



Français

Environmental Protection Act

ONTARIO REGULATION 350/12

REGISTRATIONS UNDER PART II.2 OF THE ACT — SOLAR FACILITIES

Consolidation Period: From November 18, 2012 to the e-Laws currency date.

No amendments.

This is the English version of a bilingual regulation.

CONTENTS [-]

<u>1.</u>	Interpretation
<u>2.</u>	Measurement of distance
<u>3.</u>	Prescribed activities, s. 20.21 (1) of the Act
<u>4.</u>	Registration exemptions, s. 20.21 (1) (a) and (b) of the Act
<u>5.</u>	Activity requirements, s. 20.21 (1) (c) of the Act — notice
<u>6.</u>	Activity requirements, s. 20.21 (1) (c) of the Act — general
<u>7.</u>	Records

Interpretation

1. (1) In this Regulation,

“archaeological site” has the same meaning as in Ontario Regulation 170/04 (Definitions) made under the *Ontario Heritage Act*; (“site archéologique”)

“board area” means, when used in relation to a Local Services Board, the geographical area within which the Local Services Board may exercise its jurisdiction; (“territoire de la régie”)

“business day” means a day that is not a Saturday or a holiday within the meaning of section 87 of the *Legislation Act, 2006*; (“jour ouvrable”)

“commercial use” has the same meaning as in Ontario Regulation 153/04 (Records of Site Condition — Part XV.1 of the Act) made under the Act; (“usage commercial”)

“facility location” means, when used in relation to a solar facility, a part of land and all or part of any building or structure in, on or over which a person is engaging in or proposes to engage in the construction, installation, use, operation, changing or retiring of a solar facility and any air space in which a person is engaging in or proposes to engage in the construction, installation, use, operation, changing or retiring of the solar facility; (“emplacement d’une installation”)

“farm operation activity” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario (General — Waste Management) made under the Act; (“activité d’exploitation agricole”)

- “full cutoff light fixture” means a light fixture designed such that no light is projected at or above an angle of 90 degrees above nadir and less than 10 per cent of the rated lamp lumens are projected at or above a vertical angle of 80 degrees above nadir; (“dispositif d’éclairage à défilement absolu”)
- “industrial use” has the same meaning as in Ontario Regulation 153/04 made under the Act; (“usage industriel”)
- “institutional use” has the same meaning as in Ontario Regulation 153/04 made under the Act; (“usage institutionnel”)
- “Local Services Board” has the same meaning as in the *Northern Services Boards Act*; (“régie locale des services publics”)
- “micro-inverter” means an inverter that converts direct current from only one or two solar photovoltaic collector panels to alternating current; (“micro-onduleur”)
- “name plate capacity” means, in respect of a solar facility, the lesser of,
- (a) the total of the design electricity generating capacities of all of the generation units in or at the facility, and
 - (b) the maximum power output of all of the inverters in or at the facility; (“puissance installée”)
- “national historic site” means a site, building or place that has been commemorated as an historic place under section 3 of the *Historic Sites and Monuments Act (Canada)*; (“lieu historique national”)
- “Niagara Escarpment Commission” means the Niagara Escarpment Commission continued under subsection 5 (1) of the *Niagara Escarpment Planning and Development Act*; (“Commission de l’escarpement du Niagara”)
- “Niagara Escarpment Planning Area” has the same meaning as in the *Niagara Escarpment Planning and Development Act*; (“zone de planification de l’escarpement du Niagara”)
- “noise generating equipment unit” means a transformer, inverter or solar facility electrical unit, but does not include a micro-inverter; (“équipement générant du bruit”)
- “noise receptor” means, subject to subsection (2), a permanent or seasonal residence, hotel, motel, long-term care home, retirement home, hospital, campground, child care facility, educational facility or place of worship and includes a vacant lot that has been zoned to permit such a building or campground; (“récepteur de bruit”)
- “off-property distribution line” means, in respect of a solar facility, that part of an ancillary or associated distribution line that,
- (a) is not located on the same property as the property on which the solar facility’s solar photovoltaic collector panels are located, and
 - (b) is used to distribute electricity from the solar facility to the distribution system of the distributor in whose distribution service area the solar facility is located; (“ligne de distribution externe”)
- “planning board” means a planning board established under section 9 or 10 of the *Planning Act*; (“conseil d’aménagement”)
- “professional engineer” means a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act*; (“ingénieur”)
- “property boundary” means,
- (a) in respect of a noise receptor, the boundary of the property on which the noise receptor is situated, and
 - (b) in respect of a solar facility, the boundary of the property on which the solar facility is situated; (“limite de propriété”)
- “Soil, Ground Water and Sediment Standards” means the document entitled “Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the *Environmental Protection Act*”, published by the Ministry and dated April 15, 2011; (“normes sur les sols, l’eau souterraine et les sédiments”)
- “solar facility” has the same meaning as in Ontario Regulation 359/09 (Renewable Energy Approvals under Part V.0.1 of the Act) made under the Act; (“installation solaire”)
- “solar facility electrical unit” means a unit that is manufactured by the manufacturer of a transformer or an inverter and in which are located transformers, inverters or a combination of both transformers and inverters; (“unité électrique d’installation solaire”)
- “sound power level” means, in respect of a noise generating equipment unit,
- (a) the sound power level specified by the manufacturer of the unit, if that specification includes a tonality adjustment of five dBA, or

(b) the sound power level specified by the manufacturer of the unit plus five dBA, if that specification does not include a tonality adjustment of five dBA; (“niveau de puissance acoustique”)

“water body” has the same meaning as in Ontario Regulation 359/09 made under the Act. (“étendue d’eau”) O. Reg. 350/12, s. 1 (1).

(2) For the purposes of the definition of “noise receptor” in subsection (1), a noise receptor does not include a permanent or seasonal residence, hotel, motel, long-term care home, retirement home, hospital, campground, child care facility, educational facility, place of worship or a vacant lot that has been zoned to permit such a building or campground that is located on the parcel of land on which any part of the solar facility is or will be located once the facility is installed, constructed or expanded. O. Reg. 350/12, s. 1 (2).

(3) For the purposes of this Regulation, two properties are adjacent to each other if the boundary of one property touches or, were it not for an intervening highway, road allowance, railway line, railway allowance or utility corridor, would touch the boundary of the other property. O. Reg. 350/12, s. 1 (3).

(4) In this Regulation, unless otherwise specified, a reference to a facility location is a reference to any part of the facility location. O. Reg. 350/12, s. 1 (4).

(5) In this Regulation, a reference to the Director means,

(a) the Director appointed under section 5 of the Act in respect of the section of this Regulation in which the reference appears; or

(b) if no Director described in clause (a) has been appointed, any Director appointed under section 5 of the Act in respect of Part II.2 of the Act. O. Reg. 350/12, s. 1 (5).

Measurement of distance

2. (1) For the purposes of this Regulation, a distance described in Column 1 of the following Table shall be measured horizontally and in accordance with the rules set out opposite the distance in Column 2 of the Table:

TABLE

Item	Column 1 Distance	Column 2 Rules
1.	From a noise generating equipment unit to the property boundary of a noise receptor.	1. Measure from the point that is located on the edge of the unit and closest to the property boundary of the noise receptor. 2. Measure to the point that is located on the property boundary of the noise receptor and closest to the point from which the measurement is made.
2.	From a solar photovoltaic collector panel to the property boundary of a solar facility.	1. Measure from the point that is located on the edge of the panel and closest to the property boundary of the solar facility when the panel is at maximum tilt. 2. Measure to the point that is located on the property boundary of the solar facility and closest to the point from which the measurement is made.

O. Reg. 350/12, s. 2 (1).

(2) For the purposes of measuring a distance described in Item 2 of the Table to subsection (1), a solar facility does not include an off-property distribution line. O. Reg. 350/12, s. 2 (2).

Prescribed activities, s. 20.21 (1) of the Act

3. (1) Subject to subsections (6) and (8), the following are prescribed activities for the purposes of subsection 20.21 (1) of the Act:

1. The construction, installation, use, operation, changing or retiring of a solar facility that meets all of the criteria set out in subsection (2) and is situated at a facility location that meets the criteria set out in either paragraph 1 or 2 of subsection (4) if,
 - i. the solar facility includes any equipment, apparatus, mechanism or thing that may discharge or from which may be discharged a contaminant into any part of the natural environment other than water, or
 - ii. electricity generated at the solar facility is sold by the owner or operator of the facility. O. Reg. 350/12, s. 3 (1).

(2) The criteria referred to in subsection (1) with respect to a solar facility are the following:

1. The solar photovoltaic collector panels at the facility are not mounted on the roof or wall of a building.
2. The name plate capacity of the facility is greater than 10 kW and is less than or equal to 500 kW.
3. The maximum power output of each transformer at the facility is less than or equal to 750 kVA.
4. The facility does not include a noise generating equipment unit that has a sound power level greater than 90 dBA.
5. If the facility is located in an area of development control within the Niagara Escarpment Planning Area, any development permit required under section 24 of the *Niagara Escarpment Planning and Development Act* in respect of the facility has been issued and the requirements of this Regulation are not in conflict with any conditions of the permit.
6. Subject to subsection (3), the distance between each noise generating equipment unit at the facility and the property boundary of any noise receptor is not less than the distance set out in Column 2 of the following Table opposite the sound power level of the noise generating equipment unit set out in Column 1 of the Table:

TABLE

Item	Column 1 Sound power level of noise generating equipment unit (dBA)	Column 2 Distance (m)
1.	≤ 65	10
2.	> 65 to ≤ 70	20
3.	> 70 to ≤ 75	30
4.	> 75 to ≤ 80	55
5.	> 80 to ≤ 85	100
6.	> 85 to ≤ 90	180

7. The distance between each solar photovoltaic collector panel and the property boundary of the facility is not less than 15 metres. O. Reg. 350/12, s. 3 (2).

(3) The criterion set out in paragraph 6 of subsection (2) is not required to be met if the sound discharged from the facility does not result in a sound pressure level that, at any point on the property boundary of any noise receptor, exceeds,

(a) 40 dBA; or

(b) where the lowest hourly ambient sound pressure level on the property boundary, excluding the sound discharged from the facility, is greater than 40 dBA, that ambient sound pressure level. O. Reg. 350/12, s. 3 (3).

(4) The criteria referred to in subsection (1) with respect to a facility location are the following:

1. The area of the facility location does not exceed four hectares and the facility location is situated on a property that is zoned for industrial, commercial or institutional use and,
 - i. the property is used for the use for which it is zoned, or
 - ii. the concentration of a contaminant in the soil at the property exceeds the soil standard for subsurface soil for that contaminant set out in Table 5 of the Soil, Ground Water and Sediment Standards that is applicable to the use for which the property is zoned.
 2. The area of the facility location does not exceed three hectares and the facility location is situated on land that,
 - i. is used for a farm operation activity, and
 - ii. is not part of an area of settlement within the meaning of the *Planning Act*. O. Reg. 350/12, s. 3 (4).
- (5) For the purposes of subsection (4), a criterion set out in subparagraph 1 i or ii or 2 i or ii of that subsection is met if it is met immediately before construction of the solar facility begins. O. Reg. 350/12, s. 3 (5).
- (6) This section does not apply in respect of activities engaged in at a solar facility that meets any of the following criteria:
1. A solar facility that includes any associated or ancillary equipment, system or technology prescribed in paragraph 1 of subsection 1 (4) of Ontario Regulation 160/99 (Definitions and Exemptions) made under the *Electricity Act, 1998*, other than,
 - i. a distribution line that is used to distribute electricity within the facility, or
 - ii. an off-property distribution line that does not exceed two kilometres in length.
 2. A solar facility that is located on a property that has other solar facilities located on the same property if,
 - i. subject to subsection (7), the total name plate capacity of all of the solar facilities located on the property exceeds 500 kW,
 - ii. the property is zoned for industrial, commercial or institutional use and the total area of all of the facility locations exceeds four hectares, or
 - iii. the property is used for a farm operation activity and the total area of all of the facility locations exceeds three hectares.
 3. A solar facility in respect of which a renewable energy approval was in effect under Part V.0.1 of the Act on the day this section comes into force.
 4. A solar facility in respect of which an environmental compliance approval was in effect on the day this section comes into force.
 5. A solar facility that is,
 - i. associated with a building or structure that contains one or more dwellings, and
 - ii. used by the occupants of not more than three dwellings in the building or structure.
 6. A solar facility that is used in agriculture, unless electricity generated at the facility is sold by the owner or operator of the facility. O. Reg. 350/12, s. 3 (6).
- (7) Subparagraph 2 i of subsection (6) does not apply in respect of a solar facility if, immediately after the solar facility is constructed or changed where the change results in an increase in the name plate capacity of the facility, the total name plate capacity of all of the solar facilities located on the property does not exceed 500 kW. O. Reg. 350/12, s. 3 (7).

(8) This section does not apply in respect of activities engaged in at a solar facility that is situated at a facility location that meets any of the following criteria:

1. Subject to subsection (9), a facility location that is situated,
 - i. within 250 metres of an archaeological site that is set out in records maintained by the Ministry of Tourism, Culture and Sport,
 - ii. within an area that has been identified by a local municipality or an upper-tier municipality on an archaeological management plan as an area of archaeological potential, or
 - iii. on a property on which a national historic site is located.
2. A facility location that is situated within 30 metres of a water body.
3. A facility location that is situated on more than one property. O. Reg. 350/12, s. 3 (8).

(9) Paragraph 1 of subsection (8) does not apply in respect of a facility location if, immediately after the solar facility is constructed or changed, where the change results in an increase in the name plate capacity of the facility, the facility location is not,

- (a) within 250 metres of an archaeological site mentioned in subparagraph 1 i of subsection (8);
- (b) within an area mentioned in subparagraph 1 ii of subsection (8); and
- (c) on a property mentioned in subparagraph 1 iii of subsection (8). O. Reg. 350/12, s. 3 (9).

(10) For the purposes of the following provisions, a facility location does not include any part of the facility location used solely for an off-property distribution line:

1. Subsection (4).
2. Subparagraphs 2 ii and iii of subsection (6).
3. Paragraph 3 of subsection (8). O. Reg. 350/12, s. 3 (10).

Registration exemptions, s. 20.21 (1) (a) and (b) of the Act

4. A person who engages in an activity prescribed by section 3 is exempt from clauses 20.21 (1) (a) and (b) of the Act in respect of the activity if,

- (a) the activity is engaged in at a solar facility in respect of which the person has previously registered an activity prescribed by section 3 of this Regulation; and
- (b) the registration in respect of the previously registered activity is not suspended and has not been removed from the Registry. O. Reg. 350/12, s. 4.

Activity requirements, s. 20.21 (1) (c) of the Act — notice

5. (1) For the purposes of clause 20.21 (1) (c) of the Act, a person who engages in an activity prescribed by section 3 of this Regulation shall distribute a written notice of the activity in a form approved by the Director to the following persons before engaging in the activity:

1. Every owner or occupant of a property adjacent to the property on which the facility location is situated.
2. The clerk of each local municipality and upper-tier municipality in which the facility location is situated.
3. The secretary of each Local Services Board of a board area in which the facility location is situated.
4. The secretary-treasurer of a planning board that has jurisdiction in an area in which the facility location is situated.
5. The chair of the Niagara Escarpment Commission, if the facility location is situated in the Niagara Escarpment Planning Area.
6. The secretary of every company operating an oil or natural gas pipeline, if a pipeline right of way for the pipeline is located within 200 metres of the facility location. O. Reg. 350/12, s. 5 (1).

(2) The notice shall be distributed,

- (a) at least 30 days before the activity is registered; or
- (b) if the activity would result in an increase in the name plate capacity of the solar facility but is exempt from clauses 20.21 (1) (a) and (b) of the Act, at least 30 days before the activity commences. O. Reg. 350/12, s. 5 (2).

Activity requirements, s. 20.21 (1) (c) of the Act — general

6. For the purposes of clause 20.21 (1) (c) of the Act, a person who engages in an activity prescribed by section 3 of this Regulation shall ensure that the following requirements are complied with:

1. Each component of the solar facility shall be used, operated, maintained and retired in a manner that satisfies the recommendations of the manufacturer of the component.
2. External light fixtures at the solar facility shall be full cutoff light fixtures as specified by the manufacturer of the fixtures.
3. From the time that construction of the solar facility begins, a sign shall be posted in a prominent location at the facility location identifying the owner or operator of the solar facility and the name and contact information of a person to contact in an emergency.
4. No more than 50,000 litres of water shall be taken on any day by any means for the purposes of the construction, installation, use, operation, changing and retiring of the solar facility.
5. If the person receives a complaint with respect to the facility and the complaint relates to the natural environment, the district manager of the Ministry for the district in which the facility is located shall be notified of the complaint no later than two business days after the complaint is received. O. Reg. 350/12, s. 6.

Records

7. (1) A person who engages in an activity prescribed by section 3 shall ensure that each of the following records is retained for a period of five years from the day it is created:

1. A record of the following information with respect to each inspection, maintenance and repair of any noise generating equipment unit, micro-inverter or solar photovoltaic collector panel that is used at the solar facility:
 - i. The date and a summary of the inspection, maintenance or repair.
 - ii. The name of the person who performed the inspection, maintenance or repair.
 - iii. If the person referred to in subparagraph ii is an employee, the name of the person's employer or the name of the business that employs the person.
 - iv. A summary of any unsatisfactory conditions observed or discovered and the steps taken to correct such conditions.
2. A copy of every document relating to each inspection, maintenance and repair mentioned in paragraph 1.
3. A record of the following information with respect to each complaint received by the person with respect to the solar facility, if the complaint relates to the natural environment:
 - i. The date and time when the complaint was received.
 - ii. A copy of the complaint, if it is a written complaint.
 - iii. A summary of the complaint, if it is not a written complaint.
 - iv. A summary of measures taken, if any, to address the complaint. O. Reg. 350/12, s. 7 (1).

(2) A person who engages in an activity prescribed by section 3 shall ensure that each of the following records in respect of an item is retained for the period during which the item is used or operated as part of the solar facility:

1. Documentation from the manufacturer of the solar photovoltaic collector panels and inverters at the facility that confirms the name plate capacity of the facility.

2. Documents relating to the recommendations of the manufacturer of each item mentioned in paragraph 1 of subsection (1) with respect to the use, operation and maintenance of the item. O. Reg. 350/12, s. 7 (2).

(3) A person who engages in an activity prescribed by section 3 shall ensure that each of the following records is retained for the period during which the solar facility operates:

1. Documentation from,

- i. the Ministry of Tourism, Culture and Sport, confirming that the facility location is not within 250 metres of an archaeological site that is set out in records maintained by that Ministry,
- ii. the local municipality and upper-tier municipality in which the facility location is situated, confirming that the facility location is not within an area that has been identified by the municipality on an archaeological management plan, and
- iii. Parks Canada, the Ministry of Tourism, Culture and Sport or the local municipality or upper-tier municipality in which the facility location is situated, confirming that the facility location is not situated on a property on which a national historic site is located.

2. If the facility does not meet the criterion set out in paragraph 6 of subsection 3 (2), a copy of a report prepared by a professional engineer or a person working under the supervision of a professional engineer, concluding that the sound discharged from the facility does not result in a sound pressure level that, at any point on the property boundary of any noise receptor, exceeds the sound pressure level described in clause 3 (3) (a) or (b).

3. If the facility location is situated on property that is zoned for industrial, commercial or institutional use and meets the criterion set out in subparagraph 1 ii of subsection 3 (4) and does not meet the criterion set out in subparagraph 1 i of that subsection, a copy of an environmental site assessment concluding that the former criterion is met. O. Reg. 350/12, s. 7 (3).

8. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 350/12, s. 8.

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