



**Canadian  
Environmental Law  
Association**  
EQUITY. JUSTICE. HEALTH.



## **Making the Links in Southwestern Ontario: CELA's Toolkit for Environmental Action**

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## Introduction

The Canadian Environmental Law Association (CELA) is a specialty legal aid clinic funded by Legal Aid Ontario. CELA focuses on environmental justice, equity and health.

Low-income communities across the province withstand the worst of environmental pollution and degradation. Access to environmental justice demands that communities are able to access information about the pollution that affects them and participate in decision-making. It also requires that low-income communities not be disproportionately burdened by pollution and that low-income communities can access the environmental benefits of government programs.

This toolkit intends to serve communities in Southwestern Ontario. For the purposes of this toolkit, we have included the catchment areas of local community legal aid clinics listed as within Southwestern Ontario by Legal Aid Ontario, [here](#).

We hope this toolkit provides communities with more information about the air, water and land pollution in their local environments, and with ideas for ways to participate in the ongoing decisions that affect their quality of life.

## Part I: Environmental Health Issues in Southwest Ontario

### A Brief Introduction

#### Chapter 1: Access to Clean Drinking Water

A robust multi-barrier approach protects most drinking water in Southwestern Ontario. In 2010, the United Nations General Assembly explicitly [recognized](#) the human right to water and sanitation, acknowledging, "clean drinking water and sanitation are essential to the realization of all human rights."<sup>1</sup> Yet, in 2020, [the UN Special Rapporteur on Human Rights and Toxics stated "rights to safe water do not](#) appear to be directly actionable under Canadian law."<sup>2</sup> The burden of unsafe drinking water is disproportionately borne by Indigenous and rural communities.<sup>3</sup>

In Ontario, tragedy is what galvanized lawmakers to pursue drinking water reforms. On the banks of the Saugeen River, in the municipality of Brockton, lies the town of Walkerton, home to Ontario's most infamous water crisis. In May 2000, heavy rains swept cow manure off agricultural fields and harmful E-Coli bacteria into a drinking water intake well. Five thousand people drank the contaminated water, resulting in over 2,300 people falling severely ill and the deaths of seven people. The tragic events that transpired in this community resulted in a provincial inquiry that led to the introduction of new laws strengthening drinking water protections in Ontario.<sup>4</sup>

#### The Walkerton Inquiry

In October 2001, following public outrage over the lack of transparency and accountability for the events that transpired in the community, the province launched the Walkerton Inquiry to investigate the cause of the contamination and the state of drinking water protection in Ontario.

The inquiry aimed to determine the adequacy of the laws, policies, practices, resources, and institutional mechanisms in place to protect drinking water in the province.

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<sup>1</sup> United Nations General Assembly, "Resolution adopted by the General Assembly on 28 July 2010; 24/292. The human right to water and sanitation" (3 August 2010) at 2, online (pdf): <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/479/35/PDF/N0947935.pdf?OpenElement>>.

<sup>2</sup> United Nations. Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (27 November 2020), online (pdf): <<https://undocs.org/A/HRC/45/12/Add.1>>.

<sup>3</sup> Rachel Arseneault et al., "Shifting the Framework of Canadian Water Governance through Indigenous Research Methods: Acknowledging the Past with an Eye on the Future" (10 January 2018), online: <<https://www.mdpi.com/2073-4441/10/1/49>>.

<sup>4</sup> Cassidy Barnes, "Safe Drinking Water for All – 20 Years after the Walkerton Inquiry Reports" (August 2022) at 11, online (pdf): *Canadian Environmental Law Association* <<https://cela.ca/wp-content/uploads/2022/09/Updated-Exec-Summary-CELA-Drinking-Water-Report-10-5.pdf>>.

At its conclusion in the summer of 2001, Justice O'Connor published a two-part report outlining the causes of the tragedy and provided recommendations to ensure the safety of drinking water in Ontario. Ultimately, from his 121 recommendations for improving Ontario's drinking water protections, our provincial framework for drinking water access and safety arose.<sup>5</sup>

Among several important laws related to drinking water protections that were introduced or revised as a result of the inquiry, two key pieces of legislation that continue to govern Ontario's drinking water framework emerged from this inquiry:

- *Safe Drinking Water Act, 2000 (SDWA)*<sup>6</sup>
- *Clean Water Act, 2006 (CWA)*<sup>7</sup>

Read about CELA's casework during the two-year Walkerton Inquiry from 2000-2002, and subsequent work thereafter, [by clicking here](#).<sup>8</sup>

### Multi-Barrier Approach to Clean Drinking Water

Ontario has adopted a **multi-barrier approach** for our drinking water regime, an integrated system of procedures, processes, and tools that collectively prevent or reduce the contamination of drinking water from the source to tap to reduce risks to public health.

The first step to protect drinking water is through **source water protection plans**. These plans contain a series of locally-developed policies that protect existing and future sources of municipal drinking water. They are implemented by municipalities, source protection authorities, local health boards, the province, and other entities.<sup>9</sup>

The CWA governs the preparation, approval, and implementation of source water protection plans in prescribed areas of Ontario, protecting **sources** of municipal drinking water such as lakes, rivers, and aquifers. The Act only applies where there is an existing Conservation Authority designated by the province, and are overseen by one of the 19 multi-stakeholder, community-based groups (**Source Protection Committees**) that identify and implement action plans dealing with threats.

These committees represent business, public, municipal, and Indigenous interests, having

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<sup>5</sup> Cassidy Barnes, "Safe Drinking Water for All – 20 Years after the Walkerton Inquiry Reports" (August 2022) at 6, online (pdf): *Canadian Environmental Law Association* <https://cela.ca/wp-content/uploads/2022/09/1490-Safe-Drinking-Water-for-All-Walkerton-Inquiry-Status-Report-Aug2022.pdf>.

<sup>6</sup> *Safe Drinking Water Act*, 2002, SO 2002, c 32.

<sup>7</sup> *Clean Water Act, 2006*, S.O. 2006, c. 22.

<sup>8</sup> Canadian Environmental Law Association, Casework: The Walkerton Inquiry, online: < <https://cela.ca/casework-the-walkerton-inquiry/>>.

<sup>9</sup> Government of Ontario, Source protection (13 October 2021), online: <<https://www.ontario.ca/page/source-protection>>.

developed **38 local source protection plans**, protecting nearly **450 municipal drinking water systems** in Ontario. However, they only provide enforceable protection for sources of drinking water that supply municipal drinking water systems.

**Many rural and Indigenous communities are not covered by these plans, leaving nearly 18% of Ontarians more vulnerable to drinking water contamination.**

**In response to this inadequate protection, CELA has launched the Safe Drinking Water for All campaign to ensure equitable access to clean, safe drinking water for all residents of Ontario. [Click here to learn more.](#)**<sup>10</sup>

### Source Water Protection in Southwest Ontario

Currently, source water protection plans cover the following regions in Southwestern Ontario: Ausable Bayfield Maitland Valley; Lake Erie (including the Grand River, Catfish Creek, Kettle Creek and Long Point); Saugeen, Grey Sauble, Northern Bruce; Thames-Sydenham; and Essex Region.

**A full list of source protection authorities and their plans including those in southwest Ontario can be found here: [Source Protection Plans and Resources // Conservation Ontario](#).**

If you are interested in knowing whether your region is protected by a source protection plan, you can view this map outlining all the source protection authorities by the province. [Click here.](#)<sup>11</sup>

For those communities that are not covered by source water protection plans, the Ministry of the Environment, Conservation and Parks has released a "**Best practices for source water protection**" guide on their website that helps communities learn how to manage risks and identify actions that they can take to protect their drinking water sources. [Click here to learn more.](#)<sup>12</sup>

**In August 2022, 20 years after the Walkerton Inquiry, CELA prepared a report that assessed the status of the 121 recommendations made by Justice O'Connor and evaluated whether the**

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<sup>10</sup> Canadian Environmental Law Association, "Law reform: Safe drinking water for all", (last accessed 29 June 2023) online:< <https://cela.ca/law-reform-safe-drinking-water-for-all/>>

<sup>11</sup> Ministry of Environment, Conservation and Parks, Source Protection Information Atlas (31 January 2023), Government of Ontario, online: <<https://www.ljoapplications.lrc.gov.on.ca/SourceWaterProtection/index.html?viewer=SourceWaterProtection.SWPViewer&locale=en-CA>>.

<sup>12</sup> Ministry of Environment, Conservation and Parks, Best practices for source water protection (2 August 2022), online: <https://www.ontario.ca/document/best-practices-source-water-protection>.

recommendations continue to be implemented effectively or if there have been any failures to meet the original objectives. [Click here to read more.](#)<sup>13</sup>

### Drinking Water Advisories and Source Water Protection

Water advisories remain concentrated on First Nation reserves across Ontario. As of May 4, 2023, 139 long-term drinking water advisories have been lifted since 2015, and 31 remain in effect with further work underway. [Click here for more info.](#)

[Advisories](#) can be "boil water advisories," where water must be boiled for at least 1 minute before drinking or cooking. Other types are "do not consume" advisories, where tap water should not be used for drinking or cooking. The most stringent advisory is the "do not use" advisory, where **water should not be used for any purpose.**

A recent [announcement](#)<sup>14</sup> from the government of Canada, described [an agreement in principle to settle Class Action Litigation for \\$8 billion with over 250 First Nations](#) who had experienced drinking water advisories lasting at least a year. More information, including whether you can register as a class member is available [here](#).<sup>15</sup>

Anishinabek Nation Chief Water Commissioner, and prominent youth leader, [Autumn Peltier](#) from Wikwemikong First Nation, recently addressed the United Nations on World Water Day about drinking water in Canada.<sup>16</sup> To watch her 2018 speech at the UN, click [here](#). Autumn also has a public [Facebook account](#) documenting her advocacy work.<sup>17</sup>

Click [here](#) to explore Ontario water advisories on WaterToday's interactive map.<sup>18</sup>

- Red tags : Do Not Consume Advisory
- Yellow tags : Boil Water Advisory
- Blue tags : Blue-Green Algae Advisory

For example, an advisory was issued in 2017 for the town of Simcoe, by the medical officer of health in Haldimand-Norfolk warning that people with sodium restricted diets and high blood pressure should not consume the drinking water due to high sodium levels.

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<sup>13</sup> Cassidy Barnes, "Safe Drinking Water for All – 20 Years after the Walkerton Inquiry Reports" (August 2022) at 11, online (pdf): *Canadian Environmental Law Association* <<https://cela.ca/wp-content/uploads/2022/09/Updated-Exec-Summary-CELA-Drinking-Water-Report-10-5.pdf>>.

<sup>14</sup> Cristin Schmitz. "Near-\$8-billion record settlement of First Nations' non-potable water claims features novel twists. *The Lawyer's Daily*" (6 August 2021), LAW360 Canada, online: *The Lawyer's Daily* <<https://www.thelawyersdaily.ca/articles/28838/near-8-billion-record-settlement-of-first-nations-non-potable-water-claims-features-novel-twists>>.

<sup>15</sup> McCarthy Tétrault, "Class Action Litigation on Drinking Water Advisories on First Nations" (2021), online: <<https://www.mccarthy.ca/en/class-action-litigation-drinking-water-advisories-first-nations>>.

<sup>16</sup> *Autumn Peltier*. (2018, August 15). The North American Association for Environmental Education. <https://naaee.org/people/autumn-peltier>.

<sup>17</sup> *Autumn Peltier*. (2021). *Facebook*, online: <https://www.facebook.com/Waterwarrior1/>.

<sup>18</sup> WaterToday, "Advisories for Ontario" (2023), online: <<https://www.watertoday.ca/maptest4.asp?province=8&province=8>>

## Community-Based Source Water Planning

In 2019, CELA produced a [source water protection toolkit](#) for First Nations in partnership with the Chippewas of the Thames First Nation, Munsee-Delaware First Nation, and Oneida Nation of the Thames.<sup>19</sup> The toolkit proposes legal and policy tools to address concerns from community members, whose historical use and enjoyment of the Thames River had been diminished because of threats from industrial discharges and spills, sewage overflows, and the impact of phosphorus loading and pesticide use.

To access CELA's Source Water Toolkit for Indigenous communities click [here](#).

The project relied upon both traditional knowledge and practices, and Western science-based water quality studies. As [Wilson et al.](#), have recognized:

*"There is growing acknowledgment that the material dimensions of water security alone are inadequate; we also need to engage with a broader set of hydrosocial relationships. Indeed, more holistic approaches are needed to explain Indigenous peoples' relationships to water including the use of traditional water sources."<sup>20</sup>*

Two-eyed seeing also [encourages](#) "a useful re-articulation of water security frameworks." This is also explored in this [paper](#) and multimedia project "Water Teachings: Water is Community" available [here](#).<sup>21</sup>

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<sup>19</sup> Canadian Environmental Law Association, Source Water Protection in Indigenous Communities Legal Tool Kits, online: <https://cela.ca/source-water-protection-in-indigenous-communities/>. This work followed tool kits developed previously with Pays Plat First Nation and Grassy Narrows First Nation.

<sup>20</sup> N. Wilson et al, "Water is Medicine: Reimagining Water Security through Tr'ondëk Hwëch'in Relationships to Treated and Traditional Water Sources in Yukon" (2019), online (pdf): <<https://doi.org/10.3390/w11030624>>..

<sup>21</sup> Rachel Arsenault et al, "Shifting the Framework of Canadian Water Governance through Indigenous Research Methods: Acknowledging the Past with an Eye on the Future" (10 January 2018), online: <<https://www.mdpi.com/2073-4441/10/1/49>>.



## Chapter 2: Landfill Sites

Landfill sites are areas of land where waste is disposed. Municipalities often use them across Canada to manage waste disposal.<sup>22</sup> They often contain waste materials that have not been reused or recycled, by dumping them in a designated plot of land, and then burying or covering them up with soil.<sup>23</sup>

To determine where landfill sites in a particular region are located, the provincial government provides a map of all approved sites on their website, which can be viewed [by clicking on this link](#).<sup>24</sup>

In Southwest Ontario, there are **63 approved landfill sites**, among the 620 currently open across the entire province.

Additional information in the more comprehensive dataset includes details on the landfill's fill rates, estimated remaining capacity, engineering designs, and reporting and monitoring details. The dataset was last updated on April 14, 2022.

Information about each approved site is listed on the website, including its:

- Environmental Compliance Approval (“ECA”) number
- Ministry of the Environment, Conservation and Parks (“MECP”) region
- MECP district
- Client name (the owner and operator of the site)
- Site name
- Site address
- Site municipality
- Operation status (open/closed)

**When it comes to landfill sites, or waste disposal sites, some potential hazards include:**

- Contamination of the ground and surface water, especially if it might affect a local community's drinking water supply;
- Methane gas production and migration into the air;
- Leachate (liquid) containing contaminants - production and migration; and

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<sup>22</sup> Government of Canada, “Municipal solid waste management in Canada” (10 March 2021), online: <https://www.canada.ca/en/environment-climate-change/services/managing-reducing-waste/municipal-solid/environment.html>.

<sup>23</sup> Ontario Waste Management Association, “Landfills” (2021), online: <https://www.owma.org/cpages/landfills>.

<sup>24</sup> Government of Ontario, (9 August 2022), Landfill sites map, online: <https://www.ontario.ca/page/landfill-sites-map>.

- Land subsidence (ground settling) due to waste settling and decomposition.<sup>25</sup>

Landfills storing leachate is a contamination hazard of concern across Canada. Leachate is rainwater, or any other liquid, that “accumulates and becomes contaminated as it travels through solid waste material.”<sup>26</sup> This excess water may contain several toxic chemicals that may impact local groundwater and residential drinking wells.<sup>27</sup>

### Environmental Compliance Approvals and Landfills

Owners and operators of landfill sites must apply for environmental permissions through an **Environmental Compliance Approval (ECA)** for their site’s air, noise, waste, and sewage emissions and discharges.<sup>28</sup> These sites must meet specific conditions set out in the ECA and may be subject to an inspection by the Ministry.<sup>29</sup>

When applications for an ECA are made, they are classified as a Class II proposal under the Environmental Bill of Rights. Thus, applications for an ECA must be posted for a **minimum of 30 days** on the [Environmental Registry](#) for public comment.<sup>30</sup>

*O. Reg 101/07: Waste Management Projects* is a regulation under the Ontario *Environmental Assessment Act* and defines which landfills must also undergo an environmental assessment. For instance, a new landfill site or dump with a total waste disposal volume of more than 100,000 cubic metres is designated as an “undertaking” and the *Environmental Assessment Act* applies.<sup>31</sup>

Landfills must also meet the requirements of O. Reg 232/98: Landfilling Sites and RRO 1990, Reg 347: General – Waste Management, which are regulations under the *Environmental Protection Act*.<sup>32</sup>

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<sup>25</sup> Government of Ontario, C-5 Registration on Title of Certificates of Approval for Waste Disposal Sites, “Potential Hazards from Waste Disposal Sites (2.0)”, available online at: <https://www.ontario.ca/page/c-5-registration-title-certificates-approval-waste-disposal-sites>.

<sup>26</sup> Government of Canada, “Municipal solid waste management in Canada” (10 March 2021), online: <https://www.canada.ca/en/environment-climate-change/services/managing-reducing-waste/municipal-solid/environment.html>.

<sup>27</sup> Richard Lindgren, (16 June 2015), Media Release: Public Hearing on Leaking Landfill to Conclude with Parties’ Final Argument, *CELA*, online: <https://cela.ca/public-hearing-on-leaking-landfill-to-conclude-with-parties-final-argument/>.

<sup>28</sup> Government of Ontario, “Environmental Permissions” (8 July 2021), online: <https://www.ontario.ca/page/environmental-permissions>.

<sup>29</sup> Government of Ontario, “Environmental Compliance Approval” (24 November 2022), online: <https://www.ontario.ca/page/environmental-compliance-approval#section-0>.

<sup>30</sup> Environmental Registry of Ontario, online: <https://ero.ontario.ca/>.

<sup>31</sup> O. Reg 101/07: Waste Management Projects, s. 2(1), online: [O. Reg. 101/07: WASTE MANAGEMENT PROJECTS \(ontario.ca\)](https://www.ontario.ca/page/o-reg-101-07-waste-management-projects).

<sup>32</sup> O. Reg 232/98: Landfilling Sites, online: [O. Reg. 232/98: LANDFILLING SITES \(ontario.ca\)](https://www.ontario.ca/page/o-reg-232-98-landfilling-sites); RRO 1990, Reg 347: General – Waste Management, online: [R.R.O. 1990, Reg. 347: GENERAL - WASTE MANAGEMENT \(ontario.ca\)](https://www.ontario.ca/page/rro-1990-reg-347-general-waste-management).

## Community Action Against Landfills

Vulnerable and low-income populations are more likely to live near landfills and other hazardous waste sites. These areas have fewer resources to oppose the placement of these facilities. This makes them an easier target for landfill placement than higher-income areas.<sup>33</sup>

For nearly 50 years, CELA has represented clients in numerous battles across Ontario in relation to existing or proposed landfills to safeguard public health and the environment.

For example, for several years CELA represented the Oxford People Against the Landfill (OPAL) Alliance throughout several proceedings on the "Southwestern Landfill," proposed in a quarry in Oxford County. OPAL was concerned about the environmental and human health impacts of the proposed waste disposal site, particularly because residents of nearby communities relied on groundwater for their drinking water supply.

On behalf of OPAL, CELA participated in the provincial environmental assessment ("EA") process for the proposal and made submissions on the adequacy of the proponent's EA studies and reports. CELA concluded that the EA documentation did not contain enough information, at a sufficient level of detail, to fully identify and evaluate the undertaking's direct, indirect, and cumulative impacts on the environment and human health.<sup>34</sup>

In 2020, the Ontario government enacted Bill 197, the *COVID-19 Economic Recovery Act*, which amended Ontario's *Environmental Assessment Act* to require a landfill proponent to obtain a local municipal council's support for the project. If the site is proposed to be located within 3.5 km of an adjacent municipality, the proponent would also be required to obtain that adjacent municipality's council's support.

In the OPAL case, the local municipalities passed motions that expressly rejected the proposed Southwestern Landfill. In November 2021, the proponent decided not to pursue the project and withdrew its EA application.<sup>35</sup>

**Read more about CELA's work against the Southwestern Landfill by [clicking this link](#).**<sup>36</sup>

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<sup>33</sup> Baskut Tuncak, "End-of-visit statement by the United Nations Special Rapporteur on toxics and human rights, Baskut Tuncak on his visit to Canada, 24 May to 6 June 2019" (6 June 2019), online: *United Nations* <<https://www.ohchr.org/en/statements/2019/06/end-visit-statement-united-nations-special-rapporteur-toxics-and-human-rights>>; Kayla Vasarhelyi, "The Hidden Damage of Landfills" (15 April 2021), online: *University of Colorado Boulder* <<https://www.colorado.edu/ecenter/2021/04/15/hidden-damage-landfills>>.

<sup>34</sup> Richard Lindgren, Theresa McClenaghan, (11 September 2020), COMMENTS ON DRAFT ENVIRONMENTAL ASSESSMENT: PROPOSED SOUTHWESTERN LANDFILL, *Canadian Environmental Law Association*, online: <https://cela.ca/wp-content/uploads/2020/09/CELA-Ltr-draft-EA-SouthwesternLandfill.pdf>

<sup>35</sup> Matthew McClearn, "Ontario is running out of landfill space. Will it embrace the circular economy or sleepwalk into a crisis? ", *The Globe and Mail* (5 April 2022), online: <<https://www.theglobeandmail.com/canada/article-ontario-landfills-capacity-bill-197/>>.

<sup>36</sup> Canadian Environmental Law Association, Casework: Proposed Mega Landfill in Southwestern Ontario, online: <https://cela.ca/casework-proposed-mega-landfill-in-southwestern-ontario/>

## Chapter 3: Aggregates, Pits & Quarries

Aggregate is the technical term for **elements of mined materials**, including gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, and all material used in construction.<sup>37</sup> Southwest Ontario has over 6,000 aggregate operations that are mined from pits and quarries.<sup>38</sup>

### Pits & Quarries

Pits account for most of the extraction activities for aggregates in southwestern Ontario. At times, gravel may be deeper than the groundwater table.

Quarries are located at the surface of the Earth, often reaching a depth of up to 100 feet.<sup>39</sup>

### Where Are They Located?

Ontario has a mapping tool that helps you locate where pits and quarries are in your region. You can find details on:

- All licensed pits and quarries in a chosen area of Ontario [on Crown or private lands]
- Licensee or permittee name and address
- Approval types (license or permit)
- The size of licensed or permitted areas
- The operation type (pit, quarry, or both)
- The maximum annual tonnage limit
- The Ministry of Northern Development, Mines, Natural Resources and Forestry district responsible for the area.

In southwestern Ontario, there are currently **at least 366 licensed pits and quarries**.

Area	Authorized Aggregate Sites	Pits	Quarries	Both
<b>Brantford</b>	27	19	8	0
<b>Chatham</b>	3	3	0	0
<b>Guelph</b>	37	34	2	1
<b>Hamilton</b>	22	19	2	1

<sup>37</sup> *Aggregate Resources Act*, RSO 1990, c A.8, s 1(1).

<sup>38</sup> Richard Lindgren, (6 November 2019), Digging Holes in Ontario – Overview of Proposed Aggregate Reforms, CELA, online: <https://cela.ca/digging-holes-in-ontario-overview-of-proposed-aggregate-reforms/>.

<sup>39</sup> Ontario Stone, Sand, & Gravel Association, “Where does aggregate come from?” (2022), online: [gravelfacts.ca <https://www.gravelfacts.ca/what-is-aggregate-1>](https://www.gravelfacts.ca/what-is-aggregate-1/).

<b>Kitchener</b>	19	17	2	0
<b>London</b>	53	53	0	0
<b>Mississauga</b>	145	98	42	5
<b>Niagara</b>	15	4	11	0
<b>Owen Sound</b>	27	21	6	0
<b>St. Thomas</b>	2	2	0	0
<b>Sarnia</b>	4	4	0	0
<b>Stratford</b>	11	11	0	0
<b>Windsor</b>	1	0	1	0

### Regulating Mining & Excavation Activities

Aggregate pits and quarries are regulated by *Aggregate Resources Act* ("ARA").<sup>40</sup> CELA has represented clients at hearings at the Ontario Land Tribunal on issues stemming from the impacts of these operations on the conservation of water resources, reduced quality of drinking water, and the protection of local air quality, wildlife habitat, and ecosystems.

### Ontario Amendments to the ARA

In 2019, Ontario proposed amendments to ARA that would outlaw the use of municipal bylaws preventing aggregate operators from digging below water tables to protect groundwater. In response to this omnibus bill, which changed several other environmental laws in the process, **CELA prepared submissions for the Standing Committee on General Government.** [You can read CELA's submissions here.](#)<sup>41</sup>

In May 2020, CELA filed a letter to the then-named Ministry of Natural Resources and Forestry ("MNRF") regarding proposed changes to Regulation 244/97 and Provincial Standards under the ARA. The changes proposed at that time were said to "reduce the regulatory burden" on the aggregate industry and expedite the process to start and expand aggregate operations in Ontario.

**Read CELA's letter to the Ministry of Natural Resources and Forestry [here.](#)**<sup>42</sup>

<sup>40</sup> *Aggregate Resources Act*, RSO 1990, c A.8, s 2(a)-(d).

<sup>41</sup> Richard Lindgren, (28 November 2019), CELA Submissions to the Ontario Government on Bill 132, available online: <https://cela.ca/submissions-on-bill-132/>.

<sup>42</sup> Richard Lindgren, (15 May 2020), Proposed Regulation Amendments under the Aggregate Resource Act Favour Producers Over Local Residents, online: <https://cela.ca/proposed-regulation-amendment-aggregate-resource-act/>.

## Communities involved with Responding to Impacts of the Aggregate Industry

[Gravel Watch Ontario](#) is a "coalition of coalitions" founded in 2003, representing and acting on behalf of the interests of thousands of Ontarians who are impacted by matters related to aggregate resources. Community groups have raised a number of issues as a result of living near increasing aggregate activity, including issues relating to noise and vibration, water quality or quantity, dust and air quality, traffic and safety, and impacts on the natural environment.<sup>43</sup>

The group is made up of several citizen groups, non-government organizations, and individuals in Ontario educating and advocating against harmful aggregate industry decisions made at the provincial and occasionally, federal, level.

The group has advocated for the rehabilitation of pits and quarries in Ontario under the *ARA*, to restore abandoned sites back to their previous condition, quality, and use of lands. They also emphasize greater consultation with the public in doing so:

*"Consultation with the public needs to be full, open, and continuous ... to address the gaps and failings in process, the overlapping authorities among various ministries which results in less than best practice, the declining value of aggregate in the marketplace likely due to oversupply, the health impacts of every stage of the industry on workers and the public, and the public's rightful desire for transparency."* (Gravel Watch Ontario).<sup>44</sup>

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<sup>43</sup> Gravel Watch Ontario, "Impacts" (tab on left side), available online at: <http://www.gravelwatch.org/>.

<sup>44</sup> Gravel Watch Ontario, DRAFT PAPER: Rehabilitation of Pits and Quarries under Ontario's Aggregate Resources Act, online at 14 (pdf): <http://www.gravelwatch.org/rehabilitation/>.

## Chapter 4: Access to Public Transportation

Public transportation in Southwestern Ontario is a contentious issue. A lack of provincial funding and infrastructure has left many communities without adequate access to public transportation, both within their communities and between communities, resulting in detrimental environmental and socioeconomic burdens to its residents.

Public transportation includes buses, commuter rail trains, subway systems, and other means of travel that allows people to travel within their communities or between communities. In Ontario, both the provincial and federal governments use tax funds to support public transportation systems, which are administered and maintained by municipalities. There are 58 transit systems in all of Ontario linking communities together within specific regions and to other communities across the province, such as GO Transit and subway systems.<sup>45</sup>

### Benefits of Public Transportation

Public transportation has significant social, environmental, and economic benefits for both riders and the environment:

- More affordable than using a private vehicle
- Enhances social participation by removing barriers to access essential services such as health care, employment, and education
- Improves air quality with fewer emissions-emitting vehicles on the roads (less pollution per passenger-kilometer)
- Improves health by increasing physical activity when linked to active transportation and walkable communities
- Reduces greenhouse gas emissions by reducing total vehicle-kilometres travelled<sup>46</sup>.

### Impacts of a Lack of Adequate Public Transport

A lack of funding and infrastructure negatively impacts rural and Indigenous communities. Low-income, racialized, and Indigenous communities, especially those living in rural areas, must travel long distances in order to access essential services such as employment, education, and healthcare. Seniors and individuals with disabilities have fewer alternative modes of transportation that suit their mobility needs.

A lack of adequate public transportation also results in **injury to human health and the**

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<sup>45</sup> Ontario Human Rights Commission, “Conventional transit systems”, online: <<https://www.ohrc.on.ca/en/consultation-report-human-rights-and-public-transit-services-ontario/conventional-transit-systems>>.

<sup>46</sup> Kim Perrotta, “Public Transit – Good for Health, Social Equity and the Planet!” (February 2021), online: *Canadian Health Association for Sustainability & Equity (CHASE)* <https://chasecanada.org/2021/11/11/public-transit-good-for-health-social-equity-and-the-planet/> >.

**environment.** Degraded & limited transportation networks in rural communities increase the rate of "deadly accidents" and increase air pollution as private vehicle use expands. This also decreases habitable space for wildlife and increases wildlife deaths caused by vehicle collisions.

**Read about CELA's recommendations for rural municipalities to improve public transportation by [clicking this link](#).**<sup>47</sup>

### **The Southwest – Loss of Existing Transportation**

Access to public transportation in Southwestern Ontario has been a contentious issue for years due to a lack of provincial funding and accessible infrastructure. The region is home to 1.6 million people in 88 municipalities, 10 First Nations communities, and 5 Métis Community Councils. This underfunding **exacerbates** experiences of poverty and disability faced by the most vulnerable members of this community.<sup>48</sup>

In 2021, the Southwest corridor suffered a blow to its few remaining transit systems after Greyhound Canada permanently closed its bus services throughout the country. After years of canceling services across Canada, Greyhound closed the 6 remaining corridors that connected residents of southwest Ontario to major Canadian cities.<sup>49</sup> The decision was most impactful to those living in rural and Indigenous communities, areas where a lack of transportation infrastructure has made access to urban areas for services difficult, long, and expensive.

Additionally, since the COVID pandemic, VIA Rail has reduced its service in southwest Ontario, and has not yet restored all of the trains to the Windsor–Toronto corridor. Local city councillors have been lobbying to reinstate these services.<sup>50</sup>

### **The Southwest Ontario Transportation Task Force**

In 2021, the provincial government launched the **[Southwest Ontario Transportation Task Force](#)**, a local advisory group striving to improve connections between transportation modes in the area through rail, bus, and local transit services across the region. The Task Force's aims are to ensure transportation planning is **informed by local needs & considerations** using feedback

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<sup>47</sup> Rabi Abid, (8 November 2022), Recommendations for Municipalities (Focus: Transportation for Rural Communities), available online at: [https://cela.ca/wp-content/uploads/2022/11/1504\\_Rural\\_transportation\\_Report.pdf](https://cela.ca/wp-content/uploads/2022/11/1504_Rural_transportation_Report.pdf).

<sup>48</sup> Ontario Human Rights Commission, "Conventional transit systems", online: <https://www.ohrc.on.ca/en/consultation-report-human-rights-and-public-transit-services-ontario/conventional-transit-systems>.

<sup>49</sup> Brett Bundale, "Greyhound Canada to permanently cut all routes, end nearly a century of operations" (13 May 2021), online: *CP24* <<https://www.cp24.com/news/greyhound-canada-to-permanently-cut-all-routes-end-nearly-a-century-of-operations-1.5426545>>.

<sup>50</sup> Jacquelyn Lebel "COVID-19: London, Ont. among regions to see reduced VIA Rail service" (14 January 2022), online: *Global News* <https://www.brantfordexpositor.ca/news/local-news/city-councillors-back-mayors-lobbying-efforts-to-reinstate-morning-via-rail-train>.



from local leaders such as mayors of municipalities and Indigenous chiefs in the region to develop public transportation infrastructure and redirect funding.<sup>51</sup>

The Task Force was the product of 1 of more than 40 improvements and strategies across different modes of travel set out in the province's 2019-20 transit support plan: **Connecting the Southwest: A Draft Transportation Plan for Southwestern Ontario**. After receiving comments from over 1400 Ontarians living in the Southwest region from January to March 2021, the province identified specific concerns to accommodate to improve public transit in the region.<sup>52</sup>

- More affordable, reliable, & frequent local transit, intercommunity bus, passenger rail, and ferry services
- Less congestion and shorter travel times on provincial highways and local roads
- More transportation options in rural and remote communities to connect to other communities, services, education, and employment
- Improve road safety, including the safety of passenger and commercial vehicles and active travelers
- Faster delivery of transit projects with more public information on project status and completion deadlines.

To aid this initiative, Ontario has provided \$14.8 million to 12 municipalities in the region as part of the **Ontario Community Transportation Grant**.

### **Additional Provincial and Federal Funding Support**

Ontario provided **\$375.6 million** through the **Gas Tax Program** to help 107 municipalities across the province operate and improve local transit in 2022. The funding can be used to extend service hours, buy transit vehicles, add routes, improve accessibility, or upgrade infrastructure. The program supported 22 municipalities in Southwest Ontario.<sup>53</sup> An additional \$80 million was added to the program to “make up for reduced gas sales due to ongoing recovery from the COVID-19 pandemic.”<sup>54</sup>

**\$103 million** has been invested in **10 transit projects in London** through the **Investing in Canada Infrastructure Program**, to improve existing train services for VIA Rail and to offer joint train services with GO transit in the area.<sup>55</sup>

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<sup>51</sup> Government of Ontario, “Ontario Launches Southwestern Ontario Transportation Task Force” (26 January 2021), online: <<https://news.ontario.ca/en/release/60101/ontario-launches-southwestern-ontario-transportation-task-force>>.

<sup>52</sup> *Connecting the Southwest: A Draft Transportation Plan for Southwestern Ontario* (January 2022), online (pdf): *Government of Ontario* <<https://files.ontario.ca/connecting-the-southwest-english.pdf>>.

<sup>53</sup> Government of Ontario, “Ontario Gives Boost to Municipal Public Transit” (21 January 2022), online: <<https://news.ontario.ca/en/release/1001444/ontario-gives-boost-to-municipal-public-transit>>.

<sup>54</sup> Government of Ontario, “Ontario Provides More Money for Municipal Public Transit” (23 February 2023), online: <https://news.ontario.ca/en/release/1002747/ontario-provides-more-money-for-municipal-public-transit>.

<sup>55</sup> Government of Ontario, “Ontario Gives Boost to Municipal Public Transit” (21 January 2022), online: <<https://news.ontario.ca/en/release/1001444/ontario-gives-boost-to-municipal-public-transit>>.

## Chapter 5: Air Pollution from Highways

### Air Emissions & Health Impacts from Highways

There are serious health impacts from air pollution caused by highways and increased vehicle traffic.<sup>56</sup> In fact, continuous exposures to air pollution are considered to be the 5<sup>th</sup> leading cause of death globally.<sup>57</sup> Living near highways exposes residents to various adverse health outcomes, including:

- **Respiratory Illness:** Placing children at risk of increased asthma attacks, impaired lung function, lung cancer
- **Cardiovascular Sickness:** Increased risks of heart attacks and other cardiovascular diseases (chronic obstructive pulmonary disease)
- **Memory Impacts:** Increased risks of dementia, poorer cognition<sup>58</sup>

According to Health Canada, around 1200 premature deaths were estimated to have occurred across Canada in 2015 as a result of traffic-related air pollution exposures.<sup>59</sup> More populous areas where residents live closer to highways, such as Hamilton, see greater premature deaths per year. In 2015, there were 510 premature deaths in Ontario as a result of air pollution.<sup>60</sup>

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<sup>56</sup> Environmental Defence, “New report shows how Highway 413 will increase greenhouse gas emissions and air pollution from transportation” (28 April 2021), online: <<https://environmentaldefence.ca/2021/04/28/new-report-shows-highway-413-will-increase-greenhouse-gas-emissions-air-pollution-transportation/>>.

<sup>57</sup> Health Canada (February 2022), Health Impacts of Traffic-Related Air Pollution in Canada, at 5, available (online): *Government of Canada* [https://publications.gc.ca/collections/collection\\_2022/sc-hc/H144-91-2022-eng.pdf](https://publications.gc.ca/collections/collection_2022/sc-hc/H144-91-2022-eng.pdf).

<sup>57</sup> Government of Canada, “Data integration: wetlands”, online: <<https://maps.canada.ca/journal/content-en.html?lang=en&appid=3e0e68485b504e3f837c6c83685337c5&appidalt=ec04f3cd941146aa8ad82985fba5a333>>.

<sup>58</sup> Public Health Ontario, Traffic-Related Air Pollution: Avoiding the TRAP Zone, available (online): [https://www.publichealthontario.ca/-/media/Documents/O/2016/ohp-trap.pdf?rev=a7487430d09b469380e25dd2457d1ec7&sc\\_lang=en](https://www.publichealthontario.ca/-/media/Documents/O/2016/ohp-trap.pdf?rev=a7487430d09b469380e25dd2457d1ec7&sc_lang=en); American Lung Association, “Living Near Highways and Air Pollution” (17 November 2022), online: <<https://www.lung.org/clean-air/outdoors/who-is-at-risk/highways>>.

<sup>59</sup> Health Canada (February 2022), Health Impacts of Traffic-Related Air Pollution in Canada, at 3, available (online): *Government of Canada* [https://publications.gc.ca/collections/collection\\_2022/sc-hc/H144-91-2022-eng.pdf](https://publications.gc.ca/collections/collection_2022/sc-hc/H144-91-2022-eng.pdf).

<sup>60</sup> Health Canada (February 2022), Health Impacts of Traffic-Related Air Pollution in Canada, at 3, available (online): *Government of Canada* [https://publications.gc.ca/collections/collection\\_2022/sc-hc/H144-91-2022-eng.pdf](https://publications.gc.ca/collections/collection_2022/sc-hc/H144-91-2022-eng.pdf).

## Chapter 6: Wetlands and Remaining Forest Losses

### What Are Wetlands?

Wetlands are areas covered by water, often groundwater, from an aquifer, river, or lake. Wetlands act as "**transition zones**" – neither entirely dry nor underwater. They undergo fluctuations in their depths and durations based on seasonal flooding.<sup>61</sup>

A wetland's soil saturation **determines** the vegetation surrounding it, as plants living in these areas are adaptable to the environment. The more frequently flooded a wetland is, the more likely it will have thick mosses and grasses growing on it.

Wetlands exist in various climates and are found along coasts or inland. They are often referred to as peatlands, marshes, swamps, fens, and bogs.<sup>62</sup>

### Where are Wetlands in Southwest Ontario?

Ontario is home to approximately 25% of Canada's wetlands, and 6% of the world's remaining wetlands.<sup>63</sup> Prior to European colonization, wetlands were a high proportion of the land coverage in southwest and southeast Ontario, covering approximately 50 - 85% of the land. Starting in 1967, the region experienced a drastic decline in wetlands.<sup>64</sup>

Up to **70% of wetlands** have been destroyed or degraded in settled areas of Canada. Wetlands in southern parts of Ontario have been "drained for agriculture, filled for development, polluted by toxic runoff and damaged by artificial changes in water levels." In Southern Ontario, **68%** of the wetlands originally present were lost by the early 1980s.<sup>65</sup> This downward trend of loss of wetlands continues in Southern Ontario. Between 2011-2015, an additional 0.7% of Southern Ontario's wetlands were lost.<sup>66</sup>

### Why Are Wetlands Important?

Wetlands provide habitat for endangered species, maintain natural cycles, and improve climate resilience.<sup>67</sup> Canada's wetlands store **150 billion tons of carbon** – more carbon than the entire

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<sup>61</sup> Government of Canada, "Data integration: wetlands", online: <<https://maps.canada.ca/journal/content-en.html?lang=en&appid=3e0e68485b504e3f837c6c83685337c5&appidalt=ec04f3cd941146aa8ad82985fba5a333>>.

<sup>62</sup> National Geographic Society: "Wetlands" (20 May 2022), online: <<https://education.nationalgeographic.org/resource/wetland/>>.

<sup>63</sup> *Wetland Conservation Strategy for Ontario 2017-2030* (2017) at 2, online: *Government of Ontario* <[https://files.ontario.ca/mnr\\_17-075\\_wetlandstrategy\\_final\\_en-accessible.pdf](https://files.ontario.ca/mnr_17-075_wetlandstrategy_final_en-accessible.pdf)>.

<sup>64</sup> Ducks Unlimited Canada, "Final Report: Southern Ontario Wetland Conversion Analysis" (March 2010) at 7, online (pdf): <[https://longpointbiosphere.com/download/Environment/duc\\_ontariowca\\_optimized.pdf](https://longpointbiosphere.com/download/Environment/duc_ontariowca_optimized.pdf)>.

<sup>65</sup> Ontario Biodiversity Council, *Extent of Wetland Cover and Wetland Loss* (25 August 2021), online: <<https://sobr.ca/indicator/loss-of-wetlands/>>.

<sup>66</sup> Ontario Biodiversity Council, "State of Ontario's Biodiversity 2020 Summary" (2021), at 8, online (pdf): <[https://sobr.ca/\\_biosite/wp-content/uploads/state-of-biodiversity-report-E-FINAL-aoda-with-links-and-correction-1.pdf](https://sobr.ca/_biosite/wp-content/uploads/state-of-biodiversity-report-E-FINAL-aoda-with-links-and-correction-1.pdf)>.

<sup>67</sup> *Wetland Conservation Strategy for Ontario 2017-2030* (2017) at 5, online: *Government of Ontario* <[https://files.ontario.ca/mnr\\_17-075\\_wetlandstrategy\\_final\\_en-accessible.pdf](https://files.ontario.ca/mnr_17-075_wetlandstrategy_final_en-accessible.pdf)>.

world emitted in 2020.<sup>68</sup> Considered as nature's "purification system," these ecosystems are integral in our fight against climate change.<sup>69</sup>

### Protections for Wetlands in Southwest Ontario

Ontario's *Provincial Policy Statement, 2020* prevents development in wetlands in Southwestern Ontario if they are classified as "provincially significant". However, recent amendments to the [Ontario Wetland Evaluation System](#) make it much more difficult for a wetland to be designated as provincially significant or to retain its status as provincially significant.<sup>70</sup>

For instance, while no development will be permitted on wetlands considered to be "provincially significant", Hamilton Conservation Authority has raised concerns that nearly [75% of the city of Hamilton's key wetlands](#) are at risk of losing this protection due to amendments to the Ontario Wetland Evaluation System.<sup>71</sup> There is now a greater potential for re-evaluation of wetlands, and smaller interconnected wetlands, called complexes, are at particular risk of losing their status as provincially significant.<sup>72</sup>

**For more details on amendments to the Ontario Wetland Evaluation System, see CELA's [comments](#) submitted to the provincial government on November 22, 2023.**

### What Threatens Wetlands Today?

**Residential and commercial development** near natural sites is the leading cause of wetland loss in the southwest region.<sup>73</sup>

A study of 7 Southern Ontario municipalities (Cambridge, Kitchener, London, Markham, Vaughan, Waterloo, and Whitby) by researchers at the University of Waterloo found that small wetlands are disappearing at disproportionate rates. These lands are 2 hectares or less, are not

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<sup>68</sup> Jenna Cardoso, "Protecting Peatlands Protects Our Planet" (15 December 2021), online: *Ontario Nature* <<https://ontarionature.org/protecting-imperiled-peatlands-blog/>>.

<sup>69</sup> Jenna Kip, "The Worth of Our Wetlands" (14 April 2022), online: *Nature Canada* <<https://ontarionature.org/the-worth-of-our-wetlands-blog/>>.

<sup>70</sup> Government of Ontario "Proposed Updates to the Ontario Wetland Evaluation System (ERO number 019-6160)" (12 December 2022), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-6160>>.

<sup>71</sup> Mason Regan, "Hamilton wetlands may lose development protection" (10 January 2023), online: *CanadaToday* <<https://canadatoday.news/on/hamilton-wetlands-may-lose-development-protection-176701/>>

<sup>72</sup> Ministry of Natural Resources, "Wetland Restoration", online (pdf): <<https://www.kawarthaconservation.com/en/resources/wetland-restoration.pdf>>.

<sup>73</sup> Tim Gray, "Why is it crucial to protect wetlands and why the Ontario government's development plans for them are an ecological nightmare" (11 November 2020), online: *Environmental Defence* <<https://environmentaldefence.ca/2020/11/11/crucial-protect-ontarios-wetlands/>>.

provincially protected, and are likely to be destroyed for urban development and resource extraction purposes.<sup>74</sup>

### Conservation Authorities

Recent amendments to the *Conservation Authorities Act* have restricted the permitting powers of Conservation Authorities, especially where a Ministerial Zoning Order has been issued for a particular development. The Conservation Authorities Act now also distinguishes between mandatory programs and services and non-mandatory programs and services, and restricts Conservation Authority power as it relates to activities categorized as non-mandatory.<sup>75</sup>

Read CELA's submissions to the Standing Committee on Heritage, Infrastructure and Cultural Policy regarding Bill 23 [by clicking this link](#).<sup>76</sup>

### For More Information:

Visit CELA's website to view our work on Bill 23 and discover ways that you can remain involved with advocacy work against this Bill such [as by submitting comments on the Environmental Registry](#). [Click this link to view a schedule of when parts of the Bill will come into effect](#).<sup>77</sup>

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<sup>74</sup> Waverley S. Birch, et al. (15 May 2022). Trends and predictors of wetland conversion in urbanizing environments. *Journal of Environmental Management*, 310, 114723.  
<https://www.sciencedirect.com/science/article/pii/S0301479722002961>.

<sup>75</sup> *Bill 23, More Homes Built Faster Act, 2022*, Schedule 2, online: <[b023ra\\_e.pdf \(ola.org\)](#)>

<sup>76</sup> Theresa McClenaghan (15 November 2022), Written Submission to Standing Committee on Bill 23 – More Homes, Built Faster Act, 2022, online at: <https://cela.ca/written-submission-to-standing-committee-on-bill-23-more-homes-built-faster-act-2022/>

<sup>77</sup> Canadian Environmental Law Association, Action Alert: Bill 23 – More Homes, Built Faster Act, 2022, online at: <https://cela.ca/reviewing-bill-23-more-homes-built-faster-act-2022/>

## Chapter 7: Oil and Gas Refineries and Spills

An oil and gas refinery is an industrial plant where petroleum products are transformed and refined into products such as gasoline or diesel fuel in Canada. Canada has **17 operating refineries** across the country. There are 4 in Ontario. Gasoline comprises the largest output from refineries at approximately **36%**.<sup>78</sup>

Ontario has the **second-largest refining capacity** in the country, accounting for 20% of Canada's refining capacity.

Oil and gas refineries can have detrimental impacts on the environment: the air, land, and water. Environmental concerns can also result from risk of spills (mostly for oil), and the subsequent environmental impacts.

The four Ontario refineries are all located in the Southwest region, and include (1) Imperial Oil Sarnia Refinery, (2) Suncor Energy Products Partnership Refinery, Sarnia, (3) Shell Sarnia Manufacturing Centre Terminal/ Shell's Corunna Refinery, and (4) Imperial Oil Refinery, Nanticoke. To look up pollutants released from these facilities, the National Pollutant Release Inventory (NPRI) provides data on yearly pollution releases. For more information on the NPRI, see chapter 18.

### The Regulation of Oil and Gas Pipelines in Ontario

The Canada Energy Regulator regulates international and interprovincial pipelines across the country.<sup>79</sup> This map can be used to identify whether there is a pipeline near you: [CER – Interactive Pipeline Map \(cer-rec.gc.ca\)](https://www.cer-rec.gc.ca/en/interactive-pipeline-map)

Its provincial equivalent is the Ontario Energy Board (the “OEB”), the independent regulator of Ontario’s electricity and natural gas sectors, established through the *Ontario Energy Board Act*.<sup>80</sup>

Under the Ontario [Environmental Protection Act](#), the owner of a spilled pollutant must clean up their own spills. They must take all additional steps required to ensure they prevent and eliminate negative effects from spills, including restoration of the environment following a spill.

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<sup>78</sup> Government of Canada, “ARCHIVED – Where does Canada’s gasoline come from?” (May 2019), online: <<https://www.cer-rec.gc.ca/en/data-analysis/energy-commodities/crude-oil-petroleum-products/report/archive/2019-gasoline/index.html#:~:text=Domestic%20Oil%20Production%20and%20Imports,gasoline%20comes%20from%20crude%20oil.>>.

<sup>79</sup> <https://www.cer-rec.gc.ca/en/>

<sup>80</sup> <https://www.oeb.ca/>; <https://www.ontario.ca/laws/statute/98o15>

The Minister of Environment, Conservation and Parks has the legislative authority to compel them to do so under the *EPA*.<sup>81</sup>

Other aspects of regulation of oil and gas in southwest Ontario include rules for drilling and abandoning hydrocarbon wells; storage reservoirs; and intra-provincial pipelines. These issues are also considered as potential threats in preparing source protection plans to protect drinking water.

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<sup>81</sup> <https://www.ontario.ca/page/report-pollution-and-spills#:~:text=Under%20the%20Environmental%20Protection%20Act,environment%20to%20its%20original%20state.>

## Chapter 8: Air Pollution & Exemptions from Standards

Human reactions to air pollution range from short-term health effects such as asthma and skin rashes to long term effects including bronchitis, emphysema, lung disease and cancer. Vulnerable populations – such as children, the elderly, and people with respiratory diseases - may suffer more extreme effects from exposure to air pollution.<sup>82</sup> In addition to its adverse effects on [human health](#), air pollution impacts crops, animals, and water pollution. The degradation of air quality also has social and economic consequences, such as the [morbidity impacts](#) of air pollution.<sup>83</sup>

Human activities are responsible for the majority of air emissions. In the absence of smoking or other indoor pollution, industrial emissions and urban vehicle emissions are the main sources of exposure to air pollutants.<sup>84</sup>

Ontario has prescribed air emission standards under O Reg 419/05 Air Pollution - Local Air Quality, under the *Environmental Protection Act* (available [here](#)).<sup>85</sup> However, not all facilities are required to meet these standards. Facilities may apply for "[site-specific standards](#)" to allow them to be exempt from the provincial standard and pollute to air above the limits.<sup>86</sup>

Another type of case in which industry may not follow the Ontario Regulation 419 standards are those in which industry obtains a Technical Standard." Once obtained, Technical Standards apply sector-wide. This includes some industries with significant emissions such as petroleum refineries, petrochemical facilities, and pulp and paper facilities.<sup>87</sup>

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<sup>82</sup> World Health Organization, "How air pollution is destroying our health" (7 March 2023), online: <<https://www.who.int/news-room/spotlight/how-air-pollution-is-destroying-our-health>>.

<sup>83</sup> Alison Hunt et al, "Social Costs of Morbidity Impacts of Air Pollution" (28 January 2016), online (pdf): <[https://www.oecd-ilibrary.org/environment/social-costs-of-morbidity-impacts-of-air-pollution\\_5jm55j7cq0lv-en/#%3A~%3Atext%3DThese%20adverse%20health%20effects%20have%2Ctrillion%2C%20respectively%2C%20in%202010](https://www.oecd-ilibrary.org/environment/social-costs-of-morbidity-impacts-of-air-pollution_5jm55j7cq0lv-en/#%3A~%3Atext%3DThese%20adverse%20health%20effects%20have%2Ctrillion%2C%20respectively%2C%20in%202010)>.

<sup>84</sup> Government of Canada, "Air pollution: drivers and impacts" (24 November 2022), online: <<https://www.canada.ca/en/environment-climate-change/services/environmental-indicators/air-pollution-drivers-impacts.html>>.

<sup>85</sup> RRO 2022, Reg 419, Sched 2, s 33. <<https://www.ontario.ca/laws/regulation/050419>>.

<sup>86</sup> Air Pollution - Local Air Quality, O Reg 419/05, ss 32-37.1; *Guide to Requesting a Site-specific Standard: Guidance for Request for Site-Specific Standard Approvals under Section 32, Under Ontario Regulation 419/05, Air Pollution-Local Air Quality made under the Environmental Protection Act, February 2017*, online (pdf): <<https://www.ontario.ca/page/guide-requesting-site-specific-standard>>.

<sup>87</sup> *Air Pollution - Local Air Quality, O Reg 419/05, ss 38-44.*; Ministry of Environment, Conservation and Parks, *Technical Standards to Manage Air Pollution*, version 7, October 27, 2020 online: <[Technical Standards to Manage Air Pollution | Ontario.ca](#)>



## SITE SPECIFIC-STANDARDS IN SOUTHWESTERN ONTARIO

Site-specific standards allow for air emissions that are less stringent than the provincial standards. There are several site-specific standards for air emissions in Southwest Ontario: notably 12 in Hamilton and 5 in Haldimand County.

Benzene is particularly concerning, as the WHO has stated that as "benzene is carcinogenic to humans, [...] no safe level of exposure can be recommended."<sup>88</sup>

*To note: the data below is based on publicly reported emissions data; gaps in data may exist due to errors, deficient reporting methods, or a lack of oversight. When a site-specific standard expires, the facility could still operate if the Ministry allows it while the company prepares a new proposal. Additionally, other than site-specific standard-holding facilities, facilities registered with technical standards also routinely over-emit.*

### HAMILTON

Chemical	Provincial Air Standard ( $\mu\text{g}/\text{m}^3$ )	Site-specific standards ( $\mu\text{g}/\text{m}^3$ )	Exceedance	Expiration Date
Benzene (annual average)	0.45	3.9 (Stelco Inc) <sup>89</sup>	8.7 x	June 30, 2023
		10 (ArcelorMittal Dofasco) <sup>90</sup>	22 x	June 30, 2023
		12.7 (Rain Carbon) <sup>91</sup>	28 x	Nov 21, 2022
Benzo(a)pyrene <sup>92</sup> (annual average)	0.00001 <sup>93</sup>	0.0045 (Stelco Inc) <sup>94</sup>	450 x	June 30, 2023
		0.011 (ArcelorMittal Dofasco) <sup>95</sup>	1100 x	June 30, 2023

<sup>88</sup> World Health Organization., "Exposure to Benzene: A Major Public Health Concern" (1 May 2019), online: <<https://www.who.int/publications/i/item/WHO-CED-PHE-EPE-19.4.2>>.

<sup>89</sup> Ministry of the Environment, Conservation and Parks, "Stelco Inc.: Approval of a site-specific air standard (ERO number 019-2298)" (14 January 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-2298>>.

<sup>90</sup> Ministry of the Environment, Conservation and Parks, "ArcelorMittal Dofasco G.P.: Approval of a site-specific air standard (ERO number 019-2297)" (14 January 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-2297>>.

<sup>91</sup> <https://ero.ontario.ca/archive/013-0752> Reutgers Canada Corp is the company that applied for this exemption. It is the parent company of Rain Carbon.

<sup>92</sup> Increased exposure to benzo(a)pyrene also has carcinogenic risks associated with it. See Delaware Health and Social Services, "Frequently Asked Questions: Benzo(a)pyrene" (7 March 2023), online: <<https://dhss.delaware.gov/dph/files/benzopyrenefaq.pdf>>.

<sup>93</sup> Since the previous site-specific standard which expired in 2016, this standard has been reduced by 40 percent.

<sup>94</sup> Ministry of the Environment, Conservation and Parks, "Stelco Inc.: Approval of a site-specific air standard (ERO number 019-3242)" (16 July 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-3242>>.

<sup>95</sup> Ministry of the Environment, Conservation and Parks, "ArcelorMittal Dofasco G.P.: Approval of a site-specific air standard (ERO number 019-2297)" (14 January 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-2297>>.

Suspended Particulate Matter (SPM) <sup>96 97</sup> (24-hour average)	120	177 (ArcelorMittal Dofasco) <sup>98</sup>	1.5 x	June 30, 2023
		177 (Harsco Metals) <sup>99</sup>	1.5 x	June 30, 2023
		190 (Stelco Inc) <sup>100</sup>	1.6 x	June 30, 2023
		187 (Carmeuse Lime) <sup>101</sup>	1.6 x	Feb 26, 2028
Manganese and manganese compounds	0.4	1.5 (ArcelorMittal Dofasco) <sup>102</sup>	3.75 x	June 30, 2023
		1.5 (Harsco Canada Corp) <sup>103</sup>	3.75 x	June 30, 2023
Calcium oxide	10	73 (Carmeuse Lime) <sup>104</sup>	7.3 x	Feb 26, 2028

<sup>96</sup> Suspended particulate matter is a combination of solid and liquid particles of varying chemical composition suspended in our atmosphere. The Government of Canada tracks these emissions, often emitted by the agricultural industry.

<sup>97</sup> Increased concentrations of suspended particulate matter are a leading cause of air pollution issues including smog and acid rain. See Government of Canada, "Particulate Matter Indicator" (10 June 2022), online: <<https://agriculture.canada.ca/en/agricultural-production/climate-change-and-air-quality/particulate-matter-indicator>>.

<sup>98</sup> Ministry of the Environment, Conservation and Parks, "ArcelorMittal Dofasco G.P.: Approval of a site-specific air standard (ERO number 019-2297)" (14 January 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-2297>>.

<sup>99</sup> Ministry of the Environment, Conservation and Parks, "Harsco Canada Corp. operating as Harsco Metals Canada Corp.: Approval of a site-specific air standard (ERO number 019-2302)" (14 January 2021), online: <<https://ero.ontario.ca/notice/019-2302>>.

<sup>100</sup> Stelco Inc's previous SSS for SPM was 420 µg/m<sup>3</sup> 24-hr average. See <<https://ero.ontario.ca/archive/012-2106>>

<sup>101</sup> Ministry of the Environment, Conservation and Parks, "Carmeuse Lime (Canada)Limited: Approval of a site-specific air standard (ERO number 012-9911)" (26 February 2018), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/archive/012-9911>>

<sup>102</sup> Ministry of the Environment, Conservation and Parks, "ArcelorMittal Dofasco G.P.: Approval of a site-specific air standard (ERO number 019-2297)" (14 January 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-2297>>.

<sup>103</sup> Ministry of the Environment, Conservation and Parks, "Harsco Canada Corp. operating as Harsco Metals Canada Corp.: Approval of a site-specific air standard (ERO number 019-2302)" (14 January 2021), online: <<https://ero.ontario.ca/notice/019-2302>>.

<sup>104</sup> Ministry of the Environment, Conservation and Parks, "Carmeuse Lime (Canada)Limited: Approval of a site-specific air standard (ERO number 012-9911)" (26 February 2018), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/archive/012-9911>>

**HALDIMAND COUNTY**

Chemical	Provincial Air Standard ( $\mu\text{g}/\text{m}^3$ )	Site-specific standards ( $\mu\text{g}/\text{m}^3$ )	Exceedance	Expiration Date
Benzene (annual average)	0.45	6.4 (Stelco Inc) <sup>105</sup>	14.2 x	June 30, 2023
Benzo(a)pyrene (annual average)	0.00001	0.0020 (Stelco Inc) <sup>106</sup>	200 x	June 30, 2023
Suspended Particulate Matter (SPM) (24-hour average)	120	169 (Stelco Inc) <sup>107</sup>	1.4 x	June 30, 2023
		169 (Harsco Metals) <sup>108</sup>	1.4 x	June 30, 2023
Manganese and manganese compounds (24-hour average)	0.4	1.5 (Harsco Canada Corp) <sup>109</sup>	3.75 x	June 30, 2023

**WINDSOR**

Chemical	Provincial Air Standard ( $\mu\text{g}/\text{m}^3$ )	Site-specific standards ( $\mu\text{g}/\text{m}^3$ )	Exceedance	Expiration Date
Suspended Particulate Matter (SPM) (24-hour average)	120	357 (ADM Agri Industries) <sup>110</sup>	3 x	Dec 7, 2028

<sup>105</sup> Ministry of the Environment, Conservation and Parks, "Stelco Inc.: Approval of a site-specific air standard (ERO number 019-2299)" (14 January 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-2299>>.

<sup>106</sup> Ministry of the Environment, Conservation and Parks, "Stelco Inc.: Approval of a site-specific air standard (ERO number 019-3243)" (16 July 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-3243>>. Since 2016, this has been a 49 percent reduction of the standard.

<sup>107</sup> Ministry of the Environment, Conservation and Parks, "Stelco Inc.: Approval of a site-specific air standard (ERO number 019-2299)" (14 January 2021), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/notice/019-2299>>.

<sup>108</sup> Ministry of the Environment, Conservation and Parks, "Harsco Canada Corp. operating as Harsco Metals Canada Corp.: Approval of a site-specific air standard (ERO number 019-2303)" (14 January 2021), online: <<https://ero.ontario.ca/index.php/notice/019-2303>

<sup>109</sup> Ministry of the Environment, Conservation and Parks, "Harsco Canada Corp. operating as Harsco Metals Canada Corp.: Approval of a site-specific air standard (ERO number 019-2302)" (14 January 2021), online: <<https://ero.ontario.ca/notice/019-2302>>

<sup>110</sup> Ministry of the Environment, Conservation and Parks, "ADM Agri Industries: Approval of a site-specific air standard (ERO number 013-3239)" (7 December 2018), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/archive/013-3239>>.

**GUELPH**

Chemical	Provincial Air Standard ( $\mu\text{g}/\text{m}^3$ )	Site-specific standards ( $\mu\text{g}/\text{m}^3$ )	Exceedance	Expiration Date
Chromium Compounds (Hexavalent) (annual average)	0.00014	0.0024 (Owens Composite) <sup>111</sup>	17 x	Dec 7, 2028

**NIAGARA FALLS**

Chemical	Provincial Air Standard ( $\mu\text{g}/\text{m}^3$ )	Site-specific standards ( $\mu\text{g}/\text{m}^3$ )	Exceedance	Expiration Date
Vinyl chloride (24-hour average)	1	30 (Oxy Vinyls) <sup>112</sup>	30 x	February 1, 2027

**Stay Tuned & Have Your Say**

When a company requests a renewal or new site-specific standard, notice of the request will be posted on the Environmental Registry for a **mandatory minimum 30-day public consultation period**.

- To access information on public consultation periods, see the Environmental Registry of Ontario (ERO)'s website: [ero.ontario.ca](http://ero.ontario.ca)
- To learn more about the request process for a specific standard, see [here](#)

**Notable Study**

A [2019 study](#) of acute myeloid leukemia (AML, a type of blood cancer) found correlations between AML rates and cities with high rates of industrialization: Sarnia, Sault Ste. Marie, Thunder Bay, St. Catharines, and Hamilton.<sup>113</sup> Specific results for the two southwestern Ontario cities are as follows:

**Sarnia** (106.81 deaths per 1,000,000, or more than 3 times the Canadian average)

- Postal code FSA N7V had the most significant rate of deaths per million
- Sarnia is home to more than 60 chemical plants and 40% of Canada's chemical industries

<sup>111</sup> Ministry of the Environment, Conservation and Parks, "Owens Corning Composite Materials Canada LP (Owens Corning Guelph Glass Plant): Approval of a site-specific air standard (ERO number 012-5061)" (6 May, 2016), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/archive/012-5061>>.

<sup>112</sup> Ministry of the Environment, Conservation and Parks, "Oxy Vinyls Canada Co: Approval of a site-specific air standard (ERO number 012-8691)" (1 February, 2017), online: *Environmental Registry of Ontario* <<https://ero.ontario.ca/archive/012-8691>>.

<sup>113</sup> Feras M. Ghazawi et al, "Analysis of acute myeloid leukemia incidence and geographic distribution in Canada from 1992 to 2010 reveals disease clusters in Sarnia and other industrial US border cities in Ontario" (June 2019), 1886–1897, online (pdf): <<https://acsjournals.onlinelibrary.wiley.com/doi/epdf/10.1002/cncr.32034>>

**Hamilton** (77.6 deaths per 1,00,000)

- Postal codes L9H, L8S, L8V, L8K, L8H, L0R had the highest rates

**ALSO: Chatham-Kent**

- Postal codes NOP, N0L, N6J, N5W, N4G, N4B had high rates of mortality

From the study, the results "potentially implicate exposure to materials/pollution from [petrochemical] plants as an important risk factor for developing AML in Canada". In the case of AML, **benzene and formaldehyde** are of particular concern.

**Case Study: Sarnia the "Sacrifice Zone"*****United Nations Special Rapporteur on Human Rights and Toxics***

Canada's international obligations create a duty for the nation to prevent exposure to toxic and other hazardous substances. While fundamentally, this duty lies with the state, businesses and local leaders also play a major role in its maintenance.

In 2019, the UN's Special Rapporteur, Baskut Tuncak, visited Canada and made several stops in municipalities, and rural and Indigenous communities across Ontario to understand the implications for human rights of the management and disposal of hazardous substances and wastes in the country. During his visit to the Southwest region, Tuncak visited Aamjiwnaang First Nation, which he found to be in a "**deeply unsettling**" crisis.<sup>114</sup>

**Chemical Valley**

The [Aamjiwnaang First Nation](#) is located on the St. Clair River of Sarnia. Since the 1940s, chemical industry polluters have invaded their lands, surrounding the community on 3 sides with over **60 industrial facilities**. It is one of the most polluted areas in all of Canada, informally called "Chemical Valley".<sup>115</sup>

The Special Rapporteur found that existing regulations **do not** protect the health of the nation, which can be improved by investigating health impacts, conducting proper monitoring, enforcing existing standards, and conducting cumulative risk assessments.

CELA has provided recent information webinars on air quality in the Sarnia area, covering health impacts from air emissions from the petro-chemical industry; reporting to national inventories; finding information about air emissions; and reporting adverse incidents.<sup>116</sup>The

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<sup>114</sup> Baskut Tuncak, "End-of-visit statement by the United Nations Special Rapporteur on toxics and human rights, Baskut Tuncak on his visit to Canada, 24 May to 6 June 2019" (6 June 2019), online: *United Nations* <<https://www.ohchr.org/en/statements/2019/06/end-visit-statement-united-nations-special-rapporteur-toxics-and-human-rights>>.

<sup>115</sup> Aamjiwnaang First Nation, "Welcome to Aamjiwnaang First Nation", online: <<https://www.aamjiwnaang.ca/>>.

<sup>116</sup> Canadian Environmental Law Association, "Event: Addressing Air Quality Issues in Aamjiwnaang First Nation" (2023), online (pdf): Webinar One: <https://cela.ca/wp-content/uploads/2023/04/Air-Quality-Issues-in-Aamjiwnaang-FN-Webinar-1-Final-Deck-1.pdf>; Webinar Two:

series of three webinars can be accessed here: <https://cela.ca/webinar-series-addressing-air-quality-issues-in-aamjiwnaang-first-nation/>

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[Aamjiwnaang-First-Nation-Webinar-2-Final-Deck.pdf](#); Webinar Three: <https://cela.ca/wp-content/uploads/2023/05/Air-quality-issues-Aamjiwnaang-FN-webinar-3-final-deck.pdf>.

## Chapter 9: Food Security and Traditional Foods

### Toxic Exposures

Food security is an [issue](#) affecting many communities throughout Ontario, particularly Indigenous communities living in rural areas.<sup>117</sup> Many people rely heavily on harvesting traditional foods, through hunting, fishing, and gathering. This is especially important for both cultural and [health](#) reasons.<sup>118</sup>

Land degradation caused by industrial activity and climate change has reduced the availability of healthy traditional foods. Human Rights Watch's "[The Climate Crisis and First Nations' Right to Food in Canada](#)" [report](#) outlines the climate crisis' impact on First Nations food security, responses of community resilience in the face of crisis, and the federal government's failure to address climate change and food poverty.<sup>119</sup> When traditional food is available, levels of toxins from industry are an [increasing concern](#), as per the Assembly of First Nations (AFN). Generally, the higher up the food chain a species is, the more toxins accumulate. Toxins of particular concern are mercury, cadmium, arsenic, and lead, causing various health impacts.<sup>120</sup>

First Nations deserve safe access to healthy and culturally relevant foods. This requires a drastic reduction in water pollution from industry, and as per the [AFN](#), research to assess contaminants in traditional foods and to ensure quality traditional foods for Indigenous people.

### Southwest Ontario Aboriginal Health Access Centre (OAHAC)

Health, food security, and poverty are intimately intertwined. The OAHAC seeks to improve access to, and the quality of, health services for First Nations, Inuit, and Métis peoples in the Southwest region through Indigenous-informed health care involving:<sup>121</sup>

- Traditional healing
- Primary health care
- Health promotion services

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<sup>117</sup> Hannah Neufeld & Chantelle Richmond, "Impacts of Place and Social Spaces on Traditional Food Systems in Southwestern Ontario" (2017) 12:1 Intl J of Indigenous Health, 96, online: *University of Toronto & Southwest Ontario Aboriginal Health Access Centre (SOAHAC)*, DOI:10.18357/ijih112201716903.

<sup>118</sup> Hannah Neufeld & Chantelle Richmond, "Impacts of Place and Social Spaces on Traditional Food Systems in Southwestern Ontario" (2017) 12:1 Intl J of Indigenous Health, 94, online: *University of Toronto & Southwest Ontario Aboriginal Health Access Centre (SOAHAC)*, DOI:10.18357/ijih112201716903

<sup>119</sup> Human Rights Watch, "My fear is losing everything: The Climate Crisis and First Nations' Right to Food in Canada" (21 October 2020), online: <<https://www.hrw.org/report/2020/10/21/my-fear-losing-everything/climate-crisis-and-first-nations-right-food-canada>>

<sup>120</sup> Assembly of First Nations Environmental Stewardship Unit, "Traditional Foods: Are they Safe for First Nations Consumption?" (March 2007), online (pdf): <<https://static1.squarespace.com/static/58829365c534a576e10e3a5c/t/60dd055722c3fb44a3eeaa67/1625097559538/RL+Traditional+foods+safety+AFN+2007.pdf>>.

<sup>121</sup> Southwest Ontario Aboriginal Health Access Centre (OAHAC), online: <https://soahac.on.ca/about-soahac/>.

- Cultural programs
- Community development initiatives
- Social support services

In March 2022, two of OAHAC's food security programs were selected for funding by United Way of Elgin Middlesex (\$254,800 for each of 2 years) to alleviate food insecurity in the region. Their Ashamaawaso (she/he feeds a child) food security program at Nshwaasnangong and Minomode-zewin nunge-gehwin, also known as the Sustain program in London were chosen.<sup>122</sup>

In SOAHAC's Annual 2021-2022 report, the Center launched a number of food security programs for the community, including:

- **Meant2Prevent Program** (providing virtual cooking classes in partnership with Canadian hospitals)
- **Holiday Hampers** (with grocery gift cards, shopping bags, and food items for the holidays)
- **COVID-19 Food Relief**
- **Healthy Food Bank** (premised on "take what you need" principles)<sup>123</sup>

### Fish Consumption and Advisories

For the consumption of fish in Ontario, the provincial government produces a detailed fish consumption guide. For information on current fish consumption advisories in your area, see [The Guide to Eating Ontario Fish](#). Information is available by region or fish species search.<sup>124</sup>

Although it is helpful to have such a guide, and the guide is updated every two years, there is **no guarantee** that the science behind the allowable consumption has been updated. CELA has been part of an ongoing effort to access underlying fish guide data and push for its currency. Two-eyed seeing is also crucially important (though often excluded) in fisheries management and conversation. An effective guide must be based in both western science and Indigenous Science/Traditional Knowledge and updated frequently to ensure accurate and reliable information that users can trust.

### Want to Learn More?

You can contact [fishguide@ontario.ca](mailto:fishguide@ontario.ca) with your questions or concerns about the guide. If you still need more information or are not able to access it through these pathways, you may consider filing an FOI (Freedom of Information request) or reaching out to CELA.

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<sup>122</sup> Southwest Ontario Aboriginal Health Access Centre (OAHAC), online: <https://soahac.on.ca/about-soahac/>.

<sup>123</sup> Southwest Ontario Aboriginal Health Access Centre (OAHAC), "Innovations in Culturally-Aware Care Annual Report 2021-2022", online: <https://www.soahac.on.ca/news/2020-2021-annual-report>.

<sup>124</sup> Ministry of the Environment, Conservation and Parks. (2021). *Map: Guide to eating Ontario Fish*. Online: <https://www.ontario.ca/page/guide-eating-ontario-fish#section-1>



**Community Action: Feed Ontario**

The unfortunate reality of food security issues, as Feed Ontario puts it, is that "hunger exists in every corner of Ontario." Feed Ontario is the province's largest collective of hunger-relief organizations, working with provincial food banks, industry, and local communities, to end hunger and poverty.

To find information on food banks and social assistance use, housing, and poverty, in specific regions of Southwest Ontario, you can use their Food Bank Calculator to track the status of food security and related issues throughout the region. You can do so by [clicking this link](#).

## Chapter 10: Migrant Workers and Harmful Effects to Health

For a variety of seasonal agricultural jobs that are not filled by Canadian citizens or residents, temporary foreign workers, or migrant workers, come to Canada to fill this employment gap.

In Canada, there are two programs through which migrant workers may be hired to work in an agricultural setting:<sup>125</sup>

- Federal Seasonal Agricultural Workers Program
- Temporary Foreign Worker Program Agricultural Stream

In 2021 alone, nearly **27000 temporary foreign workers** were employed in Ontario.<sup>126</sup>

CELA recognizes the intersection between the climate crisis and the existing public health and equity crisis in Canada. Low-income people, such as foreign workers in Canada, are least responsible for the devastating impacts of climate change but most impacted by them. As part of our efforts toward law reform, **CELA has a number of resources in a toolkit to address climate change’s impacts on vulnerable communities here.**<sup>127</sup>

### Outdoor Heat Issues

The Government of Canada’s National Adaptation Strategy recognizes that extreme heat events are the deadliest weather-related events occurring in Canada.<sup>128</sup>

According to the International Labour Organization, “heat stress” refers to heat received in excess of that which the body can tolerate without suffering physiological impairment. For normal body functions, a core temperature of 37 degrees Celsius is recommended.<sup>129</sup>

As climate change causes more extreme heat in Ontario, outdoor and greenhouse workers are also at particular risk of exposure and health harm from extreme heat, including:

- Heat rash, heat cramps
- Heat Exhaustion (body temperatures rise above 38 degrees Celsius)
  - Leads to Physical and Cognitive Impairment
- Heat Stroke (body temperatures rise above 40.6 degrees Celsius)

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<sup>125</sup> Government of Canada, “Hire a temporary Foreign Worker through the Seasonal Agricultural Worker Program: Overview” (16 November 2022), online: <<https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html>>.

<sup>126</sup> Statistics Canada, “Agriculture and agri-food labour statistics” (13 June 2022), online: <<https://www150.statcan.gc.ca/n1/daily-quotidien/220613/dq220613d-eng.htm>>.

<sup>127</sup> Law Reform: <https://cela.ca/climate-change-impacts-and-vulnerable-communities/>

<sup>128</sup> Government of Canada, “Canada’s National Adaptation Strategy”, p 7. < [National Adaptation Strategy for Canada - Canada.ca](https://www.canada.ca/en/national-adaptation-strategy/)>

<sup>129</sup> Tord Kjellstrom et al, “Working on a warmer planet – The impact of heat stress on labour productivity and decent work” (1 July 2019) at 17, online (pdf): *International Labour Organization* <[https://www.ilo.org/global/publications/books/WCMS\\_711919/lang--en/index.htm](https://www.ilo.org/global/publications/books/WCMS_711919/lang--en/index.htm)>.

- Risk of organ damage, loss of consciousness and, ultimately, death increases sharply
- Potentially fatal heatstroke<sup>130</sup>

CELA has [released a report with a number of recommendations](#) for Ontario to protect outdoor agricultural workers and greenhouse workers against extreme heat conditions, with a particular focus on migrant workers in Ontario. The recommendations include requiring employers to:

- Be trained on their responsibilities to provide safe, cool working conditions;
- Engage in regular observation & communication with workers;
- Ensure that all workers are acclimatized to working in the heat;
- Lessen the physical workload where possible by utilizing mechanical assistance such as hoists and carts;
- Supply workers with water or other fluids providing electrolytes at no cost, consistently;
- Provide sunscreen;
- Allow workers to take more frequent breaks in cooler or shaded areas, and
- Create emergency response procedures for workers experiencing symptoms of heat-related illness.<sup>131</sup>

### Harmful Effects of Pesticides to Human Health

In Ontario, the *Pesticides Act* governs the rules and regulations related to pesticide sale, use, transportation, storage, and disposal within the province.<sup>132</sup>

Migrant workers have a greater likelihood of exposure to pesticides and other toxic substances in the course of their work due to poor ventilation in greenhouses and prolonged contact with these substances. This lengthy exposure has the potential to cause adverse health impacts, including neurological issues, musculoskeletal injuries, respiratory and reproductive issues, and greater incidences of cancers.<sup>133</sup>

Despite these increased risks, in 2020, the Ontario government amended the *Pesticides Act*, significantly weakening protections for workers and the environment. They:

- Eliminated Ontario's pesticide classification system;
- Eliminated the Ontario Pesticide Advisory Committee;
- Weakened the rules governing the use and sale of corn and soybean seeds treated with neonicotinoid pesticides (implicated in world-wide pollinator decline).

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<sup>130</sup> Tord Kjellstrom et al, "Working on a warmer planet – The impact of heat stress on labour productivity and decent work" (1 July 2019) at 17, online (pdf): *International Labour Organization* <[https://www.ilo.org/global/publications/books/WCMS\\_711919/lang--en/index.htm](https://www.ilo.org/global/publications/books/WCMS_711919/lang--en/index.htm)>.

<sup>131</sup> CELA: <https://cela.ca/heat-exposure-for-agricultural-workers/>

<sup>132</sup> *Pesticides Act*, RSO 1990, c P.11.

<sup>133</sup> Sarah Lawless, "Migrant Farmworkers in Canada are Exposed to Higher Risks" (2 December 2022), online: *EnvironBuzz Mag* <<https://environbuzz.com/migrant-workers-exposure/>>.

There is also a federal pesticide classification system under the [Pest Control Products Act](#).<sup>134</sup>

Ontario's former system, however, was more nuanced with a larger number of classes to add requirements for use, sales, and training. This allowed the MECP to be able to address worker and/or environmental and public health protections through the act more effectively.

**Read more about CELA's concerns on this issue [here](#).**<sup>135</sup>

In Leamington, a group of migrant workers revealed that they were exposed to a dangerous chemical, dolomitic hydrated lime, used in greenhouses and agriculture to “control pH levels” and suppress bacteria growth. The powder filled the air of 2 greenhouses, burning workers' eyes, lungs, and skin, and contaminating their foods. Workers from the greenhouse penned an open letter outlining the details of the health impacts they were facing and were supported in an online campaign to stop the use of the dangerous chemicals at these farms. **You can read the full letter [here](#).**<sup>136</sup>

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<sup>134</sup> *Pest Control Products Act*, SC 2002, c 28.

<sup>135</sup> Kathleen Cooper (22 April 2020), Blog: New Rules Finalized for Pesticides in Ontario, online: <https://cela.ca/new-rules-finalized-for-pesticides-in-ontario/>

<sup>136</sup> Harvesting Freedom (8 February 2021), Take action in solidarity with migrant workers at Cervini greenhouse, available (online): <https://harvestingfreedom.org/2021/02/08/take-action-in-solidarity-with-migrant-workers-at-cervini-greenhouse/>.

## Chapter 11: Healthy Great Lakes Project

The Great Lakes entirely surround the southwestern region of Ontario. The Great Lakes consist of Lakes Michigan, Superior, Huron, Erie, and Ontario, forming the largest freshwater system in the world. They have over 16,000 kilometers of shoreline and act as a drainage system for more than 200,000 square miles of land home to a number of wildlife species including various fish, migratory birds, and wolves in their watersheds.<sup>137</sup>

The Great Lakes region in the United States and Canada is home to 40 million people and a diverse range of Indigenous communities.<sup>138</sup>

In December 2016, CELA launched its Healthy Great Lakes program to engage a broad network of individuals and organizations in understanding, shaping, effectively implementing, and making use of laws and policies promoting freshwater health in the Great Lakes – St. Lawrence Basin.<sup>139</sup>

Through the Healthy Great Lakes Program, CELA has launched law reform efforts and other initiatives including:

- Efforts to promote safe drinking water in rural communities in Ontario<sup>140</sup>
- To remove the lead from Ontario’s drinking water<sup>141</sup>
- Recommending Great Lakes and freshwater protections for Budget 2023<sup>142</sup>

CELA has also hosted a webinar in collaboration with the Environmental Health Law Association, the City of Hamilton, and Environment Hamilton on potential recommendations for a permanent policy reforms that would everyone has access to clean drinking water. You can [watch the webinar here](#).

### Pollution and Poverty in the Great Lakes Basin

The intersection between pollution issues and poverty is a real and growing concern in southwest Ontario. More than 1 billion kilograms, or about 25% of total air pollutants reported in Canada, were reported being released to the air in 2005 in the Great Lakes basin.<sup>143</sup>

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<sup>137</sup> <https://www.nwf.org/Educational-Resources/Wildlife-Guide/Wild-Places/Great-Lakes>

<sup>138</sup> <https://www.glc.org/lakes/>

<sup>139</sup> <https://cela.ca/healthy-great-lakes-4/>

<sup>140</sup> <https://cela.ca/law-reform-safe-drinking-water-for-all/>

<sup>141</sup> <https://cela.ca/law-reform-get-the-lead-out/>

<sup>142</sup> <https://cela.ca/recommended-great-lakes-and-freshwater-protections-for-budget-2023/>

<sup>143</sup> S Rang, F de Leon, J Foulds, J Ginsburg, C Waffle, K Mitchell, D Finnigan, (November 2008), online “An Examination of Pollution and Poverty in the Great Lakes Basin”, November 2008 <https://cela.ca/examination-pollution-and-poverty-great-lakes-basin/>

The reported releases of air pollutants from industrial facilities vary widely across the Great Lakes basin. There are 37 areas in the basin that have both high reported air releases of toxic pollutants and high poverty rates. People living in these areas may have a double challenge: high potential for exposure to pollutants, and the physical and social vulnerabilities that come with poverty.<sup>144</sup>

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<sup>144</sup> <https://cela.ca/wp-content/uploads/2020/04/Intersection-Envl-Law-Poverty-Law.pdf>

## CHAPTER 12: Radon

Radon is a radioactive gas that comes from the “breakdown of uranium in soil and rock” which can be harmful to individuals in indoor spaces such as homes and schools.<sup>145</sup> Radon is the leading cause of lung cancer in Canada among non-smokers, estimated to cause about 16% of lung cancer deaths each year. CELA has twice reviewed law and policy across Canada concerning radon and found legal protections lacking.<sup>146</sup> While the Federal government has made useful progress on various measures to address radon, most legal jurisdiction rests at the provincial and territorial level.<sup>147</sup>

CELA is working on outreach activities with the Canadian Partnership for Children’s Health and Environment and Take Action, on Radon. Ongoing advocacy seeks to advance updates in radon-protection measures at the provincial level such as Ontario’s Building Code and in childcare licensing regulations. While there are some areas in Canada known to have high radon levels, all homes should be tested for radon to protect individuals from these threats.<sup>148</sup> You can continue to [monitor this work on CELA’s website](#) and we encourage everyone to get a radon test in their homes.

CAREX Canada also does important work on radon and makes resources available to the public.<sup>149</sup>

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<sup>145</sup> <https://www.canada.ca/en/health-canada/services/health-risks-safety/radiation/radon.html>

<sup>146</sup> <https://cela.ca/radon-policy-challenge-to-canadas-provincial-and-territorial-premiers-and-health-ministers/>

<sup>147</sup> <https://cela.ca/radon/>

<sup>148</sup> <https://cela.ca/radon/>

<sup>149</sup> <https://www.carexcanada.ca/> ; <https://www.carexcanada.ca/special-topics/radon-in-buildings/>

## Part II: Getting Involved

### Chapter 13: The Importance of Public Participation

Citizens have a **critical** role to play in the oversight and protection of environmental health.

At the local or municipal level, citizens can provide input on matters such as land use planning or municipal by-laws. At the provincial level, citizens can provide input into law reform matters, such as changes to [endangered species laws](#),<sup>150</sup> [environmental rights](#),<sup>151</sup> or [environmental assessments](#).<sup>152</sup> At the federal level, the public can also provide recommendations to modernize existing laws from [impact assessment](#)<sup>153</sup> to [environmental protection](#)<sup>154</sup> in line with the principles of environmental justice.

Public participation is especially crucial to [environmental law](#). As noted in "[The Importance of Public Participation](#)" by Tori Chai, public participation:<sup>155</sup>

- Enhances the democratic legitimacy of environmental decisions;
- Manages social conflict by minimizing the conflicts that arise during a project, and leads to greater accountability and effectiveness in decision-making;
- Is an effective means (or sometimes the only means) through which local concerns, values, and [traditional knowledge](#)<sup>156</sup> are raised; and
- Helps to produce more accurate results that better suit the needs of a community.

Public participation is also enshrined in [international environmental law](#).<sup>157</sup> Here, the principle of public participation consists of three elements:

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<sup>150</sup> Kerrie Blaise, "Forestry Exemption from Endangered Species Act" (29 June 2020), online (pdf): *Canadian Environmental Law Association* <<https://cela.ca/forestry-exemption-endangered/>>.

<sup>151</sup> Media Release: Ontario restores fundamental environmental rights law" (16 June 2020), online: *Canadian Environmental Law Association* <<https://cela.ca/ontario-restores-fundamental-environmental-rights-law/>>.

<sup>152</sup> "Casework: Judicial Review of Bill 197—COVID-19 Economic Recovery Act, 2020" (23 September 2020), online: *Canadian Environmental Law Association* <<https://cela.ca/casework-judicial-review-of-bill-197-covid-19-economic-recovery-act-2020/>>.

<sup>153</sup> Media Release: Civil society groups condemn plan to exempt nuclear reactors from Bill C-69 impact assessment" (7 May 2019), online: *Canadian Environmental Law Association* <<https://cela.ca/civil-society-groups-condemn-plan-to-exempt-nuclear-reactors-from-bill-c-69-impact-assessment/>>.

<sup>154</sup> Joseph Castrilli and Fe de Leon, "Blog: Long Awaited Amendments to CEPA: The Good, The Bad, and the Ugly on Chemicals and Environmental Rights" (15 April 2021), online: *Canadian Environmental Law Association* <<https://cela.ca/blog-long-awaited-amendments-to-cepa-the-good-the-bad-and-the-ugly-on-chemicals-and-environmental-rights/>>

<sup>155</sup> Tori Chai, "The Importance of Public Participation" (1 April 2016), online: *York University* <<https://ejscclinic.info.yorku.ca/2016/04/the-importance-of-public-participation/>>.

<sup>156</sup> Education, Chiefs of Ontario Assembly Center, "Priorities", online: <https://education.chiefs-of-ontario.org/priorities/>.

<sup>157</sup> Jeroen van Bekhoven, "Public Participation as a General Principle in International Environmental Law: Its Current Status and Real Impact" (11 May 2017), 11:2 *National Taiwan University Law Review*, at 220, online: *Social Science Research Network* <<https://papers.ssrn.com/abstract=2962181>>.



- **(1)** participation in decision-making processes on environmental issues,
- **(2)** access to environmental information, and
- **(3)** access to administrative and judicial proceedings.

Public participation often takes the form of **public comment periods and consultation**. On a personal level, environmental decisions and industry can have a large impact on your life and health. Participating in environmental decisions and advocacy is a helpful way to enact positive change in your community.

**At CELA, we continue to advocate for greater community engagement and accountability in environmental decision-making. This is crucial, as even the strongest of environmental laws are near meaningless if they are not enforced.**

## Chapter 14: Environmental Bill of Rights

Ontario's [Environmental Bill of Rights](#) (EBR),<sup>158</sup> was proclaimed into force on February 15, 1994. Its goals are "to protect, conserve and restore the integrity of the environment, to provide sustainability of the environment, and to protect the right of Ontario residents to a healthful environment."<sup>159</sup>

Among other things, the EBR entitles Ontarians to:

- Receive notice of, and file comments on, governmental proposals to make, amend, repeal or revoke environmental laws, regulations, policies, or instruments (e.g. licenses, permits, or approvals).
- Seek leave (aka permission) to appeal government decisions regarding instruments to an independent appellate body
- File applications for (1) an investigation of suspected environmental offences under Ontario legislation or (2) an application for the review of an outdated, incomplete, or ineffective environmental law framework.
- Obtain whistleblower protection from employers for exercising rights under the EBR
- Commence civil actions for damages to protect natural resources or to address public nuisances causing environmental harm.

There remains room for improvement though, especially with regard to the Ministry's transparency and accountability to their **Statement of Environmental Values**.

In a 2021 [letter](#)<sup>160</sup> critiquing the Ministry's proposed revisions to its Statement of Environmental Values (SEV) under the EBR, CELA provided a number of formative recommendations aimed at improving the oversight and enforcement of environmental laws in Ontario.

In January 2023, CELA [submitted a detailed brief to the Law Commission of Ontario](#) regarding potential reforms to the Environmental Bill of Rights in their recent call for public comments on its consultation paper about the bill. CELA's brief focused on outlining the statutory, regulatory, policy, and administrative reforms that would be necessary to strengthen and improve the EBR regime. It includes information on establishing a substantive right to a healthful environment, finding ways to increase public access to the courts, recognizing the "rights of nature", and incorporating the public trust doctrine to govern Ontario's management of public resources.<sup>161</sup>

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<sup>158</sup> Government of Ontario, "Environmental Bill of Rights" (9 November 2022), online: <<https://www.ontario.ca/page/environmental-bill-rights>>.

<sup>159</sup> Environmental Commissioner of Ontario, "Ontario's Environmental Bill of Rights and You", online (pdf): <<https://www.energy.gov/sites/prod/files/2015/06/f22/OEBRG.pdf>>.

<sup>160</sup> Richard D Lindgren, "Re: ERO 019-2826 – Proposed Revisions to the Ministry's Statement of Environmental Values (26 January 2021), online (pdf): <<https://cela.ca/wp-content/uploads/2021/01/CELA-ltr-re-MECP-SEV.pdf>>.

<sup>161</sup> Richard D Lindgren, "Re: Environmental accountability in Ontario: Consultation Paper" (13 January 2023), online (pdf): <<https://cela.ca/potential-reforms-to-the-environmental-bill-of-rights/>>.

Read more on CELA's efforts for [Law Reform of the EBR by clicking this link](#).<sup>162</sup>

### Violation of the Environmental Bill of Rights

The EBR figures prominently in CELA's litigation, including that against *Bill 197 (COVID- 19 Economic Recovery Act, 2020)*<sup>163</sup> which denied members of the public their legal right to be notified and consulted on environmentally significant legislative amendments. The amendments in Bill 197 included controversial changes to the *Environmental Assessment Act*, *the Environmental Bill of Rights*, and *the Planning Act*.

[On September 3, 2021, the Ontario Divisional Court held that the Government of Ontario broke the law when it failed to comply with the public consultation requirements](#) of Ontario's Environmental Bill of Rights.<sup>164</sup> However, the Court found the changes to the *Environmental Assessment Act* were **lawful** due to a "statutory exception" in Bill 197, which retroactively exempted the changes from the consultation requirements of the EBR.

For more information about this case, read [here](#).<sup>165</sup>

### The Environmental Registry of Ontario

The [Environmental Registry of Ontario \(ERO\)](#) is a website with postings of requests for permits, approvals, and open consultation periods. This is an important website that allows citizens to stay up-to-date on developments and environmental impacts. Each posting contains information on the public comment period.<sup>166</sup>

### Navigating The Environmental Registry of Ontario (ERO):

Through the ERO, the province:

- Posts certain proposals for policies, acts, regulations, and instruments which could have a **significant effect** on the environment;
- Gives Ontarians a **minimum of 30 days** to comment on proposals; and
- Provides updates on decisions made as a result of the consultation process.

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<sup>162</sup> Canadian Environmental Law Association: *Law Reform: Ontario's Environmental Bill of Rights*: <https://cela.ca/law-reform-ontarios-environmental-bill-of-rights/>.

<sup>163</sup> Casework: Judicial Review of Bill 197—COVID-19 Economic Recovery Act, 2020" (8 March 2023), online: *Canadian Environmental Law Association* <<https://cela.ca/casework-judicial-review-of-bill-197-covid-19-economic-recovery-act-2020/>>.

<sup>164</sup> *Greenpeace Canada (2471256 Canada Inc.) v. Ontario (Minister of the Environment, Conservation and Parks)*, 2021 ONSC 4521 at para 99, online: *CanLII*, <<https://canlii.ca/t/jhx7f>>.

<sup>165</sup> "Casework: Judicial Review of Bill 197—COVID-19 Economic Recovery Act, 2020" (8 March 2023), online: *Canadian Environmental Law Association* <<https://cela.ca/casework-judicial-review-of-bill-197-covid-19-economic-recovery-act-2020/>>.

<sup>166</sup> Government of Ontario. (2021). Environmental Registry of Ontario, online: <https://ero.ontario.ca/>

Once a proposal has been implemented the ministry **must post a notice** on the registry explaining the effect, if any, of public participation in the proposal.

### ***How to Use the Registry***

Upon first visiting the site, you may view all new postings in the general search tool, all instruments (permits, approvals) posted in the last 7 days, or view consultations using a map.

### ***General Search Tool***

This tool allows you to find notices by entering a keyword, phrase, or ERO number. The tool is not case-sensitive. Currently, over 7300 active matters are undergoing public consultation.

To filter your searches to the Southwestern region of Ontario, you can use several different variations of search terms, including:

- southwest Ontario
- Southwestern Ontario
- “Southwest” & “Ontario”

Searches can further be filtered by:

- Date Range
- Comment Period
- Notice Types
- Notice Stages
- Posted By (Specific Ministry)
- The Act Being Considered
- Instrument Type

Similar searches can be done for the ERO’s archive.

### ***The Map***

Public consultations undergo 3 phases: Proposal, Review, Decision. The map allows you to search for **instrument notices** (permits & approvals). The location pins reflect the approximate area where environmental notice or consultation activity is taking place. You may filter by looking for all notices, those open for comment, or with a decision.

For southwestern Ontario, the most effective search term you can use to find instrument notices are by using your general or exact community location (i.e. searching for all notices in Mississauga, Ontario, or putting in an exact address).

### ***How to Sign Up for Alerts***

You can register for an account on the website and sign up to receive **email notifications for specific keywords** when they appear on the registry. For instance, you can sign up to receive alerts about any new notice posted which includes the words “southwestern Ontario.”

You can also customize your notification preferences to receive news on consultations that you wish to follow or general news from the ERO. Simply open up a notice, scroll to the bottom and click “**Follow this notice**” to do so.

## Chapter 15: Duty to Consult & s. 35 Constitutional Rights

Section 35 of the [Constitution of Canada](#)<sup>167</sup> recognizes and affirms 'Aboriginal and treaty rights.' Flowing from this, the Crown has an obligation and legal [duty to consult](#)<sup>168</sup> and accommodate Aboriginal (First Nations, Inuit, and Métis) peoples.

This duty arises “when the Crown has knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it.”

This can be visualized below, in the diagram below, created by [Olthius Kleer Townshend LLP](#).<sup>169</sup>



“Low End” Consultation	“High End” Consultation	Consent
<ul style="list-style-type: none"> <li>• Adequate notice</li> <li>• Disclose relevant information</li> <li>• Give enough time to respond</li> <li>• Discuss issues raised, and try to address concerns raised</li> </ul>	<ul style="list-style-type: none"> <li>• Negotiate how consultations should proceed (exchange info, meetings)</li> <li>• Site visits, researching, studies</li> <li>• Provide for participation in the decision-making process</li> <li>• Fund First Nation participation</li> <li>• Accommodate by mitigating harm or negotiating benefits</li> </ul>	<ul style="list-style-type: none"> <li>• Where the right is proven, consent is required (<i>Tsilhqot'in Nation v. British Columbia</i>, 2014 SCC 44)</li> </ul>

The **scope** of the Crown's duty to accommodate is based on:

- 1) The Crown’s knowledge, actual or constructive, of a potential Aboriginal claim or right;
- 2) Contemplated Crown conduct;
- 3) The potential that the contemplated conduct may adversely affect an Aboriginal claim or right.

The degree or extent of consultation owed depends on:

<sup>167</sup> Government of Canada, “The Canadian Constitution” (1 September 2021), online: <https://www.justice.gc.ca/eng/csj-sjc/just/05.html>.

<sup>168</sup> Government of Ontario, “Duty to consult with Aboriginal peoples in Ontario” (11 August 2021), online: <https://www.ontario.ca/page/duty-consult-aboriginal-peoples-ontario>.

<sup>169</sup> Olthius Kleer Townshend LLP, “A Primer on the Constitutional Duty to Consult” (March 2017), online (pdf): <https://www.oktlaw.com/wp-content/uploads/2017/03/OKT-Primer-on-Consultation-v2.pdf>.

- (1) The strength of the claim to particular rights;
- (2) The potential harm that could be caused to those existing or asserted rights

The United Nations Declaration on the Rights of Indigenous Peoples (“**UNDRIP**”)<sup>170</sup> references Indigenous peoples’ right to free, prior, and informed consent (“FPIC”).

Article 32(2) relates to the development of resources and often arises in the duty to consult context. It states that:

*"States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."*

Canada has also recently adopted the United Nations Declaration on the Rights of Indigenous Peoples (“**UNDRIP**”) with the royal assent of *Bill C- 15: An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*.<sup>171</sup>

In Canadian law, the adoption of Bill C-15 and UNDRIP does not equate with an Indigenous veto. In fact, many have [criticized](#) Article 46 of UNDRIP as “a backdoor,” as it provides for qualifications and limitations.<sup>172</sup> However, it does mean that **the Crown must seek to obtain Indigenous consent in good faith in all situations where the rights of Indigenous peoples may be affected**; not just in a situation with proven rights. This is wider than the duty to consult and accommodate, which only requires Indigenous consent in situations where they hold rights established in Canadian/settler law.<sup>173</sup>

In Ontario, the [Ministry of Indigenous Affairs](#) is involved in the duty to consult process. They have an email for "thoughts about the current consultation process and your ideas to improve it." The email is [dutytoconsult@ontario.ca](mailto:dutytoconsult@ontario.ca).

Federally, the responsible ministry is the Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC). Contact information for CIRNAC is available [here](#).<sup>174</sup>

### ***More on the United Nations Declaration on the Rights of Indigenous Peoples Act***

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<sup>170</sup> United Nations, “United Nations Declaration on the Rights of Indigenous Peoples” (13 September 2007), online (pdf): <<https://www.oktlaw.com/wp-content/uploads/2017/03/OKT-Primer-on-Consultation-v2.pdf>>.

<sup>171</sup> Bill C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*, 2nd Sess, 43rd Parl, Canada, 2021 (assented to 21 June 2021).

<sup>172</sup> Luca Brown, “Canada’s treatment of Indigenous Rights”, (27 Septmeber 2017), online: *The McGill Daily* <<https://www.mcgilldaily.com/2017/09/canadas-treatment-of-indigenous-rights/>>.

<sup>173</sup> Roger Townshend, Kevin Hillie & Jaclyn McNamara, “Bill C-15 (UNDRIP Act) Commentary”, online: *Olthuis Kleer Townshend LLP* <<https://www.oktlaw.com/bill-c-15-undrip-act-commentary/>>.

<sup>174</sup> Government of Canada. (2020, October 20). Contact Crown-Indigenous Relations and Northern Affairs Canada. <https://www.rcaanc-cirnac.gc.ca/eng/1603225519672/1603310558983>

Under the Act, the federal government affirms UNDRIP as an international human rights instrument that can help **interpret** and **apply** Canadian law. It also provides a framework to advance implementation of UNDRIP at the federal level. While the Act has not yet been used, it is part of the country's renewed commitment toward reconciliation with Indigenous peoples, by:

- Taking all necessary measures to ensure Canada's laws are consistent with UNDRIP
- Prepare & implement an action plan to achieve the objectives of UNDRIP
- Develop annual reports on progress & submit them to Parliament

The implementation of the Declaration will inform Canada on how to meet their legal duties to uphold s. 35 Aboriginal and Indigenous treaty rights, as well as their free, prior, and informed consent beyond the duty to consult.

**Excerpt from the Act's Preamble:**

*"The United Nations Declaration on the Rights of Indigenous Peoples provides a framework for reconciliation, healing and peace, as well as harmonious and cooperative relations based on the principles of justice, democracy, respect for human rights, non-discrimination and good faith;"*

*"The rights and principles affirmed in the Declaration constitute the minimum standards for the survival, dignity, and well-being of Indigenous peoples of the world, and must be implemented in Canada"*

[The UN Handbook for Parliamentarians on implementing UNDRIP distinguishes between](#) situations in which UNDRIP requires a government to seek consent and when it requires that consent be obtained.<sup>175</sup>

**Requires a government to seek consent:**

- Resource development projects, legislation affecting Indigenous peoples, and administrative measures related to Indigenous lands, territories, natural resources, and sacred sites in accordance with the UNDRIP and the jurisprudence of international human rights treaty bodies.

**Requires that consent be obtained:**

- When Indigenous peoples are subject to relocation and in cases of storage or disposal of toxic waste on Indigenous lands or territories, as well as with regards to matters "of fundamental importance for the rights, survival, dignity, and well-being of indigenous peoples."

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<sup>175</sup> Inter-Parliamentary Union & United Nations. (2014). *Implementing the UN Declaration on the Rights of Indigenous Peoples Handbook for Parliamentarians N° 23*, online (pdf): <https://www.un.org/esa/socdev/publications/Indigenous/Handbook/EN.pdf>



Following the passing of Bill C-15, Canada is developing **an action plan** to achieve the objectives of UNDRIP by June 2023. Initial funding was available for Indigenous peoples, governments, and organizations to participate in the consultation, cooperation, and engagement process. Currently [Indigenous people can participate in the engagement process](#) by participating in an Indigenous-led engagement session, a session held by Justice Canada, or submitting their feedback via email to: [declaration@justice.gc.ca](mailto:declaration@justice.gc.ca).<sup>176</sup>

According to the Canadian government, “The consultation, cooperation and engagement process will be broad, inclusive, and distinctions-based. It will include consultations and cooperation with First Nations, Inuit, and Métis rights holders, including modern treaty signatories, self-governing nations, and historic treaty partners, as well as with national and regional Indigenous representative organizations. It will also include engagement with Indigenous women, youth, Elders, persons with disabilities, 2SLGBTQIA+ persons, as well as urban and other Indigenous organizations and groups.”

To read the announcement click [here](#).<sup>177</sup>

### **Case Study: Chippewas of the Thames First Nations**

In 1976, the Line 9 pipeline, connecting Sarnia to Montreal, was built, cutting through the unceded lands of the [Chippewas of the Thames First Nations' traditional territory to deliver oil](#) from Western Canada to eastern refineries. It was built without their permission or any consultation. The Chippewas of the Thames First Nation are an Anishinaabek nation in southwest Ontario.<sup>178</sup>

In 2012, the National Energy Board (NEB), a federal regulatory agency approved an application from Enbridge to modify the flow of the pipeline, increase its annual capacity, and enable it to carry 240,000 to 300,000 barrels of heavy crude (bitumen) per day. Following the application approval, the NEB ordered a public consultation and issued notice to Indigenous groups outlining the project's scope, the NEB's role, and their upcoming hearing. They granted the Chippewas funding to participate in the process, through which the nation delivered evidence and arguments on the increased rupture and spill risks that would result from the pipeline's modifications, leading to adverse impacts on their use of the land.

Despite these concerns, the NEB approved the project, satisfied they had received adequate information and provided equal opportunity for Indigenous groups to share their views. They

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<sup>176</sup> Government of Canada, “Implementing the United Nations Declaration on the Rights of Indigenous Peoples Act: Next Steps on How to Participate” (4 January 2023), online: <https://www.justice.gc.ca/eng/declaration/engagement/index.html>..

<sup>177</sup> Department of Justice Canada, (20 December 2021). *Government of Canada advances implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act*, online at: <https://www.canada.ca/en/department-justice/news/2021/12/government-of-canada-advances-implementation-of-the-united-nations-declaration-on-the-rights-of-indigenous-peoples-act.html>

<sup>178</sup> Chippewas of the Thames First Nation: Pipeline Updates: <https://cottfn.com/pipeline/>.

found that the potential project impacts would be "minimal" on the rights and interests of Aboriginal groups and could be appropriately mitigated. Both the Federal Court of Appeal in 2015, and the Supreme Court of Canada in 2017, dismissed the First Nation's appeals regarding the Crown's failure to adequately fulfill its duty to consult.<sup>179</sup>

In that case, the SCC found that while the Crown always has a duty to consult, they may rely on a regulatory process, like the NEB, that can partially or completely fulfill this duty for them. Critics note that the decision may lead to a "double burden" on Indigenous communities if the only way the Crown may directly engage with the consultation process is if the community brings the case to their attention after already having exhausted time and resources to engage with the regulatory body.<sup>180</sup>

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<sup>179</sup> *Chippewas of the Thames First Nation v. Enbridge Pipelines Inc.* 2017 SCC 41: [https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/16744/index.do?site\\_preference=normal](https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/16744/index.do?site_preference=normal).

<sup>180</sup> Anika Gupta, "Considering the Role of Regulatory Bodies in Satisfying the Crown's Duty to Consult: Chippewas of the Thames v Enbridge; Clyde River v Petroleum Geo-Services" (27 September 2017), online: *theCourt.ca* <<https://www.thecourt.ca/supreme-court-canada-considers-role-regulatory-bodies-satisfying-crowns-duty-consult-chippewas-thames-first-nation-v-enbridge-pipelines-inc-clyde-river-h/>>.

## Chapter 16: Inherent and Treaty Rights

There are a variety of aboriginal and treaty rights held by Indigenous peoples across Canada. The inherent rights variously include rights to land, and the right to practice culture and customs and much else. The term inherent recognizes that these rights are not derived from, and do not depend upon colonial or Crown- based laws.<sup>181</sup>

Some Indigenous peoples also have treaty rights, and their existence is based on treaties signed between First Nations with the Crown.

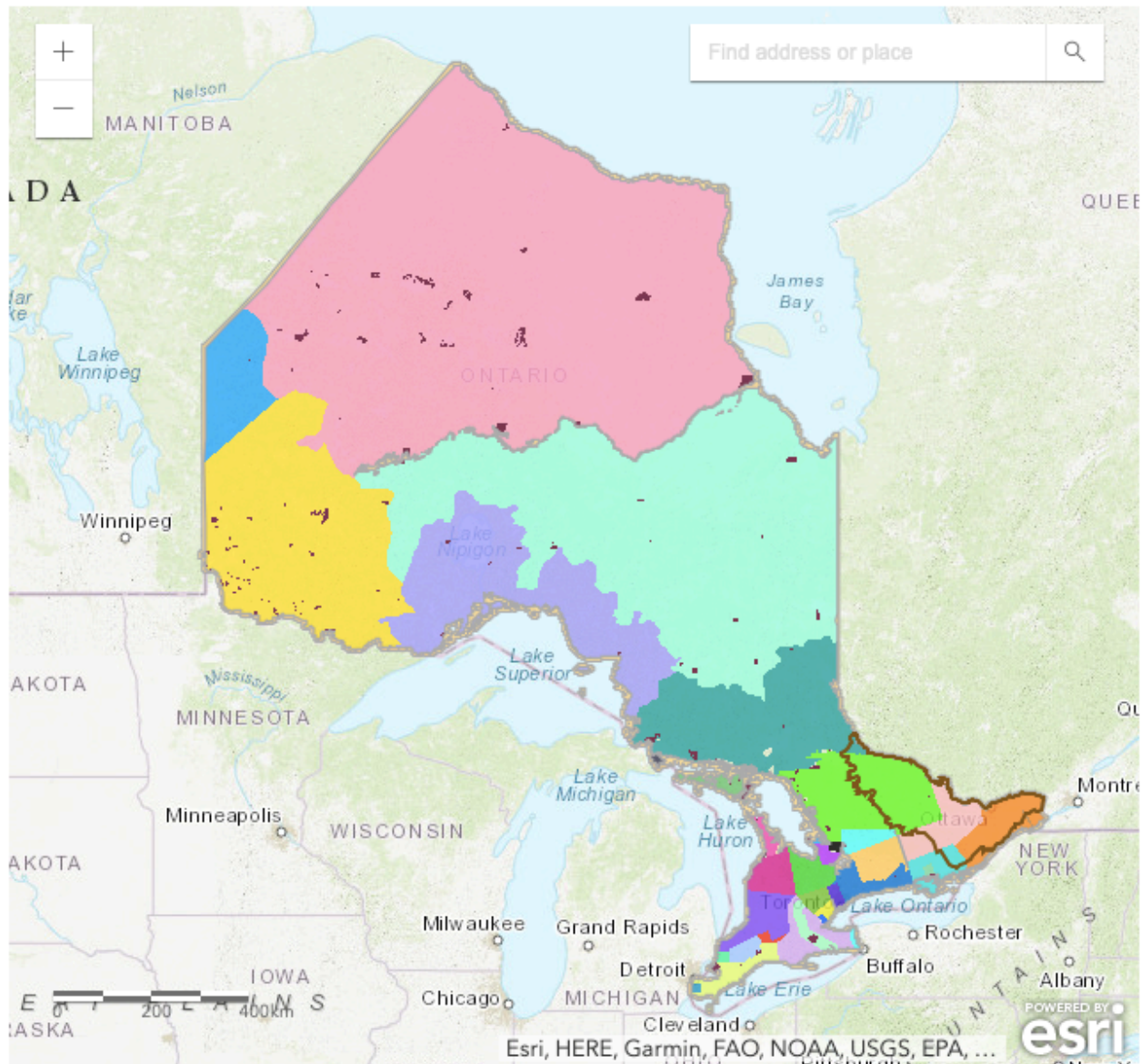
To find out if and which treaty applies to the land that you live on, click [here](#) for an interactive map (pictured below). You can search this map by treaty, reserve, or address. The linked webpage also offers a short history of each treaty in Ontario.<sup>182</sup> The following treaties cover tracts of land in Southwestern Ontario:

- Treaty 2, the McKee Purchase, 1790 (Windsor, Chatham-Kent, parts of London)
- Treaty 3, Between the Lakes Purchase, 1792 (St. Catherines Guelph, Simcoe)
- Treaty 4, the Simcoe Patent, 1793 (Brantford, Kitchener, Caledonia)
- Treaty 6, London Township Purchase, 1796 (London)
- Treaty 14, Head of the Lake Purchase, 1806 (Mississauga, Oakville)
- Treaty 29, Huron Tract Purchase, 1827 (Sarnia, Stratford)
- Treaty 45 ½, Saugeen Tract Purchase, 1836 (Owen Sound, Hanover)
- Treaty 381, Niagara Purchase, 1781 (Niagara Falls, Niagara-on-the-Lake, and Fort Erie)

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<sup>181</sup> Indigenous Corporate Training Inc, “What are First Nation inherent rights?” (24 July 2015), online: <https://www.ictinc.ca/blog/what-are-first-nation-inherent-rights>.

<sup>182</sup> Ontario (2021) *Map of Ontario Treaties and Reserves*. <https://www.ontario.ca/page/map-ontario-treaties-and-reserves>.



Map of reserves and treaties in Ontario ([Government of Ontario](#))

Specific rights negotiated during treaty signing are protected under s.35 of the Canadian Constitution. Nevertheless, the Supreme Court of Canada has held that both inherent aboriginal rights and treaty rights can be subject to some government infringement. The extent to which a right can be infringed has been set out by the Supreme Court of Canada, in cases including [R v. Sparrow](#).<sup>183</sup>

Recognizing and honouring treaties is critical in advancing reconciliation. The oft-cited phrase "We are all treaty people" is intended to emphasize that settlers also have a responsibility to

<sup>183</sup> Tanisha Salomons and Erin Hanson, "Sparrow Case" (8 March 2023), online: [indigenousfoundations.arts.ubc.ca <https://indigenousfoundations.arts.ubc.ca/sparrow\\_case/>](https://indigenousfoundations.arts.ubc.ca/sparrow_case/).

uphold Treaty rights. As ecologist [Gary Pritchard shares](#), "*every road, house, building or business that exists today in a treaty area was made possible because of a treaty.*"

Some treaties were recorded using a wampum belt. One of the best-known examples of this is the Two Row Wampum Belt (Guswenta) treaty between the [Haudenosaunee and the Dutch](#). [From the Oneida Nation](#), "[In one row is a ship with our White](#) Brothers' ways; in the other a canoe with our ways. Each will travel down the river of life side by side. Neither will attempt to steer the other's vessel." This treaty has not been respected by the government, but Indigenous and settler efforts to live by the principle of the Two Row Wampum continue.<sup>184</sup>

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<sup>184</sup> Onondaga Nation: People of the Hills, "Two Row Wampum – Gaswéñdah" (8 March 2023), online: <https://www.onondagation.org/culture/wampum/two-row-wampum-belt-guswenta/>.

## Chapter 17: Environmental Assessments

Environmental assessment (EA) is about 'looking before you leap' so that the impacts of a proposed project on human, ecological, economic, and social systems are considered *prior* to project development. Done well, the EA process can help to eliminate, or at the very least, reduce potential impacts on the environment from a proposed project. It is also a tool to prevent disproportionate impacts on at-risk communities and ecosystems, and ensure the public voice is heard in an accountable, decision-making process before any work begins. When it works well, this precautionary approach enables informed decisions on whether a project should be approved (or not), and whether terms or conditions should be imposed to safeguard the public interest.

### (1) Canada's environmental assessment process

Federal environmental assessments, known as impact assessments (IAs), are overseen by the Impact Assessment Agency of Canada (the Agency) under the [Impact Assessment Act](#).<sup>185</sup> Only a [handful](#)<sup>186</sup> of large-scale projects listed in the Project List [regulation](#) or by Ministerial order require an IA.<sup>187</sup>

The Act allows for members of the public and Indigenous communities to:

- Request a proposed project to be "designated" for an IA if that type of project is not already included on the Project List regulation. Learn more [here](#).<sup>188</sup>
- Request a regional assessment to study the effects of existing and future activities carried out in a region.
- Request a strategic assessment of any government of Canada policy or plan relevant to Impact Assessment. Learn more [here](#).

The Impact Assessment Agency screens projects and determines whether, on a case-by-case, an Impact Assessment is necessary for a specific project. If the Agency decides to conduct an Impact Assessment, the process is comprised of [five steps](#) - each providing some opportunity for the public and Indigenous engagement. The five steps are detailed [here](#), and in more detail through the links below<sup>189</sup>:

#### 1) [Planning](#)

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<sup>185</sup> *Impact Assessment Act*, SC 2019, c. 28, s 1.

<sup>186</sup> Richard D Lindgren, "Canada's Impact Assessment Act: A Public Interest Perspective" (6 June 2019), online: *Canadian Environmental Law Association* <<https://cela.ca/canadas-impact-assessment-act-a-public-interest-perspective/>>.

<sup>187</sup> *Physical Activities Regulations*, SOR/2019-285.

<sup>188</sup> Government of Canada, "Operational Guide: Requesting a Regional or Strategic Assessment under the Impact Assessment Act" (2 July 2020), online: <<https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/requesting-regional-strategic-assessment-iaa.html>>.

<sup>189</sup> Government of Canada, "Impact Assessment Process Overview" (14 February 2022), online: <<https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview.html>>.

- 2) [Impact Statement](#)
- 3) [Impact Assessment](#)
- 4) [Decision Making](#)
- 5) [Post Decision](#)

### Find a Project and Comment Online

To learn more about ongoing IAs or upcoming comment opportunities on projects near you, you can search the Canadian Impact Assessment Registry [here](#).<sup>190</sup> Each project has its own page where you can find information about the stage of assessment, funding opportunities to facilitate participation, or how members of the general public and/or Indigenous peoples are invited to comment.

For example, there is a current IA for a "[Hydrogen Ready Power Plant Project](#)" near Sarnia.<sup>191</sup>

On its page, there is information on options for public engagement and getting more information about the project, including: submitting online comments, training, information session, participant funding, and access to all records.

### A Challenge to the Constitutional Validity of Canada's IAA

The constitutionality of the federal *Impact Assessment Act* was challenged by the government of Alberta. The issue before the Alberta Court of Appeal was whether the IAA scheme unlawfully intruded into matters exclusively of provincial jurisdiction as set in the *Constitution Act, 1867* under the s. 92 heads of powers.<sup>192</sup>

In March 2020, CELA and 2 client groups received permission from the Court to intervene in this test case, filing their written legal argument in June, taking the position that the IAA and its regulations are constitutionally valid.<sup>193</sup> Ultimately on May 10, 2022, the majority of the Alberta Court of Appeal held that the IAA was unconstitutional for impermissibly intruding into matters of exclusive provincial jurisdiction. This judicial opinion has been appealed by the federal government to the Supreme Court of Canada.

CELA and two Ontario-based clients have obtained the SCC's permission to intervene in the appeal. CELA's position is that the environmental assessment regime established by the IAA can be upheld under various heads of federal jurisdiction under the *Constitution Act, 1867*. The

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<sup>190</sup> Government of Canada, "Canadian Impact Assessment Registry" (3 November 2022), online: <<https://iaac-aeic.gc.ca/050/evaluations>>.

<sup>191</sup> Government of Canada, "Search Registry in Sarnia ["Hydrogen Ready Power Plant Project"]" (2020, August 17), online: <<https://iaac-aeic.gc.ca/050/evaluations/proj/83696>>.

<sup>192</sup> Richard D Lindgren, "Blog: Constitutional reference on federal Impact Assessment Act" (28 September 2020), online: <<https://cela.ca/constitutional-reference-on-federal-impact-assessment-act/>>.

<sup>193</sup> Richard D Lindgren, "Blog: Why CELA intervenes in national test cases" (23 March 2021), online: <<https://cela.ca/blog-why-cela-intervenes-in-national-test-cases/>>.

appeal was heard in March, 2023. The Court's decision is forthcoming.

You can stay updated on CELA's work on this case, [by clicking this link](#).<sup>194</sup> To view direct updates from the SCC's on the case's status, [click here](#).<sup>195</sup>

## (2) Ontario's Environmental Assessment Process

The Ontario EA regime has undergone significant changes due to recent legislative and regulatory amendments. Environmental assessments in the province are governed by the [Environmental Assessment Act](#).<sup>196</sup>

There are two kinds of EAs in Ontario: **Comprehensive EAs** (formerly called Individual) and Class EAs which are now under the category of Streamlined EAs).

**Comprehensive assessments** are generally for large-scale and complex projects, that have the potential for *significant environmental effects*. They also require approval from the Ministry of Environment, Conservation, and Parks.

The recent updates to the provincial EA process, includes a proposed list of designated projects that will automatically trigger Comprehensive EAs under the Act. Anything that is left off the list will not be legally required to have an EA, undertake public consultation, or seek approval as per Part II.3 of the Act. Although there still may be other statutory approvals required and the Cabinet may use its discretionary authority to designate a project as being subject to the Act, **there is a great deal of uncertainty around EAs for any type of project that is not listed.**

As of spring 2023, another recent set of proposals made by Ontario would further rollback environmental assessment in Ontario related to highways, transmission lines, water infrastructure and other matters. A CELA blog on this issue is available for more information.<sup>197</sup>

**Streamlined assessments** are purportedly intended for routine projects with '*predictable*' *environmental effects*. These follow a self-assessment process and do not require involvement from the Ministry of the Environment, Conservation, and Parks. However, the project proponent **must still consult** with the public, Indigenous communities, and government agencies. Examples of projects that use the streamlined process include electricity projects, waste management projects, and transit projects.

Recent amendments also remove the ability to request a streamlined EA be "bumped up" to a Comprehensive EA, unless the request is based on s. 35 Constitutional rights for treaty and

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<sup>194</sup> "Casework: Upholding the Federal Impact Assessment Act", *Canadian Environmental Law Association*, online: <https://cela.ca/casework-upholding-the-federal-impact-assessment-act/>

<sup>195</sup> *Attorney General of Canada v. Attorney General of Alberta*, Docket No: 40195, *Supreme Court of Canada*, online: <https://www.scc-csc.ca/case-dossier/info/dock-regi-eng.aspx?cas=40195>

<sup>196</sup> *Environmental Assessment Act*, R.S.O. 1990, c. E.18.

<sup>197</sup> <https://cela.ca/blog-more-environmental-assessment-rollbacks-in-ontario/>



Aboriginal rights.

**For more information on public involvement, read [the Ministry's guidance materials on public consultation and Indigenous consultation](#).**<sup>198</sup>

CELA, along with other environmental lawyers, non-governmental organizations, and Indigenous organizations, opposed many of the proposed amendments to the Act for a few notable reasons, for instance the unjustifiable exclusion of environmentally significant projects from the proposed list. For further details on these concerns, read CELA's letter to the Ministry of the Environment, Conservation, and Parks [here](#).<sup>199</sup>

### **Find a Project and Comment Online**

You can view projects on the Ontario [Environmental assessments page](#).<sup>200</sup> [Public consultation \(including with Indigenous peoples\)](#) is mandatory for all projects undergoing EAs.<sup>201</sup>

***For projects proposed near you, it is important to check both provincial and federal systems. If the project doesn't appear, consider requesting a designation (discussed above). If a project is subject to both processes, Canada and Ontario's legislation allows a joint (or harmonized) assessment.***

### **Duty to Consult and EAs: Gitanyow Case Study**

Despite Indigenous law having been largely excluded from the legal construction and operation of the duty to consult, Indigenous peoples have used their laws to influence the duty to consult in the environmental assessment (EA) context. The duty to consult is often carried out through EAs, as EAs evaluate local environmental impacts of proposed development projects and operate to mitigate these impacts on Indigenous communities who already disproportionately bear the burden of industrial development.

[One example of this is led by the Gitanyow \(BC\). In early 2021, they released the Gitanyow Wilp Sustainability Assessment Process \("GWSAP"\), which is an Indigenous legal instrument that sets out requirements for fully Indigenous-led assessment of projects in Gitanyow Lax'yip \(territory\) based on the Gitanyow's own laws. The GWSAP aims to protect and restore the Gitanyow Lax'yip for present and future generations and upholds the decision-making authority of each](#)

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<sup>198</sup> Government of Ontario, "Environmental assessments: Consulting Indigenous communities" (20 August 2021), online: <<https://www.ontario.ca/page/environmental-assessments-consulting-indigenous-communities>>.

<sup>199</sup> Richard D Lindgren, "Proposed Project List Under the Amended Environmental Assessment Act (ERO 019-2377)" (9 November 2020), online (pdf): *Canadian Environmental Law Association* <<https://cela.ca/wp-content/uploads/2020/11/CELA-letter-re-EAA-Project-List-Proposal-November-9-2020-1.pdf>>.

<sup>200</sup> Government of Ontario, "Preparing environmental assessments" (6 June 2022), online: <<https://www.ontario.ca/page/preparing-environmental-assessments>>.

Government of Ontario, "Consultation in Ontario's environmental assessment process" (5 July 2021), online: <<https://www.ontario.ca/page/consultation-ontarios-environmental-assessment-process>>

Wilp (House Group) to determine what activities are permitted in their respective Lax'yip.<sup>202</sup>

The GWSAP requires all actors (e.g. companies, Crown governments) to follow Gitanyow strategic direction, such as the Gitanyow Lax'yip Land Use Plan, and prohibits proposed projects from accessing the Lax'yip without the consent of the impacted Wilp. The GWSAP will parallel provincial and federal environmental assessment processes. Both levels of government were consulted during the development of the GWSAP. Furthermore, both levels of government have recently acknowledged Indigenous-led environmental assessment processes in their new environmental assessment legislation.

*Case Study courtesy of Maria Lucas, former CELA LLP Student.*<sup>203</sup>

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<sup>202</sup> Gitanyow Hereditary Chiefs, (2021), “Gitanyow Hereditary Chiefs Launch One-year Pilot of WilP Sustainability Assessment Process” (5 February 2021), online: <<https://www.gitanyowchiefs.com/news/gitanyow-hereditary-chiefs-launch-one-year-pilot-of-wilp-sustainability-ass>>.

<sup>203</sup> Maria Lucas, (31 May 2021), The Crown's Duty to Consult and Accommodate Indigenous Peoples, *Canadian Environmental Law Association* at 19-20: <[Legal Information - The Crown's Duty to Consult and Accommodate Indigenous Peoples - Canadian Environmental Law Association \(cela.ca\)](#)>

## Chapter 18: Accessing Pollution Data

The [National Pollutant Release Inventory](#) (“NPRI”) is Canada's main pollutant release and transfer inventory. It is mandated under the *Canadian Environmental Protection Act* and is publicly accessible. It is published by Environment and Climate Change Canada and includes annual reporting from companies in manufacturing, chemical products, primary metals, transportation equipment, rubber products, pulp and paper, food products, wood products, textiles, mineral products, and electrical equipment.<sup>204</sup>

Whether companies are mandated to report depends on a number of [reporting requirements](#).<sup>205</sup> These general [requirements](#) include: where employees work a total of  $\geq 20$  000 hours (the employee threshold), and where there are 10+ full-time employees, and for most pollutants reported under NPRI (over 180 pollutants), a 10 tonne threshold applies. For criteria air contaminants, there is a 20 tonne threshold, while other pollutants (i.e. dioxins, PAHs, etc) have lower mass thresholds.

NPRI data is publicly available [here](#),<sup>206</sup> or by clicking “[Pollution data and reports](#)” on the [main page](#).<sup>207</sup> You can search by NPRI ID, company name, substance, and industry type, among others. Often, postal code is the most reliable search term.

However, NPRI data alone has important limitations:

- CELA and other NGOs have argued that the **threshold levels for reporting are too high** and that **more** pollutants should be included in the registry.
- Smaller facilities are also often not included, as with mobile sources such as cars, trucks, and construction equipment.
- There has been a historical **updating backlog**. While search functions recently were updated to show data from 2021, overviews and highlights of pollution data lag behind and NPRI does not provide the highlight to the most recent data.,.
- Provincial guidelines and limits on substances are also not provided for comparisons, nor are the health impacts of each pollutant. The provincial standards for a certain chemical or pollutant is also often in the form of a rate (ie.  $\mu\text{g}/\text{m}^3$ ) that makes direct comparisons with NPRI reporting unworkable

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<sup>204</sup> Government of Canada, “National Pollutant Release Inventory” (25 November 2022), online: <<https://www.canada.ca/en/services/environment/pollution-waste-management/national-pollutant-release-inventory.html>>.

<sup>205</sup> Minister of Environment and Climate Change, “Guide for Reporting to the National Pollutant Release Inventory 2020 and 2021” (2020), online (pdf): <[https://publications.gc.ca/collections/collection\\_2020/eccc/En81-1-2020-eng.pdf](https://publications.gc.ca/collections/collection_2020/eccc/En81-1-2020-eng.pdf)>

<sup>206</sup> Government of Canada, “National Pollutant Release Inventory data search”, online: <<https://pollution-waste.canada.ca/national-release-inventory/>>

<sup>207</sup> Government of Canada, “Tools and resources for the National Pollutant Release Inventory data” (10 February 2023), online: <<https://www.canada.ca/en/environment-climate-change/services/national-pollutant-release-inventory/tools-resources-data.html>>.

Other limitations are outlined in a CELA presentation [here](#).<sup>208</sup>

At your community level, you may also wish to monitor your local air quality. Ontario produces an **Air Quality Health Index (AQHI)** that is updated hourly, although you are additionally able to access archived data. The data is available on a map, or in a table by city/town. This data explains the health risk of outdoor activity.<sup>209</sup>

Another useful resource is the catalogue of Environmental Compliance Reports available [here](#).<sup>210</sup> For each year, there are reports on companies that exceed emissions limits in multiple categories, such as air emissions, and industrial sewage.

### **NPRI Search Example**

A good way to search for facilities in your area is by using the first three characters of local postal codes. As an example, a postal code in the Sarnia area, the N7T post code yields 21 results.<sup>211</sup>

As an example, for trimethylbenzene in Imperial Oil facilities in Sarnia, there are three unique NPRI IDs associated with Imperial Oil in Sarnia. These are the facilities with the reported releases:

Sarnia Chemical Plant

NPRI ID 1464

<https://pollution-waste.canada.ca/national-release-inventory/2021/1464>

Air releases of trimethylbenzene - 3.66 tonnes

Sarnia Refinery Plant

NPRI ID 3704

<https://pollution-waste.canada.ca/national-release-inventory/2021/3704>

Air releases trimethylbenzene - 2.3 tonnes

Sarnia Terminal

NPRI ID 10229

<https://pollution-waste.canada.ca/national-release-inventory/2021/10229>

No reporting for trimethylbenzene from this facility

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<sup>208</sup> Renee Griffin, “Accessing NPRI and Pollution Watch Data” (11 February 2011), online (pdf): <https://cela.ca/wp-content/uploads/2019/08/NPRI-Presentation.pdf>.

<sup>209</sup> Ministry of the Environment, Conservation and Parks, “Ontario’s Air Quality Health Index” (9 March 2023), online: *Government of Ontario* <<http://www.airqualityontario.com/aqhi/locations.php?pol=251>>.

<sup>210</sup> Government of Ontario, “Environmental compliance reports – Data sets” (2020), online: <https://data.ontario.ca/dataset/environmental-compliance-reports>.

<sup>211</sup> National Pollutant Release Inventory, Advanced Search, Postal Code: “N7T”: [National Pollutant Release Inventory data search - Canada.ca](https://www23.ec.gc.ca/npri/npri/npri-advanced-search)

## Chapter 19: Land Use Planning Decisions

Municipalities have an important role in land use planning in Ontario, including determining the future development of the community through the preparation of official plans, zoning by-laws, and other planning tools. In doing so, municipalities are bound by Ontario's provincial policies, plans, and laws. In order to make a change to a building or land use, property owners and developers are often required to obtain appropriate permits and approvals from the municipality.

Land use planning helps municipalities in managing land and resources and guide decisions about where:

- To build homes and factories
- To put parks and schools
- Where roads, sewers, and other essential services are needed.

Public involvement is important to ensure that the council is making informed decisions for the future. If you are concerned about a proposed zoning change, or by-law, you can attend and submit comments at public meetings organized by your municipality.

Planning boards vary by region. As an example, the planning board for the Hamilton area is accessible [here](#).<sup>212</sup>

The Ontario Land Tribunal (OLT) is an independent adjudicative tribunal. Issues that the OLT deals with include those identified in statutes such as the [Planning Act](#),<sup>213</sup> [Aggregate Resources Act](#),<sup>214</sup> [Heritage Act](#),<sup>215</sup> [Municipal Act](#),<sup>216</sup> [Development Charges Act](#)<sup>217</sup> and [Expropriations Act](#).<sup>218</sup> This includes planning appeals, zoning by-laws, land compensation, and aggregate resource issues.

The OLT has produced an [appeal guide](#)<sup>219</sup> which lays out the steps for filing an objection or appeal, and participating in a hearing event, among other things. To check on the status of cases, visit the "E- Status" section of the OLT website, available [here](#).<sup>220</sup> The [OLT's Rules of Practice and Procedure](#) is available [here](#).<sup>221</sup> The main types of land use planning appeals that

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<sup>212</sup> City of Hamilton, "Planning & Development" (2023), online: <<https://www.hamilton.ca/build-invest-grow/planning-development>>.

<sup>213</sup> *Planning Act*, RSO. 1990, c. P.13.

<sup>214</sup> *Aggregate Resources Act*, RSO 1990, c. A.8.

<sup>215</sup> *Ontario Heritage Act*, RSO 1990, c. O.18.

<sup>216</sup> *Municipal Act*, SO 2001, c. 25.

<sup>217</sup> *Development Charges Act*, SO 1997, c. 27.

<sup>218</sup> *Expropriations Act*, RSO. 1990, c. E.26.

<sup>219</sup> Ontario Land Tribunal, "Appeal Guide" (2021), online (pdf): <[OLT | Appeal Guide \(June 2021\) \(gov.on.ca\)](https://olt.gov.on.ca/tribunals/lpat/e-status/)>.

<sup>220</sup> Ontario Land Tribunal, "Case Status" (2021) online (pdf): <https://olt.gov.on.ca/tribunals/lpat/e-status/>

<sup>221</sup> Ontario Land Tribunal, "Legislation and Rules" (2021), online (pdf): <<https://olt.gov.on.ca/legislation-and-rules/>>.

are available to the general public include appeals of municipal decisions to adopt or amend the local official plan; or decisions to adopt or amend zoning by-laws. Subsequent to the adoption of Bill 23 amending Ontario's planning laws in late 2022, it is no longer possible for general public to appeal site plan decisions or municipal consents for minor variances to the land use planning rules.

For more assistance, the [Citizen Liaison Office](#) provides citizens with help in understanding and navigating the OLT process.<sup>222</sup> The office has a [website](#) with quick links and FAQs, as well as an email address: [OLT.general@ontario.ca](mailto:OLT.general@ontario.ca). However, the Citizen Liaison Office cannot assist with substantive questions, or completion of forms.

### **How To Get Involved in Land Use Planning Decisions**

The province sets land use planning policy through the [Planning Act](#). It defines the approach to planning and assigns or provides the roles of key participants. CELA has created a [fact sheet](#) outlining appeal rights available under the *Planning Act*, after recent amendments to the Act by Bill 23.<sup>223</sup>

**The Province-wide Provincial Policy Statement (PPS)** provides planning rules across the province.<sup>224</sup> However, the PPS is currently under review. In certain parts of the province, provincial plans provide **geographically-specific policies** to meet certain planning objectives such as the Greenbelt Plan, Niagara Escarpment Plan, and other geography-specific regional plans.

### **Getting Involved**

Planning is a public process. It includes the input of developers, residents, Indigenous communities, and individuals to help municipalities implement provincial and local policy frameworks.

You can be an important part of the land use planning process by keeping informed about what's going on in your community and by participating in public meetings to voice your ideas about specific projects in your community.

It is crucial that you either make oral comments at the *Planning Act*-required public meeting or written comments before a decision is made by the first level decision-maker to secure appeal rights to the [Ontario Land Tribunal \(OLT\)](#).<sup>225</sup>

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<sup>222</sup> Ontario Land Tribunal, "Citizen Liaison" (25 May 2020), online: <<https://olt.gov.on.ca/citizen-liaison/>>.

<sup>223</sup> [Fact Sheet: Impact of Bill 23 on Planning Act Third-Party Appeal Rights - Canadian Environmental Law Association \(cela.ca\)](#)

<sup>224</sup> Provincial Policy Statement, 2020: <[Provincial Policy Statement, 2020 | ontario.ca](#)>

<sup>225</sup> Ministry of Municipal Affairs and Housing, "The Ontario Municipal Councillor's Guide" (16 May 2022), online: <https://www.ontario.ca/document/ontario-municipal-councillors-guide/10-land-use-planning#>>.

## **Brownfields Land Use Planning**

Brownfield properties are vacant or underutilized places where industrial or commercial activities which occurred on the property in the past may have left contamination (chemical pollution). Past activities occurring on Brownfields include:

- Factories;
- gas stations; and,
- waterfront properties formerly used for industrial or commercial activities.<sup>226</sup>

Brownfields can pose health and safety risks, be costly for the local regions where they are located and may need to be redeveloped to abide by health, safety, and environmental standards. Brownfield properties fall under the authority of the *Environmental Protection Act*. When a brownfield property is being **developed** for a new use, property owners and redevelopers are required to:

- assess the environmental condition of a property through **environmental site assessments**;
- ensure that the site meets the **applicable site condition standards or standards specified in a risk assessment**; and,
- submit a record of site condition made publicly available by filing on the **Ontario's Environmental Site Registry**.<sup>227</sup>

### Environmental Site Assessments

A record of site condition requires a qualified person to undertake environmental site assessments. A qualified person, pursuant to O. Reg. 153/04: RECORDS OF SITE CONDITION - PART XV.1 OF THE ACT, must either be licenced under the *Professional Engineers Act*, or possess a certificate of registration under the *Professional Geoscientists Act, 2000* and be a member of the Association of Professional Geoscientists of Ontario. The qualified person must not have any direct or indirect interest in any property assessing, reporting on or certifying.<sup>228</sup> Environmental site assessments contain two phases: phase one and phase two.

#### Phase One

Phase one of an environmental site assessment requires the qualified person to identify potentially contaminating activity in the study area, including the property, identify the areas of

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<sup>226</sup> Government of Ontario- Ministry of the Environment, conservation and Parks. (2023), online: *Brownfields Redevelopment*

<sup>227</sup> Government of Ontario- Ministry of the Environment, conservation and Parks. (2023), online: *Brownfields Redevelopment*

<sup>228</sup> O. Reg. 153/04: RECORDS OF SITE CONDITION - PART XV.1 OF THE ACT at sec. 5-6.

potential environmental concern on the property itself, and to determine if a phase two environmental assessment is required.<sup>229</sup>

### Phase Two

Phase two of an environmental site assessment requires a qualified person to determine the location and concentration for any contaminants, take actions to reduce the concentration of the contaminants if a standard has been exceeded, and to confirm the site meets the applicable site condition standard or specified standards in a risk assessment.<sup>230</sup>

### Record of Site Condition

A record of site condition details the environmental condition of the property and is based off the result of environmental site assessments. They are completed by a qualified person pursuant to authorizing legislation who is satisfied that the property meets the applicable site condition standard or a standard that is specified in a risk assessment for an intended use. The province of Ontario amended O. Reg. 153/04: RECORDS OF SITE CONDITION - PART XV.1 OF THE ACT under the Environmental Protection Act, R.S.O. 1990, c. E.19 to remove unnecessary barriers with filing a Record of Site Condition.<sup>231</sup> A record of site condition can be done through generic standards or property-specific standards.

#### **A. Applicable Site Condition Standards (Generic Standards)**

These standards are based on the intended use of the property in question and the physical characteristics of the land. If contaminants on the brownfield property are higher than generic standards set, the qualified person may take remedial action to reduce contaminant concentration or decide a risk assessment is appropriate.<sup>232</sup>

#### **B. Property-specific standards (derived through a risk assessment)**

A risk assessment approach is based on the unique characteristics of the property and examines the risk posed to human health and the natural environment. The qualified person proposes property-specific standards and can implement land-use restrictions to mitigate risks on the property.<sup>233</sup>

### Environmental Site Registry

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<sup>229</sup> Government of Ontario- Ministry of the Environment, conservation and Parks. (2023), online: *Brownfields Redevelopment*

<sup>230</sup> Government of Ontario- Ministry of the Environment, conservation and Parks. (2023), online: *Brownfields Redevelopment*.

<sup>231</sup> Government of Ontario- Ministry of the Environment, conservation and Parks. (2023), online: *Brownfields Redevelopment*.

<sup>232</sup> Government of Ontario- Ministry of the Environment, conservation and Parks. (2023), online: *Brownfields Redevelopment*.

<sup>233</sup> Government of Ontario- Ministry of the Environment, conservation and Parks. (2023), online: *Brownfields Redevelopment*.



Should a developer wish to change the use of a brownfield property, the owner is required to have a record of site condition filed in the Environmental Site Registry first, allowing the public to access relevant information related to the property. The Environmental Site Registry listing will include the record of site condition, which is based on the Environmental Site Assessment.<sup>234</sup>

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<sup>234</sup> Government of Ontario- Ministry of the Environment, conservation and Parks. (2023), online: *Brownfields Redevelopment*.

## Chapter 20: Freedom of Information and Protection of Privacy Act Requests

In some circumstances, you may not have access to the information you need to fully respond to an environmental issue. In these cases, you can make use of **access to information legislation** to access this information.

### Ontario and Municipal Freedom of Information requests

[You may contact the Freedom of Information and Protection Privacy Act Coordinator for the relevant](#) department and ask if the information is available without a formal request.<sup>235</sup> Otherwise, a formal information request is required.

#### Municipal access requests:

- [Governing statute: Municipal Freedom of Information and Protection of Privacy Act.](#)<sup>236</sup>
- Guides differ by municipality. As an example: Freedom of Information and Protection of Privacy Guide ([Hamilton](#)).<sup>237</sup>

#### Provincial access requests:

- [Governing statute: Freedom of Information and Protection of Privacy Act.](#)<sup>238</sup>
- [Guide to making a Freedom of Information request](#) (Ontario).<sup>239</sup>

Your request must be made by using either the published form or by writing a letter. When you file a request for information, **there is a minimum \$5 application fee** (whether you file with the municipal or provincial government), based on the provincial jurisdiction and department you send in a request to.

If your request for information is denied, the department must provide you with notice of that decision in writing. For municipal and provincial requests, you have a right to appeal the decision to the Information and Privacy Commissioner of Ontario. You can find information about how to make an appeal on [the IPC's website](#).<sup>240</sup>

### Federal Access to Information Act requests

#### Federal access requests:

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<sup>235</sup> Government of Ontario. “*Government of Ontario Employee and Organization Directory*.” (2021), online: <http://www.infogo.gov.on.ca/infogo/#orgProfile/1803/en>

<sup>236</sup> *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990, c. M.56.

<sup>237</sup> City of Hamilton, *Freedom of Information and Privacy Protection*, (2 September 2022), online: <https://www.hamilton.ca/city-council/city-clerks-office/freedom-information-privacy-protection>

<sup>238</sup> *Freedom of Information and Protection of Privacy Act*, RSO 1990, c. F.31.

<sup>239</sup> Government of Ontario, “How to make a Freedom of Information request” (13 December 2022), online: <https://www.ontario.ca/page/how-make-freedom-information-request>.

<sup>240</sup> Information and Privacy Commissioner of Ontario, “Filing an appeal” (2021), online: <https://www.ipc.on.ca/access-individuals/filing-an-appeal/>.

- Governing Statute: [Access to Information Act](#).<sup>241</sup>
- [Guide: Make an Access to Information or Personal Information Request](#).<sup>242</sup>

## How to Make a Federal Request

Any Canadian citizen, permanent resident or any person or corporation residing in Canada has the right to request access to records of Federal government institutions that are subject to the *Access to Information Act*. All requests must be directed toward specific institutions.

For this request, you will need access to a valid email account, electronic copies of documents you wish to attach (can be in DOC, DOCX, PDF, TIFF, PNG, or JPG forms), and pay the requisite **\$5 application fee**. You may submit your request by **mail or email** by filling out the requisite request forms that can be [found here](#) and must be submitted to the appropriate bodies.<sup>243</sup>

The Government of Canada has also created an **online ATIP request website** for individuals or organizations to create, manage, and track their ATIP requests. Using this website allows you to submit multiple requests in the system, receive a reply and response package online, and lets you receive status updates on your requests.

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<sup>241</sup> *Access to Information Act*, RSC 1985, c. A-1.

<sup>242</sup> Government of Canada, “Make an access to information or personal information request” (21 November 2016), online: <<https://www.canada.ca/en/treasury-board-secretariat/services/access-information-privacy/access-information/request-information.html>>.

<sup>243</sup> Government of Canada, “Make a request (13 July 2022), online: <https://www.canada.ca/en/treasury-board-secretariat/services/access-information-privacy/access-information/request-information/make-request.html>

## Chapter 21: Regulatory Nuclear Licensing Hearings

The [Canadian Nuclear Safety Commission](#)<sup>244</sup> (CNSC) is an independent, quasi-judicial administrative tribunal. It was established in 2000 under the [Nuclear Safety and Control Act](#) (NSCA).<sup>245</sup> The CNSC reviews applications for licenses. CNSC provides for public participation as part of their hearing process.

In Southwest Ontario, there are a number of facilities licensed by the Commission, such as nuclear power plants like the Bruce Nuclear Plant, waste facilities, historic reactors such as the Douglas Point Plant,<sup>246</sup> and proposals for future facilities such as the Proposed Nuclear Waste Management proposal for high level nuclear fuel waste at the Bruce Nuclear Site on the shores of Lake Huron.<sup>247</sup>

### Emergency Planning Threats

Emergency planning involving nuclear power plant operations across the southwest region is an ongoing issue of concern. This has been of particular concern in the Windsor and Essex County regions, where residents live within 100 kms of the Michigan-based Fermi and Ohio-based Davis-Besse nuclear plants.<sup>248</sup>

Various public interest and citizen groups have been asking the province to engage in better emergency preparedness planning to ensure the safety of residents in the Southwest region of Ontario who live near the 20 reactors in the Great Lakes regions and other US-based reactors. For instance, CELA and other civil society groups recommend that the province distribute potassium iodide (KI) pills for those in the region, which would protect people from thyroid cancer in the event of an accident.

In the event of nuclear disasters, this preparedness should be expanded by:

- Expanding emergency preparedness zones
- Meeting international best practices for emergency response and
- Establishing new measures that would protect sources of drinking water in the event of an accident.<sup>249</sup>

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<sup>244</sup> Government of Canada, “Canadian Nuclear Safety Commission” (25 January 2023), online: <<https://nuclearsafety.gc.ca/eng/>>.

<sup>245</sup> *Nuclear Safety and Control Act*, SC 1997, c 9.

<sup>246</sup> Kerrie Blaise (29 October 2020), Proposed Decommissioning License Amendment – Douglas Point, available (online): CELA <https://cela.ca/proposed-decommissioning-license-amendment-douglas-point/>.

<sup>247</sup> Canadian Environmental Law Association, *Casework: Proposed Deep Geologic Repository for Nuclear Waste*, available (online): <https://cela.ca/casework-proposed-deep-geologic-repository-for-nuclear-waste/>.

<sup>248</sup> Canadian Environmental Law Association (12 June 2017), *Media Release: Nuclear Disaster Threat to Windsor Essex Overlooked by Province*, available (online): <https://cela.ca/nuclear-disaster-threat-to-windsor-essex-overlooked-by-province/>.

<sup>249</sup> Canadian Environmental Law Association (12 June 2017), *Media Release: Nuclear Disaster Threat to Windsor Essex Overlooked by Province*, available (online): <https://cela.ca/nuclear-disaster-threat-to-windsor-essex-overlooked-by-province/>.

The [Provincial Nuclear Emergency Response Plan](#) names municipalities that must address nuclear emergencies in their municipal emergency plans in preparation for responding to an accident at the Fermi 2 plant in Michigan. This is pursuant to the *Emergency Management and Civil Protection Act* – to protect their own citizens, or to act as a “host municipality”. The City of Windsor and Town of Essex are the designated “host municipality” in the event of any nuclear disasters in the Town of Amherstburg.<sup>250</sup>

For the general public, the province has provided the following resource to learn about different types of emergencies and how to be best prepared for them, including for nuclear disasters. [Click the link to read more.](#)<sup>251</sup>

### **Radionuclides as Chemicals of Mutual Concern per the Great Lakes Water Quality Agreement**

In March 2016, 110 groups submitted an application under the Great Lakes Water Quality Agreement to designate radionuclides as a Chemical of Mutual Concern under Annex 3 of the Agreement. CELA submitted their nomination to designate radionuclides in response to Environment and Climate Change Canada’s and the U.S. Environmental Protection Agency’s call for nominations from the public.

In December 2017, the Great Lakes Executive Committee overseeing activities under the Agreement, decided they then needed to develop binational screening criteria before deciding on the nominated Chemicals of Mutual Concern. Upon release of the new screening criteria, CELA’s nomination remains the same as it did in March 2016:

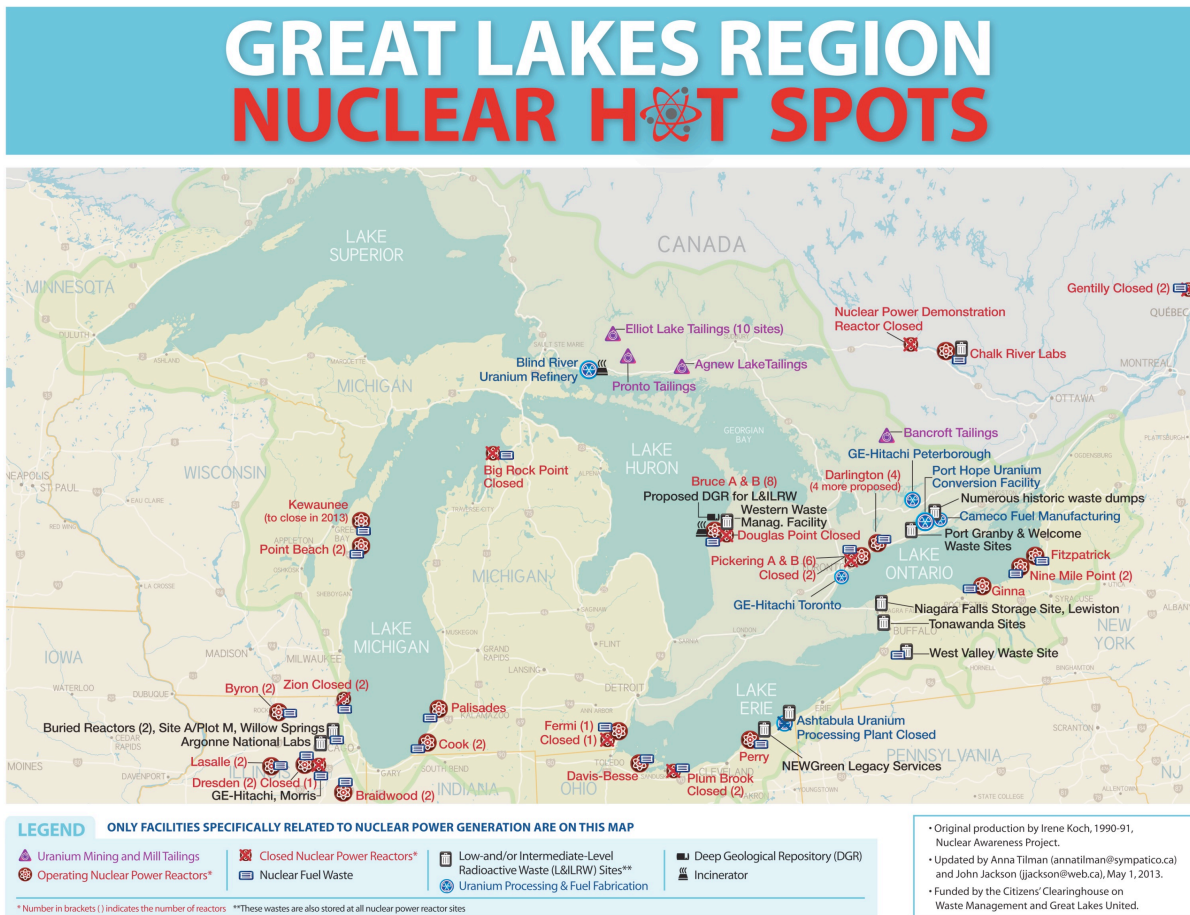
*Given that radionuclides are persistent toxic substances, given a situation where there is a substantial number of facilities that are sources of radionuclides to the Lakes, and given the relatively closed characteristics of the Great Lakes system, which means that radionuclides build up in the system, it is essential to designate radionuclides as a Chemical of Mutual Concern so that the data and science needed will be generated and so that preventive actions can be taken to protect the Lakes from threats from radionuclides.*<sup>252</sup>

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<sup>250</sup> <https://www.ontario.ca/document/provincial-nuclear-emergency-response-plan-pnerp-master-plan/annex-reactor-facilities-and-designated-municipalities>

<sup>251</sup> <https://www.ontario.ca/page/emergency-preparedness>

<sup>252</sup> John Jackson, (16 May 2022), Renomination of Radionuclides as Chemicals of Mutual Concern Under the Great Lakes Water Quality Agreement, online: CELA <https://cela.ca/renomination-of-radionuclides-as-chemicals-of-mutual-concern/>.



### Regulatory Nuclear Licensing Hearings

The CNSC must function in a way that aligns with the purposes set out in the NSCA. According to section 3, the purpose of this Act is to provide for

- (a) the **limitation**, to a reasonable level and in a manner that is consistent with Canada’s international obligations, of the **risks to national security, the health and safety of persons and the environment** that are associated with the development, production, and use of nuclear energy and the production, possession, and use of nuclear substances, prescribed equipment and prescribed information; and
- (b) the implementation in Canada of **measures** to which Canada has agreed respecting international control of the development, production, and use of nuclear energy, including the non-proliferation of

As a tribunal, the CNSC has **statutory** powers which are set out in section 9 of the NSCA. The licensing powers are also granted by statute and set out in section 24 of the NSCA.

There are three themes that are often the focus of citizen interventions at a CNSC hearing: protecting human health, the environment, and upholding international obligations.

The public can participate in a CNSC hearing by becoming an **intervenor**. Intervenors are members of the public or organizations who have an interest or expertise in the matter and who have requested the opportunity to present information on the subject of the proceeding. Depending on the hearing, intervenor submissions may be written only or written and oral. When submitting an intervention, it is important to focus on:

- (1) **Why** is it important?
- (2) What's the **key issue**?
- (3) What are the **facts**?

As an intervenor, it is important to tell a story with your intervention and to make specific recommendations. To find out more about being an intervenor, click [here for CELA's Resource Guide for Intervening at a Canadian Nuclear Safety Commission Hearing](#).<sup>253</sup>

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<sup>253</sup> Kerrie Blaise and Krystal-Anne Roussel, "INTERVENING AT A CANADIAN NUCLEAR SAFETY COMMISSION HEARING A Resource Guide Prepared by the Canadian Environmental Law Association" (7 February 2022), online (pdf): <[https://cela.ca/wp-content/uploads/2022/01/Intervening\\_CNSC\\_Hearing\\_Resource-Guide.pdf](https://cela.ca/wp-content/uploads/2022/01/Intervening_CNSC_Hearing_Resource-Guide.pdf)>.