

Protected Water Area Regulations Enforcement

Fact Sheet for Municipal Water Utilities

March 2015

What is a Protected Water Area?

A Protected Water Area (PWA) is an area surrounding a drinking water source that has been designated under the *Environment Act* by the Minister of Environment at the request of the water utility. A PWA Designation is one management option available to water utilities to manage risks in the source water area. Designation uses a regulatory approach to prohibit or restrict activities that are a risk to the water supply. PWA regulations are specific to the area designated.

What are the steps to having an area designated?

There are a number of steps involved for a water utility to designate a PWA. These include defining the area to be designated, developing regulations, and holding public consultations.

Nova Scotia Environment (NSE) has developed a guidance document that outlines the steps required in designating a PWA:

<http://www.novascotia.ca/nse/water/protectedwaterarea.asp>.

Who is responsible for enforcing PWA regulations?

Under Section 106 of the *Environment Act*, the enforcement of the regulations for a designated PWA is the responsibility of the municipal water utility.

Section 106 Environment Act, Subsection 3

The operator of a water works or proposed water works is responsible for taking all measures to protect the area designated, and the enforcement of any regulations made pursuant to subsection (6).

The water utility should seek their own legal advice on how to set up their enforcement program.

What options are available to enforce PWA regulations?

Under Section 158(hb) of the *Environment Act*, it is an offence to contravene a regulation made pursuant to subsection 106(6).

There are two options available for laying a charge before Provincial Court: the issuance of a Summary Offence Ticket (SOT) and the laying of a charge via the Long Form Information process.

The SOT process is a simplified version of the Long Form Information process which allows for the alleged offender to settle out of court by pleading guilty and paying a fine at any court office in the province. The SOT fine amount for violating 158(hb) is approximately \$700 and is set out in Schedule 9 of the Summary Offence Ticket Regulations

The Long Form Information process can be initiated by a municipality for a violation of any of the PWA's regulations. This process legally requires a defendant to appear before the Provincial Court. The Crown may seek fines of up to one million dollars or court orders as identified in section 166 of the *Environment Act*.

The water utility should seek their own legal advice on the options available to them through the Long Form Information process.

Who is qualified to enforce PWA regulations?

In order to enforce violations of the PWA regulations in Provincial Court, the water utility must apply to NSE for the appointment of an employee as:

- 1) a 'Special Constable' through provisions in the *Police Act*; and
- 2) an 'Inspector' under the *Environment Act*.

How does the water utility apply to appoint someone to these positions?

For more information on how to become appointed as a Special Constable and Inspector, the water utility should contact the Regional Compliance and Inspection Coordinator at the local office of NSE's Compliance Division.

The employer of a person that is applying to be appointed as a Special Constable and Inspector for the purpose of enforcing the PWA

regulations must enter into a Memorandum of Understanding (MOU) with NSE.

The employee(s) will be required to undergo an interview and criminal record check and may be required to take additional enforcement training before being appointed.

If someone has already been appointed a Special Constable, are they able to enforce the PWA regulations?

If someone has already been appointed a Special Constable, the original application will have to be reviewed to determine whether the PWA regulations were included. If not, the Special Constable will have to apply to have their appointment amended to include the name of the PWA regulations they are responsible for enforcing, and also apply to be appointed as an Inspector under the *Environment Act*.

For more information contact:

Nova Scotia Environment
www.novascotia.ca/nse

Drinking Water and Water Resources Unit
www.novascotia.ca/nse/water
(902) 424-5300

Compliance Division
<http://novascotia.ca/nse/dept/division.compliance.asp>
1-877-936-8476

