

Kettle Creek Source Protection Area

Part IV Primer

This document presents answers to commonly asked questions regarding source protection, and the Kettle Creek Source Protection Plan (KCSPP). For additional resources, or a digital copy of the KCSPP, Assessment Report, and/or Explanatory Document please visit www.sourcewater.ca. A hard copy of these documents can also be viewed at the Kettle Creek Conservation Authority Administrative Centre.

What is the *Clean Water Act*, 2006?

The *Clean Water Act*, 2006 is in place to protect existing and future sources of municipal drinking water. The *Clean Water Act*, 2006 is a commitment from the Ontario government to ensure the sustainability of clean, safe drinking water for everyone obtaining drinking water from municipal systems in Ontario, and to implement the recommendations made following the Walkerton Inquiry in 2002.

What are the prescribed drinking water threats?

Section 1.1 of Ontario Regulation 287/07, made under the *Clean Water Act*, 2006 identifies the following activities as prescribed drinking water threats:

- The establishment, operation or maintenance of a waste disposal site within the meaning of Part V of the *Environmental Protection Act*.
- The establishment, operation or maintenance of a system that collects, stores, transmits, treats, or disposes of sewage.
- The application of agricultural source material to land.
- The storage of agricultural source material.
- The management of agricultural source material.
- The application of non-agricultural source material to land.
- The handling and storage of non-agricultural source material.
- The application of commercial fertilizer to land.
- The handling and storage of commercial fertilizer.
- The application of pesticide to land.
- The handling and storage of pesticide.
- The application of road salt.
- The handling and storage of road salt.
- The storage of snow.
- The handling and storage of fuel.
- The handling and storage of dense non-aqueous phase liquid.
- The handling and storage of an organic solvent.
- The management of runoff that contains chemicals used in the de-icing of aircraft.

- The use of land as livestock grazing or pasturing land, an outdoor confinement area or a farm-animal yard.

What is Part IV of the *Clean Water Act*, 2006?

Part IV of the *Clean Water Act*, 2006 provides municipalities with new tools to regulate existing and future activities that are or could be significant drinking water threats. These tools include: prohibition, risk management plans, and restricted land uses.

What is prohibition?

Under Section 57 of the *Clean Water Act*, 2006, prohibition is intended to ensure that certain activities never become established in areas where there would be significant drinking water threats. Prohibition is used for activities that cannot be addressed through land use planning or any other management option. In the Kettle Creek Source Protection Area, prohibition only applies to future activities.

What is a risk management plan?

Under Section 58 of the *Clean Water Act*, 2006, risk management plans are intended to manage existing and future significant drinking water threats through best management practices. A risk management plan is an agreement about how to conduct an activity on a specific property in order to minimize the risk to a drinking water source.

How will I know if I require a risk management plan on my property?

If an activity on your property requires a risk management plan, the Risk Management Official (RMO) will be in contact with you to arrange a site visit and negotiate the risk management plan. You may also refer to resources on the www.sourcewater.ca website.

How is a risk management plan negotiated?

A risk management plan is negotiated between the RMO and the person responsible for the activity. The risk management plan will recognize good practices already in place and, if necessary, include other practices to fill gaps in management in order to minimize the risks posed to the drinking water supply.

Once the RMO and the person responsible for the activity have agreed to the risk management plan, the RMO will provide a written notice to the person and attach a copy of the plan to the notice.

What is a restricted land use?

Under Section 59 of the *Clean Water Act*, 2006, this tool is used to flag specific proposed land uses in a given area that are or may be associated with the activities that are prohibited under section 57 or that require a risk management plan under section 58 of the *Clean Water Act*, 2006. The purpose of Section 59 is ultimately to ensure that proposal approvals are not issued until the RMO has the opportunity to determine if an activity complies with Section 57 and 58 policy.

How is a restricted land use flagged?

When a proponent submits an application for a planning approval or building permit, municipal staff will

review the proposal to determine if the activity will take place in a vulnerable area, and whether Part IV applies to the activity. Screening materials include the interactive maps and restricted land use information sheets, which are available on the www.sourcewater.ca website.

What happens after a restricted land use is flagged?

Once a restricted land use is flagged the RMO will work with the land owner to cease an activity if possible. If it is not possible, a risk management plan must be completed. Once completed, the risk management plan must be approved by the RMO and re-evaluated annually.

What is a risk assessment?

When an activity falls under Section 57 (prohibition) or Section 58 (risk management plans) of the *Clean Water Act, 2006*, individuals have the option of preparing a risk assessment under Section 60 of the *Clean Water Act, 2006*. A risk assessment is meant to determine whether or not the assumptions that were made in the assessment report for vulnerable areas were accurate for a specific site where an activity is occurring. A risk assessment does not determine if an activity is a significant drinking water threat in a vulnerable area, it is verifying if a vulnerability score for an entire vulnerable area is applicable to a specific parcel of land.

Where does Part IV apply?

Part IV of the *Clean Water Act, 2006* applies to portions of these two vulnerable areas:

- Belmont Wellhead Protection Area – Village of Belmont
 - Port Stanley Intake Protection Zone – Village of Port Stanley
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What Part IV policies apply in my municipality?

There are different Part IV policies that apply within the Belmont Wellhead Protection Area and the Port Stanley Intake Protection Zone.

What Part IV policies apply within the Belmont Wellhead Protection Area?

Within the Belmont Wellhead Protection Area (WHPA), specifically WHPA-A/B/C, the handling and storage of dense non-aqueous phase liquids (DNAPLs) are prohibited. In addition, the following activities are also prohibited within WHPA-A:

- The application of agricultural source material to land.
- The storage of agricultural source material.
- The application of non-agricultural source material to land.
- The handling and storage of non-agricultural source material.
- The handling and storage of commercial fertilizer.
- The application of pesticide to land.
- The handling and storage of pesticide.
- The handling and storage of road salt.
- The storage of snow.
- The handling and storage of fuel.
- The handling and storage of an organic solvent.

- The use of land as livestock grazing or pasturing land, an outdoor confinement area of a farm-animal yard.
- The establishment, operation or maintenance of a waste disposal site within the meaning of Part V of the *Environmental Protection Act* when a *Prescribed Instrument* is not required.

What Part IV policies apply within the Port Stanley Intake Protection Zone?

Within the Port Stanley Intake Protection Zone (IPZ) the future handling and storage of commercial fertilizer greater than 5,000 cubic metres and the handling and storage of fuel greater than 6,000 litres are prohibited. For existing storage and handling of commercial fertilizer and fuel within the IPZ – at a minimum, the risk management plans must recognize, to the satisfaction of the RMO, the following:

- Site drainage;
- Procedures and policies for handling and storage;
- Regular inspection of storage tanks;
- Reporting protocols;
- Containment contingencies for failures; and
- Any other terms deemed necessary.

Who is responsible for implementing Part IV of the *Clean Water Act, 2006*?

Part IV policies are the responsibility of the municipality where the policies apply. Under the *Clean Water Act, 2006*, municipalities can retain their responsibility or transfer it to another body such as the source protection authority. Within the Kettle Creek Source Protection Area there are only two municipal drinking water systems; both fall within the boundaries of the Municipality of Central Elgin. Central Elgin has chosen to retain the responsibility of applying Part IV policies.

It is necessary for the body that has Part IV enforcement responsibility to establish a risk management office. Implementation and enforcement of Part IV of the *Clean Water Act, 2006* is the responsibility of the RMO and the Risk Management Inspector (RMI), who have completed the required provincial training. The RMO is responsible for administering Part IV, while the RMI ensures compliance with Part IV policies.

What are the responsibilities of the Risk Management Official?

The RMO is the administrator of Part IV policies. The RMO is responsible for ensuring that risk management plans are in place as per the source protection plan. They must also issue notices and letters to support restricted land use policies. If a risk assessment is submitted to the RMO, they must consider acceptance of this assessment. The RMO must prepare an annual report for the source protection authority about Part IV implementation.

To support their responsibilities, the RMO can issue orders to require a disclosure report to understand a complex operation, or cause work to be done to support an enforcement order issued by the RMI.

What are the responsibilities of the Risk Management Inspector?

The RMI ensures compliance with Part IV policies. This is accomplished by performing inspections and, when necessary, by issuing orders to achieve compliance.

Who is the Risk Management Official/Inspector for your area?

The Municipality of Central Elgin provides the risk management services for municipalities with drinking water systems in the Kettle Creek watershed. The RMO/RMI are fully certified and carry provincial identification.

The current RMI is Leon Bach, who can be reached at (519) 631-4860 extension 274. The RMO/RMI is Lloyd Perrin, who can be reached at (519) 631-4860 extension 277.

How are Part IV policies enforced?

Once the RMO has established a risk management plan or issued a notice stating that a proposed activity is prohibited, the RMI carries out inspections to ensure that activities in vulnerable areas are in compliance with Part IV policies.

If a person is not in compliance with Part IV policies, the RMO can issue orders to cease and desist engaging in an activity to comply with a prohibition, or to set out directions to achieve compliance with a risk management plan.

What is an offence under Part IV of the *Clean Water Act*, 2006?

Under the *Clean Water Act*, 2006, Part IV offences include:

- Failure to comply with Section 57 prohibitions;
- Failure to comply with Section 58(1) risk management plan requirements;
- Failure to comply with a Section 63 enforcement order;
- Failure to comply with a RMO order to provide a report under Section 61; and
- Obstruction or submission of false information under Sections 90 and 91.

If a person commits an offence under Part IV of the *Clean Water Act*, 2006 the RMI is responsible for prosecuting the offence under the *Provincial Offences Act*, 1990.

Is there an appeal process available to a person affected by Part IV policies?

Yes, a person may appeal orders from the RMO within 60 days of receiving them by requesting a hearing before the Environmental Review Tribunal (ERT). A person requesting a hearing before the ERT must state in their notice the grounds of their appeal. The ERT may confirm, alter, or revoke the RMO's decision. Once the ERT has made a decision, it cannot be appealed.

Where can I find out more about Part IV policies?

For more information about the KCSPP and the Part IV policies, please visit www.sourcewater.ca or contact Lloyd Perrin, the current RMO, at the Municipality of Central Elgin by phone (519) 631-4860 extension 277.