

LEGAL ASPECTS OF CROPLAND DRAINAGE

Federal, provincial and municipal legislation is in place to help ensure that everyone working in or around water is giving due consideration to all users, including private landowners and the general public, as well as aquatic life. The following table lists legislation that can directly affect the design, construction, and maintenance of cropland drainage and erosion control structures.

LAW /GUIDELINE	GOVERNMENT AGENCY	GOAL	RELEVANCE TO LANDOWNER
Agricultural Tile Drainage Installation Act	OMAFRA	<ul style="list-style-type: none"> to provide for the licensing of contractors engaged in the business of installation of agricultural drainage systems <ul style="list-style-type: none"> each contractor, each of their drainage machines, and each of their operators must be licensed to regulate the quality of work by licensed drainage contractors 	<ul style="list-style-type: none"> the Act does not apply to contractors working under the Drainage Act nor to individuals installing drains on their own property with their own equipment
Common Law	Provincial Courts	<ul style="list-style-type: none"> generally, to protect the rights of the people 	Potential civil liability if: <ul style="list-style-type: none"> blocking or interfering with the flow in a natural watercourse, causing damage to others collecting and discharging water onto a lower property, causing damage
For more information, see the OMAFRA factsheet, <i>Top 10 Common Law Drainage Problems Between Rural Neighbours</i> , Order no. 98-015.			
Conservation Authorities Act	MNR, delivered by local CA	<ul style="list-style-type: none"> to manage and conserve natural resources within watershed jurisdiction to ensure that the control of flooding, erosion, dynamic beaches, pollution or the conservation of land is not affected to ensure that development and land management activities do not have a negative hydrologic impact on wetlands 	Conservation Authorities regulate and require permission for: <ul style="list-style-type: none"> proposed development and activities in or adjacent to any surface waters, stream valleys, shorelines, hazardous lands and wetlands proposed modification or interfering in any way with the existing channel of a watercourse or a wetland proposed development adjacent to wetlands – this could include lands 30 m or 120 m from the wetland boundary, depending on the individual policy adopted by the CA

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Drainage Act	Local municipality, OMAFRA	<ul style="list-style-type: none"> to provide landowners with a procedure to resolve outlet drainage problems through the establishment of communal systems called <i>municipal drains</i> to provide for the subsequent improvement, repair and maintenance of municipal drains by the municipality 	<ul style="list-style-type: none"> can be used to obtain an outlet for subsurface drainage systems costs are shared among property owners who contribute water or benefit from the drain municipality is responsible for future maintenance grants are available towards share of cost assessed on agricultural land
Environmental Protection Act	MOE	<ul style="list-style-type: none"> to protect Ontario's land, water, and air resources from pollution 	<ul style="list-style-type: none"> persons are not allowed to discharge contaminants into the natural environment, if the discharge may cause an adverse effect
Fisheries Act	DFO and Environment Canada CAs have partnership agreements with DFO to review projects	<ul style="list-style-type: none"> to protect fish and fisheries habitat 	<ul style="list-style-type: none"> persons are not allowed to discharge contaminants into the natural environment, if the discharge may cause an adverse effect general prohibitions against stream alterations that would harm fish habitat
Nutrient Management Act	OMAFRA	<ul style="list-style-type: none"> to provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development 	<ul style="list-style-type: none"> livestock producers are required to develop and follow Nutrient Management Strategies/Plans and manage manure according to regulatory requirements
Ontario Water Resources Act	MOE	<ul style="list-style-type: none"> to protect the quality and quantity of Ontario's surface water and groundwater resources 	<ul style="list-style-type: none"> general prohibitions against discharging pollutants to surface water or groundwater permits are required for taking of large amounts of surface water or groundwater, i.e., for irrigation
Pesticides Act	MOE	<ul style="list-style-type: none"> to protect surface water and groundwater resources from damage due to improper use of pesticides 	<ul style="list-style-type: none"> farmers buying and/or applying pesticides are required to take a Grower Pesticide Safety Course standards are established for pesticide storage, handling and application

CA – Conservation Authority; DFO – Fisheries and Oceans Canada; MNR – Ontario Ministry of Natural Resources; MOE – Ontario Ministry of the Environment; OMAFRA – Ontario Ministry of Agriculture, Food and Rural Affairs

Note: The information provided in this table and within this document is not to be used by persons with drainage or water problems as a substitute for competent legal advice. The application of the law usually depends upon the circumstances of each case and laws may be changed by court decisions or legislation.