

Schedule 'A'

Background for Part IV Enforcement Agreement between
Municipalities and Conservation Authorities &
Communications Protocol

1.0 Background

Under the *Clean Water Act* a municipality may transfer its enforcement authority to another body such as a "Source Protection Authority" (which is a Conservation Authority serving in its legislated role under the *Clean Water Act*). The Conservation Authority (in its capacity as a Source Protection Authority) perform the duties and enforcement responsibilities of Part IV of the *Clean Water Act* on behalf of the Municipality on all lands located in the Municipality.

1.1 Part IV Policies

The Mississippi-Rideau Source Protection Plan must address "significant drinking water threat" activities as defined under the *Clean Water Act*. Among other types of policies, the Source Protection Plan contains policies that:

- **prohibit** some drinking water threat activities under Part IV, Section 57 of the *Clean Water Act* (note that no existing activities are prohibited);
- **manage** certain other drinking water threat activities through Risk Management Plans under Part IV, Section 58 of the *Clean Water Act*; and
- **require a notice** from a Risk Management Official under Part IV, Section 59 of the *Clean Water Act* (before Planning or Building applications may proceed within certain vulnerable drinking water areas).

These sections of the Act appear in Part IV: *Regulation of Drinking Water Threats*. Under Part IV, any single, upper or lower tier municipality that has the authority to pass by-laws under the *Municipal Act* for the production, treatment and storage of water is the enforcement authority. This means that the municipality is the enforcement authority for these policies on lands within its municipal boundaries even if it does not have or operate the drinking water system.

The Conservation Authority provides the Part IV enforcement service at minimal cost to municipalities. The liability and risk associated with delivery of the program is assumed by the Conservation Authority and assured by employing competent, qualified staff with extensive experience with resource protection and a thorough understanding of the *Clean Water Act* and the Mississippi-Rideau Source Protection Plan and maintaining adequate liability insurance coverage. The Conservation Authority is committed to providing this service in a responsive, knowledgeable and courteous manner.

2.0 Details

2.1 Part IV Enforcement Responsibilities

The Part IV Enforcement Authority is responsible for appointing appropriately trained Risk Management Official(s) / Inspector(s), setting up, and maintaining all logistical and procedural aspects (such as administrative and communication materials, fee schedule, inspection procedures and information management system). The Risk Management Official and Inspector implement the policies which involves issuing notices, negotiating Risk Management Plans, reviewing Risk Assessments and exercising various powers under the *Clean Water Act* to deal with non-compliance / enforcement issues. There are also prescribed requirements for record keeping, an annual report to the MOECC and the possibility of Environmental Review Tribunal proceedings.

Table 1 summarizes these responsibilities.

2.2 Tasks and Cost Recovery

Continue to provide the service which will involve the following tasks:

1. Complete Risk Management Plans and review of Risk Assessments for existing drinking water threats.
2. Review planning and building applications and issue clearance notices on an as needed basis.
3. Negotiate Risk Management Plans and review Risk Assessments for new proposed drinking water threat activities on an as needed basis.
4. Conduct compliance and tribunal related activities on an as needed basis.
5. Prepare and submit annual reporting to the MOECC.

Ongoing Cost Recovery – MUNICIPALITY TO PAY ANY EXTRAORDINARY COSTS

Addressing new (future) proposed drinking water threats – user fees

Extraordinary costs – municipalities to cover the cost of occasional, non-routine enforcement related work such as issuing warrants and attending tribunal hearings (Conservation Authority will consult with the municipality prior to these expenditures)

Annual reporting – Conservation Authority (as part of overall source protection reporting, for policies not related to Part IV)

Table 1

Part IV Enforcement Responsibilities

| Responsibility | Clean Water Act Pt. IV Reference | Associated Tasks | Explanation |
|--|-------------------------------------|--|--|
| General program needs | Sections 47 and 55 | <ul style="list-style-type: none"> • Monitor staffing needs, select and send staff for MOECC training • Appoint Risk Management Officials (RMO) and Inspectors (RMI) and issue certificates as needed • Fee schedule under Section 55 • Prepare administrative material (forms, inspection checklists, standard notices, etc.) • Maintain application screening protocol with municipal Planning / Building departments | Maintaining a regulatory program requires some decision making, effort, and ongoing maintenance. |
| Review applications and issue notices | Sections 57 and 59 | <ul style="list-style-type: none"> • RMO reviews planning or building applications sent to him/her by municipal staff • RMO issues a notice under Section 59 if the application may proceed • RMO does not issue a Section 59 notice if the proposal involves an activity that is prohibited under Section 57 | The Section 59 policy helps municipalities avoid inadvertently approving an application without complying with source protection policies first. The policy allows for municipal staff to "screen out" simple applications that clearly do not involve a drinking water threat activity. An application screening procedure is agreed on with municipal staff and can be modified at any time. |
| Risk Management Plans | Section 58 | <ul style="list-style-type: none"> • RMO / RMI negotiates Risk Management Plans | A Risk Management Plan is a document that outlines the actions required to address an activity that has the potential to contaminate drinking water. It is a customized, site-specific plan developed in consultation with the person engaging in the activity. |
| Risk Assessments | Section 60 | <ul style="list-style-type: none"> • RMO reviews and, if appropriate, accepts Risk Assessments | A person whose activities are affected by Part IV policies has the option to prepare and submit a Risk Assessment concluding that the activity is not a significant drinking water threat. |
| Compliance activities Tribunal | Sections 61-80 | <ul style="list-style-type: none"> • RMO / RMI may exercise various powers and follow various procedures related to compliance with Part IV policies • RMO will notify the affected person of their right of appeal to the Environmental Review Tribunal • RMO/RMI will prepare documentation and attend Environmental Review Tribunal hearings | The RMO and RMI have various powers and options related to compliance. Affected people have Environmental Review Tribunal rights. |
| Record keeping Reporting | Sections 53, 54, 81 | <ul style="list-style-type: none"> • RMO maintains records and files annual reports to the MOECC. | There are Part IV record keeping and reporting requirements in the <i>Clean Water Act</i> |

2.3 Implications for Municipal Staff / Application Screening Procedure

Municipal staff have an important role in the implementation of Part IV policies, specifically to ensure that applications under the *Planning Act* or *Building Code Act* within certain vulnerable drinking water areas do not proceed without first ensuring that source protection requirements are met (including a Section 59 notice from the Risk Management Official in some cases).

The wording of the Section 59 policy allows for municipal staff to use their discretion to **screen out** applications that clearly do not involve a drinking water threat activity so that in many cases a referral to the Risk Management Official for a Section 59 notice will not be needed. Alternatively, the municipality may choose to refer all planning and building applications in the vulnerable drinking water areas to the Risk Management Official as a standard practice.

The agreed upon screening procedure should reflect the needs, wishes and comfort level of the municipal staff and can be flexible to ensure that applications are dealt with efficiently, effectively and fairly.

2.4 Anticipated Workload

Over time, there may be some additional work created by re-negotiating Risk Management Plans due to change of property ownership. This is because Risk Management Plans are not transferable between owners; they must be negotiated between the Risk Management Official and the person engaging in the drinking water threat activity. Some additional work may also be created as a result of verification activities.

The number of future proposed drinking water threat activities subject to Part IV policies is anticipated to be low. This is because the areas with the highest vulnerability scores where the majority of the Part IV policies apply are small and/or are in areas where land use changes are infrequent and/or development pressure is low.

2.5 Customer Service

The Conservation Authority will endeavor to make the process of complying with Part IV policies straight-forward, non-threatening and fair. Specifically, affected people are provided with:

- Communication material that simply and clearly outlines their rights and responsibilities under the *Clean Water Act*
- A clear explanation of the process and options including information on various risk mitigation measures, project alternatives and funding programs (if any)
- Advice and discussion opportunity provided on-site as required
- Prompt, courteous and knowledgeable service
- No permit fee for Risk Management Plans for existing activities

The Conservation Authority will provide over the counter, drop-in service for people affected by Part IV policies. Communication material and forms will be made available at the Conservation Authority office, on the source water protection website as well as from the Risk Management Inspector during site visits.

2.6 Information Management

The Conservation Authority will maintain records containing information on the review of Planning and Building applications, inspections, approvals, violations and enforcement activities. This information will be made available to the public (when required by legislation to do so) and to the municipality upon request.

If desired by the municipality, links could be created over time between the Part IV enforcement files and the municipality's permit / approvals record system. The Conservation Authority will endeavor to meet the municipality's specific needs in terms of data attributes and formats.

3.0 Communications Protocol

3.1 Direct Notification

- a) The Authorities shall provide notice and communications to the Municipality regarding the administration and enforcement of Part IV of the Act for the following matters, in the following form and within the following timelines:

| | Class/Type of Matter | Form | Timeline |
|-----|--|-------|---|
| i | <u>RISK MANAGEMENT PLAN TO BE DEVELOPED/AMENDED</u> – existing or future activity requires a risk management plan and one is to be developed and/or amended | Email | Within 10 days of requirement for a Risk Management Plan/Amendment being identified and 10 days preceding its approval |
| ii | <u>EXISTING ACTIVITY</u> : Notice that a Risk Management Plan is in place (or is not needed due to a Risk Assessment that has been accepted by the Risk Management Official or a Prescribed Instrument that already regulates the activity) | Email | 10 days from date Risk Management Plan is completed or deemed unnecessary |
| iii | <u>FUTURE ACTIVITY</u> : Section 59 notice: (a) Planning or building application may proceed – Notice will indicate if: a. Activity is not prohibited and does not require a Risk Management Plan; or b. Activity requires a Risk Management Plan and the Plan is in place (b) Notification that Section 59 notice cannot be issued – planning or building application cannot proceed (because activity is prohibited) | Email | When issued |

- b) The content of notices shall be in compliance with the *Clean Water Act* and regulations and mutually agreed upon by the Authorities and the Municipality.
- c) Notices shall be provided in the form indicated, unless otherwise requested by the Municipality.

3.2 Third Party Municipal Notification

- a) The Authorities shall provide a copy of the notification related to the items above, within the same timeline, to third party municipalities as follows:

| Notice related to: | Located Within: | A copy will be provided to: |
|------------------------|---------------------------|---------------------------------|
| Drummond North Elmsley | Perth IPZ | Town of Perth |
| | Smiths Falls IPZ | Town of Smiths Falls |
| Montague | Smiths Falls IPZ | Town of Smiths Falls |
| | Merrickville-Wolford WHPA | Village of Merrickville-Wolford |
| Tay Valley | Perth IPZ | Town of Perth |
| Rideau Lakes | Smiths Falls IPZ | Town of Smiths Falls |
| | Westport WHPA | Village of Westport |
| Beckwith | Carleton Place IPZ | Town of Carleton Place |
| Mississippi Mills | Carleton Place IPZ | Town of Carleton Place |
| Smiths Falls | Merrickville-Wolford WHPA | Village of Merrickville-Wolford |

3.3 Enforcement Consultation

- a) Before the following enforcement actions are undertaken by the Authorities, the Authorities shall contact the designated Municipal staff person, by telephone to explain the purpose, process and possible cost of the action.
- b) Applicable enforcement actions:
- Order under section 58 establishing or amending a Risk Management Plan
 - Orders under Section 61 (to provide a report on activity), 63 (enforcement order), 67 (order to pay) or 80 (order to permit access)
 - Notice requiring hearing by Tribunal (served by a person who has received an order listed in i) or ii) above)
 - Prosecution for an offence under Part IV

3.4 Municipal Contacts

- a) A list of contacts shall be maintained for each Municipality to provide notification as indicated above, with the Municipality being responsible to ensure updates and/or changes to the contact information is provided to the Authorities without delay.