properties are intersected by vulnerable area boundaries (*i.e.*, where a particular activity would be considered a significant threat only on a portion of the subject property). The RMP for such a property will only be required to address the portion of the property where the subject activity is a significant drinking water threat. Further, the SPC felt that it was important to acknowledge the existing best management practices being undertaken on a property. To do so, a clause was added to ensure that the RMP considers and incorporates existing risk management measures already taking place on the property.

The monitoring of RMPs is also addressed in this general policy. Early policy concepts for monitoring of RMPs included a requirement for the RMO to report annually to the source protection authority on the progress of negotiating RMPs and on any orders issued by the RMO with respect to a particular property. However, preliminary comments from the Ministry of the Environment indicated that these reporting requirements (among others) are already mandated by section 65 of the *Clean Water Act, 2006*. The intent of the monitoring component in this policy is to re-iterate the reporting requirements for the RMO with respect to RMPs.

## DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where a policy in this source protection plan requires the development of a risk management plan, the risk management plan must:	N/A	1	Address the portion of the property where the activity is a significant drinking water threat;	As required
		2	Consider existing risk management measures being undertaken on the subject property; and	As required
		3	Be initiated within one year and completed within three years, unless stated otherwise.	As required
	N/A	Where policies in this source protection plan require the development of risk management plans for more than one type of significant drinking water threat, a single risk management plan may be developed to address all of the threats.		N/A
	Risk Management Official	Where a policy in this source protection plan requires the development of a risk management plan, the Risk Management Official will undertake the reporting requirements specified in section 65 of the <i>Clean Water Act, 2006</i> .		N/A

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED &amp; SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Consolidation of Policies**

*Some of the general provisions for risk management plans as circulated for pre-consultation were given as separate policies. For simplicity, all of the related policies were consolidated as a single policy.*

**2) Timelines and Compliance Dates**

The comments received requested clarification of the meaning of “initiated and completed”, as well as suggested that compliance dates be increased. Comments suggested that three years may not be sufficient time to complete some RMPs (it was also commented that timelines may need to be municipality-specific depending on the number and type of threats). SPC members discussed the differences between submission of, approval of, and adoption of measures in the RMP. Some members were concerned that there might be delays in approving the RMP. In making the revisions outlined below, members discussed what would be a reasonable amount of time for a RMP to be submitted and implemented.

Response

*The policy was revised to reflect the following changes:*

- *Within 1 year the RMO prioritizes the RMPs to be completed;*
- *Within 3 years, all RMPs must be submitted to the RMO; and*
- *Within 5 years, actions listed in RMPs should have begun to be implemented.*

**3) Remove the qualifier “unless otherwise stated” from the policy (i.e., do not allow variation in compliance dates for RMPs for different threats).**

Response

*This statement was intended to provide a “default” compliance date that would allow flexibility for variation for specific threats based on pre-consultation comments. The SPC felt that discretion should be left with the Risk Management Official regarding compliance dates, and that the modified compliance dates given above allowed sufficient flexibility. The text “unless otherwise stated” was removed from the policy.*

- 4) Reiterating the *Clean Water Act, 2006* reporting requirements for the RMO is redundant.

Response

*The Clean Water Act, 2006 requires that every policy include a monitoring policy. As a result this policy wording will remain.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

The comments received through consultation on the *Draft Proposed Trent and Ganaraska Source Protection Plans* were very similar to those submitted through pre-consultation. The feedback received by the SPC included:

Feedback (as submitted to the SPC)	Commenting Implementing Body
Concern that 3 year timeline to establish a RMP is too short.	Township of Havelock – Belmont – Methuen Kawartha Conservation/Kawartha – Haliburton SPA Lower Trent Region CA/SPA Municipality of Cavan - Monaghan

Response

*The SPC discussed the concern that the 3 year timeline for the submission of RMP to the RMO, as specified in the Draft Proposed Trent and Ganaraska Source Protection Plans would be too short. The Township of Havelock-Belmont-Methuen provided feedback that given the number of RMOs needed to establish the number of Risk Management Plans required in the Province of Ontario, there might be a capacity issue in finding the necessary qualified personnel. Lower Trent Region CA/SPA and Kawartha Conservation/Kawartha-Haliburton SPA commented that increasing the timeline for completion of all RMPs to address existing significant drinking water threats would spread out these costs to municipalities over a longer period of time.*

*The SPC agreed with the rationale provided for increasing the timeline for the submission of Risk Management Plans. Therefore, the policy was revised such that all RMPs required to address existing significant drinking water threats must be submitted by five years from date on which the Trent and Ganaraska Source Protection Plans are approved. Once a RMP has been submitted to the RMO, the person engaging in the activity or activities has two years to implement the provisions as agreed to in this document.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

- 1) **Timeline for RMP provisions**

The policy requires initiation of the provisions of a RMP within 2 years of approval by the RMO. The CWA contemplates leaving the initiation timeline up to the discretion of the RMO if no date has been specified in the policy. Durham has expressed concern that the current policy wording may allow a person engaged in an

activity to say that they do not need to initiate implementation of a RMP for 2 years after approval by the RMO, even though the RMO would like the threat activity dealt with sooner. It is recommended that the two year timeline be removed.

**Response**

*The SPC felt it was important to allow flexibility to the Risk Management Official in setting a date for the provisions; however, measures to protect drinking water should be initiative within a reasonable timeframe. The policy was revised to include both components.*

**5.1.9 POLICY G-9: SECTION 59 RESTRICTED LAND USES (FORMERLY G-7)**

**RATIONALE**

Designation of Restricted Land Uses under section 59 of the *Clean Water Act, 2006* was discussed separately for a variety of activities. It was felt by the SPC that this tool should be applied wherever a section 57 (Prohibition) or section 58 (Risk Management Plan) would be required. This would ensure that proposed (new) development applications that may result in significant drinking water threats are reviewed by the RMO to determine if any Part IV tools would apply on the property based on the anticipated land use activities, and advise the proponent of the results of this review. By designating Restricted Land Uses under section 59, the construction or change of use of a building or an application made under a provision of the *Planning Act* prescribed under the *Clean Water Act*<sup>1</sup> cannot proceed in an area where significant threats can occur without a notice from the RMO.

Early concepts for this policy sought to designate specific land uses associated with activities that could be significant drinking water threats (e.g., residential, commercial, industrial, etc.), but it was felt that designating all of the land uses that are associated with significant drinking water threats would result in a large number of land uses being identified. To simplify the approach, the policy was worded to ensure that “all land uses” where activities would be significant drinking water threats were designated as Restricted Land Uses under section 59 of the *Clean Water Act, 2006*.

**DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION**

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where an activity listed in section 1.1 of the <i>General Regulation</i> made under the <i>Clean Water Act, 2006</i> is a significant drinking water threat:	Crown / Municipality	All land uses located in areas where an activity would be a significant drinking water threat are designated as Restricted Land Uses under section 59 of the <i>Clean Water Act, 2006</i> .	Immediate

<sup>1</sup> Prescribed provisions of the *Planning Act* are given in section 62 of the *General Regulation* under the *Clean Water Act, 2006* and include applications for official plan and zoning bylaw amendments, development in site plan control areas, minor variances, approval of plans of subdivision, and consents, and authorizations for temporary uses.

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

### 1) Copying RMO on Applications

Comments suggested that the requirements of this policy should specify that applications for Building Permits and applications under the *Planning Act* will be copied to the Risk Management Official.

#### Response

*The policy was revised to state that municipalities are required to copy the RMO on all applications received under the Planning Act or Building Code Act within areas where activities would be significant threats.*

### 2) Complete Applications under *Planning Act*

In areas where activities would be significant threats, a notice from the Risk Management Official should be made part of a complete application under the *Planning Act*.

#### Response

*The policy was amended to require planning approval authorities to add a notice from the RMO to the list of "other information" making up a complete application in areas where activities could be a significant drinking water threat, under the Planning Act (i.e., Section 22(5) of the Planning Act).*

### 3) Compliance Date

Concern was expressed about how the compliance date of "immediate" may affect municipalities' obligation to meet guidelines under the *Planning Act*.

#### Response

*The timeline for the RMO to review applications will be based on the workload of the RMO. The timeline of "immediate" as circulated for pre-consultation was intended to reflect the time where the requirement for the RMO to review the relevant applications would come into effect (i.e., immediately after the approval of the source protection plan), not the timeframe within which the RMO must review the applications. To minimize confusion, the compliance date was removed from this policy.*

### 4) Applicable Law under the Building Code

The *Clean Water Act, 2006* would need to be listed as applicable law for the issuance of a building permit to allow the Chief Building Official to require comments from the RMO.

#### Response

Amendments to the Building Code Regulation (O. Reg. 350/06) to include this requirement are anticipated. Provisions of applicable law under the Code are listed in Section 1.4.1.3 of the Regulation.

### 5) Duplication of Service

Having the RMO review applications would be a costly duplication of service.

Response

*Since the RMO has familiarity with the circumstances that make an activity a significant threat, the SPC felt it appropriate to have this individual involved in the review of applications. The Chief Building Official and/or municipal planning staff may not have the familiarity required to determine if a given application would result in the creation of a significant threat.*

**6) Geographic Screening Mechanism**

Local municipalities will require an easily used screening mechanism (maps, shape files, etc.) in order to know which applications need review by the RMO.

Response

*Municipalities have access to all geospatial data (i.e., shapefiles) for vulnerable areas within their jurisdiction.*

**7) Prescribed Agency under *Planning Act***

The Ministry of Municipal Affairs and Housing (MMAH) needs to include the RMO as a prescribed agency under the *Planning Act*.

Response

*This matter was brought to the attention of the Source Protection Programs Branch. This consideration affects all SPCs across Ontario and is best addressed provincially.*

**8) Challenges to Risk Management Official Decisions**

Clarification was sought regarding the processes in place to address challenges to decisions made by the RMO (e.g., where the RMO indicates that a proposed application would result in an activity subject to a prohibition).

Response

*Decisions by the RMO can be appealed to the Environmental Review Tribunal (ERT).*

**9) Implementation**

Clarification was sought regarding the implementation of section 59 policies.

Response

*The implementation of the policy is described in additional detail in the above rationale text.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
Clarification is requested with regard to applications that apply to section 59.	Township of Havelock – Belmont – Methuen
Optics pertaining to “Restricted Land Uses”. Market value of lands.	Township of Havelock – Belmont – Methuen



Response

*The feedback obtained through formal consultation did not impact the content of the policy. Therefore, the policy has not been changed. It is expected that in preparation for implementation, collaboration between municipalities and conservation authority staff will enable the development of resource materials to assist with being able to distinguish between those applications for which section 59 applies, and those where it would not apply.*

*The terminology “restricted land uses” under the Clean Water Act, 2006, does not have the same meaning as under the Planning Act. Section 59, the restricted land use tool, allows a municipality to flag an area where either a prohibition or risk management plan policy applies. The SPC recognizes that the value of some properties might be impacted by the implementation of a prohibition policy, but at this time, it is impossible to predict to what extent.*

*Feedback from the Planners Working Group resulted in the addition of two provisions:*

- 1) Applications for building permits related to the construction or change of use of a building should be forwarded to the RMO; and*
- 2) Applications for provisions of the Planning Act prescribed by the Clean Water Act, 2006 should be forwarded to the RMO.*

#### 5.1.10 POLICY G-10: GENERAL PROVISIONS FOR POLICIES THAT USE LAND USE PLANNING (FORMERLY G-8)

##### **RATIONALE**

This policy was developed by the SPC to provide the compliance date and monitoring policy for all policies related to land use planning in a single policy. This was to consolidate the various land use planning policies throughout both source protection plans.

The SPC felt that the compliance date should allow planning authorities to implement the policies within their existing planning review cycle, so the timeline of five years was chosen. The monitoring policy is a reporting requirement that ensures that the source protection authority is made aware of how land use planning policies were implemented.

This policy was developed by the SPC after the circulation of policies for pre-consultation (March SPC meeting), therefore no comments were received prior to formal consultation.

##### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

No written comments were received specific to this policy through formal consultation. However, the Planners Working Group provided feedback at a meeting held prior to summarizing written comments received through consultation for the SPC (May 2012). This feedback was primarily to clarify the provisions of the policy.

#### 5.1.11 POLICY G-11: EMERGENCY RESPONSE PLANNING

##### **RATIONALE**

This policy was developed by the SPC in response to feedback obtained from the Kawartha Region Conservation Authority and Kawartha – Haliburton Source Protection Authority Boards through formal consultation. The SPC agreed with the suggestion to create a policy requiring municipalities to update their Municipal Master Emergency Plans to identify vulnerable areas where significant drinking water threats could occur. Further, it was recognized

that these documents should also outline actions to be implemented in the event that the most vulnerable areas near municipal drinking water systems are compromised.

This policy was created by the SPC following the first formal consultation period (May 2012 meeting). No comments have been received on the policy text to date. This discussion is included here for completeness.

## 5.2 SEWAGE

A number of policy concepts to address sewage related threats were proposed to the SPC when policies were first being developed. Through the Municipal Working Groups, municipalities proposed a number of additional options. All of the original concepts, as well as those proposed, were developed into a policy or a provision within a policy. When the SPC reviewed the various policy approaches, the following details were taken into consideration:

- The most recent amendment to the Ontario Building Code (January 2011) created a mandatory septic system maintenance inspection program. This program ensures that all septic systems and holding tanks, where considered a significant drinking water threat, are inspected every five years. Since septic systems are designed to reduce or eliminate pathogens in the liquid they discharge, ensuring they are functioning properly would effectively manage the threat.
- Section 53 of the *Ontario Water Resources Act* applies to new or existing sewage works with a design capacity of greater than 10,000 litres per day.
- The Ministry of the Environment (MOE) provides a “Guide for Applying for Approval of Sewage Works”. This guide outlines information needed when seeking an Environmental Compliance Approval (formerly Certificates of Approval), such as the expected rate of contaminant discharge, what monitoring will take place, and what measures will be taken to reduce groundwater contamination.
- The Provincial Policy Statement (PPS) issued under section 3 of the *Planning Act*, provides direction on matters of provincial interest related to land use planning and development.
- Municipal sanitary sewers can be significant drinking water threats; however, they can also transport sewage away from vulnerable areas for off-site treatment and disposal. This means that sanitary sewers may be a preferred alternative to septic systems.
- Principal Authorities (agency responsible for septic system approvals) will incur costs for administering the new maintenance inspection program. Under the Ontario Building Code, Principal Authorities can charge fees to recover costs.

### 5.2.1 POLICY S-1: REPORTING ON MANDATORY SEPTIC INSPECTIONS

#### RATIONALE

Inspection of on-site sewage systems, regulated under the Ontario Building Code (O. Reg. 350/06), that are located where they are significant threats is now a legislated requirement of the Principal Authority (municipality, health unit/department, conservation authority, planning board, or Crown, as applicable). Under the inspection program, on-site sewage systems in areas where they are significant drinking water threats must be inspected within five years of the approval of the assessment report, and every five years thereafter. The inspection program has two tiers: a primary visual inspection and a secondary extensive assessment, where warranted. The inspector has authority under the *Building Code Act* to issue orders for the maintenance, replacement, or upgrading of a system that is not functioning as designed.

The SPC decided that the preferred approach to addressing the most prevalent threat in the TCC SPR (*i.e.*, septic systems) was through this new requirement under the *Building Code Act*. Making use of this inspection program ensured consistency across the province.

The policy in the *Draft Proposed Trent and Ganaraska Source Protection Plans* was written to ensure that the Source Protection Authority and the SPC are informed on an annual basis of the details relating to inspections completed in

areas where they are significant drinking water threats. As the policy evolved, additional reporting details were added to the reporting requirements.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where a sewage system as defined in section 1 of O. Reg. 350/06 (Building Code) made under the <i>Building Code Act, 1992</i> is and would be a significant drinking water threat:	Principal Authority as defined in section 1 of the <i>Building Code Act, 1992</i>	Report to the source protection authority on the implementation of the mandatory maintenance inspection program. The report must include the following minimum information: <ul style="list-style-type: none"> <li>a. The number of inspections carried out under the maintenance inspection program during the reporting year;</li> <li>b. The number of inspections that were not compliant with the septic inspection guideline; and</li> <li>c. For the properties identified in (ii), a description of the deficiencies in the system, the orders issued by the inspector, and any follow-up with the system owner.</li> </ul>	Annually

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

#### 1) Reporting

Where the responsibility for the delivery of the inspection program has been delegated to a party other than the municipality; the municipality, Building Official, and/or Risk Management Official should be copied on the inspection reports.

##### Response

*The revised policy text was amended to require that the municipality, Building Official, and/or Risk Management Official (RMO) be copied on the report provided to the source protection authority, where the responsibility for the delivery of the inspection program has been delegated to a party other than the municipality.*

*In addition, the policy also requires that the report indicate the location of the systems that were inspected.*

#### 2) Inspection Requirements

A comment suggested that the policy should provide additional detail regarding the nature of the sewage system inspections required under the Ontario Building Code.

##### Response

*This policy does not mandate the inspections defined under the program, but simply adds an extra reporting step for the bodies required to implement the program. For this reason, it would not be appropriate to list details regarding the delivery of the inspections in the policy text. The policy text has been updated to clarify that the details of the inspection program are specified in the OBC (O. Reg.350/06) and the Ministry of Municipal Affairs and Housing (MMAH) Septic Inspection Guideline.*

### 3) Cost

Many comments expressed concern regarding the potential costs associated with the mandatory septic inspection program required under the Ontario Building Code (OBC). It was suggested that the cost to deliver the inspection program should be funded by the province.

#### Response

*This particular policy does not mandate the delivery of the inspection program; rather, this policy is intended to provide source protection authorities with documentation to ensure that inspections are being carried out as required under the OBC. It is anticipated that costs related to the reporting requirement would be minimal.*

### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

#### CONSULTATION ON NEW THREATS - KEENE

The new wellhead protection areas delineated in 2013 for the Keene Heights drinking water system lead to the identification of new existing significant drinking water threats: sewage systems, as defined under the *Building Code Act, 1992*. As such, Policy S-1 would apply to these new properties and landowners. Consultation on this policy was conducted with the municipality and impacted landowners.

Township of Otonabee-South Monaghan: No comments were received through pre-consultation or the formal public consultation period.

Landowners: No comments were received through the formal public consultation period.

### 5.2.2 POLICY S-2: EXISTING ENVIRONMENTAL COMPLIANCE APPROVALS FOR SEWAGE WORKS

#### RATIONALE

Sewage systems regulated under the *Ontario Water Resources Act* are managed by an existing approvals process: Environmental Compliance Approvals through the Ministry of the Environment. The SPC decided to make use of this Prescribed Instrument to manage the significant drinking water threat. The SPC determined that in requiring the Ministry to review existing Environmental Compliance Approvals in light of the circumstances that make the activity a significant drinking water threat, additional conditions could be added, where appropriate. This approach would be an effective use of time and resources, since the activity is already regulated.

**DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION**

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where a sewage works as defined in section 1(1) of the <i>Ontario Water Resources Act</i> that requires a Environmental Compliance Approval is a significant drinking water threat:	Ministry of the Environment	1	Review any existing Environmental Compliance Approval to determine if it is adequate to ensure that the activity is not a significant drinking water threat. If the Environmental Compliance Approval is deemed to be inadequate for this purpose, it will be amended to include additional conditions that will ensure that the activity ceases to be a significant drinking water threat.  In addition, ensure that all existing Environmental Compliance Approval include requirements for regular inspection of the system, and a requirement to report to the source protection authority on the number of inspections and their results.	Within one year
		2	Report to the source protection authority on the status of the review of the Environmental Compliance Approval and any orders issued as a result of an inspection during the reporting year.	Annually

**PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS**

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Timelines**

Comments were received suggesting that the timeline for the review of existing Environmental Compliance Approvals should be on the order of several years.

*Response*

*The policy text now indicates that the compliance date for the review of Environmental Compliance Approvals will be three years.*

**2) Reporting**

The municipality should be copied on the reporting to the source protection authority.

*Response*

Revised policy text was amended to specify that all reporting is to go to both the source protection authority and the municipality.

**3) Environmental Compliance Approvals**

The environmental approvals process is being streamlined, and Certificates of Approval are being replaced by Environmental Compliance Approvals.

*Response*

*References to Certificates of Approval were changed to refer to “Prescribed Instruments” to capture both Certificates of Approval and Environmental Compliance Approvals.*

#### 4) Timelines

The policy does not specify the length of time that holders of Environmental Compliance Approvals have to comply with any new or updated conditions required as a result of the MOE's review.

##### Response

*The Committee agreed that the MOE should be given the flexibility with regard to timelines for compliance with any new conditions added to an Environmental Compliance Approval as a result of their review.*

#### 5) Cost

Several comments express concern regarding the potential cost that may be associated with new conditions added to existing Environmental Compliance Approvals for sewage systems.

##### Response

*It is acknowledged that the MOE may add or modify conditions to existing approvals where they deem it necessary to adequately manage sewage systems that are significant drinking water threats. It is also acknowledged that some of these changes may have financial implications for the holders of these approvals, which may include both municipalities and private landowners. New or updated conditions will be at the discretion of the MOE.*

### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### CONSULTATION ON NEW THREATS – LAKE ONTARIO

The new event based modeling lead to the identification of new existing significant drinking water threats: disinfection failure at wastewater treatment plants. As such, Policy S-2 would apply to these new threats. Consultation on this policy was conducted with the Ministry of the Environment and municipalities.

Ministry of the Environment: No comments were received through pre-consultation or the formal public consultation period.

Regional Municipality of Durham: If capital budget is required for the plant upgrades as a result of the amendments, a three year time line will not be enough time to ensure completion.

*The three year timeline applies to completing amendments to the Environmental Compliance Approvals (ECA), not to implementing those amendments. The amended ECA will specify timelines for implementation.*

#### 5.2.3 POLICY S-3: PROHIBITION OF FUTURE SEWAGE WORKS THAT REQUIRE ECA (EXCEPT SEWAGE COLLECTION SYSTEMS)

##### RATIONALE

It was agreed by the SPC that no new large sewage systems should be permitted in vulnerable areas where they would be significant drinking water threats. For larger sewage system threats, a Prescribed Instrument is issued by the MOE that specifies conditions for the operation of the system. Originally, the SPC decided that all of these types of sewage activities (except sanitary sewers and related pipes) should be prohibited by the Ministry by not issuing Environmental Compliance Approvals.

As the policy evolved, the SPC decided that an exception should be allowed for a future sewage system proposed to replace an existing sewage system. In this case, the future system must result in a lower risk to the drinking water source, and the approval for the activity must contain provisions to ensure that the activity is not a significant drinking water threat. Since the SPC decided to allow this exception to the future prohibition policy, it was also decided that the monitoring policy would require additional details beyond those typically reported. In particular, the SPC wanted the MOE to report on how the activity would result in a lower level of risk than the existing activity, and whether any orders have been issued as a result of an inspection.

A land use planning provision was added to this policy following pre-consultation to support the prohibition. The SPC felt that prohibiting future sewage activities would not be a tremendous hardship to municipalities given that there were allowances for exceptions. Municipalities would also have few costs affiliated with implementation since denying approval to applications submitted is an administrative exercise.

The land use planning provision further evolved to specify that future occurrences of the activity are prohibited unless the conditions outlined in the general transition policy [G-1(3)] are met. The approval authority under the *Planning Act* is required to report annually on how this policy is being achieved.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where a sewage works as defined in section 1 of the <i>Ontario Water Resources Act</i> that requires an Environmental Compliance Approval would be a significant drinking water threat:	Ministry of the Environment	Not issue any new Environmental Compliance Approval for the activity.	Immediate

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

#### 1) Consolidation of Policies

This policy and Policy S-9 both refer to prohibition of future sewage threats through non-issuance of Environmental Compliance Approvals.

##### Response

*Policy S-3 and S-9 were consolidated to capture all sewage activities that require Environmental Compliance Approvals except those related to sanitary sewers and the related pipes, which are managed separately in Policies S-6 & S-7.*

#### 2) Policy Wording

The MOE suggested that the policy text should prohibit the *activity* rather than prohibit by not issuing Environmental Compliance Approvals.

##### Response

*The policy text was revised to prohibit the activity rather than the issuance of an Environmental Compliance Approval.*



### 3) Opposition to Policy

A comment received suggested that rather than preventing the issuance of Environmental Compliance Approvals, enhanced treatments standards should be required for future sewage works that would be significant threats.

#### Response

*Enhanced treatment standards could only apply indirectly to some of the threat subcategories for sewage (e.g., sewage treatment plant bypasses would not benefit from enhanced treatment). Further, as is the case with septic systems and sewage collection systems, it is difficult to identify a specific treatment standard that would satisfy the requirements of the Clean Water Act, 2006 while allowing the activity to continue. Therefore, the SPC decided not to revise the policy to address this comment.*

### 4) Restrictions on Development

Preventing the issuance of future Environmental Compliance Approvals for sewage would severely restrict development in some areas.

#### Response

*The policy as circulated for pre-consultation was not intended to prohibit future sewage collection systems (i.e., a specific policy was developed to refer to future sewage collection systems). The policy was revised to clarify that sewage collection systems are not included in the prohibition. Further, the SPC did not feel that it was appropriate to allow future sewage threats in areas where they are significant (acknowledging the exception for replacing existing sewage threats where the future threat would result in a lower risk to the drinking water source).*

### 5) Complementary Land Use Policy

It was commented that the policy should include a complementary land use policy to prohibit the approval of land uses that would require the prohibited sewage activities.

#### Response

*A land use planning provision was added to the policy text to support the prohibition.*

### 6) Expansions to Existing Systems

It was commented that expansions to existing facilities should be allowed in the future.

#### Response

The policy did not intend to allow for the creation of new significant threats (i.e., where an expanded facility would bring a facility above the design discharge volume that would make it a significant threat). Thus, with the current policy wording, any expansion that would require a new Environmental Compliance Approval would be subject to the prohibition. The SPC addressed expansions in a General policy included in the Trent and Ganaraska Source Protection Plans.

### 7) Ministry of Municipal Affairs and Housing

The Regional Municipality of Durham is currently undertaking a Municipal Class Environmental Assessment to plan for additional wastewater treatment capacity to service the Port Perry Urban area. One of the objectives of the study is to evaluate the feasibility of providing a local septage receiving station from private septic

systems in conjunction with additional treatment capacity. The preferred approach is to provide additional treatment capacity on the existing Nonquon River Water Pollution Control Plant site by either enhancing the existing treatment process or by constructing a new plant.

Response

*The existing Nonquon River Water Pollution Control Plant is located outside of the area where sewage systems would have been significant drinking water threats for the Port Perry wellhead protection area.*

**8) Reporting**

The municipality should be copied on the reporting to the source protection authority.

Response

*The municipality was added as an additional recipient of the reporting to the source protection authority.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
There should be an opportunity to issue a new Environmental Compliance Approval, particularly if it would decrease an existing threat (i.e., Several individual septic systems existing – changed to one communal system).	Township of Asphodel – Norwood

Response

*The feedback obtained during formal consultation corroborated the SPC’s position that where the proposed activity is intended to replace an existing activity or activities and would result in a lower risk to the drinking water source, it is permitted. Therefore, in the scenario proposed by the Township of Asphodel-Norwood, a communal system could be created to replace several existing septic systems.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

**1) Interpretation of “risk”**

The use of the term “lower the risk” can be interpreted in a number of ways, and given how risk is categorised in the Act, it could mean that policy S-3(1) would never apply. To avoid confusion over the term “lower the risk”, it would be more appropriate to say “would be more protective of drinking water”.

Response

*The wording change proposed is consistent with wording of the Clean Water Act, Section 39-4; therefore, the SPC agreed to accept the proposed wording change and revise the policy.*

**2) Monitoring Policies**

Policy S-3(3) as written specifies actions for the Ministry of the Environment to report on various prescribed instrument details. This policy could be combined with the other monitoring policy S-3(4) and presented as a single monitoring policy.

**Response**

*The policy was originally a Specify Actions policy with no legally binding effect; however, it requested information that was similar to reporting recommendations under monitoring policies. The policy was revised as suggested to create a legally binding monitoring policy that can be reported with other requested information.*

**5.2.4 POLICY S-4: CONNECTION OF EXISTING ON-SITE SEWAGE SYSTEMS TO MUNICIPAL COLLECTION SYSTEMS**

**RATIONALE**

It was felt by the SPC that existing on-site sewage systems that are significant drinking water threats should be connected to municipal collection systems where servicing is available. It was acknowledged that sewage mains are also significant drinking water threats. The SPC agreed, however, that because such sewage systems are centrally managed, that the overall degree of risk to source water would be lower if existing systems were to connect to a municipal sewage collection system.

The SPC acknowledged that it would not be feasible to connect all properties to municipal sewage systems due to physical constraints or cost. For this reason, the policy was worded to require a feasibility assessment.

Comments received through pre-consultation suggested that the SPC require connection if a septic system fails an inspection. The SPC decided that this approach was reactive, as opposed to proactive, and therefore should be included in two new provisions to this policy. The first additional provision requires the owner of the system to fix the problem identified, while the second requires the RMO to follow up with the landowner to confirm that the maintenance had been completed. The SPC determined that although there might be costs required to be borne by the landowner; these costs would be associated with routine homeowner maintenance.

**DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION**

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where a sewage system as defined in section 1 of O. Reg. 350/06 (Building Code) made under the <i>Building Code Act</i> , 1992 is a significant drinking water threat:	Municipality	Require that the affected properties connect to a municipal sewage collection system where feasible.	Within one year

**PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS**

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Feasibility criteria**

It was suggested that the criteria by which the municipality is to determine feasibility to require that a system be connected should be specified in the policy.

**Response**

*The text “where feasible” as written in the pre-consultation policy was expanded to refer to “where connection is feasible given financial and technical constraints”.*

**2) Failing System**

It was commented that where a septic system is found to be failing, but connection to a municipal system is not feasible, the system should be required to be repaired, replaced, or upgraded.

**Response**

The following additional clause was added to the policy: “Where connection to a municipal sewage collection system is not feasible and a maintenance inspection shows that there are problems with the system, address the problem, as directed by the Building Code inspector”. The RMO would be responsible for follow up with the landowner regarding any maintenance inspection that showed problems with the system.

**3) Connection costs**

There may be a high cost to the landowner.

**Response**

*It was acknowledged that requiring connection to a municipal collection system would result in a cost to the landowner. It was felt by the SPC that where servicing was available, that septic systems that are significant drinking water threats should be connected. Further, given that the requirement is subject to a feasibility assessment, costs would have been considered in the formulation of all decisions.*

**4) MMAH Comment**

A properly designed, installed, and well-maintained sewage system does not present a threat to health and safety.

**Response**

*It was acknowledged by the SPC that a properly functioning system does not present a threat to drinking water. However, given that the risk assessment carried out in the Trent and Ganaraska Assessment Reports indicated that septic systems are significant drinking water threats in some areas, it would be reasonable and prudent to require that septic systems connect to municipal collection systems where feasible.*

**5) MMAH Comment**

The Durham Regional Official Plan does not permit the extension of municipal water and sewer services into rural areas.

**Response**

*Given that the policy requires that systems connect to municipal collection systems, it was acknowledged by the SPC that in areas where the extension of services into rural areas was not permitted, that this policy would not apply (i.e., there would be no municipal collection systems to connect to).*

**6) MMAH Comment**

Parts of the vulnerable areas for Port Perry, Orono, Greenbank, and Blackstock are subject to the requirements of the Greenbelt Plan, which does not permit partial servicing unless such servicing is necessary to address failed individual on-site sewage systems. In cases where water servicing is not available, connection to a municipal sewage system would not conform to that requirement. It is recommended that the policy be made to apply only for failed septic systems.

**Response**

The SPC felt that connection shouldn't be dependent on whether the system is failing. Waiting for a failing system would be reactive, and not proactive. Therefore, the SPC chose not to accept the suggestion submitted by MMAH. It was also acknowledged that the requirements of the source protection plan will supersede the requirements of the Greenbelt Plan.

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
Requirement to comply with OBC orders (former clause S-4(2)) <ul style="list-style-type: none"> <li>- Policies cannot identify the “person or body undertaking the activity” as an implementing body</li> <li>- Landowners are already required to comply with the orders of an inspector under the <i>Building Code Act</i>.</li> </ul>	Ministry of the Environment

Response

*In the policy text published in the Draft Proposed Trent and Ganaraska Source Protection Plans, clause S-4(2) and its related monitoring policy have been removed as the policy text referred to “persons or bodies undertaking the activity”.*

*A number of other revisions were made to this policy as a result of discussions with the Planners Working Group.*

- *The land use planning clause [S-4(1)] was changed to a specify actions policy that requires municipalities to establish bylaws to achieve the objectives of the former land use planning policy (e.g., require that existing septic systems are connected where feasible).*
- *A new monitoring clause was added [S-4(2)] requiring that the municipality report to the SPA regarding the establishment of the bylaw required by [S-4(1)].*
- *A new land use planning clause was added to require planning approval authorities to require policies to support the objectives of the bylaw required by [S-4(1)].*

**MINISTRY OF THE ENVIRONMENT REVIEW**

1) **Land use planning for existing septic systems**

The policy requiring existing septic systems to connect to a municipal sewage collection system (policy S-4(1)) would be implemented through local municipal bylaws under the authority of the Municipal Act. Since the policy addresses existing systems, it is not appropriate for these systems to be addressed through land use planning. Policy S-4(3) is not necessary and should be deleted.

Response

*Policy S-4 addresses existing sewage systems through a bylaw, and a land use planning policy is recommended to support the creation of this bylaw. The purpose of the land use planning policy is to encourage future municipal infrastructure expansions to consider vulnerable areas. If the municipal*

*collection services do reach vulnerable areas in the future, then the practicality of connecting these residences to the municipal services becomes feasible. The policy will remain in the plan.*

### 5.2.5 POLICY S-5: REQUIREMENTS FOR FUTURE ON-SITE SEWAGE SYSTEMS

#### RATIONALE

It was felt that the outright prohibition of future on-site sewage systems may restrict development in some communities. It was originally proposed that any new on-site sewage systems should require tertiary treatment. However, in consideration of the circumstances that make on-site sewage systems a significant drinking water threat (*i.e.* systems that result in the presence of pathogens, acetone, chloride, and nitrate, sodium, etc.) it was agreed by the SPC that any future on-site sewage systems permitted on properties where they would be significant drinking water threats should be constructed to a treatment standard that ensures the activity is not a significant drinking water threat.

#### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where a sewage system as defined in section 1 of O. Reg. 350/06 (Building Code) made under the <i>Building Code Act, 1992</i> would be a significant drinking water threat:	Municipality	Require the following: a. Where connection to a municipal sewage collection system is feasible, new lots and construction on existing lots of record will be serviced by a municipal sewage collection system; or b. Where connection to a municipal sewage collection system is not feasible, new lots and construction on existing lots of record will be serviced by a sewage system constructed to standards that will ensure that the activity is not a significant drinking water threat.	Within one year

#### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

##### 1) Treatment Standard

The policy should clarify what treatment standard will be required for future septic systems where connection to a municipal system is not feasible.

##### Response

*The required treatment standard is given in the policy text by reference to the definition of what makes the activity is a significant threat. The circumstances that would make the activity a significant threat reflect the potential for on-site systems to result in the presence of contaminants in groundwater or surface water.*

*The SPC decided not to include more detail in the policy regarding acceptable standards for future septic systems.*

## 2) Reporting

For some municipalities, approvals for on-site systems are delegated to health units. It was suggested that in these cases the policy should require the health unit to report to the municipality regarding the approval of septic systems in the area where they are significant threats.

### Response

*The policy was amended to contain the following new text:*

*“Where approval for septic systems has been delegated, the body to which the approval has been delegated will report annually to the municipality regarding any approvals of septic systems in areas where they are significant threats.”*

## 3) Feasibility criteria

It was suggested that the criteria by which the municipality is to determine feasibility to require that a system be connected should be specified in the policy.

### Response

*The text “where feasible” as given in the pre-consultation policy was expanded to refer to “where connection is feasible given financial and technical constraints”.*

## 4) Feasibility Assessment for Connection

The requirement for new lots and existing lots of record to connect to a municipal sewage collection system should not be subject to a feasibility assessment (*i.e.*, refer to where connection is “available”).

### Response

*The SPC decided to leave the text referring to “feasibility” unchanged. Members felt that consideration for feasibility should be left up to the municipality.*

## 5) Delegation of Septic Approval

It was suggested by several municipalities that if delegating the approval of septic systems to Health Units, the Health Unit should be identified as the implementing body for this policy.

### Response

*The intent of the policy was to use land use planning to require adherence to the septic treatment standards discussed in item 1 above. As written, the municipality would have had to amend their Official Plan and/or land use zoning bylaw to ensure that all future septic systems adhered to the treatment standards, and it would be the responsibility of the municipality to ensure that the health unit was made aware of the applicable restrictions.*

*Changing the implementing body to the health unit would have changed the legal effect of the policy to a “strategic action” policy (*i.e.*, it would have been a non-legally binding commitment for the health unit). Therefore, the SPC decided not to make any changes to the implementing body for this policy.*

## 6) Service Agreements

The policy should specify that where the approval authority for sewage systems has been delegated, that the municipality will ensure that the requirements of the policy are reflected in the service agreement with the approval authority.

### Response

The SPC felt that this decision should rest with the municipality; therefore, the policy was not changed to specify the contents of the service agreement with the approval authority.

## 7) Cost

Clarification was sought regarding the responsibility for the design and cost for septic systems that adhere to the treatment standards required by clause (b). Further, clarification was sought regarding the expected cost of a system that satisfies the required treatment standards.

### Response

*The responsibility for the design and cost for septic systems that adhere to the treatment standards required by clause S-5(1)b would rest with the landowner. The municipality or Principle Authority would be required to confirm that the system meets the criteria of the policy when granting the appropriate permits. Costs for such a system cannot be estimated since the policy does not identify a specific treatment standard. It can be expected that the costs will vary based on the features of the system and the contractor chosen for installation.*

## 8) MMAH Comment

Parts of the vulnerable areas for Port Perry, Orono, Greenbank, and Blackstock are subject to the requirements of the Greenbelt Plan, which only permits connection to municipal sewage systems in the case of health issues or to service existing uses (i.e., not for new development and lot creation).

### Response

*Given that the policy requires that systems connect to municipal collection systems, it was acknowledged by the Committee that in areas where the extension of services are not permitted, that this policy would not apply (i.e., there would be no municipal collection systems to connect to).*

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received through formal consultation. However, a number of revisions were made to this policy as a result of discussions with the Planners Working Group.*

- *The land use planning clause [S-5(1)] was changed to a specify actions policy that requires municipalities to establish bylaws under the Municipal Act to achieve the objectives of the former land use planning policy (i.e., require that existing septic systems are connected where feasible).*
- *A new monitoring clause was added [S-5(2)] requiring that the municipality report to the SPA regarding the establishment of the bylaw required by [S-5(1)].*
- *A new land use planning clause was added to require planning approval authorities to require policies to support the objectives of the bylaw required by [S-5(1)].*



## MINISTRY OF THE ENVIRONMENT REVIEW

### 1) Bylaw for future septic systems

Concerns from TCC Source Protection staff were discussed regarding the implementation of a bylaw that specifies construction standards. The proposed revision would remove the requirement for municipalities to establish the bylaw, but would require official plans to set out the servicing hierarchy for new development (connection to municipal sewage first, septic systems second). Official plans would also reinforce the requirement for all development to meet the standards of the Building Code to ensure that the activity is not a significant drinking water threat. If this policy is modified as discussed, policies S-5(3) and S-5(4) would no longer be necessary and should be deleted.

#### Response

*Policy S-5 addresses future sewage systems and the SPC felt it was appropriate to use land use planning to achieve the desired hierarchy for new developments. The requirement for the municipality to establish a bylaw was removed.*

## 5.2.6 POLICY S-6: EXISTING SEWAGE COLLECTION INFRASTRUCTURE AND DISINFECTION FAILURE

### RATIONALE

It was felt by the SPC that sewage infrastructure is already well regulated through the existing approvals process (*i.e.*, Environmental Compliance Approvals) and it would not be feasible to remove existing infrastructure. It was agreed that existing occurrences of this threat could be adequately managed by ensuring that sewage collection infrastructure in vulnerable areas is given priority in asset management activities and that sufficient emergency response measures are in place to respond to a system failure.

In 2013, new significant drinking water threats were identified for Lake Ontario intakes through modeling of an extreme event: disinfection failure at wastewater treatment plants. It was determined that the existing policy S-6 could be applied to these new threats and the applicable activities was expanded to include these.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where a wastewater collection facility that collects or transmits sewage containing human waste, excluding any part of the facility that is a sewage storage tank or works used to carry out a designed bypass is a significant drinking water threat:	Municipality	1	Ensure that there is an emergency response plan in place that is suitable to respond to a system failure that could result in the introduction of pathogens into surface water.	Within two years
		2	Report to the source protection authority on activities related to the emergency response plan. Reporting can include, but is not limited to: a. Updates or amendments to the plan b. Summary of training undertaken in support of the plan c. Summary of incidents that required the use of the emergency response plan	Annually
				Annually
				Annually
3	Prioritize any maintenance and asset management activities to ensure that facilities located in vulnerable areas are given adequate priority.	Within one year		

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

### 1) Editorial

It was suggested that the reference to the threat in the policy text be simplified. A proposed alternate wording was “where a sewage system that transmit sewage to a sewage treatment plant”.

#### Response

The reference to the threat used in the policy circulated for pre-consultation was based on the text of the threat circumstances that apply to the activity. The exceptions for sewage storage tanks and designed bypasses were present because separate threat circumstances exist for these activities. However, given that Policy S-3 (and formerly Policy S-9) prohibits sewage storage tanks and sewage treatment plant (STP) bypasses, it is possible to remove these references without changing the effect of the policy. The reference to the threat was simplified by omitting the references to sewage storage tanks and STP bypasses.

### 2) Feasibility and Cost

Include the qualifier “where feasible and within approved budgets” for the requirement to prioritize maintenance and asset management activities in areas where sewage collection is a significant threat.

#### Response

*The SPC decided not to add this text to the policy. It is understood that there will be costs of various magnitudes affiliated with several of the policies in both source protection plans.*

### 3) Cost

A financial assistance program to assist in the development of appropriate emergency response measures is recommended. The program should provide financial support for the cost to stockpile replacement parts for initial emergency response.

#### Response

*The SPC decided to not develop a policy requiring the establishment of a financial assistance program to assist in the development of emergency response measures. It was felt that protection of the municipal water supply from sewer emergencies was the responsibility of the municipality.*

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

## CONSULTATION ON NEW THREATS – LAKE ONTARIO

The new event based modeling lead to the identification of new existing significant drinking water threats: disinfection failure at wastewater treatment plants. As such, the applicable activities for Policy S-6 were revised to include these new threats and would apply to these new properties and landowners. Consultation on this policy was conducted with the municipalities.

**Regional Municipality of Durham:** S-6(1) and (2) should be incorporated into S-2; the emergency response plan should be a requirement of the prescribed instrument. The policy should be specific in stating that it applies to a disinfection failure.

*Contingency plans are a requirement of prescribed instruments; however, the SPC felt that the municipal emergency response plans should also be updated to include provisions specific to these threats. In particular, it is important to ensure effective communication between wastewater treatment plant operators and water treatment plant operators.*

## 5.2.7 POLICY S-7: FUTURE SEWAGE COLLECTION INFRASTRUCTURE

### RATIONALE

It was agreed by the SPC that it would not be appropriate to prevent the construction of future sewage collection infrastructure. It was felt that this would be an unnecessary restriction on future development and that the risks associated with a single centrally managed municipal sewage collection system could be more efficiently managed than a large number of individual on-site systems. Further, policies S-4 and S-5 seek to have private on-site sewage systems connected to a municipal sewage collection system (*i.e.*, these systems would need a collection system to connect to). However, the SPC felt that where these systems are constructed in the future they should be constructed to standards that reflect the circumstances that would make the activity a significant drinking water threat.

The SPC considered the impacts on municipalities due to this policy. The municipality would incur additional costs to construct these facilities to higher standards. Maintenance of sewage infrastructure is typically an expense which municipalities account for in their sewage system budgets.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where a wastewater collection facility that collects or transmits sewage containing human waste, excluding any part of the facility that is a sewage storage tank or works used to carry out a designed bypass would be a significant drinking water:	Municipality	Require that any future sewage infrastructure complies with construction standards that will ensure that the activity is not a significant drinking water threat.	Within one year

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

#### 1) Prescribed Instrument Clause to Support Land Use Planning Provision

##### Response

*Based on discussion regarding other Prescribed Instrument policies for sewage systems, the SPC decided to include an additional clause to ensure that where a future sewage system is established that the approval for that system includes provisions to ensure that the activity is not a significant drinking water threat.*

#### 2) Construction Standards

The policy should clarify what construction standards will apply for future sewage collection systems.

Response

- a. *The construction standards that are required by the policy text were given by reference to the definition of what makes the activity a significant threat. The circumstances that would have made the activity a significant threat reflected the potential for the discharge from a sewage collection system to result in the presence of contaminants in groundwater or surface water.*
- b. *Specifically, sewage collection systems are considered significant threats where the design capacity of the system is greater than 10,000L/day and where the discharge from the system would result in the presence of particular contaminants in groundwater or surface water.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
"Construction Standards" reference is too vague and does not reflect the standards required.	Township of Havelock – Belmont - Methuen

Response

*The feedback obtained through formal consultation did not impact the content of the policy. The SPC intentionally left the policy vague while taking into account the sewage circumstances that would have made the activity a significant threat. It is expected that since an Environmental Compliance Approval is required for this activity, the provisions of this instrument will dictate the construction standards necessary to ensure that the activity does not become a significant drinking water threat. Therefore, the policy has not been changed.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

1) **Construction standards**

Policy S-7(1) requires municipal compliance with construction standards using land use planning to ensure the activity is not a significant threat. However, land use planning cannot be used as a means to stipulate or require construction standards of wastewater collection facilities. Also, construction standards are already considered and incorporated through prescribed instruments, which is the tool used in Policy S-7(2). Therefore, Policy S-7(1) should be removed.

Otonabee-Peterborough SPA: encourages the SPC to consider having municipalities create this flagging process through internal processes, rather than through a SPP policy.

Response

*While the Planning Act does not generally provide the means to dictate construction standards, details of sewer systems and other municipal services are often included in subdivision/development agreements. By including this policy, the application will get “flagged” as requiring a review under source protection; if only a prescribed instrument policy is used the applicant may not learn of additional source protection requirements until late in the development process (Environment Compliance Approvals are often requested near the end of the process). The SPC decided that policy S-7(1) would remain in the plan.*

## 5.2.8 POLICY S-8: STORMWATER MANAGEMENT FACILITIES – STORMWATER RETENTION POND

### RATIONALE

Stormwater management facilities are managed by an existing Environmental Compliance Approvals process under the *Ontario Water Resources Act*. Only one such facility has been identified in the TCC SPR as a significant drinking water threat. Requiring the issuer to review the existing Environmental Compliance Approval will serve to ensure that this activity is a managed drinking water threat. Further, it was felt that given a potential lack of enforcement of the requirements of the Approval that the municipality in which the existing system is located should develop an inspection and maintenance program to ensure that the system is being adequately maintained and is operating properly.

The SPC considered the impacts on municipalities due to this policy. The municipality would incur the cost of the stormwater facility maintenance program although periodic monitoring, maintenance, and upgrades of stormwater facilities already occur in most municipalities. The cost of remedial work would depend on various factors including the age of facility.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the discharge of untreated stormwater from a stormwater management facility as defined in section 1 of O. Reg. 525/98 (Approval Exemptions) made under the <i>Ontario Water Resources Act</i> is a significant drinking water threat:	Ministry of the Environment	1 Review the Environmental Compliance Approval for the stormwater management facility to determine if it is adequate to ensure that the activity is not a significant drinking water threat. If the Environmental Compliance Approval is deemed to be inadequate for this purpose, it will be amended to include additional conditions that will ensure that the activity ceases to be a significant drinking water threat.	Within one year
		2 Report to the SPC on compliance with the conditions of the Environmental Compliance Approval for the stormwater management facility.	Annually
	Municipality	3 Develop and implement a stormwater management facility maintenance program. The program will require regular inspection of stormwater management facilities to ensure that they are being sufficiently maintained such that the facility is not a significant drinking water threat.	Within two years

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

#### 1) Monitoring

*For consistency with changes to other Prescribed Instrument policies, the following changes were made to the monitoring requirements for this policy:*

- *The existing monitoring policy was separated into two clauses: one that requires reporting on how the review of the Prescribed Instrument was satisfied and one to require reporting on any orders issued as a result of an inspection.*
- *A clause was added to require reporting to the SPA regarding the activities undertaken as part of the maintenance program.*

## 2) Cost

Comments reflect concern regarding anticipated costs that may be associated with new conditions added to existing Environmental Compliance Approvals for stormwater management facilities.

### Response

*It is acknowledged that the MOE may add or modify conditions to existing Environmental Compliance Approvals where they deem this action necessary to adequately manage sewage systems that were significant drinking water threats. It is also acknowledged that some of those changes may have financial implications for the holders of these approvals, including municipalities or private landowners. New or updated conditions will be at the discretion of the MOE.*

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### 5.2.9 POLICY S-9: EXISTING SEWAGE SYSTEMS THAT DO NOT REQUIRE ECA OR BUILDING CODE APPROVALS

#### RATIONALE

Under section 23 of the *Clean Water Act*, 2006, Part IV tools cannot be used for sewage system threats where they require approvals under the *Ontario Water Resources Act* or where the Ontario Building Code applies to the system. As the SPC continued to develop policies, circumstances were identified where sewage systems could be considered significant threats that did not meet these criteria. Since these specific cases are not addressed by the policies in the Trent and Ganaraska Source Protection Plans that rely on inspections under the Ontario Building Code or the review of Prescribed Instruments, the SPC felt that the use of risk management plans would be the best approach to manage these unique systems. The risk management plan would be written to incorporate best management practices, and given that it would be developed with the RMO, there would be consideration for the local perspective in developing the RMP.

This policy was developed following pre-consultation; therefore, no comments were received from implementing bodies.

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### 5.2.10 POLICY S-10: FUTURE SEWAGE SYSTEMS THAT DO NOT REQUIRE ECA OR BUILDING CODE APPROVALS

#### **RATIONALE**

As identified in Section 5.2.9, there are some sewage systems that do not require an approval under the *Ontario Water Resources Act* and to which the *Ontario Building Code Act* does not apply. Since these specific cases are not addressed by policies in the Trent and Ganaraska Source Protection Plans that rely on inspections under the Ontario Building Code or the review of a Prescribed Instrument, the SPC felt that the use of a policy specific to these cases should be developed to fill this gap. Given that no such systems have been identified in the TCC SPR, the SPC felt that it would be appropriate to prohibit them in the future under section 57 of the *Clean Water Act, 2006*. Since this policy was written to address future occurrences of this unique situation, the SPC felt that it would not create hardship on the business community to prohibit this activity in the vulnerable areas where it would be a significant threat. It is likely that any costs affiliated with implementing this prohibition would be administrative, and rare.

This policy was developed following pre-consultation; therefore, no comments were received from implementing bodies.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

### 5.3 AGRICULTURE

Policy concepts were proposed to address existing and future agricultural threats. Eventually only a portion of these concepts evolved into policies. Concepts not pursued by the SPC included:

- Creation of bylaws to regulate and control the application/storage/handling of agricultural source material;
- Encourage adoption of municipal fertilizer use bylaws to regulate and control the application, handling, and storage of significant quantities of fertilizer;
- Establish programs to encourage the improvement and maintenance of on-farm subsurface tile drainage systems;
- Develop emergency response plan programs; and
- Establish annual workshops on grazing/pasturing best management practices.

In discussions with SPC members, it was apparent that a number of existing initiatives were in place to manage agricultural activities. For this reason, the SPC felt it was unnecessary to pursue actions requiring any duplication of effort or additional financial resources.

As the SPC reviewed various policy approaches to address threats, the following main considerations were taken into account:

- The *Nutrient Management Act, 2002* and Nutrient Management Plans and Strategies (NMP/S) set out province-wide standards regulating the safe application and storage of Agricultural Source Material (ASM).
- Ontario Regulation 267/03 sets out detailed criteria for the storage and application of nutrients to agricultural cropland, and is the principal regulation related to management of runoff from lands used as farm-animal pastures, confinement areas, and yards.
- The *Nutrient Management Act, 2002* specifies that there shall not be application of nutrients within 100 metres of a municipal well (WHPA-A).
- The *Nutrient Management Act, 2002* and Ontario Regulation 267/03 which require Nutrient Management Plans and Strategies apply to the following circumstances:
  - A farm with livestock units greater or equal to 300 nutrient units;
  - A farm with greater than 5 nutrient units where a building permit is required for the construction of a livestock barn and / or manure storage facility;
  - A farm with greater than 5 nutrient units where an earthen storage is being constructed; and
  - Phased-in operations with land located within 100 m of a municipal well.
- Smaller farms (*i.e.*, less than 5 nutrient units) are not captured under the *Nutrient Management Act, 2002* and Ontario Regulation 267/03.
- Pesticides are heavily regulated at the federal and provincial levels. Those who store or apply pesticides for a business are required to receive appropriate training.
- Manufacturing, processing, and wholesale activities of pesticides are generally permitted on lands that are zoned for industrial uses. Storage of pesticides for retail sale or for use in extermination could exist on many properties since this activity is generally associated with agricultural, recreational, institutional, commercial, and industrial land uses, and public works (use along side roads and utility corridors).
- Various forms of legislation, guidelines and protocols already exist for pesticide manufacturing and use, such as:
  - Agrichemical Warehousing Standards Association (AWSA) requirements are comprehensive and effectively address all aspects of safely siting a new storage.



- Golf courses and certain public works must become accredited for Integrated Pest Management and report annually to the public about how they have minimized their pesticide use.
- Pesticide manufacturers, operators, and vendors must be licensed and report their pesticide storage to local fire departments.
- Farmers and licensed exterminators must also have completed the Pesticide Safety Course which addresses many aspects of the threat.

At its March 2011 meeting, the TCC SPC made a number of decisions pertaining to the agricultural threats. The first decision was that where RMPs were used to address an agricultural threat, the RMP would only apply to the portion of property where the significant threat occurs, and not the entire property. The SPC agreed that where only a small portion of the property falls within a vulnerable area and results in a significant threat, it would be unnecessary to complete a plan of action for the entire property. This decision was also extended to all activities that require risk management plans (see Policy G-8). At the same meeting, the SPC discussed whether the RMP should be similar in content to a NMP/NMS. These Prescribed Instruments are very detailed, and the SPC felt that the RMO should have the flexibility to determine the content of the RMP for these threats. Therefore, the SPC did not specify required RMP content in the policy text. Since this was one of the first times the SPC discussed policies and their impact, it was recognized that there would be costs not only to the landowner to prepare and implement a RMP, but also to the municipality to employ the RMO.

Throughout the policy development exercise, the SPC was informed of the discussions taking place between the province and members of the agriculture sector with regard to the Proposed Farm Water Protection Plan (FWPP). The essence of the FWPP is that it would be a tool used by the RMO in the preparation of a RMP. At the time of formal consultation, the FWPP had not yet been released to SPCs.

As policies began to evolve, it became evident that grouping the threats achieved the same result while avoiding duplication. Following the June 2011 meeting, policies for agricultural threats were grouped together. The policies in the Trent and Ganaraska Source Protection Plans are grouped as follows:

A-1 is for all agricultural threats that do not require prescribed instruments;

A-2 is for all agricultural threats that require prescribed instruments;

A-3 is specifically for existing pesticides applications;

A-4 is for all future agricultural threats; and

A-5 is specifically for all existing pesticide storages certified by the AWSA.

### 5.3.1 POLICY A-1: EXISTING AGRICULTURAL ACTIVITIES NOT SUBJECT TO PRESCRIBED INSTRUMENTS

#### **RATIONALE**

The SPC realized that there are situations where agricultural activities identified as significant drinking water threats can take place without having a Nutrient Management Plan/Strategy. The SPC decided that a RMP would be used to catch these exceptions and would achieve the same goals as the Prescribed Instruments. The RMP would take into account the good practices already being done by farmers on their properties, and would only address any gaps (if any exist).

At the beginning of the policy development process, the SPC decided that RMP policies should not prescribe the specific content of the RMPs, but that the RMO should have the flexibility to consider local circumstances. Through pre-consultation with implementing municipalities, particularly those with Agricultural Advisory Committees, the SPC was provided with the feedback that RMPs should be based on the same principles as a Nutrient Management Plan/Strategy. Therefore, the Committee decided to include a provision in this policy that RMPs for agricultural activities should be developed in consideration of the requirements of any applicable Prescribed Instruments.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
<p>Where any of the following activities is a significant drinking water threat:</p> <ul style="list-style-type: none"> <li>a. The handling and storage of commercial fertilizer;</li> <li>b. The application of commercial fertilizer to land;</li> <li>c. The application of agricultural source material to land;</li> <li>d. The storage of agricultural source material;</li> <li>e. The use of land as livestock grazing or pasturing land; and</li> <li>f. an outdoor confinement area, or a farm animal yard;</li> </ul> <p>where the activity does not require a Nutrient Management Plan or Strategy under the <i>Nutrient Management Act, 2002</i>; and</p> <ul style="list-style-type: none"> <li>g. The application of pesticide to land, where the activity does not require a permit under the <i>Pesticides Act</i>.</li> </ul>	<p>Risk Management Official</p>	<p>Negotiate and establish a risk management plan as defined in section 58 of the <i>Clean Water Act, 2006</i> with the person engaging in the activity.</p> <p>Where the RMP is prepared for the application or storage of commercial fertilizer, the RMP will include emergency response measures to address a spill that may result in the presence of nitrogen or phosphorus in groundwater or surface water.</p>	<p>Per G-3</p>

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

1) **Consideration of Relevant *Nutrient Management Act* Instruments**

It was commented that risk management plans for agricultural activities should mirror the requirements of the Prescribed Instruments under the *Nutrient Management Act* (i.e., NMP/S).

Response

*A clause was added to require that risk management plans be developed in consideration of the requirements of any relevant prescribed instrument, as appropriate.*

2) **Applicability of *Nutrient Management Act***

It was commented that the *Nutrient Management Act* does not have standards for managing the handling and storage of fertilizer and the use of land for livestock grazing and pasturing.

Response

*The policy was revised to remove activities which do not have Nutrient Management Act standards.*

3) **Risk Management Official Access to Nutrient Management Instruments**

It was commented that the Risk Management Official should be provided access to completed NMP/S for any farm of any size in the WHPA-A or WHPA-B.

Response

*A clause was added to the Prescribed Instrument policy to require that the landowner provide the Prescribed Instrument to the RMO.*

4) **Emergency Response Requirement**

The policy circulated for pre-consultation specified that RMPs developed to address the storage of commercial fertilizer must contain emergency response measures to address a spill. This was inconsistent with other *draft* policies that rely on this tool, which do not include any specific requirements for RMPs.

Response

*The specific requirement for emergency response planning has been removed from this policy and replaced with a list of general considerations for RMPs in the General RMP policy (Policy G-8).*

5) **Handling and Storage of Pesticides**

The handling and storage of pesticides was not included in this policy because policy A-5 specifically addresses the handling and storage of pesticides through AWSA certification. However, not all pesticide storage is within the mandate of this organization.

Response

*The policy has been amended to require risk management plans for handling and storage of pesticides to capture those facilities which are not within the mandate of the AWSA.*

6) **Expertise and Resources for RMP Review**

Many rural municipalities would not have the in-house expertise or resources to review RMPs for agricultural activities.

Response

*The SPC felt that where there was a lack of expertise, this could be resolved through the sharing of a RMO between municipalities.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

*Following comments received from the Ministry of the Environment, an additional clause was added to the policy: A-1(3). This clause requires that any pesticide storage within the mandate of the Agrichemical Warehousing Standards Association obtains certification from that organization, and that documentation of the certification is provided to the Risk Management Official.*

### 5.3.2 POLICY A-2 AND A-3: EXISTING AGRICULTURAL ACTIVITIES SUBJECT TO PRESCRIBED INSTRUMENTS

#### **RATIONALE**

Prior to pre-consultation, policy A-2 and A-3 were combined into one policy. In the Proposed Trent and Ganaraska Source Protection Plans, the SPC chose to separate the policies even though both make use of Prescribed Instruments (the *Nutrient Management Act* and the *Pesticide Act*).

#### **Policy A-2:**

The SPC discussed the effectiveness of existing Prescribed Instruments under the *Nutrient Management Act* and determined that they would be the best tool to address significant drinking water threats where these instruments are already required. The SPC decided that for all agricultural threat activities captured under the *Nutrient Management Act* and Regulation, the existing legislation was sufficient to manage risks to drinking water sources. This would avoid any regulatory duplication and increased costs to landowners.

The SPC decided that NMP/S would be reviewed for existing significant drinking water threats to ensure that they are adequate to manage the prescribed threat(s). The SPC felt that the Ontario Ministry of Agriculture, Food, and Rural Affairs (OMAFRA) would be most qualified to add any conditions necessary to manage the activity to ensure it ceases to be a significant threat under the *Clean Water Act* (via management). The SPC felt that since there are likely to be a number of applicable NMP/S across the source protection region, having all of these reviews completed within 3 years was reasonable.

Since RMOs will have a local understanding of the threats identified under the *Clean Water Act, 2006*, and will have interaction with the agricultural community, the SPC felt that having access to these instruments would be beneficial. Therefore, the policy requested that landowners with NMP/S submit these to the RMO within one year. Following formal consultation on the *Draft Proposed Trent and Ganaraska Source Protection Plans*, the SPC removed this provision in the policy.

Landowners with nutrient management plans are not required to submit these documents for review. To ensure that these documents are adequate to manage the drinking water threat, the SPC has written a provision into this policy requiring that the MOE inspect all properties with NMP/S within the source protection region for compliance. Guidance from the MOE suggested alternative wording for this provision; however, the SPC felt strongly that the recommended wording did not sufficiently capture the intent of the provision; therefore, the text was not changed.

#### **Policy A-3:**

The SPC felt that the application of pesticides would be best managed through an existing Prescribed Instrument. Since this instrument, a Pesticide Permit, is issued by the MOE, qualified staff will be required to determine whether the contents of this regulatory permit is adequate for ensuring that the threat is managed in a way that it ceases to be a significant threat. To ensure that the Source Protection Authority can report to the SPC on any amendments made or orders issued, the Ministry is required to provide these details annually. Since municipalities are not typically provided with copies of these permits when issued, the SPC has requested that the landowner forward the permit to the Risk Management Official.

## DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where any of the following activities is a significant drinking water threat: <ol style="list-style-type: none"> <li>The handling and storage of commercial fertilizer;</li> <li>The application of commercial fertilizer to land;</li> <li>The application of agricultural source material to land;</li> <li>The storage of agricultural source material; and</li> <li>The use of land as livestock grazing or pasturing land, an outdoor confinement area or a farm animal yard; where the activity requires a Nutrient Management Plan or Strategy under the <i>Nutrient Management Act, 2002</i>; and</li> <li>The application of pesticide to land, where the application requires a pesticide permit under the <i>Pesticides Act</i>.</li> </ol>	Issuer of the Prescribed Instrument	1 Review the Prescribed Instrument for the property to determine if it is adequate to ensure that the activity is not a significant drinking water threat. If the Prescribed Instrument is deemed to be inadequate for this purpose, it will be amended to include additional conditions that will ensure that the activity ceases to be a significant drinking water threat.	Within 1 year
		2 Report to the Source Protection Authority on the status of the review of the Environmental Compliance Approval and any orders issued as a result of an inspection during the reporting year.	Annually

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED &amp; SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

1) **Clarify the Implementing Body for the Policy**

This *draft* policy grouped all existing Prescribed Instruments related to agriculture into a single policy. This approach created ambiguity in the implementing body because all of the agricultural threats are regulated by the *Nutrient Management Act* except pesticides, which are regulated under the *Pesticides Act*.

*Response*

*To minimize confusion, the policy was separated into two separate policies: one for threats regulated under the Nutrient Management Act (A-2a), and one specifically for threats regulated by the Pesticides Act (A-2b).*

2) **Applicability of Nutrient Management Act**

OMAFRA commented that the NMA does not have standards for managing the handling and storage of fertilizer and the use of land for livestock grazing and pasturing.

Response

*Based on this clarification, these two activities have been removed from the list of applicable activities for this policy (note that they will still be subject to RMPs under policy A-1).*

**3) Recommendation to Use RMPs**

OMAFRA recommends the use of RMPs based on appropriate nutrient management practices to manage this threat.

Response

*After considerable deliberation, the SPC decided to continue to use the Nutrient Management Act to address these threats where a NMP/S is already in place. The policy was revised to require OMAFRA to review all NMP in the TCC SPR within three years of the source protection plans being approved.*

**4) Role of Risk Management Official**

Discussions with OMAFRA have suggested that, given that landowners are responsible for preparing NMP/S, they should not be the implementing body for the review of these instruments.

Response

The policy now requires that the MOE inspect properties with NMP and communicate results to the RMO. Properties inspections are required to be prioritized in one year and inspections completed within three years.

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
Ministry does not support A-2(4) which requires those phased in under the <i>Nutrient Management Act</i> to provide a NMP or NMS to the Risk Management Official (RMO) within 1 year. The RMO has no jurisdiction with prescribed instruments.	Ontario Ministry of Agriculture, Food, and Rural Affairs Ministry of the Environment
For producers who currently are not required to prepare a Nutrient Management Plan/Strategy under the <i>Nutrient Management Act</i> to now prepare one under the <i>Clean Water Act, 2006</i> is unrealistic.	Otonabee Region Conservation Authority / Otonabee-Peterborough Source Protection Authority
The role of compliance is with the Ministry of the Environment (MOE) and orders are issued by the MOE. OMAFRA is not prepared to carry out requirements of A-2 (3).	Ontario Ministry of Agriculture, Food, and Rural Affairs
Requiring landowners to provide <i>Nutrient Management Act</i> instruments and Pesticide Permits to the Risk Management Official could infringe on privacy.	Ministry of the Environment



**Response**

*The requirement to provide all Nutrient Management Act instruments and Pesticide Permits to the RMO has been removed. The reporting by the MOE on any orders issued as a result of an inspection will now be received by the source protection authority. All provisions related to compliance have been changed to the MOE.*

*This policy only applies to properties where there is an existing NMP/S or Pesticide Permit. The intent was never to require a landowner to prepare a Prescribed Instrument when it was not already a requirement under the Nutrient Management Act, hence the development of the risk management plan policy (A-1).*

**MINISTRY OF THE ENVIRONMENT REVIEW**

**1) Timelines to prioritize, review, and inspect**

Policy A-2(1) requires OMAFRA to review and amend existing Nutrient Management Plans (NMP) within three years, while Policy A-2(3) requires MOE to prioritize the inspection of properties having NMP within one year. Since the prioritization of inspections would be coordinated with the review of NMPs, the ministry recommends that the policy text in (3) be amended to harmonize with the timing in A-2(1).

Otonabee-Peterborough SPA: Supports revisions proposed by MOE to harmonize all timing to 3 years, including prioritization, NMP/S review, and inspections.

**Response**

*There are several timing considerations with regard to this policy:*

- *Time for a prioritization exercise to be completed*
- *Time for a review of NMP/S to be completed*
- *Time for the landowner to implement any changes necessary for the NMP/S*
- *Time for inspections to occur*

*The SPC reviewed the timelines and concluded that MOE and OMAFRA should work together to prioritize the properties being reviewed and inspected. The SPC hopes that the process will be harmonized and efficient. Inspections of properties should not occur until after OMAFRA has reviewed the NMP/S for that property. Inspections required by the policy must be “initiated” within 3 years, as inspections can often require months to complete. The policies were revised to address these timing requirements.*

**5.3.3 POLICY A-4: PROHIBITION OF FUTURE AGRICULTURAL ACTIVITIES**

**RATIONALE**

The SPC deliberated at length when discussing options related to the potential for future agricultural threats. There was considerable concern over the use of prohibition. Some members of the SPC felt that if a NMP/S or RMP could manage an existing threat, that perhaps these tools could be used to manage such activities in the future. Some SPC members felt that with regard to these threats, a consistent approach to addressing future agricultural threats across the province would be ideal.

There was obvious concern regarding the use of prohibition of future agricultural threats particularly for an already established operation. The SPC decided to release the *draft* policy with the prohibition approach and see whether any relevant feedback was obtained from municipalities and other implementing bodies. No negative feedback was



received from municipalities in the TCC SPR. OMAFRA did communicate in writing that a prohibition in the WHPA-A and IPZ-1 would be supported, but not within other zones of WHPAs or IPZs.

The SPC relied on the science of the Trent and Ganaraska Assessment Reports when discussing their policy approach for future agriculture related significant drinking water threat. The SPC felt justified in their decision to prohibit agricultural activities beyond the WHPA-A and IPZ-1, since the assessment report showed that SDWT could occur outside of these areas. A prohibition was, therefore, the tool of choice to address future agricultural threats where they would be significant prior to pre-consultation.

When discussing pre-consultation feedback and whether to change the desired approach, the scenario was presented where an agricultural operation may change from one activity to another. With a direct prohibition, this would not be permitted. The SPC referred back to their mandate to protect drinking water sources. They were not interested in permitting new significant threats to TCC SPR drinking water systems. Consistently, when discussing prohibition, the SPC preferred the stronger tool available – section 57, as opposed to relying on land use planning.

In an effort to avoid restrictions on property owners with existing agricultural activities, the SPC chose to make an exception to the prohibition policy for areas outside of the WHPA-A and IPZ-1. This exception applied only to those agricultural properties where existing significant threats were already occurring. The exception allowed the RMO to determine whether a new agricultural activity would result in a lower risk to the drinking water source than the existing activity. If this were the case, the prohibition would not apply and the landowner would be permitted to proceed with the new activity.

The SPC reviewed the feedback received following formal consultation, and chose to change the policy approach for future agricultural drinking water threats. Consistent with the majority of principles under the *Nutrient Management Act, 2002* and Ontario Regulation 267/03, all agricultural activities will be prohibited in the WHPA-A and IPZ-1 and managed beyond these areas.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
<p>Where any of the following activities is a significant drinking water threat:</p> <ul style="list-style-type: none"> <li>a. The application of agricultural source material to land;</li> <li>b. The storage of agricultural source material;</li> <li>c. The handling and storage of commercial fertilizer;</li> <li>d. The application of commercial fertilizer to land;</li> <li>e. The application of pesticide to land;</li> <li>f. The handling and storage of pesticide;</li> <li>g. The use of land as livestock grazing or pasturing land, an outdoor confinement area or a farm-animal yard:</li> </ul>	Municipality	Future occurrences of the activity are prohibited under section 57 of the <i>Clean Water Act, 2006</i> .	Immediate

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

#### 1) Changes to Operations

Given that agricultural operations may be subject to change (e.g., crop rotations and changes to operations based on changing market conditions), it would not be appropriate to prohibit future agricultural activities for properties that were part of a multi-year rotation that did not trigger a significant threat at the time of the threats assessment.

**Response**

*The policy was revised to reflect the following decision by the SPC:*

*Prohibit where agricultural activity would be a SDWT, with the following additional considerations:*

- *All agricultural activities to be prohibited in the WHPA-A and IPZ-1;*
- *Outside of the WHPA-A and IPZ-1, where an already existing agricultural activity is in place; allow changes to the operation as long as the change in activity does not create a greater risk – even if this means a new SDWT. The RMO would make the decision regarding whether the proposed change in activities would result in a greater risk and thus if the change would be allowed. The landowner would already have a RMP from the existing SDWT, and the document could be updated to account for the change in activity.*
- *Outside of the WHPA-A and IPZ-1, where an already existing agricultural activity is not in place; new agricultural activities would be prohibited.*

**2) Effective Area of Policy**

OMAFRA does not support the prohibition of agricultural activities outside of WHPA-A and IPZ-1 and recommends that the threats can be managed using nutrient management standards and appropriate agri-environmental management practices.

**Response**

For many systems, prohibitions in this policy would apply beyond the WHPA-A and IPZ-1 (e.g., for application of ASM, the prohibition would apply to any WHPA with a vulnerability score of 10, which can include all or part of WHPA-B, or an IPZ with a score of 8, which can include IPZ-2). The SPC felt that the best approach was one of protection; therefore, basing their decision on the science of the Trent and Ganaraska Assessment Reports, and prohibiting activities which could result in SDWT.

**3) Property Values**

The resale value of agricultural properties will be negatively affected if future agricultural activities are prohibited.

**Response**

*The SPC recognized the potential for the resale value of agricultural properties to be negatively affected by the prohibition policy. The extent to which property values would be impacted cannot be predicted. Therefore, the SPC decided to support their mandate to protect municipal drinking water supplies and decided it best to not allow additional significant drinking water threats.*

**4) Siting of New Wells**

The prohibition may hamper municipal ability to site new wells in rural areas.

**Response**

*The SPC discussed the possible restrictions to finding appropriate locations for municipal wells in the future. This possibility was recognized.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
Strongly disagree with future prohibition of agricultural threats.	Regional Municipality of Durham Municipality of Clarington
Farmers adjust their operations with weather, market demands, and other variables. Prohibiting such changes could seriously impact the ability of a farmer to manage an operation effectively.	Ontario Ministry of Agriculture, Food, and Rural Affairs
The Ministry would like clarification how the Risk Management Official would determine if a future activity would result in a lower risk to drinking water sources than existing agricultural activities.	
The Ministry does not support prohibition of livestock grazing and pasturing in WHPA A and IPZ 1 where soil depth is greater than 30 cm and there is less than one nutrient unit per acre and recommends that this be managed through a Risk Management Plan based on appropriate management activities.	
Ministry does not support prohibition of future agricultural activities outside of WHPA A and IPZ1. We support policies that propose management either through RMP or prescribed instruments to cover any potential changes in activities.	

Response

*Following considerable discussion, the SPC chose to change their approach to future agricultural threats. It was decided that all agricultural activities would be prohibited in the WHPA-A and IPZ-1 given the vulnerability of these areas. Outside of the WHPA-A and IPZ-1, future agricultural activities that would be significant drinking water threats will be managed using section 58 (Risk Management Plans).*

*The SPC discussed the feedback from the Ontario Ministry of Agriculture, Food, and Rural Affairs, particularly that livestock grazing and pasturing in the WHPA-A and IPZ-1 should be permitted where soil depth is greater than 30 cm and there is less than one nutrient unit per acre. Since the soil depth varies considerably across the TCC SPR, the SPC felt that it would be appropriate to prohibit this activity in the future.*

**5.3.4 POLICY A-5 (REMOVED): AWSA CERTIFICATION**

**RATIONALE**

Certification from the Agrichemical Warehousing Standards Association (AWSA) was a policy concept presented to the SPC. This Association has an existing set of standards for the storage of agricultural chemicals. The SPC felt that these existing standards should be made mandatory where the handling and storage of pesticides is a significant

drinking water threat. It was noted that in most cases distributors of agricultural chemicals will not ship to a facility that is not certified. The SPC was made aware that such accreditation is required for insurance purposes; therefore, compliance with this policy is likely not to be a considerable burden on the landowner.

When the policy was first proposed, the corresponding monitoring policy required that the conservation authority report to the source protection authority. As a result of feedback received during pre-consultation, the implementer of this monitoring policy is the RMO. As a result of pre-consultation, the text of the policy now refers specifically to pesticide storage within the mandate of the Agrichemical Warehousing Standards Association.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent		Requirements	Compliance Date
Where the handling and storage of pesticide is a significant drinking water threat, and the pesticide is stored where it is manufactured or processed, or from which it is wholesaled, or stored for retail sale:	Owner of the affected property	1	Any facility undertaking the activity must obtain certification from the Agrichemical Warehousing Standards Association (AWSA) and provide documentation of the certification to the conservation authority in which the activity the activity is located;	Within one year
	Conservation Authority	2	Report to the source protection authority on the number of facilities certified in accordance with (a).	Annually

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

1) **Implementing Body**

The RMO or municipality may be a more appropriate implementing body for the reporting.

Response

*Policy was revised to reflect that the implementing body responsible for reporting will be the RMO, not the conservation authority.*

2) **Reporting Process**

The certification documentation should be provided to the RMO, who would then forward the information to the conservation authority.

Response

*Nearly all of the other reporting policies in the Trent and Ganaraska Source Protection Plans are implemented by the source protection authority. For consistency, this change was adopted, but with the reports to be received by the source protection authority.*

3) **OMAFRA Comment**

Clarify if the policy applies to farms. If so, OMAFRA suggests the use of appropriate agri-environmental management practices to address the handling and storage of pesticides (*i.e.*, the Environmental Farm Plan program contains such management practices for this activity).

Response

*The AWSA standards do not currently apply to the end user of pesticides (i.e., they do not apply to farms unless the farmer is also a vendor of the pesticide). The policy was written to capture all of the threat circumstances that are applicable to the mandate of the AWSA. The draft wording circulated for pre-consultation applies to “where [the pesticide] is manufactured or processed, or from which it is wholesaled, or stored for retail sale”, which excludes pesticides stored on farms for the purpose of extermination. This has been simplified by making the policy refer to “storage within the mandate of the AWSA.”*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
The RMO cannot be named as the implementer for a policy that does not rely on Part IV tools.	Ministry of the Environment
Policies cannot identify the “person or body undertaking the activity” as an implementing body.	

Response

*The implementing body for both provisions in this policy has been changed to the municipality.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

1) **Enforcement of private sector certification**

Policy A-5, as written, would be problematic to implement since municipal powers do not extend to enforcing private sector certification. While it may be the SPCs intent to promote AWSA’s program, this could be presented as an option within the policy or the Explanatory Document as opposed to a mandatory program.

Otonabee-Peterborough SPA: Supports the revision proposed by MOE to make awareness of the AWSA certification for pesticide storage part of the Education and Outreach policy.

Response

*Pesticide storage is also addressed through Policy A-1, which requires a risk management plan for significant threat activities. The SPC did not feel that this threat would be adequately managed through an optional or education and outreach policy. A clause was added under A-1 to specify the requirement for AWSA certification as a component of the risk management plan (similar to the requirement for TSSA certification under the risk management plan for fuel storage threats). Policy A-5 was removed from the plan.*

## 5.4 FUEL HANDLING AND STORAGE

Policy concepts were proposed to address existing and future fuel handling and storage threats. All of these policy concepts evolved into policies. As policies were being developed, it became apparent that the SPC had not addressed the future installation of residential fuel oil tanks. Therefore, a component of F-2 began to evolve. As well, there was originally no requirement for a RMP for existing fuel storage threats. This too, evolved as the policy development process moved forward.

When the SPC reviewed various policy approaches to address threats, the following main considerations were taken into account:

- According to industry experts, the most common failures related to fuel oil handling and storage were tank corrosion, problems with oil lines, and overfills/spills.
- The potential consequences of failure are severe: cleanup costs can be millions of dollars, even for residential spills, and insurance does not compensate for spills that were preventable.
- Issues with tanks, such as side feed tanks, can lead to water accumulating in the bottom of the tank causing corrosion.
- Insurance companies vary in their home policy requirements; some may require photos and inspections where others do not.
- Existing licensed facilities (bulk plant, marina, card locks, etc.) continue to be regulated through the Technical Standards and Safety Association (TSSA) comprehensive system of monitoring, licensing and inspections.
- Fuel leaks into drinking water have been known to cause irreparable damage to aquifers and pose a very serious risk. Clean-up can be virtually impossible.

### 5.4.1 POLICY F-1 (REMOVED): SUPPORT OF TSSA REQUIREMENT

#### **RATIONALE**

When the SPC first began discussing the fuel oil threat, it was apparent early in the process that there was member support for the TSSA to be involved in any activities related to this threat. The SPC, as well as all five Municipal Working Groups felt that TSSA was unique in having the expertise to provide advice and direction in all matters concerning this threat. Members involved with TSSA confirmed that the existing protocol for inspections is every 10 years for residential tanks and 1-3 years for large, bulk tanks. Further, it was made apparent that the extent of these inspections varied. When provided with this information, the SPC felt that requesting that TSSA increase the frequency of its inspections, without specifying how the inspections would be performed, would be the best way to capture those tanks requiring replacement or maintenance in a shorter timeframe, thus decreasing the potential for a spill.

The SPC recognized that TSSA was not listed as an implementing body under the *Clean Water Act, 2006*, nor was the affiliated Ministry of Consumer Services. However, through continued discussions there did not appear to be another responsible body with the ability to organize and carry out the proposed inspections, nor was there another logical implementer. The SPC felt that given TSSA's mandate, that some compromise could be made. Through pre-consultation, municipalities showed support for having TSSA involved in the source protection program. Since the *Building Code Act* was amended to address the large number of septic systems identified as significant threats, it was felt that a similar approach was necessary to address the large number of residential fuel tanks.

Following pre-consultation, the SPC received correspondence from TSSA in response to a letter from another SPC. This correspondence corroborated a discussion that was held during pre-consultation with TSSA. It was apparent that the organization is limited in its resources. The SPC felt that notwithstanding the arguments that were made in this letter and during previous discussions, the organization still has a responsibility to fulfill its mandate. To balance the resources at TSSA with the number of inspections to be completed, the SPC opted to include a clause in the policy allowing TSSA to carry out a prioritization exercise. This exercise would allow TSSA to use their judgment to determine which tanks should be inspected first, over a 5 year period of time.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where the storage of liquid fuel in a tank at a facility as defined in section 1 of O. Reg. 213/01 (Fuel Oil) made under the <i>Technical Standards and Safety Act, 2000</i> ; or a facility as defined in section 1 of O. Reg. 217/01 (Liquid Fuels) made under the <i>Technical Standards and Safety Act, 2000</i> , but not including a bulk plant, is a significant drinking water threat:	Technical Standards and Safety Authority	1	Increase the frequency of comprehensive inspections for fuel tanks that are located below grade or partially below grade; and	Within 3 years
		2	Forward all information related to fuel tank inspections in vulnerable areas to the municipality in which the tank is located, including the number of inspections and any deficiencies identified; and	As required
	Municipality	3	Report to the source protection authority on the information provided by the TSSA.	Annually

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

#### 1) Detail of Reporting Requirement

It was suggested that the monitoring policy be revised with more detailed wording to provide the SPC with confidence that the policy is having a positive effect.

##### Response

*The monitoring policy now requires reporting annually.*

#### 2) Implementer for Reporting

Require the TSSA to forward information related to fuel tank inspections to both the municipality and the source protection authority, and remove the requirement for the municipality to report to the source protection authority.

##### Response

*The revised policy requires TSSA to forward information directly to municipalities and the SPA. The policy removes the requirement for municipalities to report to the SPA.*

#### 3) RMO Follow Up

Require the RMO and/or the TSSA to follow up with the landowner on any inspections found to be deficient based on a TSSA inspection.

Response

*The policy was amended to reflect that the RMO will be required to follow up with the landowner on inspections found to be deficient.*

- 4) **Inspection Frequency:** TSSA inspections are comprehensive and may not be necessary to increase the inspection frequency.

Response

*The policy was amended to require inspections every three years (same requirement as the RMPs). The committee decided that the first round of inspections is to be completed within a 5 year timeframe.*

- 5) **TSSA Resources:** TSSA indicated that they do not have the resources to increase their current inspection frequency or report on inspections to municipalities.

Response

*The Committee did not change the policy text after receipt of this feedback. The Committee felt it was important for TSSA to understand that an increase in inspection frequency was warranted.*

- 6) **TSSA Response Time:** Concern was expressed regarding the ability of the TSSA to provide the information to municipalities in sufficient time to meet the reporting timelines.

Response

*The policy was amended to have reporting provided to both the Source Protection Authority and the municipality by the TSSA.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
Why would the RMO follow-up on deficiencies of a TSSA inspection? TSSA should follow-up with compliance.	Township of Havelock-Belmont-Methuen
Concern with constraints on annual reporting as a result of relying on materials from TSSA.	Township of Otonabee – South Monaghan
MSC & TSSA encourage the SPC to consider Ontario's current regulatory framework which supports source protection by reducing the probability of spills and leaks.	Ministry of Consumer Services Technical Standards and Safety Association

Response

*Following review of the feedback obtained from the Ministry of Consumer Services and the Technical Standards and Safety Association, the SPC decided to remove this policy from both source protection plans. The SPC received confirmation that the Technical Standards and Safety Association does not perform fuel oil tank inspections, therefore, the SPC policy (in its draft format circulated for consultation) could not be implemented. Inspections are completed by TSSA licensed technicians through the fuel oil supplier.*

*The main concern from SPC members was the increase in the frequency of inspections to capture derelict fuel oil tanks before a potential spill. The SPC opted to address the requirements for increased inspections of fuel oil tanks*



through the RMP tool. The RMO would prioritize sites requiring a RMP within the first year following the effective date of the Trent and Ganaraska Source Protection Plans. Further, the final provision of the original policy [F-1(4)] posted for formal consultation required the RMO to implement a policy that did not rely on Part IV tools. Since having the RMO implement a policy that did not rely on Part IV tools is not permitted under the Clean Water Act, 2006, this provision would have been removed anyway.

#### 5.4.2 POLICY F-1: PROHIBITION OF FUTURE HANDLING AND STORAGE OF FUEL (FORMERLY F-2)

##### RATIONALE

When the SPC first discussed future occurrences of fuel storage threats, different approaches were proposed for storage regulated under O. Reg. 217/01 (Liquid Fuels), which addresses larger fuel threats such as gas stations and marinas, and O. Reg. 213/01 (Fuel Oil), which includes home heating oil tanks.

For fuel storage under O. Reg. 217/01 (Liquid Fuels), the SPC felt that the risks presented by these types of facilities warrant prohibition of future occurrences. Since this threat can only be significant if it occurs within the area closest to a municipal well or intake, the SPC felt that this was a small enough area that prohibiting the establishment of future facilities would not cause unnecessary hardship on communities.

Various approaches were discussed for home heating oil tanks (*i.e.*, fuel storage regulated under O. Reg. 213/01), but in consideration of their mandate to protect drinking water sources and not wishing to allow the creation of new significant threats, it was ultimately decided that prohibition should also be applied to home heating oil tanks. The scenario of a recent fuel oil spill was discussed, and the SPC felt that the cost of cleaning up fuel was far greater than the cost of restricting the activity in the relatively small areas around municipal sources. SPC members also felt that there were sufficient heating alternatives (*i.e.*, electricity, natural gas) to warrant the prohibition.

Given that the same approach was ultimately used for fuel stored under both regulations, policies F-2 and F-4 as circulated for pre-consultation were combined into a single consolidated policy.

##### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the storage of liquid fuel at a facility as defined in section 1 of O. Reg. 213/01 (Fuel Oil) made under the <i>Technical Standards and Safety Act, 2000</i> would be a significant drinking water threat:	Crown / Municipality	Future occurrences of the activity are prohibited under section 57 of the <i>Clean Water Act, 2006</i> .	Within one year
Where any of the following activities would be a significant drinking water threat: <ul style="list-style-type: none"> <li>- storage of liquid fuel in a tank at a facility as defined in section 1 of O. Reg. 217/01 (Liquid Fuels) made under the <i>Technical Standards and Safety Act, 2000</i>; and</li> <li>- a facility that manufactures or refines fuel:</li> </ul>	Crown	Future occurrences of the activity are prohibited under section 57 of the <i>Clean Water Act, 2006</i> .	Within one year

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

### 1) Consolidation of Policies

#### Response

*When draft policies were circulated for pre-consultation, there were two fuel handling and storage threat prohibition policies. These have now been combined into one policy.*

### 2) Emergency Generators and Heating Systems

An exception to prohibition was proposed for fuel tanks related to emergency backup generators and heating oil systems related to existing municipal infrastructure (*i.e.*, water treatment plant pumps and pumping stations). Therefore, exclude:

- Emergency backup generators for municipal infrastructure; and
- Heating oil systems at municipal buildings

#### Response

*The policy was changed to allow an exception to prohibition for proposed fuel tanks related to emergency backup generators intended for use during a municipal emergency.*

### 3) Replacement Tanks

It was commented that the policy be clarified to indicate if it applies to the replacement of existing tanks.

#### Response

*A provision was added in the source protection plans to clarify that expansions are defined as future threats (and thus subject to the prohibition in this policy) only where the expansion would require additional regulatory or planning approvals.*

### 4) Property Value: This policy could have an impact on the value of businesses in a “sale of business” situation.

#### Response

*The SPC felt that it was unlikely that the value of a property or business would be significantly impacted by this policy since it only prohibits the activity from taking place in the future if it does not already exist. Therefore, where a facility is already storing and handling fuel, the activity can continue, regardless of whether the property changes owners.*

### 5) TSSA Role in Enforcement

Since fuel tank installation typically takes place indoors, enforcement may be difficult. Since TSSA is involved in the approval of new fuel tanks, they may be in a better position to enforce this policy.

#### Response

*In light of the concerns regarding TSSA capacity, the SPC decided to not include additional enforcement requirements for TSSA.*

### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

Feedback (as submitted to the SPC)	Commenting Implementing Body
Prohibition of future fuel handling and storage threats will be difficult to implement and enforce.	Township of Havelock-Belmont-Methuen  <b><i>Township of Cavan - Monaghan</i></b>

#### Response

*The feedback received through formal consultation is specific to the triggers and processes to be established through implementation. Therefore, the policy text was not changed from the first formal consultation period.*

### 5.4.3 POLICY F-2: EXISTING FUEL HANDLING AND STORAGE

#### RATIONALE

When policy concepts were first proposed for this threat, the SPC expected a soft approach (*i.e.*, education and outreach) to be sufficient in addressing existing fuel storage threats. With time, the SPC was less comfortable with the reliance on this approach, as there would be no way of confirming that the threat is sufficiently managed. The SPC had considerable dialogue about the impact of the following policy on the implementing body, mainly since fuel oil storage is one of the most prevalent threats in the TCC SPR.

The SPC was concerned with the number of RMPs that would need to be developed for existing fuel storage threats. However, it was decided that a RMP for fuel oil storage could be much simpler than those developed for some of the other threats. The SPC was interested, in particular, in having a standardized RMP format for use across the province. It was felt that the Canadian Oil Heat Association and TSSA could assist with its development.

To assist in its final decision, the SPC opted to allow the municipalities through pre-consultation to raise concerns with the approach chosen. No concerns were brought back to the SPC through pre-consultation; therefore, the use of risk management plans to address existing fuel storage threats was the approach used in the *Draft Proposed Trent and Ganaraska Source Protection Plans*.

#### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where any of the following activities is a significant drinking water threat: <ul style="list-style-type: none"> <li>- the storage of liquid fuel in a tank at a facility as defined in section 1 of O. Reg. 217/01 (Liquid Fuels) and O. Reg. 213/01 (Fuel Oil) made under the <i>Technical Standards and Safety Act, 2000</i>; and</li> <li>- a facility that manufactures or refines fuel:</li> </ul>	Risk Management Official	Negotiate and establish a risk management plan as defined in section 58 of the <i>Clean Water Act, 2006</i> for each property on which the activity is being undertaken.	Within three years

#### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

There were no concerns from municipalities (as implementing bodies) with regard to the approach proposed. The Proposed Trent and Ganaraska Source Protection Plans did not reflect any changes to Policy F-3.

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
Enforcement of existing fuel storage and handling threats will be difficult, particularly where taking into account the potential for changes in heating source.	Township of Cavan - Monaghan
SPC should consider Education and Outreach for oil tanks.	Township of Havelock-Belmont-Methuen
As it relates to policy F-2 Fuel Storage the Township of Selwyn Supports the changes recommended by the Ministry of the Environment which encourage consistency among source protection plans; in addition, of the policy options noted, the Township prefers exempting residential properties and small businesses from the requirements of a Risk Management Plan in favor of Education and Outreach.	Township of Selwyn
Province wide, there are a variety of tools used to address home heating oil tanks. Durham Region has expressed concerns with implementation of three different policies using different policy tools for fuel as required in the three plans (SGBLS, CTC and TCC). It is recommended that you have discussions with Durham Region to determine if implementation of this policy is feasible in terms of workload and cost, and work towards a mutually beneficial resolution and any changes to the policy and explanatory document as a result of these discussions. When the plans are resubmitted, please include the outcome of these discussions.	MOE

**Response**

*The feedback received through formal consultation is specific to the triggers and processes to be established through implementation. Originally, the SPC had considered education and outreach alone for fuel oil tanks, however, over time it was decided that relying on a “soft” policy tool would be insufficient to manage the risk. The General Education and Outreach Policy continues to have a provision [G-5(5)] specific to fuel storage.*

*The only change in the policy text since the first formal consultation period is the requirement for the risk management plan to specify that the fuel tank must be inspected by a TSSA-certified technician. Where the RMO has concerns for the condition of the fuel oil tank, the RMP could specify the requirement for an inspection shortly after the RMP is negotiated. In addition, the RMP could require the tank to be inspected more frequently than currently mandated.*

*With respect to the comment from the Township of Selwyn given above, the SPC considered the Township’s comments at their meeting on February 24, 2014. It was felt by the SPC that the policy approach to require Risk Management Plans for existing fuel storage activities should remain in the Trent Source Protection Plan in order to ensure that the risk presented by this activity to municipal drinking water systems is adequately managed. However, in consideration of the differences in policy approach among neighboring source protection regions and looking ahead to policy implementation, the SPC agreed to work with municipalities in neighboring source*

*protection regions with differences in policy approach (e.g. Durham Region) to develop a procedure to simplify the preparation of a Risk Management Plan for fuel storage activities in areas where a municipality is required to implement the policies in more than one source protection plan. Further comments were provided by the MOE on June 26, 2014 requesting that the TCC SPR undertake additional communication with the Township of Selwyn to evaluate whether their original concerns had been alleviated given the Township's decision to delegate their Part IV authority and receipt of Source Protection Municipal Implementation Funding. TCC staff carried out this additional communication with the Township on July 23, 2014, and the Township responded on July 29, 2014 indicating that they did not believe that their delegation of Part IV authority and receipt of Source Protection Municipal Implementation Funding were relevant to their comment and that they continued to support their initial comment supporting consistency among source protection plans and the exemption of residential properties and small businesses from the requirement for a Risk Management Plan.*

*With respect to the comment from the MOE, the SPC considered the comment at their meeting on February 24, 2014. It was felt by the SPC that the requirement for Risk Management Plans should remain for all types of fuel storage that is a significant threat and that concerns regarding inconsistency between policies for fuel tanks within municipalities that are subject to different policy requirements for that threat (e.g. Durham Region) could be addressed by developing a procedure to simplify the preparation of a Risk Management Plan for fuel storage activities in areas where a municipality is required to implement the policies in more than one source protection plan.*

#### **CONSULTATION ON NEW THREATS - KEENE**

The new wellhead protection areas delineated in 2013 for the Keene Heights drinking water system lead to the identification of new existing significant drinking water threats: fuel storage. As such, Policy F-2 would apply to these new properties and landowners. Consultation on this policy was conducted with the municipality and impacted landowners.

Township of Otonabee-South Monaghan: No comments were received through pre-consultation or the formal public consultation period.

Landowners: No comments were received through the formal public consultation period.

#### **CONSULTATION ON NEW THREATS – LAKE ONTARIO**

The new event based modeling lead to the identification of new existing significant drinking water threats: fuel storage. As such, Policy F-2 would apply to these new properties and landowners. Consultation on this policy was conducted with the municipalities and impacted landowners.

Municipalities: No comments were received through pre-consultation or the formal public consultation period.

Landowners: No comments were received through pre-consultation or the formal public consultation period.

## 5.5 ROAD SALT

Policy concepts were proposed to address existing and future occurrences of the application, storage, and handling of road salt. All but two of these policy concepts evolved into policies. The two policy concepts that did not develop into policies were:

- 1) Through land use planning, limit all impervious surfaces (<8% in IPZ and <80% in WHPA) which would create a significant threat. This includes all highways and other impervious land surfaces used for vehicular traffic and parking, and all pedestrian paths.
- 2) The Road Authority can only construct winter road maintenance infrastructure within vulnerable areas if measures are in place to mitigate the threat of road salt handling and storage activities.

The SPC felt that both of these concepts were too restrictive and were therefore not pursued. In particular, it was felt that to limit impervious surfaces would be too difficult and costly to implement.

When the SPC reviewed various policy approaches to address these threats, the following main considerations were taken into account:

- Over the past 25 years, there has been an increase in the application of road salt in Canada with the primary users being Ontario, Quebec, and the Atlantic provinces. Many road authorities are implementing salt management plans and education programs to address this issue due to the adverse effects and cumulative environmental impacts to ground and surface water.
- Salt management plans implement science-based techniques and practices that are proven to reduce salt use without compromising public safety. These plans encompass all aspects of winter maintenance including salt delivery, handling and storage, equipment handling and washing, training, as well as communication.
- Environment Canada's Code of Practice for the Environmental Management of Road Salt Management Plans is supposed to apply to, and is generally used by, municipalities with "salt vulnerable areas". These plans are required for municipalities that apply 500 tonnes of salt or more per year.
- The large volume of traffic using Provincial Highways 401, 35, 115, and 7 requires optimal safety precautions and, therefore, road salt use is required.

### 5.5.1 POLICY R-1 AND R-2: EXISTING AND FUTURE ROAD SALT APPLICATION (MUNICIPAL/PRIVATE AND MTO)

#### **RATIONALE**

Following pre-consultation, two policies were developed from a single policy. The SPC was aware that there are major highways passing through some vulnerable areas, in close proximity to some of the municipal intakes in the TCC SPR. On these roads, the application of road salt is managed by the Ministry of Transportation (MTO). The MTO already uses salt management plans (SMP); however, in developing these plans the locations of vulnerable areas were not the primary consideration. Similarly, most municipalities have salt management plans. The development of these plans is very much a component of day-to-day municipal operations. However, these plans also do not take the location of drinking water intakes into consideration, since the primary focus of such plans is to ensure vehicular safety, while addressing environmental impacts.

As a result of discussions that took place following receipt of the pre-consultation comments, the SPC decided that to ensure the application of road salt was being managed so it ceased to be a significant drinking water threat, a risk management plan would be required. The RMP would include components of any existing salt management plans, and would also take into account local vulnerability and results of the most recent assessment report.

The SPC discussed feedback from MTO through pre-consultation, but felt that areas defined by Environment Canada’s Code of Practice, although including a list of additional salt management measures that may be applied in vulnerable areas, was not as current as the Trent and Ganaraska Assessment Reports. Further, the SPC felt that there were no assurances that the definition of “vulnerable area” under Environment Canada’s Code of Practice was the same as the definition under the *Clean Water Act, 2006*. In asking MTO to incorporate the science from the assessment reports into their salt management plan, the document would then address local drinking water sources.

The SPC is not requiring MTO to update their salt management plan annually, but has requested that activities undertaken as part of plan be reported to the RMO. It is understood that having this reporting component would result in additional capacity requirements on behalf of the MTO, which might not currently exist. The SPC felt it required an annual report from MTO to be made aware of activities being undertaken regarding salt management on provincial highways.

**DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION**

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where the application of road salt is or would be a significant drinking water threat:	Ministry of Transportation and the municipality	1	Develop and implement a salt management plan that addresses road salt application on the roads within its jurisdiction. The plan will contain conditions that ensure that the activity is not a significant drinking water threat. The plan can be a stand-alone document, or incorporated into an existing salt management plan.  Where multiple road authorities operate within a vulnerable area, cross boundary considerations will be addressed on an ongoing basis by all road authorities responsible for the application of road salt. Where salt is applied by a contractor, the road authority responsible for the contract will ensure that contractors are made aware of the requirements of the salt management plan.	Within two years
		2	Update the salt management plan.	Within one year of the approval of an updated assessment report
		3	Report to the source protection authority on the activities undertaken as part of the salt management plan.	Annually

**PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS**

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Requirement for Salt Management Plans**

The Ministry of Transportation (MTO) commented that the requirement to develop salt management plans is not applicable to MTO as they already have such a plan; the policy should be revised to reflect this.

Response

*It is acknowledged that MTO has salt management plans for areas under their jurisdiction. However, these plans may not specifically address the threat circumstances that make the activity a significant drinking water threat. The SPC was concerned that MTO was not taking on the necessary responsibilities. The SPC opted to keep the policy in the Draft Proposed Trent and Ganaraska Source Protection Plans, but to modify it such that MTO must ensure they have an adequate plan rather than create a new plan specific to source protection. Further, the requirement was added to have the RMO review MTO's applicable salt management plans to ensure that they are adequate. In addition, the SPC decided that since the MTO's salt management plan might not address the threat circumstances, and is not locally derived, that RMP would be required for existing road salt application, storage, and handling threats.*

**2) Requirement for Salt Management Plans**

It may not be appropriate to require the development of a standalone salt management plan or to add new provisions to an existing salt management plan if an existing salt management adequately addresses the circumstances that make the activity a significant threat.

Response

*Even though an existing plan might be in place, the SPC felt that there is nothing requiring that plan to be implemented. Having the plan created as part of a RMP makes the creation of such a plan a requirement under the Clean Water Act, 2006.*

**3) Private Roads**

A comment suggested that a provision to address salt application on private properties should also be considered.

Response

*The SPC discussed a proposed approach to having landowners develop salt management plans on their property. This scenario would increase awareness of the potential impact of salt on water sources. Municipalities could pass a by-law that road salt is not allowed. The RMO could be involved in outreach. The revised policy text was revised to list the landowner as an implementer.*

**4) Conditions of Salt Management Plans**

The Ministry of Transportation requested that the statement regarding the specified conditions of the plan (*i.e.*, "conditions that ensure that the activity is not a significant drinking water threat") be revised to reflect the current commitment in MTO's salt management plan to use the best available winter maintenance practices.

Response

*Including a statement to this effect would not be consistent with the intent of the policy wording; therefore, the revision was not made.*

**5) Cross-boundary Considerations**

The Ministry of Transportation commented that the expectation that multiple road authorities will make cross-boundary considerations does not conform well with MTO's approach to winter maintenance. MTO makes use of the best available winter maintenance practices province-wide (*i.e.*, no variation depending on location).



Response

*The SPC decided that since MTO is a partner in the protection of our drinking water sources, they should not be excluded.*

6) **Updating of Salt Management Plans**

The requirement to revise the salt management plan on a timetable consistent with the approval of an updated assessment report is not supported by MTO. MTO has indicated that they will revise their salt management plans, as required, to maintain consistency with Transportation Canada's Best Practices document and Environment Canada's Code of Practice.

Response

The request to remove the plan update frequency from the policy was not supported. The Committee felt that MTO's relevant salt management plans should be based on the science of the Trent and Ganaraska Assessment Reports. Given that updates to the assessment report mapping of impervious surface area would change the extent of the area where salt application is a significant drinking water threat, the SPC felt that maintaining this required update frequency was appropriate.

7) **Reporting**

The requirement to report annually to the source protection authority regarding activities undertaken as part of the salt management plan was not supported by MTO. Although MTO submits an annual report to Environment Canada, the report is a provincial aggregate and would not be useful at the scale of vulnerable areas. Site-specific reporting would be extremely difficult and would require resources that MTO does not have access to.

Response

*Although the SPC understood that availability of resources can be problematic, the requirement for reporting will still be included in the policy. In order to monitor the effectiveness of the policies it has written, the SPC requires reporting. It is appropriate for there to be communication between MTO and the SPA annually.*

8) **Environmental Assessment Process**

It was pointed out that any new roads require a salt management plan as part of the Environmental Assessment process.

Response

*It was felt by the SPC that salt management plans should specifically address salt application that is a significant threat to drinking water supplies.*

9) **Road Safety**

It was stressed that the safety of road users is equally as important as drinking water, and that most issues with chlorides relate to aesthetics and taste rather than safety.

Response

*The importance of maintaining road safety was acknowledged by the SPC. However, it was felt that the proper management of road salt would not present a risk to road safety.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
The conditions required should be consistent and prepared at the Ministry level.	Township of Asphodel-Norwood
Ministry of Transportation (MTO) may be significantly challenged to "ensure that the activity is not a significant drinking water threat". MTO cannot guarantee that salt will cease to be a SDWT. MTO is requesting to continue the proactive implementation of SMPs and use BMP within WHPA and IPZs.	Ministry of Transportation
MTO already uses best management practices and the prospect of the Risk Management Official identifying opportunities to enhance MTO SMP is considered highly unlikely.	Ministry of Transportation

**Response**

*The feedback pertaining to Policy R-1 received from the Township of Asphodel-Norwood is specific to implementation. The content of RMPs will be negotiated between the municipality and the RMO. Although the content of a RMP can vary within or between a source protection region/area, there are likely to be some consistencies from document to document. Once the Proposed Trent and Ganaraska Source Protection Plans are submitted to the Minister of the Environment, the focus will shift to preparing for implementation. A major component of this preparation is the establishment of procedures to assist with putting in place the source protection policies. The policy text for R-1 has not changed from the wording presented at the first consultation.*

*The Ministry of Transportation communicated through consultation that some revisions were necessary to Policy R-2. The text of this policy has been rewritten to reflect that the Ministry is already employing best management practices to minimize salt usage while maintaining roadway safety. The provision to have the RMO review the SMP required by [R-2(2)] and advise MTO if the SMP is adequate to ensure that the application of road salt is not a SDWT has been removed. In addition, clause [R-2(1)e] now requires reporting regarding MTO's SMP should be directed towards the SPA instead of the RMO.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

**1) Implementing body for monitoring policies R-2**

Policy R-2 deals with MTO application of road salt where it is/could be a significant threat, and asks for an update of MTO's salt management plan and annual reporting to the SPA. For its road salt monitoring policies, MTO requested that the SPA contact MTO rather than MTO reporting to the SPA. This revision is also applicable to policies R-3 and R-4.

Otonabee-Peterborough SPA: supports the revision proposed by MOE to identify the SPA as the implementing body, who would contact MTO to receive information for monitoring reports.

Ministry of Transportation: MTO believes it would be most efficient for the SPA to request the information from MTO when initiating their reports and reviews; concerned with missing timing of reporting requirements. Their existing reporting is at the provincial scale (Environment Canada’s Code of Practice).

**Response**

*The SPC reviewed the policy and previously submitted consultation comments from the MTO regarding the monitoring policies. While the SPC understands that Source Protection reporting is an additional requirement for the Ministry, it was felt that MTO could develop internal operating procedures which would address the monitoring requirements of the Clean Water Act. In addition, it was determined that changing the implementing body for the monitoring policies to the SPA was not appropriate as this put a mandatory policy on the SPA when they were not responsible for implementing the other policies. The Source Protection Authority staff will be working with all the implementing bodies to ensure they are notified of upcoming reporting requirements.*

**5.5.2 POLICY R-3 (REMOVED): MONITORING OF SODIUM AND CHLORIDE**

**RATIONALE**

Limited raw water quality data was available when compiling the Trent and Ganaraska Assessment Reports. The Committee felt that with the monitoring required through the *Safe Drinking Water Act*, municipalities could collect additional data to augment the dataset of sodium and chloride concentrations in raw drinking water taken from municipal sources. There was concern that the time, effort, and cost to complete this surveillance monitoring might be difficult for small municipalities. The SPC felt that pre-consultation might assist in gauging concerns from operating authorities. Some feedback was obtained through pre-consultation regarding the cost implications of the policy. To address this concern, the SPC decided to request that sampling be done only annually. This would allow the creation of a continuous record with which to assess trends, while not placing too much burden on the municipality/operating authority.

Following formal consultation, the SPC was made aware that source protection plans cannot include policies that require environmental monitoring unless they are addressing a policy related to a drinking water issue. The policy as therefore removed.

**DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION**

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where the application of road salt is or would be a significant drinking water threat:	Operating Authority of the affected drinking water system	1	Sample raw water to monitor and trend changes in chloride and sodium concentrations on a frequency adequate to monitor concentrations; and	Within one year
		2	Report on the sampling results to the source protection authority.	Every five years

**PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS**

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Implementing Body**

The Ministry of the Environment has clarified that the implementing body for the policy should refer to the municipality with responsibility for the drinking water system.

Response

*The revised text reflects that the municipality with responsibility for the drinking water system will be the implementer of this policy.*

**2) Feasibility of Sampling**

It was commented that the requested sampling is not feasible to determine sodium levels (i.e., validity of results is affected by sampling location, weather, and timing).

Response

*As opposed to removing the policy entirely, the SPC has recommended an appropriate sampling regime. The policy has been revised to require that municipalities sample raw water (at the intake) and treated water once annually. This frequency will allow the establishment of trends for sodium and chloride.*

**3) Road Salt Alternative**

It was commented that those applying road salt should notify the municipality if an alternate road salt product is used.

Response

*Both source protection plans require road departments to advise municipalities promptly if an alternate road salt product is used (added as a requirement of SMP).*

**4) Cost**

It was commented that the policy may impact sampling costs.

Response

*It was understood by the SPC that the requirement to increase sampling frequency would result in additional cost to the municipality; however, it was felt that these costs would be relatively low. The SPC wrote the policy in such a way that the municipality was afforded sufficient flexibility to design a sampling program that allowed additional data without significant cost.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
The source protection plan cannot include policies that require environmental monitoring unless they are addressing a policy related to a drinking water issue.	Ministry of the Environment

Response

*Following review of the feedback obtained from the Ministry of the Environment, the Committee decided to remove this policy from the source protection plan.*

### 5.5.3 POLICY R-3: RECOMMENDED RESEARCH FOR ROAD SALT ALTERNATIVES (FORMERLY R-4)

#### RATIONALE

With the impact of road salt on source water quality, the SPC felt that using salt to manage road safety is unsustainable. There is considerable effort in the industry to investigate alternatives to using road salt. The SPC felt that since there are a number of provincial ministries with a research mandate, these groups should be encouraged to explore options for replacing road salt to ensure vehicular safety without compromising source water.

#### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the application of road salt is or would be a significant drinking water threat:	Ministry of the Environment / Ministry of Transportation / Ministry of Research and Innovation	The Ministries of Environment, Transportation, and Research and Innovation are encouraged to identify opportunities to eliminate salt-based compounds for managing roads using instead safe environmental alternatives. These alternatives could be included in the guidelines for managing road salt.	As required

#### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

##### 1) Salt Reduction

A comment suggested that the policy should be encouraging research regarding salt reduction in addition to elimination of salt-based compounds.

##### Response

*The Committee agreed to revise the policy text to recommend research with the goal of identifying technologies to reduce the use of salt (in addition to identifying alternatives to salt). Further, a statement has been added to reflect comments on other road salt policies that stress the importance of maintaining road safety.*

##### 2) MTO as Implementer

MTO commented that it is not a ministry with a mandate to complete research.

##### Response

*The Committee decided not to remove MTO as implementer because of its relationships with other ministries carrying out research related to impervious surfaces. The approved Trent and Ganaraska Assessment Reports may assist MTO in the siting and/or prioritization of future pilot projects.*

##### 3) Cost Implications

The policy could have significant cost implications for municipalities.

Response

*The policy primarily encourages the research of alternatives to road salt, not the use of these products. Therefore, there would be no cost to the municipality in the implementation of this policy.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
MEDI has reviewed current research projects funded through the Ontario Research Fund and have concluded that the ministry has not supported any external research projects related to road salt or alternative chemicals to sodium based solvents. The ministry has commented that they would not be the appropriate implementing body.	Ministry of the Economic Development and Innovation
The ministry provided suggested revisions to the policy text to emphasize research currently in process.	Ministry of Transportation
MTO believes it would be most efficient for Source Protection Authorities to request updates from MTO as required during their annual reviews. (The comment also indicates that MTO did not want to be non-compliant by missing any of the reporting requirements).  [This comment was given with respect to policies R-3(3) and R-(4), which require the implementer to report annually to the Source Protection Authority on policy implementation].	Ministry of Transportation

Response

*Both the Ministries of the Environment (MOE) and Economic Development and Innovation (MEDI) were removed as implementing bodies. Given the current mandate of the Ministry of Transportation to engage in road salt related research, the policy text was revised to support existing initiatives. This text also suggested the value in creating a pilot project utilizing new practices and mitigation technologies for road salt application or the management of runoff that could benefit drinking water sources within the TCC SPR.*

*With respect to MTO’s comment regarding reporting requirements, the SPC considered the comment at their meeting on February 26, 2014. The SPC felt that MTO should remain as the implementing body for the reporting policy and that MTO’s concerns regarding potentially missing reporting requirements could be alleviated by having the TCC SPA’s provide the implementing bodies with reminders about reporting deadlines.*

**5.5.4 POLICY R-4: FUTURE CONSTRUCTION OF ROADS AND IMPERVIOUS SURFACES (FORMERLY R-5)**

**RATIONALE**

The threat circumstances for road salt application refer to the percent impervious surface area. Construction of new impervious surfaces in a vulnerable area would increase the impervious surface area that requires de-icing, which could increase the number of significant drinking water threats. This policy is a reminder to the responsible

authorities to consider vulnerable areas in the construction of impervious surfaces. Originally, the policy was restricted to provincial highways, but after discussion, the SPC felt that there are vulnerable areas affected by local roads. To this end, the SPC decided to make the policy more generic. It is not expected that financial implications will be too severe due to the establishment of this policy, since it requests only that consideration be given to future construction. It does not restrict future construction of roads.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the application of road salt would be a significant drinking water threat:	Ministry of Transportation, municipality, and owner of any affected property	Consider the location of vulnerable areas during the planning and Environmental Assessment processes for the construction of roads, other impervious land surfaces used for vehicular traffic and parking, and all pedestrian paths.	As required

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

- 1) Implementing Body:** It was commented that the implementing body for this policy should be the approval authority under the *Planning Act*.

#### Response

*The policy was changed to refer to the approval authority under the Planning Act, as opposed to the municipality. This change was also made to all other land use planning policies in the Draft Proposed Trent and Ganaraska Source Protection Plans.*

### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

Feedback (as submitted to the SPC)	Commenting Implementing Body
Municipalities and Conservation Authorities are consulted routinely for MTO Class Environmental Assessments (EA) projects that affect their jurisdiction. Documentation of consultation is completed through the Class EA documents. The policy requiring a report every five years is considered redundant and should be removed from the Salt Management Policy.	Ministry of Transportation
[MTO's comment about reporting timelines was given with respect to both policies R-3(3) and R-4, which require the implementer to report annually to the Source Protection Authority on policy implementation. The comment and SPC response for this comment is given in Section 5.4].	Ministry of Transportation

#### Response

*With respect to MTO's comment regarding policy R-4, the SPC considered the comment at their meeting on February 26, 2014. It was felt by the SPC that the requirement for reporting on the planning and EA processes for the subject impervious surfaces (i.e. roads, pedestrian paths, etc.) should remain in the source protection plan. It*

*was felt that the documentation of the EA consultation process would not provide the information sought for the monitoring of this policy (i.e. reporting every 5 years on how policy R-4 was considered during planning and EA processes).*

### 5.5.5 POLICY R-5: MANAGEMENT OF EXISTING HANDLING AND STORAGE OF ROAD SALT (FORMERLY R-6)

#### RATIONALE

The Trent and Ganaraska Assessment Reports do not identify any existing occurrences of the handling and storage of road salt. The SPC felt that even though there is a very small likelihood that such a facility exists, it was best to include a policy to capture such a situation. The SPC decided to employ the RMP tool to ensure that this threat is managed so that it ceases to be a significant drinking water threat. Although it is unlikely that this policy will be used, the cost implications of developing and implementing a RMP will be low. Any existing road salt storages are most likely captured under an existing SMP. Components of the SMP could be incorporated into the RMP, if necessary.

This policy was written following the pre-consultation phase of policy development. Therefore, there were no comments to be addressed prior to the first formal consultation period.

#### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### 5.5.6 POLICY R-6: PROHIBITION OF FUTURE STORAGE OF ROAD SALT (FORMERLY R-7)

#### RATIONALE

There are no existing occurrences of the handling and storage of road salt where the activity is significant in the TCC SPR. The SPC decided that future prohibition of such facilities was warranted due to the serious risk of contamination from large volumes of stored salt. Section 57 prohibition was used because there are limited options to prohibit the establishment of this type of facility. This prohibition would apply only to vulnerable areas, not area-wide, and only to storage structure that were open; therefore, the cost implications would be low. When planning for new open storage locations for road salt storages, municipalities and the province would be restricted to areas outside of vulnerable areas. By not locating these facilities in vulnerable areas, the risk to source water will be decreased. This approach is not anticipated to cause undue hardship to future development given the size of the vulnerable areas where the policy would apply.

#### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the handling and storage of road salt would be a significant drinking water threat:	Crown / Municipality	Future occurrences of the activity are prohibited under section 57 of the <i>Clean Water Act</i> , 2006.	Immediate

#### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS



The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

1) **Land Use Planning**

Prohibition could be achieved or supported through zoning provisions and site plan control agreements.

Response

*A land use policy was added to support the prohibition of future road salt storage. The land use policy will support efforts by the RMO in the enforcement of the section 57 prohibition.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

The MOE

1) **Land use planning prohibition**

The policy uses section 57 and land use planning tools to prohibit handling and storage of road salt that could be a future significant threat. Since land use planning (Site Plan Control) can only regulate the placement and not design of (open/covered) storage structures as part of the approval process, land use planning is not the appropriate tool to achieve the policy intent. Given the foregoing, policy R-6 (2) should be deleted.

Response

*The Planning Act, under section 41(7)(a)9, specifies that the municipality may require the site plan to include "Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon". Therefore, land use planning is an appropriate tool to use to prohibit this threat activity as it can dictate that storage structures be covered to ensure they are not a significant drinking water threat. Policy G-7(2) consolidates all land use planning policies in the plan; therefore, Policy R-6(2) is redundant and will be removed.*

## 5.6 WASTE DISPOSAL SITES

All of the policy concepts first reviewed by the SPC suggested use of existing Prescribed Instruments to manage waste threats. The SPC decided this was the best approach to address existing waste threats. When the SPC reviewed various policy approaches to address this threat, the following main points were considered:

- The MOE issues Environmental Compliance Approvals for waste disposal sites under the *Environmental Protection Act*. These Environmental Compliance Approvals are required prior to the establishment, extension, or ongoing operation of a waste disposal site.
- Part IV tools under the *Clean Water Act* (prohibition) cannot be used to address significant threat activities for waste disposal that have a related prescribed instrument.
- Polychlorinated biphenyls (PCBs) waste storage/disposal sites are exempt from the requirements of an Environmental Compliance Approval and are regulated by Ontario Regulation 362 – Waste Management of PCBs.

### 5.6.1 POLICY W-1: EXISTING ENVIRONMENTAL COMPLIANCE APPROVALS

#### RATIONALE

Waste disposal sites are managed by an existing approvals process. Requiring a review of existing approvals will ensure that each waste disposal site is managed appropriately so that the drinking water threat ceases to be significant. Environmental Compliance Approvals (ECA) have been a long standing requirement for waste facilities, and these approvals have thorough evaluation criteria. It was recognized by the SPC that a waste disposal site would have required an extensive environmental assessment, under the *Environmental Assessment Act*, prior to its establishment. This policy approach ensures that there is no duplication of regulatory requirements for the landowner or business owner requiring the approval.

To ensure that the MOE has sufficient time to review the Environmental Compliance Approval, the SPC decided that a period of three years would be appropriate. This timeline would allow the Ministry to prioritize the existing ECAs and make the required amendments, where necessary.

#### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the operation or maintenance of a waste disposal site within the meaning of Part V of the <i>Environmental Protection Act</i> is a significant drinking water threat:	Ministry of the Environment	1 Review the Environmental Compliance Approval for the waste disposal site to determine if it is adequate to ensure that the activity is not a significant drinking water threat. If the Environmental Compliance Approval is deemed to be inadequate for this purpose, it will be amended to include additional conditions that will ensure that the activity ceases to be a significant drinking water threat.	Within one year
		2 Report to the source protection authority on the status of the review of the Environmental Compliance Approval and any orders issued as a result of an inspection during the reporting year.	Annually

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

### 1) **Timeline**

The timeline for the review of existing Environmental Compliance Approvals should be on the order of several years.

#### Response

*The policy was revised to reflect a compliance date of three years.*

### 2) **Reporting**

The reporting requirement should include notice to the municipality regarding changes to an Environmental Compliance Approval.

#### Response

*Revised policy text indicates that the municipality is required to be a recipient of the Ministry's reporting on the review of Environmental Compliance Approvals.*

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### 5.6.2 POLICY W-2: FUTURE ENVIRONMENTAL COMPLIANCE APPROVALS

#### **RATIONALE**

The Committee decided that the establishment of waste disposal threats in vulnerable areas in the future should be prohibited. Now that the Trent and Ganaraska Assessment Reports have identified which areas related to drinking water systems are most vulnerable to contamination, the SPC felt that this information should be used to appropriately site future facilities or activities. Although the SPC recognized that such sites are highly regulated, it was decided that the decision to allow this activity to take place in an area prone to the contamination of a drinking water supply would not be wise. To ensure that the prohibition is maintained, the SPC has developed a policy requiring the Ministry of the Environment to prohibit the activity by not issuing future environmental compliance approvals.

An additional policy has been written for approval authorities under the *Planning Act* to require that applications for land uses that would allow the activity to be established are not approved. Since the prohibition is for future activities, the SPC felt that this approach would not cause undue hardship on the industrial sector. A business or landowner interested in establishing this activity in the future would only be required to restrict the location of the activity to outside the most vulnerable areas.

## DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the operation or maintenance of a waste disposal site within the meaning of Part V of the <i>Environmental Protection Act</i> would be a significant drinking water threat:	Ministry of the Environment	Not issue any Environmental Compliance Approval for future occurrences of the activity.	Immediate

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

### 1) Wording

The policy should use a wording that prohibits the *activity* rather than the issuing of approvals.

#### Response

*The revised text prohibits the subject activities rather than preventing the issuing of the Environmental Compliance Approval.*

### 2) Complementary Land Use Policy

#### Response

*A complementary policy has been written to require municipalities to not approve applications for land uses that would allow any of the subject waste disposal threats.*

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

## MINISTRY OF THE ENVIRONMENT REVIEW

The Ministry of the Environment and Climate Change provided comments on this policy on June 26, 2014. The comment pointed out that Prescribed Instruments can be issued for mobile on-site destruction units for PCB waste and that this policy would effectively prevent the issuing of such an approval.

#### **Response**

*The Source Protection Committee considered this comment and by consensus agreed that the policy should be amended to allow a Prescribed Instrument in the specific case of a mobile PCB waste destruction unit where that unit is used to destroy PCB waste generated on that site (i.e. not allowing PCB waste to be brought in from elsewhere). It was acknowledged that no existing PCB waste sites were identified in the Assessment Reports as significant drinking water threats, however the change was made to cover the case in which such a site is identified in the future.*

### 5.6.3 POLICY W-3: EXISTING WASTE DISPOSAL SITES THAT DO NOT REQUIRE ENVIRONMENTAL COMPLIANCE APPROVALS

#### **RATIONALE**

As the SPC continued to develop policies, unique circumstances were identified where activities classified as waste disposal sites did not require a Prescribed Instrument to operate. Since no Prescribed Instrument is available for these sites, the SPC felt that the use of section 58 – Risk Management Plans would be the best approach to manage these unique sites. The RMP would be written to incorporate best management practices, and given that it would be developed with the RMO, local considerations could be addressed.

This policy was developed following pre-consultation; therefore, no comments were received from implementing bodies prior to the first formal consultation period.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

### 5.6.4 POLICY W-4: FUTURE WASTE DISPOSAL SITES THAT DO NOT REQUIRE ENVIRONMENTAL COMPLIANCE APPROVALS

#### **RATIONALE**

As identified in Section 5.6.3, there are some waste disposal sites that do not require an Environmental Compliance Approval. Given that no such systems were identified in the threats enumeration completed for the TCC SPR, the SPC felt that it would be appropriate to prohibit them in the future under section 57 of the *Clean Water Act, 2006*. Since this policy was written to address future occurrences of this unique circumstance of waste disposal site, the SPC felt that it would not create hardship on the business community to prohibit this activity in the vulnerable areas where it would be a significant threat. It is likely that any costs affiliated with implementing this prohibition would be administrative, and rare.

This policy was developed following pre-consultation; therefore, no comments were received from implementing bodies prior to the first formal consultation period.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

#### **MINISTRY OF THE ENVIRONMENT REVIEW**

The Ministry of the Environment and Climate Change commented on June 26, 2014 that this policy would prohibit any future generators of small or large quantities of hazardous and liquid industrial waste and, therefore, the impact could be more extensive than intended. This is due to the policy's inclusion of the following two threat subcategories:

- 1) Storage of wastes described in clauses (p), (q), (r), (s), (t), or (u) of the definition of hazardous waste, or in clause (d) of the definition of liquid industrial waste; and
- 2) Storage of hazardous or liquid industrial waste.

It was also noted that prohibition of the storage of large or small quantities of hazardous and liquid industrial waste prior to disposal would be challenging without extensively limiting the types of institutional, commercial or industrial facilities that can be located in the area.

### **Response**

*The SPC reviewed the subcategories of waste disposal sites noted above and the types of land uses that would be prohibited if each remained in this policy. It was felt that given the large number of land uses potentially prohibited if both subcategories were to remain subject to the policy that an acceptable middle ground would be to continue to prohibit the subcategory that represents larger quantities of the waste (i.e. “storage of hazardous or liquid industrial waste”), and to instead require a risk management plan for the subcategory that represents smaller quantities of the waste (i.e. “storage of wastes described in clauses (p), (q), (r), (s), (t), or (u)...”). This would allow these types of activities in the future only if the quantities of waste they generate are small, while ensuring that they are being managed by a risk management plan. It was also felt that by continuing to prohibit the “storage of waste described in clauses (p), (q), (r), (s), (t), or (u)...” subcategory that it may be difficult to enforce the prohibition, and that by using a risk management plan approach for this subcategory that the potential sites can be assessed on a case-by-case basis by the Risk Management Official to determine what level of protection is needed in consideration of the substances and quantities involved. Lastly, it was felt that given the specific list of contaminants necessary for land uses to be considered significant threats under these two subcategories, it is anticipated that only a small number of properties would actually be significant drinking water threats under those subcategories*

*This decision was made by a vote of the source protection committee conducted by email. This included two comment periods to allow SPC members to provide comment on comments provided by other SPC members and to reconsider their position in light of those comments. The committee voted in favor of the change, with one member voting against the change stating concern with respect to the cumulative impacts of small quantities of waste at multiple waste disposal sites.*

## **5.7 DENSE NON AQUEOUS PHASE LIQUIDS (DNAPLS) AND ORGANIC SOLVENTS**

Policy concepts were proposed to address existing and future DNAPL and organic solvent threats, all of which evolved into policies. As the SPC reviewed various policy approaches to address these threats, the following main considerations were taken into account:

- DNAPLs and organic solvents are persistent in the environment, and pose a threat at greater distances from wells than other chemical threats.
- DNAPL and organic solvent contamination is difficult to locate and remove from aquifers.
- DNAPLs and organic solvents are widely used in many industrial processes, and manufactured in large quantities; because of their continued use, the potential exists for future contamination through spills and leaks from bulk storage.
- DNAPLs and organic solvents used in many manufacturing processes are toxic to humans and can be released into sources of water.

### **5.7.1 POLICY D-1: RISK MANAGEMENT PLANS FOR EXISTING DNAPL AND ORGANIC SOLVENT THREATS**

#### **RATIONALE**

The SPC discussed the widespread prevalence of DNAPLs and organic solvents in the industrial sector. When first discussing policy concepts for this threat, it was clear that the SPC was concerned with the damage that these chemicals can cause to a source of drinking water, particularly groundwater. The SPC did consider adding volumes thresholds to the policies to be developed; however, in the end, this was not pursued.

It was discussed that prohibiting existing activities would be a significant hardship to affected property owners and that they should not be negatively affected unless there was known or demonstrated contamination. The SPC decided that the development of a RMP would be able to sufficiently manage existing significant DNAPL and organic solvent threats. Further, the use of RMPs should avoid significant hardship to the business community in dealing with existing threats.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the handling and storage of a dense non-aqueous phase liquid and /or the handling and storage of an organic solvent are a significant drinking water threat:	Risk Management Official	Negotiate and establish a risk management plan as defined in section 58 of the <i>Clean Water Act</i> , 2006 with the person engaging in the activity.	Within three years

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

1) **Phase-out or Relocation**

RMPs developed to address these activities should include phasing out the use or relocation of the facility outside of where the activity would be a significant drinking water threat.

Response

*The policy was amended to add text suggesting that RMPs for these activities recommend phase-out or relocation.*

2) **Role of Existing Legislation**

It was suggested that existing legislation may adequately manage these activities.

Response

*The SPC did not agree that there was sufficient legislation to regulate the use of these solvents and their associated chemicals. Therefore, the policy was not amended.*

3) **Transportation of DNAPLs**

There should be a mechanism to identify the transportation of DNAPLs within the area where they would be significant threats.

Response

*The SPC cannot address the transportation of DNAPLs in the creation of a SDWT policy. A policy has been written (OT-1) to address spills along transportation corridors, which could potentially apply to DNAPLs.*

### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

## 5.7.2 POLICY D-2 AND D-3: PROHIBITION OF FUTURE DNAPL AND ORGANIC SOLVENT THREATS AND RISK MANAGEMENT PLANS FOR HAVELOCK

### RATIONALE

The SPC considered prohibition to be the most appropriate option for future instances of DNAPLs and organic solvents. Prohibition was chosen based on the severity of the impacts that these chemicals can have on drinking water sources. Technical staff from one of the TCC SPR municipalities spoke regarding the impact of these chemicals on one of their groundwater supplies. Further to this discussion, the SPC decided that if the threat does not currently exist, it fell within the mandate of the SPC to ensure that the threat does not become established where it could cause contamination. Although not explicit in the policy, it is likely that occurrences of this threat would be associated with industrial or commercial situations, as opposed to a residential setting.

In some cases these chemicals can be replaced with other less harmful products (the prohibition applies to the chemical, not the business). Where a business is looking to become established and anticipates using these chemicals exclusively, the business will be required to locate outside of the vulnerable area. Since the business had yet to be established, the SPC felt that this approach should not cause undue hardship.

The SPC did hear major concerns following pre-consultation from the Township of Havelock-Belmont-Methuen with regard to the impact of the policy as written on the Village of Havelock. The SPC deliberated the situation and felt that since there were existing occurrences of the handling and storage of DNAPLs, there would be sufficient opportunity for businesses with these chemicals to exist in the future. As discussed below, the SPC, in the end, allowed an exception to the prohibition of future occurrences of these activities for the Village of Havelock.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the handling and storage of a dense non-aqueous phase liquid or the handling and storage of an organic solvent would be a significant drinking water threat:	Crown / Municipality	Future occurrences of the activity are prohibited under section 57 of the <i>Clean Water Act, 2006</i> .	Within three years

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Role of the implementing body**

Change the implementer from the Crown and/or municipality to the TSSA for this policy.

*Response*

*MOE Guidance has indicated that the RMO should be the implementing body for policies that rely on section 57 prohibition. Therefore, the implementing body is now identified as the RMO.*

**2) Revision from section 57 to section 58**



Replace the prohibition approach (section 57) with one of management (section 58 – RMP).

Response

*SPC members decided that DNAPL and organic solvent threats were too detrimental as contaminants once in groundwater and surface water. Therefore, the suggestion to change to a management approach for future DNAPL and organic solvent threats was not accepted.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
The implementation of this prohibition policy would be too restrictive for the Town of Havelock since the 2-year TOT encompasses the whole village.	Township of Havelock-Belmont-Methuen

Response

*The Committee discussed the feedback obtained from the Township of Havelock – Belmont- Methuen. The majority of the Village of Havelock is located in the WHPA – B including the vacant lands in the Industrial Park. Since the Village is limited in their options to move the municipal drinking water system, the SPC chose to develop an exemption policy for the Havelock municipal drinking water system [D-2 and D-3]. For all municipal wells in the TCC SPR where DNAPLs and organic solvents would be significant drinking water threats (WHPA-A, WHPA-B, and WHPA-C); these activities are prohibited with the exception of the Havelock municipal drinking water system. The handling and storage of a DNAPL and/or organic solvent would be prohibited in the future only within the WHPA-A. Outside of this area, the activity would be permitted, but will require a RMP. Policy [D-3(2)] specifies the minimum content of this RMP.*

## 5.8 NON-AGRICULTURAL SOURCE MATERIAL (NASM)

The SPC reviewed various policy approaches to address non – agricultural source material threats (NASM) (application, storage, and handling) and in doing so considered the following:

- Ontario Regulation 267/03 – *General* is the principal piece of legislation related to the application and on-farm storage of NASM. An amendment took effect on January 1, 2011. This new amendment establishes consistent standards and requirements across the province. These standards focus on the quality of the material being applied; ensuring it meets strict criteria and is beneficial to the soil.
- Non-agricultural source material plans (NASMPs) are required in order to apply or store Category 2 (C2) and Category 3 (C3) non-agricultural source materials. Category 1 (C1) materials and some C2 materials do not require a plan to be applied to land, but they must follow the maximum application rate set out in Ontario Regulation 267/03.
- A NASM plan is similar to a nutrient management plan, except that it only covers those fields where the NASM will be applied instead of the entire farm unit.
- A NASM Plan contains numerous components including information about the material that will be applied (source, type, content, application rate); the fields where the nutrients will be applied; cropping practices, crop rotation and yields; and on-farm storage (if applicable). The required contingency plan covers topics such as the receiving of more nutrients than addressed in the nutrient management plan and unanticipated release of nutrients (*i.e.*, spills).
- There are minimum setback requirements for the application of NASM to land. For example, NASM cannot be applied within 100 m of a municipal well.

### 5.8.1 POLICY N-1: EXISTING NASM ACTIVITIES SUBJECT TO PRESCRIBED INSTRUMENTS

#### **RATIONALE**

The SPC decided that since there were existing occurrences of NASM activities in the TCC SPR, these would be best managed through the Prescribed Instrument already in place. This approach would avoid regulatory duplication, and wherever possible, manage additional costs to the landowner and municipality. OMAFRA staff would be the most qualified to determine whether the NASM plan ensures that the activity is sufficiently managed that it ceases to be a significant drinking water threat. The SPC decided that a timeline of three years to complete this review will allow Ministry staff to prioritize the large number of reviews from across the province that they likely have to accomplish.

## DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the application, handling, or storage of non-agricultural source material is or would be significant drinking water threat, and the activity requires a Environmental Compliance Approval under the <i>Environmental Protection Act</i> or a NASM Plan under the <i>Nutrient Management Act, 2002</i> :	Ontario Ministry of Food, Agriculture, and Rural Affairs and/or Ministry of the Environment	1 Review any existing Environmental Compliance Approval or NASM Plan to determine if it is adequate to ensure that the activity is not a significant drinking water threat. If the instrument is deemed to be inadequate for this purpose, it will be amended to include additional conditions that will ensure that the activity ceases to be a significant drinking water threat; and	Within one year
		2 Report to the source protection authority on the status of the review of the Environmental Compliance Approval or NASM Plan and any orders issued as a result of an inspection during the reporting year; and	Annually
		3 Not issue any Environmental Compliance Approval or NASM Plan for future occurrences of the activity.	Immediate

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

- 1) OMAFRA recommends the use of RMPs based on appropriate nutrient management practices to manage this threat.

### Response

*One of the SPC's guiding principles when developing policies was to make use of existing tools when deciding how to manage significant drinking water threats. This approach would avoid regulatory duplication, and wherever possible, manage additional costs to the landowner and municipality. Thus, the policy approach was not changed.*

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

Feedback (as submitted to the SPC)	Commenting Implementing Body
The role of compliance is with the Ministry of the Environment (MOE) and orders are issued by the MOE. OMAFRA is not prepared to carry out requirements of N-1(3).	Ontario Ministry of Agriculture, Food, and Rural Affairs

### Response

*All provisions related to compliance have been changed to the Ministry the Environment.*

## MINISTRY OF THE ENVIRONMENT REVIEW

### 1) Category 1 existing NASM threats

The policy addresses existing NASM activities (application, handling and storage) that require a prescribed instrument (PI). Since only categories 2 & 3 NASM activities require a PI, the policy does not address existing category 1 NASM activities and therefore a policy is needed for these activities.

#### Response

**All NASM threat activities, including Category 1, are managed through Education and Outreach, under Policy G-5. Category 2 and 3 NASM are also managed through PI. The plan will be revised to specify the requirement for threat management through Education and Outreach within the Threat Summary for NASM.**

## 5.8.2 POLICY N-2: PROHIBITION OF FUTURE NASM ACTIVITIES

### RATIONALE

Although there are tools in place to manage the impact of NASM application, storage, and handling, the SPC felt that in their mandate to protect municipal supplies, approaches should be used to ensure that no threats become established where they would be significant. When policy concepts were proposed to the SPC, the option of using RMPs for future occurrences of this activity was presented. Early in the process, however, the SPC voiced support for a prohibition approach.

The SPC was made aware that NASM were applied in areas within the TCC SPR. Almost exclusively, however, this application is taking place outside of those vulnerable areas where the activity would be significant. The SPC felt that since landowners and municipalities had options for NASM application, storage, and handling elsewhere, restricting these activities to outside of the vulnerable areas was warranted. The SPC did decide to exempt future occurrences of the application of Category 1 NASM from this prohibition. These activities will be managed through a risk management plan.

### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date
Where the application, handling, and/or storage of non-agricultural source material is a significant drinking water threat:	Crown / Municipality	1 Future occurrences of the activity is prohibited under section 57 of the <i>Clean Water Act</i> , 2006 where these activities would be a significant drinking water threats, except where the non-agricultural source material is listed as Category 1 non-agricultural source material per the General regulation (O. Reg. 267/03) made under the <i>Nutrient Management Act</i> , 2002.	Immediate

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

- 1) **OMAFRA supports the prohibition of the application within WHPA-A and IPZ-1 (i.e., this is consistent with the requirements of the *Nutrient Management Act*).**

Response

*For many systems in the TCC SPR, the prohibition would apply beyond the WHPA-A and IPZ-1 (e.g. any WHPA with a vulnerability score of 10, which can include all or part of WHPA-B, or an IPZ with a score of 8, which can include IPZ-2).*

*Since the Trent and Ganaraska Assessment Reports identified the potential for significant drinking water threats to occur outside of the WHPA-A and IPZ-1 zones, the SPC felt it prudent to support the science of these documents. Thus, the SPC decided to maintain the prohibition approach for future NASM activities where these could result in SDWT.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
<p>Explanatory Document indicates that NASM Application, Storage, and Handling would continue to be prohibited outside of WHPA A and IPZ 1 zones. The Ministry has requested that the Committee provide rationale for why it is believed that NASM Plans cannot mitigate risks.</p>	<p>Ontario Ministry of Agriculture, Food, and Rural Affairs</p>

Response

*The SPC discussed the feedback obtained from the Ontario Ministry of Agriculture, Food, and Rural Affairs. In addition, one of OMAFRA’s Nutrient Management Specialists was in attendance at this meeting to address questions from the SPC. The SPC reviewed the content of a NASM plan, and discussed the requirement to have the plan in place prior to the application or storage of Category 2 (processed plant materials) and Category 3 (animal based) NASMs. Although the principles of a NASM plan are very similar to those of a nutrient management plan, members were quite concerned with the application and storage of these materials where the science of the assessment reports showed that the activities could result in SDWT – particularly since a NASM plan is in place to manage nutrients, not pathogens. In the end, following a vote among members, it was agreed to maintain the prohibition approach for all potential occurrences of a SDWT due to NASM activities.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

**1) Prohibition of NASM outside WHPA-A and IPZ-1**

Policy N-2 prohibits all future NASM in vulnerable areas where it would be significant, both inside and outside of WHPA-A and IPZ-1 (with the exception of category-1). It is recommended that Policy N-2 be amended to permit future significant NASM category 2 & 3 threat activities outside of WHPA-A and IPZ-1 unless the SPC can provide a more robust rationale for prohibiting future NASM activities when agricultural source material (ASM) activities are allowed. The chemicals of concern (nitrogen, phosphorous and pathogen) are the same for both ASM and NASM, and thus have the same impact on drinking water sources.

Response

*NASM threats are of particular concern within the Trent Conservation Coalition Region due to past experiences by municipalities and stakeholders regarding their use. The Source Protection Committee had considerable debate on this issue and decided to leave the policy as proposed: prohibition of future*

*significant NASM threats from Category 2 & 3 materials. A summary of the committee's rational is provided below, and comprehensive documentation of their rational was provided to the Ministry of the Environment (for further information, please consult the report titled: Non-Agricultural Source Material (NASM) Policies – Rational of the Trent Conservation Coalition Source Protection Committee, March 2014).*

- *NASM materials come from a variety of sources and contain materials other than nutrients and pathogens;*
- *Some NASM materials were previously regulated as waste products, and are now regulated as nutrients for on-farm uses; this caused concern with their appropriate regulation;*
- *NASM and ASM policies were developed with consideration for the hardships posed by the policies on the farmer; prohibiting future NASM application does not pose hardship for the farmer because the areas where its application is prohibited is small relative to the whole region; there are other lands, outside of vulnerable areas, where the NASM can be spread;*
- *Municipalities within the region currently have bylaws prohibiting paper biosolid application (considered a NASM) so the policy is consistent with these municipal regulations;*
- *There are concerns with adequate regulatory enforcement of NASM content, spreading rates and timing;*
- *The circumstances which identify a significant drinking water threat for NASM activities are very specific, and limit when this policy would apply:*
  - *Significant chemical threats for NASM application require that the landscape within the vulnerable area meet certain thresholds for percent of managed lands and livestock density; because values for these two factors are generally low across the region, significant threats are only possible in a limited number of systems (3 systems total); therefore, these threats are only possible within vulnerable areas for these 3 systems;*
  - *Significant chemical threats for NASM handling and storage require the mass of nitrogen to exceed 0.5 tonnes in vulnerable areas with a score of 10, and 5 tonnes in IPZ with a score of 9;*
  - *Significant pathogen threats from NASM activities require the material to contain meat plant or sewage works material;*
- *Following a vote among members, protecting municipal drinking water sources by prohibiting these future activities where they would be significant drinking water threats was felt to be the best approach by the majority of the Source Protection Committee.*

### 5.8.3 POLICY N-3: RISK MANAGEMENT PLANS FOR CATEGORY 1 NASM THREATS

#### **RATIONALE**

This policy requires RMPs for future NASM activities where the activity relates to the application of Category 1 NASM (e.g., leaf waste, culled vegetables, etc.). This policy was added to ensure that these activities are adequately managed in the future as they are not subject to NASM plans and they are specifically excluded from the section 57 prohibition in policy N-2.

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

Feedback (as submitted to the SPC)	Commenting Implementing Body
<p>Due to the low risk associated with Category 1 NASM, the Ministry recommends that the policy which requires RMPs for application and storage of these materials be removed from the source protection plans. The standards set out in the <i>Nutrient Management Act</i> are appropriate for mitigating risks associated with Category 1 NASM.</p>	<p>Ontario Ministry of Agriculture, Food, and Rural Affairs</p>

**Response**

*The SPC discussed the feedback obtained from the Ontario Ministry of Agriculture, Food, and Rural Affairs and maintained their original position for the management of Category 1 NASM where the activity would result in a significant drinking water threat. The SPC was not comfortable with relying on the standards outlined in the Nutrient Management Act when there is no way to document that these measures are being implemented (i.e., Category 1 NASM are not subject to NASM plans).*

**MINISTRY OF THE ENVIRONMENT REVIEW**

**1) Handling and storage**

*Policy N-3 allows for future application of category 1 NASM subject to a RMP but is silent on handling and storage.*

**Response**

*The policy will be revised to manage future occurrences of all three Category 1 NASM activities (application, handling, and storage) under a risk management plan (RMP). A RMP was considered appropriate given that application activities would most likely include some type of handling and storage as well.*

## 5.9 SNOW STORAGE

The SPC discussed the policy approaches for the storage of snow in conjunction with the application, storage, and handling of road salt. It was felt that the considerations relevant to the protection of drinking water sources were similar among these drinking water threats. In particular, the threefold increase in the application of road salt in Canada over the past 25 years was felt to be reflected in the amount of snow stored not only in snow dumps, but also in parking lots as a result of plowing. It was also acknowledged by the SPC that runoff from a snow storage site can contain additional contaminants that may impact drinking water sources.

### 5.9.1 POLICY O-1: EXISTING SNOW STORAGE

#### RATIONALE

Only one snow storage facility was identified in the threats enumeration for the Trent Assessment Report. The SPC decided that the first option to be presented to the municipality with a snow storage identified as a SDWT should be the option to move the facility. This approach would allow the municipality to assess the financial feasibility of this approach. If the municipality is unable to move the facility, the SPC felt that a RMP would ensure that the site is managed appropriately to prevent runoff from contaminating groundwater or surface water. The SPC was of the opinion that the management of this site was likely already addressed in some form in the SMP for the municipality. Creating a RMP for the site would adopt relevant components of the SMP and best management practices for snow storage, while taking into consideration proximity to municipal drinking water supplies.

#### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where the storage of snow is a significant drinking water threat, and the snow is stored at a snow storage facility:	Landowner	1	Assess the feasibility of relocating the snow storage facility to an area where it would not be a significant drinking water threat. If an appropriate alternate site is identified, the snow storage facility will be relocated to the alternate site.	Within one year (relocation within two years where feasible)
	Risk Management Official	2	If an appropriate alternate site is not identified per clause (1), the Risk Management Official will negotiate and establish a risk management plan as defined in section 58 of the <i>Clean Water Act, 2006</i> for each property on which the activity is occurring.	Within three years

#### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

- 1) **Clarify Wording:** The policy should clarify the definition of “snow storage facility”.

##### Response

*The threat circumstances for snow storage include minimum values for the “area upon which the snow is stored” (the lowest area that can be a significant threat is 100m<sup>2</sup>). The clause “...and the snow is stored at a snow storage facility” was intended, for practical reasons, to exclude snow storage along the side of a road that is of sufficient area to trigger a significant threat.*



*The revised policy clarifies the meaning of “snow storage facility” with the text “and the snow is not stored along the side of a road as a result of snow plowing”.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

**5.9.2 POLICY O-2: FUTURE SNOW STORAGE**

**RATIONALE**

The SPC decided that future prohibition of snow storage facilities was warranted due to the serious risk of contamination from large volumes of road salt and chemicals. Section 57 prohibition was the preferred approach since there is no existing Prescribed Instrument regulating this type of facility. The SPC discussed the cost implications for the municipality or landowner as a result of not being able to locate a future storage facility in a desired location. Since the prohibition would only be in the vulnerable areas, not area-wide, the SPC decided that the requirement to store snow outside of these areas would not cause undue hardship to municipalities and would not restrict future development.

**DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION**

Applicable Area & Activity	Delivery Agent	Tool	Requirements	Compliance Date
Where the storage of snow would be a significant drinking water threat:	Crown / Municipality	section 57	Future occurrences of the activity are prohibited under section 57 of the <i>Clean Water Act, 2006</i> .	Immediate

**PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS**

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

- 1) **Clarify Wording:** The policy should clarify the definition of “snow storage facility”.

*Response*

*For consistency with the change to policy O-1, the revised policy will clarify the meaning of “snow storage facility” with the text “and the snow is not stored along the side of a road as a result of snow plowing”.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

## 5.10 AQUACULTURE

Within the TCC SPR, the Management of Agricultural Source Material, or aquaculture, can be a significant threat only in the Issue Contributing Area (Wellhead Protection Area E or WHPA – E) of the Stirling Municipal Well. This is a unique situation. The vulnerability scoring for most drinking water systems would result in this activity being only a moderate or low threat.

### 5.10.1 POLICY Q-1: MANAGEMENT OF EXISTING AQUACULTURE

#### RATIONALE

There are no existing occurrences of this threat at the Stirling Municipal Well System. In the interests of completeness, the SPC felt that a policy to address existing occurrences of the threat would be warranted in the event that the threat enumeration overlooked such an operation. The SPC chose to use a RMP to manage existing operations since appropriate measures would be put in place to protect the water supply.

This policy was created by the SPC following pre-consultation; therefore, no comments were received prior to formal consultation.

#### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### 5.10.2 POLICY Q-2: PROHIBITION OF FUTURE AQUACULTURE

#### RATIONALE

Since *E. coli* has been identified as an issue at the Stirling Municipal Well System, the SPC was of the opinion that allowing the future establishment of an activity that could be a source of pathogens, even if managed, would not be appropriate. The SPC decided that restricting aquaculture operations within the WHPA-E would not be a tremendous burden on the industry, particularly since the area has not already been identified as being used for this type of activity.

#### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Tool	Requirements	Compliance Date
Where the management of agricultural source material (aquaculture) would be a significant drinking water threat:	Municipality	section 57	Future occurrences of the activity are prohibited under section 57 of the <i>Clean Water Act, 2006</i> .	Immediate

No changes were made to this policy as a result of pre-consultation.

#### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

## 5.11 AIRCRAFT DE-ICING

When reviewing policies to address the management of runoff as a result of aircraft de-icing, the Source Protection Committee considered the following:

- The primary consideration for reducing or eliminating drinking water threats related to the management of runoff that contains aircraft de-icing chemicals is to make sure it does not enter surface water and/or groundwater.
- Ethylene glycol or propylene glycol is the active ingredient in aircraft de-icing fluids. While other formulas have been considered, it is noted that glycol continues to be the major chemical used for this application. The runoff of large volumes of de-icing fluids into surface water bodies over a short period of time can lead to oxygen depletion which results in poor water quality and toxicity to aquatic life and mammals. The toxicity associated with the de-icing chemical can originate from both the glycol formulation, as well as the additives mixed into these formulations.

### 5.11.1 POLICY P-1: MANAGEMENT OF EXISTING AND FUTURE AIRCRAFT DE-ICING

#### RATIONALE

Although there are no identified existing situations of aircraft de-icing identified in the Trent and Ganaraska Assessment Reports, the SPC felt it was theoretically possible that an airport could be established prior to the source protection plans taking effect or in the future, and therefore applicable policies were written.

When considering options for addressing future instances of this threat, the SPC decided that it would be appropriate to prohibit the activity in the future. The Ministry of the Environment advised the Committee that the prohibition of a federal activity is not possible. To account for this restriction, and to ensure that the activity does not become a significant threat to drinking water, the landowner will be required to work with the Risk Management Official to develop a RMP for the operation. There are already practices in place at airports to ensure that the use of de-icing products is being managed, including the development of glycol management plans. The Risk Management Official would work with relevant personnel to prepare a RMP taking into account components of the glycol management plan and the protection of drinking water sources.

It is acknowledged by the SPC that airports are regulated by the federal government. Guidance from the Ministry of the Environment indicated that policies can apply to any significant drinking water threat regardless of the landowner, but that the legal effect of the policy is based on the implementer of the policy, the selected policy tool, and the person or body engaging in the activity. Therefore, the owner of the airport will be encouraged to develop a RMP in cooperation with the Risk Management Official.

#### DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where the management of runoff that contains chemicals used in the de-icing of aircraft is a significant drinking water threat:	Crown / Municipality	1	Future occurrences of the activity are prohibited under section 57 of the <i>Clean Water Act, 2006</i> .	Immediate
	Landowner	2	Notify the municipality during the planning phase of an airport.	As prescribed

## PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

### 1) Use of section 57 (Prohibition)

Following pre-consultation, the SPC was advised by the MOE that they do not have the power to prohibit a federally regulated activity using any tool.

#### Response

*Although the preference of the SPC was to prohibit this threat in the future, they have now selected a management approach. Therefore, future instances of this activity will be managed under section 58.*

### 2) Reporting Role

The proponent for the development of an airport should contact the municipality before developing plans for an airport to check where such a facility is permitted.

#### Response

*The policy was reworded to require the proponent of an airport development to consult with the municipality to determine where de-icing activities are required to be managed using a RMP.*

### 3) Seasonal Operation: If de-icing is prohibited, then an airport or aerodrome could only operate at times of the year when de-icing would not be required.

#### Response

*The updated policy now requires that future instances of “the management of runoff that contains chemicals used in the de-icing of aircraft” that would be SDWT be managed (not prohibited). The determination of whether this activity would be a significant threat is based on the size and location of the related airport and the types of de-icing chemicals being used. Only regional and national airports that apply dioxane-1, 4 or ethylene glycol can be SDWT where they are located in an area with a sufficiently high vulnerability score.*

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation. Given that the SPC chose to manage both existing and future occurrences of this activity using section 58 (Risk Management Plan), draft Policies P-1 (for existing) and P-2 (for future) have been combined to create one “Management of Aircraft De-Icing Policy” under P-1.*

## MINISTRY OF THE ENVIRONMENT REVIEW

### 1) Implementing body for monitoring policies

Policy P-1 addresses de-icing, and is directed at Transport Canada, the RMO, and municipality. The CWA requires monitoring policies related to significant threats to identify a public body as defined in section 2 of the CWA: federal bodies and private entities cannot be implementing bodies for monitoring policies.

**Response**

*The CWA does not allow for designation of federal or private bodies as implementing bodies for monitoring policies; therefore, the implementing body was changed to the Source Protection Authority (SPA). The SPC felt this was the most efficient choice for implementing body.*

**2) Implementing body for RMP policy**

Regarding naming the municipality as the implementing body in P-1(4); since the RMO is responsible for negotiating the RMP in P-1(1), it is logical that P-1(4) which refers to contents in the RMP, also name the RMO instead of the municipality.

**Response**

*As this policy relates to risk management plans, the SPC agreed that it is appropriate to designate the RMO as the implementing body.*

**3) Design standards for new airports**

Policy P-1(2) is a non-legally binding policy which requires Transport Canada to include appropriate design standards and management practices to prevent run-off from airport de-icing facilities. Recently the ministry has received comments from Transport Canada clarifying that they do not have a role in the approval or construction of new airport facilities. For this reason, we recommend modifying P-1(2) such that the implementing body is "relevant airport authorities or operators."

**Response**

*The SPC felt that relevant airport authorities or operators would be the most direct way to manage this threat; however, Transport Canada still has an oversight role in airport operations and should therefore be involved in the monitoring component of this policy. The policy was revised to include both relevant airport authorities or operators and Transport Canada.*

### 5.11.2 POLICY P-2 (REMOVED): MANAGEMENT OF FUTURE AIRCRAFT DE-ICING

#### **RATIONALE**

Given that the SPC chose to manage both existing and future occurrences of this activity using section 58 (Risk Management Plan), draft Policies P-1 (for existing) and P-2 (for future) have been combined to create one "Management of Aircraft De-Icing Policy" under P-1.

## 5.12 LOCAL THREATS

One local threat was approved for inclusion in each of the Trent and Ganaraska Source Protection Plans. Policy L-1 applies to the Lakefield and Peterborough Drinking Water Systems in the Otonabee – Peterborough Source Protection Area. Policy L-2 applies to the Port Hope, Cobourg, and Newcastle Drinking Water Systems in the Ganaraska Region Source Protection Area.

### 5.12.1 POLICY L-1: LANDSCAPING THAT PROMOTES THE CONGREGATION OF WATERFOWL

#### **RATIONALE**

The presence of waterfowl on parkland is encouraged by the maintenance of manicured lawns and by human behavior (*i.e.*, feeding). Waterfowl management is a difficult undertaking that has been approached in many jurisdictions; literature suggests that waterfowl management plans must be adaptive to changing conditions and include a variety of management strategies to be effective. Requiring the development and implementation of a waterfowl management plan will allow the affected municipalities to develop plans that are appropriate to local conditions without being restricted to the contents of a risk management plan under section 58 of the *Clean Water Act, 2006*. The Risk Management Official would not have a direct role in implementation of the policy. Rather, development and implementation of the plan would be self-directed by the affected municipalities, subject to the submission of an annual report to the Otonabee-Peterborough Source Protection Authority.

The policy refers specifically to the establishment of a by-law to prohibit the feeding of waterfowl at municipally owned parks and mown areas to be consistent with the approved local threat text. It is anticipated that the posting of signage and the adoption of a waterfowl feeding by-law will help to minimize the presence of waterfowl related to human feeding. These approaches may also serve to decrease waterfowl populations outside of the intake protection zone.

The SPC decided that an appropriate timeline for the posting of signage would be one year, while to implement the waterfowl management plan the timeline would be five years. Staggering these timelines allows the municipalities to begin education and outreach related activities, while still having the necessary time to plan fiscally for the effort and cost required to implement the remaining components of the waterfowl management plan without significant hardship.

## DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION

Applicable Area & Activity	Delivery Agent	Requirements		Compliance Date
Where maintaining open areas of mown grass for recreational activities that promote the congregation of waterfowl within or near surface water bodies is or would be a significant drinking water threat:	Municipality	1	Develop a waterfowl management plan to reduce the presence of waterfowl on properties owned by the municipality. The plan must follow an adaptive approach to waterfowl management that includes habitat modification and ongoing monitoring of the plan's effectiveness. The plan may include, but is not limited to site alterations to reduce the attractiveness of the property to waterfowl, such as planting of shoreline vegetation, and installation of physical barriers.	Initiated within one year, completed within three years
		2	Post signage at any areas frequently used by the public to feed waterfowl that indicate that the feeding of waterfowl is prohibited.	Annually
		3	Report to the Otonabee-Peterborough Source Protection Authority on the activities undertaken as part of the waterfowl management plan and the results of any related monitoring activities.	Within one year
		4	Establish a by-law to prohibit the feeding of waterfowl at parks and mown areas.	Immediate

### PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

#### 1) Signage

The required signage should indicate that congregation of waterfowl can have a negative impact on water quality.

##### Response

*The policy text has been revised to require signage to indicate that the feeding of waterfowl is prohibited because it can have a negative impact on water quality.*

#### 2) Bylaw

The bylaw to prohibit the feeding of waterfowl should refer specifically to municipally owned parks and mown areas (*i.e.*, exclude private properties from the bylaw).

##### Response

*The revised policy text specifically refers to municipally owned parks and mown areas.*

#### 4) Timeline

In the waterfowl management plan clause (1), the compliance date should clarify the meaning of the word "initiate". Further, the policy should distinguish between when the plan is required to be completed and when the provisions of the plan must be implemented.

Response

*For consistency, the timeline for this policy has been changed to mirror the timeline discussed for RMPs. The installation of signs will take place within one year, while the waterfowl management plan will be implemented within five years.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

**5.12.2 POLICY L-2: CONVEYANCE OF OIL BY WAY OF A PIPELINE**

**RATIONALE**

Municipalities have existing emergency plans to address large scale spills. Rather than developing a separate emergency plan to specifically address a pipeline rupture, it was felt by the SPC that it would be more appropriate to review existing plans in light of the pipeline rupture threat and amend them to address any deficiencies and to conduct regular emergency scenarios. In discussions with the affected municipalities and their emergency management staff, it was determined that communication between various parties in the event of a spill was the most important variable.

A meeting was held during policy development with representatives from the municipalities that would be impacted by this policy and, following pre-consultation, with the owner of the pipeline. There was support for the approach selected from all in attendance. Rather than a focus on new initiatives, municipalities and the pipeline owner will build on existing efforts to improve communication so that in the event of a spill relevant personnel are notified in a timely fashion.

**DRAFT POLICY CIRCULATED FOR PRE-CONSULTATION**



Applicable Area & Activity	Delivery Agent	Requirements	Compliance Date		
Where the conveyance of oil by way of a pipeline is a significant drinking water threat:	Owner of pipeline	1 Review their relevant emergency response plans or procedures to ensure that they are adequate to respond to a pipeline rupture in an area where the pipeline crosses a body of open water. The emergency response plan must include, at a minimum: <ul style="list-style-type: none"> <li>a. Specific procedures for responding to a pipeline rupture in an area where the pipeline crosses a body of open water;</li> <li>b. A communications protocol;</li> <li>c. The location of available spill response materials; and</li> <li>d. Provisions to immediately notify the affected water treatment plant and municipality in the event of a pipeline rupture.</li> </ul>	Within one year		
			Within one year		
			As required		
			Annually		
		2	Provide a summary to the Ganaraska Region Source Protection Authority of any updates to existing emergency plans made to address a pipeline rupture.	Annually	
		3	Report to the Ganaraska Region Source Protection Authority regarding any activation of the emergency response plan for activities undertaken as a result of a pipeline rupture.	As required	
		4	Review and update the emergency response plans.	Within one year	
Where the conveyance of oil by way of a pipeline is a significant drinking water threat:	Municipality	1 Review their relevant emergency response plans or procedures to ensure that they are adequate to respond to a pipeline rupture in an area where the pipeline crosses a body of open water. The emergency response plan must include, at a minimum: <ul style="list-style-type: none"> <li>a. Specific procedures for responding to a pipeline rupture in an area where the pipeline crosses a body of open water;</li> <li>b. A communications protocol; and</li> <li>c. The location of available spill response materials.</li> </ul>	Within one year		
			2	Provide a summary to the Ganaraska Region Source Protection Authority of any updates to existing emergency plans made to address a pipeline rupture.	Within one year
			3	Report to the Ganaraska Region Source Protection Authority regarding any activation of the emergency response plan for activities undertaken as a result of a pipeline rupture.	Annually
			4	Review and update the emergency response plans.	As required
		5	Conduct practice exercises and/or emergency response scenarios related to the emergency response plan.	Within one year	
		6	Notify the potentially affected municipality and water treatment plant prior to any pipeline maintenance activities.	As required	

**PRE-CONSULTATION: SUMMARY OF COMMENTS RECEIVED & SPC DECISIONS**

The following text identifies the comments received during pre-consultation and provides a summary of how the comments were addressed by the SPC:

**1) Municipal Role**

It should be clearly stated in the policy that the emergency response plan required of the municipality relates to their intakes, wells, and plants: it is not a response plan for the spill itself.

**Response**

*The policy text was revised to reflect that the emergency response role of the municipality is restricted to activities at the affected intakes and water treatment plant(s).*

**2) Specify Applicable Areas for Emergency Response Exercises**

**Response**

*The revised policy text specifies that practice exercises required by the owner of the pipeline can take place in any area along the length of that pipeline.*

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

**MINISTRY OF THE ENVIRONMENT REVIEW**

**1) Implementing body for monitoring policies**

The *Clean Water Act* requires monitoring policies related to significant threats to identify a public body as defined in section 2 of the CWA: federal bodies and private entities cannot be implementing bodies for monitoring policies.

**Response**

*The Clean Water Act does not allow for designation of federal or private bodies as implementing bodies for monitoring policies; therefore, the implementing body for Policies L-2(2), (3), and (7) was changed to the Source Protection Authority (SPA). The SPC felt this was the most efficient choice for implementing body.*

**2) Pipeline Policy – Applicability for Other Pipelines**

Discussions with MOE staff in July 2014 indicated that if the SPC wished to do so that small changes could be made to the Ganaraska Assessment Report to allow the modeling study carried out to identify the current Trans-Northern pipeline as a local threat to be used as a benchmark for identifying other similar pipelines as significant drinking water threats. The SPC decided by consensus to make those changes. To correspond with that change, the pipeline policy L-2 was changed to apply to both existing and future pipelines.

**5.13 POLICIES I-1 AND I-2: MONITORING FOR DRINKING WATER ISSUES**

**RATIONALE**

The SPC considered it advisable to develop policies to monitor the two drinking water issues caused by human activity that were identified in the Trent Assessment Report. These were a nitrate issue at the Blackstock drinking water system and an *E. coli* issue at the Stirling drinking water system. The policies require that any monitoring data related to these issues be reported annually to the Kawartha – Haliburton and Lower Trent Source Protection Authorities, respectively.

These policies were finalized by the SPC following pre-consultation; therefore, no comments were received prior to formal consultation.

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### 5.14 OTHER POLICIES

The SPC considered all of the types of optional content that are permitted by Section 26 of *Clean Water Act, 2006* for inclusion in the Trent and Ganaraska Source Protection Plans. These policies were finalized by the SPC following pre-consultation; therefore, no comments were received prior to formal consultation.

#### 5.14.1 POLICY OT-1: TRANSPORTATION CORRIDORS

##### RATIONALE

This policy was developed by the SPC to ensure that emergency response and/or spill contingency plans for both municipalities and the Ministry of the Environment are updated regularly to address the potential for a spill along a transportation corridor (*i.e.*, highway as defined in the *Highway Traffic Act*, shipping lanes, and railways) that may impact a drinking water source. The policy provides details about the required content of the plan and for regular testing and preparedness exercises in relation to the plans. The current policy has evolved from one developed by the CTC Source Protection Committee that was intended to improve spill response on Lake Ontario.

## FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### MINISTRY OF THE ENVIRONMENT REVIEW

#### 1) Reporting thresholds

Policy OT-1(4) addresses spills along transportation corridors. Part (4) b) of this policy seeks an update of MOE's emergency response plans and/or spill contingency plans for highways, shipping lanes and railways by reviewing the reporting thresholds for significant threat activities, in consultation with the municipalities and adjusting the reporting thresholds as required.

The MOE does not have thresholds for reporting spills under the Ontario Water Resources Act or the Environmental Protection Act – rather there is a general prohibition from impacting water quality. The concept of a reporting threshold, for example allowing for a specific volume of a material be discharged in order to trigger an emergency response, would contravene the Ontario Water Resources Act and the Environmental Protection Act and would make it legal to not report a small volume spill that impacted the environment. Therefore this is less protective of the environment. We request that (4) b) be removed from the policy.

##### Response

***Reporting thresholds are less protective of the environment than current legislation. The SPC felt that removing this clause and focusing the policy on communication and coordination of spills reporting and Emergency Response Plans would better address the risk to drinking water.***

## 5.14.2 POLICY OT-2: TRANSPORT PATHWAYS

### RATIONALE

This policy was developed by the SPC to ensure that transport pathways (*i.e.*, man-made features on the landscape that allow water to bypass the natural flow of water, such as wells and tile-drained areas) and their potential to endanger the raw water supply of drinking water systems is addressed by the source protection plans. The policy distinguishes between transport pathways located in the areas closest to the municipal intake or well, and those situated further away. In the areas closest to the intake or wellhead (*i.e.*, WHPA-A and IPZ-1), the policy includes provisions to ensure that existing transport pathways are constructed in accordance with relevant best management practices and that the construction of future transport pathways are prohibited by means of a by-law. In other vulnerable areas (*i.e.*, WHPA-B, C, D, and IPZ-2), the policy allows future transport pathways, provided that they are inspected by the municipality for compliance with the Regulation 903 (*Wells*) under the *Ontario Water Resources Act*.

### FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:

*No feedback was received specific to this policy through formal consultation.*

### MINISTRY OF THE ENVIRONMENT REVIEW

#### 1) Regulation of transport pathways

Municipalities have limited authority to regulate transport pathways. Areas where municipal authority may extend include geothermal systems, as well as some control over grading (e.g., ditches, trenches). The province has authority for the wells Regulation 903, and oversight of wells is an important part of protecting aquifers and groundwater supplies. In light of the municipal and ministry roles in transport pathways, it is recommended that changes be made such that education and outreach and municipal bylaws are used to address transport pathways.

#### Response

*As originally written, the municipality would have difficulty implementing this policy due to their limited knowledge of when and where new transport pathways might be created. Also, the original policy specified upgrading existing transport pathways (financial resources, expertise, staffing/equipment resources). The policy was revised to be more reflective of the roles that municipalities and MOE play in transport pathways, especially wells. The revised policy employs education and outreach and a municipal bylaw. The definition and examples of transport pathways were also added to the policy to help with implementation. Furthermore, under Ontario Regulation 287/07, Section 27(3) municipalities are required to notify the SPA and SPC of any proposals to create new transport pathways within vulnerable areas.*

*Since MOE is responsible for Regulation 903, the SPC felt that this program should be reviewed to ensure that wells within vulnerable areas are prioritized for inspections. The intent of the policy is to have all wells within vulnerable areas (including abandoned wells) inspected by MOE.*

#### 2) Regulation of transport pathways

The Ministry of the Environment and Climate Change commented on June 26, 2014 that the land use planning tool is an available policy tool for addressing transport pathways. For this reason, the SPC agreed by consensus to remove a clause from this policy that required a land use planning policy to address future transport pathways.

### 5.14.3 POLICY OT-3: EXTENSION OF EDUCATION PROGRAMS TO FIRST NATIONS COMMUNITIES

#### **RATIONALE**

This policy was based on a provision of the *Clean Water Act, 2006*, that allows policies that govern incentive programs and education and outreach programs with respect to drinking water systems that are not included in the Terms of Reference. It was felt by the SPC that given the large number of systems not in the terms of reference, it would not be feasible to develop education and outreach programs related to all of these systems. It would, however, be realistic to extend already existing education and outreach initiatives into First Nations communities which could benefit from these materials and guidance.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

### 5.14.4 POLICY OT-4: COLLECTION OF CLIMATE CHANGE DATA

#### **RATIONALE**

This policy was based on a provision of the *Clean Water Act, 2006* that allows policies that specify the actions to be taken by persons or bodies to ensure that data on climate conditions are gathered on an ongoing basis (*i.e.*, data on precipitation, streamflow, temperature, evapotranspiration, and solar radiation). In light of the content of both the Trent and Ganaraska Assessment Reports, which indicate that climate change has the potential to affect the sizes of vulnerable areas and the results of the water budgets, the SPC developed this policy to encourage the ongoing collection of climate change data. Further, a provision was included to encourage the ongoing funding of this data collection by the Province of Ontario.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

### 5.14.5 POLICY OT-5: COLLABORATION WITH OTHER JURISDICTIONS

#### **RATIONALE**

This policy was developed by the CTC Source Protection Committee and subsequently adopted by the SPC to request that the Ministry of the Environment work collaboratively with other jurisdictions to raise the profile of Lake Ontario as a source of drinking water by discussing the outcomes of Ontario's source protection programs with other jurisdictions with an interest in Lake Ontario.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation.*

## 5.15 WATER QUANTITY DEMAND POLICIES (WHPA Q1)

The SPC considered the Draft policies contained in the CTC Source Protection Plan, and proposed to be used by Durham Region. Due to the small area of WHPA Q1 & Q2 within TCC, staff provided Durham Region the opportunity to comment on the proposed adoption of CTC policies with some small changes.

These policies were finalized by the SPC following consultation; Comments from Durham Region were received prior to formal consultation.

### 5.15.1 POLICY Y-1(1) – PERMIT TO TAKE WATER PRESCRIBED INSTRUMENTS

#### **RATIONALE**

This policy was adapted from CTC's DEM-1 policy.

Policy DEM-1 is a Prescribed Instrument policy that manages activities that take water from an aquifer without returning the water to the same aquifer through the Prescribed Instrument (Permit To Take Water). This policy applies to existing and future threats in a WHPA-Q1 with a significant risk level and to future threats in a WHPA-Q1 with a moderate risk level.

The intent of this policy is to ensure the Ministry of the Environment and Climate Change reviews existing Permits to Take Water within 3 years to ensure appropriate conditions are included to protect the sources of municipal drinking water considering the results of the Tier 3 Water Budget analysis for the area. Any new permits will be issued only after ensuring that the new taking will not become a threat to drinking water by using as part of the assessment the modelling approach and any updated information consistent with the Tier 3 Water Budget analysis. Additional conditions that may be included in such permits could be setting specific trigger levels when water taking would need to be reduced to protect the municipal supply; requiring installation and reporting of water levels in a comprehensive set of sentry wells to assess changes to the aquifer; or monitoring the impact to base flow in areas important for spawning in cold-water fisheries or for maintaining provincially significant wetlands in areas that have been identified as impacted in the Tier 3 water budget study to support the environmental protection requirements of the Permit to Take Water process under the Ontario Water Resources Act and associated regulations and directives.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*MOECC Development Phase Comment: Since the portion of the York-Durham WHPA-Q1 that extends into TCC from CTC has a moderate risk level, part 1) of policy Y-1(1) is not feasible because of item 3 in Table 5 under Rule 113. This section of Rule 113 indicates that moderate risk level areas can only have significant risks associated with new or increased takings whereas Part 1 of policy Y-1(1) deals with reviewing existing water taking permits. Therefore, it would be appropriate to remove the first section of policy Y-1(1).*

## 5.15.2 POLICY Y-1(2) – PLANNING POLICIES

### **RATIONALE**

This policy was adapted from CTC's DEM-2 policy.

Policy DEM-2 is a land use planning policy that manages activities that take water from an aquifer without returning the water to the same aquifer. This policy applies to new development in a WHPA-Q1 with a significant risk level and to future threats in a WHPA-Q1 with a moderate risk level.

The intent of the policy is to ensure that the Planning Approval Authority has the most updated information and tools available through the Tier 3 Water Budget analysis to ensure decisions at a local level do not result in the new development becoming a significant drinking water threat within a WHPA-Q1. The local Source Protection Authority has the model files and information to support this analysis, but the applicant will have to retain qualified expertise to do the analysis. By using the current version of the Tier 3 water budget model and updated information should ensure that the results are technically robust and comparable to the original analysis. The Ministry of the Environment and Climate Change is the approval authority for whether or not to issue a Permit to Take Water for any new taking and only reviews applications which have been favourably reviewed by the Planning Approval Authority. So any planning approvals should be made contingent on the applicant subsequently receiving their Permit to Take Water.

The intent of Part 3 (a) is to direct the body with the authority for approving expansions to settlement area boundaries to take account of water quantity threats related to the existing wells and permitted takings to determine how additional water could be provided to supply new demands that would result from an increase to the area proposed for development BEFORE a decision is made to expand the settlement area. The additional water may be sourced from existing wells coupled with actions to implement risk management measures.

The intent of part 3 (b) is to ensure baseflow and overland flows into surface water is maintained to provide sufficient waste water assimilation in locations where maintaining this use has been identified as a threat. The surface water flow or quantity required for assimilation is usually set out in other instruments such as a Permit to Take Water or Environmental Compliance Approval.

The intent of part 3 (c) is to ensure the hydrological integrity of municipal wells will be maintained to ensure future supply.

### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*Durham Region Development Phase Comment: The term 'major development' is specific to lands within the Lake Simcoe Protection Plan and is therefore not applicable within the TCC study area and not recommended for use in the TCC Plan. Defining 'development' in a manner similar to the CTC plan would be preferred.*

*Durham Region Public Consultation Comment: Policy Y-1(2)(3a) relates to a settlement area expansion which is not applicable, given that the settlement boundary expansions within this geography are not permitted.*

### 5.15.3 POLICY Y-1(4) – GROWTH MANAGEMENT PLAN

#### **RATIONALE**

This policy was adapted from CTC's DEM-3 policy.

Policy DEM-3 is a Specify Action policy that directs provincial agencies responsible for setting population targets and growth areas that may require additional or new municipal water supplies to consider the significant water quantity threats analysis. This policy applies to existing and future threats in a WHPA-Q1 with a significant risk level and to future threats in a WHPA-Q1 with a moderate risk level.

The intent of the policy is to ensure the different provincial ministries and municipalities communicate, coordinate and consider the Tier 3 Water Budget findings and most current information when setting provincial targets and policies directing population growth so that these do not create new threats or increase the threats of existing activities.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*Durham Region Public Consultation Comment: Policy Y-1(3) [now renamed Policy Y-1(4)] relates to a settlement area expansion which is not applicable, given that the settlement boundary expansions within this geography are not permitted.*

### 5.15.4 POLICY Y-1(6) – MUNICIPAL WATER CONSERVATION PLAN

#### **RATIONALE**

This policy was adapted from CTC's DEM-4 policy.

Policy DEM-4 is a Specify Action policy that requires municipalities to implement water conservation plans as part of their risk management approach. This policy applies to existing and future threats in a WHPA-Q1 with a significant risk level and to future threats in a WHPA-Q1 with a moderate risk level.

The intent of this policy is for the municipalities who are responsible for the supply and distribution of municipal water sourced from wells within a WHPA-Q1 to implement effective water conservation plans as part of their risk management strategy to reduce the threat from existing or future water demand by all users who receive water from this source. Some municipalities may already have such plans in place and after review no further actions may be required.

In developing or updating water conservation plans, a municipality is encouraged to consider using a wide range of approaches in combination such as: incentives for retrofits; introducing local by-laws and requirements under building permissions to mandate installation of low water use plumbing fixtures; setting differential pricing rates to reward low consumption; requiring or encouraging reuse of gray water for irrigation; and lawn watering restrictions. Municipal staffs are encouraged to collaborate and consult with others who may have already implemented such plans and thereby reduce the workload and benefit from their knowledge and expertise.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation*



### 5.15.5 POLICY Y-1(7) – TIER 3 MODEL UPDATES

#### **RATIONALE**

This policy was adapted from CTC's DEM-8 policy.

Policy DEM-8 is a Specify Action policy directed to the Ministry of the Environment and Climate Change to ensure that the Tier 3 Water Budget is maintained with current information and used for decisions that may result in significant threats from activities that take water from an aquifer without returning the water to the same aquifer. This policy applies to threats in a WHPA-Q1 with a moderate or significant risk level.

The provincial funding of technical work to assess threats to the source of municipal drinking water has resulted in substantial advancement in the knowledge of the groundwater resources where Tier 3 Water Budget studies have been completed. These models can and should be used to support a number of future decisions such as Permits to Take Water and land use planning. However, information in the models needs to be kept up to date as Permits are amended, cancelled or newly issued and as land use changes in order to be useful. The CTC Source Protection Committee concluded that the Ministry of the Environment and Climate Change is best placed to ensure that there is sustainable funding and oversight to maintain and ensure use of the Tier 3 Water Budget models. There is also the need to enhance the monitoring of ground and surface water flows in some areas, including installing flow gauges at key locations.

The Ministry of the Environment and Climate Change is encouraged to maintain partnerships with source protection authorities, municipalities and other partners to undertake this maintenance, data collection and analysis. The Ministry of the Environment and Climate Change is also encouraged to consider ways to finance this aspect through a variety of methods such as: conditions of approval for Permits To Take Water; require municipalities operating wells in these areas to be responsible for monitoring and data collection and transfer; and/or direct provincial funding.

#### **FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*No feedback was received specific to this policy through formal consultation*

### 5.16 WATER QUANTITY RECHARGE POLICIES (WHPA Q2)

The SPC considered the Draft policies contained in the CTC Source Protection Plan, and proposed to be used by Durham Region. Due to the small area of WHPA Q1 & Q2 within TCC, staff provided Durham Region the opportunity to comment on the proposed adoption of CTC policies with some small changes.

These policies were finalized by the SPC following consultation; Comments from Durham Region were received prior to formal consultation.

### 5.16.1 POLICY Z-1 – RECHARGE

#### **RATIONALE**

This policy was adapted from CTC’s REC-1 policy.

Policy REC-1 is a land use planning policy that manages activities that reduce recharge to an aquifer. This policy applies to future threats in a WHPA-Q2 with a significant or moderate risk level.

The intent of the policy is to ensure that the Planning Approval Authority makes decisions that do not result in recharge reduction from new development becoming a significant drinking water threat within a WHPA-Q2. The Planning Approval Authority, through the plan review process (i.e., Planning Act applications) will determine what is required, and determine the acceptability of the proposed actions, in the water balance assessments.

The CTC Source Protection Committee wants the Planning Approval Authority to have the flexibility to require the appropriate level of detail in a specific water balance assessment commensurate with the scale and location of a proposed development. For example, within the WHPA-Q2 are areas that have been identified as Significant Groundwater Recharge Areas which are particularly important due to the nature of the soils and slope that permit higher than average infiltration of precipitation to replenish the groundwater. These areas should be given particular protection. Other areas may not be important for recharge and cannot provide the required infiltration due to the local soil and slope conditions. Site specific assessment and identification of the recharge characteristics of the site should be part of such water balance assessments. Where a detailed assessment is warranted, using the current version of the Tier 3 Water Budget model and updated information should ensure that the results are technically robust and comparable to the original analysis. The local Source Protection Authority has the model files and information to support this analysis, but it is envisioned that an applicant will have to retain qualified expertise to do the analysis.

The Source Protection Committee encourages the “complete application” check list be updated to include the Water Balance Assessment.

The intent of Part 1) of the policy is to avoid the burden on individual residential owners or agricultural operations by requiring that they undertake expensive hydrogeological assessments but to protect recharge by requiring instead that they implement best management practices that will reduce or eliminate any impact from their building or development activities that are subject to planning approvals. In general on low density and agriculturally zoned lands, it is possible to ensure that roof and impermeable surface run-off can be directed to on-site infiltration and thus maintain recharge without requiring technical assessments.

The intent of Part 2) of this policy is to ensure all types Planning Act applications with the potential for reducing recharge (excluding an application for one single family dwelling and agricultural lands) include an assessment of the potential reduction in recharge so that specific measures are identified and implemented to ensure the proposal does not result in recharge reduction becoming a significant drinking water threat within a WHPA-Q2. This requirement applies to development on lands with the greatest potential for reducing recharge such as commercial, employment, institutional, industrial uses and includes residential subdivisions but excluding an application for one single family dwelling.

The intent of Part 2 (b) is to allow the municipality the option where it meets local requirements to require the applicant to locate compensating recharge on another site within the WHPA-Q2 where it is not feasible to

protect pre-development recharge within the development site. The CTC Source Protection Committee concluded that the local municipality is best placed to determine the optimal actions to protect recharge and this provides them some local flexibility in their decision-making.

The intent of Part 3) is to ensure municipalities evaluate planned growth against recharge reduction at a large scale and only proceed if the planned growth will not result in new significant drinking water threats. Once feasibility of the growth is confirmed, development proponents are subject to Parts 1) and 2) of this policy which are site-specific.

**FORMAL CONSULTATION: FEEDBACK RECEIVED & SPC DECISIONS:**

*Durham Region Development Phase Comment: Although it seems unlikely that offsite compensation will occur in such a small geographic area, it is recommended that Policy REC-1(2)(b) (TCC policy Z-1(2)(b)) be retained for consistency.*