

PROTECTING DRINKING WATER: THE LEGISLATIVE CONTEXT

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The provincial framework for protecting drinking water in Ontario is evolving from the decades-old *Ontario Water Resources Act* to more specialized laws such as the *Safe Drinking Water Act* and the forthcoming source protection regime.

It should be noted, however, that Ontario's environmental legislation – such as the *Environmental Protection Act*, *Environmental Assessment Act*, and *Pesticides Act* – will continue to play an important role in addressing potential sources of water pollution. Other provincial statutes – such as the *Conservation Authorities Act*, *Health Promotion and Protection Act*, *Planning Act*, and *Municipal Act* – also provide legal tools that may be used to protect drinking water quality and quantity. In addition to the above-noted legislation, Ontario has recently passed two statutes that are relevant to protecting drinking water: the *Sustainable Water and Sewage Systems Act*, and the *Nutrient Management Act*.

In summary, the *Sustainable Water and Sewage Systems Act*:

- was passed in December 2002, but has not yet been proclaimed in force;
- requires municipalities to prepare and submit audited reports on the full cost of their water services (e.g. source protection, capital and operating costs);
- requires municipalities to prepare and submit audited cost recovery plans for their water services; and
- will be administered by the Ministry of the Environment (“MOE”).

In summary, the *Nutrient Management Act*:

- was passed in June 2002, but has not yet been proclaimed in force;
- authorizes the passage of regulations regarding farm animals, nutrient management plans and strategies, restrictions on land application of nutrients, construction standards, and minimum separation distances from municipal wells and surface water; and
- specifies that regulations under the Act supersede municipal by-laws which address the same subject-matter.

In March 2003, the Ontario government announced that it was taking a “new direction” under the Act, and that certain regulations would begin to apply to new or expanded “large” livestock farms (e.g. more than 300 nutrient units) on July 1, 2003. Existing “large” livestock farms are to be covered by the regulations in July 2005. Other classes of agricultural operations may not be covered until 2008 at the earliest, depending upon future recommendations from a provincial advisory committee, and upon the future availability of cost-shared funding. A protocol is being developed to facilitate joint administration of the Act by the MOE (investigation/enforcement) and the Ontario Ministry of Agriculture, Food and Rural Affairs (monitoring/assistance).