



Lake Erie Region Source Protection Committee
Agenda

Thursday, November 28, 2024

1:00 pm

Virtual Meeting

Zoom

Pages

1. Call to Order
2. Roll Call and Certification of Quorum – 14 Members Constitute a Quorum (2/3 of Members plus Chair)
3. Chair's Remarks
4. Updates
 - a. Source Protection Authority Liaison
 - b. Ministry of the Environment, Conservation and Parks
 - c. Conservation Ontario
5. Review of Agenda
6. Declarations of Pecuniary Interest
7. Minutes of the Previous Meeting
8. Hearing of Delegations
9. Presentations
10. Correspondence

- a. Lake Erie Region SPC to the Honourable Todd McCarthy, Minister of the Environment, Conservation and Parks regarding the S.36 prescribed instrument policy amendment for Trent Conservation Coalition's Source Protection Plan (November 6, 2024) 1
- b. Conservation Ontario to Ministry of the Environment, Conservation and Parks Environmental Policy Branch regarding comments on ERO Posting #019-9196: Enabling greater beneficial reuse of excess soil (November 12, 2024) 7

11. Reports

- a. SPC-24-11-01 Source Protection Program Update 9
 THAT report SPC-24-11-01 Source Protection Program Update be received as information.
- b. SPC-24-11-02 S.34 Amendment to the Grand River Assessment Report and Source Protection Plan: City of Hamilton - Lynden Rural Settlement Area 12
 THAT report SPC-24-11-02 S.34 Amendment to the Grand River Assessment Report and Source Protection Plan: City of Hamilton - Lynden Rural Settlement Area be received as information;
 AND THAT the Lake Erie Region Source Protection Committee release the S.34 amendment to the Grand River Assessment Report and Source Protection Plan for public consultation.
- c. SPC-24-11-03 S.36 Draft Policy Approaches for Agricultural Subthreats 14
 THAT SPC-24-11-03 S.36 Draft Policy Approaches for Agricultural Subthreats be received as information.

12. Business Arising from Previous Meetings

- a. Local aggregate threat request under Technical Rule 119: Discussion has been referred to the Lake Erie Region IWG for further consideration
- b. MECP response to SPC concerns regarding Part IV policy implications for storm water management subthreats 2.3 and 2.4 (report SPC-24-06-05 - Draft Policy Approaches for Sewage Subthreats)
- c. SPC request for staff report regarding the importation of excess soil in Wellhead Protection Areas

13. Other Business

14. Closed Meeting

15. Next SPC Meeting

January 30, 2025 at 1:00 p.m.

16. Adjourn

November 6, 2024

The Honourable Todd McCarthy
Minister of the Environment, Conservation and Parks
College Park 5th Floor
777 Bay Street
Toronto, ON M7A 2J3

Dear Minister McCarthy:

RE: S.36 policy amendment to Trent Conservation Coalition Source Protection Plan – concerns related to minimum requirements for prescribed instruments

On October 7, 2024, the Trent Conservation Coalition Source Protection Committee (SPC) sent you a letter regarding your review of their proposed policy amendment in their Source Protection Plan related to prescribed instruments.

The Lake Erie Region SPC received a copy of this correspondence at their meeting on October 24, 2024 and passed the following resolution:

THAT the Lake Erie Region Source Protection Committee request staff to send Minister McCarthy a letter in support of the correspondence from the Trent Conservation Coalition Source Protection Committee and copy the Implementation Working Group for their consideration.

Please allow this letter to serve as notice that the Lake Erie Region SPC shares the concerns raised by the Trent Conservation Coalition SPC as outlined in the attached correspondence dated October 7, 2024 and support the following minimum requirements for prescribed instruments as proposed in their policy amendment package:

- The Prescribed Instrument document shall include reference to the applicable source protection vulnerable area.
- The Prescribed Instrument document must also identify protocols for emergency responses related to protecting the drinking water source.

Most sincerely,



Steve Walsh
Chair, Lake Erie Region Source Protection Committee

c.c. Shari Dahmer, Program Manager, Lake Erie Source Protection Region
c.c. Lake Erie Region Implementation Working Group



October 07, 2024

The Honorable Todd McCarthy
Minister of the Environment, Conservation and Parks
College Park 5th Floor
777 Bay Street
Toronto On, M7A 2J3

Subject: Section 36 Policy Amendment – Minimum Requirement for Prescribed Instruments

Dear Minister McCarthy,

I have been directed by the Trent Conservation Coalition Source Protection Committee to write you regarding your review of our proposed policy amendment, in our Source Protection Plan, related to Prescribed Instruments. We understand that you have received a request for a decision on this matter and recommendation from the Conservation and Source Protection Branch of your Ministry. Our committee wants to ensure that our rationale for proposing these amendments is included in your decision-making process.

Our committee and staff have been working for the last several years to prepare a set of amendments under Section 36 of the *Clean Water Act, 2006*, to improve our Source Protection Plan and to adapt to the new technical rules that must be followed.

Under the *Clean Water Act, 2006*, Prescribed Instruments are important tools issued under several other Acts, that can be used to manage activities that have been identified as significant drinking water threats. Our original Source Protection Plan, which has been in effect since 2015, contains policies directing various Ministries, including the Ministry of the Environment, Conservation and Parks, to review all existing Prescribed Instruments in vulnerable areas around drinking water supplies, to determine if they adequately manage drinking water threats and if not, amend those instruments by adding any necessary conditions.

C/O LOWER TRENT CONSERVATION
714 Murray St, R.R. #1, Trenton, Ont. K8V 0N1

While developing our amendment package, concerns were raised related to the Prescribed Instrument Policies for the following reasons:

- 1) Ministries that are required to implement Prescribed Instrument Policies must also provide details, through the mandatory Annual Reporting exercise, as to how they have met the requirements of the policies. This allows the Source Protection Committee to determine the effectiveness of a policy and determine that the threat has been managed sufficiently. To date, the Ministry of the Environment, Conservation and Parks has not provided adequate information through annual reporting to demonstrate that significant threats are being managed sufficiently. As well, the content of Prescribed Instruments is not routinely shared with the Source Protection Committee, so there is no way to ascertain that the threats are being managed adequately.
- 2) We have discovered many Environmental Compliance Approvals (Prescribed Instruments) for significant threat activities, in drinking water vulnerable zones, that do not mention the drinking water source protection nor identify municipal drinking water source supplies or vulnerable zones associated with them.
- 3) We have found one example where an Environmental Compliance Approval contains an incorrect statement, asking the owner of the system to follow the Source Protection Plan policies. However, the policies are not directed at the owner but rather the Ministry to put conditions in the instrument. This is an obvious error and does not constitute compliance with the policy. And yet the Ministry reports that everything has been implemented. If the people managing prescribed instruments don't understand the Source Protection Plan, we have a low level of confidence that the threats related to the drinking water are being managed.

The Source Protection Program is an important initiative of the Ministry of Environment, Conservation and Parks. However, if there was ever an incident resulting in a drinking water problem that could be traced back to the Ministry not adequately managing threats through a Prescribed Instrument, it would be very detrimental to the entire program and the tremendous efforts over the past 20 years.

Our committee, in conjunction with the Quinte Source Protection Region Committee, came up with a reasonable solution to address these issues. Several other committees are adopting the same approach in their amendments.

In our Section 36 Amendment package we are proposing minimum requirements for all Prescribed Instruments that manage significant drinking water threats. The proposed minimum requirements are:

- The Prescribed Instrument document shall include reference to the applicable source protection vulnerable area.
- The Prescribed Instrument document must also identify protocols for emergency responses related to protecting the drinking water source.

This is not an onerous requirement and could be accomplished with the insertion of one paragraph into the instrument. But it would draw attention to the fact the activity is a significant drinking water threat for an identified drinking water system and what to do in an emergency to make sure that the water supply is protected.

Coincidentally, the new Consolidated Linear Infrastructure approvals, which are for lower risk activities, contain these measures, so it makes sense to have at a minimum, similar requirements for higher risk activities that are managed by Prescribed Instruments.

We have negotiated with the Conservation and Source Protection Branch as part of the consultation process for our amendments, to address their concerns regarding the timing to implement the minimum requirements and as a result we built in a reasonable timeframe for compliance.

The Ministry staff have not shared with us their recommendation to you, related to this amendment proposal, but we certainly hope that they are supportive. In our discussions with them they have acknowledged that this is the right thing to do and that their Annual Reporting related Prescribed Instrument Policies needs to improve.

I am very proud to be part of the Source Protection Program, helping to protect sources of drinking water in Ontario. The success of this program was the result of strong leadership, partnership and collaboration among your Ministry, Conservation Authorities (Source Protection Authorities) and Source Protection Committees.

As we approach the 25th Anniversary of Walkerton, we are reminded that we can never become complacent when it comes to protecting our sources of drinking water. That is a lesson that Walkerton taught us all too well.

I assure you that we are endeavoring to help the Ministry by proposing our policy amendments and I urge to approve our approach through our Section 36 amendment.

This Source Protection partnership between the Minister of the Environment, Conservation and Parks, Source Protection Authorities and the Source Protection Committees needs strong, continued support and collaboration now and into the future. I look forward to continuing as your appointed Chair on the Trent Conservation Coalition Source Protection Committee and continuing our important work.

If I can be of any further assistance, please let me know.

Yours very truly,



p.p.

Keith Taylor

Jim Hunt
Chair, Trent Conservation Coalition Source Protection Committee

Cc: Conservation Ontario – Angela Coleman
Lower Trent Region Conservation Authority Chair – Bob Mullin
Trent Conservation Coalition GM/CAO – Rhonda Bateman
Quinte Source Protection Committee – Amy Dickens

DRINKING WATER
SOURCE PROTECTION
ACT FOR CLEAN WATER

TRENT
CONSERVATION
COALITION
SOURCE PROTECTION
REGION

Cataraqui Source Protection Committee – John Williamson and Kelsey Leblanc
Director of the Conservation and Source Protection Branch – Kirsten Service

C/O LOWER TRENT CONSERVATION
714 Murray St, R.R. #1, Trenton, Ont. K8V 0N1

TRENT CONSERVATION COALITION PARTNERS: Crowe Valley, Ganaraska Region, Kawartha, Lower Trent & Otonabee Conservation Authorities



Reema Kureishy
Ministry of the Environment, Conservation and Parks
Environmental Policy Branch
40 St. Clair Avenue West, 10th Floor
Toronto, Ontario
M4V 1M2

November 21, 2024

Re: Conservation Ontario's comments on "Enabling greater beneficial reuse of excess soil" (ERO#019-9196)

Thank you for the opportunity to comment on "Enabling greater beneficial reuse of excess soil" (ERO#019-9196). Conservation Ontario (CO) represents Ontario's 36 Conservation Authorities (CAs), whose mandatory programs and services include natural hazard management and drinking water source protection.

As the Ministry considers further amendments to *O. Reg. 406/19: On-Site and Excess Soil Management* and the Rules for Soil Management as well as the Excess Soil Quality Standards ("Soil Rules"), consideration must be provided to maintain appropriate safeguards to protect sources of drinking water and avoid impacts to natural hazards.

Protection of Drinking Water Sources and Application of Source Protection Plans

The current proposal carries forward proposed amendments from ERO#019-7636 related to removing requirements for waste Environmental Compliance Approvals (ECAs) for third-party storage and processing of excess soil at aggregate reuse sites, as well as small liquid soil processing sites. In lieu of the requirement for a waste ECA, exempt activities would be accompanied by regulatory rules.

Further to our November 30, 2023, comments on ERO#019-7636, Conservation Ontario is not supportive of the amended proposal. The current framework under the *Clean Water Act, 2006* allows the specified activities to be managed through Prescribed Instrument policies as provided in Source Protection Plans. The proposed exemption would remove the ability for Source Protection policies to effectively manage these activities. Appropriate

consideration must be applied to ensure rules and requirements for excess soil management appropriately engage with the *Clean Water Act* and its requirements.

Conservation Ontario strongly recommends an amendment to the proposal to ensure that exemptions do not apply to excess soil management operations where the activities are identified as significant drinking water threats under the *Clean Water Act*.

Natural Hazard Considerations

As part of the proposed exemption from obtaining a waste ECA for specified excess soil management sites, facilities would be required to provide written notice to a Ministry Director (rather than file on the Excess Soil Registry) as well as the applicable local municipality. Many of these facilities may be located in Conservation Authority regulated areas (e.g., adjacent to watercourses, wetlands, etc.) and may require a permit from the local CA for the temporary or permanent placing, dumping or removal of any excess soil material.

In addition to providing notice to the MECP and the local municipality, Conservation Ontario requests that notice be provided to the local Conservation Authority (as applicable). Wherever possible, the Ministry is encouraged to promote coordination amongst applicable regulatory authorities (including CAs) to ensure effective and appropriate reuse of excess soil that does not negatively impact natural hazards or public safety, and is managed in conformity with Source Protection Plans.

Thank you for the opportunity to provide comments on “Enabling greater beneficial reuse of excess soil” (ERO#019-9196). Please contact the undersigned should this letter require any clarification.

Sincerely,

Nicholas Fischer

Nicholas Fischer
Policy and Planning Liaison

c.c: All Conservation Authority CAOs/GMs

Conservation Ontario
120 Bayview Parkway, Newmarket ON L3Y 3W3
www.conservationontario.ca

Lake Erie Region Source Protection Committee

Report number: SPC-24-11-01

Date: November 28, 2024

To: Lake Erie Region Source Protection Committee

Subject: Source Protection Program Update

Recommendation:

THAT report SPC-24-11-01 Source Protection Program Update be received as information.

Report:

Source Protection Committee Membership Updates

The term of appointment for Bill Strauss (public interest representative) and Bill Ungar (economic representative) expired in October 2024.

On October 25, 2024 the Grand River Source Protection Authority (SPA) appointed Nancy Goucher (public interest representative) and Emily Stahl (municipal representative for the City of Guelph) to the Lake Erie Region Source Protection Committee. Public interest representatives Alan Dale and Phil Wilson were also re-appointed to the SPC for four-year terms.

Lake Erie Region Management Committee (LERMC) met on November 20, 2024 to review applications submitted to fill two vacant economic sector seats, for individuals representing business and industry. A recommendation for appointment will be brought to the SPA in the near future.

Implementation Working Group Updates

On November 15, 2024, a session was held to discuss policy implications for road-salt related threats, including:

Threat #12 – The application of road salt.

Threat #13 – The handling and storage of road salt.

Threat #14 – The storage of snow.

Municipalities will continue to revise road salt- related policy approaches, and an update will be brought to the SPC at a future meeting.

The IWG held its last meeting of the year on November 20, 2024. Discussion topics included the new MECP guidance on s.34 amendments, threat enumeration, and timelines for the Long Point Region and Grand River s.36 updates.

Section 36 Update Timelines

LESPR staff continue to work with municipalities to complete updates to the AR and SPP for the Long Point Region and Grand River Source Protection Areas, under S.36 of the *Clean Water Act, 2006*.

Revised policy approaches to address the 2021 Technical Rules will be presented to the SPC in stages, grouped by related threat categories:

- Waste (SPC-24-06-04)
- Sewage (SPC-24-06-05)
- Chemical-related threats (SPC-24-10-03)
- Agriculture-related threats (SPC-24-11-03)
- Road-salt related threats (anticipated January 2025)

Table 1 Anticipated timelines for the Long Point Region and Grand River S.36 updates

SPP	Early Engagement	Pre-Consultation	Public Consultation	Submission
Long Point Region	Submitted October 2024	To be determined	To be determined	December 15, 2024* (Approved Extension)
Grand River	Q1 2025 (Anticipated)	To be determined	To be determined	October 2025 (Minister's Order)

*A second extension request has been submitted to MECP

Drinking Water System Amendment Timelines

S.34 amendments impacting the County of Brant and City of Brantford are currently in pre-consultation with implementing bodies.

A S.34 amendment impacting the City of Hamilton is presented in report SPC-24-11-02 for release to public consultation.

A S.34 amendment incorporating the G-GET Tier 3 water budget and water quantity policies is anticipated to move into pre-consultation in 2025.

Prepared by:

Shari Dahmer
Source Protection Program Manager

Appendix A

Table 2 LESPR drinking water system amendment consultation and submission timelines

SPP	Amendment	Drinking Water System(s) & Wellfields (where applicable)	Affected Municipalities	Early Engagement	Pre-Consultation	Public Consultation	Submission
Grand River	S.34 ROW	Waterloo: Erb Street Kitchener: Strange St Cambridge: Blair Road Waterloo: William Street	Region of Waterloo City of Cambridge City of Kitchener City of Waterloo Township of North Dumfries	Complete	Complete	Complete	Submitted Nov 2024
Grand River	S.34 Brant	Airport Mount Pleasant St. George Paris	County of Brant	Complete	Oct. 1 to Dec. 31, 2024	Feb. 3 to Mar. 10, 2025	Q2 2025
Grand River	S.34 Brantford	Brantford	City of Brantford County of Brant	Complete	Oct. 1 to Dec. 31, 2024	Feb. 3 to Mar. 10, 2025	Q2 2025
Grand River	S.34 Hamilton	Lynden	City of Hamilton	Complete	Complete	Dec. 9, 2024 to Jan. 13, 2025	Q1 2025
Grand River	S. 34 G-GET Tier 3	Guelph Rockwood Hamilton Drive	City of Guelph Wellington County Guelph/Eramosa Township Township of Puslinch Town of Erin Region of Halton Town of Milton Town of Halton Hills Region of Waterloo Woolwich Township Dufferin County Township of East Garafraxa	Ongoing	2025	2026	2026/ 2027

Lake Erie Region Source Protection Committee

Report number: SPC-24-11-02

Date: November 28, 2024

To: Lake Erie Region Source Protection Committee

Subject: S.34 Amendment to the Grand River Assessment Report and Source Protection Plan: City of Hamilton – Lynden Rural Settlement Area

Recommendation:

THAT report SPC-24-11-02 S.34 Amendment to the Grand River Assessment Report and Source Protection Plan: City of Hamilton – Lynden Rural Settlement Area be received as information.

AND THAT the Lake Erie Region Source Protection Committee release the S.34 amendment to the Grand River Assessment Report and Source Protection Plan for public consultation.

Report:

Background

Section 34 of the *Clean Water Act, 2006* allows locally initiated amendments of the Assessment Report (AR) and Source Protection Plan (SPP) . This is a prescriptive process with extensive consultation and a requirement for council endorsement from affected municipalities.

The proposed S.34 amendment includes incorporation of a replacement well at the Lynden Communal Well System in the City of Hamilton to replace a well that has been decommissioned. Details of the technical work and revisions to policies to align with the 2021 Technical Rules were presented to the Source Protection Committee (SPC) in September and October (see reports SPC-24-09-05 and SPC-24-10-02).

The SPC released the updates to the Grand River Assessment Report and Source Protection Plan for pre-consultation with implementing bodies on October 24, 2024.

S.34 Updates to the Assessment Report and Source Protection Plan

Text and map edits were made to reflect a new replacement well at the Lynden Communal Well System (see report SPC -24-09-05). No new significant drinking water threat activities were identified and the majority of previously enumerated threats have since been determined not to be present.

Text edits were made to SPP policies to align with the 2021 Technical Rules (see report SPC-24-10-02). Interim policy revisions to address the 2021 Technical Rules were specifically noted, as consultation on final policy approaches will be completed through the S.36 update to the Grand River SPP. New and revised policies for significant, moderate and low liquid hydrocarbon pipeline threats were also included.

Pre-consultation

The SPC released the amendments to the Grand River AR and SPP for pre-consultation on October 24, 2024. A 19 day consultation period was held from October 28 to November 15. Pre-consultation provided the municipality, ministries, and other implementing bodies a chance to review and comment on the proposed amendments. As per O.Reg. 287/07, the SPC must consider all pre-consultation comments received prior to releasing an amendment Source Protection Plan for public consultation.

There were no comments received during the pre-consultation period. No further changes have been made to the AR or SPP documents since report SPC-24-10-02.

Municipal council resolution:

S.34 of the Clean Water Act, 2006 requires the Source Protection Authority to obtain a municipal council resolution from affected municipalities in support of the amendments prior to public consultation.

A supporting council resolution was received from the City of Hamilton on November 15, 2024.

Next Steps: Public consultation

Public consultation for this S.34 amendment is planned for December 2024. Comments received during public consultation, along with any necessary revisions, will be brought back to the SPC for consideration at the January 30, 2025 meeting.

Prepared by:

Kaitlyn Rosebrugh
Source Protection Program Coordinator

Approved by:

Shari Dahmer
Lake Erie Source Protection Program Manager

Lake Erie Region Source Protection Committee

Report number: SPC-24-11-03

Date: November 28, 2024

To: Lake Erie Region Source Protection Committee

Subject: S.36 Draft Policy Approaches for Agricultural Subthreats

Recommendation:

THAT report SPC-24-11-03 S.36 Draft Policy Approaches for Agricultural Subthreats be received as information.

Summary:

For the purpose of policy development and analysis, several drinking water threat categories have been grouped together and broadly defined as “Agricultural” threats (**Table 1**). Some of these agricultural activities are regulated under the *Nutrient Management Act* (NMA) and are subject to a prescribed instrument (**Table 1**).

The 2021 Technical Rule changes have resulted in new or updated threat circumstances for some of the Agricultural subthreats (**Table 2**). A collaborative policy review is being undertaken through the S.36 updates to the Long Point Region and Grand River Source Protection Plans (SPPs) to confirm a general policy approach for Agricultural threats that aligns with the 2021 Technical Rules, as well as to better align with the NMA and resolve implementation concerns.

Current policy approaches for Agricultural threats in the Lake Erie Source Protection Region (LESPR) vary across rural and urban land uses; however, municipalities typically use Part IV for threat activities not subject to a prescribed instrument or in the most vulnerable areas (e.g. WHPA-A). Prescribed instrument policies directed at the Ministry of Agriculture, Food and Agribusiness (OMAFRA) are in place for activities regulated under the NMA (see **Table 3**). Existing versus future threats are either managed or prohibited based on the type of agricultural activity, alignment with the NMA, and the vulnerability score of an area.

Policy review indicates that current approaches are mostly effective; however, there are some policy gaps due to the unique nuances of the NMA regulatory framework. Proposed S.36 updates (Plan-wide) will focus on closing these regulatory gaps and ensure that additional policy tools are in place for threats that cannot be effectively addressed through prescribed instruments (see **Table 3** and **Table 4**).

Further to the above, policy development in LESPR is municipally driven and there are some local differences in policy approach. Current variations in approach are not discussed in this report; however, municipal-specific **changes** to policy approaches are provided for the SPC’s consideration in **Appendix A**.

Report:

Background:

In December 2021, the Ministry of the Environment, Conservation and Parks (MECP) updated the Technical Rules for assessing source protection vulnerability and risks under the *Clean Water Act, 2006* (see SPC-24-06-03). Updates to Assessment Reports (ARs) and Source Protection Plans (SPPs) now require technical work and policies to align with the 2021 Technical Rules.

LESPR staff, in collaboration with the Implementation Working Group (IWG), have initiated a policy review to identify implications for the S.36 updates to the Long Point Region and Grand River SPPs. The focus of the review is to address the 2021 Technical Rules but also to assess how current policies align with the NMA regulatory framework and to respond to implementation concerns.

This report outlines the outcome of this policy development exercise and proposed policy approaches for the following Agricultural threats as outlined in **Table 1** below.

Table 1: Agricultural threats and prescribed instruments under the Nutrient Management Act (NMA)

Agricultural subthreat	NMA prescribed instrument
3.1 Application of agricultural source material (ASM) to land	Nutrient Management Plan
4.1 Storage of ASM	Nutrient Management Strategy
6.1 Application of non-agricultural source material (NASM) to land	NASM Plan
7.1 Handling and storage of NASM	NASM Plan
8.1 Application of commercial fertilizer to land	Nutrient Management Plan
9.1 Handling and storage of commercial fertilizer	None
10.1 Application of pesticide to land	None
11.1 Handling and storage of a pesticide	None
21.1 ASM generation – livestock grazing or pasturing	None
21.2 ASM generation – outdoor confinement area or farm animal yard	Nutrient Management Strategy

For the purpose of this report, the terms ‘policy tool’ and ‘policy approach’ are defined as follows:

- **Policy tool** refers to the tools available under the *Clean Water Act, 2006* to address drinking water threats through source protection plan policies (e.g. Prescribed Instruments, Part IV, Specify Action, Education & Outreach).
- **Policy approach** refers to the primary components of a policy that can be considered the intent. This includes the policy tool, but also includes if the threat

will be managed or prohibited, whether a policy is for existing or future threats, and where a policy applies.

Policy Implications for S.36 Updates

2021 Technical Rules

The following Agricultural subthreat categories **have not changed** as a result of the 2021 Technical Rules. There are no Plan-wide S.36 policy revisions proposed as a result of the circumstances for these subthreats.

- 4.1 – Storage of ASM
- 10.1 – Application of pesticide to land
- 21.1 – ASM generation – livestock grazing or pasturing
- 21.2 – ASM generation – outdoor confinement area or farm animal yard

Notwithstanding the above, Plan-wide S.36 policy revisions are proposed for the above-noted subthreats to address implementation challenges and better align with the NMA regulatory framework. Such changes are discussed later in this report.

Table 2 outlines the **changes** made to Agricultural subthreat categories under the 2021 Technical Rules and describes the policy implications to be addressed as part of the S.36 updates.

Table 2: Changes to 2021 Technical Rule circumstances for Agricultural subthreats

Subthreat category	Changes under 2021 Technical Rules	Policy implications
3.1 – Application of ASM 6.1 – Application of NASM 8.1 – Application of commercial fertilizer	Threat circumstances rely on managed land percentage and livestock density (MLLD) . MLLD calculations and updated threats enumeration must be completed using the 2021 Technical Rules, where applicable.	Changes to threat circumstances may impact the number of significant threats. Policies will be added or revised if the addition of new threats results in a policy gap.
6.1 – Application of NASM 7.1 – Handling and storage of NASM	Threat circumstances now list the type of NASM category (1, 2 or 3) to better align with the NMA.	Category 1 NASM (material from non-herbivorous animals) does not require a NASM Plan under the NMA, unlike Categories 2 & 3. Additional policy tools (not prescribed instrument) are required to capture significant threat activities for Category 1 NASM.
9.1 – Handling and storage of commercial fertilizer 11.1 Handling and	Threat circumstances have been simplified to focus on “sites” where handling and storage may occur and to capture commercial fertilizer and pesticides in any form.	Policies that refer to a specific type of fertilizer/ pesticide (e.g. liquid) will need to be revised to capture all forms. Generic wording is preferred for futureproofing. Municipalities may want to revisit policy approaches to

Subthreat category	Changes under 2021 Technical Rules	Policy implications
storage of a pesticide		ensure the most effective implementation, given that broader threat circumstances may result in more significant threats.

Nutrient Management Act (NMA) regulatory framework:

The preferred policy approach across LESPR has been to use existing legislation and prescribed instruments to regulate drinking water threats wherever possible. This is especially the case where a Provincial ministry directly approves these instruments and conducts inspections and compliance enforcement.

Additional policies to compliment prescribed instruments offer the most protection for source water, as there are some Agricultural threat activities that cannot be effectively addressed using a prescribed instrument under the NMA. Such instances include:

- A prescribed instrument is not required for the activity:
 - Farms do not meet the criteria to be phased-in under the NMA
 - Category 1 NASM
 - Livestock grazing or pasturing
- A prescribed instrument is required; however, the process is proponent-driven with limited to no Provincial oversight:
 - All Nutrient Management Plans (e.g. application of ASM, commercial fertilizer)
 - Some Nutrient Management Strategies if the activity meets legislative exemptions (e.g. existing ASM storage with no new construction, Category 2 NASM with a metal content rated CM1)

Additional policy tools (typically Part IV) are already in place for activities that are not regulated under the NMA (e.g. application of pesticides) or for farms not phased in under the NMA. As part of the S.36 update, these other tools will be expanded to also capture regulatory exemptions that render a prescribed instrument ineffective.

Current and proposed policy approaches for Agricultural threats:

Current policy approaches for Agricultural threats in the Long Point Region and Grand River SPPs are tailored to the local needs of each municipality, given that agricultural activities vary considerably between rural and urban areas and the presence of existing threats is dependent on the land use within vulnerable areas. However, there are some notable consistencies across LESPR outlined in **Table 3**.

Policy review, including input from IWG members, indicates that these common approaches are mostly effective for addressing Agricultural threats; however, there are some policy gaps due to the unique nuances of the NMA regulatory framework as described above.

Proposed S.36 updates (Plan-wide) will focus on closing these regulatory gaps and ensure that additional policy tools are in place for Agricultural threats that cannot be effectively addressed through NMA prescribed instruments (**Table 3**).

Table 3: Current and proposed policy approaches for Agricultural threats

Policy Tool	Current policy approach	Proposed policy approach (S.36 Update)
Part IV Prohibition	Apply to future threats in the most vulnerable areas but also existing threats in WHPA-A for the application of ASM and NASM in accordance with the NMA (which prohibits these activities within 100 metres of a well).	Continue to apply current approach. Additional approach: where a prescribed instrument policy requires OMAFA to prohibit an activity, a Part IV prohibition may be added to capture situations where OMAFA does not issue the prescribed instrument.
Part IV Risk Management Plans (RMP)	Apply to activities that are not regulated under the NMA, vulnerable areas outside of WHPA-A, or to farms not phased-in under the NMA.	Continue to apply current approach. Additional approach: where a prescribed instrument policy requires OMAFA to incorporate appropriate terms and conditions, a Part IV RMP may be added to capture situations where OMAFA does not issue the prescribed instrument. Revise RMP policy wording so that it can also apply on phased-in farms.
Prescribed Instruments	Apply to regulated activities on farms that are phased-in under the NMA or to less vulnerable areas.	Revised approach: Apply to activities that are subject to a Nutrient Management Strategy or a NASM Plan that is reviewed and approved by OMAFA and revise policy wording to clarify. Do not apply to activities regulated under a proponent driven Nutrient Management Plan (e.g. application of ASM, application of commercial fertilizer).
Education and Outreach or Incentives	Supplementary to other regulatory tools to help encourage best practices or apply to larger areas such as Nitrate Issue Contributing Areas.	Continue to apply current approach.

Summary of general policy approach

The general policy approach for Agricultural threats is to apply Part IV or prescribed instrument tools in a way that aligns best with the regulatory framework of the NMA. Prescribed instruments will be used where OMAFA has approval and enforcement

oversight; otherwise municipalities will be responsible for managing or prohibiting threat activities.

Existing versus future threats will be either managed or prohibited based on the type of agricultural activity, alignment with the NMA, and the vulnerability score of an area.

IWG members have provided feedback on the general policy approach outlined in **Table 4** and are supportive of Plan-wide changes to adopt this approach (where appropriate) during the S.36 updates.

Table 4: General policy approach for Agricultural threats

Existing/ Future	Policy Tool(s)	Manage/ Prohibit	Applicability
Existing/ Future	Part IV Risk Management Plan	Manage	Where threats are significant for activities that are not subject to an OMAFA approved prescribed instrument outside of the most vulnerable areas (e.g. WHPA -A).
Existing	Part IV Prohibition	Prohibit	For application of ASM and NASM in WHPA-A.
Future	Part IV Prohibition	Prohibit	Where threats are significant for activities that are not subject to an OMAFA approved prescribed instrument in the most vulnerable areas (e.g. WHPA-A).
Existing	Prescribed Instrument	Manage	Where threats are significant for activities that are subject to an OMAFA approved prescribed instrument outside of the most vulnerable areas (WHPA-B, Nitrate ICAs).
Future	Prescribed Instrument	Manage/ Prohibit	Where threats are significant for activities that are subject to an OMAFA approved prescribed instrument.
Existing / Future	Education and Outreach	Manage (supplement)	All vulnerable areas where threats are significant or only in Nitrate WHPA-ICAs.

Municipal-specific changes:

As policy development in LESPR is municipally driven, some municipalities have identified a local need to update their policies to address policy gaps or to enhance implementation efforts. These proposed revisions are specific to the municipality and are summarized in **Appendix A**.

Next Steps

LESPR staff will work with municipalities to update their policies addressing Agricultural threats. Policy revisions will be brought to the SPC at future meetings and will be incorporated into the upcoming S.36 updates.

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Appendix A: Municipal-specific changes to policy approaches for the S.36 update to Long Point Region and Grand River SPPs

Municipality	2021 Threat Circumstance	Circumstances, Thresholds etc.	Proposed Revision	Existing/ Future	Policy Tool	Vulnerable Area(s)	Implementing Body	Description / Rationale
County of Oxford	6.1 Application of NASM	Not subject to a NASM Plan or where OMAFA does not approve the NASM Plan	New policy	Existing/ Future	Part IV RMP	Nitrate WHPA-ICA (outside of WHPA-A and -B)	Municipality	Categories of NASM subject to a NASM Plan pose more risk and are currently prohibited through prescribed instrument. As per the general LER approach, a Part IV policy is proposed to prohibit activities that are not subject to a NASM Plan. However, Oxford is proposing an RMP policy for portions of the Nitrate WHPA-ICA that fall outside of the most vulnerable areas. An RMP in this case is more appropriate than prohibition because activities in these areas pose less risk and this aligns with Oxford's current policies for ASM.
County of Oxford	7.1 Handling & storage of NASM	Not subject to a NASM Plan or where OMAFA does not approve the NASM Plan	New policy	Future	Part IV RMP	Nitrate WHPA-ICA (outside of WHPA-A and -B)	Municipality	Categories of NASM subject to a NASM Plan pose more risk and are currently prohibited through prescribed instrument. As per the general LER approach, a Part IV policy is proposed to prohibit future activities that are not subject to a NASM Plan. However, Oxford is also proposing an RMP policy for portions of the Nitrate WHPA-ICA that fall outside of the most vulnerable areas. An RMP is more appropriate than prohibition because activities in these areas pose less risk and this aligns with Oxford's current policies for ASM.
County of Oxford	21.1 Livestock grazing or pasturing 21.2 Outdoor confinement area or farm animal yard	Not subject to a NASM Plan or where OMAFA does not approve the NASM Plan	Change approach	Future	Part IV RMP changed to Part IV Prohibition	WHPA-A v.10 WHPA-B v.10	Municipality	Oxford has noted difficulty in establishing and enforcing RMPs for this threat activity. Prohibiting future activities in WHPA-A and WHPA-B will be easier to enforce and can be captured under the Section 59 process. Prohibition of existing activities was also considered; however, this would cause unreasonable hardship on landowners. As such, prohibition is being proposed for future threats only.
County of Norfolk	9.1 Handling & storage of commercial fertilizer	Less than 2,500 kilograms	New policy	Existing/ Future	Education & Outreach	Nitrate WHPA-ICA	Municipality	A policy is required for the handling and storage of commercial fertilizer in the Nitrate WHPA-ICA for quantities less than 2,500 kilograms, as there is no volume threshold for significant threats in the WHPA-ICA. A softer policy approach is most appropriate to address these smaller volumes that would be too onerous to manage through stronger regulatory tools.
Elgin County, Municipality of Bayham	3.1 and 4.1 ASM 6.1 and 7.1 NASM 21.1 Livestock grazing or pasturing 21.2 Outdoor confinement area or farm animal yard	All	Expand applicability	Existing/ Future	Various	Nitrate WHPA-ICA	Municipality, OMAFA	Bayham is proposing to expand current approved policies to apply to the Nitrate WHPA-ICA. No changes to policy wording are required; however, the policy sidebar will be revised to indicate that these policies now apply to this additional area.
Elgin County, Municipality of Bayham	9.1 Handling & storage of commercial fertilizer	All	New policy	Existing/ Future	Education & Outreach	WHPA-A Nitrate WHPA-ICA	Municipality	Bayham is proposing a new policy for handling and storage of commercial fertilizer to align with the Education & Outreach approach for application of commercial fertilizer. Current policies for handling and storage are also targeted towards nitrogen-

Municipality	2021 Threat Circumstance	Circumstances, Thresholds etc.	Proposed Revision	Existing / Future	Policy Tool	Vulnerable Area(s)	Implementing Body	Description / Rationale
								based fertilizers. This Education and Outreach policy may be used to address non-nitrogen based fertilizers.
Amaranth and East Garafraxa	8.1 Application of commercial fertilizer	All	New policy	Future	Part IV RMP	WHPA-A WHPA-B v.10	Municipality	There are no existing threats for application of commercial fertilizer in Amaranth and East Garafraxa and there is no policy currently included in the SPP. A policy for future threats is being proposed to ensure that any potential occurrences of this activity can be effectively managed with an RMP.
Township of Melancthon	3.1 Application of ASM 6.1 Application of NASM 7.1 Handling & storage of NASM 21.1 Livestock grazing or pasturing 21.2 Outdoor confinement area or farm animal yard	All	Remove policies	Existing	Education & Outreach	WHPA-A	Municipality	Melancthon's current policies prohibit these agricultural threat activities in the WHPA-A. Melancthon has confirmed that education and outreach is not being implemented in conjunction with these prohibitions; therefore the Education and Outreach policies can be removed.
Wellington County	4.1 Storage of ASM	Subject to a Nutrient Management Strategy approved by OMAFA	Expand applicability	Existing/ Future	Prescribed Instrument	Nitrate WHPA-ICA	OMAFA	Wellington's current prescribed instrument policy only applies to WHPA-A, WHPA-B with a vulnerability score of 10, and IPZ-1, while RMP s apply in the Nitrate WHPA-ICA. Wellington is proposing to expand the applicability of the prescribed instrument policy to ensure that OMAFA also reviews and amends Nutrient Management Strategies for properties in the Nitrate WHPA-ICA.
Wellington County	8.1 Application of commercial fertilizer	Excluding residential land use consisting of four units or less	Change approach	Existing/ Future	Part IV Prohibition changed to Part IV RMP	WHPA-A IPZ-1	Municipality	Wellington's current policies prohibit farms from applying ASM in WHPA -A and IPZ-1. Prohibiting the application of commercial fertilizer creates a dual prohibition on nutrient application. Wellington has determined that the dual prohibition is too restrictive. Managing the application of commercial fertilizer through RMP measures allows farm operations to continue while still protecting drinking water sources.
Wellington County	9.1 Handling & storage of commercial fertilizer 11.1 Handling and storage of pesticide	To be determined	Revise applicability. Add threshold.	Future	Part IV Prohibition	WHPA-A IPZ-1	Municipality	Wellington is considering adding a threshold to current prohibition policies for the future handling and storage of commercial fertilizer and pesticides in WHPA-A. Volumes below the threshold will be managed with RMPs. Wellington has noted implementation challenges with prohibiting handling and storage, especially for smaller volumes, and anticipates more significant threats due to broader threat circumstances under the 2021 Technical Rules. Setting a threshold for prohibition will allow Wellington to inspect against RMP measures for smaller volumes and increase the likelihood of landowner compliance.

Municipality	2021 Threat Circumstance	Circumstances, Thresholds etc.	Proposed Revision	Existing / Future	Policy Tool	Vulnerable Area(s)	Implementing Body	Description / Rationale
								Determining an appropriate threshold is still under review and will be finalized during edits to policy text.
Wellington County	10.1 Application of pesticide	All	Revise applicability. Remove area threshold.	Existing/ Future	Part IV RMP	WHPA-A WHPA-B v.10 IPZ-1	Municipality	The application of pesticide in an area less than 1 hectare is a significant threat in an IPZ-1. Wellington's current policies only apply to greater than 1 hectare. Removal of the area threshold allows the policy to apply to all significant threats within each vulnerable area.
Wellington County	21.1 Livestock grazing or pasturing 21.2 Outdoor confinement area or farm animal yard	All	Expand applicability	Existing / Future	Education & Outreach	WHPA-A WHPA-B v.10 IPZ-1 Nitrate WHPA-ICA	Municipality	Wellington's current Education and Outreach policy for these activities only applies in the Nitrate WHPA-ICA Wellington would like to expand education and outreach efforts to all areas where there is, or could be, a significant threat.
City of Guelph	3.1 Application of ASM 4.1 Storage of ASM	All	Remove policy	Existing/ Future	Specify Action	WHPA-A WHPA-B v.10 Nitrate WHPA-ICA	OMAF	Guelph's current specify action policy (non-binding) asks OMAFA to provide guidance to the agricultural community about source protection and encourages farmers to complete Environmental Farm Plans. Guelph is proposing to remove this policy as it has been determined irrelevant. The Province determines the scope of OMAFA's education and outreach involvement with Environmental Farm Plans and the SPP policy is considered ineffective.
City of Guelph	6.1 Application of NASM 7.1 Handling & storage of NASM	All	Expand applicability	Existing / Future	Prescribed Instrument	WHPA-A WHPA-B v.10 Nitrate WHPA-ICA	OMAF	Guelph's current policy (as written) only applies to future threats in the WHPA-B with a vulnerability score of 10 and the Nitrate WHPA-ICA. Policy text will be revised to also include existing threats in these two vulnerable areas, as originally intended.
Region of Waterloo	8.1 Application of commercial fertilizer	Subject to a Nutrient Management Plan	New policy	Existing/ Future	Prescribed Instrument	WHPA-A WHPA-B v.10 IPZ-1 Nitrate WHPA-ICA	OMAF	The Region of Waterloo is proposing to add a prescribed instrument policy for the application of commercial fertilizer in order to align with their current policy approach for application of ASM.
City of Brantford	3.1 Application of ASM	All	Change approach (with new policies)	Future	Part IV RMP changed to Part IV Prohibition	IPZ-1	Municipality	Brantford's current policies manage existing and future threats for application of ASM through RMPs. Brantford has decided that prohibiting future activities in the IPZ-1 is more implementable and protective. New policies are needed to separate IPZ-1 from the remaining vulnerable areas.
City of Brantford	7.1 Handling & storage of NASM	All	New policies	Existing/ Future	Prescribed Instrument, Part IV	IPZ-1 IPZ-2 v.9 and v.8 IPZ-3 v.8	OMAF, Municipality	Brantford is proposing new policies to pull apart application of NASM from handling and storage of NASM for added clarity and easier implementation. Policy tools for both subthreats will include a combination of Part IV and prescribed instrument, as per the general approach proposed for LER.

Municipality	2021 Threat Circumstance	Circumstances, Thresholds etc.	Proposed Revision	Existing / Future	Policy Tool	Vulnerable Area(s)	Implementing Body	Description / Rationale
City of Brantford	21.1 Livestock grazing or pasturing 21.2 Outdoor confinement area or farm animal yard	All	Change approach (with new policies)	Existing / Future	Manage changed to Prohibit Part IV, Prescribed Instrument	IP Z-1 I P Z-2 v.9	OMAFRA, Municipality	Brantford's current policies manage existing and future threats for livestock grazing or pasturing and outdoor confinement areas or farm animal yards through RMPs. Brantford has decided that prohibiting future activities in the IPZ-1 and IPZ-2 with a vulnerability score of 9 is more implementable and protective. New policies are needed to separate these areas from the remaining vulnerable areas.