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Ontario Water Resources Act

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Purpose

0.1 The purpose of this Act is to provide for the conservation, protection and management of Ontario's waters and for their efficient and sustainable use, in order to promote Ontario's long-term environmental, social and economic well-being. 2007, c. 12, s. 1 (1).

Interpretation

1. (1) In this Act,

“Agency” means the Ontario Clean Water Agency; (“Agence”)

“analyst” means an analyst appointed under the *Environmental Protection Act*; (“analyste”)

“Board” means the Ontario Municipal Board; (“Commission”)

“borrowings of the Commission” includes all loans raised by the Commission by the issue of debentures or otherwise and all advances from the Province to the Commission; (“emprunts de la Commission des ressources en eau”)

“Commission” means the Ontario Water Resources Commission; (“Commission des ressources en eau”)

“construction” includes reconstruction, improvement, extension, alteration, replacement and repairs, and “construct” has a corresponding meaning; (“construction”)

“cost” means,

- (a) in relation to a project under an agreement entered into before the 1st day of April, 1974, the cost thereof as determined by the Minister of the Environment and includes interest during construction and such engineering fees and other charges and expenses in connection with construction as the Minister of the Environment may determine, and such proportion of discounts, commissions and other charges and expenses in respect of the issue of debentures by the Crown as the Minister of the Environment in his or her discretion may allocate to the project, or
- (b) in relation to a project under an agreement entered into on or after the 1st day of April, 1974, the cost thereof as determined by the Minister of the Environment and includes such engineering fees and other charges and expenses in connection with construction as the Minister of the Environment may determine and such financing costs applicable to the project as the Minister of Finance may determine and the

Minister of the Environment in his or her discretion may allocate to the project;
("coût")

"Crown" means Her Majesty the Queen in right of Ontario; ("Couronne")

"date of completion" of a project means the date that is certified by the Minister as being the date on which the project is completed to the extent necessary to enable the Minister to supply water or to receive, treat and dispose of sewage, as the case may be; ("date d'achèvement")

"debentures" includes bonds, notes and other securities; ("débentures")

"Director" means a Director appointed under section 5; ("directeur")

"discharge", when used as a verb, includes add, deposit, emit or leak and, when used as a noun, includes addition, deposit, emission or leak; ("rejet", "rejeter")

"document" includes a sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device; ("document")

"environmental compliance approval" means an approval issued under Part II.1 of the *Environmental Protection Act*; ("autorisation environnementale")

"environmental penalty" means a penalty imposed under section 106.1; ("pénalité environnementale")

"fiduciary" means an executor, administrator, administrator with the will annexed, trustee, guardian of property or attorney for property, but does not include a trustee in bankruptcy or trustee in bankruptcy representative; ("représentant fiduciaire")

"fiduciary representative" means, with respect to a fiduciary, an officer, director, employee or agent of the fiduciary, or a lawyer, consultant or other advisor of the fiduciary who is acting on behalf of the fiduciary; ("représentant d'un représentant fiduciaire")

"Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement of 2005" means the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement dated December 13, 2005 and signed by the Premiers of Ontario and Quebec and the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin; ("Entente de 2005 sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent")

"holder", when used in reference to a licence, permit or approval, means a person who is bound by the licence, permit or approval; ("titulaire")

"inspection" includes an audit, examination, survey, test and inquiry; ("inspection")

"justice" means a provincial judge or a justice of the peace; ("juge")

"land" includes any estate, term, easement, right or interest in, to, over or affecting land; ("bien-fonds")

"Minister" means the Minister of the Environment; ("ministre")

"Ministry" means the Ministry of the Environment; ("ministère")

“municipality” includes a local board, as defined in the *Municipal Affairs Act*, and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory; (“municipalité”)

“municipal representative” means, with respect to a municipality, an officer, employee or agent of the municipality, or a lawyer, consultant or other advisor of the municipality who is acting on behalf of the municipality; (“représentant municipal”)

“natural environment” has the same meaning as in the *Environmental Protection Act*; (“environnement naturel”)

“owner” means a municipality or person having authority to construct, maintain, operate, repair, improve or extend water works or sewage works; (“propriétaire”)

“person” includes a municipality; (“personne”)

“place” includes a building, structure, machine, vehicle or vessel; (“lieu”)

“project” means water works or sewage works provided for in an agreement under section 63; (“ouvrage”)

“Province” means the Province of Ontario; (“province”)

“provincial officer” means a person who is designated under section 5; (“agent provincial”)

“receiver” means a person who has been appointed to take or who has taken possession or control of property pursuant to a mortgage, hypothec, pledge, charge, lien, security interest, encumbrance or privilege or pursuant to an order of a court, and includes a receiver-manager and an interim receiver; (“séquestre”)

“receiver representative” means, with respect to a receiver, an officer, director, employee or agent of the receiver, or a lawyer, consultant or other advisor of the receiver who is acting on behalf of the receiver; (“représentant d’un séquestre”)

“regulated person” means,

- (a) a person who belongs to a class of persons prescribed by the regulations and who holds or is required to hold,
 - (i) an approval, licence or permit under this Act, or
 - (ii) an environmental compliance approval, certificate of property use, licence or permit under the *Environmental Protection Act*,
- (b) a person who has registered or is required to register an activity under subsection 20.21 (1) of the *Environmental Protection Act*, or
- (c) a corporation that belongs to a class of corporations prescribed by the regulations; (“personne réglementée”)

“regulations” means the regulations made under this Act; (“règlements”)

“secured creditor” means a person who holds a mortgage, hypothec, pledge, charge, lien, security interest, encumbrance or privilege on or against property, but does not include a person who has taken possession or control of the property; (“créancier garanti”)

“secured creditor representative” means, with respect to a secured creditor, an officer, director, employee or agent of the secured creditor, or a lawyer, consultant or other advisor of the secured creditor who is acting on behalf of the secured creditor; (“représentant d’un créancier garanti”)

“sewage” includes drainage, storm water, commercial wastes and industrial wastes and such other matter or substance as is specified by the regulations; (“eaux d’égout”)

“sewage works” means any works for the collection, transmission, treatment and disposal of sewage or any part of such works, but does not include plumbing to which the *Building Code Act, 1992* applies; (“station d’épuration des eaux d’égout”)

“Tribunal” means the Environmental Review Tribunal; (“Tribunal”)

“trustee in bankruptcy representative” means, with respect to a trustee in bankruptcy, an officer, director, employee or agent of the trustee in bankruptcy, or a lawyer, consultant or other advisor of the trustee in bankruptcy who is acting on behalf of the trustee in bankruptcy; (“représentant d’un syndic de faillite”)

“waters” means a well, lake, river, pond, spring, stream, reservoir, artificial watercourse, intermittent watercourse, ground water or other water or watercourse; (“eaux”)

“water distribution system” means a part of a water treatment or distribution system that distributes water, if that part of the system includes one or more water works; (“système de distribution de l’eau”)

“water treatment or distribution system” means a system for collecting, producing, treating, storing, supplying or distributing water that includes one or more water works; (“système de traitement ou de distribution de l’eau”)

“water works” means any works for the collection, production, treatment, storage, supply and distribution of water, or any part of such works, but does not include plumbing to which the *Building Code Act, 1992* applies; (“station de purification de l’eau”)

“well” means a hole made in the ground to locate or to obtain ground water or to test or to obtain information in respect of ground water or an aquifer, and includes a spring around or in which works are made or equipment is installed for collection or transmission of water and that is or is likely to be used as a source of water for human consumption. (“puits”) R.S.O. 1990, c. O.40, s. 1; 1992, c. 23, s. 39 (1); 1993, c. 23, s. 73 (1, 2); 1998, c. 35, s. 44; 2000, c. 22, s. 2 (1); 2000, c. 26, Sched. E, s. 5; 2000, c. 26, Sched. F, s. 13 (1, 2); 2001, c. 9, Sched. G, s. 6 (1-5); 2001, c. 17, s. 5 (1); 2002, c. 17, Sched. F, Table; 2005, c. 12, s. 2 (1, 2); 2007, c. 12, s. 1 (2); 2009, c. 19, s. 70 (1); 2010, c. 16, Sched. 7, s. 3 (1, 2).

Health or safety

(2) For the purposes of this Act, a danger to existing water supplies that are used for human consumption shall be deemed to be a danger to the health or safety of persons. 2001, c. 17, s. 5 (2).

Deemed impairment

(3) For the purposes of this Act, the quality of water shall be deemed to be impaired by the discharge of material if the material or a derivative of the material enters or may enter the water, directly or indirectly, and,

- (a) the material or derivative causes or may cause injury to or interference with any living organism that lives in or comes into contact with,
 - (i) the water, or
 - (ii) soil or sediment that is in contact with the water;
 - (b) the material or derivative causes or may cause injury to or interference with any living organism as a result of it using or consuming,
 - (i) the water,
 - (ii) soil or sediment that is in contact with the water, or
 - (iii) any organism that lives in or comes into contact with the water or soil or sediment that is in contact with the water;
 - (c) the material or derivative causes or may cause a degradation in the appearance, taste or odour of the water;
 - (d) a scientific test that is generally accepted as a test of aquatic toxicity indicates that the material or derivative, in diluted or undiluted form, is toxic;
 - (e) peer-reviewed scientific publications indicate that the material or derivative causes injury to or interference with organisms that are dependent on aquatic ecosystems; or
 - (f) the material or derivative has a prescribed characteristic or is a prescribed material.
- 2005, c. 12, s. 2 (3).

Same

(4) For the purposes of this Act, water shall be deemed to be impaired if the quality of the water is deemed to be impaired. 2005, c. 12, s. 2 (3).

Same

(5) Subsections (3) and (4) apply to all water, including the water of any water, watercourse or other waters. 2005, c. 12, s. 2 (3).

Consumptive use

(6) For the purposes of this Act, if water is taken from a water basin described in subsection 34.3 (1), the portion that, as a result of evaporation, incorporation in a product or any other process, is not returned to that basin is lost through consumptive use. 2007, c. 12, s. 1 (3).

Water taking

(7) For the purposes of this Act, a reference to water taking includes water taking by means of,

- (a) a well;
- (b) an intake from a surface source of supply;

- (c) a structure or works constructed for the diversion or storage of water; or
- (d) any combination of the means referred to in clauses (a), (b) and (c). 2007, c. 12, s. 1 (3).

The Crown

- 2. This Act binds the Crown. R.S.O. 1990, c. O.40, s. 2.

ADMINISTRATION**Administration**

- 3. The Minister is responsible for the administration of this Act. 1993, c. 23, s. 73 (3).

Rates

- 4. Every power, right, privilege and discretion with respect to rates under agreements made under subsection 10 (2) and subsection 63 (3) may be exercised by the Agency. R.S.O. 1990, c. O.40, s. 4; 1993, c. 23, s. 73 (4).

Appointments**Directors**

- 5. (1) The Minister may in writing appoint as Directors any of the following persons as the Minister considers necessary in respect of the sections of this Act or of the regulations that are set out in the appointments:

- 1. Public servants employed under Part III of the *Public Service of Ontario Act, 2006* who work in the Ministry or the members of classes of such public servants.
- 2. Subject to the approval of the Lieutenant Governor in Council, any other persons or the members of any other classes of persons. 2009, c. 33, Sched. 15, s. 8 (1).

Limitations

- (2) The Minister, in an appointment under subsection (1), may limit the authority of a Director in such manner as the Minister considers necessary or advisable. R.S.O. 1990, c. O.40, s. 5 (2).

Provincial officers and Agency inspectors

- (3) The Minister or the Agency may designate in writing one or more of the following persons as provincial officers or inspectors for the purposes of this Act and the regulations:

- 1. In the case of the Minister, a public servant employed under Part III of the *Public Service of Ontario Act, 2006* who works in the Ministry.
- 2. In the case of the Agency, an employee of the Agency. 2006, c. 35, Sched. C, s. 105 (2).

Provincial officers

- (4) A provincial officer is a peace officer for the purpose of enforcing this Act.

Investigation and prosecution

- (5) A provincial officer may investigate offences under this Act and may prosecute any person whom the provincial officer reasonably believes is guilty of an offence under this Act. 1998, c. 35, s. 45.

- 6. Repealed: 1993, c. 23, s. 73 (6).

Hearing before Tribunal

7. (1) Upon receipt of a notice from a Director under subsection 74 (4), the Tribunal shall hold a hearing with respect to the subject-matter of the notice, unless subsection 8 (2) applies. R.S.O. 1990, c. O.40, s. 7 (1); 2000, c. 26, Sched. F, s. 13 (13); 2010, c. 16, Sched. 7, s. 3 (3).

Parties

(2) The applicant, the Director and any other persons specified by the Tribunal shall be parties to the hearing. R.S.O. 1990, c. O.40, s. 7 (2); 2000, c. 26, Sched. F, s. 13 (13).

(3) Repealed: 2000, c. 26, Sched. F, s. 13 (3).

Decision

(4) The Tribunal shall serve notice of its decision, together with reasons therefor, on the parties to the hearing, and the Director shall implement the decision. R.S.O. 1990, c. O.40, s. 7 (4); 2000, c. 26, Sched. F, s. 13 (13).

Costs

(5) The Tribunal may award the costs of a proceeding under this section. 2000, c. 26, Sched. F, s. 13 (4).

Payment

(6) The Tribunal may order to whom and by whom the costs are to be paid. 2000, c. 26, Sched. F, s. 13 (4).

Assessment

(7) The Tribunal may fix the amount of the costs or direct that the amount be assessed and it may direct the scale according to which they are to be assessed and by whom they are to be assessed. 2000, c. 26, Sched. F, s. 13 (4).

Considerations not limited

(8) In awarding costs, the Tribunal is not limited to the considerations that govern awards of costs in any court. 2000, c. 26, Sched. F, s. 13 (4).

Application

(9) Subsections (5) to (8) apply despite sections 17.1 and 32 of the *Statutory Powers Procedure Act*. 2000, c. 26, Sched. F, s. 13 (4).

Transition

(10) If, before the day subsection 3 (1) of Schedule 7 to the *Open for Business Act, 2010* comes into force, a hearing has been required and a notice of objection has been served in accordance with subsection 8 (1), the hearing shall be held under section 20.15 of the *Environmental Protection Act*. 2010, c. 16, Sched. 7, s. 3 (4).

Same

(11) If, on the day subsection 3 (1) of Schedule 7 to the *Open for Business Act, 2010* comes into force, the time period during which a notice of objection may be served under subsection 8 (1) has not lapsed, the Tribunal shall refer the subject matter of the notice back to the Director and the Director shall determine whether or not to require a hearing under section 20.15 of the *Environmental Protection Act*. 2010, c. 16, Sched. 7, s. 3 (4).

Notice of objection

8. (1) Where the Tribunal has given notice of a hearing under this Act, any person objecting to the order referred to in subsection 74 (2) may serve notice of the objection, together with the reasons in support of it, on the Tribunal within fifteen days after the notice of hearing is given. R.S.O. 1990, c. O.40, s. 8 (1); 2000, c. 26, Sched. F, s. 13 (13); 2010, c. 16, Sched. 7, s. 3 (5).

Hearing not required

(2) If no objections are received within the fifteen days, or if the Tribunal is of the opinion that the objections are insufficient, the Tribunal is not required to hold a hearing. R.S.O. 1990, c. O.40, s. 8 (2); 2000, c. 26, Sched. F, s. 13 (13).

Extension

(3) Where the Tribunal considers it appropriate in the circumstances, it may extend the period provided under subsection (1) for serving an objection. R.S.O. 1990, c. O.40, s. 8 (3); 2000, c. 26, Sched. F, s. 13 (13).

Appeal from Tribunal decision

9. A party to a proceeding under section 7 may appeal from the Tribunal's decision on a question of law to the Divisional Court. 2009, c. 33, Sched. 2, s. 55 (1).

No appeal to Lieutenant Governor in Council

Definition

9.1 (1) In this section,

“old section 9” means section 9 as it read immediately before the day the *Good Government Act, 2009* received Royal Assent. 2009, c. 33, Sched. 2, s. 55 (1).

Not subject to appeal

(2) Every decision of the Tribunal that is the subject of an appeal to the Lieutenant Governor in Council under the old section 9 that is not disposed of or withdrawn before the day the *Good Government Act, 2009* receives Royal Assent is deemed not to be subject to appeal to the Lieutenant Governor in Council, and shall not be considered or continue to be considered, as the case may be, by the Lieutenant Governor in Council. 2009, c. 33, Sched. 2, s. 55 (1).

Same

(3) Every decision of the Tribunal that may be the subject of an appeal to the Lieutenant Governor in Council under the old section 9 is deemed not to be subject to appeal to the Lieutenant Governor in Council, and shall not be considered by the Lieutenant Governor in Council. 2009, c. 33, Sched. 2, s. 55 (1).

No effect on validity

(4) Nothing in this section affects the validity of a decision of the Tribunal that, but for subsection 55 (1) of Schedule 2 to the *Good Government Act, 2009*, was or could have been the subject of an appeal to the Lieutenant Governor in Council under the old section 9. 2009, c. 33, Sched. 2, s. 55 (1).

Functions of Minister, Agency and Directors

Minister's functions

10. (1) Despite any other Act, it is the function of the Minister and he or she has power,

- (a) Repealed: 1993, c. 23, s. 73 (7).
- (b) Repealed: 1993, c. 23, s. 73 (7).
- (c) to conduct research programs and to prepare statistics for his or her purpose;
- (d) to disseminate information and advice with respect to the collection, production, transmission, treatment, storage, supply and distribution of water or sewage; and
- (e) to perform such functions or discharge such duties as may be assigned from time to time by the Lieutenant Governor in Council. R.S.O. 1990, c. O.40, s. 10 (1); 1993, c. 23, s. 73 (7).

Agency power to make agreements

(2) Despite any other Act, the Agency may make agreements for the provision of water service or sewage service. 1993, c. 23, s. 73 (8).

Power of Director

(3) Despite any other Act, it is the function of a Director and he or she has power to control and regulate the collection, production, treatment, storage, transmission, distribution and use of water for public purposes and to make orders with respect thereto. R.S.O. 1990, c. O.40, s. 10 (3).

Agreements under s. 10

11. Any municipality may enter into agreements with the Agency under subsection 10 (2), and subsections 63 (5) to (8), section 65 and subsection 67 (5) apply with necessary modifications to such agreements. R.S.O. 1990, c. O.40, s. 11; 1993, c. 23, s. 73 (9); 2001, c. 9, Sched. G, s. 6 (6).

Municipal powers

12. The Agency may for its purposes exercise any or all of the powers that are conferred by any general Act upon a municipality respecting the establishment, construction, maintenance or operation of water works or sewage works. R.S.O. 1990, c. O.40, s. 12; 1993, c. 23, s. 73 (10).

Action under Act, successors, etc., bound, records**Successors and assigns**

13. (1) An approval, direction, notice, order, report or requirement of a court, the Minister, the Director, a provincial officer or the Agency under this Act is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed. 2001, c. 17, s. 5 (3).

Limitation

(2) If, pursuant to subsection (1), a direction, notice or order is binding on an executor, administrator, administrator with the will annexed, guardian of property or attorney for property, their obligation to incur costs to comply with the direction, notice or order is limited to the value of the assets they hold or administer, less their reasonable costs of holding or administering the assets. 2001, c. 17, s. 5 (3).

Receivers and trustees

(3) An approval, direction, notice, order, report or requirement of a court, the Minister, the Director, a provincial officer or the Agency under this Act that relates to property is binding on a receiver or trustee that holds or administers the property. 2001, c. 17, s. 5 (3).

Limitation

(4) If, pursuant to subsection (3), a direction, notice, order or report is binding on a trustee, other than a trustee in bankruptcy, the trustee's obligation to incur costs to comply with the direction, notice, order or report is limited to the value of the assets held or administered by the trustee, less the trustee's reasonable costs of holding or administering the assets. 2001, c. 17, s. 5 (3).

Exception

(5) Subsection (3) does not apply to a direction, notice or order that relates to property held or administered by a receiver or trustee in bankruptcy if,

- (a) within 10 days after taking or being appointed to take possession or control of the property, or within 10 days after the issuance of the direction, notice or order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property; or
- (b) the direction, notice or order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 5 (3); 2006, c. 19, Sched. K, s. 3 (1).

Extension of period

(6) The Director may extend the 10-day period for giving notice under clause (5) (a), before or after it expires, on such terms and conditions as he or she considers appropriate. 2001, c. 17, s. 5 (3).

Notice under subs. (5)

(7) Notice under clause (5) (a) or (b) must be given in the manner prescribed by the regulations referred to in subsection 19 (7) of the *Environmental Protection Act*. 2001, c. 17, s. 5 (3).

(8)-(11) Repealed: 2007, c. 12, s. 1 (4).

Index record re instruments

13.1 (1) The Ministry shall maintain an alphabetical index record of the names of all persons to whom instruments are directed under this Act. 2007, c. 12, s. 1 (5).

Expiry, etc.

(2) When an instrument has expired or is revoked or set aside, the Ministry shall note that fact in the index record. 2007, c. 12, s. 1 (5).

Search of index record

(3) The Ministry shall, on any person's request,

- (a) make a search of the index record and inform the person making the request whether the name of a particular person appears in the index record; and

(b) permit inspection of any instrument directed to that person. 2007, c. 12, s. 1 (5).

Definition

(4) In this section,

“instrument” means an approval, permit, licence, direction, notice, order or report. 2007, c. 12, s. 1 (5).

Right to lay and maintain pipes under roads

14. (1) The Agency, its employees and agents may, for the Agency’s purposes, without consent and without compensation, lay, maintain, repair, alter or replace the pipes and appurtenances to them that the Agency considers necessary in, upon, through, over and under a highway or road under the jurisdiction and control of any public authority.

Right to use unopened road allowances

(2) The Agency, its employees and agents may use unopened road allowances to obtain access to water works and sewage works.

Appurtenances above surface

(3) The Agency, its employees and agents may, with the consent of the public authority having jurisdiction and control of the highway or road, including an unopened road allowance, leave appurtenances above the surface of the highway, road or unopened road allowance in locations agreed to by the authority.

Land, etc., to be restored

(4) Lands, buildings, highways or roads disturbed by the exercise of any of the powers mentioned in subsection (1), (2), or (3) shall be restored to their original condition, or as near to it as possible, without unnecessary delay. 1998, c. 35, s. 46.

Inspection by provincial officer

15. (1) For the administration of this Act or the regulations, a provincial officer may, without a warrant or court order, at any reasonable time and with any reasonable assistance, make inspections, including,

- (a) entering any part of the natural environment to ascertain the extent, if any, to which any material of any kind has impaired any waters, the causes of any impairment, and how any impairment may be prevented, eliminated or ameliorated and the waters and natural environment restored;
- (b) entering any part of the natural environment to ascertain the quality or quantity of any waters;
- (c) entering any place in or from which the provincial officer reasonably believes a material that may impair the quality of any waters is being, has been or may be discharged,
 - (i) into or in any waters,
 - (ii) onto any shore or bank of any waters, or
 - (iii) into any part of the natural environment;

- (c.1) entering any place in which the provincial officer reasonably believes can be found anything that is governed or regulated under this Act or anything the dealing with which is governed or regulated under this Act;
- (d) entering any place that the provincial officer reasonably believes is likely to contain documents related to,
 - (i) an activity or undertaking that is, or is required to be, the subject of a permit, licence, approval, requirement, direction, report, notice, agreement or order under this Act,
 - (ii) an activity or undertaking that is exempted by a regulation from any requirement to have a permit, licence or approval under this Act and that is regulated by the provisions of the regulation, or
 - (iii) the discharge of a material of any kind that may impair the quality or quantity of any waters; and
- (e) entering any place that the provincial officer reasonably believes,
 - (i) is, or is required to be, subject to or referred to in a permit, licence, approval, requirement, direction, report, notice, agreement or order under this Act, or
 - (ii) is subject to or referred to in a regulation that provides for an exemption from any requirement to have a permit, licence or approval under this Act, where the regulation includes provisions that regulate the place. 1998, c. 35, s. 47; 2005, c. 12, s. 2 (4); 2009, c. 19, s. 70 (2).

Same

- (2) During an inspection under subsection (1), the provincial officer may,
 - (a) make necessary excavations;
 - (b) require that any thing be operated, used or set in motion under conditions specified by the provincial officer;
 - (c) take samples for analysis;
 - (d) conduct tests or take measurements;
 - (e) examine, record or copy any document or data, in any form, by any method;
 - (f) record the condition of a place or the natural environment by means of photograph, video recording or other visual recording;
 - (g) require the production of any document or data, in any form, required to be kept under this Act and of any other document or data, in any form, related to the purposes of the inspection;
 - (h) remove from a place documents or data, in any form, produced under clause (g) for the purpose of making copies; and
 - (i) make reasonable inquiries of any person, orally or in writing. 1998, c. 35, s. 47.

Limitation re photographs, recordings

(3) A record made under clause (2) (f) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy. 1998, c. 35, s. 47.

Limitation re removal of documents, data

(4) A provincial officer shall not remove documents or data under clause (2) (h) without giving a receipt for them and shall promptly return the documents or data to the person who produced them. 1998, c. 35, s. 47.

Power to exclude persons

(5) A provincial officer who exercises the power set out in clause (2) (i) may exclude from the questioning any person except counsel for the individual being questioned. 1998, c. 35, s. 47; 2009, c. 33, Sched. 15, s. 8 (2).

Power to require response to inquiries

15.0.1 (1) For the purposes of determining compliance of a person with this Act or the regulations, a provincial officer may, at any reasonable time and with any reasonable assistance, require the person, or any person employed by or providing services to the person, to respond to reasonable inquiries. 2010, c. 16, Sched. 7, s. 3 (6).

Same

(2) For the purposes of subsection (1), a provincial officer may make inquiries by telephone or by any other means of communication. 2010, c. 16, Sched. 7, s. 3 (6).

Inspection of vehicles and vessels

15.1 (1) In this section,

“vehicle” includes a trailer or other equipment attached to the vehicle. 1998, c. 35, s. 47.

Requirement to stop

(2) For the administration of this Act or the regulations, a provincial officer may signal a vehicle or vessel to stop. 1998, c. 35, s. 47.

Same

(3) On the provincial officer’s signal to stop, the operator of the vehicle or vessel shall immediately come to a safe stop. 1998, c. 35, s. 47.

Same

(4) For the purposes of this section, a signal to stop includes,

- (a) intermittent flashes of red light, in the case of a vehicle;
- (b) intermittent flashes of blue light, in the case of a vessel; and
- (c) a hand signal to stop by a provincial officer who is readily identifiable as a provincial officer. 1998, c. 35, s. 47.

Sign to report

(5) Where a clearly marked sign is posted indicating that a class of vehicles or vessels should report to a certain place in the vicinity of the sign, the operator of a vehicle or vessel that passes the sign and that falls within the class of vehicles or vessels indicated shall report forthwith to the place the sign directs. 1998, c. 35, s. 47.

Same

(6) Where the operator of a vehicle or vessel stops under subsection (3) or reports under subsection (5), the provincial officer may make any reasonable inquiries of the operator and the operator shall produce for inspection any documents related to the operation or ownership of the vehicle or vessel, including licenses, permits and any documents that are required to be kept by the law of any jurisdiction in relation to the carriage of any cargo or container. 1998, c. 35, s. 47.

Inspection powers

(7) Based on questioning or examination of documents conducted under subsection (6), the provincial officer may, without warrant or court order, inspect any means of containment that the provincial officer reasonably believes is being used for the handling or transportation of a thing the handling or transportation of which is governed or regulated under this Act. 1998, c. 35, s. 47; 2009, c. 19, s. 70 (3).

Same

(8) As part of an inspection under subsection (7), the provincial officer may open or require the operator to open any cargo hold, container or other means of containment. 1998, c. 35, s. 47.

Same

(9) During an inspection conducted under subsection (6) or (7), the provincial officer may exercise such powers under subsection 15 (2) as are reasonably required for the administration of this Act or the regulations. 1998, c. 35, s. 47.

Same

(10) Subsections 15 (3), (4) and (5) apply to the exercise of a power under subsection (9). 1998, c. 35, s. 47.

Power to administer other Acts

15.2 A provincial officer who exercises any power set out in section 15, 15.1, 19, 20 or 20.1 may, if the provincial officer is designated as such under the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002* or the *Toxics Reduction Act, 2009*, as the case may be, do anything authorized by,

- (a) section 156, 156.1, 160, 161 or 161.1 of the *Environmental Protection Act*;
- (b) section 13, 14 or 23 of the *Nutrient Management Act, 2002*;
- (c) section 19, 19.1, 22, 23 or 23.1 of the *Pesticides Act*;
- (d) section 81, 82, 91, 92 or 93 of the *Safe Drinking Water Act, 2002*; or
- (e) section 15, 20 or 21 of the *Toxics Reduction Act, 2009*. 2009, c. 19, s. 70 (4).

Note: On the day the Statutes of Ontario, 2009, chapter 19, section 65 comes into force, clause (e) is amended by striking out “section 15, 20 or 21” at the beginning and substituting “section 15, 15.1, 20, 20.1 or 21”. See: 2009, c. 19, ss. 70 (5), 73 (2).

Entry to dwellings

15.3 A person shall not exercise a power conferred by this Act to enter a room actually used as a dwelling without the consent of the occupier except under the authority of an order under section 17. 1998, c. 35, s. 47.

Identification

15.4 On request, a provincial officer who exercises a power under this Act shall identify himself or herself as a provincial officer either by the production of a copy of his or her designation or in some other manner and shall explain the purpose of the exercise of the power. 1998, c. 35, s. 48.

Entry, etc., may be prohibited

15.5 (1) A provincial officer may by order prohibit entry into all or part of any land or place or prohibit the use of, interference with, disruption of, or destruction of any thing in any of the following circumstances:

1. During an inspection under section 15, 15.1 or 17.
2. During a search under section 20.
3. During the time required for the provincial officer to obtain an order under section 17 of this Act or a warrant under section 158 of the *Provincial Offences Act*.
4. During a search carried out under a warrant issued under section 158 of the *Provincial Offences Act*.

Requirements for order

(2) An order under subsection (1) shall not be issued unless the provincial officer reasonably believes that,

- (a) in the case of an order prohibiting entry, there is on the land or in the place a thing that will afford evidence of an offence under this Act;
- (b) in the case of an order prohibiting the use of, interference with, disruption of, or destruction of a thing, the thing will afford evidence of an offence under this Act; or
- (c) in the case of an order prohibiting entry or an order prohibiting the use of, interference with, disruption of, or destruction of a thing, there is a discharge or a likelihood of discharge of any material into the natural environment from the land, place or thing and an impairment of waters has resulted or may result from the discharge.

Notice of order

(3) The provincial officer shall give notice of the order in the manner that he or she considers appropriate in the circumstances.

Contents of notice

(4) Notice of the order shall include an explanation of the rights provided by subsections (6) and (7).

Order not effective where no notice

(5) An order under subsection (1) is not effective in any court proceeding against a person where the person satisfies the court that the person neither knew nor should have known of the order.

Request for rescission

(6) A person aggrieved by the order may make an oral or written request to the Director to rescind it and may make oral or written submissions to the Director in support of the request.

Powers of Director

(7) The Director shall give prompt consideration to any request or submissions made under subsection (6) and may rescind the order.

Same

(8) For the purposes of subsection (7), the Director may substitute his or her own opinion for that of the provincial officer.

Same

(9) A Director who rescinds an order under subsection (7) shall give such directions to a provincial officer as the Director considers appropriate to bring the rescission to the attention of persons affected.

No stay

(10) A request for rescission of an order under subsection (1) does not stay the order, unless the Director orders otherwise in writing.

Duration of order

(11) An order under subsection (1) shall,

- (a) subject to clause (b), be effective for the shorter of the length of time necessary to complete the inspection or search referred to in that subsection or a period not exceeding two days excluding holidays; or
- (b) where the inspection or search referred to in subsection (1) is under section 17 of this Act or under a warrant issued under section 158 of the *Provincial Offences Act* and a time limit for the inspection or search is specified in the order or warrant, be effective until the expiration of that time. 1998, c. 35, s. 48.

Order of justice prohibiting entry, or use, etc., of things