

POLLUTION PROHIBITIONS (ONTARIO AND ALBERTA)

This presentation provides general information and is not intended to provide legal advice.
Audience members should seek legal advice for specific situations.

Pollution Prohibitions – Ontario and Alberta

Ontario EPA	Alberta EPEA
<p>A person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect (s. 14, ON EPA)</p>	<p>No person shall release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause a significant adverse effect (s. 109(2), AB EPEA)</p>
<p>Every person who discharges a contaminant or causes or permits the discharge of a contaminant into the natural environment shall forthwith notify the Ministry if the discharge is out of the normal course of events [and if] the discharge causes or is likely to cause an adverse effect ... (s. 15, ON EPA)</p>	<p>A person who releases or causes or permits the release of a substance into the environment that may cause, is causing or has caused an adverse effect shall, as soon as the person knows or ought to know of the release, report the release to specified persons (s. 110, AB EPEA)</p>

Pollution Prohibitions – Ontario and Alberta

Ontario EPA	Alberta EPEA
<p>“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect (s. 1(1), ON EPA)</p>	<p>“substance” (i) any matter that (A) is capable of becoming dispersed in the environment, or (B) is capable of becoming transformed in the environment into matter referred to in paragraph (A), (ii) any sound, vibration, heat, radiation or other form of energy, and (iii) any combination of things referred to in subclauses (i) and (ii) (s. 1(mmm), AB EPEA)</p>
<p>“discharge”, when used as a verb, includes add, deposit, leak or emit and, when used as a noun, includes addition, deposit, emission or leak (s. 1(1), ON EPA)</p>	<p>“release” means a spill, discharge, dispose of, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place and exhaust (s. 1(hhh), AB EPEA)</p>

SELECT LEGAL STANDARDS AND GUIDELINES IN CANADA

Select Legal Standards

Jurisdiction	Standards	PFOA	PFOS
BC	Contaminated Sites Regulation <ul style="list-style-type: none"> • Drinking Water Standard • Soil Standard for Groundwater used for Drinking Water 	<ul style="list-style-type: none"> • 0.2 µg/L 	<ul style="list-style-type: none"> • 0.3 µg/L • 0.35 µg/L
Alberta	Tier 1 Soil and Groundwater Remediation Guidelines <ul style="list-style-type: none"> • Soil • Groundwater • Surface Water - Drinking Water Tier 2 Soil and Groundwater Remediation Guidelines <ul style="list-style-type: none"> • Surface Water - Drinking Water 	Tier 1 <ul style="list-style-type: none"> • / • 0.0002 mg/L • 0.0002 mg/L Tier 2 <ul style="list-style-type: none"> • 0.0002 mg/L 	Tier 1 <ul style="list-style-type: none"> • 0.010 to 0.14 mg/kg • 0.0006 mg/L • 0.0006 mg/L Tier 2 <ul style="list-style-type: none"> • 0.0006 mg/L
Nova Scotia	Tier 1 Environmental Quality Standards Table 1A - Soil Standard Potable Groundwater Condition <ul style="list-style-type: none"> • Agricultural • Residential/Parkland • Commercial • Industrial <ul style="list-style-type: none"> • Table 3 - Surface water <10m from Surface Water Body - Fresh Water 	Table 1A <ul style="list-style-type: none"> • 0.7 mg/kg • 0.7 mg/kg • 1.05 mg/kg • 9.94 mg/kg Table 3 <ul style="list-style-type: none"> • / 	Table 1A <ul style="list-style-type: none"> • 0.01 mg/kg • 0.35 mg/kg • 0.35 mg/kg • 0.35 mg/kg Table 3 <ul style="list-style-type: none"> • 6.8 µg/L

Select Guidelines

Jurisdiction	Guidelines	PFOA	PFOS
Canada (Health Canada)	Guidelines for Canadian Drinking Water Quality	0.0002 mg/L	0.0006 mg/L
Canada (Health Canada)	Draft Objective for Canadian Drinking Water Quality for PFAS – <i>Consultation Period ends April 12, 2023</i>	30 ng/L for the sum of per- & polyfluoroalkyl substances	
Canada (Environment and Climate Change Canada)	<i>Canadian Environmental Protection Act, 1999</i> Federal Environmental Quality Guidelines <i>Perfluorooctane Sulfonate (PFOS) - Surface water</i>	/	6.8 µg/L
Canada (Canadian Council of Ministers of the Environment)	Canadian Soil and Groundwater Quality Guidelines for the Protection of Environmental and Human Health – PFOS <ul style="list-style-type: none"> • Soil Quality Guidelines • Groundwater Quality Guidelines 	/	<ul style="list-style-type: none"> • 0.01 mg/kg dry weight • 0.0006 mg/L
Ontario	Interim Drinking Water Advice	Combined of 11 PFAS above 70 ng/L	
Quebec	Surface Water Quality Criteria <ul style="list-style-type: none"> • Contamination Prevention (Water and Aquatic Organisms) • Contamination Prevention (Aquatic Organisms Only) 	<ul style="list-style-type: none"> • 6.6×10^{-5} mg/L • 1.7×10^{-4} mg/L 	<ul style="list-style-type: none"> • 1.1×10^{-5} mg/L • 1.2×10^{-5} mg/L

PFAS LITIGATION IN CANADA

PFAS Litigation

- **PFAS Litigation is still new in Canada**

- Egan et al. v National Research Council of Canada et al., 2021 ONSC 4561
- 100003936350 (Re), 2021 CanLII 133780 (CA VRAB)
- Groupe Marcelle Inc. and David Cape v Canada (ECCC), 2022 EPTC 8
- Clarington (Municipality) v Ontario (MECP), 2021 CarswellOnt 10815
- Desbiens and City of Longueuil (Fire Department), 2022 QCTAT 3455

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