

OWASCO LAKE WATERSHED

WATERSHED RULES & REGULATIONS UPDATE PROJECT



OCTOBER 2020

ACKNOWLEDGEMENTS

The initiative to update the 1984 Owasco Lake Watershed Rules and Regulations would not have been possible without the cooperation and collaboration of a broad range of individuals, organizations, elected officials and the dedicated staff serving the public from local, state and federal government branches.

The report authors would like to acknowledge the following individuals and groups directly involved in the preparation of the work:

SPONSORING GOVERNMENT AGENCIES:

City of Auburn City Council
Town of Owasco Town Board
Cayuga County Legislature

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WSRR EXTENDED STAFF WORKING GROUP AFFILIATIONS

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Cayuga County Soil & Water Conservation District
Cornell Cooperative Extension, Cayuga County
NYS Department of Environmental Conservation, Finger Lakes HUB
City of Auburn Department of Municipal Utilities
Cayuga County Health Department
Cayuga County Planning Department

WSRR PROJECT STAKEHOLDER GROUPS

Owasco Lakeshore Owners & Owasco Watershed Lake Association Members (“OWLA”)
Owasco Lake Watershed Farming Representatives and Partners for Healthy Watersheds

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Draft Owasco Lake Watershed Rules & Regulations | April 2020

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ADDENDUM B: Summary of 2019 Public Comments and Responses

PROJECT WEBSITE:

http://www.cayugacounty.us/776/Owasco_Lake-Watershed_Rules_and_Regulations

INTRODUCTION

Project Goal

The primary goal of the Owasco Lake Watershed Rules & Regulations Project is to enhance the protection and preservation of water quality in Owasco Lake by updating and improving the existing watershed rules and regulations adopted in 1984. Establishing an up-to-date and effective regulatory framework and engaging in a broad public outreach and education campaign to promote the proposed watershed protection measures at the heart of new regulations will provide the Owasco Lake Watershed Inspection and Protection Division of the Owasco Lake Watershed Management Council the means to secure and maintain a clean, safe public water supply for the approximate forty-five thousand current residents of Cayuga County who rely on this public water supply and for future generations to follow.

Crafting watershed regulations that are effective, equitable and enforceable was an objective from the start of this project, beginning with creation of a Project Steering Committee and an Extended Staff Working Group that brought together key stakeholders across multiple constituencies and land uses across the approximate 205-square mile watershed.

A thoughtful, transparent and engaged public participation process was undertaken as a critical element. This 3-year process included numerous general public information meetings and forums, multiple stakeholder presentations with review and discussion sessions facilitated by independent facilitators, an interactive project website with project information, drafts of regulations and minutes from public meetings. The presentation and initial public release of final draft regulations in March of 2019 was followed by a three-month Public Comment Period resulting in hundreds of public comments that are summarized, with staff responses, in Addendum B to this transmittal packet.

The health, economic and social impacts of water quality in Owasco Lake are real and tangible. Good water quality will result in improved health and contribute to a strong economy, poor water quality will result in declining public health and weaken our local economy. Non-point source sediment and nutrient loading to Owasco Lake comes from a range of land uses across the watershed including agriculture, ditch and streambank erosion, general storm water runoff and failing septic systems. Watershed regulations need to address all of these sources and the responsibility for supporting and implementing these safeguards falls on everyone within the Owasco Lake Watershed.

PUBLIC PARTICIPATION PROCESS

The following is an outline summary of the approximate three-year effort to prepare the draft Owasco Lake Watershed Rules & Regulations included herein.

Project Initiation and Organization 2017

MUNICIPAL AUTHORIZING & SUPPORT RESOLUTIONS

- City of Auburn May 4, 2017
- Town of Owasco May 11, 2017
- Cayuga County June 27, 2017

STEERING COMMITTEE CREATED May

- Eight (8) Steering Committee Meetings in 2017

PUBLIC “KICK-OFF” MEETINGS

- Meeting #1 BOCES June 19, 2017
- Meeting #2 MORAVIA June 21, 2017

STAKEHOLDER “KICK-OFF” MEETINGS

- Agriculture Stakeholders September 2017
- Lake Association Stakeholders October 2017
- Ag & Markets Commissioner November 2017

EXTENDED STAFF WORKING GROUP CREATED November 2017

Steering Committee & Extended Staff Work Group 2018

STEERING COMMITTEE & EXTENDED STAFF WORK GROUP MEETINGS 2018

- Seven (7) Steering Committee Meetings between April & December 2018
- Ten (10) Staff Working Meetings to Develop Draft WSRR
- First Draft WSRR Recommendations Presented to Steering Committee June 2018
- Draft revisions by Working Group & Steering Committee October and November 2018

Public Presentations & Public Comment Period 2019

MARCH 1 STEERING COMMITTEE TO FINALIZE DRAFT FOR PUBLIC PRESENTATIONS

MARCH 28 PUBLIC PRESENTATION TO CITY OF AUBURN & TOWN OF OWASCO (CITY HALL)

STAKEHOLDER PRESENTATIONS IN ADVANCE OF GENERAL PUBLIC MEETINGS

- Lake Association Stakeholders Meeting April 8, 2019
- Agriculture Stakeholders Meetings April 9, 2019

PUBLIC PRESENTATION OF DRAFT WSRR RECOMMENDATIONS

- Public Presentation #1 BOCES HS May 15, 2019
- Public Presentation #2 MORAVIA HS May 16, 2019

DRAFT WSRR PUBLIC RELEASE MARCH 1, 2019 | COMMENT PERIOD MARCH 1-JUNE 14 2019

STAFF WORKING GROUP MEETINGS APRIL-DECEMBER (~15 Meetings)

- Organize Public Comments Received & Prepare Summary & Response Document
- Revise DRAFT WSRR Recommendations for Steering Committee Review

Final Draft Recommendations | Steering Committee Review 2020

REVIEW OF FINAL DRAFT WSRR WITH CITY & TOWN SENIOR STAFF – JANUARY 2020

STEERING COMMITTEE FINAL DRAFT WSRR REVIEW – MARCH 2020

- Steering Committee & Extended Staff Group Review Meeting 1, March 3, 2020
- Steering Committee & Extended Staff Group Review Meeting 2, March 12, 2020
- STEERING COMMITTEE APPROVES FINAL DRAFT WSRR FOR TRANSMITTAL TO AUBURN CITY COUNCIL AND OWASCO TOWN BOARD (WATER PURVEYORS) MARCH 12, 2020

Final Draft WSRR Packet Transmittal to Auburn and Owasco Officials

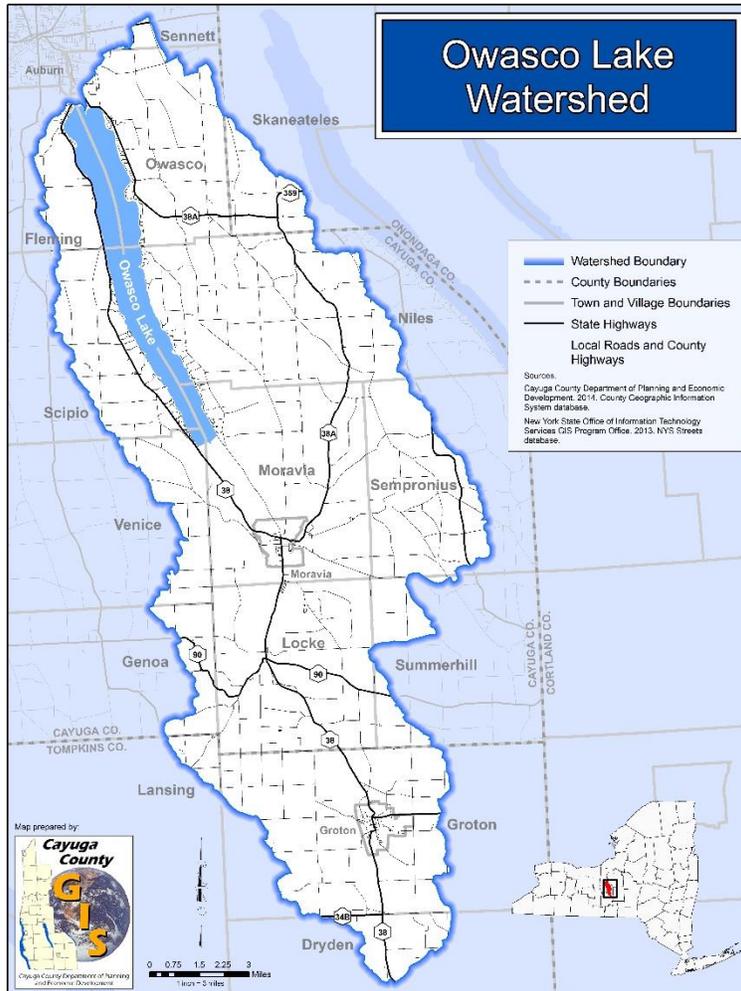
FINAL WSRR DRAFT AND PROJECT SUMMARY TRANSMITTED OCTOBER 2020*

FINAL DRAFT WSRR CIRCULATED TO STAKEHOLDERS & GENERAL PUBLIC OCTOBER 2020

JOINT CITY OF AUBURN & TOWN OF OWASCO PUBLIC MEETING OCTOBER 29, 2020, 5:00 PM, CITY COUNCIL CHAMBERS, MEMORIAL CITY HALL, 24 SOUTH STREET, AUBURN NY 13021

** Note: Delay in transmittal of final draft due to onset of COVID19 Pandemic in March 2020 and subsequent constraints on public meetings.*

OWASCO LAKE WATERSHED



- The Watershed area covers approximately 205 Square Miles
- Watershed extends to three counties: Cayuga, Onondaga and Tompkins
- Primary land use within Watershed is agriculture: dairy and crop farming
- Primary nutrient inputs are non-point source
- Primary watercourse input is Owasco Inlet at south end of Owasco Lake

The ratio between the Owasco Lake Watershed surface area and Owasco Lake surface area is approximately 17:1. This large ratio contributes to higher nutrient loads negatively impacting water quality. On the positive side, the large ratio also contributes to Owasco Lake's relatively short hydraulic retention time of 3-4 years – the average time water spends in the Lake, relative to the other Finger Lakes.

The Owasco Inlet on the southern end of the Lake at Moravia accounts for approximately 62% of all surface water from the watershed flowing into the lake.

Other major tributaries include Dutch Hollow Brook and Sucker Brook coming into the east side of the lake and Veness Brook on the west side in Fleming.

DRAFT OWASCO LAKE WATERSHED RULES & REGULATIONS | October 2020

The following section presents the full draft of the proposed Owasco Lake WSRR being recommended by the Project Steering Committee and the Extended Staff Working Group to the City of Auburn and Town of Owasco.

Readers viewing the document in digital format should note the use of hyperlinks useful for connecting the reader to online source material of content and/or external regulations cited in the document. Also, readers are encouraged to review the Definitions Section at the beginning of the document as an aid to review and consideration of the draft regulations outlined.

As a reference, the Addendum A of this document includes a copy of the [1984 Owasco Lake Watershed Rules and Regulations](#), which are currently in place and enforced. Addendum B contains a Summary Document that organizes the public comments received during the extended public comment period between March and June, 2019 and responses to the comments submitted.

Summary Draft of Proposed Revisions to
the 1984 Owasco Lake Watershed
Rules and Regulations

OWASCO LAKE WATERSHED RULES & REGULATIONS

DRAFT SUMMARY OF CHANGES
DATED 4/6/2020

APPROVED AND RECOMMENDED
BY STEERING COMMITTEE IN
MARCH 2020

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I. DEFINITIONS

- (1) *Agricultural* shall mean of or relating to practices that contribute to commercial farming including but not limited to: (a) the commercial production, preparation and marketing of crops, livestock and livestock products as defined in the current version of [Section 301\(2\) of the New York State Agriculture and Markets Law](#), (b) commercial horse boarding operations as defined in the current version of [Section 301\(13\) of the New York State Agriculture and Markets Law](#), and (c) manure processing and handling.
- (2) *Agricultural Associated Animal Waste* shall mean manure obtained from agricultural activities.
- (3) *Agricultural Associated Animal Waste Storage Area* shall mean land used for the temporary or permanent deposition of agricultural associated animal waste where said deposition is not directly for the purpose of fertilization of a crop.
- (4) *Agricultural Waste* shall mean waste produced as a result of the rearing of animals and the production and harvest of crops or trees.
- (5) *Agricultural Waste Storage Impoundment or Containment Facility* shall mean an area for the storage of manure and/or agricultural by-products made by constructing an embankment, excavating a pit or dugout, or by fabricating a structure.
- (6) *Animal Feeding Operations (AFOs)* shall mean agricultural operations where animals are kept and raised in confined situations. An AFO is a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (1) Animals have been, are, or will be stabled or confined and fed or maintained for a total of forty five (45) days or more in any twelve (12) month period, and (2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- (7) *Appropriately Credentialed Individual* shall mean a person possessing documented evidence of qualifications to develop farm management plans. An example of an *Appropriately Qualified Credentialed Individual* would be a planner certified through the Agricultural Environmental Management (AEM) Program or other program with equivalent requirements for training and experience.
- (8) *Bulk Storage* shall mean properties with petroleum storage that is subject to [New York State Department of Environmental Conservation 6 NYCRR Part 613 Petroleum Bulk Storage](#) regulations.
- (9) *CFR* shall mean the Code of Federal Regulations.
- (10) *Chloride Salt* shall mean any bulk quantities of chloride compounds or other deicing compounds intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute eight percent or more of the mixture. A bulk quantity of chloride compounds means a quantity of one thousand (1,000) pounds or more, but does not include any chloride compounds in a solid form, including granules, which are packaged in waterproof bags or containers which do not exceed one hundred (100) pounds each.
- (11) *Class AA waterbody* shall mean a waterbody assigned a “best use” classification by the New York State Department of Environmental Conservation as drinking water.
- (12) *Commercial Building* shall mean a structure which is wholly or partially used or intended to be used for commercial or municipal purposes.
- (13) *Commercial Fertilizer* shall mean a chemically manufactured substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for

use or claimed to have value in promoting plant growth. Commercial fertilizer is distinguished from natural substances used as fertilizer such as animal manures.

- (14) *Commissioner of Health*, unless otherwise noted, shall mean the Commissioner of Health of the State of New York.
- (15) *Composted Sludge* shall mean a soil amendment made from solids separated during the treatment of municipal wastewater.
- (16) *Concentrated Animal Feeding Operations (CAFOs)* shall mean Animal Feeding Operations (AFOs) that meet certain animal size thresholds established in CAFO regulations promulgated by the New York State Department of Environmental Conservation.
- (17) *Construction* shall mean any physical modification to the area or location of a facility, including but not limited to, site preparation (e.g., clearing, grading, and excavation, etc.) and building of structures.
- (18) *Container* shall mean a portable piece of equipment in which waste is stored, transported, treated, disposed of, or otherwise handled.
- (19) *Designated Representative* shall mean the health commissioner or health officer of a city of fifty thousand (50,000) population or over, or the health commissioner or health officer of a county or part county health district, the state regional health director, or district director having jurisdiction; a public health director or public health engineer qualified as duly appointed pursuant to [Part 11 of the New York State Sanitary Code](#); or a county health commissioner, or county health director having the powers and duties prescribed in [Section 352 of the New York State Public Health Law](#), or any other individual so designated by the Commissioner of Health of the State of New York.
- (20) *Discharge* shall mean the accidental or intentional leaking, pumping, pouring, emitting, emptying or dumping of any pollutant into or on any land or water.
- (21) *Disposal* shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any pollutant into or on any land or water so that such solid waste, radioactive material, hazardous waste, or wastewater shall remain on the land or water and will not be removed.
- (22) *Dwelling* shall mean any building or structure which is wholly or partly used or intended to be used for living, sleeping, cooking, or eating quarters by human occupants.
- (23) *Effluent* shall mean treated or untreated wastewater that flows out of a treatment plant, sewer, or industrial outfall. Generally refers to wastes discharged into surface waters. Effluent only refers to liquid discharge.
- (24) *Farm* shall mean an operation for the production of crops, livestock or livestock products as defined in [Section 301\(2\) of the New York State Agriculture and Markets Law](#).
- (25) *Farm Management Plan* shall mean an annually updated document prepared for a farm that identifies, addresses, and mitigates environmental concerns to protect the water resources of the Owasco Lake Watershed. The plan addresses water quality issues through environmental assessments. Mitigation of concerns is achieved through the implementation of Best Management Practices (BMPs).
- (26) *Feed Storage Area* shall mean a designated area, paved or unpaved, covered or uncovered, used for storage of any materials used to create the rations for livestock. Also included are those areas used to store spoiled, spilled, or other unused rations for livestock. Feed storage area does not include buildings or roofed structures that contain dry commodities, provided that precipitation does not come into contact with the commodities stored in said structure.
- (27) *Floodplain* shall mean the land contiguous to streams, ponds, estuaries, and lakes which would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.

- (28) *Floodway* shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- (29) *Fluid-Saturated Soil* shall mean soil in which all voids (pores) between soil particles are filled with water.
- (30) *Frozen-Saturated Soil* shall mean soil in which all voids (pores) were filled with water before the soil cooled to below thirty two (32) degrees Fahrenheit (zero (0) degrees Celsius) and the water turned to ice. Frozen-saturated soil is characterized by a solid, impermeable layer which is impenetrable by injection/incorporation techniques.
- (31) *Groundwater* shall mean any water beneath the land surface in the saturated zone of rock or soil. This includes perched water separated from the main body of groundwater by an unsaturated zone.
- (32) *Hazardous Material* shall mean any substance listed in or exhibiting characteristics identified in the current version of either [6 New York Codes, Rules, and Regulations Part 371](#) or [6 New York Codes, Rules, and Regulations Part 597](#).
- (33) *High Water Mark of Owasco Lake* shall mean 717.13 feet above sea level.
- (34) *Household* shall mean single and multiple-family residences, hotels, motels, bed and breakfast establishments, residential rental units, bunkhouses, ranger stations, crew quarters, and campgrounds.
- (35) *Hydrologic soil group* shall mean soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability.
- (36) *Impervious Area* shall mean all impermeable surfaces that cannot effectively infiltrate rainfall. This includes paved, concrete and gravel surfaces (i.e. parking lots, driveways, roads, runways and sidewalks); building rooftops and miscellaneous impermeable structures such as patios, pools, and sheds.
- (37) *Lake* shall mean Owasco Lake.
- (38) *Land Based Holding Tanks* shall mean a sealed tank used to temporarily store wastewater prior to pump out and transport by a license waste hauler to a point for proper disposal. This does not include recreational vehicles, trailers or campers with integrated greywater and/or black water waste tanks.
- (39) *Land Used in Agriculture Production* shall mean land used for the production of crops, livestock, or livestock products as defined in [Section 301\(2\) of the New York State Agriculture and Markets Law](#). Land used in agriculture production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock, or livestock products
- (40) *Leachate* shall mean any solid waste in the form of a liquid, including any suspended components, that results from the contact with waste.
- (41) *Manure* shall mean animal feces, urine and any bedding material mixed therein.
- (42) *Manure Stacking Area* shall mean an area where non-structural measures are used to store one or more piles of manure or manure mixed with other materials. A manure stacking area is distinguished from an agricultural waste storage impoundment or containment facility made by constructing an embankment, excavating a pit or dugout, or by fabricating a structure.
- (43) *Medical Waste* shall mean material generated in research, production and testing of biologicals or health care such as: infectious animal waste; human pathological waste; human blood and blood products; needles and syringes (sharps); cultures and stocks (microbiological materials); and other biohazard waste.

- (44) *Milking Center* shall mean the building or buildings on a dairy farm where milk is collected, cooled, and stored temporarily, pending sale and shipment
- (45) *Milking Center Wastewater* shall mean wastewater generated from the cleaning of empty milking lines and tanks and the liquid portion of milking center wash water. Milking center wastewater commonly includes residual milk (i.e. milk that remains in the pipeline, receiver, and bulk tank after emptying), cleaning chemicals (i.e. detergents, sanitizers and acid rinses), water softener recharge water, and small amounts of manure, bedding, feed, grit and dirt from the floor.
- (46) *Non-Bulk Storage* shall mean properties with petroleum storage that are not subject to [New York State Department of Environmental Conservation 6 NYCRR Part 613 Petroleum Bulk Storage](#) regulations.
- (47) *Non-Waterborne Toilet System* shall mean a disposal system in which human excreta is not commingled with water. Such a system includes a composting toilet, a chemical toilet, or an incinerator toilet but does not include a privy or land based holding tank.
- (48) *NRCS* shall mean the National resource Conservation Service, formerly known as the Soil Conservation Service (SCS), is an agency of the United States Department of Agriculture (USDA) that provides technical assistance to farmers and other private landowners and managers.
- (49) *NYCRR* shall mean the New York Codes, Rules, and Regulations.
- (50) *NYSDEC* shall mean the New York State Department of Environmental Conservation.
- (51) *Onsite Wastewater Treatment System* shall mean a system used to treat wastewater from a home or business and return treated wastewater back into the receiving environment. The most common and traditional onsite wastewater treatment system consists of a septic tank that gravity flows into a soil absorption field for final treatment and dispersal.
- (52) *Owasco Lake Watershed Inspection and Protection Division* shall mean the division of the Owasco Lake Watershed Management Council that inspects areas of the Owasco Lake Watershed and identifies issues that could harm the quality of the water.
- (53) *Owasco Lake Watershed Inspection Committee* shall mean the body that oversees the activities of the person or persons performing inspections of the Owasco Lake Watershed to ascertain compliance with the Owasco Lake Watershed Rules and Regulations. At the time of the adoption of these regulations, this body is the *Owasco Lake Watershed Inspection Committee* of the Owasco Lake Watershed Management Council.
- (54) *Owasco Lake Watershed Management Council* shall mean the body that coordinates actions for protecting and restoring the health of Owasco Lake and its watershed. The Owasco Lake Watershed Management Council is an inter-municipal 501(c) 3 nonprofit development corporation with representation from municipalities throughout the Owasco Lake Watershed.
- (55) *Pesticide* shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and being those substances defined as pesticides pursuant to the current version of [Section 33-0101 et seq. of the New York State Environmental Conservation Law](#).
- (56) *Petroleum* shall mean oil or petroleum of any kind and in any form including, but not limited to oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other wastes and crude oils, gasoline and kerosene ([Article 12, Section 172 of NYS Navigation Law](#)).
- (57) *Pollutant* shall mean dredged spoil, solid waste, refuse, sewage, manure, garbage, sewage sludge, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, and industrial, municipal, or agricultural wastes. *Pollutant* shall also mean rock, sand, silt, or salt in quantities, volumes or concentrations that exceed a de minimis amount, below which is not expected to impact water quality or impair Owasco Lake for its usage as a source of water supply for drinking.

- (58) *Privy* shall mean an outdoor building placed over an excavated pit that is used as a toilet.
- (59) *Radioactive Material* shall mean any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials whose receipt, possession, use, and transfer are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or United States Nuclear Regulatory Commission.
- (60) *Refuse* shall mean all putrescible and non-putrescible wastes including garbage, ashes, incinerator residue, street cleanings, dead animals, offal, and household, commercial or industrial wastes.
- (61) *Roadside Ditch* shall mean a depression that channels water alongside a roadway and contributes flow to Owasco Lake or a watercourse.
- (62) *Septic Systems* shall mean a set of components to receive, treat, and dispose of sewage, typically including a tank to receive and hold solid waste and a treatment system to sanitize and dispose of clarified septic effluent or wastewater, such as a septic leach field or drain field.
- (63) *Sewage* shall mean the combination of human and household waste with water which is discharged to a plumbing system including the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture, equipment or machine.
- (64) *Short-term Rental* shall mean a property that is rented out for periods of time less than 30 days in duration.
- (65) *Silage Leachate* shall mean the liquid generated from the moisture of livestock fodder as it undergoes the processes of fermentation.
- (66) *Sludge* shall mean the solid, semi-solid, or liquid waste generated from a water treatment plant or a waste processing facility, but does not include the liquid stream of effluent.
- (67) *Solid Waste* shall mean all putrescible and non-putrescible materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludge from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles and offal but not including sewage and other highly diluted water carried materials or substances and those in gaseous form, and being those wastes defined as solid waste pursuant to [Section 27-0701 et seq. of the New York State Environmental Conservation Law](#) and [Title 6, Chapter IV, Subchapter B of the New York Codes, Rules, and Regulations \(NYCRR\)](#).
- (68) *Soil Disturbing Construction Activities* shall mean any clearing, grading, excavation, filling, demolition or stockpiling activities that result in soil disturbance. Soil disturbing construction activities do not include clearing completed for a field that will be used for agricultural crop production. They also do not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.
- (69) *Spill* shall mean any escape of a substance from the containers employed in storage, transfer, processing, or use.
- (70) *State of Emergency* shall mean the duly proclaimed existence of a situation or imminent threat of wide spread or severe damage, injury or loss of life or property, resulting from a natural or man-made cause.
- (71) *State Pollutant Discharge Elimination System (SPDES)* shall mean the system established pursuant to [Article 17, Title 8 of New York State Environmental Conservation Law](#) for issuance of permits authorizing discharges to the waters of the State of New York.
- (72) *Stormwater Conveyance* shall mean a feature designed to collect and transport stormwater through a drainage system. Stormwater conveyances include but are not limited to inlets, catch basins, storm sewers, open channels, pipes, culverts, structures, ditches (including roadside ditches) or

enclosures and special structures such as diverters, manholes, junction boxes and energy dissipaters.

- (73) *Surface Inlet* shall mean a structure designed, constructed and installed to collect stormwater from the surface and transfer it to a subsurface drainage system.
- (74) *Top of the bank* shall mean the distinct break in the slope between a watercourse, roadside ditch, stormwater conveyance or surface inlet and the surrounding terrain. Where the *top of the bank* is not discernible along the watercourse, roadside ditch, stormwater conveyance or surface inlet, the *top of the bank* shall be considered the stage or elevation at which water is generally able to overflow the banks of the watercourse, roadside ditch, stormwater conveyance or surface inlet and enter the floodplain. Where a seawall is present along a watercourse it shall be considered the *top of the bank*.
- (75) *Treatment Works* shall mean any treatment plant, sewer, disposal field, lagoon, pumping station, onsite wastewater treatment system, constructed drainage ditch or surface water intercepting ditch, incinerator, or area devoted to sanitary landfills or other works not specifically mentioned in this paragraph, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage.
- (76) *USDA NRCS* shall mean the United States Department of Agriculture Natural Resources Conservation Service.
- (77) *Variance* shall mean a documented decision of the *Owasco Lake Watershed Inspection Committee* to exempt an individual from being required to comply with certain provisions of the Owasco Lake Watershed Rules and Regulations in specific areas and under specific circumstances.
- (78) *Vegetated Buffer* shall mean an area of grass or other suitable perennial vegetation intended to intercept and slow surface runoff thereby providing water quality benefits.
- (79) *Wastewater* shall mean sewage.
- (80) *Waste hauler* shall mean anyone who hauls wastewater to a landfill or transfer station.
- (81) *Watercourse* shall mean "waters" or "waters of the state" as defined in [Section 17-0105 of the New York State Environmental Conservation Law](#) and further described as being annual or perennial, influent or effluent, continuously or intermittently flowing and include those classified in [6 New York Codes, Rules, and Regulations Part 898](#). The banks of such watercourse shall be identifiable, i.e., defined bed, banks, gullies, ravines, etc., that are capable of, and do under normal conditions, carry water in a manner described above. A map delineating the watercourses of the Watershed can be reviewed at the Cayuga County Department of Planning & Economic Development, Cayuga County Office Building, 5th Floor, 160 Genesee Street, Auburn, NY, 13021, and the New York State Department of Health, Bureau of Water Supply Protection, Empire State Plaza, Corning Tower Rm. 1135, Albany, NY 12237. Where there is a discrepancy between the maps and field observations, a site evaluation by *Owasco Lake Watershed Inspection and Protection Division* personnel will be the method of verifying whether or not a particular channel is a watercourse. Their determination shall be final.
- (82) *Watershed* shall mean all of the land area that drains into Owasco Lake or a watercourse as defined herein. A map delineating the boundaries of the Watershed can be reviewed at the Cayuga County Department of Planning & Economic Development, Cayuga County Office Building, 5th Floor, 160 Genesee Street, Auburn, NY, 13021, and the New York State Department of Health, Bureau of Water Supply Protection, Empire State Plaza, Corning Tower Rm. 1135, Albany, NY 12237. Where there is a discrepancy between the map and field observations, a site evaluation by *Owasco Lake Watershed Inspection and Protection Division* personnel will be the method of verifying whether or not a particular area is within the Watershed. Their determination shall be final.

II. APPLICATION

1. Application: The rules and regulations set forth in this Section duly made and enacted in accordance with the provisions of Section 1100-1107 of the Public Health Law shall apply to the source of the public water supply of the City of Auburn and Town of Owasco. Said water supply is Owasco Lake, a water body assigned a Class AA water quality classification under the New York Codes, Rules and Regulations (NYCRR). The lake is located approximately 1.5 miles south of the City of Auburn and located within Cayuga County. Its watershed is situated within parts of Cayuga, Tompkins, and Onondaga, Counties. The lake is one of the Central New York Finger Lakes and is a multiple use lake/reservoir with a lake surface area of 10.65 square miles and a watershed land drainage area of 205 square miles. The watershed drainage area appears on the USGS and NYSDOT 7.5-minute planimetric and topographic quadrangle maps titled "Auburn", "Genoa", "Groton", "Moravia", "Owasco", "Scipio Center", "Sempronius", "Skaneateles", "Spafford", and "West Groton". The location of the watershed drainage area boundary as it applies to these rules and regulations is determined by geographic information system maps maintained by the Cayuga County Department of Planning and Economic Development. Where there is a discrepancy between the maps and field observations, a site evaluation by *Owasco Lake Watershed Inspection and Protection Division* personnel will be the method of verifying this boundary. Their determination shall be final. Maps delineating this boundary can be reviewed at the Cayuga County Department of Planning and Economic Development, 160 Genesee St, Auburn, NY 13021 and the New York State Department of Health, Bureau of Public Water Supply Protection, Empire State Plaza, Corning Tower Rm. 1135, Albany, NY 12237.

III. INSPECTION

1. Inspection. The Council of the City of Auburn and the Town Board of the Town of Owasco or their duly appointed representative shall make regular and thorough inspections of the Owasco Lake Watershed to ascertain compliance with the rules and regulations set forth in this Section. It shall be the further duty of the aforesaid local governments to promptly notify the Local Health Department having jurisdiction of any violations. The aforesaid local governments shall report to the Local Health Department having jurisdiction in writing annually, prior to the 30th day of January, the results of the regular inspections made during the preceding year. The report shall state the number of inspections which were made, the number of violations found, the number of notices served, the number of violations abated and the general condition of the Watershed.

IV. GENERAL PROVISIONS

1. No person or corporation shall allow any *pollutant* of any kind to be *discharged*, deposited, or otherwise transported into Owasco Lake, a *watercourse*, or *stormwater conveyance* such as a roadside ditch.

2. The manufacture, use, storage, disposal, or discharge of any product, material, or byproduct, including, but not limited to, *wastewater*, *solid waste*, or any pollutant within the Watershed must conform to the requirements of these rules.
3. In addition to all other relevant provisions of these regulations, the collection, transportation, storage, recovery, treatment, processing and disposal of solid waste, medical waste, hazardous materials, radioactive materials, petroleum products, and pesticides shall comply with the [New York State Environmental Conservation Law](#) as well as [Title 6](#) and [Title 17 of the New York Codes, Rules, and Regulations \(NYCRR\)](#).
4. Transportation of *hazardous materials* is prohibited except when carried out in compliance with [Section 14-F of the New York State Transportation Law](#) and [17 New York Codes, Rules, and Regulations Chapter VI](#).
5. No person, including State agencies or political subdivisions having jurisdiction, shall perform any act or grant any permit or approval which may result in the contravention of the standards for raw water quality as contained in [10 New York Codes, Rules, and Regulations Part 170](#).
6. Notices of application for municipal, state, or federal permits or approvals for proposed projects that involve *soil disturbing construction activities* within the Watershed shall be forwarded to the *Owasco Lake Watershed Inspection and Protection Division* by the applicant at the same time such applications are submitted to the municipal agency having jurisdiction. Copies of such applications and supporting materials shall be provided to the *Owasco Lake Watershed Inspection and Protection Division* upon request.
7. Any person who is knowingly responsible for any spill of any *hazardous material*, petroleum, pesticides, medical wastes, or radioactive material within the Watershed, shall notify the *Owasco Lake Watershed Inspection and Protection Division* and the health department of the County in which the spill occurred. Notwithstanding any of the foregoing provisions, all spills shall be reported pursuant to [Article 12 of the Navigation Law](#) and [Section 17-1743 of the New York State Environmental Conservation Law](#).
8. Oil, gas, and water supply well construction, maintenance, and abandonment shall comply with the [New York State Environmental Conservation Law](#) and the [New York State Public Health Law](#).
9. Disposal of snow or ice from the plowing of public or private roads, driveways, parking lots, etc., into Owasco Lake, a *watercourse*, roadside ditch, or inlet to any other *stormwater conveyance*, is prohibited except for the unavoidable mounding of snow along the sides of plowed surfaces that results as a consequence of clearing ice and snow from them.
10. No *refuse* shall be deposited on or beneath the surface of ground within two hundred and fifty (250) feet of the high water mark of Owasco Lake, a *watercourse*, or a *stormwater conveyance* such as a roadside ditch, except as provided elsewhere in these regulations.

11. Domestic or farm animal mortalities shall be buried or disposed of in a sanitary manner within seventy-two (72) hours. No domestic or farm animal carcasses shall be buried or disposed of within two hundred and fifty (250) feet from the high water mark of Owasco Lake, the *top of the bank* of a down-gradient *watercourse* or roadside ditch, or other *stormwater conveyance*.
12. Any person who is responsible for any *spill* or other unplanned, unintended release of *manure* or commercial fertilizer during storage, transportation, or land application shall notify the Owasco Lake Watershed Inspection and Protection Division.

V. SEWAGE, WASTEWATER, SLUDGE, SEPTIC SYSTEMS AND OTHER ONSITE WASTEWATER TREATMENT SYSTEMS

1. No human excreta, *sewage*, *sludge*, composted excreta, or *composted sludge* shall be buried in, applied, deposited, or spread upon the ground at any point in the Watershed except as provided elsewhere in these regulations.
2. Storage of human excreta, *sewage*, *sludge*, composted excreta, or *composted sludge*, other than storage associated with the operation of an approved onsite wastewater treatment system or municipal wastewater treatment systems is prohibited.
3. All new onsite wastewater treatment systems in quantities of less than one thousand (1000) gallons per day shall be designed, installed, and maintained in accordance with the standards established in [10 New York Codes, Rules, and Regulations Part 75 \(Appendix 75-A\)](#). An additional useable area of fifty (50) percent shall be set aside for future expansion. The authority to approve individual household treatment systems shall rest with the county health department having jurisdiction.
4. The use of wastewater treatment systems with design flows greater than one thousand (1000) gallons per day are subject to the approval and enforcement authority of the New York State Department of Environmental Conservation and the county health department having jurisdiction.
5. The absorptive component of all onsite wastewater treatment systems, including the required expansion area, shall be constructed or placed a minimum of one hundred (100) feet from the *high water mark of Owasco Lake* and all *watercourses*. However, a *variance* may be granted for the repair or replacement of an existing system within one hundred (100) feet of the *high water mark of Owasco Lake* or a *watercourse* by the professional engineer for the county health department having jurisdiction. The granting of the *variance* is subject to the applicant demonstrating that the alternatives have been investigated and the design alternative selected is one that minimizes the risk of contamination to the lake or *watercourse* and maximizes the utilization of the usable area and condition of the site. Copies of all *variances* must be forwarded to the *Owasco Lake Watershed Inspection and Protection Division* by the county health department having jurisdiction.

6. No portion of an onsite wastewater treatment system absorption area shall be constructed or placed within a *floodway* or *floodplain* as designated on maps prepared by the Federal Emergency Management Agency (FEMA) unless the bottom of the absorption field is designed and constructed two (2) feet above the designated flood elevation. A *variance* from this regulation may be granted for the repair or replacement of an existing system located within the floodway or *floodplain* by the professional engineer for the county health department having jurisdiction. Copies of all *variances* must be forwarded to the *Owasco Lake Watershed Inspection and Protection Division* by the county health department having jurisdiction.
7. Effective January 1, 2025, wastewater effluent with a phosphorus concentration that exceeds 2 mg/L may not be discharged into any onsite wastewater treatment system absorption area that is located less than 100 feet from the high water mark of Owasco Lake and has one or more of the following characteristics:
 - a. less than a two foot vertical separation between the bottom of the absorption device and seasonal high groundwater, bedrock, or impervious strata, or
 - b. located in *NRCS hydrologic soil* group type A, or
 - c. located in *NRCS hydrologic soil* group B with greater than 1% of CaCO₃ or
 - d. located in *NRCS hydrologic soil* group C that has greater than 15% CaCO₃
8. Septic tanks that are no longer in use shall be pumped out by a New York State Department of Environmental Conservation registered pumper and either removed or filled in with inert material within sixty (60) days of obsolescence.
9. Land Based Holding Tanks
 - a. Land based holding tanks shall not be installed for either full-time or part-time use except under the following conditions:
 - i. where occupancy of a structure is permitted while the onsite wastewater treatment system or public sewer to serve the property is under construction, or
 - ii. as replacements for existing failing land based holding tanks, or for those cases where a land based holding tank is the only possible repair or replacement alternative for an existing onsite wastewater treatment systems where conditions preclude the replacement of onsite wastewater treatment system due to parcel size limitations, poor soil conditions, or insufficient depth to bedrock or groundwater. All holding tanks shall be designed and installed in accordance with the standards established in [10 New York Codes, Rules, and Regulations \(NYCRR\) Part 75 \(Appendix 75-A\)](#). The authority to approve the installation of land based holding tanks shall rest with the county health department having jurisdiction.

- b. Land based holding tanks shall not be placed within fifty (50) feet of Owasco Lake or a watercourse. A variance may be granted by the professional engineer for the County Health Department having jurisdiction. Copies of all variances must be forwarded to the Owasco Lake Watershed Inspection and Protection Division by the county health department having jurisdiction.
- c. Land based holding tanks shall be equipped with an audio or visual alarm indicating when the tank will soon be full and in need of a pump out. The owner of a holding tank shall maintain, for a period of three (3) years, receipts submitted to the property owner by the waste hauler for pumping out a land based holding tank. The receipts shall be made available upon request of the county health department having jurisdiction or the Owasco Lake Watershed Inspection and Protection Division.
- d. If site conditions, including but not limited to proximity to Owasco Lake or a watercourse, steep slopes, erodible or unstable soils or high groundwater, indicate that the installation of a land based holding tank, or the continued use of an existing land based holding tank would pose a potential for contamination to Owasco Lake or a watercourse, additional safeguards will be required. These safeguards may include, singly or in combination, such mitigating measures as runoff and groundwater diversion structures, structural supports to prevent movement, secondary containment structures around the land based holding tank and system components, or mandatory pumping intervals.

10. Privies

- a. New construction of privies shall be allowed only if the following conditions are met:
 - i. The privy is not within one hundred (100) feet of a watercourse or three hundred (300) feet of the *high water mark of Owasco Lake*, and
 - ii. A minimum three foot (3') vertical separation exists between the bottom of the privy and high groundwater, mottling, bedrock, or impervious layer, as verified by a New York State licensed professional engineer or registered architect, and
 - iii. The installation is approved by the county health department having jurisdiction.
- b. When the pit contents of a privy are within eighteen (18) inches of ground level, the pit shall be filled to ground level with no less than eighteen (18) inches of soil and tamped down.
- c. No privy shall be constructed, placed, maintained or allowed to remain within one hundred (100) feet of the *high water mark of Owasco Lake* or a watercourse.

11. Non-Waterborne Toilet Systems

- a. A non-waterborne toilet system shall only be allowed if the following conditions are met:
 - i. The system is designed in accordance with the standards established in [10 New York Codes, Rules, and Regulations Part 75 \(Appendix 75A\)](#).
 - ii. The system is not located within fifty (50) feet of Owasco Lake or watercourse, and
 - iii. The installation is approved by county health department having jurisdiction
12. Only licensed waste haulers as described in [6 New York Codes, Rules, and Regulations Part 364](#) may pump or transport human excreta, sewage, composted excreta, or wastewater. When handling sewage and wastewater, licensed waste haulers shall exercise all necessary care to prevent contamination of Owasco Lake or a watercourse.
13. Any alteration, addition, repair, or replacement of an existing onsite wastewater treatment system shall conform to [10 New York Codes, Rules, and Regulations Part 75 \(Appendix 75-A\)](#) and any applicable regulations of the county health department having jurisdiction. If conformance is not possible for reasons including, but not limited to insufficient or limited available area on the parcel, or limiting soil conditions, a *variance* from this regulation may be granted by the professional engineer for the county health department having jurisdiction. Copies of all *variances* must be forwarded to the *Owasco Lake Watershed Inspection and Protection Division* by the county health department having jurisdiction.
14. No new construction or alteration, addition or change of use (for example, conversion from garage into a bedroom) of existing dwellings or commercial buildings not on public sanitary sewer shall be undertaken, until such time as the county health department having jurisdiction has been notified and has:
 - a. Issued an approval for the construction of a new onsite wastewater treatment system; or
 - b. Issued an approval for the alteration, addition or repair of the existing onsite wastewater treatment system; or
 - c. Issued a written notice indicating acceptance of the existing onsite treatment system for the proposed construction, alteration, addition or change in use.
15. All proposed installations of onsite wastewater treatment systems, including the alteration, modification, addition, repair, or replacement, excluding minor repairs, shall be designed by a design professional as defined in [10 New York Codes, Rules, and Regulations Part 75 \(Appendix 75-A\)](#). Minor repairs shall be defined or determined by the County Health Department having jurisdiction. Prior approval from the county health department having jurisdiction for the construction or alteration, addition, repair, or replacement must be obtained.

16. Owners of *dwelling*s with onsite wastewater treatment systems on properties fronting Owasco Lake must provide the following if providing *short term rentals*:
 - a. Notification of the intent to rent is given by the property owner or their agent to *the Owasco Lake Watershed Inspection and Protection Division* by May 1st of each year.
 - b. Notification shall include the address of the rental property and the time period(s) during which it is intended to be rented.

VI. PESTICIDE USE

1. Pesticides shall not be applied in a manner or at a rate which contravenes the water quality standards set forth in the current version of [6 New York Codes, Rules, and Regulations Parts 700-705](#).
2. Use of *watercourses* as a source of water or for makeup water or washing of equipment used in conjunction with pesticides without the use of an anti-siphoning device in accordance with the current version of [6 New York Codes, Rules, and Regulations Part 325](#) is prohibited.
3. No pesticides shall be discharged, applied or allowed to enter into Owasco Lake, a *watercourse*, or a *stormwater conveyance* such as a roadside ditch, unless a permit to do so has been obtained from the appropriate State agency having jurisdiction.
4. No person shall apply or discharge pesticides to any *impervious area* including parking lots, roadways, and sidewalks. If such application or discharge occurs, the pesticide must be immediately contained and either legally applied or placed in an appropriate container.

VII. STORAGE OF PETROLEUM, CHLORIDE SALTS, & COAL

1. Petroleum Storage
 - a. *Bulk Storage*
 - i. Whenever mandatory notification to the New York State Department of Environmental Conservation is required regarding a discovery of a leak, notification to the *Owasco Lake Watershed Inspection and Protection Division* is also required at the same time notification to the New York State Department of Environmental Conservation is made.
 - ii. Inventory monitoring reports and leak detection test reports shall be made available to *Owasco Lake Watershed Inspection and Protection Division* personnel upon request.

- iii. Facility inventory records and previous leak detection reports shall be made available to *Owasco Lake Watershed Inspection and Protection Division* personnel upon request.
- iv. All permit applications for the installation of new or the modification of petroleum storage facilities shall be forwarded to *Owasco Lake Watershed Inspection and Protection Division* for review and comment.

b. *Non-Bulk Storage*

- i. Property owners with any underground storage tanks or basement heating oil tanks must notify the *Owasco Lake Watershed Inspection and Protection Division* and New York State Department of Environmental Conservation in the event that a leak is discovered.
- ii. Effective [date], use of underground petroleum storage tanks located less than one hundred (100) feet from the *high water mark of Owasco Lake and floodplains* shall be prohibited. The property owner must notify the *Owasco Lake Watershed Inspection and Protection Division* ten (10) days prior to discontinuing use of such tanks.

2. Storage of Chloride Salts and Coal

- a. Storage of chloride salts and coal is prohibited except in structures designed to minimize contact with precipitation and built on a pad designed to control seepage and runoff from chloride salt and coal storage. No chloride salt shall be stored within five hundred (500) feet of the high water mark of Owasco Lake or a watercourse except in weatherproof buildings or watertight vessels.

VIII. SEDIMENT GENERATION & CONTROL

- 1. *Soil disturbing construction activities* which expose five thousand (5000) square feet or more and one (1) acre or less of soil are prohibited except under the following conditions:
 - a. Notification of the proposed action is given by the property owner or their agent to the *Owasco Lake Watershed Inspection and Protection Division*, no less than ten (10) calendar days prior to commencing the action.
 - i. The notification shall include the location of the action; a description of the action, and a time frame for the action.
 - b. Soil and erosion control mitigation measures as outlined in the most recent version of New York State Standards and Specifications for Erosion and Sediment Control shall be implemented.

- g. Within twelve (12) months of the adoption of these regulations, all municipal highway superintendents whose municipality is located within the watershed shall take at a minimum the NYSDEC Endorsed Four-Hour Erosion and Sediment Control training satisfying the minimum requirements of New York State Department of Environmental Conservation SPDES Permit #GP-0-15-002 or current permit. Municipal highway superintendents elected after the adoption of these regulations, shall take this training within twelve (12) months of taking office.

IX. NUTRIENT MANAGEMENT

A. General Prohibitions on the Application of Manure and Commercial Fertilizers:

1. No later than January 1, 2025, operators of *farms* with seven (7) or more acres of land used in agriculture production and that apply commercial fertilizers and/or manure, not including farms that are already covered under a current State Pollution Discharge Elimination System (SPDES) General Permit for Confined Animal Feeding Operations:
 - a. Shall have and comply with a current *farm management plan* that specifies appropriate rates and volumes of application of manure and/ or commercial fertilizer and that is prepared by or under the supervision of an *appropriately credentialed individual*. Locations, rates and volumes specified in the plan shall be determined by following the [United States Department of Agriculture Natural Resource Conservation Service Conservation Practice Standard \(Code 590\)](#) for nutrient management.
 - b. Shall not apply manure or commercial fertilizer on soils that are snow-covered (4"+), *fluid-saturated*, *frozen-saturated* or encumbered by significant surface icing unless the application is consistent with emergency provisions of a *farm management plan* prepared by or under the supervision of an appropriately credentialed individual. Such emergency provisions shall address where and how manure will be applied when, due to unforeseen circumstances, it is necessary to prevent or respond to an overflow or discharge from a waste storage structure. The unforeseen circumstances must be beyond the control of the owner of the farm and include but not be limited to natural disaster, unusual weather conditions, or equipment or structural failure. The operator shall notify the Owasco Lake Watershed Inspection and Protection Division within 48 hours of implementing such emergency provisions.
2. Operators of farms for which *farm management plans* are required by these regulations shall maintain, for a period for twenty four (24) months, records of all manure and/or commercial fertilizer application activities. The records shall include the rates and volumes of application.

3. Except for when commercial fertilizer is applied during maintenance or repair of a *stormwater conveyance* such as a roadside ditch, the discharge or disposal of manure and/or commercial fertilizer to Owasco Lake, a *watercourse*, or a *stormwater conveyance* such as a roadside ditch, is prohibited.

B. Vegetated Buffers and Nutrient Application Setbacks

1. Except as provided in Paragraph 2, no later than January 1, 2025, a *vegetated buffer* of a minimum of thirty five (35) feet must be maintained between croplands and the *top of the bank* of any down-gradient *watercourse*.
2. The requirement for a thirty five (35) foot *vegetated buffer* as specified in Paragraph 1 may be waived via the Variance procedure specified in Section XI by the by the *Owasco Lake Watershed Inspection Committee* if:
 - a. Information provided in a *farm management plan* prepared by or under the supervision of an *appropriately credentialed individual* indicates that a *vegetated buffer* is not necessary to mitigate the movement of nutrients to a *watercourse*, or
 - b. A vegetative buffer of a lesser width, or some other practice or set of practices intended to mitigate the movement of nutrients to a *watercourse*, is implemented as specified in a *farm management plan* prepared by or under the supervision of an *appropriately credentialed individual*.
3. No later than January 1, 2025, a *vegetated buffer* of a minimum of ten (10) feet must be maintained between croplands and the *top of the bank* of any down-gradient roadside ditch or *surface inlet*.
4. A minimum distance of two hundred (200) feet must be maintained between *manure* and/or *commercial fertilizer applications*, including applications on residential property, and the *high water mark of Owasco Lake*.
5. *Manure* and/or *commercial fertilizer* shall not be applied less than thirty five (35) feet from the *top of the bank* of a *watercourse* or ten (10) feet from the *top of the bank* of a roadside ditch or *surface inlet* except for when establishing a *vegetated buffer*.
6. A minimum distance of a hundred (100) feet must be maintained between *manure* and/or *commercial fertilizer* applications and private water supply wells or springs.
7. A minimum distance of two hundred (200) feet must be maintained between *manure* and/or *commercial fertilizer* applications and public water supply wells or springs.

C. Application of Manure or Commercial Fertilizers on Impervious Areas

1. No person shall apply or discharge *manure* or *commercial fertilizer* to any *impervious area* including parking lots, roadways, and sidewalks. If such application or discharge occurs, the *manure* or *commercial fertilizer* must be immediately contained and either legally applied or placed in an appropriate container.

D. Silage Leachate and Milking Center Wastewater

1. Silage leachate and *milking center wastewater* shall not be discharged into Owasco Lake, a watercourse, or a *stormwater conveyance* such as a roadside ditch.
2. *Milking center wastewater* and silage leachate shall not be discharged to the ground. *Milking center wastewater* and silage leachate shall only be discharged to an appropriate treatment or collection system.

E. Agricultural Associated Animal Waste Storage Areas

1. No *manure stacking area* shall be located within three hundred (300) feet of the *high water mark of Owasco Lake*, the *top of the bank* of a down-gradient *watercourse* or roadside ditch, or a down-gradient *surface inlet*.
2. No new or expanded *agricultural waste storage impoundment or containment facility* shall be located within two hundred and fifty (250) feet of the *high water mark of Owasco Lake*, a *watercourse*, or a *stormwater conveyance* such as a roadside ditch.
3. New or expanded *agricultural waste storage impoundment or containment facilities* shall be certified by a qualified professional (Professional Engineer or United States Department of Agriculture Natural Resource Conservation Service employee with appropriate job approval authority) as meeting current United States Department of Agriculture Natural Resource Conservation Service standards and specifications.

F. Feed Storage Areas

1. No *feed storage area* shall be located within two hundred and fifty (250) feet of the *high water mark of Owasco Lake*, the *top of the bank* of a down-gradient *watercourse* or roadside ditch, or a down-gradient *surface inlet* unless all runoff from the *feed storage area* is collected and directed to an *agricultural waste storage impoundment or containment facility* or to a designated treatment area.

G. Livestock Access to Owasco Lake and Watercourses

1. Livestock access to *watercourses* shall be prohibited except at designated crossings or areas designed, constructed, and used in such a way as to:
 - a. Minimize streambank and streambed erosion;
 - b. Minimize the amount of time that animals are required to be in contact with the water; and
 - c. Allow for maintenance in a manner that is protective of the water quality of the watercourse.

H. Access to Farm Management Plans

1. Operators of farms for which *farm management plans* are required by these regulations shall make the *farm management plans* available for review by the Owasco Lake Watershed Inspection and Protection Division upon request.

X. REMEDIES FOR VIOLATION

1. Remedies for Violation: Remedies for violation of these rules and regulations shall be those specified by [Article 11 of the Public Health Law](#) and any other law where applicable.

XI. VARIANCES

1. The *Owasco Lake Watershed Inspection Committee*, following a review of a written application from a property owner or person managing or operating a site, may grant a *variance* from these regulations.
2. The *Owasco Lake Watershed Inspection Committee*, in reviewing an application for a *variance*, shall consult with one or more persons with expertise in the matters relevant to the application and authorized by the City of Auburn and the Town of Owasco to provide advice to the committee.
3. The *Owasco Lake Watershed Inspection Committee* may grant a *variance* when it reasonably appears that:
 - a. the physical characteristics of the site are such that the application of the regulation for which the *variance* is being sought is not necessary to protect the water quality of Owasco Lake, a *watercourse* or *stormwater conveyance* such as a roadside ditch; or
 - b. Adequate alternative provisions have been made to protect the water quality of Owasco Lake, a *watercourse* or *stormwater conveyance* such as a roadside ditch.
4. The *Owasco Lake Watershed Inspection Committee*, in the granting of *variances*, shall grant the minimum *variance* that it shall deem necessary and adequate to protect the water quality of Owasco Lake, a *watercourse* or *stormwater conveyance* such as a roadside ditch.
5. *Variances* may be considered and granted only on an individual, site specific basis.
6. The *Owasco Lake Watershed Inspection Committee* may impose expiration dates for *variances*. If no expiration date is imposed, a *variance* shall remain in effect for as long as the conditions at the site remain unchanged. If the conditions at the site change, the *variance* expires.
7. The *Owasco Lake Watershed Inspection Committee*, may revoke a *variance* if, based on evidence it receives after granting the *variance*, the *Owasco Lake Watershed Inspection Committee* determines that it is in fact necessary to apply the regulation for which the *variance* was granted in order to protect the water quality of Owasco Lake, a *watercourse* or *stormwater conveyance* such as a roadside ditch.
8. *Variances* to the required *vegetative buffer* widths and *manure* and/or *commercial fertilizer* spreading setbacks and prohibitions may be considered upon request on a site specific basis and granted by the *Owasco Lake Watershed Inspection Committee* based on information contained in supporting documentation.

9. An application for a *variance* shall at a minimum:
 - a. Include the applicant's name, address, and their interest in the subject property; and the owner's name and address if different from the applicant;
 - b. Include the owner's signed consent to the application if made by any person or entity other than the owner of the site;
 - c. Include the County tax map identification number as well as the street address and/or a description of the location of the subject site;
 - d. Specify the specific provision of these Rules and Regulations from which the *variance* is sought;
 - e. Assess the potential impact on water quality from the issuance of the *variance*;

Include evidence that: 1) the physical characteristics of the site are such that the application for the regulation for which the *variance* is being sought is not necessary to protect the water quality of Owasco Lake, a *watercourse* or *stormwater conveyance* such as a roadside ditch, or 2) adequate alternative provisions have been made to protect the water quality of Owasco Lake, a *watercourse* or *stormwater conveyance* such as a roadside ditch.

10. The *Owasco Lake Watershed Inspection Committee* shall act on all *variance* requests as soon as practicable but no later than forty five (45) calendar days of receipt of a properly prepared *variance* application. After reviewing the application, the *Owasco Lake Watershed Inspection Committee* will render a decision to grant, grant with conditions, or deny a *variance* application. Violations of the conditions of a *variance* shall result in the nullification of the *variance*. The decision to grant, grant with conditions, or deny a *variance* shall be made in writing. Notices of decisions shall be provided to the municipal clerks of the City of Auburn and the Town of Owasco.

XII. SEVERABILITY CLAUSE

1. If any term or provision of these Rules and Regulations shall, to any extent, be invalid or unenforceable, the remainder of these Rules and Regulations, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of these Rules and Regulations shall be valid and be enforced to the fullest extent permitted by law.

ADDENDUM A

1984 OWASCO LAKE WATERSHED RULES & REGULATIONS

DRAFT

Section 104.1 New York State Public Health Law

1984 OWASCO LAKE WATERSHED RULES & REGULATIONS

CITY OF AUBURN AND TOWN OF OWASCO, CAYUGA COUNTY NY

Pursuant to the authority vested in the Commissioner of Health by Section 1100 of the Public Health Law, section 104.1 of Part 104 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby repealed, and a new section 104.1 is added thereto, to be effective upon filing with the Secretary of state, to read as follows:

**MUNICIPAL CODE
ADDENDUM**

**RULES AND REGULATIONS PERTAINING TO CITY OF AUBURN AND TOWN OF OWASCO,
CAYUGA COUNTY, RE: PUBLIC WATER SAFETY**

Section 104.1 City of Auburn and Town of Owasco, Cayuga County.

(a) **Application.** The rules and regulations set forth in this section, duly made and adopted in accordance with the provisions of Sections 1100-1107 of the Public Health Law, shall apply to Owasco Lake and its tributaries, which is a source of the public water supply for both the city of Auburn and the town of Owasco, Cayuga County, New York, and to all watercourses tributary thereto or which may ultimately discharge into said lake.

(b) **Definitions.**

- (1) Agricultural associated animal waste shall mean manure obtained from agricultural industries.
- (2) Agricultural associated animal waste area shall mean land used for the deposition of agricultural associated animal waste on the surface of the ground for fertilization purposes.
- (3) Agricultural associated animal waste storage area shall mean land used for the temporary or permanent deposition of agricultural associated animal waste where said deposition is not directly for the purpose of fertilization.
- (4) Chloride salt shall mean the solid compounds or solutions of potassium chloride (commonly used as fertilizer) calcium chloride (commonly used for winter-road maintenance) or sodium chloride (commonly used for water-softener regeneration).
- (5) Herbicide shall mean any substance used to destroy or inhibit plant growth.
- (6) Human excreta shall mean human feces and urine.
- (7) Junkyard shall mean an area where two or more unregistered old or secondhand motor vehicles are being accumulated for purposes of disposal, resale of used parts, or reclaiming certain materials such as metal, glass, fabric and/ or the like.
- (8) Lake shall mean Owasco Lake.
- (9) Linear distance shall mean the shortest horizontal distance from the nearest point of a structure or object to the optimum high water mark of the lake to the edge, margin or precipitous bank forming the optimum high water mark of a

water course.

- (10) Manure shall mean animal feces and urine.
- (11) Nonagricultural associated animal waste shall mean manure obtained from nonagricultural industries.
- (12) Optimum high water mark shall mean 717.13 feet above sea level using United States Geological Survey datum.
- (13) Pesticide shall mean any substance used to destroy or inhibit pests such as rodents and insects.
- (14) Pollutant shall mean dredge, spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial and municipal waste and agricultural and nonagricultural associated animal waste.
- (15) Radiation shall mean ionizing radiation, that is any alpha particle, beta particle, gamma ray, x-ray, neutron, high-speed proton and any other atomic particle producing ionization, but shall not mean any sound or radio wave or visible, infrared or ultraviolet light.
- (16) Radioactive material shall mean any material in any form that emits radiation spontaneously.
- (17) Refuse shall mean all putrescible and nonputrescible wastes including garbage, manure, rubbish, ashes, incinerator residue, street cleanings, dead animals, offal and solid commercial and industrial wastes.
- (18) Refuse disposal area shall mean land used for the depositing of refuse except that it shall not include the land used for the depositing of refuse from a single family, a number of which is the owner, occupant or lessee or said land, or any part of a farm on which only agricultural associated animal wastes resulting from the operation of such farm are deposited.
- (19) Sewage shall mean any liquid or solid waste matter from a domestic, commercial, private or industrial establishment which is normally carried off in sewers or waste pipes.
- (20) Sewage disposal system shall mean any system used for disposing of sewage, and includes treatment works.
- (21) Toxic substance shall mean any toxic substance as so defined by subdivision two of section 4801 of the Public Health Law.
- (22) Treatment works shall mean any treatment plant, sewer, disposal field, lagoon, pumping station, septic system, constructed drainage ditch or surface water intercepting ditch, incinerator, or area devoted to sanitary landfills or other works not specifically mentioned in this paragraph, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage.
- (23) Watercourse shall mean every spring, stream, marsh or channel of water of any

kind numbered on the latest Owasco Lake Watershed Base Map of the Central New York Regional Planning and Development Board.

(24) Watershed shall mean the entire drainage area contributing water to Owasco Lake.

(25) Water supply shall mean the public water supply of both the city of Auburn and town of Owasco, New York, from Owasco Lake.

(c) **General Prohibitions.** No person, including State agencies or political subdivisions having jurisdiction, shall perform any act or grant any permit or approval which may result in the contravention of the standards for raw water quality as contained in part 170 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR Part 170.)

(d) **Specific Prohibitions.**

(1) Agricultural associated animal waste area. No agricultural associated animal waste area shall be located within a 250 foot linear distance of the lake or watercourse. Beyond that distance such area shall be maintained in such manner that surface run-off will not carry agricultural associated animal waste directly into the lake or watercourse.

(2) Cemeteries. No interment of a human body shall be made within a 250 foot linear distance of the lake or watercourse.

(3) Chloride salt. No chloride salt shall be stored within a 500 foot linear distance of the lake or watercourse except in weatherproof buildings or watertight vessels.

(4) Herbicides and pesticides. No herbicides or pesticides shall be stored, discharged, applied or allowed to enter into the lake or watercourse unless a permit to do so has been obtained from the appropriate State agency having jurisdiction.

(5) Human excreta and sewage.

(i) No human excreta or sewage shall be deposited or allowed to escape into Owasco Lake or any watercourse on the watershed.

(ii) No human excreta or sewage shall be deposited or spread upon the surface of the ground at any point on the watershed. Composted sludge, pursuant to a permit issued by an appropriate State or local agency having jurisdiction, if any, shall be allowed.

(iii) No human excreta or sewage shall be buried in soil on the watershed unless deposited in trenches or pits at a linear distance of not less than 250 feet from the lake or watercourse with a minimum vertical distance of five feet from the bottom of any trench or pit to groundwater and covered with not less than one foot of soil in such a manner as to effectually prevent its being washed into the lake or watercourse by rain or melting snow.

(iv) No privy receptacle or facilities of any kind for the deposit, movement,

treatment or storage of human excreta or sewage shall be constructed, placed, maintained or allowed to remain a 100 foot linear distance of the lake or watercourse except (a) watertight receptacles; (b) water-flushed toilets connected by a watertight pipe to a sewage disposal system that has been approved by the appropriate State Agency having jurisdiction over such facilities; and (c) a properly designed, constructed and operated treatment works that been approved by the appropriate State agency having jurisdiction over such facility.

- (v) No portion of the seepage unit (title field, seepage pit or equivalent) or a subsurface sewage disposal system shall be constructed, placed or rebuilt within a 100 foot linear distance of the lake or watercourse. All systems constructed must have a vertical distance of at least two feet from the lowest portion of the system to the high water mark. An exemption may be granted by the County Health Department for the repair of an existing system within 100 linear feet of the lake or watercourse.
- (vi) Every watertight receptacle used for containing human excreta or sewage shall be emptied when the receptacle is filled to within six inches of the top.
- (vii) In emptying a watertight receptacle or in transferring its contents to a transportable receptacle, all necessary care shall be exercised to prevent contamination of the lake or watercourse. All such transportable receptacles shall be provided with drip -proof connections and tight -fitting covers which are securely fastened when transporting wastes to the place of ultimate disposal. The contents of the watertight receptacles shall be disposed of in accordance with subparagraph (iii) of this paragraph or at a properly designed, constructed and operated sewage disposal system that has been approved by the appropriate State agency having jurisdiction over such facility.
- (viii) Before any existing sewage disposal system is altered or any new sewage disposal system is constructed on the watershed, the plans in relation thereto shall have been first approved by the appropriate State agency having jurisdiction over such facility. Standards for waste treatment works are published from time to time by the appropriate State agency having jurisdiction over such facility and subparagraph (v) of this paragraph shall comprise the criteria to approve any proposed disposal system.
- (ix) When an existing subsurface sewage disposal system fails, the entire system must be inspected and the site thoroughly evaluated in a manner acceptable to the appropriate State or county health agency having jurisdiction over such facility, prior to modifications or alterations to the existing system.

(x) No sewage or polluted liquid of any kind shall be discharged or allowed to flow beneath the surface of the ground on the watershed except into watertight pipes connected to a sewage disposal system or holding tank approved in accordance with subparagraph (iv) of this paragraph.

(xi) In-house composting facilities of the type that make use of human excreta, washwaters and sink wastes will be acceptable provided that properly designed systems for the disposal of gray water are included within the plans for their constructions and are approved by the appropriate State or county health agency having jurisdiction over such facilities.

- (6) Junkyards. No junkyard shall be permitted within a 100 foot linear distance of the lake or watercourse.
- (7) Manure. Manure shall not be field spread within 75 feet of the lake or watercourse unless it is plowed underground on the same day it is spread.
- (8) Radioactive material. No radioactive material of any quantity shall be buried or in any other manner disposed of within the Owasco Lake Watershed.
- (9) Refuse. No refuse shall be deposited on or beneath the surface of ground within a 250 foot linear distance of the lake or watercourse.
- (10) Refuse disposal area. No new refuse disposal areas shall be located within 500 feet of the lake or watercourse. All refuse disposal areas on the watershed shall comply with the regulations governing their operation as outlined by Part 360 of Title 6 of the Official Compilation of Codes, Rules and regulations of the State of New York.
- (11) Structures. No hut, tent, shelter, or building of any kind, except a waterworks structure, shall be permitted on the water or ice within 500 feet of any water supply intake by either the City of Auburn or the Town of Owasco.
- (12) Toxic Substances. No container used for the storage of toxic substances shall be buried beneath the surface of the ground within a 500 foot linear distance of the lake or watercourse, except as otherwise permitted by the provisions of subparagraph (x) of Paragraph (5) of this subdivision.
- (13) Other wastes. No pollutant of any kind shall be discharged, deposited, or allowed to flow into the lake or watercourse or on or beneath the surface of the ground or watershed within 500 feet of the lake or watercourse, except as otherwise permitted by the provisions of subparagraph (x) of paragraph (5) of this subdivision. This restriction shall not apply to the effluent from a treatment works installed in accordance with plans which have been first submitted to and approved by the appropriate State agency having jurisdiction over such as facilities.

(e) **Inspection.** The Mayor and Council of Auburn and the town board of the town of Owasco or any person or persons charged with the maintenance or supervision of the public water supply system shall by its officers or their duly appointed representative make regular

and thorough inspections of the reservoir, watercourses and watershed to ascertain compliance with the rules and regulations set forth in this section. It shall be the further duty of the aforesaid local governments to promptly notify the State Commissioner of Health of such violations. The aforesaid local governments shall report to the State Commissioner of Health in writing annually, prior to the 30th day of January, the results of the regular inspections made during the preceding year. The report shall state the number of inspections which were made, the number of violations found, the number of notices served, the number of violations abated and the general condition of the watershed at the time of the last inspection.

(f) **Penalties for Violations.** Penalties for violations of this section shall be those specified by Section 1103 of the Public Health Law.

DRAFT

ADDENDUM B

Summary of 2019 Public Comments & Responses

INTRODUCTION

On March 1, 2019, following more than two years of project work, including general public and stakeholder meetings, Steering Committee meetings and extended staff work sessions, an initial Final Draft of the proposed Owasco Lake Watershed Rules & Regulations was publicly released for review.

On March 28, 2019, a televised joint public meeting of the Auburn City Council and Town of Owasco was held at Auburn's Memorial City Hall Council Chambers. Project staff presented an overview of the proposed draft regulations, recapped the public participation process that preceded the release of the draft and outlined the public presentation and comment period that would follow.

On April 8 and 9, 2019, public meetings with stakeholders from the Lake Association and Agriculture groups, respectively, were held at the Ward O'Hara Agriculture Museum at Emerson Park with extended discussions of the proposed regulations facilitated by senior staff from the Consensus Building Institute ("CBI" based in Cambridge Mass.; a third party consultant who also facilitated public and steering committee meetings).

On May 15 and 16, 2019 General Public Presentations / Meetings were held at CAYUGA-ONONDAGA BOCES and Moravia High School respectively. The public meetings were also facilitated by staff from CBI.

During this three-month roll-out of the draft final watershed rules and regulations, all participants were encourage to submit feedback and comments on the regulations as presented. A formal comment period was in place from the March 1 release through June 14, 2019 with opportunities to submit public comments via an online form on the project website, via feedback cards available at public meeting events or in-person at the stakeholder and general public meetings, or by emailing or meeting with project staff.

At the close of the formal public comment period, project staff had compiled approximately forty pages of public comments. From June through December, 2019, project staff worked to organize and compile all of the public comments, prepare written responses and revise the proposed draft regulations. The public comments and responses prepared by the project staff, organized for review relative to sections of the proposed regulations, are presented herein.

RESPONSE TO COMMENTS TO THE OWASCO LAKE WATERSHED RULES AND REGULATIONS PROPOSED REVISIONS DATED MARCH 1, 2019 DRAFT.

Comments and Responses. We received numerous comments on the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft. The following is a summary of the comments and our responses.

Comment: Watershed Inspection Program should be replaced by Owasco Lake Watershed Inspection and Protection Division.

Response: Agreed. All occurrences of “Watershed Inspection Program” in the text in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft were changed to “Owasco Lake Watershed Inspection and Protection Division” in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

I. APPLICATION:

Comment: What is the source of the maps?

Response: The source for the watercourses map will be the digital “Water Quality Classifications (WQC) – NYS (NYSDEC)” data provided by the New York State Department of Environmental Conservation, Division of Water, Bureau of Water Assessment and Monitoring. The data may be viewed online using the Environmental Resource Mapper application at: <http://www.dec.ny.gov/gis/erm/>. The source for the watershed drainage area boundaries will be the digital “Watershed Boundary Dataset (WBD)” provided by the USGS and USDA-NRCS. The data may be viewed online using the interactive National Map Download Viewer application at: <https://viewer.nationalmap.gov/basic/?basemap=b1&category=nhd&title=NHD%20View>.

Comment: A watershed map must be contained within the watershed rules not by reference.

Response: It is customary for maps published elsewhere to be incorporated by reference in regulations when such maps are reasonably available to persons affected by the regulations and other interested parties. This helps to reduce the size of the document containing the regulations, simplify updating and amendment processes, and eliminate the expense of republishing material that is already publicly available.

Comment: Have these maps been reviewed by other involved County Planning Departments? They should have the concurrence of Onondaga and Tompkins County.

Response: Tompkins and Onondaga Counties are included in the review process.

Comment: These maps should also be provided to the Planning Departments in Tompkins and Onondaga Counties for residents in those counties. It would be very helpful if the maps were available online.

Comment: A copy of the watercourse/watershed map should be provided to Tompkins and Onondaga and their addresses (physical and web) should be given here.

Response: Copies of the map of the watershed drainage area are and will continue to be readily available for anyone who needs to be aware of, enforce, or comply with the requirements of the regulations. The map is and will continue to be available online.

Comment: Include a few extra paragraphs including and/amplifying lake shoreline and blue-line stream protections. Special watershed regulations for mapped blue-line stream protections-including: streambank stabilization construction/disturbances/tree removal (any length, area).

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions are intended to address sedimentation of surface waters and would apply to activities including “streambank stabilization construction/ disturbances/ tree removal”. The commenter offers no specific suggestions on what additional regulations should be considered.

II. INSPECTION:

Comment: Please clarify prompt notification and that the Commissioner of Health or Public Health Director of the involved county shall be notified of violations in their county.

Response: The time period for notification of the county health department of violations is outlined in the Owasco Lake Watershed Inspection and Protection Division procedural manual. Operational details such as these may change and should not be part of the rules and regulations. The following revision was made in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

“It shall be the further duty of the aforesaid local governments to promptly notify the Local Health Department having jurisdiction of any violations. The aforesaid local governments shall report to the Local Health Departments having jurisdiction in writing annually, prior to the 30th day of January, the results of the regular inspections made during the preceding year.”

Comment: The Commissioners of Health and Public Health Directors of Onondaga, Tompkins and Cayuga Counties should all receive the annual report. (“Commissioner” should be changed to “Commissioners” in some cases in the preceding paragraph).

Response: Agreed. The following revision was made the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

“It shall be the further duty of the aforesaid local governments to promptly notify the Local Health Department having jurisdiction of any violations. The aforesaid local governments shall report to the Local Health Departments having jurisdiction in writing annually, prior to the 30th day of January, the results of the regular inspections made during the preceding year.”

Comment: Add inspector’s right to enter upon land without permission of the landowner. Can we agree there needs to be more explicit details on inspectors' permissions for private property access? I think we need to include specific details in the new Watershed Rules and Regulations regarding private property access for watershed/watercourse inspections that includes mention of the granting authority for that access to watershed inspectors. From the language you provided from the current Watershed Rules and Regulations, does the 'The mayor and council of the City of Auburn and the town board of the Town of Owasco, or any person or persons charged with the maintenance or supervision of the public water supply system' have the authority to grant inspectors permission to go on private property? If so, it should be outlined more explicitly in the rewrite.

Response: The existing language regarding access is clear. It states that the duly appointed representative shall make regular and thorough inspections of the watershed. The authority of inspectors to enter private property is well established.

Comment: I believe the language should be more like the laid out in the 1984 Rules and Regulations, with adding the word and with respect to the “duly appointed representative:” "The Mayor and Council of Auburn and the town board of the town of Owasco or any person or persons charged with the maintenance or supervision of the public water supply system shall by its officers and/or their duly appointed representative make regular and thorough inspections of the reservoir, watercourses and watershed to ascertain compliance with the rules and regulations set forth in this section. It shall be the further duty of the aforesaid local governments to promptly notify the State Commissioner of Health of such violations. The aforesaid local governments shall report to the State Commissioner of Health in writing annually, prior to the 30th day of January, the results of the regular inspections made during the preceding year. The report shall state the number of inspections which were made, the number of violations found, the number of notices served, the number of violations abated and the general condition of the watershed at the time of the last inspection."

Response: The words “duly appointed representative” are in the Owasco Lake Watershed Rules and Regulations Proposed Revisions. Some language from the current Owasco Lake Watershed Rules and Regulations was felt to be unnecessary, and was removed to make the document more concise and easier to understand.

Comment: The watershed inspectors must be employees of the Town of Owasco or City of Auburn, not the County. Separation of powers must separate enforcement from judicial. We now have the sheriff, judge and jury in the same branch of government.

Response: The Watershed Inspectors are not employees of the County. They are currently employees of the Owasco Lake Watershed Management Council and have been designated as duly appointed representatives by the Town of Owasco and the City of Auburn by a signed agreement.

Comment: It may be useful to detail some of the activities that an inspector is able to do - collect soil samples, collect water samples, or any other applicable data collection.

Response: Operational issues, such how the inspectors perform their jobs, are customarily not specified in regulations.

III. WAIVERS:

Comment: Waiver should be a variance instead.

Response: Agreed. All occurrences of “waiver” in the text in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft were changed to “variance” in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Comment: Waivers should not be allowed. Should be a variance subject to certain conditions. Variance should be from the Town of Owasco and City of Auburn instead of Inspection Program.

Comment: No waivers should be granted nor should the waiver be allowed. Only a variance with conditions approved by the Town Board of Owasco and City of Auburn Council.

Response: The proposed revisions to the section on waivers (now referred to as variances) in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft establishes the criteria for granting a variance. Applications for variances are received and approved or denied by the Watershed Inspection Committee which is comprised of elected officials from the City of Auburn, Town of Owasco, Cayuga County and a staff member from the City of Auburn, acting on behalf of their municipalities.

NOTE: All references to waivers have become variance from this point forward.

Comment: The variance section should be moved toward the back of the overall rules and regulations overall document.

Response: Agreed. The section on variances will be moved toward the end of the document in the Owasco Lake Watershed Rules and Regulations final document.

Comment: A variance form must be filled out for each specific and relevant rules. Written application should be a unified form.

Response: Administrative processes will be streamlined by the Owasco Lake Watershed Inspection and Protection Division's creation of a standard application form. A separate form will be required to be submitted for each variance requested.

Comment: Who is responsible for granting the variance, the Watershed Inspection Committee or the Inspectors?

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft states that the Watershed Inspection Committee is responsible for granting variances.

Comment: Will the granting of variances be ever allowed to be done by one person without consultation with other regulating agencies/bodies?

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft establishes that it is Watershed Inspection Committee that has the authority to grant variances and that in reviewing an application for a variance it shall consult with one or more persons with expertise in the matters relevant to the application.

Comment: Will the State recognize the watershed inspection program as an authority to grant variances since it is not a government agency? It would be better for a state recognized agency like the Health Department.

Response: The Watershed Inspection Committee has the authority to grant variances. It is comprised of elected officials from the City of Auburn, Town of Owasco, Cayuga County and a staff member from the City of Auburn, acting on behalf of their municipalities.

Comment: I request that the variance process go through the Watershed Inspection Committee first, the County Board of Health second, and lastly voted on by both the City Council of Auburn and the Town Board of Owasco.

Response: The Watershed Inspection Committee was created to represent the interests of the City of Auburn and Town of Owasco. The Watershed Inspection Committee is comprised of elected officials from the City of Auburn, Town of Owasco, Cayuga County and a staff member from the City of Auburn, acting on behalf of their municipalities.

Comment: The involved County Health Department should be notified of variance applications and decisions.

Response: Agreed. Notification of county health departments having jurisdiction should be made part of the Watershed Inspection Committee's administrative procedures.

Comment: If the Tompkins County Health Department disagrees with a variance decision that affects a parcel in our county, is there an appeal process? For example, what if Tompkins County Health Department issues a permit for a sewage system and the Watershed Inspection program doesn't approve an associated variance. How would that be resolved?

Response: The approval of variances for the installation of repairs and/or replacements of septic systems may be issued by the professional engineer at the County Health Department having jurisdiction. A second approval by the Owasco Lake Watershed Inspection and Protection Division was not the intent, would be redundant and has been clarified in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Comment: If a person gets a violation and then applies for a variance, which is then denied by the Watershed Inspection Committee, does the Board of Health have final authority to overturn the violation and grant the variance?

Response: No. The Board of Health does not have the authority to grant a variance.

Comment: The language should be modified to note that actions or measures that are equally protective of the regulations may be allowed.

Response: This comment predates the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft available to the public. The March 1, 2019 version of the section on variances states that they may be granted "...when it reasonably appears that adequate alternative provisions have been made to protect the water quality of Owasco Lake, a watercourse, or stormwater conveyance such as a roadside ditch."

Comment: When we discussed the variance issue, we learned there was at least one staff member who will be reviewing all the variances as they come in. The comment I would pose is how is the county going to compare apples to apples when reviewing the variances? For example: If a farm is going to ask for variance stating their best management practices (or Comprehensive Nutrient Management Plan (CNMP) are similar or better than current accepted BMPs (or CNMPs) approved by Cornell or other NYS agencies, how will the county determine the if proposed BMP (or CNMP) is equal or better than the current practice? If this farm thinks their BMPs are equal or better why aren't these practices known to others or standardized by other entities; Or, are these alternative BMPs known to others and if so, why aren't they in greater use? Concordantly, how will the county determine if alternative stormwater BMPs, septic BMPs, etc. are equal or better when the conducting the variance approval process without a technical guidance or standardized document to compare the apples to apples? I say this to help

the county avoid the approval of variances which may appear as arbitrary or capricious to one land owner/home owner who gets a variance and from another who gets rejected.

Response: All agricultural operations are different. Practices or combinations of practices that are appropriate on one farm may not be appropriate on another. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft of the section on variances provides for persons with expertise in the matters relevant to the application for a variance to provide advice to the Watershed Inspection Committee. It also requires that applications include supporting evidence for the Committee to review. The Committee will avoid making arbitrary or capricious decisions by considering factors relevant to the application and establishing rational connections between the data gathered and the conclusions reached.

Comment: Was there discussion around demonstrating hardship caused by the rule or regulation as a required part of the variance process?

Response: Claims of undue hardship will not be considered by the Watershed Inspection Committee in reviewing applications for variances. Violations that occur as a result of activities for which a variance was denied would be referred to the health department having jurisdiction. In such cases, the County Board of Health having jurisdiction, or in Onondaga County the Health Commissioner, would have the authority to consider claims of undue hardship.

Comment: The variance process should be 60 days instead of 45 days from the time the application form is received.

Response: 45 days is adequate. It would cause inconvenience to applicants to provide longer deadlines for action by the Watershed Inspection Committee.

Comment: No time limit on variances?

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft now states as Paragraph #6:

“Variances shall run with the land (i.e. they are tied to the site and not to the owner) and shall remain in effect for as long as the conditions at the site remain unchanged. If the conditions at the site change, the variance expires.”

Comment: A time limit before variance review should apply.

Response: Applications for variances are required to be acted upon by the Watershed Inspection Committee no later than 45 calendar days of receipt of a properly prepared application.

Comment: Doesn't say if variances transfer with the property.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft now states as Paragraph #6:

“Variances shall run with the land (i.e. they are tied to the site and not to the owner) and shall remain in effect for as long as the conditions at the site remain unchanged. If the conditions at the site change, the variance expires.”

Comment: Variances should be made public and have public review. Should be a public hearing with public comment.

Comment: The law could be more specific in granting variance for activity, I would appreciate the variance application process to be public, with provision for public review and comment of the variance application.

Response: The variances are reviewed by the Watershed Inspection Committee at their meetings which are open to the public. The Watershed Inspection Committee is comprised of elected officials from the City of Auburn, Town of Owasco, Cayuga County and a staff member from the City of Auburn, acting on behalf of their municipality.

Comment: This concept needs to be elaborated on to explain how variances are obtained and used. Without clarification on variances, it is unclear how the watershed rules will be enforced. I encourage the Steering Committee to amend the draft or develop a supplemental document that articulates the process to obtain a variance and the criteria used to grant variances. Absent more definition, public buy-in will be diminished and the potential for biased, inconsistent enforcement will increase.

Response: Material added to the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft is intended to clarify the variance process. The Watershed Inspection Committee has the authority to grant variances. The variances are reviewed by the Watershed Inspection Committee at their meetings that are open to the public. This committee is comprised of elected officials from the City of Auburn, Town of Owasco, Cayuga County and a staff member from the City of Auburn, acting on behalf of the municipalities. The Owasco Lake Watershed Inspection and Protection Division will create a supplemental document that describes the process to obtain a variance and the criteria used to grant them.

Comment: If you have a variance process, why have a 5 year sunset process? People should not get 5 years to do upgrades, our lake needs help now.

Comment: Five-year sunset clauses should not be in the actual rules and regulations. Once these rules are adopted, the rules and regulations need to be enforced. I believe that the way in which the enforcement has been laid out allows for time for landowners to come into compliance.

Response: Establishing a date intended to provide a five-year time limit to meet certain requirements after the adoption of the new regulations is intended to avoid imposing undue hardship.

Comment: Do nutrient management plans supersede the regulations? Concerned that nutrient management plans could be used as a variance. Dangerous if the nutrient management plans get in the way of the inspection program to do their job.

Comment: Do nutrient management plans supersede the regulations?

Response: Under the draft regulations nutrient management plans may not be regarded as variances. Such plans do not supersede the regulations. Information in nutrient management plans may, however, be included in the evidence presented to the Watershed Inspection Committee as part of an application for a variance.

Comment: Is a farm management plan the same as a nutrient management plan?

Response: No. Nutrient management plans developed based on requirements of the current Natural Resources Conservation Service (NRCS) Nutrient Management Standard (590) may not necessarily serve the purposes of a farm management plan as defined in the proposed regulations.

Comment: If an issue is covered in an ag plan, the farmer should not need to get a variance. Extra burden.

Response: The completion of a farm plan does not guarantee that the practices identified in it will be implemented. The regulations are intended to ensure that practices are implemented as necessary to avoid degradation of the water quality of Owasco Lake and its watercourses.

Comment: The variance process must be laid out in a way that is clear.

Response: Agreed. Material added to the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft is intended to clarify the variance process.

Comment: Variances are misleading. In practice, inspectors are usually very reluctant to grant them.

Response: The Watershed Inspection Committee has the authority to grant variances, not inspectors. The proposed regulations provide criteria and a framework for the committee to make reasoned determinations.

Comment: I'm not sure variances should be allowed in many circumstances and I don't agree with the hearing process for certain infractions. We can't have agencies asked to step up and enforce policies that aren't currently upheld.

Response: The variance provisions allow for fair application of the regulations without endangering public health or permitting avoidable degradation of Owasco Lake.

Comment: If the inspector sees something, is it a deterrent for the inspector to inspect someone with a variance?

Response: The granting of a variance should not have any impact on an Owasco Lake Watershed Inspector's duty to respond to concerns regarding water quality and sources of pollution in the Owasco Lake Watershed.

Comment: Is there a fee for the variance?

Response: The rules and regulations do not address fees. The subject of application fees is more appropriately addressed in the Watershed Inspection Committee's administrative policies rather than in the regulations

IV.GENERAL PROVISIONS:

Paragraph 1.

Comment: Should add "purposefully or willingly" to it if accidental occurrences are exempt.

Comment: The proposed regulations do not acknowledge that sometimes pollution results from unavoidable forces of nature and is not caused by humans.

Comment: The test of pollution on the north end of the lake years ago showed it was birds. Not hearing about them now.

Comment: Goose poop is a big contributor.

Response: Section IV. General Provisions, Paragraph #1 has been revised as follows in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

“No person or corporation shall allow any *pollutant* of any kind to be *discharged*, deposited, or otherwise transported into Owasco Lake, a *watercourse*, or *stormwater conveyance* such as a roadside ditch.”

The definition of pollutant has been revised as follows in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

“Pollutant shall mean dredged spoil, solid waste, refuse, sewage, manure, garbage, sewage sludge, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment and industrial, municipal, or agricultural wastes. Pollutant shall also mean rock, sand, silt, or salt in quantities, volumes or concentrations that exceed a *de minimis* amount, below which is not expected to impact water quality or impair Owasco Lake for its usage as a source of water supply for drinking.”

Comment: Can deem anything a pollutant at any time. Allows latitude on what is perceived to be a pollutant at the time. Anything we come up with in the future. Double edged sword.

Comment: Is road salt considered a pollutant?

Comment: This is problematic because without a clear definitive definition of pollutant (and quantity of pollutant), everything and anything anyone does from cleaning your car at home with soap suds reaching a catch basin, washing your clothes which contain contaminants of emerging concern and leaching via a septic tank, PFOAs from furniture leaching into groundwater, a waste water plant legally discharging nutrients under a SPDES permit, and any field run-off of any kind would constitute a violation under the ambiguity of “no pollutant of any kind”. In the meeting, a person stated this language came out of NYS ECL article 17. However, NYS ECL article 17-1704 states in regards to Owasco Lake states lawfully permitted systems and run off from accepted agricultural practices are still allowed. For statewide, discharges there is a reference in Section 17-0501 where the article states “it shall be unlawful for any person, directly or indirectly, to throw, drain, run or otherwise discharge into such waters organic or inorganic matter that shall cause or contribute to a condition in contravention of the standards adopted by the department pursuant to section 17-0301”, then even in this article there are standards and definitions regarding pollution which are deferred to under 17-0301. However, there is no mention of article 17, beyond petroleum and hazardous waste regs, in the Draft Owasco Lake Watershed regs when defining a ‘pollutant of any kind.’ As these move forward, I would think it is a fair assumption that other reviewers will catch this and it will be sticking point when trying to ratify the regulations as this definition is too wide of a net and will cause enforcement and legal concerns for your staff.

Comment: For clarification, mentioned at the meeting, as part of the Owasco Rules and Regulations update - the extended technical committee workgroup initially based the definition of pollutant on the ECL17-1710 language specific to the Owasco Lake Watershed mentioned below. The definition was expanded to incorporate additional protective measures. New York Environmental Conservation Law § 17-1710. Deposit of garbage or other refuse on or in waters of the Owasco lake watershed extending from the city dam on the outlet to the existing Moravia village outfall sewer on the inlet is prohibited. No person or corporation shall deposit, dump, throw, abandon, discard, or place, or cause to be deposited, dumped, thrown, abandoned, discarded or placed upon or in the waters of the Owasco lake watershed extending from the city dam on the outlet to the existing Moravia village outfall sewer on the inlet, or upon the frozen surface thereof, any garbage, rubbish, refuse, trash, litter, debris, abandoned properties, waste

material or any nauseous or offensive matter. The definition in the rules and regulations can and should certainly be revised based on comments received during the public comment period.

Comment: Come up with some threshold/standards criteria for measurable watershed water quality parameters to provide objective data that will identify 'pollutant discharges?' The DEC mentioned 'current operational issues related to issues with 'any pollutant of any kind' and the need for a quantitative assessment. I will happy provide literature based thresholds for water quality parameters.

Comment: The current draft of the new rules and regulations does not provide water quality standards or thresholds for the Watershed Inspection Committee to objectively and quantitatively defend a case for pollutant discharge observations. Currently, inspections by the Inspection Division are somewhat subjective and are entirely qualitative in nature. We are currently working on procuring a water quality data sonde that will allow us to gather quantitative information. I recommend we include thresholds for temperature, pH, conductivity, DO, turbidity, bacteria, and nutrients in the new rules and regs. All parameters can be measured upstream and downstream of areas of concern, using the sonde, and collecting bacterial and nutrient samples (when necessary-this is expensive. In watercourse areas of concern for bacteria or nutrients, we would need to collect and lab run samples). The case for a pollutant discharge and a subsequent violation could then be defended based on differences between upstream and downstream parameter concentrations and whether or not there are exceedances downstream.

Comment: Is this set of rules and regs about water quality? Then why can't a set of specific water quality measures be established for any conveyance of water leaving any parcel?

Response: Not everything can be considered a pollutant at any time. For example, laundry detergent used properly and discharged to an acceptable septic system or public sewer is not a violation. However, soapy water discharging into a ditch is a pollutant violation. The definition of pollutant in Section XI. Definitions has been revised as follows in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

“Pollutant shall mean dredged spoil, solid waste, refuse, sewage, manure, garbage, sewage sludge, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment and industrial, municipal, or agricultural wastes. Pollutant shall also mean rock, sand, silt, or salt in quantities, volumes or concentrations that exceed a de minimis amount, below which is not expected to impact water quality or impair Owasco Lake for its usage as a source of water supply for drinking.”

Section IV. General Provisions, Paragraph #1 has been revised as follows in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

“No person or corporation shall allow any pollutant of any kind to be discharged, deposited, or otherwise transported into Owasco Lake, a watercourse, or stormwater conveyance such as a roadside ditch.”

While water quality standards and guidance values specifying numeric thresholds have been established by the NYSDEC Division of Water for some parameters, only narrative standards have been established for others. In evaluating the impacts of activities in the Owasco Lake Watershed, the Owasco Lake Watershed Inspection and Protection Division will consider any standards derived from accepted scientific procedures such as those outlined in New York State Department of Environmental Conservation 6 NYCRR 702.3-702.7. Federal, state and local standards will be compiled by the Owasco Lake Watershed Inspection and Protection Division and made available to the public in the form of technical and operational guidance documents. It

is preferable to include standards in such documents rather than in the regulations themselves as federal, state and local standards may change.

Paragraph 5.

Comment: Make Paragraph #5 which says “No person, including State agencies or political subdivisions having jurisdiction, shall perform any act or grant any permit or approval which may result in the contravention of the standards for raw water quality as contained in 10 New York Codes, Rules and Regulations Part 170” into Paragraph #2.

Response: Paragraph #5 is appropriate where it is located.

Comment: Can the New York State Department of Environmental Conservation or Department of Health give permits, nutrient management plans (NMPs) or otherwise that contravene the goal of these rules and regulations?

Response: No. Everyone must comply with the Owasco Lake Watershed Rules and Regulations.

Paragraph 6.

Comment: We are assuming that #6 also means the Owasco Lake Watershed Inspection and Protection Division needs to be copied by the applicant on all Onsite Wastewater Treatment System (OWTS) permit applications in Tompkins County that are in the Owasco Lake Watershed. This section does not state that the Owasco Lake Watershed Inspection and Protection Division needs a copy of the permit when it is issued. Only the permit application is required, correct?

Response: The property owner must provide notice that an application for a septic system has been submitted. They do not need to submit the application or the permit.

Comment: How will Code Officers be notified of the requirements in provision #6?

Response: Ensuring that notifications mandated by the regulations actually occur will require the implementation of new public outreach, education, and communication initiatives by the Owasco Lake Watershed Inspection and Protection Division.

Comment: How might provision #6 be enforced? Owasco Lake Watershed Inspection and Protection Division, Owasco Lake Watershed Management Council, Board of Health, Department of Health, or Cayuga County Health Department?

Response: Ensuring that notifications mandated by the regulations actually occur will require the implementation of new public outreach, education, and communication initiatives by the Owasco Lake Watershed Inspection and Protection Division.

Comment: Notices of application for permits or approvals for proposed projects that involve soil disturbing construction activities within the Watershed should be coordinated with Dig Safe so the homeowner only has to make one notification.

Response: Dig Safe is a not-for-profit corporation that serves 55 counties in New York. They are a one-call center for safe digging operations. Notifications of application for permits and approvals is not part of their mission.

Comment: It would be better if notices of application for permits or approvals for proposed projects that involve soil disturbing construction activities within the Watershed be forwarded by the town or village to the Owasco Lake Watershed Inspection and Protection Division instead of the applicant. Otherwise it can lead to lawsuits. One stop shop... I've already made my point that for permit based building activities, interaction with the group responsible for watershed rules enforcement should be a one stop shop through the various town boards.

Response: This would create an undue administrative burden on towns and villages. Ensuring that notifications mandated by the regulations actually occur will require the implementation of new public outreach, education, and communication initiatives by the Owasco Lake Watershed Inspection and Protection Division.

Comment: Should Stormwater Pollution Prevention Plans (SWPPPs) be specified in provision #6 and made available for review? Permit applications can be pretty vague and it would be nice to see a SWPPP showing what the designer/owner is thinking and whether or not there are concerns. I realize that there are no Municipal Separate Storm Sewer System (MS4s) in the watershed but my thought is that it wouldn't hurt to mimic the program on the watershed scale. This would involve having a local entity review and sign off on the SWPPP including gaining prior permission for disturbances of 5 or more acres. Also, it includes inspection protocol which could be passed along to the local codes/zoning folks. Having that extra layer of inspection gives the Watershed Inspector longer reach which would result in better protections.

Response: This would create an undue administrative burden on towns and villages. It is also unrealistic to expect the communities in the Owasco Lake Watershed to develop programs and implement practices similar to those required of regulated municipal separate storm sewer systems (MS4s). The Owasco Lake Watershed Rules and Regulations Proposed Revisions provides for the prevention of pollution from stormwater discharges as much as practicable.

Paragraph 9.

Comment: Should "incidental deposition" as used in provision #9 be defined? It seems like this could be abused... We have a school district locally that plows all of the parking lot snow into the adjacent stream which then clogs the culvert and floods the road when the melt comes. While the school district may call it incidental, the highway department may disagree.

Comment: It would be helpful to clarify "incidental" deposition in provision #9. For example, can snow removal operations place snow adjacent to a roadside ditch or on a parking lot near a storm drain?

Response: Agreed.

Section IV. General Provisions, Paragraph #9 has been revised as follows in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

"Disposal of snow or ice from the plowing of public or private roads, driveways, parking lots, etc., into Owasco Lake, a watercourse, roadside ditch, or inlet to any other stormwater conveyance is prohibited except for the unavoidable mounding of snow along the sides of plowed surfaces that results as a consequence of clearing ice and snow from them."

Paragraph 10.

Comment: Italicize refuse in provision #10.

Response: Agreed. Refuse in provision #10 has been italicized in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Comment: Prohibits depositing "refuse" on or beneath ground w/in 250 feet of high water mark of Owasco Lake, or a watercourse or stormwater conveyance. Definition of refuse includes ashes and dead animals. A strict interpretation of this would make it a violation for a pet owner to bury their family pet, as is common practice in the country, say 175 feet from a ditch. It would also make it a violation for homeowners with wood stoves to spread ashes in their backyard, or on their garden (again, a common practice) if the location is less than 250 feet. Perhaps exempt these limited items or reduce to 100 feet for these?

Response: Prohibiting disposal of refuse on or beneath the ground within 250 feet of the high water mark of Owasco Lake, or a watercourse or stormwater conveyance such as a roadside ditch is not excessive and is protective of water quality.

Comment: The way refuse is defined, it prohibits compost piles and piles of garden debris on lakefront properties and those near streams.

Comment: Is green waste included in "refuse"?

Response: The definition of refuse does not include compost piles (green waste).

Paragraph 11.

Comment: Regarding domestic/farm animal mortalities requires burial or disposal w/in 48 hours in provision #11. Suggest allowing 72 hours so that Owasco Lake Watershed Rules and Regulations match the existing Cayuga County Sanitary Code Article II, Section 1B which requires burial or disposal w/in 72 hours after the animal's death or discovery of the carcass. Also, setback of 250 feet. seems excessive - believe 100 feet setback adequate.

Response: Agreed regarding the time period. The time period has been changed to 72 hours in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft. 250 feet is not excessive and is protective of water quality.

Miscellaneous

Comment: A provision should be added for manure spills to be reported to the Owasco Lake Watershed Inspection and Protection Division.

Response: Agreed.

The following paragraph was added to the General Provisions section in the Owasco Lake Watershed Rules and Regulation Proposed Revisions dated April 6, 2020 draft:

“Any person who is responsible for any spill or other unplanned, unintended release of manure or commercial fertilizer during storage, transportation, or land application shall notify the Owasco Lake Watershed Inspection and Protection Division.”

V. SEWAGE, WASTEWATER, SLUDGE, SEPTIC SYSTEMS AND OTHER ONSITE WASTEWATER TREATMENT SYSTEMS:

Paragraph 3.

Comment: Appendix 75-A requires “An additional useable area of 50 percent shall be set aside for future expansion or replacement whenever possible.” It would be helpful if the Watershed Rules clarified if the total expansion area required is 100%.

Response: Appendix 75A requires a 50% expansion area whenever possible. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 3, 2019 draft makes the 50% expansion mandatory.

Comment: It is also somewhat confusing that this is called an expansion area. If the sewage system is expanded, it is not a replacement system and should be considered a new system that must meet the requirements of Appendix 75-A and the Watershed Rules and Regulations.

Response: Agreed. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft requires that both new and replacement systems meet the requirements of Appendix 75-A.

Paragraph 5.

Comment: Does “repair” encompass replacements? Some replacement systems may not be able to be installed to meet the 100 feet separation from the high water mark. The review of a variance can take 45 days, which is too long if you have a failing sewage system. What if the variance isn’t approved? Tompkins County Health Department does not support as written.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft clarifies repairs and replacements and the approval of variance for the installation of repairs and/or replacements.

Comment: Should the term “road ditch” be added to the preclusion from watercourses? The definition for watercourses doesn’t specifically include ditches. There seem to still be plenty of people who would straight line a septic discharge pipe to a ditch. Also, it seems possible that some streams may actually be the road ditch as they are in Oneida County!

Response: The discharge of sewage into a ditch is a violation of the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft.

Paragraph 6.

Comment: We read this requirement as a property owner needing both an exemption or variance from the local health department responsible for Appendix 75-A and from the Owasco Lake Watershed Inspection and Protection Division. This could put a property owner in the position of being required to construct a replacement system for a failing sewage system and the Owasco Lake Watershed Inspection and Protection Division not granting the variance that would allow this replacement. This also creates a delay of up to 45 days when installing a replacement sewage system. We do not support this requirement as it is currently written.

Response: The approval of variance for the installation of repairs and/or replacements has been clarified in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft and the redundancy has been removed.

Paragraph 7.

Comment: Estimate how many homes are within 100 feet.

Response: According to the Cayuga County Health Department records there are approximately 240 properties with septic systems located less than 100 feet from the high water mark.

Comment: Where did the 100 foot separation distance for septic systems come from?

Comment: As noted at the meeting, there is no current evidence to demonstrate that eliminating septic systems within 100 feet of the lake will significantly improve water quality. Without such information, it is imprudent and premature to require homeowners to go through the time and expense of septic system replacement that will decrease the value of their homes.

Comment: Is the 100 foot setback distance protective enough?

Comment: After 5 years septic systems within 100 feet of the lake will be prohibited? For example Owasco residences.

Comment: The various clauses in the regulations that mandate certain changes occur within a 5 year window. These clauses should really be changed to say current systems are grandfathered in and changes only need to be made if system failures occur and cannot be corrected. However, it was mentioned that these systems are not ready for the average homeowners and when they are, they will be prohibitively expensive like all early technology implementation. As such, this also puts undo costs on homeowners and farmers.

Comment: This section seems unreasonable. There are many homeowners who have installed upgraded systems in recent years, spending thousands of dollars, which might fall under this provision. It seems disingenuous to require an owner who installed a system (that was accepted by the CCHD) where the dispersal area is, say, 80 feet above the high water mark (HWM) to have to revert to a holding tank for their black water. There have been many systems installed in recent years to replace old seepage pits or leach lines that (for probably 50 years) formerly discharged wastewater at or below the HWM. I believe homeowners in this situation would justifiably be upset about being forced to use a holding tank. Also, the provision indicating garbage disposal waste cannot go to leach fields located less than 100 feet from the HWM seems, at best, difficult to enforce, and to what benefit? Finally, forcing owners to revert to holding tanks will likely have a longer term impact through reduced property values.

Comment: If inspected septic systems pass the current inspection tests, then why do we need to replace our systems? It is expensive and a burden.

Comment: If it passes the test than there is no sewage running into the lake. I cannot understand why we would be forced to put a holding tank in. It will be a major cost as well as affect the value negatively if a more extensive if a more extensive test is needed so be it

Comment: Septic systems cannot be replaced due to size of properties, age of systems- some state of the art systems are less than 1 year old. Do these have to be replaced in 5 years, and all systems within 100 feet of a watercourse to be replaced would be in the thousands. The issue with phosphorus entering the ground water what happens if the technology is too expensive or even developed in the 5 years. Right now only waterfront owners have the tax of testing every 2 years. Plus some testers pass systems even though they know it was in failure for 30 years

Comment: Why is there a five year sunset even for people whose systems have passed the dye test right now? Are you expecting everyone to get rid of their drain fields (within 100 feet)? Effect hundreds of residents.

Comment: Every two years we pass inspection and all of a sudden it is no good. Fertilizer comes down the creek. How much phosphorus is being put in by seasonal cottages? What good will it do to replace the septic if 10,000 gallons of fertilizer is going into the lake from farms?

Comment: Bought house and her septic system passed inspection but when she went to have it pumped, the tank was rotted away and sewage was in the ground. I had to put in a new septic system that now might have to be moved. Hard to believe this is fair and equitable.

Comment: Why have we been testing every two years?

Comment: Phosphorus removal technology doesn't exist so should wait until the technology is available. Grandfather passing septic systems. Need more than a holding tank as an alternative. Loss in property value with holding tank. Politically correct.

Comment: Require pumping of septic tanks instead of moving them or holding tanks.

Comment: The 5 year sunset on drain fields will create an excessive burden on individual homeowner. Very unfair. I pay every 2 years for my dye test and pass. Now I need a whole new septic system. Homeowners will pay the most with minimal water improvement.

Comment: Question is how can you propose this 5 year sunset and you do not have "enhanced phosphorus removal technology" info? Let alone cost? And when it will be available? Will there be funding?

Comment: I believe your sundown decision on septic systems puts an undue burden on homeowners.

Comment: But you will force me to leave as i believe i would be unable to pay for the changes you seek

Comment: As also noted at the meeting, residential systems for phosphorous removal are currently non-existent, and there is no information suggesting that they will be available before the suggested 5-year sunset clause for septic systems.

Comment: As an alternative, the county could implement a biannual pump out requirement for those with septic systems within 100 feet of the lake.

Comment: Please provide a list of enhanced phosphorus removal technology deemed acceptable to Cayuga County Health Department. If this phosphorous removal technology has yet to be evaluated and approved by Cayuga County Health Department, please provide a list of candidate systems under consideration

Comment: Please confirm if waivers will be approved in 5 years time after these rules are accepted and the Cayuga County Health Department has not identified any acceptable enhanced phosphorous removal technology.

Comment: Please confirm that the property owner is responsible to bear the cost of the installation of the enhanced phosphorus removal technology. Will the property owner be able to receive a tax credit on the local property tax for this improvement?

Comment: It appears to me that the new rules and regulations may or may not require me to replace my existing, working septic system with a holding tank because I may be within 100 ft. of the high water mark. I have no clue if I'm within 100 ft. of the high water mark because I have no idea of where the high water mark is! No maps were provided at the meeting to show high water marks or the properties that would be affected by this 100 ft. rule.

Comment: No scientific data on amount of phosphorus going into the lake from septic systems. The health dept said it was possible that some phosphate was entering the lake from systems even though they are passing the dye test. No data or studies are available to prove that.

Comment: WITH A HOLDING TANK, the property value of my home will decrease significantly!

Comment: Financial hardship.

Comment: Will funding be available to move my septic system?

Response: Science based criteria have been added to the section regarding requiring the modification of septic systems located less than 100 feet from the high water mark of Owasco Lake in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft. The use of these criteria will avoid unnecessarily requiring the modification of septic systems that are currently protective of water quality. In addition, there is currently a Septic System Replacement Program through the Cayuga County Health Department that covers 50% of the cost to replace a septic system, up to \$10,000 on property fronting Owasco Lake. It is not known how long this program will be available.

Comment: What might a person expect once the regulations go into effect? Will they let people know that they have to move their septic system? What is the step by step process?

Response: Once the rules and regulations are adopted the Cayuga County Health Department and Owasco Lake Watershed Inspection and Protection Division will contact those whose septic systems are less than 100 feet from the high water mark and provide them information on the process.

Comment: Also, is there consideration to require all new systems to go to enhanced treatment if they are within 500 feet of the shoreline?

Response: No. Commercially available enhanced treatment units do not remove or reduce phosphorus.

Comment: Allow a longer sunset period (i.e. 10 years) for the septic system regulations.

Response: Establishing a date intended to provide a five-year time limit to meet certain requirements after the adoption of the new regulations is intended to provide adequate time while avoiding imposing undue hardship.

Paragraph 8.

Comment: Please clarify who is responsible for tracking and citing violations. It is not clear how this would be enforced

Response: The Watershed Inspection and Protection Division will be responsible for tracking and citing violations.

Comment: Requiring old septic tanks to be properly removed or filled with inert material is an excellent addition to the rules and regs! Not sure that notification to the Owasco Lake Watershed Inspection and Protection Division is really necessary. Would just seem to set homeowners and contractors up for a “paper violation” if they had an old tank pumped and removed (or properly filled) but failed to notify. Suggest that proof of pumping and decommissioning be provided to Owasco Lake Watershed Inspection and Protection Division or Health Department upon request.

Response: Agreed. Modified in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Paragraph 9.

Comment: It is not clear if holding tanks are permitted on a temporary basis – such as when a sewage system is being constructed, to accommodate fill stabilization, etc. Tompkins County does not support this provision unless temporary holding tanks are allowed.

Response: Agreed. Modified in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Comment: The Tompkins County Health Department is currently developing a holding tank permitting system and may consider these tanks on small lots with limited seasonal use. We are not immediately aware of lots in the Owasco Lake Watershed but we are not in support of this provision restricting our ability to permit a holding tank if technical staff at the Tompkins County Health Department determine it is the best solution for a specific situation. We are not encouraging use of these tanks but want to have them as an option.

Response: Appendix 75A currently prohibits the use of holding tanks for new home construction except for temporary use while a septic system or public sewer is under construction. It does not have an exemption for limited seasonal use, as the usage can quickly change.

Comment: Paragraphs #7 and #9. Conflicts with each other. Get rid of leach fields but don't want holding tanks. How many properties will be effected and what are the costs. Financial impact assessment of the regulations. How can we do it without the cost figures...putting cart before the horse.

Response: As written in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft, holding tanks are prohibited for new construction, but not prohibited as a replacement for an existing septic system that may be failing or impacting water quality.

Comment: Phosphates are in detergents that would not go to a holding tank.

Response: Retailers are no longer allowed to sell phosphorus-containing dish detergent or laundry detergent in New York State.

Comment: Regarding land based holding tanks. Are there places where the holding tanks are insufficient in a flood event? In that case, would a centralized septic system be appropriate?

Response: The appropriateness of septic systems, including holding tanks and centralized systems, are site specific.

Paragraph 9.c.

Comment: If you have existing inspected holding tank, no “alarms” required then or now does that change with these new regs?

Response: Yes. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft requires that all holding tanks have an alarm.

Comment: Why specify alarm setting at 80%? Some unique situations might be better served by a setting higher or lower than 80% depending on tank(s) size(s), usage of the structure (e.g., might want a setting w/more reserve above alarm for a lake front rental). Suggest wording from NYSDOH 2012 Residential OWTS Design Handbook that says “must be equipped with audio or visual alarm located in a conspicuous place”.

Response: Agreed. Updated accordingly in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Comment: Also, requiring people to maintain pumping receipts for min. 3 years is difficult to enforce, and is Owasco Lake Watershed Inspection and Protection Division or a Health Dept. going to initiate an enforcement for owners that cannot produce pumping receipts?

Response: This section is necessary to verify that the tank is pumped as required, and not leaking or otherwise discharging wastewater.

Paragraph 9d.

Comment: Some Owasco residences may have their septic systems in a designated steep slope area.

Comment: “Strict Limitations on installation, replacement or repair of land based holding tanks.” Holding tanks may be better than septic systems on steep banks.

Response: Agreed.

Paragraph 10

Comment: It seems contradictory to the goal of watershed protection to allow privies and not allow holding tanks. We would rather have a toilet that connects to a holding tank than to a privy. Compostable toilets should also be considered before using a privy.

Response: Proposals for privies are very rare, and when they do occur, it is in a primitive location where there is no running water or electricity. If running water is present, an absorption area is required. That said, if the privy is designed and installed properly with the setbacks specified in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft, there should be no impact to water quality.

Comment: Being familiar with the northern section of the Y camp (what was Boy Scout Camp Rotary) I would question the existence of all of the privies under the new regulations.

Response: No privy will be allowed to remain within 100 feet of the high water mark of Owasco Lake or a watercourse.

Paragraph 10.a.ii.

Comment: Should “registered architect” be “registered LANDSCAPE architect”?

Response: No, landscape architects are not qualified under New York State Education Law to prepare designs for septic systems.

Comment: Privies: Bedrock is listed but not specifically karst. Should that be a consideration?

Response: It is not necessary to mention karst in the regulations; mentioning bedrock is sufficient.

Paragraph 11.

Comment: We were informed by NYSDOH that we do not permit compostable toilets unless there is an associated grey water system. The Tompkins County Health Department does not currently have a tracking or approval mechanism for doing this. We do not want to approve a non-waterborne toilet until we have a permitting or tracking mechanism and possibly fees for inspections.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft do not require that the health department having jurisdiction approve a septic system that does not comply with its current standards.

Paragraph 13.

Comment: Require that the new standards for septic systems apply not only to new systems but also to systems that are replaced.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 currently includes this requirement, but allows for the issuance of a variance if the lot is limited and a replacement system that meets current standards cannot be installed. Without this option, homes would become unusable which is not the intent.

Comment: Please also note that alterations, additions and repairs of existing systems must comply with applicable health department regulations so it is clear that this is not necessarily the only requirement.

Response: The Owasco Lake Watershed Rules and Regulations currently includes this requirement.

Comment: It is not clear in this section if the applicant would need to obtain approval from both the applicable county health department and a variance from the Owasco Lake Watershed Inspection and Protection Division. The local health department should be able to immediately approve this for replacement sewage systems that usually need to be replaced because they are failing. We do not want to have to wait through the potential 45 day approval process to begin the replacement of a failing system. The Tompkins County Sanitary Code states: “f. Notwithstanding any of the above provisions, waivers in writing from Appendix 75-A or Article VI are not required for replacement sewage systems where the permit issuing official recognizes the need for a construction permit to solve a health or nuisance condition.” A variance per se would not be issued in Tompkins County. Construction requirements would be included in the On-site Wastewater Treatment System permit issued by our office. Please confirm that would meet the requirements of this section.

Response: The approval of variances for the installation of repairs and/or replacements of septic systems may be issued by the professional engineer at the County Health Department having jurisdiction. A second approval by the Owasco Lake Watershed Inspection and Protection Division was not the intent, would be redundant and has been clarified in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Comment: The Owasco Lake Watershed Inspection and Protection Division will have final say as to whether or not an owner is granted an exemption for necessary septic repairs? I believe that the local Health Department has far more expertise in reviewing septic system designs than the Owasco Lake Watershed Inspection and Protection Division and that final determination should be left to the Health Dept., perhaps after receiving comments from the Owasco Lake Watershed Inspection and Protection Division (Cayuga County Health Department works well with the Skaneateles Watershed protection program in this manner). Moreover, adding another layer of bureaucratic review will likely slow down and complicate the process for homeowners.

Response: Agreed. Modified in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Comment: Will the Owasco Lake Watershed Inspection and Protection Division actually utilize Cayuga County Soil and Water Conservation District (SWCD) to provide technical review of septic repairs proposed by engineers? SWCD often designs repairs and works closely with the Owasco Lake Watershed Inspection and Protection Division. Will there be an independent review of SWCD proposals? SWCD septic design program already does not sit well with some private engineers who compete directly with SWCD for septic design services. If those engineers discover that SWCD is reviewing their design proposals I wonder how that will go over.

Response: There is nothing in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft that states that Cayuga County Soil and Water Conservation District will provide technical review of septic systems. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft clarifies that the professional engineer for the county health department having jurisdiction has the authority to review and approve septic proposals.

Paragraph 14.

Comment: Are there existing local rules that require a local official (health/codes/ zoning/OWI) to inspect the work before the tank and leach field are covered? Part IV, #14 talks about approvals but does the approval include an inspection? The reason I ask is that we had a case locally where the resident installed a tank and leach field over a weekend and had it covered up by Sunday night. The codes officer at the time wasn't aware of the work and didn't have training about septic inspections. There was no design on record but the system was within 10 feet of a stream. Since it was less than 1000 gallons, the local health department didn't get involved and since a water quality violation couldn't be proved on odor alone, the DEC couldn't get involved. The town didn't have rules on the books to punish the resident so the lousy tank and leach field remain...Based on this experience, it would be nice to ensure that the design and installation process have plenty of local oversight.

Response: Cayuga, Tompkins, and Onondaga Counties have onsite wastewater treatment system programs that include inspections of approved installations prior to their covering.

Comment: Perc tests should be witnessed by the Watershed Inspector.

Response: Septic system designs are prepared by or under the authority of a professional engineer or registered architect and they submit the soil evaluation, including perk test results, under their NYS license. If the Health Department having jurisdiction feels it would be helpful to have the Watershed Inspector witness a perk test for a particular property, there is nothing in the revised Owasco Lake Watershed Rules and Regulations to prevent them from requesting that.

Comment: Suggest removing “(for example, conversion from seasonal to year-round residence)”, and, perhaps, inserting a different example if one is needed. Many cottages on the lake go back and forth between seasonal and year-round use, and how is Owasco Lake Watershed Inspection and Protection Division or Health Department supposed to tell people that they cannot begin using their residence year-round? Also, the Health Department does not allow design flows to be reduced in proposals if an owner indicates it is only seasonal anyway, so not sure this is necessary. A suggestion for a different example could be converting a garage (or portion of) into an apartment.

Response: Agreed. The following paragraph was revised in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft to read:

“No new construction or alteration, addition or change of use (for example conversion of garage into a bedroom) of existing dwellings . . .”

Comment: What happens if someone seeks a building permit and their septic system fails the inspection? Will an enhanced treatment be required? We’re told that in Skaneateles, even though the inspectors are completing periodic visits, when they get a building permit, they’re able to do a full septic inspection and some of these fail. I believe in that case, the landowner is required to upgrade the system to the enhanced requirements. Rich Abbott would be a good reference for this.

Response: Failing septic systems are a violation of the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft and repairs are required. Enhanced treatment may be required by the health department having jurisdiction if the situation merits it. Enhanced treatment units currently on the market do not remove phosphorus.

Paragraph 15.

Comment: We design onsite wastewater treatment systems (OWTS) in-house in Tompkins County and do not want Tompkins residents to think they have to go to an external design professional. We would very much appreciate having it noted in this section that systems in Tompkins County may be designed by the Tompkins County Health Department. We often have difficulties with the systems designed by external design professionals, which creates more work for Tompkins County Health Department staff, increased costs to the property owner, and delays in approval of the system. We suggest a wording change along the lines of “...shall be designed by a NYS licensed design professional or the local Health Department having jurisdiction, if said local Health Department has a full service on-site wastewater treatment system (OWTS) permitting program. Designs shall conform to 10 New York Codes, Rules and Regulations Part 75 (Appendix 75-A) for all new construction and where feasible or as closely practicable for replacement or repair construction...”

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft would allow Health Department’s with a Professional Engineer on staff or on contract to prepare or oversee the preparation of a septic system design.

Comment: Would this section, the way it is worded, require an engineer to propose simple tank replacements? Would it make it a violation for a homeowner or contractor to re-level a tilted distribution box, or to repair a broken pipe like-for-like? These types of things do not typically necessitate the need for a homeowner to retain the services of a design professional.

Response: The intent is to require an engineer when a new or modified absorption area is proposed, not to repair a broken pipe. This has been clarified in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Paragraph 16.

Comment: I like this section about short-term rentals, but it might prove difficult to track and enforce.

Comment: How does notification of short turn rentals help with protecting water quality? There are no regulations that limit how many people can use a septic system.

Comment: If a septic system is based on the size of home or number of residents, there is no reason to notify short term rentals.

Response: The requirement for notification would improve the Watershed Inspector's ability to monitor activity in the watershed.

Miscellaneous

Comment: Have penalties been created for violators?

Response: Penalties are specified in Public Health Law, Article 11.

Comment: Within 5 years -municipal wastewater plants should have implemented an abatement system to handle flow from heavy rains to eliminate untreated waste being discharged into our lakes and water ways.

Response: The Owasco Lake Watershed Rules and Regulations prohibit direct flow of untreated wastewater into the lake, watercourses, stormwater conveyances, and the ground surface within the watershed.

Comment: Correctional Facility in Moravia's impact on combined sewer overflows. Need to send sewage to Auburn. Look at sending Groton's too.

Response: The Village of Moravia does not have a combined sewer system. It is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations to mandate the extension of sewer lines.

Comment: You should extend sewer lines south from Auburn and extend sewer lines north from Moravia.

Response: It is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations to mandate the extension of sewer lines.

Comment: Moravia (Cayuga) correctional must pump its sewage effluent to Auburn. It doubles the flow into Owasco Lake from Moravia. It is direct flow during rain events. It must be stopped. 1500 persons at Cayuga Correctional doubles the population of Moravia. The algae issue began with Cayuga Correctional's startup. Moravia should not discharge into the waters of Owasco Lake from its sewage treatment plant (pump to Auburn). Stop treating Owasco Lake like a settling pond

Response: The Owasco Lake Watershed Rules and Regulations prohibit direct flow of untreated wastewater into the lake, watercourses, stormwater conveyances and the ground surface. It is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations to mandate the extension of sewer lines.

Comment: Raw sewage is being dumped in the lake from the prison at Moravia.

Response: The current Owasco Lake Watershed Rules and Regulations prohibit direct flow of untreated wastewater into the lake.

Comment: Institutions with greater than 100 persons (Cayuga Correctional has 1500) must pump sewage direct to Auburn.

Response: It is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations to mandate the extension of sewer lines.

Comment: Look at areas on lake with heaviest (highest) number of camps-cottages-homes in one given firelane. Get funding to help build a “community septic system” for those high number “places” firelanes.

Response: It is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations to fund community septic systems.

Comment: Who will be responsible for inspections of onsite waste water systems, the local code enforcement officer or the watershed inspector.

Response: The Watershed Inspectors will be responsible for inspecting the watershed. In Cayuga County septic system inspections are conducted pursuant to the Cayuga County Sanitary Code. There is nothing in the proposed document that shifts this responsibility to local code enforcement officers.

Comment: There is not a sewage system permit required under these Watershed Rules and Regulations. Is the Watershed Inspector responsible for making sure these requirements are met? How are these enforced?

Response: Yes. The Owasco Lake Watershed Inspection and Protection Division is responsible for making sure the requirements in the Owasco Lake Watershed Rules and Regulations are met. If the Watershed Inspector sees someone building a new home, or repairing a septic system, they can contact the Health Department having jurisdiction to see if they have an approved septic system plan. See Section X. Remedies for Violation for more information. Information regarding enforcement can be found in the document “Owasco Lake Watershed Inspection and Protection Division (OLWIPD) Procedures, July 2019.”

Comment: Why is there a different criteria for animal waste storage and disposal and sewage waste storage and disposal?

Response: Animal waste is used as a nutrient and applied to a farm field, so it is held for future use. Sewage waste is not held for future use.

Comment: How do you pay for the additional staff to do this?

Response: The funding of staff is an important concern but beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Why is the State putting money into updating lake-side septic if it might be cheaper to install sewer.

Response: This question is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Failed septic systems must be replaced to the new standards (not 5 years)

Response: The date intended to provide a five-year time limit does not apply to failing septic systems. Failing septic systems are required to be repaired or replaced expeditiously under current regulations.

Comment: What is the coverage of sanitary septic and should Tompkins County follow Cayuga County (16% of the Owasco Lake Watershed is in Tompkins County)?

Response: It is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations to determine the coverage of sanitary septic systems per county.

VI. Pesticide Use

Paragraph 2.

Comment: Should “streams” be changed to watercourses including road ditches?

Response: Agreed. “Streams” are modified to “watercourse” in Paragraph #2 in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Paragraph 3.

Comment: Why would a permit be granted from a state agency?

Response: Herbicide use can be permitted by the New York State Department of Environmental Conservation in lakes and watercourses.

Miscellaneous

Comment: How do we educate lake property owners about not using commercial pesticides and replacing them with less detrimental alternatives?

Response: Educating lake property owners about not using commercial pesticides and replacing them with less detrimental alternatives is part of the new public outreach, education, and communication initiatives by the Owasco Lake Watershed Inspection and Protection Division.

Comment: Any regulations on ChemLawn applications?

Comment: ChemLawn should be banned on any properties one mile from Owasco Lake.

Response: New York State Department of Environmental Conservation regulates such applications.

Comment: Golf courses/parks/schools should have rules for fertilizer and pesticides with limits in the rules and appropriate fines/penalties

Response: These operations already must comply with New York State Department of Environmental Conservation pesticide applicator regulations and only trained certified personnel are to apply herbicides and insecticides at such locations. The topic of commercial fertilizer applications is addressed in Section IX. Nutrient Management.

Section VII. Storage of Petroleum, Chloride Salts, and Coal

Paragraph 1.

Comment: Better control over petroleum storage is needed

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 3, 2019 draft provides better control over petroleum storage that is currently exempt from state regulations.

Comment: There should be no below ground petroleum storage in the watershed

Response: Banning all below ground petroleum storage in the watershed is overly broad. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 3, 2019 draft provides sufficient protection from impacts of petroleum storage.

Paragraph 1.a.

Comment: Should we change “Bulk Storage” to “Petroleum Bulk Storage Sites regulated by NYS DEC”?

Response: For clarification the definitions for non-bulk and bulk storage have been added to the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

Non-Bulk storage shall mean properties with petroleum storage that are not subject to New York State Department of Environmental Conservation 6 NYCRR Part 613 Petroleum Bulk Storage regulations.

Bulk storage shall mean properties with petroleum storage that is subject to New York State Department of Environmental Conservation 6 NYCRR Part 613 Petroleum Bulk Storage regulations.

Comment: The bulk storage requirement is just another layer of regulation on top of what the state and feds require. If they want the paperwork, they should get it from the New York State Department of Environmental Conservation, not the permit holder.

Response: These subsections apply to a very small number of sites and once notification of the Owasco Lake Watershed Inspection and Protection Division is added to their standard operating procedures (SOPs) it will be easy and automatic, not a paperwork burden.

Comment: Do the regulations regarding fuel bulk storage include LP tanks?

Response: LP tanks do not fall under the NYSDEC definition of petroleum and therefore do not fall under the bulk petroleum storage regulations.

Comment: It should exempt propane tanks from not being allowed to be buried due to flooding.

Response: LP tanks are not covered in the Owasco Lake Watershed Rules and Regulations.

Comment: Notification of leak testing and test results should be automatic not “on request.”

Response: Requiring all test results to be submitted would create unnecessary paperwork. The Owasco Lake Watershed Inspection and Protection Division has the authority under these rules to obtain test reports as needed.

Paragraph 1.b.

Comment: Issue with 5 year sunset.

Response: Establishing a date intended to provide a five-year time limit to meet certain requirements after the adoption of the new regulations is intended to avoid imposing undue hardship.

Comment: Phasing out small underground petroleum tanks in floodplains sounds good. Home fuel-oil tanks, for example, should be above grade and have some type of secondary containment, as occasional overfilling does occur.

Response: Agreed that secondary containment is a good idea and guidance promoting secondary containment will be provided through the new public outreach, education, and communication initiatives by the Owasco Lake Watershed Inspection and Protection Division

Comment: Is a tank in a basement considered buried?

Response: No.

Paragraph 2.a.

Comment: How do we educate people about the storage of coal and what is meant by a low permeable pad?

Response: The term “low permeability pad” has been changed to “a pad designed to control seepage and runoff from chloride salt and coal storage” in Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft. Coal storage education, and more importantly, coal and other ash management, will be part of the new public outreach, education, and communication initiatives by the Owasco Lake Watershed Inspection and Protection Division.

Comment: Chloride salts, so much used on the roads already, what good is it to only regulate its storage.

Response: A salt storage facility is a concentrated location and is therefore higher risk.

Comment: Homeowner applying salt or ice melt to driveway and sidewalks.

Response: Regulating homeowner use of ice melt or salt is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Regarding road salt-Do water treatment plant (WTP) records show up trend in chloride (Cl) in water? If so, may want to add practice to limit salt use.

Response: The City of Auburn’s and Town of Owasco’s drinking waters are monitored for sodium and chloride, and currently these levels remain below allowable standards for drinking water.

VIII. SEDIMENT GENERATION AND CONTROL.

Paragraph 1.

Comment: Please clarify the wording here. This reads that any soil disturbing construction activity that disturbs more than 5,000 square feet is prohibited unless it meets the conditions below. While it is understood that 1 acre of disturbance triggers a Stormwater Pollution Prevention Plan (SWPPP), why is it called out above, when it is more than 5,000 square feet?

Response: The potential for the degradation of water quality exists even when the area of soil disturbing construction activities is less than 1 acre (43,560 square feet). The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft specifies that disturbance of between 5000 square feet and 1 acre would trigger the requirement that mitigation measures specified in a plan be implemented. The requirement for a Stormwater Pollution Prevention Plan would still apply for disturbances of 1 acre or more.

Comment: The wording here is a little confusing to me. Is the goal to ensure that all soil disturbing activities of 5000 square feet or more have a SWPPP (erosion and sediment control plan at a minimum)? These sites seem to be the most vulnerable as the New York State Department of Environmental Conservation’s General Permit for Construction Activities kicks in at the 1 acre threshold. However, it would be nice for the local authority to have the ability to

review and approve soil disturbing activities. Again, the MS4 local law for Erosion and Sediment Control could be modified to suit the watershed's needs. I've attached a sample for your reference. This is from Deerfield, an MS4 in Oneida County but I believe that they just adopted the New York State Department of Environmental Conservation's model local law language.

While the New York State Department of Environmental Conservation's construction activities permit applies to disturbances of at least an acre, having local control means that the local authority (municipality, Watershed Inspector) has the right to review plans, regularly inspect and provide a final inspection approval. Understandably, this can be a burden for the local authority but, if New York State Department of Environmental Conservation can't get to a site, at least the local authority has some standing to perform an inspection and stop work if needed. I think that Doug already does a lot of these inspections so maybe this has already been substantially addressed...

One last thing: a modified version of the New York State Department of Environmental Conservation's Municipal Separate Storm Sewer System (MS4) Stormwater Pollution Prevention Plan (SWPPP) Acceptance form may be useful to mirror if there isn't already a local mechanism to review and approve SWPPPs.

https://www.dec.ny.gov/docs/water_pdf/swpppaccept.pdf.

Response: The intention of the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 3, 2019 draft is to have erosion and sediment control plans prepared and implemented for projects involving soil disturbing construction activities which expose between 5000 square feet and 1 acre of soil. Plans addressing erosion and sediment control are currently only required for larger projects that must obtain coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity.

Comment: Notification of soil disturbing activities process needs to be outlined and enforced.

Response: Agreed. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft provides for that.

Comment: Should all stormwater plans and implementation be inspected by the watershed inspector or at least there should be some coordination between the Code Enforcement Officer and the watershed inspector? It is my feeling that the Code Enforcement Officer (at least in Owasco) does not do a very good job of following and enforcing New York State Department of Environmental Conservation's stormwater regulations.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft requires submission and implementation of erosion/stormwater control plans. Enforcement is the responsibility of the Owasco Lake Watershed Inspection and Protection Division.

Comment: All developments on the lake and watershed must have a Stormwater Pollution Prevention Plan (SWPPP) approved by the Town of Owasco and City of Auburn.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft specifies that disturbance of between 5000 square feet and 1 acre would trigger the requirement that mitigation measures specified in a plan be implemented. The requirement for a Stormwater Pollution Prevention Plan would still apply for disturbances of 1 acre or more; requiring developments less than one acre to comply would be overly burdensome.

It would be overly burdensome to the Town of Owasco and City of Auburn to approve all SWPPPs in the watershed.

Comment: Concern is that construction projects will slip through the cracks and notification to the Owasco Lake Watershed Inspection and Protection Division will not occur.

Response: Ensuring that notifications mandated by the regulations actually occur will require the implementation of public outreach, education, and communication initiatives by the Owasco Lake Watershed Inspection and Protection Division.

Comment: Would it be possible to require communities within the watershed to adopt new regulatory mechanisms to require the review of new projects? The 2016 Massachusetts Municipal Separate Stormwater Sewer System (MS4) Permit requires this of all communities. Language on page 42 of the permit is below:

<https://www3.epa.gov/region1/npdes/stormwater/ma/2016fpd/final-2016-ma-sms4-gp.pdf>

2.3.5.c. The permittee shall develop and implement a construction site runoff control program that includes the elements in Paragraphs i. through v. of this part:

i. An ordinance or regulatory mechanism that requires the use of sediment and erosion control practices at construction sites. In addition to addressing sediment and erosion control, the ordinance must include controls for other wastes on construction sites such as demolition debris, litter and sanitary wastes. Development of an ordinance or other regulatory mechanism was a requirement of the MS4-2003 permit (See part II.B.4 and part IV.B.4). The ordinance or other regulatory mechanism required by the MS4-2003 permit shall have been effective by May 1, 2008.

ii. Written (hardcopy or electronic) procedures for site inspections and enforcement of sediment and erosion control measures. If not already existing, these procedures shall be completed within one (1) year from the effective date of the permit. The procedures shall clearly define who is responsible for site inspections as well as who has authority to implement enforcement procedures. The program shall provide that the permittee may, to the extent authorized by law, impose sanctions to ensure compliance with the local program. These procedures and regulatory authorities shall be documented in the SWMP.

iii. Requirements for construction site operators performing land disturbance activities within the MS4 jurisdiction that result in stormwater discharges to the MS4 to implement a sediment and erosion control program that includes BMPs appropriate for the conditions at the construction site. The program may include references to BMP design standards in state manuals, such as the Massachusetts Stormwater Handbook, or design standards developed by the MS4. EPA supports and encourages the use of design standards in local programs. Examples of appropriate sediment and erosion control measures for construction sites include local requirements to:

1. Minimize the amount of disturbed area and protect natural resources;
2. Stabilize sites when projects are complete or operations have temporarily ceased;
3. Protect slopes on the construction site;
4. Protect all storm drain inlets and armor all newly constructed outlets;
5. Use perimeter controls at the site;
6. Stabilize construction site entrances and exits to prevent off-site tracking;

7. Inspect stormwater controls at consistent intervals.

iv. Requirements for construction site operators within the MS4 jurisdiction to control wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes. These wastes may not be discharged to the MS4.

v. Written procedures for site plan review and inspection and enforcement. If not already existing, the procedures for site plan review and inspection and enforcement shall be completed within one (1) year from the effective date of the permit. The site plan review procedure shall include a pre-construction review by the permittee of the site design, the planned operations at the construction site, planned BMPs during the construction phase, and the planned BMPs to be used to manage runoff created after development. The review procedure shall incorporate procedures for the consideration of potential water quality impacts, and procedures for the receipt and consideration of information submitted by the public. The site plan review procedure shall also include evaluation of opportunities for use of low impact design and green infrastructure. When the opportunity exists, the permittee shall encourage project proponents to incorporate these practices into the site design. The procedures for site inspections conducted by the permittee shall include the requirement that inspections occur during construction of BMPs as well as after construction of BMPs to ensure they are working as described in the approved plans, clearly defined procedures for inspections including qualifications necessary to perform the inspections, the use of mandated inspection forms if appropriate, and procedure for tracking the number of site reviews, inspections, and enforcement actions. This tracking information shall be included as part of each annual report required by part 4.4.

To support the Owasco Lake Watershed Inspection and Protection Division, provisions for review of projects at the town level could include a fee that could fund a 3rd party review of the project. This may be helpful ensure projects are meeting NYS Stormwater Design Manual requirements and there is no change in pre-construction conditions. For Section VIII. 1b, suggest requiring provisions that stormwater management practices be accompanied by long-term operation and maintenance plans. If structural controls are not maintained, they will have only short-term benefits to water quality. Requiring annual inspection and maintenance reporting to the Owasco Lake Watershed Inspection and Protection Division could help ensure long-term functionality of controls. Thank you for the opportunity to provide comments.

Response: Requiring municipalities in the Owasco Lake Watershed to develop programs and implement practices similar to those required of regulated municipal separate storm sewer systems (MS4s) would place an undue burden on the municipalities. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft includes soil disturbances down to 5000 square feet which provides for the prevention of pollution from stormwater discharges as much as practicable.

Comment: Should the term “turbidity” be added to visible erosion, ie, “visible erosion and/or turbidity, a visible contrast in water clarity”?

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft does not include reference to “visible erosion”. The definition of “pollutant” in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft includes silt and is intended to resolve this issue.

Comment: Notification must provided....to whom? Spell this out.

Response: The regulations require that notification be given to the Owasco Lake Watershed Protection and Inspection Division.

Comment: In VIII(1)(a) it says “Notification...is given”. In this paragraph it says plans are submitted by the “applicant”. Is the applicant applying for approval by the Owasco Lake Watershed Protection and Inspection Division? Please make this clearer.

Response: The regulations do not provide for approval of proposed actions by the Owasco Lake Watershed Protection and Inspection Division. The requirement of notification is intended simply to help the Watershed Inspector carry out monitoring duties as effectively and efficiently as possible.

Comment: This paragraph addresses the need for an erosion and sedimentation plan. This section should include language to ensure that the plan is developed by a qualified professional (engineer, registered landscape architect or CPESC certified). Other sections of the Rules & Regs specify “Appropriately Credentialed Individuals.” Use of this phrase in this section would be consistent.

Response: The regulations provide adequate standards that must be followed that describe mitigation measures on less than one (1) acre. The regulations were designed to allow the application of standards and best practices referenced in the most current version of the blue book without requiring the burden and expense of hiring an engineer, registered architect or Certified Professional in Erosion and Sediment Control (CPESC).

Paragraph 2.

Comment: What is the intent of the section that refers to impermeable surfaces? Roof tax?

Response: The intention of the regulations addressing activities that include construction or reconstruction of impervious areas of between 1 and 5 acres is to provide for appropriate management of infiltration, runoff flow and discharge volume resulting from such activities.

Comment: Is this intended to be 10 business or calendar days? Either way, is that sufficient time for a qualified professional to review a plan?

Response: The requirement to submit erosion/stormwater control plans at least 10 days prior to undertaking the subject activities refers to 10 *calendar* days. The regulations do not required the Owasco Lake Watershed Inspection and Protection Division to review or approve the plans. This requirement to provide notice to the Owasco Lake Watershed Inspection and Protection Division is intended simply to help the Watershed Inspector carry out monitoring duties as effectively and efficiently as possible.

Paragraph 3.

Comment: Public highway construction, roadside ditch maintenance needs to be outlined and enforced.

Response: Public highway construction is regulated by the New York State Department of Environmental Conservation for any construction disturbance over an acre in size. Provisions in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft require notice of any State Pollutant Discharge Elimination System (SPDES) General Permit be forwarded to the Watershed Inspection and Protection Division. Ditch maintenance is

outlined in Section VIII. Sediment Generation and Control, Paragraph #4. Roadside Ditch Maintenance Work of the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft. In addition, the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft specifies that disturbances of between 5000 square feet and 1 acre would trigger the requirement that soil and erosion control mitigation measures be implemented.

Comment: The Towns and County must stop enlarging bridges and culverts which increase lake pollution. They must create upstream flooding and detention. Their conduct of increasing culvert sized is harming the lake and is malpractice. Their philosophy is wrong.

Response: The subject of the comment is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Changing the size of a culvert, bridge or floodway or cleaning a ditch, shall be approved by the Town of Owasco and City of Auburn

Response: Addressing changing the size of a culvert, bridge or floodway is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft require notification of scraping roadside ditches to the Owasco Lake Watershed Inspection and Protection Division. The Town of Owasco and City of Auburn are represented on the Watershed Inspection Committee which oversees the monitoring of activities in the watershed.

Comment: Will not allow street sweeping.

Response: Street sweeping is not prohibited by the Owasco Lake Watershed Rules and Regulations Proposed Revisions.

Comment: Wings should not be allowed on snowplows as it pushes dirt into the ditches.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft does not dictate what type of plow equipment an individual municipality shall use. Pushing dirt into a roadside ditch or watercourse is a violation in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft.

Paragraph 4.

Comment: This category should include the use of herbicides in ditches to eliminate vegetation by homeowners.

Response: These activities are addressed in Section VI. Pesticide Use, Paragraph #3, which states:

“No pesticides shall be discharged, applied or allowed to enter into Owasco Lake, a watercourse, or a stormwater conveyance such as a roadside ditch, unless a permit to do so has been obtained from the appropriate State Agency having jurisdiction.”

Comment: I would assume that the inspection of all field, stream and ditch buffers will be the responsibility of the watershed inspector?

Response: Correct.

Comment: Maintaining ditches is already an issue with the highway departments.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft require highway departments to use practices in a manner protective of water quality.

Comment: If we are serious about improving ditches then specific measures should be established to determine what amount of sediment we are willing to live with in the ditch prior to entering a tributary of the lake. Ditches are responsible for 20% of sediments entering the lake.

Response: The Roadside Ditch Maintenance Work paragraph in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft targets specific measures.

Comment: Include a detail drawing illustrating construction specifications for roadside ditches.

Response: The intent of this section is to establish parameters municipalities must follow during roadside ditch maintenance, not dictate specific ways and means.

Paragraph 4.d.

Comment: Addresses use of material obtained from road ditching activities. I am wondering if the use of the placement qualifier “onto adjacent land” somehow negate the Part 360 solid waste management regs? It seems that placing ditching materials on farm fields may not be the best use of that material. In any case, the following is information from the New York State Department of Environmental Conservation relative to a question I had regarding the use of road ditching material as fill. Not sure if this is worthy of consideration, but this section of the draft Rules & Regs raised a red flag in my mind:

“material excavated from ditch cleaning is considered fill material. Fill material is not considered a solid waste when it is excavated outside of NYC with no evidence of historical impacts such as reported spill events, or visual or other indication (odors, etc.) of chemical or physical contamination. This too is a predetermined beneficial use in 360.12(c)(1)(ii) which says:

The following cease to be waste when used as described in this paragraph:

(ii) fill material generated outside of New York City with no evidence of historical impacts such as reported spill events, or visual or other indication (odors, etc.) of chemical or physical contamination;

So if the material excavated does not smell, shows no sign of a petroleum spill, and there is no knowledge of chemical contamination it may not be a waste. The catcher is the physical contamination. Similar material can include particles of slag, ash, glass or crushed concrete or other durable human man made material. Similar material does not include larger, recognizable particles of glass, rock, or demolition debris or waste and also does not include plastic, whether recognizable or not. Physical contamination also includes concrete, bricks and asphalt pavement.

Let’s just say the ditch cleaning material is odorless, there was no spill, and no knowledge of chemical contamination. Then if it has some slag, ash, glass or crushed concrete, it is no longer a solid waste and can go anywhere. But if it contains larger particles of glass, rock, concrete, bricks, or asphalt pavement, it is considered a solid waste. If it is a solid waste, the generator has several options:

- *Take it to a landfill for disposal*

- *Source separate the physical contamination from the soil. Then the soil is clean and is no longer a solid waste and dispose of the contamination.*
- *Send the material to a C&D processor*
- *Send the material to a mine under reclamation”*

Response: Noted. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft does not negate Part 360 Solid Waste Management Facilities General Requirements in New York State Department of Environmental Conservation Law.

Comment: Shouldn't the soil removed from ditches and is placed 20 feet from a ditch be stabilized if placed on adjacent land.

Response: Agreed. The following was inserted at the end of Section VIII. Sediment Generation and Control, Paragraph #4.d. into the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020:

"... and shall be immediately stabilized."

Paragraph 4.e.

Comment: Specify in greater detail the type of vegetation/seeding required to stabilize roadside ditches.

Response: The intent of this section is to establish parameters municipalities must follow during roadside ditch maintenance, not dictate specific ways and means.

Paragraph 4.f.

Comment: Socks in roadside ditches should be included.

Response: An erosion sock would be considered a temporary check dam and is therefore included.

Paragraphs 4.e. and 4 f.

Comment: Road ditching, no mention of requiring the use of hydroseeding or check dams. This section is too vague.

Response: Utilizing check dams is mentioned in VIII. Sediment Generation and Control, Paragraph 4.f. In addition Paragraphs 4.e. and 4.f. discuss reestablishment of vegetation. Hydroseeding is an acceptable method of reestablishing vegetation. The intent of this section is to establish parameters municipalities must follow during roadside ditch maintenance, not dictate specific ways and means.

Paragraphs 3 and 4.

Comment: Public highway construction, roadside ditch maintenance needs to outlined and enforced.

Response: These activities are addressed in the VIII. Sediment Generation and Control, Paragraphs 3 and 4 in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft.

Comment: Storm water conveyance and roadside ditches can't handle water flow now.

Response: Noted. This comment does not alter or question the intent of the Owasco Lake Watershed Rules and Regulations.

Comment: Stormwater conveyance/roadside ditch already has issues. Weather events show ditches need more maintenance in order to keep the water from entering the field from the ditches. How can towns afford to fix ditches before they even go into the new rules and regulations?

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft does not require municipalities to “fix ditches”. However, municipalities may find economic benefits by implementing the practices required in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft.

Miscellaneous

Comment: Streambank erosion not mentioned. People would like to know how to take better care of their streams.

Response: Property owners wishing to minimize streambank erosion can contact the Owasco Lake Watershed Inspection and Protection Division for information and guidance.

Comment: Put more stream buffers in to eliminate after storms. Need some type “slow down” means. Rocks, etc would slow down streams.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft will increase the extent of stream buffers in the watershed.

Comment: Would it be helpful to mirror the New York State Department of Environmental Conservation’s local law for Illicit Discharges (IDDE) that was created for municipal separate storm sewer systems (MS4s)? I attached a sample for you to review. The IDDE laws cover any discharges to the stormwater system – open or closed, including surface waters. It seems like these may be helpful to model in the watershed.

Response: Requiring municipalities in the Owasco Lake Watershed to develop programs and implement practices similar to those required of regulated municipal separate storm sewer systems (MS4s) would place an undue burden on the municipalities.

IX. NUTRIENT MANAGEMENT

Comment: The Section IX. Nutrient Management should be moved up to Section V. or VI.

Response: The current placement of the section in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft is appropriate.

Paragraph A.1.

Comment: Should contain wording which clearly states that a "Farm Plan" which has been reviewed and approved by Soil and Water should supersede the agriculture related regulations stipulated in the Owasco Lake Watershed Rules and Regulations document.

Comment: Duplication of rules and regs as it relates to agriculture and farm plans.

Comment: It needs to be adjusted to address people who have a plan should automatically get a variance.

Comment: Does everything defer to current farm management plans or do the inspector(s) have the agency to conduct their work?

Response: Since all farm plans do not address everything covered in the regulations, a plan’s provisions cannot automatically be regarded as duplicating those of the regulations. Because the comprehensiveness of plans varies, it would not be advisable to automatically regard the

provisions of a plan to supersede or substitute for all of the provisions of the agriculture related regulations. Also, Soil and Water Conservation Districts cannot be expected to take on the burden and responsibility of reviewing and approving all farm plans.

Comment: Best Management Practices (BMPs) and nutrient management plans are presented as a solution. There is a problem with BMPs and nutrient management plans. In theory we can hope that they work. In reality, these plans are voluntary and have been the model attempt to address this serious pollution problem for decades. These voluntary plans are not working. Owasco Lake is choking on nutrients, it is dying and our drinking water is at risk. We cannot defer to plans that lie beyond the scope and purview of the immediate crisis.

Response: The Owasco Lake Watershed Rules and Regulations do not consider the preparation of farm plans and the specification of best management practices (BMPs) in those plans to be final solutions. The BMPs specified in a plan must be properly implemented and maintained in order to ensure that a property owner will not eventually be notified of a violation should it be determined that the regulations are not being complied with.

Comment: Should strike farms and 7 acres and include any nutrient applied.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft focuses on the land uses that are of highest concern. Modifying the proposed regulations in such a way to require all properties within the watershed to prepare a farm management plan regardless of their size and impact would be impossible to manage and enforce. The regulations at Section IX. Nutrient Management, Paragraphs #4 and #5 require setbacks regardless of size.

Comment: Why shouldn't everyone be required to have a plan, including homeowners before they apply fertilizers?

Response: Everyone should have a plan, but modifying the proposed regulation in such a way as to make all properties subject to it would render it meaningless by making it impossible to enforce.

Comment: The commercial lawn care services do not do soil tests prior to applying fertilizers to lawns. This should be mandated for all in the watershed.

Comment: I would like to suggest any widespread lawn nutrient amendments be subsequent to a required soil test, and like a Stormwater Pollution and Prevention Plan (SWPPP) or a building permit, that information must be physically posted on site.

Comment: A standard for lawns should be developed.

Response: Soil tests are not required, but fertilizer application setbacks are established along all watercourses and water conveyances in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft in Section IX. Nutrient Management, Paragraphs B.4. and B.5., which are protective of water quality.

Comment: I already have a plan with 25 years of data. Do I now have to hire someone to come in and rubber stamp it?

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft does not require that these plans prepared by an appropriately credentialed individual be approved by another party.

Comment: Unless you hire someone to do a plan, you should be restricted to what you can put on the land.

Response: The regulations are intended to promote the preparation and implementation of farm management plans where they could have the greatest impact on the quality of the water in Owasco Lake.

Comment: Whole Farm Plans are more acceptable to farmers.

Comment: Thought farm management plan was a Whole Farm Plan, which would be a huge task.

Response: A plan referred to as a “whole farm plan” may in fact serve the purposes of a farm management plan as defined in the regulations. Any farm owner who has any questions about the appropriateness or suitability of their plans as they may relate to the regulations is encouraged to seek the advice of an appropriately credentialed individual as defined in the regulations, or the Watershed Inspection and Protection Division.

Comment: The way it is written he feels it says if you don’t have a farm management plan, you don’t have to be compliant.

Comment: Agrees that it is not clear on the need for a farm plan.

Response: Agreed. The regulations have been clarified to say that operators of farms with seven or more acres of land that apply commercial fertilizer or manure must have a farm management plan.

Comment: A clause should be added to be in compliance with a farm plan.

Response: The regulations are clear that in cases where a farm management plan is required, that compliance with the relevant specifications of the plan is required.

Comment: What meets minimum standards of a nutrient management plan? What is meant by a “current” plan? What does “current” mean for samples?

Response: The term “nutrient management plan” is not used in the regulations, but what the regulations refer to as “farm management plans” are, according to the definition, updated annually. The regulations indicate that the locations, rates, and volumes of the application of manure or commercial fertilizer specified in the plan shall be determined by following the United States Department of Agriculture Natural Resources Conservation Service Conservation Practice Standard (Code 590) for nutrient management.

Comment: Nothing mentioned about crop farmers working with Soil and Water to come up with farm plans (farm by farm)

Response: The regulations specify that farm management plans are to be prepared by or under the supervision of appropriately credentialed individuals as defined in the regulations. Such individuals may or may not be employees of Soil and Water Conservation Districts.

Comment: The application rates of manure must be listed in the rules and again penalties listed not by reference

Response: Since optimum application rates vary depending on the farm, the field, the season, and the year, it is not possible to specify rates in the rules. Actual fines that may be levied will

be determined by the County Board of Health having jurisdiction, or in Onondaga County the Health Commissioner, after reviewing the circumstances and conditions under which violations may occur.

Paragraph A.1.a.

Comment: How would the inspector know if manure or fertilizer is applied to lands at rates and volumes that exceed current farm management plans.

Comment: What happens if there are discrepancies between rates and volumes recorded in farm management plan and actual rates and volumes applied?

Response: Overuse of manure or commercial fertilizer could potentially result in the discharge of pollution that would prompt action by the Watershed Inspection and Protection Division such as the review of plans and records and notification of violation of the regulations.

Comment: Who might be an appropriately credentialed individual? Can it be an inspector?

Response: The definition of “Appropriately Credentialed Individual” is included in the proposed regulations. It is possible that a Watershed Inspector could qualify as an appropriately credentialed individual under this definition, but it would be a conflict of interest for a Watershed Inspector to prepare farm plans for farms in the Owasco Lake Watershed.

Paragraph A.1.b.

Comment: Emergency provisions as it relates to farm management plans should be defined.

Response: Agreed. The reference to emergency provisions is too vague. The following revision to IX. Nutrient Management, Paragraph A.1.b. was inserted into the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020:

“Shall not apply manure or commercial fertilizer on soils that are snow-covered (4”+), fluid-saturated, frozen-saturated or encumbered by significant surface icing unless the application is consistent with emergency provisions of a farm management plan prepared by or under the supervision of an appropriately credentialed individual. Such emergency provisions shall address where and how manure will be applied when, due to unforeseen circumstances, it is necessary to prevent or respond to an overflow or discharge from a waste storage structure. The unforeseen circumstances must be beyond the control of the owner of the farm and include but not be limited to natural disaster, unusual weather conditions, or equipment or structural failure. The operator shall notify the Owasco Lake Watershed Inspection and Protection Division within 48 hours of implementing such emergency provisions.”

Comment: Manure application on snow cover will force more storage of manure. You should encourage manure storages. No spreading on 4” snow or frost will require more manure storage. Are the Town of Owasco and Auburn going to encourage and support manure storages.

Response: It is understood that additional manure storage may be necessary to prevent the spreading of manure at high risk times.

Paragraph B.

Comment: I would assume that the inspection of all field, stream and ditch buffers will be the responsibility of the watershed inspector?

Response: Monitoring compliance with vegetated buffer requirements and all other aspects of the regulations will be the responsibility of the Owasco Lake Watershed Inspection and Protection Division, which includes the Owasco Lake Watershed Inspectors.

Comment: Buffers seem to be broad and not specific to farms and certain areas of farms.

Response: The locations of down-gradient watercourses, roadside ditches or surface inlets dictate where certain vegetated buffer requirements would apply to farms. The property owner may submit an application for a variance from the buffer requirements if the owner feels that the buffers are not necessary to protect the water quality of Owasco Lake or its watercourses.

Paragraph B. 1.

Comment: Who is going to pay to rent the land that is put into buffers? It is a huge investment.

Comment: Cost of acres taken out of production.

Response: There are costs associated with vegetated buffers including the cost of land being taken out of production and costs related to planting, establishing, and maintaining the buffers. The buffer requirements do not place undue regulatory burdens on property owners, especially considering that the regulations provide for the granting of variances from the buffer requirements under certain circumstances.

Comment: What will the impact of buffers be on tax exemptions as it relates to acres tilled?

Comment: What effect will buffers have on taxation for landowners? Increase taxes because land is no longer being farmed due to change in exemptions?

Response: Vegetated buffers required by the regulations are integral parts of a farm operation just as other tilled portions of the farm are, and should have no effect on taxation.

Comment: Variable width buffers should be allowed and payments should be made for acreage. See Minnesota's regulations.

Response: Variable width buffers can in fact be preferable to fixed width buffers, but only if the minimum required widths are large enough to minimize runoff. In the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019, the minimum required width is 35 feet. The scientific literature indicates that vegetated buffers of less than 30-35 feet remove only a negligible amount of nutrients in field runoff. It would make very little sense to recognize buffers less than 30-35 feet as a means of protecting water quality. In places that implement variable width buffers such as Minnesota, the minimum widths are usually around 30 -35 feet and the requirements go up from there.

Comment: Not a blanket buffer along roadside ditch.

Response: The regulations require that a vegetative buffer be maintained between croplands and the top of the bank of any down-gradient roadside ditch.

Comment: Why do we have to wait for 10 years for buffers to be installed?

Response: The regulations require the implementation of buffers no later than a date intended to provide a five-year time limit after the adoption of these regulations. Regulations that require faster installation of buffers would impose undue hardship on property owners.

Comment: Setback from planting/plowing for agricultural purposes should be no disturbance within 25'

Response: The 10-foot buffer distance was selected to provide roadside ditches with a minimum level of protection from pollution without taking so much land out of production that undue hardship would be imposed on farm operations.

Comment: No till planting techniques should be used along watercourses. Agriculture should be given a tax credit for compliance to avoid an eminent domain question. The county soil group should have no till planters to lend to agriculture

Response: It is agreed that no till planting techniques should be employed as widely as possible, and that optimally, no-till equipment would be available to rent to farmers for minimal fees, at least to help them get started in changing their practices. The subject of tax credits is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Paragraph B.2.a and B.2.b.

Comment: Who might be an appropriately credentialed individual? Can it be an inspector?

Response: The definition of “Appropriately Credentialed Individual” is included in the proposed regulations. It is possible that a Watershed Inspector could qualify as an appropriately credentialed individual under this definition, but it would be a conflict of interest for a Watershed Inspector to prepare farm plans for farms or supervise implementation of buffers in the Owasco Lake Watershed.

Paragraph B.3.

Comment: I think 10 feet from top of ditch is too much because 4300 feet of road front times 10 feet is an acre of land not in production but we also want to stop farmers who spray round up over the ditch and work field so close that dirt tumbles in the ditch.

Response: The 10-foot buffer distance was selected to provide roadside ditches with a minimum level of protection from pollution without taking so much land out of production that undue hardship would be imposed on farm operations.

Comment: Instead of 10 feet top of bank should be center ditch.

Response: There is so much variation in the widths of ditches and the nature of the topography adjacent to them that regulations allowing the centerlines of ditches to be considered as the edges of required buffers would not provide ditches with a uniform level of protection from pollution.

Paragraph B.5.

Comment: Probably do not need fertilizer for establishing a buffer crop [vegetated buffer].

Response: It is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations to specify crops on which fertilizer may or may not need to be applied.

Paragraph B.6.

Comment: Need regulations that do not allow new wells to be dug within 100 feet of the property line. Asked for this in past. Otherwise it is a taking when a well is installed and manure cannot be applied.

Comment: Something should be included to restrict the placement of wells near farmers' fields.

Response: Regulating the location of private wells is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Paragraphs B.6. and B.7.

Comment: The separation distances in Section IX Nutrient Management, Paragraphs B.6. and B.7. are less restrictive than Appendixes 5-B Standards for Water Wells for springs and potentially for wells if the source water is less than 50 feet below grade. The separation distance between contaminant sources and drinking water sources should be increased by 50% if the source of the drinking water is less than 50 below grade.

Response: Requiring manure applicators to be aware of depths of wells would be overly burdensome. The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft proposed regulation of separation distance is adequately protective of the water quality of Owasco Lake.

Paragraph E.1.

Comment: Manure stacking area. Shouldn't use the word "no"...should depend on volume. Have a minimum threshold.

Response: Any amount of manure that is collected and piled in order to be used in the future as fertilizer has the potential to effect water quality.

Paragraphs E.1. and E.2.

Comment: Why make the distance for agricultural waste storage impoundment or containment facility 250 feet mark while the manure stacking area distance is 300 feet. Why not make them all 250 feet? Would be easier for regulators and for community to understand and remember, and more protective.

Response: The separation distance for manure stacking areas is 300 feet because the Agricultural Environmental Management Information sheet for Manure & Fertilizer storage recommends that temporary manure storage areas should have at least a 300 foot vegetative flow path to the nearest down slope watercourse.

Paragraph E.2.

Comment: Manure lagoons less than 250 feet should be abandoned within 5 years.

Response: Requiring the abandonment of facilities would cause an undue burden on the agricultural community.

Paragraph G.

Comment: Why are we still allowing livestock stream crossings in this day and age? Seems like there is far greater potential to cause damage to a stream and to the lake from cattle or hogs crossing streams (and directly defecating and urinating into streams during crossings) than from a properly designed leach field that might happen to be only 80 feet above the high water mark (HWM).

Response: Prohibiting all controlled livestock stream crossings would cause an undue burden on the agricultural community.

Comment: "allow for maintenance in a manner that is protective of the water quality of the watercourse." Is there a standard or set of recommendations that can be included to lessen the subjectivity of this requirement?

Response: Guidance such as that offered in Natural Resources Conservation Service (NRCS) Conservation Practice Standard Stream Crossing Code 578 and is protective of water quality will be considered by the Watershed Inspector in assessing compliance with this requirement.

Paragraph H.

Comment: Watershed Inspector should have copies of the Farm Management Plans.

Response: The regulations specify that operators of farms for which farm management plans are required shall make them available for review by the Owasco Lake Watershed Inspection and Protection Program upon request. This assures that the Watershed Inspector will have access to the plans as needed.

Comment: The rules should require public access to farm management plans.

Comment: Farm management plans in addition to review by the watershed management program, farm management plans should be available for public review.

Response: The Owasco Lake Watershed Inspection and Protection Division is the agency charged with monitoring activities in the Owasco Lake Watershed. In cases where the Owasco Lake Watershed Inspection and Protection Division have concerns they have access to farm management plans.

Miscellaneous

Comment: What about manure and fertilizer spills? Are there any regulations for those?

Response: Yes. Refer to Section IV. General Provisions, Paragraph #1 and Section IX. Nutrient Management, Paragraph #C.1.

Comment: Tile outfalls should be addressed in the regulations.

Comment: Drain tiles should be included in the regulations.

Comment: Lack of attention to drainage tiles. How they are going to be addressed.

Comment: Farm field drain tiles must be regulated as they are direct point discharges (manure, herbicides, fertilizer) to water courses

Comment: Why is there no mention of drainage tile and the potential impact of nutrient loading in the lake?

Comment: Why are drainage tile pipes not considered a point source?

Comment: Tile drains are a concern. Vermont has nutrient management plan (NMP) for tile drains.

Comment: Nutrient management Plans (NMPs) or best management practices (BMPs) should not be mentioned, especially if no one want to specifically drainage tiles.

Comment: If we have no choice but to have best management plans (BMPs) and nutrient management plans (NMPs), can we include Tile Drain NMPs (like they are enacting in Vermont) to the array of voluntary precautions that should be enforced and followed.

Response: There are no regulations that apply to tile drains in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft. However, it states in Section IV. General Provisions, Paragraph #1,

“ No person or corporation shall allow any pollutant of any kind to be discharged, deposited, or otherwise transported into Owasco Lake, a watercourse, or stormwater conveyance such as a roadside ditch.”

therefore, a malfunctioning tile drain that is discharging polluted effluent would be a violation.

Comment: Will these regulations help to leverage the funds that have reportedly been designated for water protection to offset the costs of these regulations?

Response: Many of the new regulations set forth in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft align with the most recent Owasco Lake Harmful Algal Bloom Action Plan. The new regulations, along with the Owasco Lake Harmful Algal Bloom Action Plan will certainly help to leverage future grant funds.

Comment: A lot of different setbacks and timing. It is confusing to her.

Response: The implementation of new public outreach, education, and communication initiatives will be conducted by the Owasco Lake Watershed Inspection and Protection Division to assist the public in understanding the regulations.

Comment: I would like to see a provision addressing nutrient amendments watershed wide. The current language in the re-write is directed to the ag community or discusses limitations on nutrient amendments in terms of setbacks from watercourses

Response: Nutrient amendments watershed wide are addressed through regulations contained in the section on Section IX. Nutrient Management in the Owasco Lake Watershed Rules and Regulations Proposed Revisions.

Comment: Who finds out if there is runoff from TruGreen or farmer's fields when it rains? Does the inspector go out every time there is a problem?

Response: It is the responsibility of Owasco Lake Watershed Inspection and Protection Division to monitor activities in the watershed to ascertain compliance with the Owasco Lake Watershed Rules and Regulations.

Comment: Do best management (BMPs) and nutrient management plans (NMPs) replace some of the requirements of the rules and regulations?

Response: No. Best management practices (BMPs) and nutrient management plans (NMPs) do not replace any requirements of the Owasco Lake Watershed Rules and Regulations.

Comment: Do the regulations apply to farms with nutrient management plans (NMPs)? NMPs should not be defacto rules and regulations.

Response: Yes. The regulations still apply to all farms with nutrient management plans (NMPs).

Comment: Concentrated animal feeding operations (CAFOs) should be eliminated from the watershed.

Response: Prohibiting all concentrated animal feeding operations (CAFOs) in the Owasco Lake Watershed would cause an undue burden on the agricultural community.

Comment: Groundwater studies within 2 miles of the watershed boundary must be undertaken.

Response: Groundwater studies within 2 miles of the Owasco Lake Watershed boundary is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: The air quality must be controlled with strict ammonia levels adhered to and its air borne impact on the lake, from the watershed and off the watershed.

Response: Air monitoring and air quality issues are addressed with federal and state regulations and are beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Golf courses/parks/schools should have rules for fertilizer and pesticides with limits in the rules and appropriate fines/penalties.

Response: Nutrient amendments watershed wide are addressed through regulations contained in Section IX. Nutrient Management. Pesticide applications are addressed in Section VI. Pesticide Use.

VIII. SEDIMENT GENERATION AND CONTROL and IX. NUTRIENT MANAGEMENT

Comment: Sections VIII and IX of the draft rules are ill aligned with the resource-based, field-tested NYS Agricultural Environmental Management (AEM) framework, NRCS standards, and NYSDEC CAFO Permit requirements. Specifically, requirements related to stormwater thresholds, setbacks, winter conditions, and plan development should be revisited for consistency with State policies and programs. For example, for farms not requiring a CAFO Permit, the AEM 5-Tiered Framework dictates stewardship by the farm family and identifies resource concerns. AEM then institutes the type(s) of farm plan necessary to improve the condition, whether associated with cropland, pasture, farmstead, stream corridor, and/or forest management. This approach avoids overly broad activities to meet a requirement for cropland nutrient management per NRCS 590, when such activities may not best address the targeted resource concern. I encourage the Steering Committee to reconsider aligning provisions with existing resources, regulatory permit requirements and policies set by the State, including AEM plans, as a voluntary pursuit between farm families and planners.

Response: Care was taken during the drafting of the rules and regulations to avoid creating conflicts and inconsistencies between the requirements of the various government entities which have authority over the subject matter covered. In some cases, such as the regulation of soil disturbing activities which expose between 5000 square feet and 1 acre of soil, and the regulation of construction or reconstruction of between 1 and 5 acres of impervious area, new rules were added to fill gaps in the existing regulatory framework. The Owasco Lake Rules and Regulations are consistent with the goals of Agricultural Environmental Management (AEM) in that they support the development and implementation of individually tailored farm management plans that identify and address water quality concerns, and the mitigation of those concerns through the implementation of practices that are not overly burdensome. Unlike the voluntary AEM Program, however, the rules and regulations mandate that farms with 7 or more acres of land in agricultural production not including farms already covered under a SPDES General Permit for CAFOs maintain current plans that specify appropriate application rates and volumes of manure or commercial fertilizer if manure or commercial fertilizer is to be applied. This requirement is intended to fill another gap in the existing regulatory framework.

X. REMEDIES FOR VIOLATION

Comment: Short, vague, and defers to the frequently asked questions (FAQs) section, but does not provide much relief in actual finding and addressing the root causes of pollution.

Response: Enforcement of the Owasco Lake Watershed Rules and Regulations revisions is meant to serve as a disincentive to create pollution.

Comment: Can we publish violations in the local paper of record?

Response: There is nothing currently prohibiting the Owasco Lake Watershed Inspection and Protection Division from publishing violations in the local paper.

Comment: There should be a severability clause in the rules (2 times).

Response: Agreed. A severability clause was added as Section XII. Severability Clause into the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020:

“If any term or provision of these Rules and Regulations shall, to any extent, be invalid or unenforceable, the remainder of these Rules and Regulations, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of these Rules and Regulations shall be valid and be enforced to the fullest extent permitted by law.”

Comment: Violation “specified time period” needs to be defined better.

Response: Comment is unclear. There is no “specified time period” in this section of the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft.

Comment: What mechanism will ensure enforcement consistency between Counties?

Response: The process of enforcement and maximum fines that may be imposed are specified in Public Health Law. Actual fines that may be imposed will be determined by the County Board of Health having jurisdiction, or in Onondaga County the Health Commissioner, after reviewing the circumstances and conditions under which violations might occur. There is no watershed wide enforcement entity with authority that supersedes the County Boards of Health, or in Onondaga County the Health Commissioner. Just as there is no assurance of consistency between Town Courts when a person is fighting a speeding ticket, there is no assurance that Boards of Health, or in Onondaga County the Health Commissioner, will impose identical penalties.

Comment: Enforcement does give a land owners opportunity to remediate violations when they are found, but there is a great unknown that lies on the other side of these rules and regulations that I believe needs a public vetting needs to occur before these rules and regulations are adopted. The role of the New York State Department of Health (NYSDOH), the County Board of Health and the Cayuga County Health Department needs to be outlined so that there is a clear understanding of enforcement when a violation occurs. If there are concerns, based on the current process of enforcement, it also needs to be addressed before revised rules and regulations are adopted.

Response: New York State Department of Health (NYSDOH) has clarified the roles of the NYSDOH, the County Boards of Health, Health Commissioner and the Health Departments in the enforcement process. This clarification in brief requires the Owasco Lake Watershed Inspection and Protection Division to refer violations to the County Health Department having jurisdiction. The County Health Department having jurisdiction then initiates enforcement through their County Board of Health, or in Onondaga County the Health Commissioner.

Comment: I ask that the Steering Committee examine the possibility of indemnification for those farmers who adhere to the enforcement of these watershed rules but experience a runoff

event or other occurrence through no fault of their own. Such a clause would provide local regulatory relief and defer enforcement to the State. I encourage the Steering Committee to recognize the natural environment that farms operate in and to further develop language in the rules to address this important topic that would provide the necessary certainty to farmers.

Response: It is not the intention of the Owasco Lake Watershed Rules and Regulations to enforce violations that are not anyone's fault. Since it is not possible to anticipate every circumstance that could be beyond a person's control or could not have been reasonably foreseen or acted upon, it is best to consider claims of extenuating circumstances on a case by case basis as part of the standard operating procedures of the Owasco Lake Watershed Inspection and Protection Division.

Comment: Remedies of violation should reference Public Health Law (PHL) Article 11 only.

Response: Agreed. Took out references to Public Health Law Article 3 and Article 71 of Environmental Conservation Law from Section X. Remedies for Violation in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Comment: The penalties should be listed and not referred to. Penalties must be listed in the rules not by reference

Response: The Public Health Law (PHL) Article 11, which is referenced in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft, specifies the maximum penalties that may be imposed for violations of rules and regulations regardless of which county the violation occurs in. The revised rules and regulations cannot set fines greater than those specified in Public Health Law, but they could set lower fines. If penalties are specified in the revised rules and regulations and those penalties increase in the Public Health Law, the local boards of health, or in Onondaga County the Health Commissioner, will be unable to impose the maximum fines. It is more reasonable and less confusing to reference the PHL so penalties imposed may increase as PHL allows.

Comment: What are the repercussions for non-compliance? I didn't see mention of fines, penalties, etc. Are those prescribed by State law?

Comment: A list of regulated activities should be provided with penalties for violations

Comment: Enforcement should be outlined by the county. Is there a schedule for violations and repeat violations?

Response: The Public Health Law (PHL) Article 11, which is referenced in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft, specifies the maximum penalties that may be imposed for violations of rules and regulations. The actual penalties assessed can and should vary at the discretion of the County Board of Health having jurisdiction, or in Onondaga County the Health Commissioner, depending on the circumstances of the violation.

Comment: Flowchart of the "day in the life" of a complaint/violation as a companion piece as part of the education.

Response: An explanation of the complaint/violation process is included in the document "Owasco Lake Watershed Inspection and Protection Division (OLWIPD) Procedures, July 2019."

IX. DEFINITIONS

Comment: Definitions should be in the front of the rules

Response: Agreed. The definitions section will be moved to the front of the final document.

Definition 30. Herbicide (see definition for pesticide)

Comment: Under definitions “HERBICIDES see PESTICIDES” In my opinion Herbicides should be a separate category.

Response: The definition of “herbicide” has been removed from Section IX. Definitions in the Owasco Lake Watershed Rules and Regulation Proposed Revisions dated April 6, 2020 because it is not found in the document.

Definition 35. Land Based Holding Tanks

Comment: If “Land Based Holding Tanks” are specifically for buildings, then RVs should be explicitly exempted.

Response: The definition of “Land Based Holding Tanks” has been changed in Section IX. Definitions in the Owasco Lake Watershed Rules and Regulation Proposed Revisions dated April 6, 2020 draft to:

“Land Based Holding Tanks shall mean a sealed tank used to temporarily store wastewater prior to pump out and transport by a license waste hauler to a point for proper disposal.” This does not include recreational vehicles, trailers or campers with integrated greywater and/or black water waste tanks.

Definition 49. Pollutant

Comment: Would it make sense to include the terms Hazardous Materials and Wastewater which are defined in #29 and #69 respectively? One idea may be to use the definition of pollutant from the DEC’s MS4 Local Law for IDDE (illicit discharge detection and elimination) which is “Pollutant. Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.”

Response: The proposed definition of pollutant in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft is inclusive enough to address the concerns of the commenter.

Comment: There are 6 pages of definitions, so it helps to clear up what is meant in the rules and regs. (see def. #49). One thing not in the definitions is what happens when something comes to a ditch, then goes to the lake?

Response: In the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft, Section IV. GENERAL PROVISIONS, Paragraph #1

“No person or corporation shall allow any pollutant of any kind to be discharged, deposited, or otherwise transported into Owasco Lake, a watercourse, or stormwater conveyance such as a roadside ditch.”

Identification of discharge of pollution would prompt action by the Owasco Lake Watershed Inspection and Protection Division.

Definition 55. Sewage

Comment: It is my opinion that the discharge of gray water (sink, shower, laundry) discharge into ditches and other outlets rather into the septic system is something that is often overlooked in rural areas.

Response: Gray water is included in the definition of sewage in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft.

Definition 61. Spill

Comment: Spills: These can become a big deal and there are so many misconceptions about what constitutes a reportable spill. For example, is leakage from a manure spreader going to be considered a spill? If the farm is a concentrated animal feeding operation (CAFO), the farmer can be reported but if the farm is not a CAFO but has a spill at an intersection near a stream, what would the protocol be? Also, since there is a lot of misconception about a reportable spill, should the reporting guidelines be specified either in the definitions or in III.6 for clarity? Ie, call in a report to DEC for anything that didn't land on pavement...

Response: The following paragraph was added to the Section IV. General Provisions in the Owasco Lake Watershed Rules and Regulation Proposed Revisions dated April 6, 2020:

“Any person who is responsible for any spill or other unplanned, unintended release of manure or commercial fertilizer during storage, transportation, or land application shall notify the Owasco Lake Watershed Inspection and Protection Division.”

Definition 67. Vegetated Buffer

Comment: Who decides what “suitable perennial vegetation” is?

Response: The Owasco Lake Watershed Inspection and Protection Division has the authority to determine what “suitable perennial vegetation” is. They will provide guidance such as the NRCS document “Plants for Riparian Buffers - NRCS – USDA” available at https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs144p2_043594.pdf.

Definition 68. Waiver

Note: All occurrences of “waiver” in the text in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 were changed to “variance” in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 so this definition has been removed.

Definition 69. Wastewater

Comment: Use the definition of wastewater from the MS4 Local Law for IDDE (illicit discharge detection and elimination) which is “Water that is not stormwater, is contaminated with pollutants and is or will be discarded.”

Response: The proposed definition of wastewater in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft is inclusive enough to address the concerns of the commenter.

Definition 73. WIP

Comment: Please provide some description of who composes the WIP program and who they report to. The Tompkins County Health Department would also like to know more about how and when we are notified/contacted of activity in Tompkins County.

Response: The WIP (Watershed Inspection Program) has changed to the Owasco Lake Watershed Inspection and Protection Division in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft and WIP was deleted. The Owasco Lake Watershed Inspection and Protection Division reports to the Watershed Inspection Committee which is comprised of elected officials from the City of Auburn, Town of Owasco, Cayuga County and a staff member from the City of Auburn, acting on behalf of their municipality. The standard operating procedures developed for the Owasco Lake Watershed Inspection and Protection Division outlines the notification process that includes coordination and communication with the local health department having jurisdiction.

New definitions to add:

Comment: Define Class AA waterbody.

Response: Class AA waterbody means a waterbody assigned a “best use” classification by the New York State Department of Environmental Conservation as drinking water.

Comment: Define top of the bank. Include the term “seawall” to be identified as top of bank where applicable.

Response: “Top of the bank” means the distinct break in the slope between a watercourse, roadside ditch, stormwater conveyance or surface inlet and the surrounding terrain. Where the top of the bank is not discernible along the watercourse, roadside ditch, stormwater conveyance or surface inlet, the top of the bank shall be considered the stage or elevation at which water is generally able to overflow the banks of the watercourse, roadside ditch, stormwater conveyance or surface inlet and enter the floodplain. Where a seawall is present along a watercourse it shall be considered the top of the bank.

Comment: Define effluent.

Response: Effluent means treated or untreated wastewater that flows out of a treatment plant, sewer, or industrial outfall. Generally refers to wastes discharged into surface waters. Effluent only refers to liquid discharge.

Comment: Add definition of “state of emergency”

Response: State of Emergency shall mean the duly proclaimed existence of a situation or imminent threat of wide spread or severe damage, injury or loss of life or property, resulting from a natural or man-made cause.

Comment: Define the following: enforcement, plan, violation, absorption area, absorption field, agency, agriculture, alteration, modification, approval, Town (Owasco), City (Auburn), County (Cayuga, Tompkins, Cortland, Onondaga), village, construction, contamination, professional engineer, discharge, erosion, facility, fertilizer, groundwater, hazardous waste, substance, system, landfill, industrial waste, medical waste, infiltration, floodplain, permit, intermittent, clearing, grading, culvert, multi family residence, new, owner, person, perennial, phosphorous, sediment, solid waste, stormwater, infiltration, subdivision, wastewater treatment facility, watercourse, enforcement, lake, rental property and setback.

Response: These words are found in the document. The commonly used words mentioned above have generally accepted meanings. Since they would not be defined any differently from the ways that they are normally understood, they are not defined in the text of the regulations.

Comment: Define the following: "point" pollution sources, "non-point" pollution sources; Illicit discharge; Graywater septic disposal, Health Department Hearing Procedure; Septic System Failure; access road; affiliate; variance (only issued by town & city); SEQR; interested agency; base flow; involved agency; best treatment technology; clear cutting; combined sewer system; coliform; degradation; design capacity; field drain tile; design point; land surveyor; disturbed area; drainage area; effective date; epilimnion; SWPPP; groundwater exfiltration; existing expansion; gasoline station; hamlet; hazardous lain; hypolimnion; impervious surface; individual residence; individual sewage treatment; junkyard; inflow; in situ soil; intake; stream; wetland; metalimnion; noncomplying; regulated activity; non point source pollution; one year, 5 year, 25 year 100 year storm; point source; renter; lessor; pathogenic; nitrate; photic zone; principal; redevelopment project; regulated activity; remediation; residential lot; turbidity; sewer lateral; sewer extension; sewer system; water system; small quantity generator; subsurface discharge; water quality volume; aquifer and open storage.

Response: These words are not found in the document, therefore they are not defined.

MISCELLANEOUS

Training/Education:

Comment: Much training at all levels including business, construction, agricultural, residential and other commercial and agencies (local and State) all aspects to keep the lake water healthy.

Comment: Would the Owasco Lake Watershed Rule and Regulations summary of significant provisions once finalized be distributed to realtors to dispense and review with any new home owner in the Owasco Lake Watershed?

Comment: How will communication to towns 'code enforcement offices and boards be handled? Any training?

Comment: My only concern is that a large population may not comply because of ignorance. A notice should be given to shore-line homeowners when this document is published along with a widespread press release. It would be fantastic if it were on a local news channel (if it has not been already) to ensure the public is "watershed-aware."

Comment: Could the rules/regs refer to a companion document that spells out the structure, who the Owasco Lake Watershed Inspection and Protection Division inspectors work for/report to, Owasco Lake Watershed Inspection and Protection Division terms, qualifications to serve on that committee, how appointments are made (from respective governing bodies?), and who is accountable to whom. The Structure language from this presentation is helpful to understand how these rules/regs will be implemented.

Response: The implementation of new public outreach, education, and communication initiatives will be conducted by the Owasco Lake Watershed Inspection and Protection Division.

Comment: What is the timeframe for towns/villages to amend zoning rules and regulations to incorporate the new Owasco Lake Watershed Rules and Regulations?

Response: There is no timeframe because there is no requirement for municipalities to amend their zoning rules and regulations.

Comment: Can the regulations be adopted on the condition that a financial review is completed?

Comment: A balance between cost and benefit needs to be created. The restrictions cannot be too great.

Comment: We need to create goals and review the cost/benefit.

Comment: How will the Towns pay for this? It would be good if you did an economic impact of this before we move forward.

Comment: Indirect cost impact, lack of clarity on specific anticipated measurable benefits.

Comment: Very little concrete figures for budget impacts and where money will come from to implement regulations.

Comment: Have you done an assessment of staff burden the new regulations will cause? Budgetary consideration-needs to be implementable.

Comment: Stress that additional regulations will have on SWCD.

Comment: The Program will become overwhelmed and not have enough resources to adequately review and enforce projects in addition to its on-going inspection and enforcement activities.

Response: The task of performing a quantitative cost-benefit analysis, economic impact analysis or staffing assessment is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations. In drafting of the regulations, the burdens that regulations place on those subject to them were carefully considered. Compliance with and enforcement of the regulations will incur some costs. However, the protection of the public health by preventing degradation of Owasco Lake and its watercourses is an overriding consideration. The costs of the regulations are far outweighed by the long term benefits of reducing harmful effects of pollution on the health of people who drink water from the Lake.

Comment: It does not appear that Onondaga and Tompkins Counties have been present at the Steering Committee or public meetings, yet they constitute a critical geographic region in the watershed. I am concerned with the lack of a coordinated effort by the Steering Committee to engage these two counties. From the beginning I have stressed that an open and 'inclusive process was paramount to the ability of the Steering Committee to develop an acceptable, sound plan capable of achieving good compliance. Communication and consensus about the rules among Cayuga, Onondaga, and Tompkins Counties are critical and I encourage the Steering Committee to take additional steps to engage all parties.

Response: The Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft was sent to the Tompkins and Onondaga County Health Departments' for their review. Tompkins County Health Department has commented on this draft. In addition, the Central New York Regional Planning and Development Board has commented on the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, 2019 draft. Representatives of Tompkins Soil and Water Conservation District attended public outreach meetings and the Agriculture stakeholder group meeting. Farmers from Onondaga County and Tompkins County participated in the Agriculture stakeholder group and attended public outreach meetings. Members of the Steering committee and staff presented at a joint meeting of the Tompkins County Water Resources Council and Cayuga Lake Intermunicipal Organization.

Comment: Nothing mentioned about Soil and Water involvement. Farmers need that agency to reflect or repair already best management practices (BMPs).

Response: The Cayuga County Soil and Water Conservation District was one of the stakeholders actively involved in the development of the draft rules and regulations.

Comment: Who shall we approach to advocate farmers retain tax exemptions on those lands used for watercourse buffering?

Comment: I think a huge step in the right direction may be advocating (statewide) future tax exemptions for farmers be contingent on having whole farm/nutrient management plans in place.

Comment: Having further considered the concept of working towards requiring farm plans for land-based tax exemptions, I think we would risk disenchanting the ag community that has demonstrated growing cooperation.

Response: The subject of tax exemptions is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: The county, cities and members are opening themselves up for lawsuits with these 5 year clauses as well. Forcing someone to make unnecessary changes (again, this assumes the current system works) which could affect property assessment values and hence taxes, as well as placing bets on technology that does not exist yet, gives individuals or a group of individuals the ability to open a lawsuit to stop some of your regulations because of undue costs, assumptions of unproven technology and any number of other reasons

Response: Establishing a date intended to provide a five-year time limit to meet certain requirements after the adoption of the new regulations is intended to avoid imposing undue hardship. References to enhanced phosphorus removal technology has been removed from Section V. SEWAGE, WASTEWATER, SLUDGE, SEPTIC SYSTEMS AND OTHER ONSITE WASTEWATER TREATMENT SYSTEMS, Paragraph 7 in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft. Science based criteria have been added to the section regarding requiring the modification of septic systems located less than 100 feet from the high water mark of Owasco Lake in the draft Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020. The use of these criteria will avoid unnecessarily requiring the modification of septic systems that are currently protective of water quality.

Comment: How will success be measured? Should goals be part of this?

Comment: Need to have measurable goals.

Comment: The rules/regs appear to lack a process for assessment and evaluation, is this covered elsewhere?

Comment: Need measurement to see if rules are working or not.

Comment: Benchmarking of the current status of the lake is needed.

Comment: Is there a bench mark quality test from 50 years from Owasco Lake to compare the change in quality? How far back to we have records?

Comment: Goals were never established so we have nothing to measure against. How will we know if these regulations will work?

Comment: There needs to be a process of evaluation built into this somehow. Do the regs go far enough? Are they enforceable? At what cost? Etc. Not sure if that's a companion piece or what.

Comment: Before the current rule and regulations are adopted, as a matter of the effectiveness of past enforcement, the last five years of inspection results and general conditions of the watershed during those five years should be presented to the public. There should be a

demonstration of how the new rules and regulations and subsequent enforcement will improve water quality.

Response: Goals, benchmarking, past enforcement activities and other measurements are important operational considerations but are beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: TMDL (total maximum daily load) is not mentioned.

Response: Owasco Lake does not have a TMDL plan.

Comment: The TMDL is the prescriptive means by which we must determine the origins of the pollution and to systematically remediate the watershed and lake. Would it not be beneficial to do an extensive study like a Phase I Environmental Site Assessment and on TMDL to have an overarching plan to protect the lake before adopting rules and regulations?

Response: The development of a TMDL plan or a Phase I Environmental Site Assessment is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations

Comment: Responsible Parties - The current draft is vague, maybe not the appropriate place to put this information but there should be some connection to something that outlines a mechanism for accountability to the public.

Comment: Responsible Parties. The current draft seems a little vague on this. Would it be beneficial to add information on the Owasco Lake Watershed Inspection and Protection Division structure to the rules & regs? Currently the regs don't appear to mention the Owasco Lake Watershed Management Council...The Structure language from this presentation is helpful to understand how these rules/regs will be implemented.

Comment: Visual structure of Owasco Lake Watershed Management Council/Owasco Lake Watershed Inspection and Protection Division Staff/ and the Health Department.

Response: These are operational (rather than regulatory) topics that will be described in informational materials made available by the Owasco Lake Watershed Inspection and Protection Division.

Comment: Where are the monuments to determine elevations? Will County pay for a monument on the east side? Have to shoot a line from the west side?

Response: Comment relates to a technical detail that is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Several sources nutrient and sediments. Do we know % septic, % fields, % construction, % wastewater treatment plant? Tackle on % of contribution.

Response: Determining the percentage of contribution from sources is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Knowing the science behind the regulations would be helpful. Footnotes.

Comment: Foot note or references behind data-when was scientifically supported.

Comment: A document reference section should be included

Comment: Provide the list of reference material utilized by the committee to develop these new Watershed Rules and Regulations for Owasco Lake.

Response: Scientific criteria, accepted standards and best practices were researched during the development of the revised rules and regulations. Requests for information on the basis of any specific provision may be made to the Owasco Lake Watershed Inspection and Protection Division.

Comment: How much of the regulations is from the Chesapeake Bay information?

Response: Information and guidance from a wide variety of sources including standard acceptable practices has been used to draft the revised Owasco Lake Watershed Rules and Regulations. A report on the specific items that may have been derived from the Chesapeake Bay information is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Dredging must be done.

Response: Dredging Owasco Lake is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Don't see anything about inspecting boats and protecting lake from invasive species.

Comment: Lacking in addressing invasive species- hydrilla, etc.

Comment: Invasive species should be controlled/eliminated and fines/penalties listed in the rules especially boats brought to the lake at the marinas

Response: The prevention of the spread of aquatic invasive species into the waters located within Cayuga County is already covered under Cayuga County Local Law No. 6 for the Year 2013: A Local Law to Prevent the Spread of Aquatic Invasive Species

Comment: Does not address fracking. Fracking should not be allowed in the watershed.

Comment: Fracking must be addressed in the rules. No fracking within the watershed nor within 3 miles of the watershed

Response: New York State regulates gas drilling activities and has banned the use of fracking for extracting gas from tight shales such as the Marcellus shale and Utica shale that underlie parts of the Owasco Lake Watershed.

Comment: Owasco Lake Watershed Inspection and Protection Division should be an involved agency in SEQR for any projects in the watershed.

Comment: The City of Auburn and Town of Owasco must be interested and involved agencies on all SEQR Applications in the watershed

Comment: Are Environmental Impact Studies conducted in all sections of the watershed, if not, why not?

Response: State regulations specify the circumstances under which environmental assessments are required under the New State Environmental Quality Review Act (SEQR) and the process for establishing interested and involved agencies. The proposed revised Owasco Lake Rules and Regulations requires notice of applications of permits or approvals relating to specific activities that could impact water quality to the Owasco Lake Watershed Inspection and Protection Division. Oversight of the Owasco Lake Watershed Inspection and Protection Division is provided by the Watershed Inspection Committee which is comprised of elected officials from the City of Auburn, Town of Owasco, Cayuga County and a staff member from the City of Auburn, acting on behalf of their municipalities.

Comment: Can't wait five years for nutrient control (paraphrase).

Comment: 5 years is too long on some of this especially since it will take a while to finalize the regs. I would prefer to see three, even four; prioritize implementation, be aggressive in pursuing funds to make it happen and start that process now

Comment: Five year sunset clause. Suggest it should not be in the Watershed Rules and Regulations. Work with inspection program on a variance or waiver instead.

Response: Establishing a date intended to provide a five-year time limit to meet certain requirements after the adoption of the new regulations is intended to avoid imposing undue hardship.

Comment: Mandating vernal pools and a percentage of farm in forest.

Response: Mandating vernal pools and a percentage of farm in forest would be overly burdensome.

Comment: We need solid rules, solid monitoring and solid enforcement to stop the disintegration and start the rehabilitation process. I don't see these regulations doing that.

Response: The revisions to the Owasco Lake Watershed Rules and Regulations are intended to protect and improve water quality.

Comment: Skaneateles property is \$10000/ linear ft, Owasco is \$1000/ft.

Response: Comment's relation to the Owasco Lake Watershed Rules and Regulations update is unclear.

Comment: Do people involved with this process have technical expertise?

Response: Yes. Persons with expertise in fields relevant to the project were involved throughout the process.

Comment: The lake is relatively clean compared to other water sources.

Response: The protection of Owasco Lake through the Owasco Lake Watershed Rules and Regulations Proposed Revisions will help maintain its water quality and use as a drinking water source.

Comment: Our lake is clean compared to the Susquehanna River which is used for drinking water. What is the added costs if you had to treat the water from a river versus a lake?

Response: Determining the added costs of treating water from a river versus a lake is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: What is the priority, water treatment costs or protecting water quality?

Response: The priority of the Owasco Lake Watershed Rules and Regulations is to protect the source of the public water supply of the City of Auburn and Town of Owasco.

Comment: Wetlands, federal and state (has existing 100' setback) wetlands should be defined and all setbacks applicable to them

Comment: Floodplains should be addressed with setbacks

Comment: Floodways should be addressed with setbacks

Response: Any wetlands, floodplains, and floodways within the watershed boundaries are protected by the Owasco Lake Watershed Rules and Regulations.

Comment: The watershed boundary should be reviewed (increased) to include wetlands, flood plains, floodways and groundwater.

Response: The boundary of the watershed is determined by topography.

Comment: The Buhl landfill must be retested, it is leaching into the ground & surface waters. Should be a watershed violation. Downgradient monitoring is required.

Response: There is nothing in the draft Owasco Lake Watershed Rules and Regulations that prevents the Owasco Lake Watershed Inspection and Protection Division from making regular and thorough inspections of the landfill.

Comment: Cemeteries shall be operated with an approved plan to prevent pollution of ground or surface water.

Comment: Cemeteries must have groundwater monitoring

Response: The pollution of ground and surface water by cemeteries has not been identified as an issue of concern in the Owasco Watershed. There is nothing in the draft rules that prevents the Owasco Lake Watershed Inspection and Protection Division from making regular and thorough inspections of cemeteries.

Comment: Geotechnical data must be reviewed for any and all actions within or within 3 miles of the watershed to a depth of 30’.

Response: This suggestion would be overly burdensome to the property owners and provide little water quality benefit.

Comment: The depth of the lake and impacts ground water must be reviewed. No one knows the depth except from 1903.

Response: Determining the depth of Owasco Lake and groundwater impacts is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: The Town and City water intakes should be marked and a no boat zone established

Response: From a security standpoint, marking the public water intakes increases the vulnerability of the community to an intentional water disruption.

Comment: The lake height should be regulated to discharge water to “flush” out algae in the August/September time frame.

Comment: The city flushes too much water out in the spring which is inefficient for hydropower and leaves no water for flushing in August and September.

Response: Lake level regulation is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Sucker Brook/Van Ness Brook must have nutrient removal and settling basins. They are less than a mile from the intakes.

Response: Installing nutrient removal and settling basins is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: The Owasco Flats project is meaningless at 4000 cubic feet per second of flood flow. Each of the tributaries should have flood protection. It is 10 miles from the intakes.

Response: Installing flood protection is beyond the scope of the project to revise the Owasco Lake Watershed Rules and Regulations.

Comment: Inspection of all facilities within the watershed shall take place annually

Response: Operational issues should not be included in the regulations but may be included in the standard operating procedures of the Owasco Lake Watershed Inspection and Protection Division.

Comment: No chlorinated water from swimming pools should be discharged

Response: Identification of discharge of pollution such as chlorinated water from swimming pools would prompt action by the Watershed Inspection and Protection Division.

Comment: Gravel beds must have surface runoff prevention

Response: In the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated March 1, soil disturbing activities over 5000 square feet, which would include the creation of commercial gravel beds, require the implementation and maintenance of soil and erosion mitigation measures which will address this concern.

Comment: Why are there no protection zones for high risk areas in the Owasco Lake watershed?

Response: All areas of the Owasco Lake Watershed are considered equally high risk in the Owasco Lake Watershed Rules and Regulations Proposed Revisions and all areas can be inspected by the Owasco Lake Watershed Inspection and Protection Division.

Comment: Why are point and non-point [not] addressed or defined in these rules and regulations as they are in the Skaneateles Rules and Regulations?

Response: Section IV. General Provisions, Paragraph #1 has been revised as follows in the Owasco Lake Watershed Rules and Regulations Proposed Revisions dated April 6, 2020 draft:

“No person or corporation shall allow any *pollutant* of any kind to be *discharged*, deposited, or otherwise transported into Owasco Lake, a *watercourse*, or *stormwater conveyance* such as a roadside ditch.”

“Any pollutant of any kind” would include both point and non-point pollution.

Comment: Address, email, phone of City and Town should be in the rules

Response: Operational details should not be included in the regulations but may be included in the standard operating procedures of the Watershed Inspection and Protection Division and education wording.