

Fact Sheet: What is the provincial legal structure around water in Ontario?

There are three bodies that regulate Ontario's water supply: the Ontario Ministry of the Environment, the Ontario Ministry of Natural Resources, and the federal government. This factsheet deals with provincial legislation that protects drinking water in Ontario.

| Acts that regulate water directly – administered by Ontario's MOE | |
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| <u>Ontario Water Resources Act (1990)</u> | <p>The Ontario Water Resources Act is the most important law governing water quality and quantity in the province. It is a general water management statute whose origins date back to the 1950s. It applies to both groundwater and surface water.</p> <p>Administered by the Ministry of the Environment, the Ontario Water Resources Act contains a number of important mechanisms that protect water resources.</p> <p>The Ontario Water Resources Act:</p> <ul style="list-style-type: none">Prohibits the discharge of polluting material in or near water (section 30);Prohibits or regulates the discharge of sewage (section 31);Enables the issuance of orders requiring measures to prevent, reduce or alleviate impairment of water quality (section 32);Enables the designation and protection of sources of public water supply (section 33);Regulates water takings in excess of 50,000 litres a day (section 34);Regulates well drilling and construction (sections 36 to 50);Requires approvals for water works (section 52);Requires approvals for sewage works (section 53);Enables the Ontario Clean Water Agency to provide or operate water works or sewage works for municipalities (sections 63 to 73);Designates and regulates areas of public water or sewage services (section 74);Imposes a duty on corporate officers and directors to take all reasonable care to prevent the corporation from discharging materials into or near water that may impair water quality (section 116); <p>In addition, regulations under the Ontario Water</p> |

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| | <p>Resources Act have been enacted on a variety of water-related matters. These include:</p> <ul style="list-style-type: none"> • Water taking and transfers (O.Reg. 285/99); • Exempting minor watermain, sewer or stormwater management projects from approval requirements (O.Reg. 525/98); • Classifying water works and sewage works, licensing of facility operators and operating standards (O.Reg. 435/93); • Licensing of well contractors and technicians and requirements for well construction, operation and abandonment (Regulation 903); and • Contraventions by secured creditors, receivers and trustees in bankruptcy (O.Reg.299/02). <p>For more information on water taking (O. Reg. 285/99) in Ontario, see the Water Taking FAQ.</p> <p>The Ontario Water Resources Act makes it an offence to contravene either the Act, regulations, orders, licenses, permits or approvals under the Act (section 107). Various penalties -- fines, jail terms, profit-stripping, restitution, restoration orders, forfeiture or license suspension -- may be imposed against individuals or corporations convicted under the Act (sections 108 to 112). In addition to prosecution, administrative penalties may be available (section 106.1).</p> |
| <p>Environmental Protection Act (1990)</p> | <p>The Environmental Protection Act is the principal pollution control statute in Ontario. It is used interchangeably with the Ontario Water Resources Act to address sources of water pollution. The Act contains a number of general provisions that can be used to protect surface water and groundwater against contamination.</p> <p>The Environmental Protection Act:</p> <ul style="list-style-type: none"> Prohibits discharges of contaminants into the natural environment in an amount, concentration or level in excess of prescribed regulatory standards (section 6); Authorizes the issuance of binding administrative orders to prevent, control, minimize or remediate discharges of contaminants into the natural environment |

(sections 7 to 12, sections 17 to 18, section 97, Part XI and Part XIV);
Prohibits the discharge of contaminants into the natural environment that cause or are likely to cause an adverse effect (section 14);
Regulates the approval, construction, operation and closure of waste disposal sites and waste management systems (Part V);
Imposes duties to report and clean up pollutant spills and imposes civil liability for loss or damage arising from spills (Part X);
Authorizes conditions of approval (including permits and approvals under the Ontario Water Resources Act) which require proponents to provide financial assurance to secure performance of environmental protection measures (Part XII);
Imposes a duty on corporate officers and directors to take all reasonable care to prevent the corporation from causing or permitting unlawful discharges of contaminants into the natural environment (section 194).

In addition, the Environmental Protection Act creates broad regulation-making authority on a long list of environmental matters (sections 175.1 to 177). This authority has been used to enact water-related regulations such as:

- Deep Well Disposal (Regulation 341),
- Discharge of Sewage from Pleasure Boats (Regulation 343),
- Marina Facilities (Regulation 351),
- Sewage Systems (Regulations 358 and 359).

The Ministry of the Environment has also used the Environmental Protection Act, rather than the Ontario Water Resources Act, to enact regulations for limiting discharges into waterways from different industrial sectors. Under the Municipal Industrial Strategy for Abatement (MISA) program, regulations have been set to control pollution from the petroleum industry in Ontario, the pulp and paper industry, metal mining, industrial metals, metal casting, organic chemical and manufacturing, inorganic chemical industry, iron and steel manufacturing industry and the electrical power

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| | <p>generating industry.</p> <p>The Environmental Protection Act makes it an offence to contravene either the Act, regulations, orders, licenses, permits or approvals under the Act (section 186). Various penalties – fines, jail terms, profit stripping, restitution, remedial orders, forfeiture or license suspension – may be imposed against individuals or corporations upon conviction under the Environmental Protection Act (sections 187 to 193). Administrative penalties may also be available (section 182.1).</p> |
| <p><u>Environmental Assessment Act (1990)</u></p> | <p>The Environmental Assessment Act is Ontario's primary environmental planning statute.</p> <p>The general rule is that public sector undertakings (such as provincial or municipal projects) are caught by the Environmental Assessment Act unless exempted. Conversely, private sector undertakings are not caught by the Environmental Assessment Act unless they are specifically designated by regulations as undertakings to which the Act applies. For example, private proposals to establish or expand waste disposal sites are typically designated under the Act.</p> <p>If caught by the Act, proponents are generally required to identify and evaluate ecological, social, cultural and economic impacts that may be caused by the undertaking and its alternatives. Such undertakings cannot proceed unless the proponent completes the required environmental assessment with agency and public input, and receives approval to proceed from the Minister of the Environment. The Minister may reject environmentally unsound undertakings, or may approve environmentally sound undertakings, subject to terms and conditions that prevent, reduce or mitigate adverse environmental effects. The Minister also has the power to refer the matter, in whole or in part, to the Environmental Review Tribunal for public hearings.</p> <p>In addition, the Ministry of the Environment has used the Environmental Assessment Act to approve "Class Environmental Assessments", which prescribe streamlined planning procedures for certain defined</p> |

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| | <p>classes of projects. Unlike the individual environmental assessment process, the proponent of a class environmental assessment project follows the prescribed planning process without the need for project-specific approval from the Minister of the Environment or the Environmental Review Tribunal. Most class environmental assessments, however, include "bump up" provisions that allow the Minister to order proponents to carry out an individual assessment of particularly significant or controversial projects.</p> <p>The Minister of the Environment has approved a class environmental assessment process for municipal road, water, and sewage and stormwater projects. For water projects, the purpose of the municipal class environmental assessment is to ensure that projects will be "undertaken to address problems affecting the operation and efficiency of existing water systems, to accommodate future growth of communities, or to address water source contamination problems."</p> |
| <p><u>Municipal Water and Sewage Transfer Act (1997)</u></p> | <p>Transferred ownership of some 230 provincially-owned water and wastewater plants from OCWA to municipalities. With the transfer, virtually all water and wastewater systems in Ontario are now owned and controlled by the municipality in which they are situated. At the time of the transfer, many municipalities chose to continue to use OCWA for operations.</p> |
| <p><u>Safe Drinking Water Act (2002)</u></p> | <p>The purpose of the Safe Drinking Water Act is to protect human health through the control and regulation of drinking water systems and drinking water testing. Building on existing policy and practice in Ontario's treatment and distribution of drinking water, the Safe Drinking Water Act requires that all municipal drinking water systems obtain an approval from the Director of the Ministry of the Environment in order to operate. Operators are required to be trained and certified to provincial standards. The Act also provides legally binding standards for testing of drinking water and requires that testing be done in licensed and accredited laboratories.</p> |
| <p><u>Sustainable Water and Sewage Systems Act (2002)</u></p> | <p>Sustainable Water and Sewage Systems Act, 2002 (SWSSA) was passed in 2002 but never proclaimed. Its regulations would have required municipalities to develop full-cost recovery plans and set their water and</p> |

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| | <p>wastewater rates accordingly. These were to be based on asset management plans. Since this Act was never proclaimed, it will be deemed to be repealed upon the next sitting of the Legislature in late 2012 or early 2013. Instead drinking water financial plans are required under 2007 regulations passed under the Safe Drinking Water Act. In addition, new legislation (the Ontario Water Opportunities and Water Conservation Act) passed in 2007 includes authority to develop regulations for municipal water sustainability plans which would be broader than the SDWA financial plans and which would be required to include wastewater and storm water in addition to drinking water financial and asset planning.</p> |
| <p>Nutrient Management Act (2002)</p> | <p>The Nutrient Management Act, 2002 and its regulations require farm operators to develop nutrient management strategies as part of source water protection. Large livestock operators in Ontario had to be in compliance with the Act by the end of 2005. The legislation, and source protection in general, has an impact on the quality of water that municipalities draw, and therefore on their costs to treat it.</p> |
| <p>Clean Water Act (2006)</p> | <p>Ontario's Clean Water Act helps protect drinking water with a multi-barrier approach that stops contaminants from entering sources of drinking water - lakes, rivers and aquifers.</p> <p>Ontario's Clean Water Act:</p> <ul style="list-style-type: none"> (a) requires that local communities - through local Source Protection Committees - assess existing and potential threats to their water, and that they set out and implement the actions needed to reduce or eliminate these threats (b) empowers communities to take action to prevent threats from becoming significant (c) requires public participation on every local source protection plan - the planning process for source protection is open to anyone in the community (d) requires that all plans and actions are based on sound science. <p>The Clean Water Act also introduces the Ontario Drinking Water Stewardship Program, which offers financial assistance to farmers, landowners, and small or medium businesses for activities that reduce threats</p> |

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| | <p>to local drinking water sources.</p> <p>As of 2012, Source Protection Plans from nineteen source protection planning regions are being filed with the Ontario Minister of the Environment for approval.</p> <p>Key regulations under the Clean Water Act: O. Reg. 287/07 – General definitions O. Reg. 231/07 – Service of Documents O. Reg. 284/07 – Source Protection Areas and Regions O. Reg. 288/07 – Source Protection Committees</p> |
| <p>Water Opportunities and Water Conservation Act (2010)</p> | <p>The purposes of the Act are,</p> <ul style="list-style-type: none"> (a) to foster innovative water, wastewater and stormwater technologies, services and practices in the private and public sectors; (b) to create opportunities for economic development and clean-technology jobs in Ontario; and (c) to conserve and sustain water resources for present and future generations. <p>Same</p> <p>(2) For greater certainty, the purposes of this Act do not include the privatization of publicly owned water, wastewater and stormwater services.</p> <p>Targets</p> <p>2. (1) The Minister of the Environment may, to further the purposes of this Act, establish aspirational targets in respect of the conservation of water and any other matter the Minister considers advisable.</p> <p>Publication</p> <p>(2) The Minister shall publish targets established under this section on the environmental registry established under section 5 of the <i>Environmental Bill of Rights, 1993</i>, together with a summary of the information the Minister relied on to establish each target.</p> <p>Other targets</p> <p>(3) The authority to establish targets under this section is in addition to any other authority to establish targets under this Act.</p> |
| <p>Acts that regulate water directly – administered by Ontario’s MNR</p> | |
| <p>Lakes and Rivers Improvement Act (1990)</p> | <p>The purposes of this Act are to provide for,</p> <ul style="list-style-type: none"> (a) the management, protection, preservation and use of the waters of the lakes and rivers of Ontario and the |

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| | <p>land under them;</p> <p>(b) the protection and equitable exercise of public rights in or over the waters of the lakes and rivers of Ontario;</p> <p>(c) the protection of the interests of riparian owners;</p> <p>(d) the management, perpetuation and use of the fish, wildlife and other natural resources dependent on the lakes and rivers;</p> <p>(e) the protection of the natural amenities of the lakes and rivers and their shores and banks; and</p> <p>(f) the protection of persons and of property by ensuring that dams are suitably located, constructed, operated and maintained and are of an appropriate nature with regard to the purposes of clauses (a) to (e).</p> |
| Conservation Authorities Act (1990) | Empowers the 36 Conservation Authorities to establish and undertake programs designed to further conservation, restoration, development and management of natural resources other than gas, oil, coal, and minerals, such as drinking water. |
| Public Lands Act (1990) | Applies to Crown land use planning, lands management, sales, development etc. |
| The MNR is an integral partner in administering these Acts along with other provincial Ministries or Federal Departments: | The Ontario Water Resources Act, the Planning Act, the Safeguarding and Sustaining Ontario's Water Act , the Clean Water Act, the Emergency Management and Civil Protection Act , Federal Fisheries Act , and the Navigable Waters Protection Act . |
| Miscellaneous Acts that regulate water indirectly | |
| Planning Act (1990) | <p>A wide-ranging Act, the scope of which includes the supply, efficient use and conservation of energy and water; the protection of ecological systems, including natural areas, features and functions; the protection of the agricultural resources of the Province; the conservation and management of natural resources and the mineral resource base; and the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems.</p> <p>This Act allows the promulgation of Provincial policy statements and also allows the Province to delegate its powers to lower-tier governments.</p> |

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| Development Corporations Act (1990) | <p>Established the Walkerton Clean Water Centre under O. Reg. 304/04</p> |
| Environmental Bill of Rights (1993) | <p>The purposes of this Act are,</p> <p>(a) to protect, conserve and, where reasonable, restore the integrity of the environment by the means provided in this Act;</p> <p>(b) to provide sustainability of the environment by the means provided in this Act; and</p> <p>(c) to protect the right to a healthful environment by the means provided in this Act.</p> <p>The purposes set out in subsection (1) include the following:</p> <ol style="list-style-type: none"> 1. The prevention, reduction and elimination of the use, generation and release of pollutants that are an unreasonable threat to the integrity of the environment. 2. The protection and conservation of biological, ecological and genetic diversity. 3. The protection and conservation of natural resources, including plant life, animal life and ecological systems. 4. The encouragement of the wise management of our natural resources, including plant life, animal life and ecological systems. 5. The identification, protection and conservation of ecologically sensitive areas or processes. <p>In order to fulfill the purposes set out in subsections (1) and (2), the Act provides,</p> <p>(a) means by which residents of Ontario may participate in the making of environmentally significant decisions by the Government of Ontario;</p> <p>(b) increased accountability of the Government of Ontario for its environmental decision-making;</p> <p>(c) increased access to the courts by residents of Ontario for the protection of the environment; and</p> <p>(d) enhanced protection for employees who take action in respect of environmental harm.</p> |
| Capital Investment Plan Act (1993) | <p>Created the Ontario Clean Water Agency (OCWA), which took over the Provincial Ministry of Environment's role as direct owner and operator of water systems. The Act also prevents a municipality from transferring ownership of water-related assets to anyone but another municipality without repaying provincial subsidies for all of its water-related assets.</p> |
| Savings and Restructuring | <p>This Act brought about the amalgamation of many</p> |

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| Act (1995) | <p>municipalities. In most cases, this has led to a parallel consolidation of the ownership of water and wastewater systems, although not necessarily the consolidation of operators or the integration of water operations with wastewater operations.</p> |
| Energy Competition Act (1998) | <p>This Act had the indirect effect of uniting the water and wastewater functions in municipalities in which a public utilities commission (PUC) had previously provided electricity distribution and drinking water. The Act required municipal councils to set up electricity distribution companies, which resulted in the disbandment of almost all PUCs. Municipalities generally decided to re-integrate water treatment into the municipal structure, with some choosing to contract out service delivery.</p> |
| Municipal Act (2001) | <p>In this Act (and other Acts), the Province of Ontario gave municipalities in the province powers and duties to regulate with regard to matters under their jurisdiction. Municipal jurisdiction includes public utilities, and the health and environment of the municipality. The powers granted under the Act include the ability for municipalities to finance their water systems through the use of debentures and reserves.</p> |
| Places to Grow Act (2005) | <p>Directs communities to develop in ways that should help to prevent the further development of small, scattered low-density communities that are costly to service.</p> |
| Greenbelt Act (2005) | <p>Encourages more compact land use by creating a “greenbelt” in the Greater Golden Horseshoe (the area extending from the Niagara River around western Lake Ontario to Peterborough and Cobourg). Like the Places to Grow Act, this should help prevent the further development of small, far flung communities that are costly to serve.</p> |
| <p>Water Regulation under the Health Protection and Promotion Act</p> | |
| <p>Health Protection and Promotion Act (1990)</p> <p>See also the Ontario Public Health Standards</p> | <p>The guiding purpose of the HPPA is to: provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario.</p> <p>Specific Sections that are relevant to drinking water are: Part III (Community Health Protection), Part IV (Communicable Diseases), and Part VI.1 (Provincial</p> |

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| | Public Health Powers) |
| <u>HPPA O. Reg. 318/08 – Transitional – Small Drinking Water Systems</u> | <p>This regulation laid out the standards governing the maintenance and testing of the following systems during the period of transition to O. Reg 319/08:</p> <ol style="list-style-type: none"> 1. Large municipal non-residential systems 2. Small municipal non-residential systems 3. Non-municipal seasonal residential systems 4. Large non-municipal non-residential systems 5. Small non-municipal non-residential systems |
| <u>HPPA O. Reg. 319/08 – Small Drinking Water Systems</u> | <p>This regulation lays out a new schema of standards and tests that apply to Ontario’s small drinking water systems:</p> <ol style="list-style-type: none"> 1. Large municipal non-residential systems 2. Small municipal non-residential systems 3. Non-municipal seasonal residential systems 4. Large non-municipal non-residential systems 5. Small non-municipal non-residential systems |