

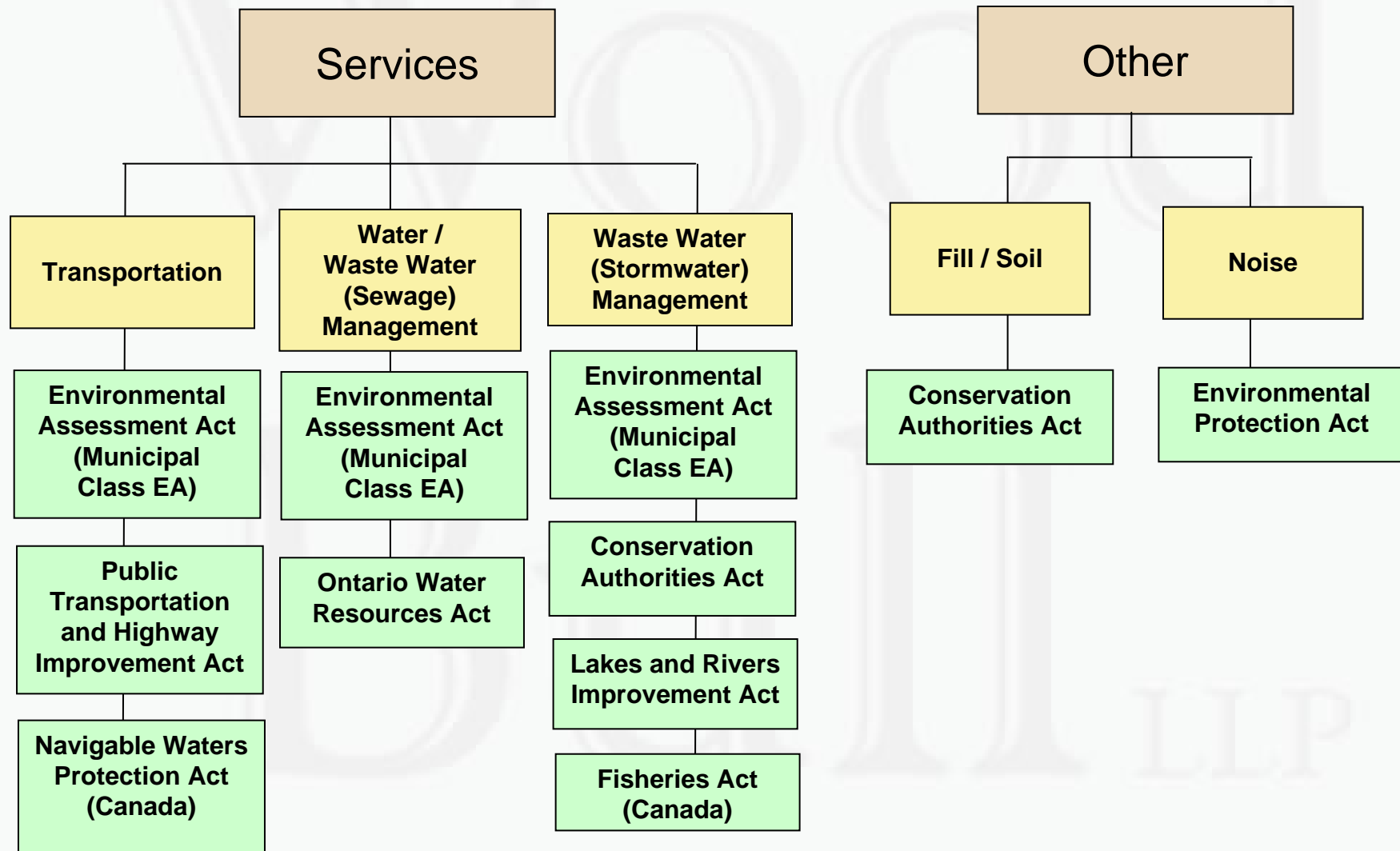
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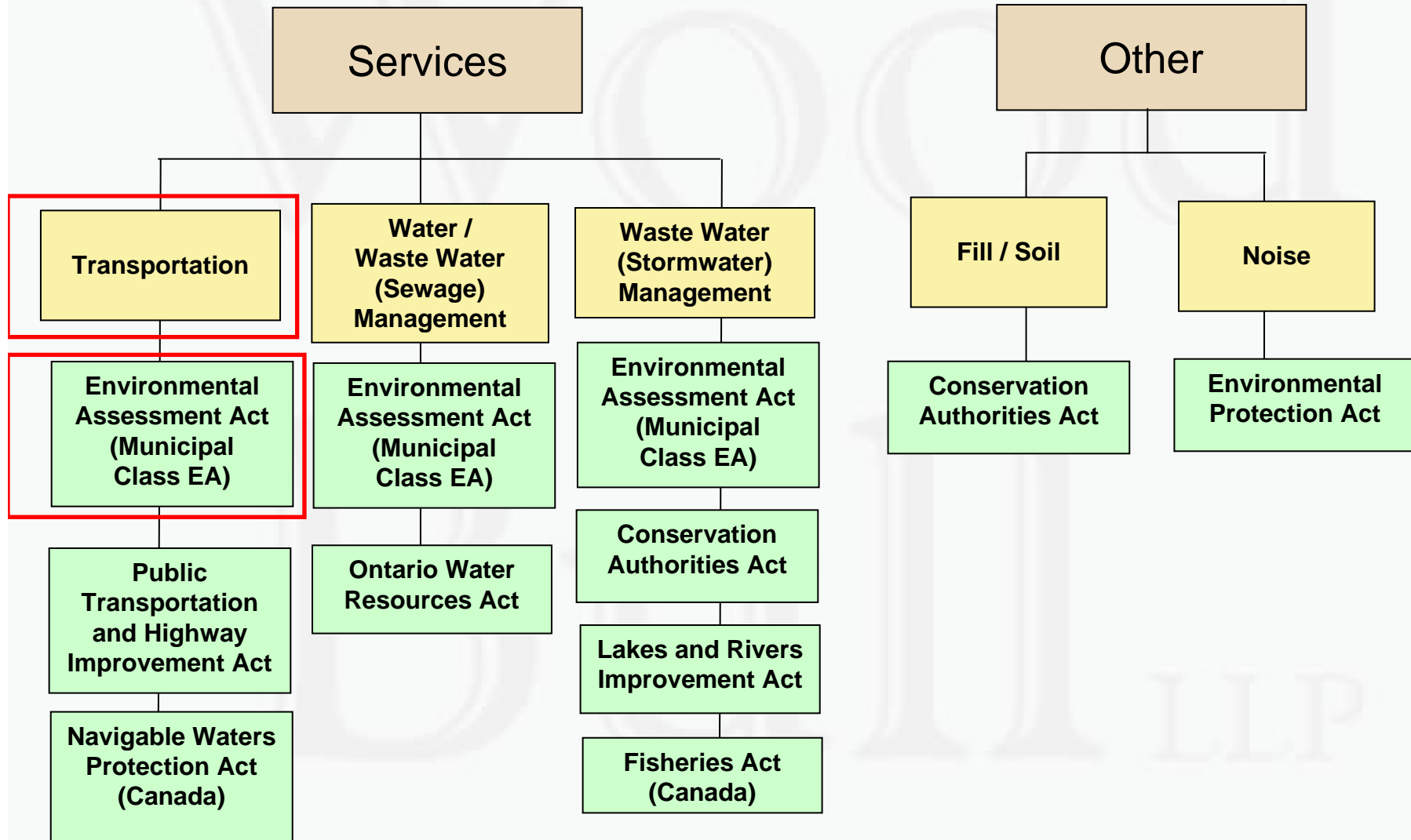
MUNICIPAL, PLANNING & DEVELOPMENT LAW

Provincial Role in Planning and Development: Permits, Licences and Other Approvals

Permits, Licences and Other Approvals



Permits, Licences and Other Approvals



Transportation: *Environmental Assessment Act*

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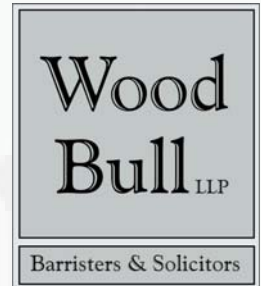
Minister – means the Minister of the Environment

Proponent – means a person who,

- (a) carries out or proposes to carry out an undertaking, or
- (b) is the owner or person having charge, management or control of an undertaking;

Person - includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of the Crown Agency Act, a public body, a partnership, an unincorporated joint venture and an unincorporated association;

Transportation: *Environmental Assessment Act*



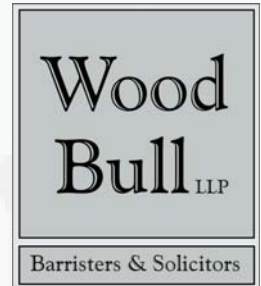
Undertaking – means,

(a) an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity by or on behalf of Her Majesty in right of Ontario, by a public body or public bodies or by a municipality or municipalities,

(b) a major commercial or business enterprise or activity or a proposal, plan or program in respect of a major commercial or business enterprise or activity of a person or persons other than a person or persons referred to in clause (a) that is designated by the regulations, or

(c) an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity of a person or persons, other than a person or persons referred to in clause (a), if an agreement is entered into under section 3.0.1 in respect of the enterprise, activity, proposal, plan or program;

Transportation: *Environmental Assessment Act*: Individual Undertakings



Approval for undertaking

(1) Every proponent who wishes to proceed with an undertaking shall apply to the Minister for approval to do so.

Application

(2) The application consists of the proposed terms of reference submitted under subsection 6 (1) and the environmental assessment subsequently submitted under subsection 6.2 (1).

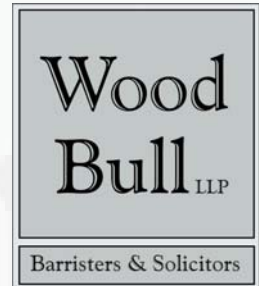
Prohibition

(3) No person shall proceed with an undertaking unless the Minister gives his or her approval to proceed under section 9 or the Tribunal gives its approval under section 9.1.

Same

(4) No person shall proceed with an undertaking in a manner inconsistent with a condition imposed by the Minister or the Tribunal for proceeding with it. (Section 5)

Transportation: *Environmental Assessment Act*: Class of Undertakings



Approval for class of undertakings

(1) A person may apply to the Minister to approve a class environmental assessment with respect to a class of undertakings.

Application

(2) The application consists of the proposed terms of reference submitted under subsection 13.2 (1) and the class environmental assessment subsequently prepared in accordance with section 14 and submitted under subsection 6.2 (1).

Prohibition

(3) No person shall proceed with an undertaking with respect to which an approved class environmental assessment applies,

(a) unless the person does so in accordance with the class environmental assessment; or

(b) unless the Minister gives his or her approval to proceed under section 9 or the Tribunal gives its approval under section 9.1. (Section 13)

Transportation: *Municipal Class EA (June 2000)*

Activities are organized as:

Schedule A – Pre-Approved Activities

Schedule B – Activities Subject to the Screening Process

Schedule C – Activities Subject to the Full Planning Process of the Class EA

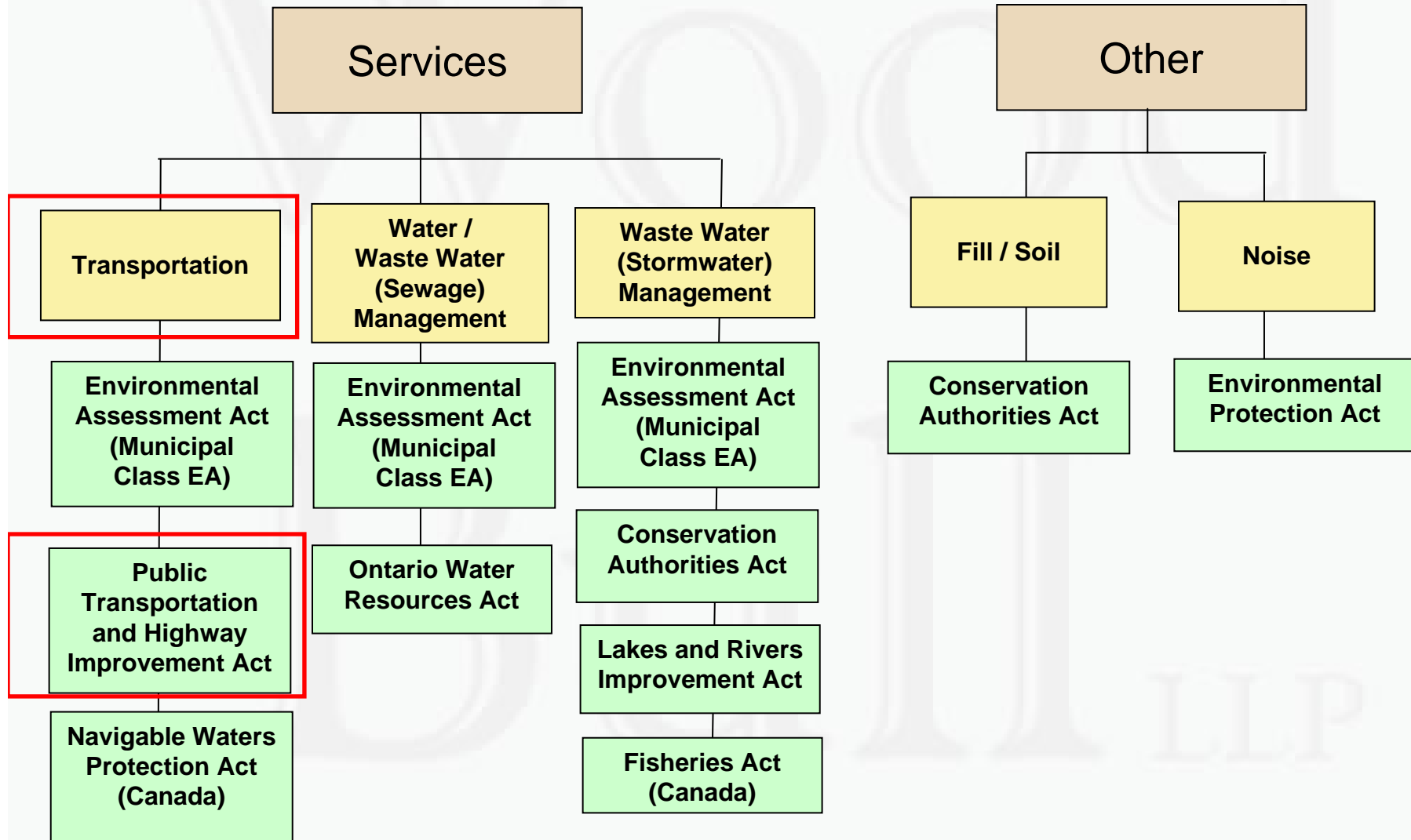
Appendix 1 – Project Schedules classifies the full range of possible activities into the three schedules.

Transportation: *Municipal Class EA (June 2000)*

For road works, the various activities are classified within predetermined cost ranges:

- No financial limit
- Less than \$6M
- More than \$6M

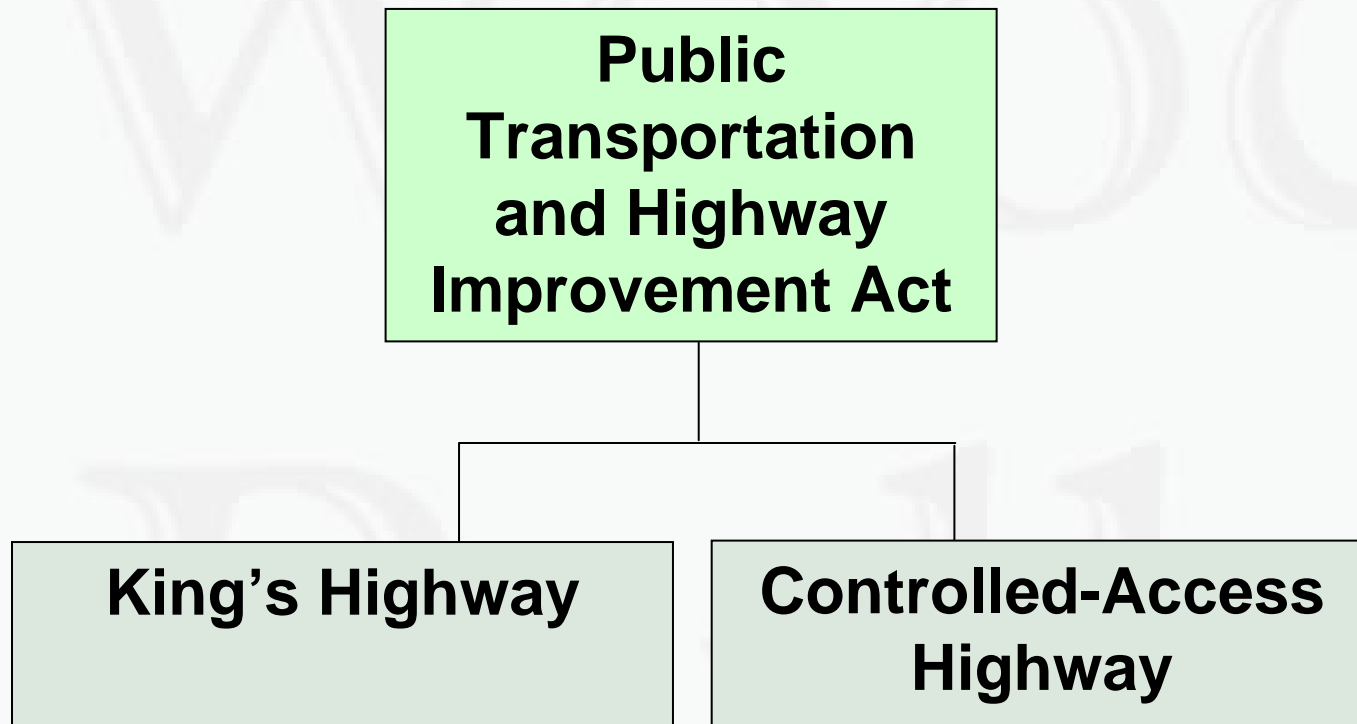
Permits, Licences and Other Approvals



Transportation: *Public Transportation and Highway Improvement Act*

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Transportation: *Public Transportation and Highway Improvement Act*

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Highway – includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, trestle or any other structure incidental thereto, any part of which is intended for or used by the general public for the passage of vehicles ...

Minister – means the Minister of Transportation

Transportation: King's Highway

Permits required from the Minister to:

- Construct any structure upon or within 45 m of any limit of the King's Highway or upon or within 180 m of the centre point of an intersection
- Use any land, any part of which lies within 800 m of any limit of the King's Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers
- Construct or use any private road, entranceway, gate or other structure or facility as a means of access to the King's Highway.

(Section 34(2))

Transportation: King's Highway

The Minister may:

- issue permits upon such terms as he or she considers proper; and
- cancel permits, at his or her discretion

Section 34(16)

Transportation: Controlled-Access Highway

Permits required from the Minister to:

- Construct any structure upon or within 45 m of any limit of a Controlled-Access Highway or upon or within 395 m of the centre point of an intersection
- Use any land, any part of which lies within 800 m of any limit of any limit of a Controlled-Access Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers
- Construct or use any private road, entranceway, gate or other structure or facility as a means of access to a Controlled-Access Highway. (Section 38(2))

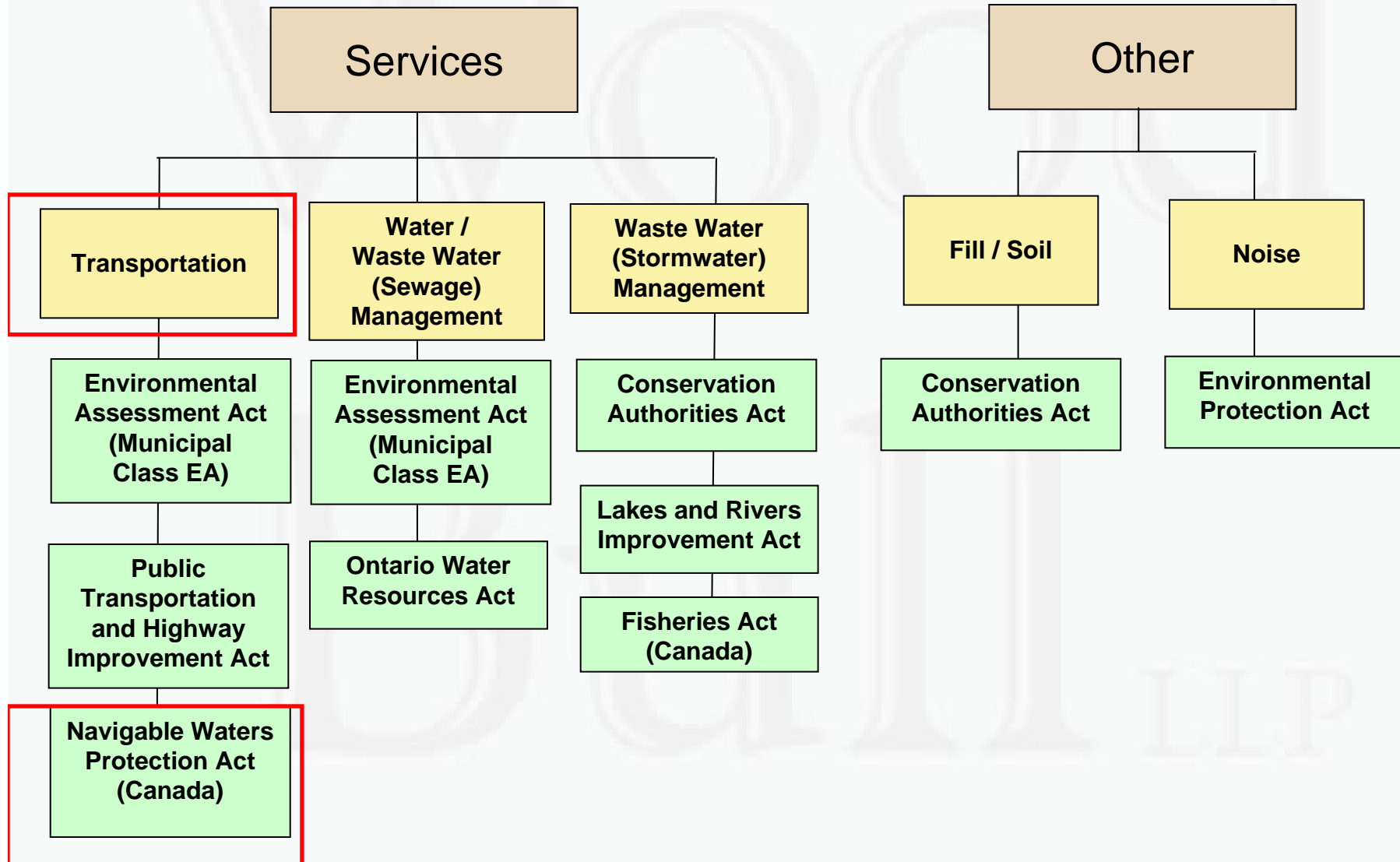
Transportation: Controlled-Access Highway

The Minister may:

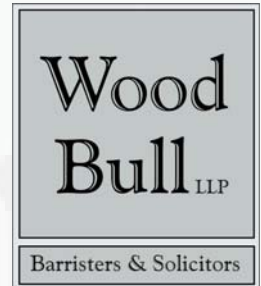
- issue permits upon such terms as he or she considers proper; and
- cancel permits, at his or her discretion

Section 38(11)

Permits, Licences and Other Approvals



Transportation: Road/Bridge Crossings: *Navigable Waters Protection Act*



Section 5.

- (1) No work shall be built or placed in, on, over, under, through or across any navigable water unless
 - (a) the work and the site and plans thereof have been approved by the Minister, on such terms and conditions as the Minister deems fit, prior to commencement of construction;
 - (b) the construction of the work is commenced within six months and completed within three years after the approval referred to in paragraph (a) or within such further period as the Minister may fix; and
 - (c) the work is built, placed and maintained in accordance with the plans, the regulations and the terms and conditions set out in the approval referred to in paragraph (a).

Transportation: Road/Bridge Crossings: *Navigable Waters Protection Act*

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Section 5.

(2) Except in the case of a bridge, boom, dam or causeway, this section does not apply to any work that, in the opinion of the Minister, does not interfere substantially with navigation.

Transportation: Road/Bridge Crossings: *Navigable Waters Protection Act*

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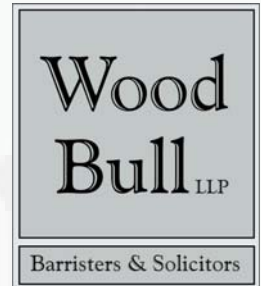
Minister – means the Minister of Transport

Navigable Water – includes a canal and any other body of water created or altered as a result of the construction of any work.

Work – includes

- (a) any bridge, boom, dam, wharf, dock, pier, tunnel or pipe and the approaches or other works necessary or appurtenant thereto,
- (b) any dumping of fill or excavation of materials from the bed of navigable water,
- (c) any telegraph or power cable or wire, or
- (d) any structure, device or thing, whether similar in character to anything referred to in this definition or not, that may interfere with navigation.

Transportation: Road/Bridge Crossings: *Navigable Waters Protection Act*



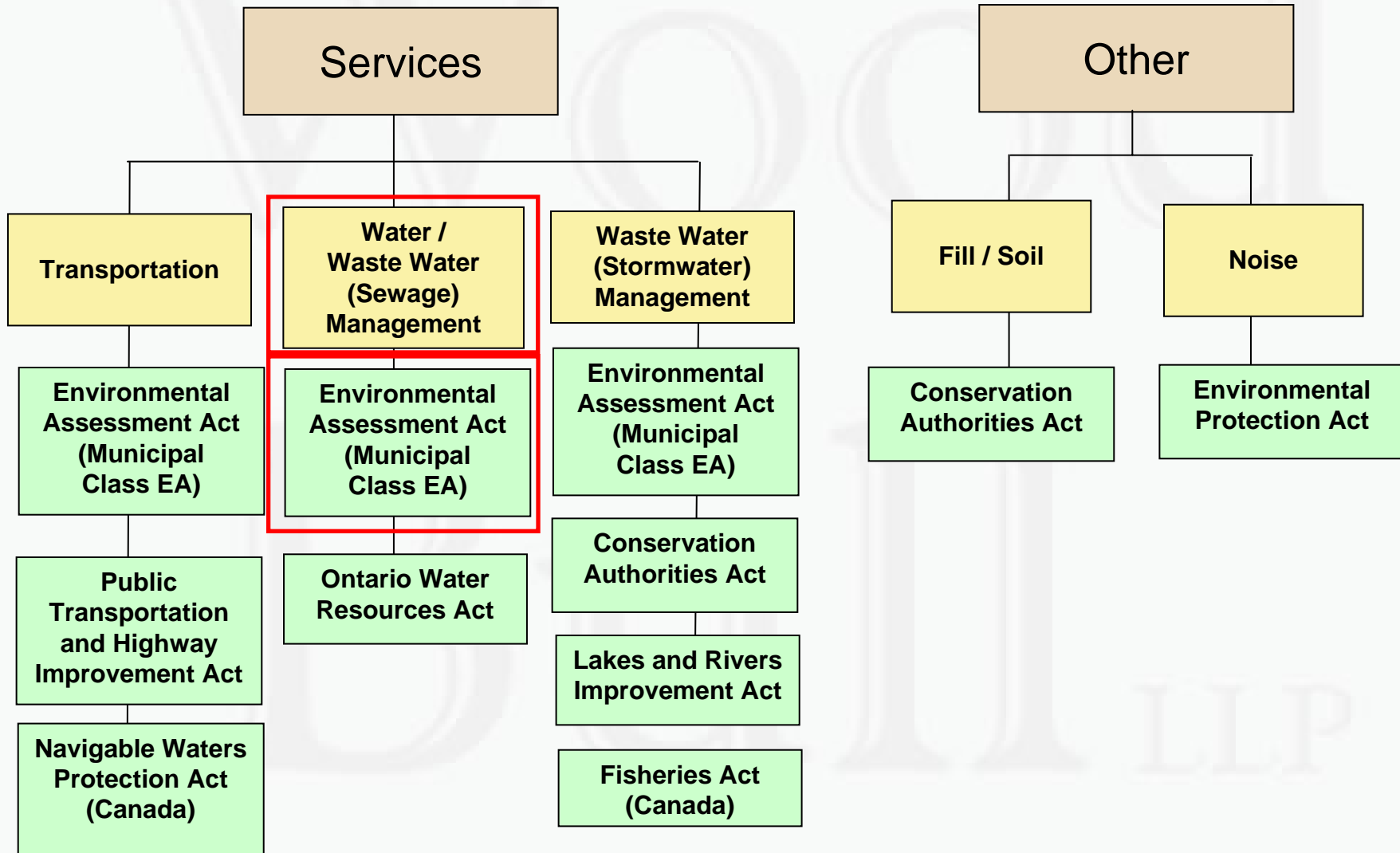
The issue of what constitutes "navigable waters" is one of mixed fact and law, not simply a question of fact to be determined within the discretion of the Minister. It is a preliminary issue which determines the Minister's jurisdiction under the Act and is therefore a matter to be determined by a court.

The purpose of the requirement for a permit under the Act is to protect the public right to use navigable waters as a highway for purposes that go beyond commercial use. This implies that navigable waters must connect places which would facilitate travel on a route having reasonable appeal to members of the public. Where a river, stream or creek is non-navigable in its natural state, it does not become so by alteration of its natural state unless it becomes capable of carrying vessels using the water as an aqueous highway, and then only for that portion of the waterway which is in fact navigable. Here, the creek was navigable only at certain limited portions for certain limited times, and the proposal would affect the creek beyond the area where it was in fact navigable.

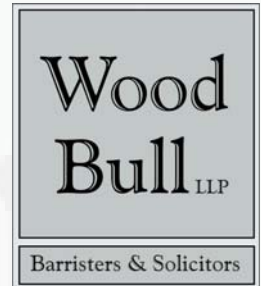
High flow for a short period could be enough to make a stream navigable, but there must be evidence that the waterway has served as an aqueous highway or that it is likely to have reasonable appeal to the public as such a highway.

International Minerals & Chemicals Corp. (Can.) v. Canada (Minister of Transport) [1993] 1 F.C. 559

Permits, Licences and Other Approvals



Water/Waste Water (Sewage) Management: *Municipal Class EA (June 2000)*



Activities are organized as:

Schedule A – Pre-Approved Activities

Schedule B – Activities Subject to the Screening Process

Schedule C – Activities Subject to the Full Planning Process of the Class EA

Appendix 1 – Project Schedules classifies the full range of possible activities into the three schedules.

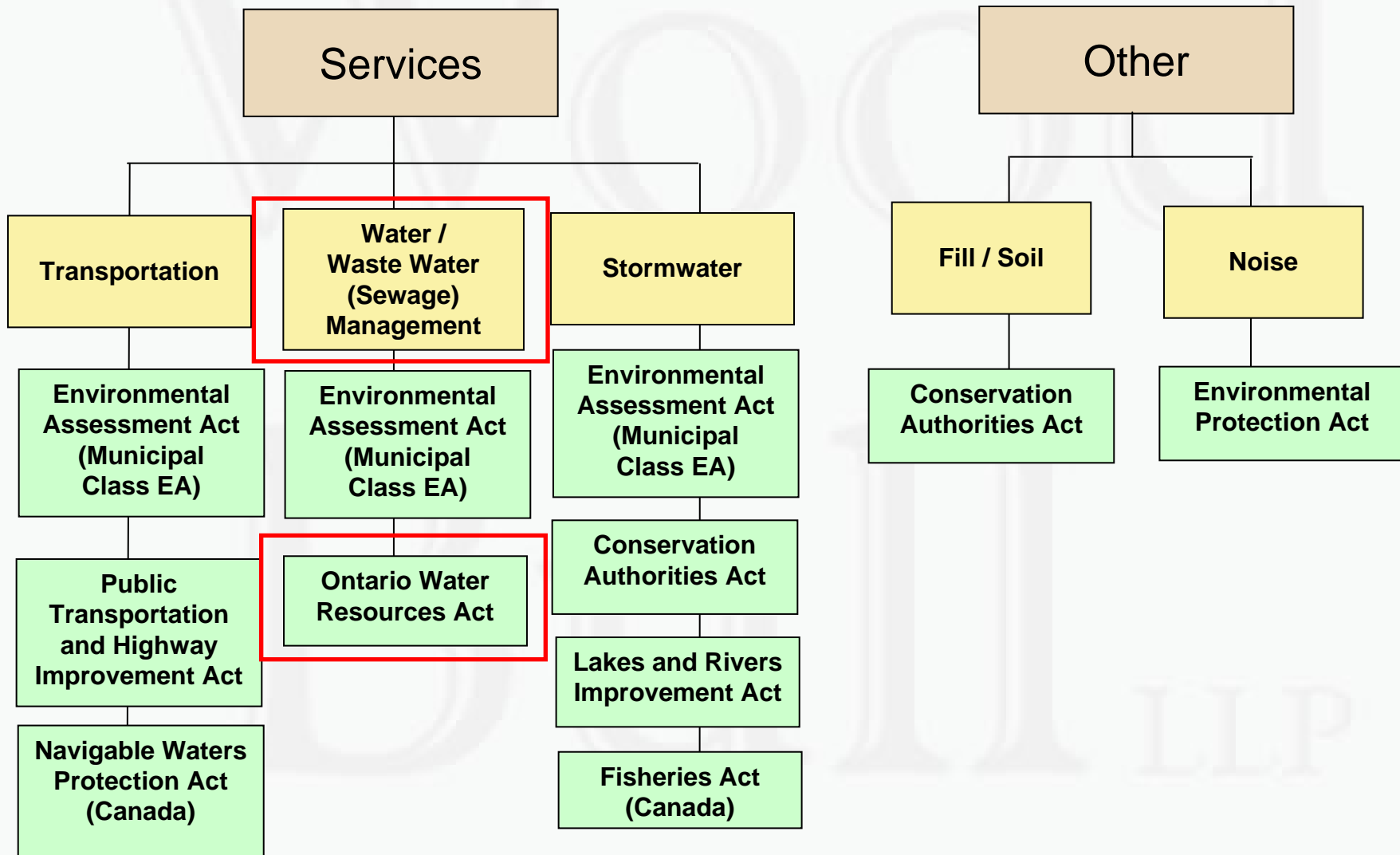
Water/Waste Water (Sewage) Management: *Municipal Class EA (June 2000)*

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For sewage works, the various activities are classified according to type of activity, without explicit regard for cost.

Permits, Licences and Other Approvals



Water/Waste Management: *Ontario Water Resources Act*

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Approval of Director for water works

(1) No person shall establish, alter, extend or replace new or existing water works except under and in accordance with an approval granted by a Director.

Director may require information

(2) The Director may require an applicant for an approval under subsection (1) to submit plans, specifications, engineer's report and other information and to carry out and report on tests or experiments relating to the water supply or the work to be undertaken and, subject to subsection (4), the Director may grant the approval. (Section 52)

Water/Waste Management: *Ontario Water Resources Act*

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Water Works - means any works for the collection, production, treatment, storage, supply and distribution of water, or any part of such works, but does not include plumbing to which the *Building Code Act, 1992* applies

Water/Waste Management: *Ontario Water Resources Act*

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Approval of Director for sewage works

(1) No person shall establish, alter, extend or replace new or existing sewage works except under and in accordance with an approval granted by a Director.

Director may require information

(2) A Director may require an applicant for an approval under subsection (1) to submit plans, specifications, engineer's report and other information and to carry out and report on tests or experiments relating to the location of the discharge of effluent or the work to be undertaken and, subject to subsection (4), the Director may grant the approval. (Section 53)

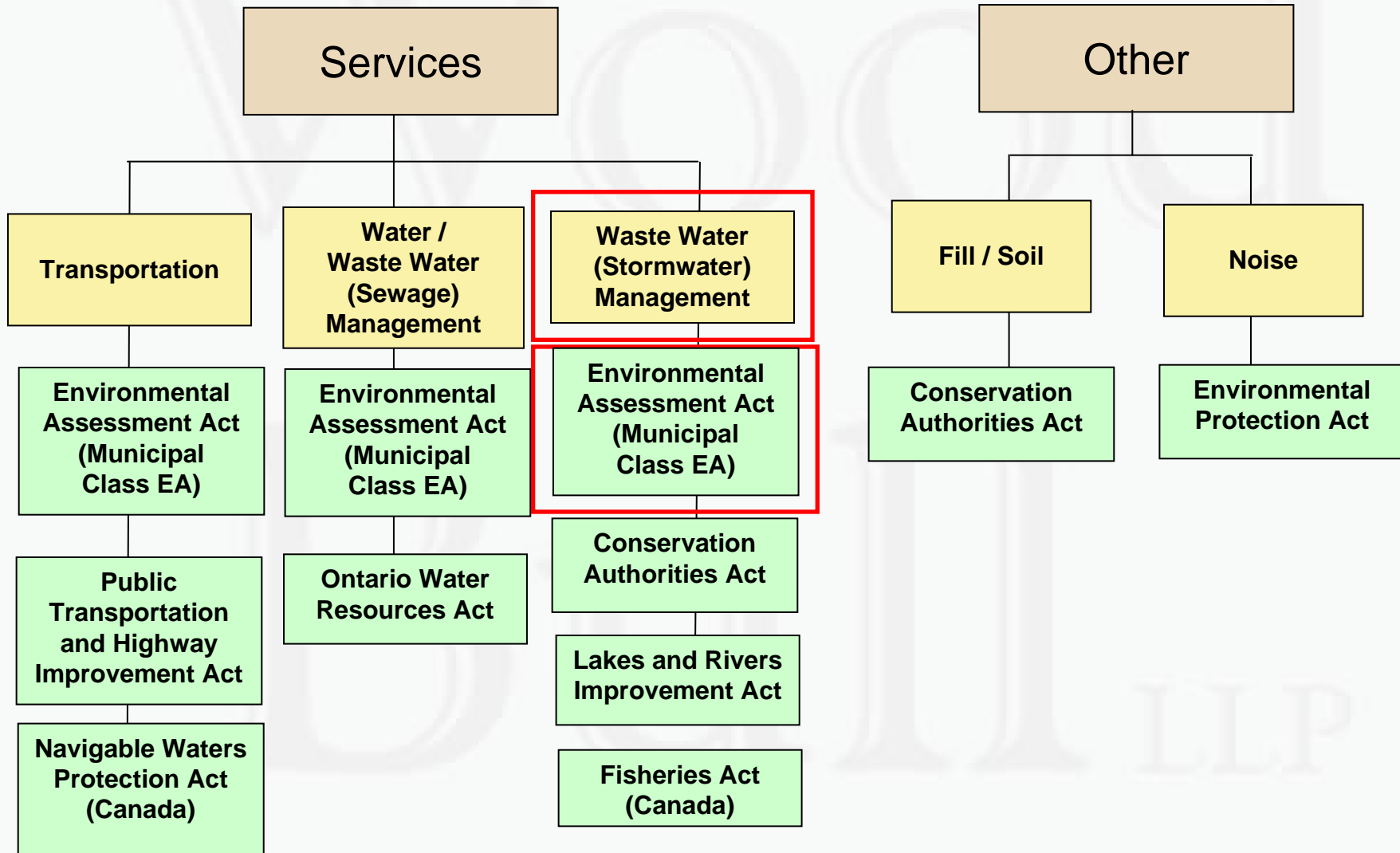
Water/Waste Management: *Ontario Water Resources Act*

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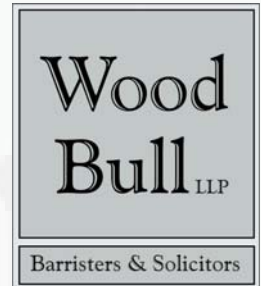
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Sewage Works - means any works for the collection, transmission, treatment and disposal of sewage or any part of such works, but does not include plumbing to which the *Building Code Act, 1992* applies

Permits, Licences and Other Approvals



Waste Water (Stormwater) Management: *Municipal Class EA (June 2000)*



Activities are organized as:

Schedule A – Pre-Approved Activities

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Schedule C – Activities Subject to the Full Planning Process of the Class EA

Appendix 1 – Project Schedules classifies the full range of possible activities into the three schedules.

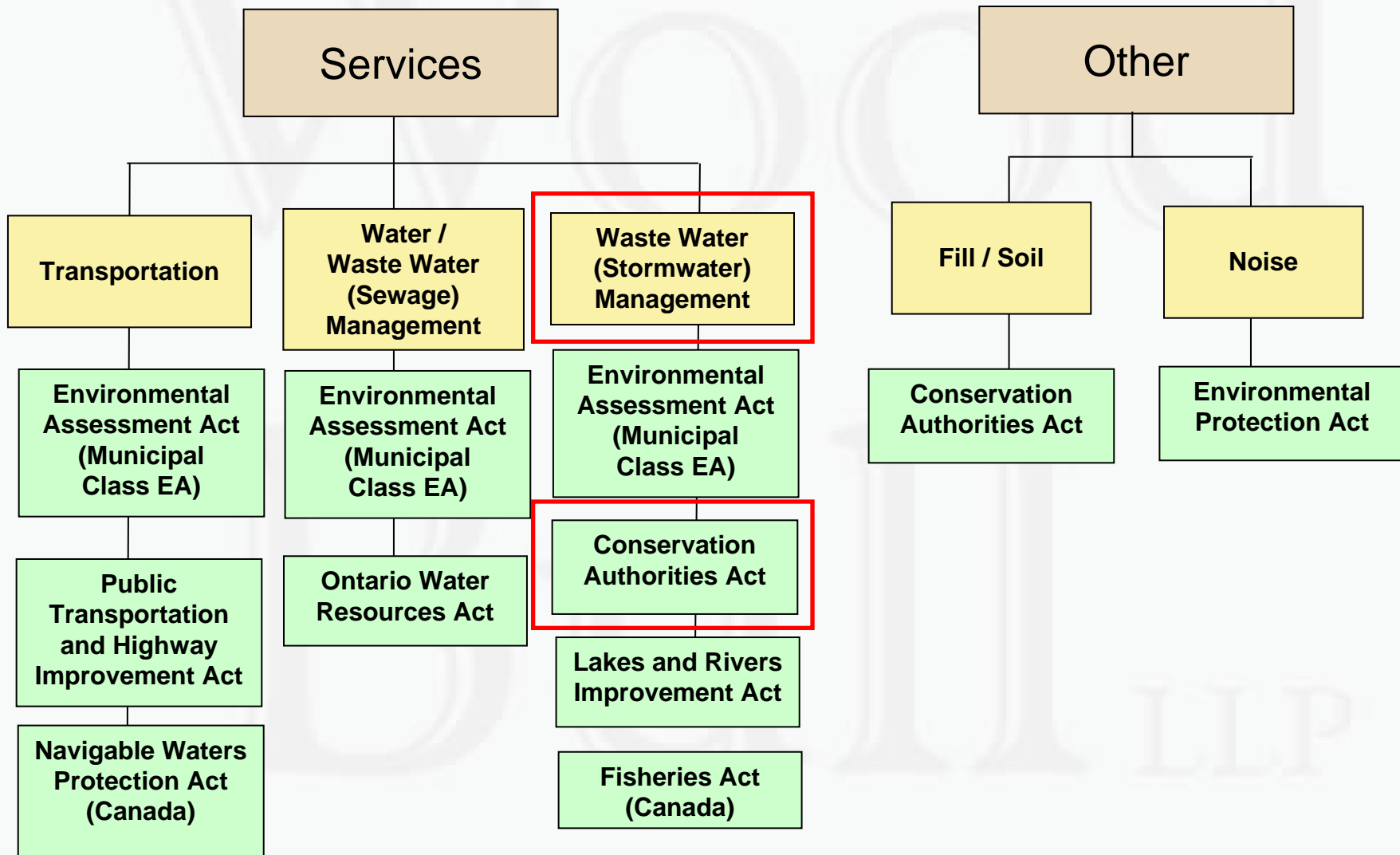
Waste Water (Stormwater) Management: *Municipal Class EA (June 2000)*

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For stormwater works, the various activities are classified according to type of activity, without explicit regard for cost.

Permits, Licences and Other Approvals



Waste Water (Stormwater) Management: *Conservation Authorities Act*



Section 28 (1) Subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction,

(a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, wetlands and natural or artificially constructed depressions in rivers or streams;

(b) prohibiting, regulating or requiring the permission of the authority for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;

(c) prohibiting, regulating or requiring the permission of the authority for development if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development

Waste Water (Stormwater) Management: *Conservation Authorities Act*

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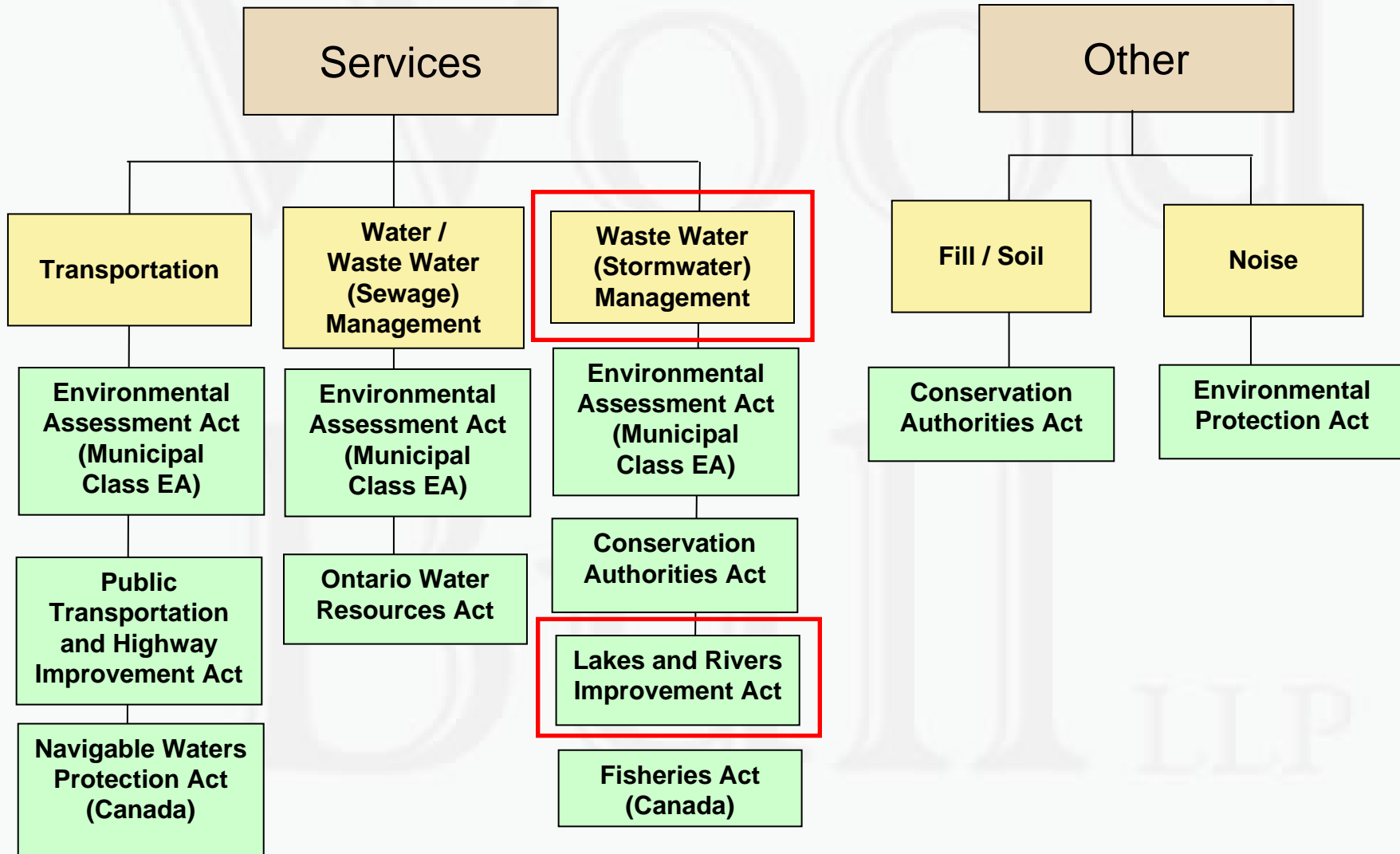
Alterations prohibited

5. Subject to section 6, no person shall straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or change or interfere in any way with a wetland.

Permission to alter

6. (1) The Authority may grant a person permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland.

Permits, Licences and Other Approvals



Waste Water (Stormwater) Management: *Lakes and Rivers Improvement Act*

Approval of the Minister is required to:

- Construct or make improvements to a dam
- Construct a water crossing draining an area greater than 5 sq km
- Channelize a river or stream for greater than 20 m in length
- Enclose or cover a length of river or stream for greater than 20 m in length
- Install, if the installation may result in damming, forwarding or diverting water, a cable or pipeline into the bed of a river, stream or lake ...

(Sections 14(1), 16(1) and O. reg. 454/96)

Waste Water (Stormwater) Management: *Lakes and Rivers Improvement Act*

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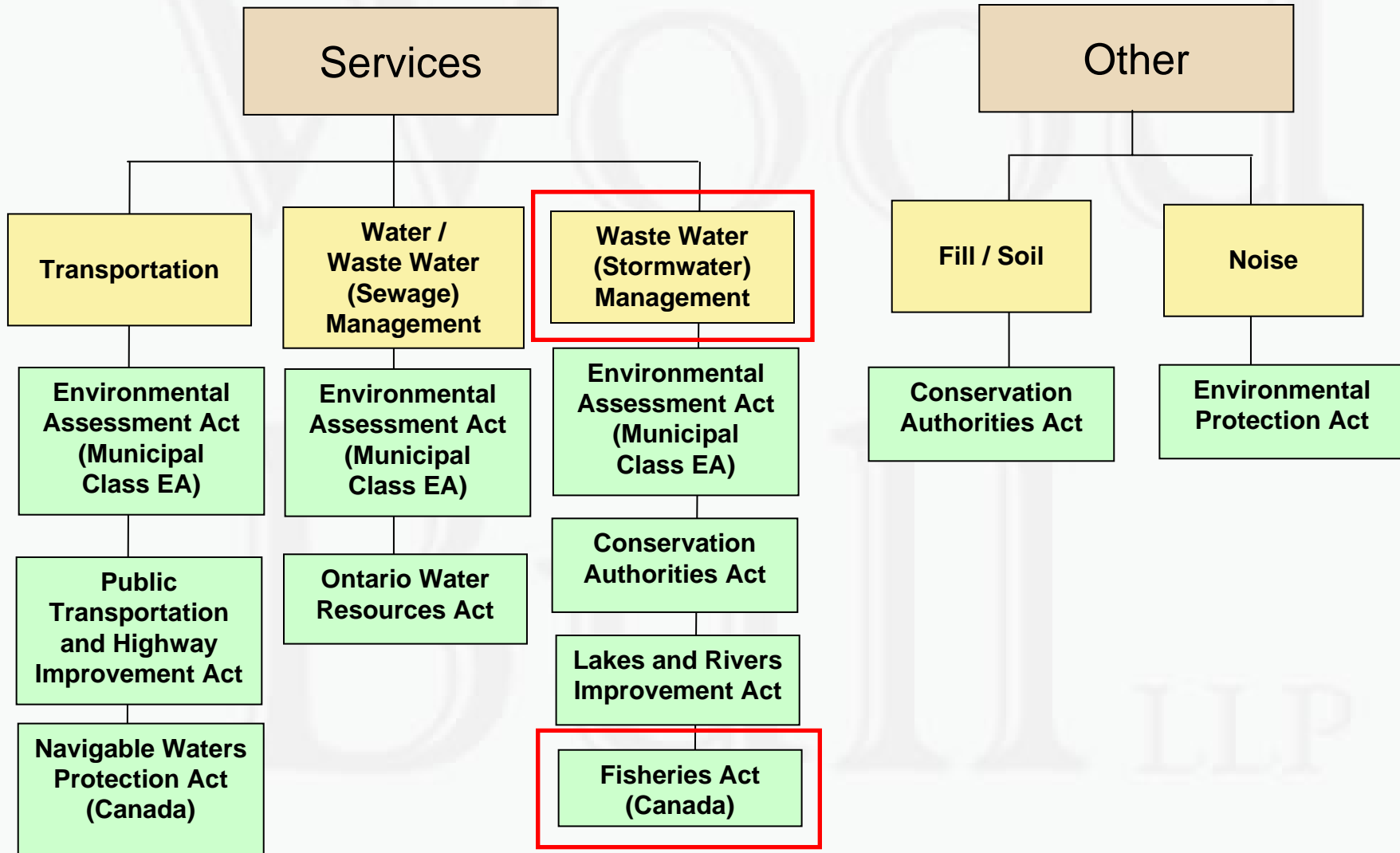
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Minister – means Minister of Natural Resources

Channelize – means to alter the alignment, width, depth, sinuosity, conveyance or bed or bank material of a river or stream channel

Water Crossing – means a bridge, culvert or causeway that is constructed to provide access between two places separated by water but that also holds back, forwards or diverts water

Permits, Licences and Other Approvals



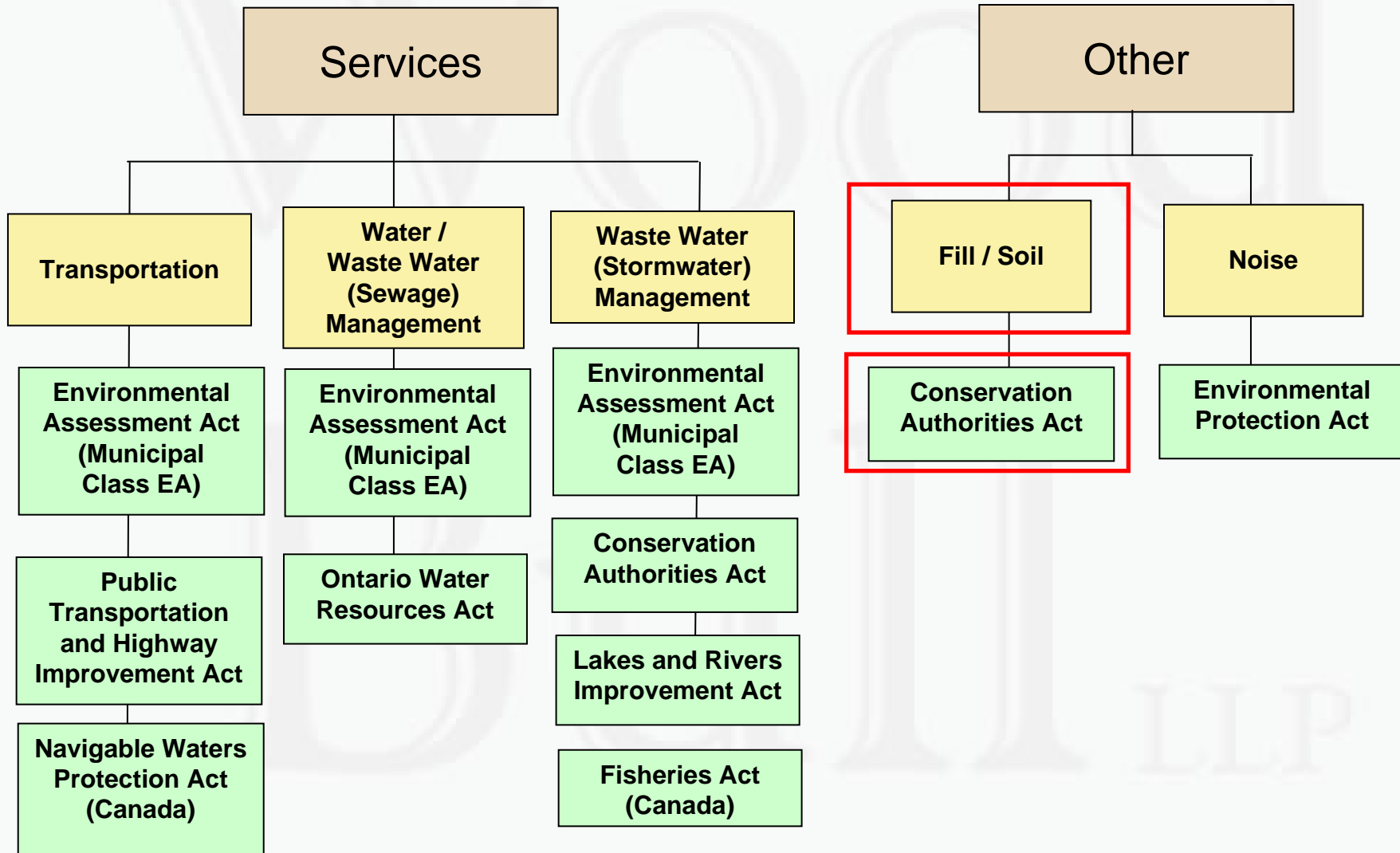
Waste Water (Stormwater) Management: *Fisheries Act*

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Work in and around water that disrupts, destroys or harmfully alters fish habitat requires prior authorization from the Federal Department of Fisheries and Oceans.

Permits, Licences and Other Approvals

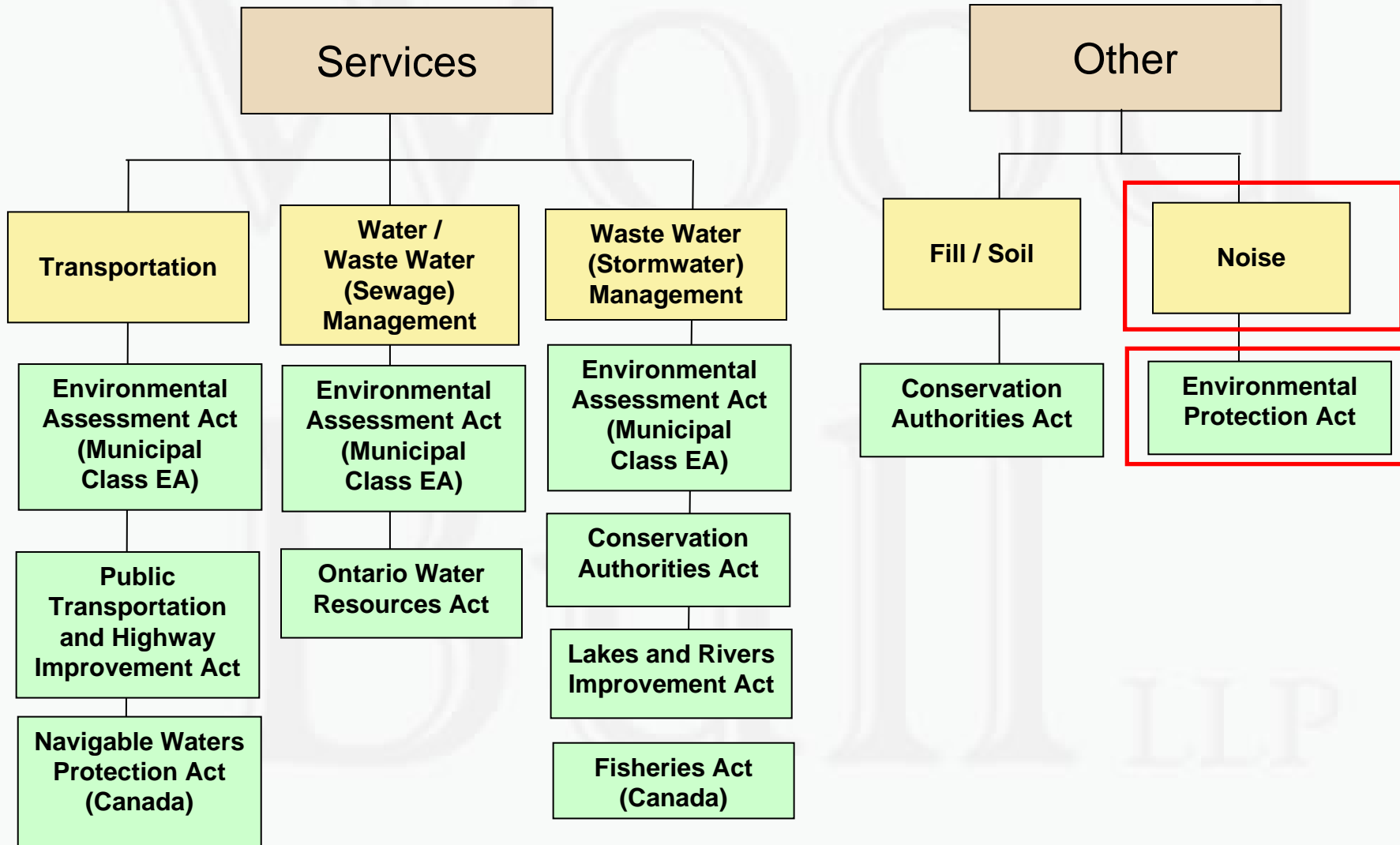


Fill/Soil: *Conservation Authorities Act*

Section 28 (1) Subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction,

... (c) prohibiting, regulating or requiring the permission of the authority for development if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development

Permits, Licences and Other Approvals



Noise: *Environmental Protection Act*. General Prohibition Sections

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Section 6(1) No person shall discharge into the natural environment any **contaminant**, and no person responsible for a source of contaminant shall permit the discharge into the natural environment of any **contaminant** from the source of contaminant, in an amount, concentration or level **in excess of that prescribed by the regulations**.

Section 14(1) Despite any other provision of this Act or the regulations, no person shall discharge a **contaminant** or cause or permit the discharge of a **contaminant** into the natural environment that causes or is likely to cause an **adverse effect**.

Noise: *Environmental Protection Act*

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

Adverse Effect - means one or more of,

- (a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,
- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business

Noise: *Environmental Protection Act*

Approval of Director, plant or production process

(9) No person shall, except under and in accordance with a **certificate of approval** issued by the Director,

(a) construct, alter, extend or replace any plant, structure, 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; ...

Noise: *Environmental Protection Act*. MOE Noise Guidelines

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“Noise Assessment Criteria in Land Use
Planning: Requirements, Procedures
Implementation (October 1997)”

“Noise Assessment Criteria in Land Use
Planning: Publication LU-131”

Noise: *Environmental Protection Act*. MOE Noise Guidelines

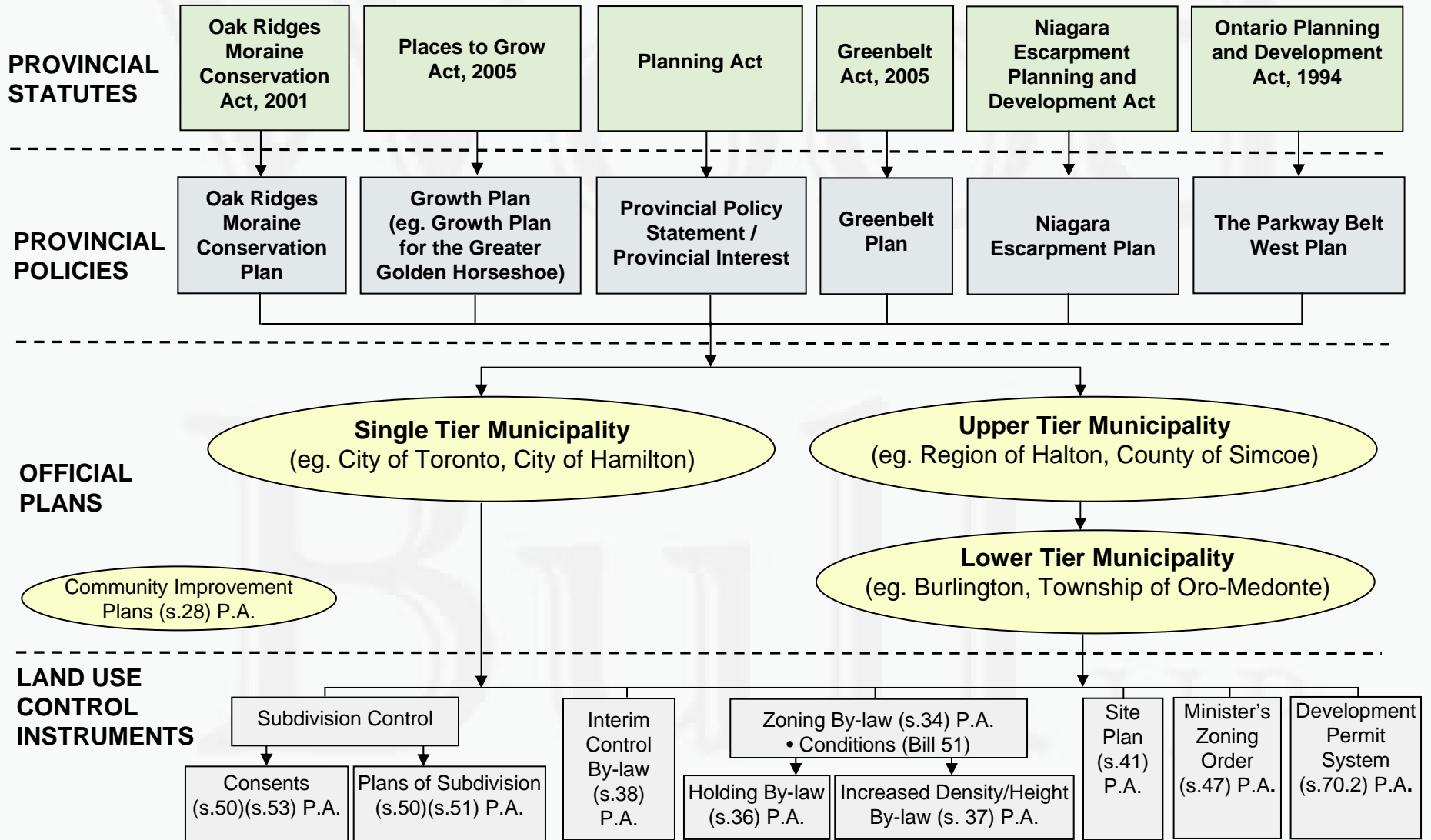
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Guideline documents describe when noise impact studies are required, noise criteria that must be met, and acceptable methods of mitigating noise sources (noise control measures).

- Aircraft noise
- Surface transportation (road/rail) noise
- Noise from stationary sources

Provincial / Municipal Planning Structure



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