



Essex Region Conservation Authority

Essex Region Source Protection Committee Meeting Agenda

Meeting Date: Wednesday, March 8, 2023

Time: 4:00 pm

Location and Details: Essex Civic Centre, Room C

List of Business	Page Number
1. Land Acknowledgement	
2. Call to Order	
3. Chair's Welcome	
4. Declarations of Conflict of Interest	
5. Approval of Agenda	1-3
THAT the agenda for the Wednesday, March 8, 2023 meeting of the Essex Region Source Protection Committee (SPC) be approved.	
6. Adoption of Minutes	
A. Essex Region Source Protection Committee (SPC)	4-10
2023-02-08 Meeting Minutes	
THAT the minutes of the Source Protection Committee meeting held on Wednesday, February 8, 2023 be approved as presented.	

7. Correspondence

None.

X-X

8. MECP Liaison's Update

Presented by Beth Forrest

9. Presentations

None.

10. Reports

A. SPC 03/23

11-29

Update on Risk Management Services in the Essex Region Source Protection Area

THAT SPC Report 03/23 by received for information

B. SPC 04/23

30-43

Draft Responses for the 2022 Annual Reporting Template

THAT the Essex Region Source Protection Authority Annual Progress Report be submitted to the MECP on or before May 1, 2023 pending suggested changes and additions made by the SPC, and endorsement by the SPA

C. SPC 05/23

44-54

S.36 Update – Combined Sewer Overflow/Sanitary Sewer Overflow Policy Amendments

THAT the SPC approve the attached amended policies to be submitted to the MECP for early engagement and further;

THAT the SPC approve the suggested removal of specific policies noted in SPC Report 05.23

11. New Business

None.

12. Other Business

To be presented during the virtual meeting of the SPC.

13. Adjournment

THAT the February 8, 2023 meeting of the Essex Region Source Protection Committee be adjourned.

Next Meeting

The next meeting of the Essex Region Source Protection Committee is to be held on June 14, 2023.

We have quorum with eleven members present in-person, two by Zoom and one member present by proxy as well as two other guest via Zoom. I will call the meeting to order at this time, 4:12 pm.

2. Land Acknowledgement

I'd like to begin by acknowledging that this land is the traditional territory of the Three Fires Confederacy of First Nations, comprised of the Ojibway, the Odawa, and the Potawatomi Peoples.

We acknowledge the harms and mistakes of our past as we continue to move forward in the spirit of reconciliation.

In the spirit of a lesson from an Indigenous educator, we'll open the meeting with a statement of gratitude and a statement of hope. I'm grateful that we are able to finally meet in person after such a long time apart and I hope that our discussions tonight are productive.

3. Chair's Welcome

I would like to welcome Dennis Rogers, Mayor of Kingsville and Frank Garardo, Planner for the City of Windsor as prospective new members likely to be appointed by the SPA at their April meeting. And we wish to extend our sincerest thanks to Thom Hunt for his service.

We will have to wait until ERCA's February Board meeting to learn if Larry Verbeke is to be reappointed as SPA Liaison.

We welcome Beth Forrest who is here via Zoom to give us an update from MECP.

Matthew Merrett is present in the person of John Barnett. John is carrying Matthew's proxy this afternoon.

There was new online training given by the public secretariat and completed by all of the newly appointed (or reappointed) chairs.

Your agenda package includes correspondence pertaining to Bill 23 which addresses areas of difficulty the new legislation may present for environmental oversight of proposed activities. Tonight we welcome ERCA's CAO, Tim Byrne who may offer a few words on the topic in a minute.

Katie and I will attend an ERCA new Board Members Orientation meeting later this evening to provide a high level introduction to the Source Protection Plan for new SPA

Twelve Source Protection Committee chairs have been reappointed including Essex Region's chair here, however we are still waiting on the seven new chair appointments, so unfortunately there is no update there, but hopefully we'll be sharing something soon.

We continue to work on Section 34 amendments from across the province for changes on the landscape new drinking water systems, changes to existing drinking water systems and also people implementing the 2020 Technical Rules changes that were released back in 2021. We're also working on Section 36 updates and I'm looking forward to the discussion tonight regarding some of the changes happening in your area.

About 18 months ago, the director of my branch made a commitment to all of the chairs in the province to have regular, annual one on one meetings with each chair to listen to their local concerns or challenges or issues and well as to hear those good news stories coming out of each of the regions in Ontario. Invitations will begin to go out soon to the twelve chairs who are in place.

The Best Practices document was released last year. It is a guide for any system or community that is not currently captured under the Clean Water Act so that they can do source protection planning for their own community. The ministry decided to provide some funding for First Nations communities outside of source protection planning areas. We are currently in talks with two First Nations communities to provide them some funding hopefully and to put together a work plan on how they can do source protection planning in their own community. This is a really exciting project that will hopefully be successful and we plan to solicit feedback from these projects so that we can make changes to the Best Practices if necessary.

9. Presentations

None.

10. Reports for Approval

A. Report SPC 01/23 – S.36 Update – Dense non-aqueous phase liquids (DNAPLs)

THAT the SPC receive the information in SPC Report 01.23 and provide direction on policy approach, and further;

THAT SPA staff prepare draft policies for review.

Resolution SPC 04/23 Moved by Albert Dionne
Seconded by Chris Snip

Carried

B. Report SPC 02/23 – S.36 Update – Combined Sewer Overflow/Sanitary Sewer Overflow Policy Amendments

THAT the SPC receive the information in SPC Report 02.23 and provide direction on policy approach, and further;

THAT SPA staff prepare draft policies for review pending response from the City of Windsor.

Resolution SPC 05/23 Moved by Jim Drummond
Seconded by Thom Hunt

Carried

11. New Business

None.

12. Other Business

None.

13. Adjournment

Resolution SPC 06/23 Moved by Tim Mousseau
Seconded by Albert Dionne

That the February 8, 2023 meeting of the Essex Region Source Protection Committee be adjourned at 5:26 p.m. **Carried**

Next Meeting

The next meeting of the Essex Region Source Protection Committee will be held on March 8, 2023 starting at 4:00 p.m at the Essex Civic Centre, Room TBD.



Tom Fuerth
Chair



Katie Stammler
Water Quality Scientist/
Project Manager Source Water Protection



Essex Region Source Protection Committee

Report 03/23

From: Kathleen Schneckenburger, Risk Management Official/Inspector

Date: Wednesday, March 1, 2023

Subject: Update on Risk Management Services in the Essex Region Source Protection Area

Recommendation

THAT SPC Report 03/23 be received for information

Summary

- The Essex Region Risk Management Official completes an annual report outlining Part IV policy implementation that is provided to the Source Protection Project Manager of the Essex Region Source Protection Area by February 1 every year.
- A total of 113 risk management plans (Section 58 Part IV of the *Clean Water Act*) have been established to address future and existing significant drinking water threat activities since the effective date of the Essex Region Source Protection Plan

Discussion

The municipalities in the Essex Region, and the Municipality of Chatham-Kent, have delegated their obligations under Part IV of the Clean Water Act to the Essex Region Conservation Authority (ERCA). The Risk Management Official/ Inspector is responsible for providing Part IV services on behalf of the municipalities in the Essex Region Source Protection Area, and the southernmost portion of the Thames-Sydenham and Region Source Protection Region to protect surface water municipal drinking water.

The Essex Region Risk Management Official/ Inspector prepares an annual progress report specific to Part IV policy implementation for the Source Protection Project Managers of the Essex Region and Thames-Sydenham and Region Source Protection Area's by February 1 every year. Following the Source Protection Area's analysis of the results, this information is used to report to the MECP Source Protection Branch by May 1 every year. MECP Source Protection Branch will report on the progress made by Risk Management Officials province wide across all Source Protection Areas.

The attached report reflects implementation efforts from October 1, 2015 to December 2022 by the Essex Region Risk Management Official/Inspector, highlighting actions between January 1 and December 31, 2022 in the Essex Region Source Protection Area.

Risk Management Plans (RMPs) have now been established for all of the identified existing SDWTs in the Essex Region, with the last two RMPs established by Order. In addition, the RMO completed a review of land activities in Lakeshore, Amherstburg and Windsor IPZ-1 and Windsor IPZ-2 and are satisfied that no prohibited activities are occurring nor certain activities that would be managed by RMP. This allowed the ERSPA to report an additional nine polices as fully implemented.

The RMO has begun working conducting compliance on established RMPs using a self assessment check list that allows the RMO to ensure that all documents are up to date and that properties with significant drinking water threat activities continue to implement appropriate Risk Management Measures. All compliance checks completed in 2022 were deemed successful and confirmed that property owners comply with the established Risk Management Plans. All properties remain in good standing.

The attached report will be provided to municipalities and the MECP along with the ERSPA Annual Progress Report on or before May 1, 2023.

RECOMMENDATION

THAT SPC Report 06-2021 be received for information



Katie Stammler
Project Manager, Source Water Protection/
Water Quality Scientist



Kathleen Schneckenburger
Risk Management Official/ Inspector

Attachments:

- 1) 2022 Risk Management Official Annual Progress Report
- 2) Written Direction Provided to Windsor

Essex Region Source Protection Area 2022 Risk Management Official Annual Progress Report

Prepared by:



PART IV IMPLEMENTATION – RISK MANAGEMENT SERVICES

INTRODUCTION

Source water is the water that we take from lakes or rivers to supply people with drinking water. Based on some of the recommendations of the Walkerton Inquiry, the *Clean Water Act, 2006* is part of the Ontario government’s commitment to protecting municipal drinking water systems from contamination and overuse, now and into the future. The *Clean Water Act* led to the implementation of Source Protection Plans (SPPs) across Ontario following an extensive process that included the development of science-based watershed assessments, broad public input, and collaboration with stakeholders. The [Essex Region SPP](#) came into effect on October 1, 2015 and the [Thames-Sydenham and Region SPP](#) came into effect on December 31, 2015.

Both SPPs contain policies written under Part IV of the *Clean Water Act*, which municipalities are required to implement, to ensure that [Significant Drinking Water Threat \(SDWT\) activities](#) identified in vulnerable areas of surface water intakes do not pose a risk to source water. Part IV policies must be implemented by a specially trained and certified Risk Management Official and Risk Management Inspector (RMO/I). The municipalities in the Essex Region and the Municipality of Chatham-Kent have delegated their obligations under Part IV of the *Clean Water Act* to the Essex Region Conservation Authority (ERCA). The RMO/I is responsible for providing Part IV services on behalf of the municipalities in the Essex Region Source Protection Area (ERSPA), and the southernmost portion of the Thames-Sydenham and Region Source Protection Region (TSRSPR). This agreement began in 2015 and is renewed on a three-year cycle. The terms of the current agreement expire on December 31, 2024.

There are eight municipal surface water intake systems serving the municipalities in the ERSPA and the southernmost portion of the TSRSPR that have vulnerable areas where Part IV policies apply:

- Stoney Point Intake (Lake St. Clair)
- Lakeshore (Belle River) Intake (Lake St. Clair)
- Windsor (A.H) Weeks Intake (Detroit River)
- Amherstburg Intake (Detroit River)
- Harrow - Colchester Intake (Lake Erie)
- Union Intake (Lake Erie)
- Wheatley Intake (Lake Erie)
- Pelee Island (Lake Erie)

This annual progress report was developed to detail the progress made by the RMO/I toward the implementation of Part IV policies in the Source Protection Plans for municipal drinking water intake systems within the ERSPA and portions of the TSRSPR, as required annually by the *Clean Water Act* and its Regulations. The report includes actions taken by the RMO/I between October 1, 2015 and December 31, 2022, highlighting actions between January 1, 2022 and December 31, 2022.

SIGNIFICANT DRINKING WATER THREATS

Activities carried out in vulnerable areas on the land can pose threats to sources of municipal drinking water. The above grade handling and storage of large volumes of liquid fuel was determined to be a Significant Drinking Water Threat (SDWT) in both the ERSPA and TSRSPR. Using the event based approach to model fuel spills during the development of the SPPs, an extensive vulnerable area (Event Based Area) was established where this activity is considered to be a SDWT. There are additional SDWT activities identified within Lakeshore IPZ-1, Windsor IPZ-1, Windsor IPZ-2 and Amherstburg IPZ-1. The land portion of these areas, however, are small and/or predominantly residential or municipal land use where the identified activities are not likely to exist. SDWTs can be prohibited or managed through a variety of policies including those written under Part IV of the *Clean Water Act*.

PART IV POLICIES, *CLEAN WATER ACT*

Policies written under Part IV of the *Clean Water Act* can be used to prohibit (Section 57) or manage (Section 58) activities identified as SDWTs. These policies apply to both existing and future (new) SDWTs located within vulnerable areas identified as Intake Protections Zones (IPZs) or Event Based Areas (EBA). Policies written using restricted land uses (Section 59) are intended to act as a screening tool by municipal planning and building staff to identify any potential future (new) SDWTs that would be subject to Section 57 or Section 58 policies. In the Essex Region Source Protection Area, activities are only prohibited if they are not known to occur in identified vulnerable areas and are not likely to occur in the future. Most of the policies written to address identified and future SDWTs in the SPPs use Section 58, which requires the development of a Risk Management Plan (RMP) to minimize the risks to sources of municipal drinking water.

PROHIBITION (SECTION 57, PART IV POLICIES)

The Essex Region Source Protection Plan contains six policies that prohibit specific activities that could be a Significant Drinking Water Threat using s.57 of the Clean Water Act. These policies are implemented by Risk Management Officials on behalf of municipalities. The SPC opted to prohibit activities only if they did not currently occur and were highly unlikely to occur in the future. These prohibition policies currently only apply to Lakeshore IPZ-1, Windsor IPZ-1 and Amherstburg IPZ-1 where the designated land use precludes many of these activities from occurring (Table 1). Prohibited activities include the following under specific circumstances as indicated in their relevant policies:

- The application and storage of Agricultural Source Material
- The application and storage of Non-Agricultural Source Material
- The storage of road salt (>5000 tonnes)
- The storage of snow (> 1 ha)

Table 1 - Zoning for vulnerable areas in the Essex Region where s.57 prohibition policies apply

Vulnerable Area	Prohibition Policies	Zoning
Lakeshore (Belle River) IPZ-1	ASM, NASM, salt, snow	Commercial
Windsor IPZ-1	ASM, NASM, salt, snow	Residential, commercial, industrial and manufacturing
Windsor IPZ-2	ASM	Residential, commercial, industrial and manufacturing
Amherstburg IPZ-1	ASM, NASM, salt, snow	Residential, Commercial Neighbourhood, Light Industrial, Industrial, and Environmental Protection

These six policies have been considered ‘in progress’ since the Essex Region SPP came into effect as the RMO focussed on addressing existing and new fuel storage tanks. In 2022, the Risk Management Office reviewed these policies and vulnerable areas to address outstanding policy implementation. There is no agriculturally zoned land in any of the subject vulnerable areas, therefore the application and storage of both ASM and NASM as defined in the policies cannot occur as these activities are specified to occur on agricultural land. The Risk Management Official conducted a detailed review of aerial photography in ERCA’s Georcortex and street view imagery from Google to search for potential storage structures for salt. There are no such structures visible in any of the subject vulnerable areas. The City of Windsor provided confirmation of the location of their two large salt domes, which are located outside of all vulnerable areas. The RMO also searched for large areas that could meet the criteria for snow storage at a volume that would be considered a SDWT. There are no areas large enough in either Lakeshore IPZ-1 or Amherstburg IPZ-1. The City of Windsor provided confirmation that their designated excess snow melt facilities are located outside of the subject vulnerable areas.

The RMO is satisfied that there are no existing activities that are prohibited using s.57 polices. Municipalities have received training to screen for potential SDWTs that meet these criteria and none have been identified since the Plan came into effect in 2015. These policies are now considered to be fully implemented.

RISK MANAGEMENT PLANS (SECTION 58, PART IV POLICIES)

[Risk Management Plans \(RMPs\)](#) are agreements between the RMO/ I and the person engaged in the activity, typically the landowner or business operator, to prescribe how a SDWT activity is managed on a specific property using appropriate risk management measures (RMMs) to manage the threat. RMPs outline existing RMMs and identify additional RMMs that are required to prevent fuel spills and contain one should it occur. RMPs may be straightforward in circumstances where persons are already implementing RMMs to manage a SDWT activity. RMPs are meant to be flexible and allow the activity to continue to occur, provided that RMMs agreed upon are followed.

The RMO/I provides guidance and assistance in the development of RMPs through site visits, emails, phone calls and additional meetings. Resources and templates were developed by Risk Management

staff and are provided to the proponent during the negotiation of the RMP. The following risk management measures are typically included in RMPs: documentation of regular fuel tank inspections, an updated spill prevention and containment plan, spill emergency response plan and training for staff, and documentation that fuel storage tanks adhere to applicable fuel regulations and remain safe for refueling and storage.

The person engaged in the activity is responsible for maintaining RMMs on site. The RMO/I monitors the implementation of RMPs once they are established and conducts compliance inspections. RMPs can be amended at any time following the effective to date to accurately reflect any changes on the site or to the SDWT activity.

The total number of Risk Management Plans established for existing and future (new) significant drinking water threats, the number of Orders issued and the number of outstanding existing SDWTs in each municipality in the ERSPA and TSRSPR are reported in Table 1a and Table 1b. Table 2 provides a detailed annual accounting of the activities the RMO/I is required to report to the MECP in compliance with Section 81 of the *Clean Water Act* for the ERSPA. The RMO/I provides responses to the TSRSPR for inclusion in their report to the MECP.

In addition, in 2022, the RMO reviewing zoning in Windsor IPZ-2 where the application and storage of non-agricultural source material (NASM) is considered a SDWT managed by a s.58 policy. As there are no areas zoned for agriculture in Windsor IPZ-2, this activity is not possible and the related policies are considered implemented. There are three Part IV policies that remain in progress. These policies address the storage of hazardous waste and pesticide in Lakeshore, Windsor and Amherstburg IPZ-1 and the application of pesticide in Lakeshore, Windsor and Amherstburg IPZ-1 and Windsor IPZ-2. The RMO has conducted a thorough review of available information and is now working with municipalities to confirm that these activities do not currently exist. The specific pesticides identified are typically only used for agriculture. Importantly, these policies will be updated to align with the 2021 Director Technical Rules.

EXISTING ENUMERATED SIGNIFICANT DRINKING WATER THREAT ACTIVITIES

There were 384 potential SDWTS identified in the ERSPA Source Protection Plan and 33 potential SDWTS identified in the TSRSPR Source Protection Plan when the Plans were written. As of January 2019, threat verification inspections were completed for all of the identified potential existing SDWTS in both the ERSPA and TSRSPR to determine whether the fuel tanks installed on site met the criteria to be considered a SDWT (e.g. capacity, location in relation to the Event Based Area and contents of the fuel tanks). These threat verification inspections and windshield surveys confirmed that there were 96 existing SDWTS in the ERSPA and 10 existing SDWTS in the TSRSPR that required a RMP. The remainder were determined not to be SDWTS. At a later date, 1 sites in the TSRSPR identified as having a SDWT was confirmed to have less fuel than previously thought and was removed as requiring a RMP. As of October 2022, RMPs have been established for all existing SDWTS in both Source Protection Areas.

Crude oil and brine extraction and storage operations

The Risk Management Official worked with the corporation, Lagasco, who oversees the crude oil and brine operations on 8 locations in both the Essex Region and Thames Sydenham and Region that require the completion of a RMP. It was our previous understanding that an additional property in the TSRSPR would require a RMP, however it was confirmed during a site visit that the fuel limit did not qualify for requiring an RPM. The company received the Notices of Intent to Establish a Risk Management Plan on April 27, 2022. Although representatives from Lagasco received the Notices and the RMO met with staff during onsite visits, the RMO issued Ordered Risk Management Plans on October 27, 2022, as the owners did not provide a RMP by the deadline provided. These properties are also regulated by the [Oil, Gas and Salt Resources Act \(OGSRA\)](#) and are required to follow the [Oil, Gas and Salt Resources of Ontario Provincial Operating Standards V 2.0](#) (Standards). The RMO will complete a compliance check in the future to ensure Lagasco is complying with the Ordered Risk Management Plans.

RESTRICTED LAND USES AND THE WRITTEN DIRECTION (SECTION 59, PART IV POLICIES)

Section 59 (Restricted Land Use) policies serve as a screening process to identify new potential SDWTs through incoming municipal building and planning applications before they are established. When municipal staff confirm that a planning or building application for a new development is proposed within a vulnerable area, and that the proposed development includes a potential SDWT, proponents are notified that they must complete and submit a [Section 59 Application](#) to the RMO/I for review. Building or planning applications cannot proceed until the application has demonstrated that a SDWT activity will not pose a risk to drinking water sources (e.g. RMP established) and a written notice to proceed from the RMO/I has been issued.

Between October 1, 2015 and December 31, 2022, the RMO has received 54 applications in the ERSPA through Section 59 screening for new potential fuel threats in the Event Based Area, nine (9) of these applications were received in 2022. Of these, there were 17 instances in the ERSPA where an application met the criteria to be considered a SDWT, triggering the need for a RMP. In these cases, the process for developing a RMP was expedited and a notice to proceed was issued once the RMP was finalized and agreed to. In 2022, one RMP was established through this process in the ERSP. To date, all of the RMPs established for new fuel tanks have been for greenhouse construction. There have not been any applications reviewed for the other Part IV policies applicable to Lakeshore IPZ-1, Windsor IPZ-1, Windsor IPZ-2 and Amherstburg IPZ-1 to date.

COMPLIANCE MONITORING

The RMO began working with individuals with existing Risk Management Plans to ensure compliance. A compliance checklist was circulated to all individuals who were issued a s.58 notice to proceed (existing threats) with a Risk Management Plan established. The compliance check is a self-assessment that allows the RMO to ensure that all documents are up to date and that properties with significant drinking water threat activities continue to implement appropriate Risk Management Measures.

The checklist includes the following items: Proof of adherence to the applicable fuel regulations (ensuring fuel tanks are certified to obtain fuel and/or installed by a TSSA technician), proof of fuel tank inspections, updates to the spill prevention and containment plan, updates to the spill and emergency response plan, and proof of employee training.

All compliance checks completed in 2022 were deemed successful and confirmed that property owners comply with the established Risk Management Plans. All properties remain in good standing.

The RMO will continue to complete compliance checks on properties who were issued S. 59 Notices to Proceed (new threats), where Risk Management Plans were established, throughout 2023.

MUNICIPAL INTEGRATION

The Risk Management Official provided refresher training to Planning and Building staff for municipalities in 2022 at their request. The Written Direction for the City of Windsor was updated in 2022, and specific training was provided. In addition, [training was recorded](#) that applies to all municipalities and is available on YouTube for new municipal staff or those wishing a refresher.

COVID-19

ERCA staff moved to a work from home model in March 2020, with some staff returning to the office part time at different points during the Covid-19 pandemic. As with all organizations, this required some changes to our policies and practices, but we are pleased to report that we did not experience any major delays as a result of Covid-19. Our staff communicate either electronically or by phone with landowners or property managers to establish RMPs. Any on-site visits are completed following ERCA's internal policies as well as those of the property being visited.

MOVING FORWARD IN 2023

Continuing actions and next steps for Risk Management Services in 2023 include:

- Continue monitoring established risk management plans to ensure compliance with Section 58 policies set out in the Source Protection Plans
- Review Section 59 Applications circulated to riskmanagement@erca.org as a result of incoming municipal building and planning applications for new developments
- Deliver municipal training sessions on Section 59 processes and Source Protection Plan policies on an as needed basis
- Respond to requests from developers, consultants and municipal staff during pre-planning for sites identified through the Section 59 process
- Continue working with local businesses and landowners on negotiating and establishing Risk Management Plans; continue to assist and provide guidance to those affected by Part IV policies

Table 1a – Total number of Risk Management Plans established for existing and future (new) significant drinking water threats in each municipality in the ERSPA since October 1, 2015. The table also includes the number of Orders issued and the number of outstanding existing SDWTs.

Essex Region Source Protection Area (ERSPA)										
	Amherstburg	Essex	Kingsville	Lakeshore	LaSalle	Leamington	Pelee	Tecumseh	Windsor	Total
Total Identified threats in the AR	16	31	93	29	3	164	3	12	33	384
No RMP required (AR)	16	28	62	26	3	121	1	10	29	296
RMPs Required (AR)	-	3	31	3	-	43	2	2	4	88
Threats identified after the AR through field verification (AR +)	-	-	6	-	-	2	-	-	-	8
RMPs established (AR +)	-	3	37	3	-	45	2	2	4	96
RMPs established (s.59)	-	-	2	-	-	15	-	-	-	17
Total RMPs established		3	39	3		57	2	2	4	113
Number of Orders Issued Under Part IV of the CWA	-	-	3	-	-	3	-	-	-	6

Table 2 – Detailed activity report for the ERSPA provided by the RMO/I to the MECP to comply with Section 81 of the *Clean Water Act*. The RMO/I provides responses to TSRSPR for inclusion in their report to the MECP. The table includes the total number of RMPs established, number of s.59 notices, and number of inspections carried out to fulfill the various duties of the RMO/I.

*Inspections imply that the RMO/I had a physical presence on the site, including follow-up site visits, e.g., threats verification visit, including drive-bys, if applicable. Phone calls and emails are not considered to be an inspection

Essex Region Source Protection Area (ERSPA)							
Additional Part IV Reportables under Section 81 of the <i>Clean Water Act</i> (ERSPA)	2016	2017	2018	2019	2020	2021	2022
RMPs established for existing threats (s.58)	0	1	14	34	38	7	2
RMPs established for new threats (s.59)	4	0	1	1	2	8	1
Total RMPs agreed to or established	4	1	15	35	40	15	3
s.59 Applications Received	18	2	2	4	7	12	9
S. 59 notices issued for activities to which neither S. 57 nor S.58 policies applied	14	2	1	3	5	4	6
S. 59 notices issued for activities to which a S.58 policy applied	4	0	1	1	2	8	1
Total S. 59 notices issued	18	2	2	4	7	12	7
Inspections* carried out for activities that are prohibited under S. 57	0	0	0	0	0	0	0
Inspections* carried out for activities that require a RMP under S. 58	14	32	47	63	32	0	2
Inspections* carried out for activities that were determined not to require a RMP under S.58	55	160	82	7	3	0	1
Total number of inspections	69	192	129	70	35	0	3
Notices issued where there were cases of contraventions and/or non-compliance with S.57	0	0	0	0	0	0	0
Notices issued where there were cases of contraventions and/or non-compliance S.58	0	0	0	0	0	0	0
Orders issued for contraventions and/or non-compliance found with S. 57	0	0	0	0	0	0	0
Orders issued for contraventions and/or non-compliance found with S.58	0	0	0	0	0	0	0
Total number of notices and/or orders issued under Part IV of the CWA	0	0	0	0	0	0	0
Number of Risk Assessments submitted under S.60	0	0	0	0	0	0	0
Number of times the RMO caused a thing to be done under S. 64	0	0	0	0	0	0	0
Number of prosecutions made under S.106	0	0	0	0	0	0	0
RMPs refused to be established	0	0	0	0	0	0	0



Risk Management Services

P.519.776.5209 • F.519.776.8688 • 360 Fairview Avenue West • Suite 311, Essex, ON • N8M 1Y6

E-mail: riskmanagement@erca.org

July 2022

Updated Memorandum for the City of Windsor: Essex Region Source Protection Plan, Planning Act and Building Code Act Application Screening Process for Policy Number 32 and Policy Number 33 in the Approved Essex Region Source Protection Plan.

Purpose

The intent of this memorandum is to provide the City of Windsor with a protocol to determine which *Planning Act* and *Building Code Act* applications must be circulated to the Risk Management Official (RMO) for review (as per section 3.2 of the Source Protection Plan Part IV Enforcement Transfer Agreement). This memorandum accompanies Policy 32 and Policy 33 in the approved [Essex Region Source Protection Plan](#), and does not apply to any other policies. These policies are written under Section 59 (Restricted Land Use) of the *Clean Water Act*, where restricted land uses apply to the following activities that meet the circumstances to be a significant drinking water threat in the following Vulnerable Areas in the City of Windsor.

Within the Event Based Area (EBA):

- Handling and Storage of Above Ground Fuel (Policy No. 31)

And/or within Windsor Intake Protection Zone 2 (IPZ-2):

- Handling and Storage of Fuel (Policy No. 31)
- Application of Agricultural Source Material (Policy No. 32)
- Storage of Agricultural Source Material (Policy No. 32)
- Application of Non-Agricultural Source Material (Policy No. 32)
- Storage of Non-Agricultural Source Material (Policy No. 32)
- Application of Pesticide (Policy No. 32)

Windsor Intake Protection Zone 1 (IPZ-1):

- Handling and Storage of Fuel (Policy No. 31)
- Application of Agricultural Source Material (Policy No. 32)
- Storage of Agricultural Source Material (Policy No. 32)
- Application of Non-Agricultural Source Material (Policy No. 32)
- Storage of Non-Agricultural Source Material (Policy No. 32)
- Handling and Storage of Road Salt (Policy No. 32)
- Storage of Snow (Policy No. 32)
- Storage of Hazardous or Liquid Industrial Waste (Policy No. 32)
- Application of Pesticide (Policy No. 32)
- Storage of Pesticide (Policy No. 32)

Rationale

Section 59 (Restricted Land Use) policies are intended to serve as a screening process to identify new potential Significant Drinking Water Threats (SDWTs) before they are established. This process requires Building Permits and *Planning Act* applications to be reviewed by the RMO in areas where Section 57 (Prohibition) and/or Section 58 (Risk Management Plan) policies apply. A written notice to proceed is required from the RMO in accordance with Section 59(2) of the *Clean Water Act* prior to the approval of affected Building Permits or *Planning Act* applications (See Appendix A for excerpt of Section 59 of the *Clean Water Act*).

Planning Act considerations

Section 59 of the *Clean Water Act* requires that a person shall not make an application under certain sections of the *Planning Act* for the purpose of using land for the designated restricted land use (e.g. the handling and storage of liquid fuel) within the designated vulnerable area. These *Planning Act* applications cannot be considered complete by the Planning Authority until such time as the application has demonstrated that a SDWT activity designated for the purpose of Section 57 or 58 will not be engaged in, and a written notice from the RMO has been issued. The specific sections of the *Planning Act* to which this applies are detailed in Section 62 of O. Reg 287/07 and include:

- official plan amendments
- zoning by-law amendments
- temporary use zoning by-law amendments
- site plan control applications
- minor variance
- draft plan of subdivision
- consent

Building Code Act considerations

In addition, Section 59 of the *Clean Water Act* requires that a person shall not construct nor change the use of a building at any location within a designated vulnerable area to which the policy applies if the building will be used in connection with the restricted land use (e.g. the handling and storage of fuel) unless the RMO issues a notice to the person. The use of the terms ‘building’ and ‘construct’ have the same meaning as in the *Building Code Act*. Building permits in areas in which these policies apply cannot be issued until such time as the application has demonstrated that a SDWT activity designated for the purpose of Section 57 or 58 will not be engaged in and a written notice from the RMO has been issued.

To accompany the building permit application form, Risk Management Services developed a “Building Information Sheet” with the intent of assisting municipalities in determining whether an application under the *Building Code Act* requires RMO review. This sheet is only meant to accompany the building permit application and does not alter the common application form. Municipalities are not obligated to use the information sheet and may develop something similar as long as the Section 59 process is in place to ensure that the RMO is receiving the building permit applications that require review.

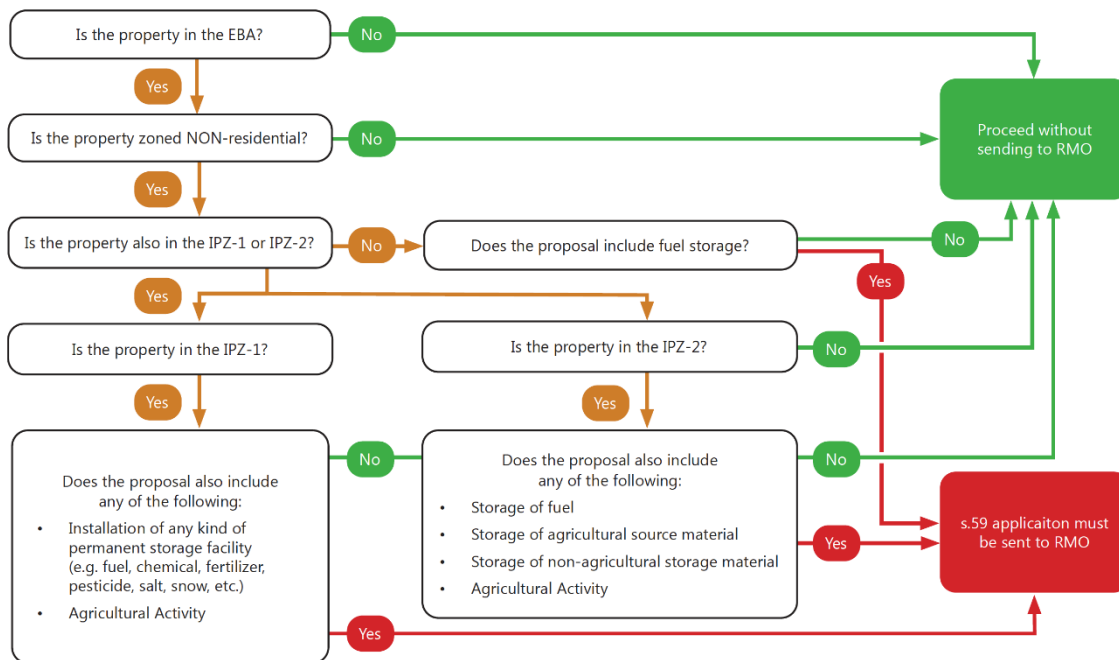
Written Direction

Prior to any development or planning approvals, the proposal and a Section 59 restricted land use application must be circulated to the Risk Management Official if the following conditions are met:

1. The property is in the Event Based Area, zoned non-residential and includes the installation of above ground fuel storage
2. The property is in Windsor IPZ-2, zoned non-residential and includes the installation of specific types of above ground storage structure (fuel, agricultural source material, or non-agricultural source material), or any type of agricultural activity
3. The property is in Windsor IPZ-1, zoned non-residential and includes the installation of any type above ground storage structure (e.g. fuel, chemical, fertilizer, pesticide, salt, snow, etc), or any type of agricultural activity

Please note that only residential land uses are exempt from this screening procedure; all other land uses require Section 59 notices for all planning and/ or building applications when a project that meets the above noted screening criteria is proposed within a Vulnerable Area.

The following flow chart outlines the Section 59 screening process and is intended to be used as a tool to assist municipal staff in following the written direction:



The Planning Act and Building Code Act Application Section 59 Screening Process

Step 1: Determine if the property parcel is located in the Event Based Area (EBA)

- If the property parcel is not located in the Event Based Area, no circulation to the Risk Management Official is required. **The Risk Management Official confirms that the Approval Authority or building official is permitted to make the determination that the site specific land use is not designated for the purposes of Section 59 of the *Clean Water Act*.**
- If the property parcel is located in the Event Based Area, proceed to Step 2.

Step 2: Determine the current land use of the subject property parcel using the existing Official Plan and Zoning By-law.

- If the property parcel is zoned residential in both the Official Plan and Zoning By-law, no further screening by the Risk Management Official is required. **The Risk Management Official confirms that the Approval Authority or building official is permitted to make the determination that the site specific land use is not designated for the purposes of Section 59 of the *Clean Water Act*.**
- If the property parcel is non-residential (e.g. commercial, agricultural or industrial), proceed to Step 3.

Step 3: Determine if the property parcel is located in Windsor IPZ-1 or Windsor IPZ-2

- If the property parcel is not located in Windsor IPZ-1 or Windsor IPZ-2, proceed to Step 4a
- If the property parcel is located in the Windsor IPZ-1 or Windsor IPZ-2, proceed to Step 4b/c.

Step 4a (property is in EBA only): Determine whether the proposal or application includes the installation of above ground fuel storage of any size.

- If there is no proposed installation of above ground fuel storage, no circulation to the Risk Management Official is required. **The Risk Management Official confirms that the Approval Authority or building official is permitted to make the determination that the site specific land use is not designated for the purposes of Section 59 of the *Clean Water Act*.**
- If there is a proposal for the installation of above ground fuel storage of any size, **you must** circulate the application to the Risk Management Official. Please contact the Essex Region Risk Management Official at riskmanagement@erca.org for a copy of the application form or if you have any questions.

Step 4b (property is in IPZ-2): Determine whether the proposal or application includes the installation of the permanent storage structure of any size of fuel, agricultural source material, or non-agricultural source material, or any type of agricultural activity

- If the proposal or application does not include the installation of a storage structure for fuel, agricultural source material, or non-agricultural source material nor any type of agricultural activity, no circulation to the Risk Management Official is required. **The Risk Management Official confirms that the Approval Authority or building official is permitted to make the determination that the site specific land use is not designated for the purposes of Section 59 of the Clean Water Act.**
- If the proposal or application includes any of the activities outlined above, **you must** circulate the application to the Risk Management Official. Please contact the Essex Region Risk Management Official at riskmanagement@erca.org for a copy of the application form or if you have any questions.

Step 4c (property is in IPZ-1): Determine whether the proposal or application includes the installation of any type of permanent storage structure of any size (e.g. fuel, chemical, fertilizer, pesticide, salt, snow, etc), or any type of agricultural activity

- If the proposal or application does not include the installation of a storage structure nor any type of agricultural activity, no circulation to the Risk Management Official is required. **The Risk Management Official confirms that the Approval Authority or building official is permitted to make the determination that the site specific land use is not designated for the purposes of Section 59 of the Clean Water Act.**
- If the proposal or application includes any of the activities outlined above, **you must** circulate the application to the Risk Management Official. Please contact the Essex Region Risk Management Official at riskmanagement@erca.org for a copy of the application form or if you have any questions.

Following the receipt of a completed Section 59 application form, the Risk Management Official will be in a position to provide further direction.

The Risk Management Official has determined that the above written direction is applicable and the date of the receipt of this notice is to be considered the effective date.



Laura Neufeld
Risk Management Official



Kathleen Schnekenberger
Risk Management Official



Katie Stammer
Source Water Protection
Project Manager

APPENDIX A: Section 59 of the *Clean Water Act, 2006*

Restricted land uses

59. (1) If a source protection plan that is in effect designates a land use as a land use to which this section should apply and an area within which this section should apply,

(a) a person shall not make an application under a provision of the *Planning Act* prescribed by the regulations for the purpose of using land for that land use at any location within that area; and

(b) despite section 58, a person shall not construct or change the use of a building at any location within that area, if the building will be used in connection with that land use,

unless the risk management official issues a notice to the person under subsection (2). 2006, c. 22, s. 59 (1).

Issuance of notice

(2) The risk management official shall, on application, issue a notice to a person for the purpose of subsection (1) if, and only if, the applicant has paid all applicable fees and,

(a) neither section 57 nor section 58 applies to the activity for which the land is to be used at the location where the land is to be used; or

(b) section 58 applies to the activity for which the land is to be used at the location where the land is to be used and a risk management plan that applies to that activity at that location has been agreed to or established under section 56 or 58. 2006, c. 22, s. 59 (2).

Time for application

(3) If section 58 applies to the activity for which the land is to be used at the location where the land is to be used, an application for the issuance of a notice under subsection (2) may be made at the same time that an application is made in respect of the activity under section 58 or 60. 2006, c. 22, s. 59 (3).

Copies

(4) If a risk management official issues a notice under subsection (2), he or she shall give a copy of the notice to the persons prescribed by the regulations. 2006, c. 22, s. 59 (4).

Definitions

(5) In this section,

“building” has the same meaning as in the *Building Code Act, 1992*; (“bâtiment”)

“construct” has the same meaning as in the *Building Code Act, 1992*. (“construire”) 2006, c. 22, s. 59 (5).

APPENDIX B: Section 62 of O. Reg 287/07 of the *Clean Water Act, 2006*

62. The following provisions of the *Planning Act* are prescribed for the purposes of clause 59 (1) (a) of the *Clean Water Act, 2006*:

1. Section 22, with respect to requests to amend official plans.
2. Section 34, with respect to applications to amend zoning by-laws.
3. Section 39, with respect to applications to amend zoning by-laws to authorize a temporary use.
4. Section 41, with respect to applications for approval to undertake development in a site plan control area.
5. Section 45, with respect to applications for minor variances.
6. Section 51, with respect to applications for approval of plans of subdivision.
7. Section 53, with respect to applications for consents. O. Reg. 246/10, s. 12.



Essex Region Source Protection Committee

Report 04/23

From: Katie Stammler, Source Water Project Manager

Date: Tuesday, February 28, 2023

Subject: Draft responses for the 2022 Annual Reporting Template

Recommendation

THAT the 2022 Essex Region Source Protection Authority Annual Progress Report be submitted to the MECP on or before May 1, 2023 pending suggested changes and additions made by the SPC, and endorsement by the SPA

Summary

- The Director of the Source Protection Branch approved an updated Source Protection Annual Progress Report Template and Supplemental Form that must be used for annual reporting
- Implementing Bodies provided progress reports to the SPA on or before February 1, 2023
- The 2020 Annual Progress Report for the Essex Region SPA is due May 1, 2023

Discussion

The Essex Region Source Protection Authority is required to submit an Annual Progress Report to the MECP under S.46 of the Clean Water Act on or before May 1 each year. Our first formal Annual Progress Report was created in 2017, this is our sixth Annual Progress Report. All of our Reports are available on our webpage. Annual Progress Reports describe the measures taken to implement the Source Protection Plan (SPP), the results of any monitoring programs, the extent to which the objectives in the SPP are being achieved and any other information required in the Regulations. The Director of the Source Protection Branch of the MECP has authority under s.52 (5) of Regulation 287/07 to approve a form to be used for these reports. The Source Protection Authority will be submitting all supplementary data to the MECP via an electronic database called EAR, which was approved in 2018.

The information used to prepare the Annual Progress Report comes from Implementing Bodies, who are required by Monitoring Policies in the SPP to prepare and submit a progress report to the SPA by February 1 of each year. All of the Implementing Bodies provided these reports on or before February 1, 2023.

The SPA is required to submit the Annual Progress Report to the SPC at least 30 days prior to submitting it to the MECP. The draft Annual Progress Report is attached for review by the SPC. Comments will be received at this meeting and via email over the next 30 days until at least April 7, 2023. The SPC will receive any additional content for review on or before March 31, 2023. This includes:

- Message from the SPC
- Q8. Source Water Quality: Monitoring and Actions
- Q10. More from the Watershed

The SPA will receive the draft Annual Progress Report at their meeting on April 13, 2023 where they will be asked to endorse the submission of the Report pending any final editorial changes. The SPC will receive the final Annual Progress Report via email prior to submission to the MECP.

Based on the information in the draft Annual Progress Report, the SPC must agree to an overall progress score as well as progress score for some individual sections.

Where questions require a letter grade, the following options are available:

P – Progressing Well; **S** – Satisfactory; **L** – Limited Progress

Part I – Introduction

See attached – no change since 2018.

Part II: A message from your local SPC

This is an opportunity for the SPC to provide an overall letter grade as described above. This section will be completed once the SPC has been provided with the opportunity to review the draft Annual Progress Report and accompanying supplemental material, which will be circulated via email. The written portion of this section is limited to 200 words.

The SPC has rated the overall progress as '**P**' – Progressing Well – every year since 2017.

Part III – Our Watershed

See attached – no change since 2018.

Part IV – Progress on Source Protection Plan Implementation

Q1. Source Protection Plan Policies and Addressing Significant Risks

There are 44 policies in the Essex Region SPP that address significant drinking water threats (SDWTs), 4 policies address low/moderate drinking water threats, and 2 policies are not directly associated with specific drinking water threat activities (i.e. microcystin policies).

Of the 44 policies in the Essex Region SPP that address SDWTs, 38 (86%) are now fully implemented. This is an increase of nine policies since 2021 that were previously considered to be in progress.

These seven policies use either s.57 (prohibit) or s.58 (risk management plans) and are implemented by the Risk Management Official (RMO). The RMO completed an extensive review of the vulnerable areas and determined that there were no existing SDWTs that met the criteria of the s.57 policies (Policy #20-25) and two of the s.58 policies (policy #27 and 28). The last remaining existing large fuel tanks were issued risk management plans by Order, which completed the implementation of Policy 31. Please see the Essex Region Source Protection Area 2022 Risk Management Official Annual Progress Report for more detail.

There are 4 (9%) policies in progress. Three of these policies address storage of hazardous waste and pesticide in Amherstburg, Lakeshore and Windsor IPZ-1, and application of pesticide in Amherstburg, Lakeshore and Windsor IPZ-1 and Windsor IPZ-2 using s.58 (risk management plans). The RMO has reviewed these areas and is working with municipal staff to confirm that there are no existing SDWTs in these areas. The pesticides identified as a SDWT are specific to agriculture and are unlikely to be used in these non-agricultural areas. Section 59 polices are considered to be 'implemented' because there are processes in place to screen building permits and planning applications for new activities that could be a SDWT, including those listed above. One (1) policy is considered in progress that requires Windsor, Lakeshore and Amherstburg to prohibit sewage treatment tanks in IPZ-1's, this policy is implemented in Windsor and Lakeshore and will be included in Amhersburg's next Official Plan update. Importantly, this activity is also prohibited using a Prescribed Instrument policy and there are no existing threats.

A letter grade of '**P**' – progressing well – has been assigned since 2017 and is recommended for 2022 based on the information above.

Q2. Municipal Progress: Addressing Risks on the Ground

This section is a summary of the progress that municipalities have made towards integrating Source Protection Plan policies with their day-to-day planning processes, Official Plan and Zoning By-laws. There has been little change since 2018 as the process for developing and approving Official Plans takes several years.

All lower tier and single tier municipalities in the Essex Region are responsible for day-to-day land use planning and building permit decisions and have integrated source protection requirements into these decisions. All municipalities have received and should be using the written direction and “Building Information Sheet” provided by the RMO to aid in the implementation of section 59 policies. The responses in the 2022 indicate that all Planning Departments are incorporating s.59 screening, but some Building Departments are not. Refresher training was provided in 2022 and will be offered again in 2023 for municipal staff who request it. In 2022, a new Written Direction was provided to the City of Windsor with a special training session. In addition, the s.59 training was recorded and is available for municipal staff via YouTube: bit.ly/SWP-Workshop2022

In the Essex Region, all municipalities have vulnerable areas where significant drinking threat policies apply and are required to ensure their Official Plan conforms with the Source Protection Plan the next time they undertake an Official Plan review under the Planning Act.

Most of the municipalities in the Essex Region (7 of 11) are in the process of completing their Official Plan (OP) conformity exercises, and have been for several years. The County of Essex and Town of Essex completed their required OP conformity exercise in 2018, LaSalle completed their OP conformity exercise in 2019 and Tecumseh completed their OP conformity exercise in 2021. Zoning by-law (ZBL) conformity exercises are in progress for most municipalities (8 of 10); one municipality (Leamington) has not yet begun their ZBL conformity exercise. The Town of Essex has completed their zoning by-law conformity exercise. The County of Essex is an upper tier municipal jurisdiction with the majority of Source Protection planning responsibilities left to the lower tier municipalities, therefore no ZBL amendments are required. A summary of progress toward OP and ZBL conformity is provided below.

Completed OP conformity exercise:	4 (County of Essex, Town of Essex, LaSalle, Tecumseh)
OP conformity exercise in process:	7
Not started OP conformity exercise:	0
Completed ZBL conformity exercises:	2 (Town of Essex, LaSalle)
ZBL conformity exercise in process:	8
ZBL conformity exercise not required:	1 (County of Essex)
Not started ZBL conformity exercise:	1 (Leamington)

A letter grade of ‘P’ – progressing well – has been assigned since 2018 and is recommended for 2022.

Q3: Septic Inspections

There are currently no polices in the Essex Region SPP that require mandatory septic inspections, so this section is not applicable. However, the Committee has requested the addition of a note regarding high levels of *E.coli* in local waterways and beaches in previous reports. Given that conditions have not changed significantly, the same note can be included in the 2022 report.

Q4: Risk Management Plans

The RMO/I made significant progress and was able to complete the last two remaining RMPs for existing threats. Unfortunately, these had to be issued by Order due to continued lack of response from land owners. Five (5) applications were reviewed in 2022 resulting in one (1) RMP being established for a future (new) fuel threat through s.59 municipal screening processes. Since the SPP took affect, 17 RMPs have been established through the s. 59 process for new (future) threats.

The RMO began conducting compliance reviews for individuals with existing Risk Management Plans issued under a S.58 (existing threats) using a compliance checklist for self-assessment. All compliance checks completed in 2022 were deemed successful and confirmed that property owners comply with the established Risk Management Plans. All properties remain in good standing. The RMO will continue to complete compliance checks on properties who were issued S. 59 Notices to Proceed (new threats), where Risk Management Plans were established, throughout 2023.

As in previous years, a more detailed report will be prepared by the RMO, and will be delivered to municipalities along with the Source Protection Plan Annual Progress Report (See Report 03.23).

A letter grade of 'P' – progressing well – has been assigned every year since 2018 and is recommended based on the information above.

Q5: Provincial Progress: Addressing Risks on the Ground

The Essex Region Source Protection Plan contains 17 policies directing the use of Provincial Instruments to address both future and existing drinking water threats. The date of compliance for future threat policies was October 1, 2015 (the date the Plan came into effect). The date of compliance for existing threat policies was October 1, 2020. All 17 of these policies have been fully implemented since 2018.

All provincial ministries now have a screening mechanism in place to address future threats. And all existing Prescribed Instruments created before the SPP took effect have been reviewed to ensure that they conform with SDWT policies. In 2022, Provincial Ministries examined four (4) applications for wastewater/sewage works and one (1) application for an aggregate license in vulnerable areas of the Essex Region, all were determined not to be a SDWT so no actions were required.

A letter grade of 'P' – progressing well – has been assigned every year since 2018 and is recommended based on the information above.

Q6: Source Protection Awareness and Change in Behaviour

All municipalities in the Essex Region are required to install approved road signage in particular vulnerable areas. The MTO is also responsible for installing signs on Provincial Highways in the Essex Region. There are roughly 60 signs on municipal roads and the MTO installed all of the approved signs in the region on Hwy 401, Hwy 77 and Hwy 3 in 2017/18. There were no new signs installed in 2022.

Q7. Source Protection Plan Policies: Summary of Delays

There have been no significant delays in the implementation of the Essex Region Source Protection Plan.

Q8. Source Water Quality: Monitoring and Actions

The content will be based water quality monitoring programs carried out by ERCA's Water Quality Team as well as information available from other regional, Provincial, State and Federal agencies who are studying and/or monitoring Harmful Algal Blooms in Lake Erie. It will be an update to the content included in the 2017-2021 reports. This text will be provided to the SPC by email on or before March 31, 2023.

Q9. Science-based Assessment Reports: Work Plans

The Essex Region SPA continues to make progress towards completing our s.36 update with a goal of finalizing the update by the end of 2023. Technical work that was planned for 2021 was pushed to 2022 due to a delay in publication of the 2021 Director Technical Rules, which were finalized in December, 2021. In 2022, the SPC reviewed and amended 37 policies and wrote 5 new policies to bring our policies in line with the 2021 Director Technical Rules. ERSPA staff have worked with municipalities and the MECP to ensure the policies appropriately provide protection for our sources of drinking water. The SPC will review all remaining policies in the spring of 2023, at which time the formal consultation process will begin on the new and amended policies. We are on track to complete our s.36 update in 2023.

Q10. More from the Watershed

This section is an opportunity to highlight an aspect of implementation of the Essex Region SPP. Suggestion to include the very successful road sign media campaign that was run by CO in partnership with SPA/Rs including our own road sign video and online mapping tool.

Previous annual reports included:

2021: Road sign campaign and video

2020: Risk Management success – upgrades to fuel tanks

2019: Risk Management success – upgrades to fuel tanks

2018: Link to web page for more information and photo of Harrow-Colchester low lift at Lake Erie

2017: celebrating integration of Source Water information into day to day practices at ERCA and municipalities

RECOMMENDATION

THAT the 2022 Essex Region Source Protection Authority Annual Progress Report be submitted to the MECP on or before May 1, 2023 pending suggested changes and additions made by the SPC, and endorsement by the SPA



Katie Stammler, PhD

Project Manager, Source Water Protection/
Water Quality Scientist

Attachment:

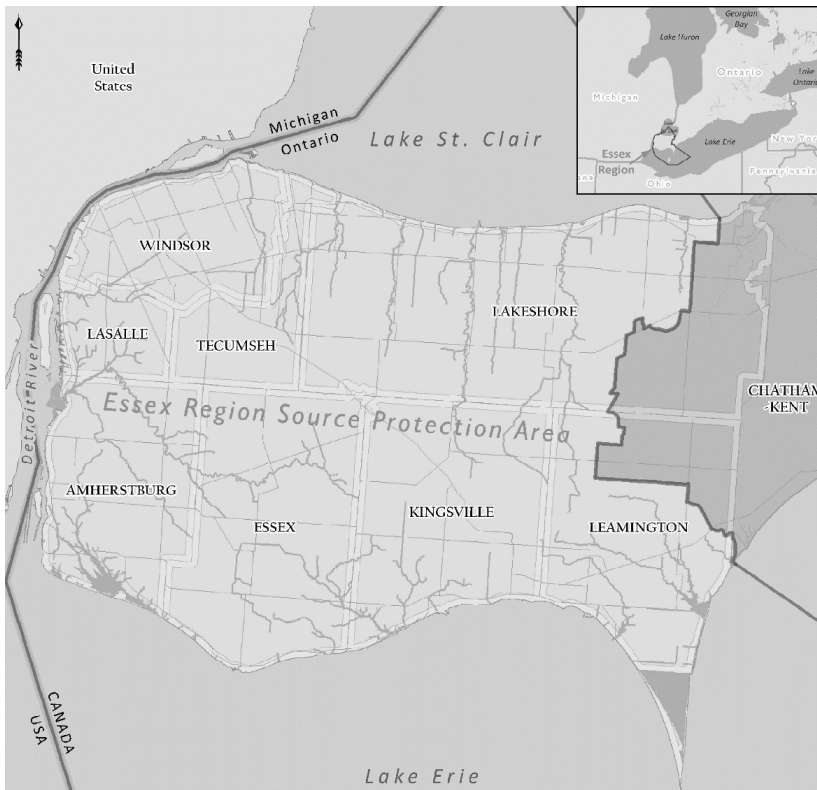
1. DRAFT 2022 Essex Region Source Protection Plan Annual Progress Report



2022 Source Protection Annual Progress Report | Draft

I. Introduction

This annual progress report outlines the progress made toward implementing the policies in the Essex Region Source Protection Plan (SPP) for the Essex Region Source Protection Area (ERSPA), as required by the Clean Water Act and its Regulations. Our policies work by either eliminating or managing activities that could be considered a threat to our sources of drinking water and are based on the foundational knowledge that the actions we take on land have an impact on our local waterways and ultimately our sources of drinking water. Following an extensive process that included broad public input, the Essex Region SPP came into effect on October 1, 2015. This report highlights progress made toward implementation up to December 31, 2022, and highlights the actions taken from January 1 to December 31, 2022.



Scoring for certain elements of the Annual Progress Reports is based on the following options:

Progressing Well/On Target (P) – Most of the policies have been implemented &/or are progressing.

Satisfactory (S) – Some of the policies have been implemented and/or are progressing.

Limited progress (L) – A few of policies have been implemented and/or are progressing.

II. A message from your local Source Protection Committee

Since our first Annual Report in 2017, the SPC has given the SPP a score of 'P' – Progressing Well.

Chair Fuerth will prepare a statement from the SPC with input from its members.

III. Our Watershed

The Essex Region Source Protection Area (ERSPA) is approximately 1681 km² and coincides with the watershed boundaries of the Essex Region Conservation Authority (ERCA). The ERSPA is comprised of 28 smaller sub-watersheds, flowing northward into Lake St. Clair, westward into the Detroit River, or southward into Lake Erie. The area predominantly consists of a flat clay plain with the exception of some sandy areas, primarily in the southern portion of the Region. The predominant land use in the watershed is agriculture, due to the region's excellent farmland and growing conditions.

Municipal drinking water supplies in the Essex Region Watershed are drawn from surface water intakes in the Great Lakes system - Lake Erie, Lake St. Clair and the Detroit River. There are seven municipal Water Treatment Plants (WTPs) in the ERSPA, and one WTP outside of the ERSPA in Wheatley serving part of the Municipality of Leamington. Stoney Point and Lakeshore (Belle River) WTPs have their water intakes located in Lake St. Clair; the A. H. Weeks (Windsor) and Amherstburg WTPs have their intakes in the Detroit River; and the Harrow-Colchester South, Union, Pelee Island West Shore and the Wheatley WTPs have their intakes in Lake Erie. These municipal WTPs serve over 95 percent of the population in the ERSPA. The remaining population, less than five percent, depends on groundwater or hauled water.

In the ERSPA, the handling and storage of large volumes of liquid fuel (> 15,000 L) was identified as a significant drinking water threat (SDWT). Modeling exercises showed that a

spill of this volume of fuel close to any body of water could result in contamination of the source water at our drinking water intakes. This resulted in the delineation of an extensive Event Based Area (EBA) in which large volumes of fuel are considered a threat to our drinking water. To mitigate these threats, Risk Management Plans (RMPs) that show actions are being taken to prevent spills are required to be established in consultation with a Risk Management Official.

To learn more about Source Protection in the Essex Region, please visit our website: <https://essexregionconservation.ca/source-water-protection/>

IV. At a Glance: Progress on Source Protection Plan Implementation

1. Source Protection Plan Policies and Addressing Significant Risks

P – Progressing Well - suggested

Of the 44 policies in the Essex Region SPP that address SDWTs, 38 (86%) are now fully implemented and 4 (9%) are considered in progress. The remaining four policies have been reviewed and it has been determined that no further action is required.

Three of the policies that remain in progress use s.58 (risk management plans) in specific vulnerable areas to manage SDWTs. The RMO has conducted a review and is working with municipal staff to confirm that there are no existing SDWTs in these areas (none expected). Any new potential SDWTs are captured during the Section 59 screening process. One (1) in progress policy requires Windsor, Lakeshore and Amherstburg to prohibit sewage treatment tanks in IPZ-1s. This policy is implemented in Windsor and Lakeshore and will be included in Amherstburg's next Official Plan update. Importantly, this activity is also prohibited using a Prescribed Instrument policy and there are no existing threats.

Nine (9) policies moved from 'in-progress' to 'implemented' in 2022. These policies use either s.57 (prohibit) or s.58 (risk management plans) and are implemented by the Risk Management Official (RMO). The RMO completed an extensive review of the vulnerable areas and determined that there were no existing SDWTs that met the criteria of the s.57 policies (policy #20-25) and two of the s.58 policies (policy #27 and 28). The last remaining existing large fuel tanks were issued risk management plans by Order, which completed the implementation of Policy 31. Please see the Essex Region Source Protection Area 2022 Risk Management Official Annual Progress Report for more detail.

2. Municipal Progress: Addressing Risks on the Ground

P – Progressing Well - suggested

All of the 11 municipalities in the ERSPA have vulnerable areas where SDWT policies apply. Municipalities are required to ensure that their planning and building decisions conform with the Essex Region SPP and must also ensure that their Official Plan conforms with the SPP upon the next Planning Act review.

The County of Essex, Town of Essex, Town of LaSalle and Town of Tecumseh have completed their required Official Plan conformity exercises. The remaining municipalities (7 of 11) are in the process of amending their Official Plan to conform with the policies in the Essex Region SPP. Municipalities have been undergoing this process for several years and ERSPA have had the opportunity to review some draft OP revisions, but it is unknown when the revisions will be complete.

All lower tier municipalities are responsible for day-to-day land use planning and building permit decisions and have integrated source protection requirements to ensure that their planning and building decisions conform with the policies in the Essex Region SPP. The Essex Region Conservation Authority has been delegated by all of these municipalities to implement Part IV policies on their behalf. At the request of municipalities, ERSPA will deliver additional training to municipal staff in 2023.

3. Septic Inspections

Not applicable to the ERSPA. There are currently no policies in the Essex Region SPP that require mandatory septic inspections. However, the Committee notes that high levels of E.coli remain a concern for our local waterways and beaches. Landowners are encouraged to have their septic systems inspected and maintained regularly.

4. Risk Management Plans

P – Progressing Well - suggested

As of January 2019, threat verification inspections were carried out in accordance with the *Clean Water Act* by the RMO/I for all 384 existing properties originally identified in the ERSPA to determine whether or not existing activities identified in the Source Protection Plan meet the criteria to be considered a SWDT (the handling & storage of fuel). Of these, 96 were identified to be SDWTs.

In 2022, two (2) RMPs were established to address existing threats, both of which were completed by Order after a breakdown in communication with the land owner/operator. Both properties are Petroleum Wells. A total of 96 RMPs have been established for existing threats since our SPP took effect. Five (5) applications were reviewed in 2022 resulting in one (1) RMP being established for a future (new) fuel threat through s.59 municipal screening processes. Since the SPP took affect, 17 RMPs have been established through the s. 59 process for new (future) threats.

The RMO began conducting compliance reviews for individuals with existing Risk Management Plans issued under a S.58 (existing threats). A compliance checklist is being used as a self-assessment to allow the RMO to ensure that all documents are up to date and that properties with significant drinking water threat activities continue to implement appropriate Risk Management Measures. All compliance checks completed in 2022 were deemed successful and confirmed that property owners comply with the established Risk Management Plans. All properties remain in good standing.

Please refer to the supplementary Part IV 2021 Risk Management Services Report for further information and details.

5. Provincial Progress: Addressing Risks on the Ground

P – Progressing Well - suggested

The Essex Region SPP includes 17 policies that use Provincial Instruments (e.g. Environmental Compliance Approvals) to address future (new) and existing SDWTs. Screening for future threats became mandatory the date the SPP came into effect (October 1, 2015). Ontario ministries have a screening mechanism in place for new applications and they amend Prescribed Instruments (PI) as needed to address any new SDWTs. Our policies set out a timeline of 5 years (October 1, 2020) to review and make necessary changes to previously issued PIs to address existing SDWTs. All of the identified existing threats have been addressed and there is a procedure in place to address any new threats. As a result, all of the policies that use Provincial Instruments in the Essex Region SPP have been considered to be fully implemented since 2018.

As of December 2018, all 38 of the existing PIs were reviewed. Five of these were considered to be SDWTs where the PI was sufficient and no additional conditions were required to mitigate the SDWT. In 2022, Provincial Ministries examined four (4) applications for wastewater/sewage works and one (1) application for an aggregate license in vulnerable areas of the Essex Region, all were determined not to be a SDWT so no actions were required. Since 2016, 37 new applications for PIs have been reviewed in the ERSPA. No new SWDTs have been identified through this process.

6. Source Protection Awareness and Change in Behaviour

Road signs have been installed across the ERSPA as part of a provincial awareness initiative. The Ontario Ministry of Transportation (MTO) installed signs on provincial roads near Drinking Water Protection Zones, while municipalities coordinated installation on local municipal and county roads. Our municipalities have either completed road sign installation, are in the process of installation, or have determined that no signage is necessary. The MTO installed five signs in the Essex Region in 2017 and 2018 on Hwy 401, Hwy 77 and Hwy 3, and there are over 60 signs on municipal roads. There were no new signs installed in 2022.

These road signs identify sections of road where accidental spills could contaminate our sources of drinking water. As part of the Essex Region Source Protection Plan implementation, emergency responders have been notified about these zones so that our sources of drinking water can be protected in the event of a spill. The use of a standardized signs throughout Ontario will help to raise public awareness about the importance of protecting our local sources of drinking water.

The main risk to drinking water in our local area has been identified as the handling and storage of liquid fuel. If a spill is observed, residents are advised to contact the Spills Action Center at 1-800-268-6060. To learn more about these road signs in the Essex Region, check out our video! <https://www.youtube.com/watch?v=MwO3V1zsUAs>

7. Source Protection Plan Policies: Summary of Delay

There have been no significant delays in the implementation of the Essex Region Source Protection Plan.

8. Source Water Quality: Monitoring and Actions

To be written – highlighting results from several water quality projects that were completed in 2022 related to monitoring phosphorus concentrations and loads.

9. Science-based Assessment Reports: Work Plans

The Essex Region SPA continues to make progress towards completing our s.36 update with a goal of finalizing the update by the end of 2023. The formal consultation process on new and amended policies will begin mid-2023.

10. More from the Watershed

To be determined based on discussion with SPC

To learn more about our source protection region/area, visit our homepage:
<https://essexregionconservation.ca/source-water-protection/>



Have you see this Drinking Water Protection Sign?

These signs are appearing across Ontario to raise awareness about the vulnerability of our municipal drinking water sources. Governments at the local and provincial level are placing signs along roadways where a pollution spill could have a negative impact on our drinking water sources. The main risk to drinking water in the Essex Region Source Protection Area has been identified as the handling and storing of liquid fuel. These signs indicate areas where a spill of a large volume of liquid fuel could impact one of our drinking water intakes. If a spill is identified, residents should contact the Spills Action Centre at 1-800-268-6060.



Essex Region Source Protection Committee

Report 05/23

From: Katie Stammler, Source Water Project Manager

Date: Thursday, March 2, 2023

Subject: S.36 Update – Combined Sewer Overflow/Sanitary Sewer Overflow Policy Amendments

Recommendation

THAT the SPC approve the attached amended policies to be submitted to the MECP for early engagement and further;
THAT the SPC approve the suggested removal of specific policies noted in SPC Report 05.23

Summary

- The Table of Drinking Water Threats was updated in 2021
- The threat circumstances for various wastewater circumstances were changed
- Amended and/or new policies are required in the Essex Region Source Protection Plan
- Amended policies will be included in the comprehensive s.36 update
- City of Windsor and ERSPA staff have met to discuss the existing Specify Action policies and provide reasonable proposed amendments for consideration

Discussion

Further to SPC Report 02/23, ERSPA staff met with City of Windsor staff on 27 February 2023 following their internal staff meeting. This report provides suggestions amendment to the seven additional policies directed at the City of Windsor. The policy text with is provided in this report and the proposed amended policies are attached.

In addition, amendments to the existing Prescribed Instruments will also be proposed to align these policies with the 2021 Director Technical Rules. These will be presented to the SPC at their next meeting. The Rationale statement for all policies will be prepared at that time as well.

Existing City of Windsor Policies

In addition to the Prescribed Instrument policies, the current Source Protection Plan also includes the following policies directed at the City of Windsor:

1. Policy 34 uses Specify Action to require compliance with their ECAs for the Little River Pollution Plant, specifically listing mercury and PCBs as chemicals of concern.
2. Policy 35 uses Specify Action to require that the City add to its current monitoring scheme the testing of 2-methyl-4-chlorophenoxyacetic acid (MCPA)
3. Policy 36 uses Specify Action to require the City of Windsor to initiate the development of a sewer and storm management plan, which has now been completed.
4. Policy 37 uses the Govern Research tool to initiate a research program to characterize combined sewer overflows in the Windsor intake protection zones (IPZs) 1s and 2s
5. Policy 38 uses the Education and Outreach tool to require the City of Windsor to provide a program to promote downspout disconnection, use of rain barrels, and, and other such initiatives that assist in educating the property owners
6. Policy 39 uses the Stewarding/Incentive tool to require the City of Windsor to seek funding assistance from the Ministry of the Environment, in order to undertake a stewardship/incentive program to assist in addressing the threats associated with CSOs, bypass and effluent discharges
7. Policy 40 uses Specify Action to require that sewage treatment tanks be prohibited with the exception of storage of stormwater and sewage (from combined sewers) in the Windsor IPZ-1, through a means that the Municipality finds appropriate such as Municipal Act By-law.

Suggestions for policy amendments

The following recommendations are made:

1. Revise Policy 34 to remove reference to specific chemicals and/or pathogens of concern and to include reference to the ERSPA providing support to the City of Windsor in the completion of annual reports required by the MECP.

“The City of Windsor will continue to meet the requirements of the Environmental Compliance Approval (Certificate of Approval) (or any updates or replacements to it) under the Ontario Water Resources Act for the Little River Pollution Control Plant (LRPCP) including annual reporting. The City of Windsor will continue its current monitoring scheme and will also give due consideration to the reduction of the frequency and volumes of bypasses through sewer separation and downspout disconnection programs, and other such measures while developing plans or strategies to manage storm water and sewers.

The Essex Region Source Protection Authority will provide assistance to the City of Windsor in the completion of annual reports under the new Consolidated Linear Model for ECAs, which includes a requirement to report on Source Water Protection.”

2. Remove Policy 35 as specific chemicals are no longer referenced in the Director Technical Rules.

3. Revise existing Policy 36 to reflect work completed and intended for the future. Policy language supports ongoing consideration of source water protection in the sewer master plan.

“The City of Windsor will ensure that all future Sewer Master Plans include consideration of the above named significant drinking water threats (CSO, SSO, PSO, sewage outfalls). . Actions that reduce the potential for contamination of sources of drinking water should be included in all future Sewer Master Plans. This could include plans for further sewer separation in the sewersheds of the combined sewer overflows, storm water retention structures such as deep tunnel storage to reduce combined sewer overflow, storage to reduce combined sewer overflow, mandatory downspout disconnection, backflow protection, pump station improvements, sewer rehabilitation, sealing maintenance holes, etc. ”. ”

4. Remove policy 37 since the research portion has now been completed and the policy calls for the initiation of research.
5. Revise Policy 38 to reflect the ongoing education that the City of Windsor provides on this subject. This would support the ongoing need for this education program to help reduce CSOs.

“The City of Windsor will continue to provide Education and Outreach programs to property owners within the sewershed areas of the subject vulnerable areas where existing existing Combined Sewers and stormwater management could be significant threats. The Education and Outreach will promote such actions as downspout disconnection, use of rain barrels, low impact design and green infrastructure. The Education and Outreach program will provide information on what not to dispose of down the drain and information about the Spills Action Centre in case of spills, and other such initiatives that assist in educating the property owners about combined sewer overflow, as well as stormwater management.”

6. Remove Policy 39 as there is no such funding available from the MECP. Similar policies have already been removed from the Source Protection Plan. There is one generic policy in the SPP now that directs ERCA to apply for funding should it become available. This policy will be revised to include municipalities.
7. Retain Policy 40 as is, updating to the new policy format. The SPC felt it important to have this policy has a back up and it is not onerous to municipalities to implement.

Summary

There are currently 11 policies in the Source Protection Plan that address wastewater. The following recommendations are made for discussion. Policy 1, 2, 3, and 7 will be provided at a later date.

Policy Number	Threat	Policy Tool	Recommendation
1	CSO/SSO/PSO	Prescribed Instrument - Prohibit	Retain
2	Effluent/storage	Prescribed Instrument - Prohibit	Retain and combine with Policy 3 and 7
3	Storage	Prescribed Instrument - Manage	Retain and combine with Policy 2 and 7
7	Effluent	Prescribed Instrument - Manage	Retain and combine with Policy 2 and 3
34	Eluent	Specify Action – comply with ECA	Revise
35	Effluent	Specify Action – add specific chemical	Remove
36	CSO	Specify Action	Revise
37	CSO	Govern Research	Remove
38	CSO	Education and Outreach	Revise
39	CSO	Stewardship/ Incentive	Remove
40	Storage	Specify Action – prohibit through by-law	Retain

RECOMMENDATION

THAT the SPC approve the attached amended policies to be submitted to the MECP for early engagement and further;

THAT the SPC approve the suggested removal of specific policies noted in SPC Report 05.23



Katie Stammer, PhD
 Project Manager, Source Water Protection/
 Water Quality Scientist

Attachments: Amended policies for review

2.0 The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage

2.8 Wastewater Treatment Facilities and Associated Parts

Chemical and/or Pathogen

Existing and/or Future Activities

Windsor IPZ-2

Risk Level: Significant

Approach: Manage

Policy Tool: Specify Action

Implementing Body: City of Windsor; Essex Region Source Protection Authority

Legal Effect: Must conform/comply with

Compliance Date: when the Source Protection Plan or its amendments take effect

Significant Risk Circumstance Chemical:

A final effluent outfall or a sewage treatment plant overflow outfall that is part of a wastewater treatment facility. Discharge of treated sanitary sewage is >50,000 m³/d (IPZ 8)

Significant Risk Circumstance Pathogen:

A final effluent outfall or a sewage treatment plant overflow outfall that is part of a wastewater treatment facility. A discharge may result in the presence of one or more pathogens in surface water. (IPZ with score greater than 8)

Policy Text:

The City of Windsor will continue to meet the requirements of the Environmental Compliance Approval (Certificate of Approval) (or any updates or replacements to it) under the Ontario Water Resources Act for the Little River Pollution Control Plant (LRPCP) including annual reporting. The City of Windsor will continue its current monitoring scheme and will also give

due consideration to the reduction of the frequency and volumes of bypasses through sewer separation and downspout disconnection programs, and other such measures while developing plans or strategies to manage storm water and sewers.

The Essex Region Source Protection Authority will provide assistance to the City of Windsor in the completion of annual reports under the new Consolidated Linear Model for ECAs, which includes a requirement to report on Source Water Protection.

The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage

2.6 Outfall of a Combined Sewer Overflow (CSO), or a Sanitary Sewer Overflow (SSO) from a Manhole or Wet Well.

2.8 Wastewater Treatment Facilities and Associated Parts

Chemical and/or Pathogen

Existing and/or Future Activities

Windsor IPZ-1, Windsor IPZ-2

Risk Level: Significant

Approach: Manage

Policy Tool: Specify Action

Implementing Body: City of Windsor

Legal Effect: Must conform/comply with

Compliance Date: when the Source Protection Plan or its amendments take effect

Significant Risk Circumstance Chemical:

A combined sewer or partially separated sanitary sewer outfall that discharges combined sewer overflow (CSO), or a manhole that discharges sanitary sewer overflow (SSO) or a wet well outfall that discharges sanitary pumping station overflow (PSO), and forms part of a wastewater collection facility that may discharge to land or surface water. The wastewater collection facility is designed to convey 10,000 – 100,000m³/d (IPZ 9) or >100,000 m³/d (IPZ 8) of sewage

A final effluent outfall or a sewage treatment plant overflow outfall that is part of a wastewater treatment facility. Discharge of treated sanitary sewage is 17,500 - 50,000 m³/d (IPZ 9) or >50,000 m³/d (IPZ 8)

Significant Risk Circumstance Pathogen:

A combined sewer or partially separated sanitary sewer outfall that discharges combined sewer overflow (CSO), or a manhole that discharges sanitary sewer overflow or a wet well outfall that discharges sanitary pumping station overflow (PSO), and forms part of a wastewater collection facility where the discharge may result in the presence of one or more pathogens in groundwater or surface water.

A final effluent outfall or a sewage treatment plant overflow outfall that is part of a wastewater treatment facility. A discharge may result in the presence of one or more pathogens in surface water. (IPZ with score greater than 8)

Policy Text:

The City of Windsor will ensure that all future Sewer Master Plans include consideration the above named significant drinking water threats (CSO, SSO, PSO, sewage outfalls). Actions that reduce the potential for contamination of sources of drinking water should be included in all future Sewer Master Plans. This could include plans for further sewer separation in the sewersheds of existing combined sewers, storm water retention structures such as deep tunnel storage to reduce combined sewer overflow, mandatory downspout disconnection, backflow protection, pump station improvements, sewer rehabilitation, sealing maintenance holes, etc.

2.0 The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage

2.3 Outfall from a Storm Water Management Facility or Storm Water Drainage System

2.4 Storm Water Infiltration Facility

2.6 Outfall of a Combined Sewer Overflow (CSO), or a Sanitary Sewer Overflow (SSO) from a Manhole or Wet Well.

2.8 Wastewater Treatment Facilities and Associated Parts

Chemical and/or Pathogen

Existing and/or Future Activities

Windsor IPZ-1, Windsor IPZ-2

Risk Level: Significant

Approach: Manage

Policy Tool: Education and Outreach

Implementing Body: City of Windsor

Legal Effect: Must conform/comply with

Compliance Date: when the Source Protection Plan or its amendments take effect

Significant Risk Circumstance Chemical and Pathogen:

All Significant Drinking Water Threat circumstances for the above named threat sub-categories

Policy Text:

The City of Windsor will continue to provide Education and Outreach programs to property owners within the sewershed areas of the subject vulnerable areas where existing Combined

Sewers and stormwater management could be significant threats. The Education and Outreach will promote such actions as downspout disconnection, use of rain barrels, low impact design and green infrastructure. The Education and Outreach program will provide information on what not to dispose of down the drain and the information about the Spills Action Centre in case of spills, and other such initiatives that assist in educating the property owners about combined sewer overflow, as well as stormwater management.

2.0 The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage

2.8 Wastewater Treatment Facilities and Associated Parts

Chemical and/or Pathogen

Existing and/or Future Activities

Windsor IPZ-1, Lakeshore (Belle River) IPZ-1 and Amherstburg IPZ-1

Risk Level: Significant

Approach: Prohibit

Policy Tool: Specify Action

Implementing Body: City of Windsor, Town of Lakeshore, Town of Amherstburg

Legal Effect: Must conform/comply with

Compliance Date: when the Source Protection Plan or its amendments take effect

Significant Risk Circumstance Pathogen:

A sewage treatment plant process tank or a sewage treatment plant holding tank that forms part of a wastewater treatment facility. A spill may result in the presence of one or more pathogens in groundwater or surface water. (IPZ 9)

Policy Text:

The Municipality will prohibit sewage treatment tanks in the Windsor IPZ-1, Lakeshore (Belle River) IPZ-1 and the Amherstburg IPZ-1, with the exception of storage of stormwater and sewage (from combined sewers) in the Windsor IPZ-1, through a means that the Municipality finds appropriate such as Municipal Act By-law.