

Part 2 :

Government-wide Accountability and

Democratic Structures

Table of Contents

Environmental Bill of Rights & Public Participation in Decision-Making	2 - 1
Environmental Assessment & Approvals	2 - 9
Standards Setting & Regulatory Processes	2 - 16
Land Use Planning	2 - 36
Environmental Science, Monitoring And Education	2 - 47
Endnotes	2 - 53

ENVIRONMENTAL BILL OF RIGHTS & PUBLIC PARTICIPATION IN DECISION-MAKING

Introduction

Dramatic reductions in opportunities for public participation in environmental decision-making in the province of Ontario have been a central feature of the 'Common Sense Revolution.' Although the *Environmental Bill of Rights* has enjoyed the unique status of being the only significant environmental statute in the province not to be significantly amended in the past four years, there has been a significant erosion of public rights under the Act. One of the government's first initiatives, in November 1995, was to permanently exempt the Ministry of Finance from the *Environmental Bill of Rights*, and to exempt measures related to "financial restructuring" from the public notice and comment requirements of the *Environmental Bill of Rights* for the following ten months.

The applicability of the *Environmental Bill of Rights* has been eroded in a number of other ways as well. This has included the delegation of decision-making responsibilities to private entities that are not subject to the Bill, and the introduction of 'Standardized' approvals, and 'Approval Exemption Regulations' by the Ministry of the Environment.

The Environmental Commissioner has delivered four annual reports and two special reports since June 1995. All have been profoundly critical of both the process by which the government has made changes to environmental laws, policies and institutions, and the content of these changes.

A number of other developments have also limited the ability of the public to participate in environmental decision-making. The expiry of the *Intervenor Funding Project Act* in April 1996 has made it extremely difficult for members of the public to participate meaningfully in public hearings before the Environmental Assessment Board on major undertakings. Amendments to the *Environmental Protection Act*, *Environmental Assessment Act*, *Ontario Water Resources Act*, *Planning Act*, and *Aggregate Resources Act* have also eliminated or curtailed a number of opportunities for public participation in environmental approval processes.

The *Environmental Bill of Rights*

Regulation 482/95

On November 29, 1996 the government promulgated a regulation permanently exempting the Ministry of Finance from the *Environmental Bill of Rights*, as well as exempting measures related to "financial restructuring" from the public notice and comment requirements of the *Environmental Bill of Rights* for ten months. The exemptions from the *Environmental Bill Rights* prompted the Environmental Commissioner for Ontario to make a special report to the Ontario Legislature, highly critical of the government's action, in January 1996.¹

The EBR and Responsive Environmental Protection

As part of its July 1996 proposals for the reform of its regulatory framework, the Ministry of Environment and Energy² proposed to remove EBR registry public notice requirements for "minor" approvals. These included exhaust systems for battery charging operations, laboratory exhausts, pilot tests and demonstration projects, composting operations, prescribed burns for forestry control, air from plumbing drainage systems, vehicle emissions during vehicle repairs, equipment used in fire fighting exercises and training and a range of other activities.³ The Ministry also proposed to remove EBR registry public notice requirements for the approval of pesticides with new active ingredients on the basis that an as yet to be established "national" system would provide equivalent public notice.⁴

The EBR and SARs and AERs

The Ministry's July 1996 proposals regarding the EBR were dropped in the Ministry's November 1997 document "Better, Stronger, Clearer Environmental Regulations for Ontario." However, many of the subjects which were proposed for exemptions from the EBR's public notice requirements were subsequently proposed to be dealt with under "Standardized Approvals Regulations" or "Approval Exemption Regulations." Under these regulations, which are described in more detail under *Environmental Approvals and Assessment*, Certificates of Approval are no longer issued for the prescribed activities and, therefore, the EBR public notice requirements would not be not triggered.

In her April 1999 Annual Report to the Legislature, the Environmental Commissioner noted that the Ministry had failed to respond to her requests for information regarding how many instruments will be removed from EBR Registry posting requirements by the existing and proposed AERs and SARs, and also what percentage of the total number of EBR prescribed instruments will be affected.⁵

EBR Instrument Classification Regulations

The Ministries of Northern Development and Mines and of Consumer and Commercial Relations completed instrument classification regulations for the *Mining Act*,⁶ and *Gasoline Handling Act*⁷ respectively, in 1998. A Classification Regulation for the *Planning Act* was finalized by the Ministry of Municipal Affairs in June 1999.⁸

Under the provisions of the EBR, the Ministry of Natural Resources was to have developed an Instrument classification regulation within a reasonable time after April 1, 1996. However, as of June 1999, the regulation had not been finalized and promulgated. Without an instrument classification regulation, proposals by the Ministry to grant an approval or a licence are not posted on the Environmental Registry. The regulation would also determine the level of opportunity for public participation in the decision-making process, whether it is through making comments or applying for appeals, reviews or

investigations under the EBR.⁹

The EBR and 'Restructuring'

The government's wide ranging initiatives to reassign responsibilities among agencies, between the province and municipal governments, and to privatize some of its functions also have had major impacts on the rights of the public to participate in decisions which may affect the environment through the EBR. As decisions to issue approvals or, in some cases, establish policies are no longer being made by provincial government agencies, such actions will no longer be automatically subject to the requirements of the EBR. Similarly, the Request for Investigation, Request for Review, or Whistleblower Protection provisions of the Bill may cease to apply. The EBR contains provisions permitting Ministers to delegate their duties under the Bill to third parties.¹⁰ However, this has only been done in the case of the Technical Standards and Safety Authority and the *Gasoline Handling Act*.

The Environmental Commissioner's Reports

Under the EBR, the position of Environmental Commissioner was established as an Officer of the Legislature to oversee and report on the Bill's implementation. The Environmental Commissioner has issued four Annual Reports and two special reports since June 1995.¹¹ These reports all reflected a number of common themes regarding the government's adherence to the requirements of the EBR (see also Figures 2.1-2.3). These have included:

- failures of ministries to post environmentally significant decisions on the environmental registry, as required by the EBR;
- failures of Ministries to provide Ontarians with adequate time, information and opportunity for comment on those proposed decisions which are posted on the registry; and
- failures of Ministries to assess and report on the environmental effects of proposed changes, or their consistency with Ministry statements of environmental values, as required by the EBR.

In her second Annual Report, the Environmental Commissioner highlighted a number of actions by the government which seemed likely to have negative effects on the environment protection in the Province. These included: the decisions by the Ministries of the Environment and Energy and of Health to terminate the provision of drinking water testing services to municipalities in November 1996; the ongoing "dissolution" of the province's acid rain monitoring program, despite the evidence of continuing damage to the environment and of the need for further action to reduce acid rain causing emissions; and the Ministry of Natural Resources' move to a self-monitoring program for the province's aggregates (sand, gravel and stone) industry.

More generally, in her statement on the tabling of her Second Report, Commissioner Ligeti noted that:

"ministries demonstrated an alarming lack of environmental vision in 1996...
"I am concerned that these changes undermine the principles of accountability and public consultation established by the EBR...
"I saw very little commitment to environmental monitoring and reporting."¹²

In her third Annual Report, the Commissioner highlighted problems related to air quality, forest management, environmental monitoring, the Ministry of the Environment's growing reliance on voluntary agreements with industry to reduce pollution, the government's response to the Plastimet fire, and the government's approach to conservation authorities and watershed management. The Commissioner noted that:

"I regret to report that in the past year there has been little substantive improvement in the actions taken by provincial ministries toward protecting the environment."¹³

The Commissioner also stated that:

"The government of Ontario needs to shift its focus from providing regulatory relief to industry to protecting the environment and human health."¹⁴

The Commissioner's Fourth Annual Report was tabled in April 1999. The Commissioner highlighted weaknesses in the government's responses on the issues of global climate change, the 'Drive Clean' program, hazardous waste management, solid waste diversion, and the 'Lands for Life' process, the government's failures to respond to previous recommendations on groundwater protection, the sale of Crown lands, the revision of standards for hazardous air pollutants, and the relationship between the Ministry of Natural Resources' Wilderness policy and the 'Lands for Life' process.

The Commissioner noted that:

"the Ontario government has redefined its role in relation to environmental protection," resulting in "the decline of Ontario's capacity to protect the environment."¹⁵

The Commissioner also reported that the:

"evidence of the deterioration of the province's environmental protection standards is widespread."¹⁶

The Minister of the Environment responded to the Commissioner's April 1999 report by stating that the Commissioner was "wrong" in her assessment of the government's performance and insisted that the government was doing a better job with less funds and fewer workers than any previous government.

Public Use of EBR Provisions

In the context of the government's overall direction of removing opportunities for the public to influence provincial decisions affecting the environment, increasing use has been made of the EBR's provisions regarding requests for investigations and reviews. A number of environmental organizations, for example, filed a request for an investigation of the Ministry of Natural Resource's authorization of the construction of a logging road in the Temagami Region in December 1996.¹⁷ This resulted in the Ministry of Environment and Energy laying charges against the Natural Resources Ministry under the *Environmental Assessment Act* in April 1997.¹⁸

In June 1997, several organizations filed a request for investigation regarding reported discharges of copper, zinc and other metals from Ontario Hydro's Pickering Nuclear Generating Plant.¹⁹ This request was subsequently rejected by the Ministry of the Environment, as were a request for investigation following the July 1997 Plastimet PVC recycling site fire in Hamilton, and requests for reviews regarding the reform of hazardous waste regulations in February 1998,²⁰ and the with respect to the government's commitment to the restoration of the Great Lakes in March 1999.²¹ In May 1999 a request for investigation was filed alleging that the Ministry of the Environment's failure to address air pollution problems in the province constituted a violation of the *Environmental Protection Act*.²²

Figure 2.1 : Summary of Environmental Commissioner's Report for the Year 1996

April 22/97 -- In her 1996 annual report, the Environmental Commissioner of Ontario cited hasty cutbacks, closed-door decision-making, omnibus-style legislation and a variety of other actions as demonstrating an "alarming lack of environmental vision." Specific examples in which decision-making had been a cause for concern included:

- the provincial off-loading of the testing of drinking water quality, and the costs associated, to municipalities;
- cutbacks in acid precipitation monitoring programs when many lakes are still very much at threat;
- the move to self-monitoring of aggregate pits and quarries.

Some specific legislative initiatives of concern in 1996 included:

- the *Safety and Consumer Statutes Administration Act's* creation of the Technical Standards and Safety Authority;
- the expiry of the *Intervenor Funding Project Act*;
- the *Environmental Assessment and Consultation Improvement Act*;
- proposed amendments to regulations under the *Niagara Escarpment Planning and Development Act*;
- self-certification of mines under the *Mining Act*; and
- the narrow focus of the Responsive Environmental Protection initiative.

Figure 2.2 : Summary of Environmental Commissioner's Report for the Year 1997

Air Quality

- the ministry is relying on a voluntary approach to cutting pollution;
- there are no plans to upgrade old certificates of approval granted to sources of pollution;
- the province has announced the elimination of funding for public transit, although road vehicles are Ontario's number one source of air pollution
- the Ministry of the Environment's own emissions projections show that even if all proposed control activities are carried out, Ontario's air quality will be worse in 2015 (the date implementation of the Smog Plan is to complete) than it is today.

Forest Management

- despite its budget and staff being cut in half, the Ministry of Natural Resources is faced with increasing pressures from rising demand for wood, the need to complete the provincial parks system, and conflicts between forestry, tourism and natural heritage values.
- report is critical of the pace of the 'Lands for Life' process and lack of adequate public consultation in this program to determine the uses for 46% of the province's land area.
- The Commissioner also expresses concern over some of the approaches to forest management being adopted or considered by the Ministry of Natural Resources including: tenure in perpetuity for forestry companies; compensation if the land licenses to companies is later re-allocated; industry self-monitoring of compliance with forestry regulations; and streamlining the sale of crown lands.

Environmental Monitoring

- crucial environmental data is not being collected in such areas as:

Ministry of the Environment:

- loading of toxic substances into Ontario's lakes and rivers;
- presence of persistent toxic substances in sewage treatment plant effluent
- total loadings of raw sewage spills into waterways
- the condition of the 1 million plus septic systems in the province; and
- emissions of inhalable particulates.

Ministry of Natural Resources:

- no analysis of figures for harvested forest areas since 1991;
- does few population surveys of small game species or non-game wildlife;
- has no population estimates for most wildlife species that are vulnerable, threaten or endangered;
- is not analyzing data on big game mortality, and its not producing provincial or regional reports; and
- has weak information on rare species in Northern Ontario.

Voluntary Agreements

- the report notes the Ministry of the Environment is entering into voluntary agreements to reduce environmental protection, despite considerations that the agreements are not enforceable, lack clear goals, are often negotiated "behind closed doors," and that there is no legal framework for such arrangements in Ontario.

Conservation Authorities and Watershed Management

- the report notes the reduction in MNR share of funding to Conservation Authorities from 33% to 5%, limiting their ability to undertake watershed management planning.

Plastimet Fire

- the report is critical of Ministry of Environment exemption of Plastimet PVC recycling facility from requirements for Certificate of Approval, on basis that no realistic market demand existed for material;
- the Commissioner calls for and inquiry into Plastimet fire.

Figure 2.3 : Summary of the Environmental Commissioner's Report for the year 1998

April 28, 1999 -- The Environmental Commissioner's report for 1998 documented how the "Ontario government has redefined its role in relation to environmental protection" and in particular highlighted "the decline of Ontario's capacity to protect the environment." Select examples from the report include:

Statements of Environmental Values. A number of ministries have not dedicated attention and resources to carrying out the commitments contained in their SEVs :

- The Ministry of Health : commitment to support the elimination of carcinogens and toxics implicated in the environmental causes of cancer has been weak;
- Management Board Secretariat : has been deficient in the area of preparing environmental reports and consulting with the public prior to selling environmentally significant public lands;
- Ministry of Transportation : lacks commitment to carry out its promise to reduce transportation related air emissions.

Environmental Protection Standards. The Commissioner reports that "Evidence of the deterioration of the province's environmental protection standards is widespread":

- Ministry of Natural Resources is noted for its reduced staffing and reliance on industry self-monitoring programs;
- Ministry of the Environment was supposed to update its 70 provincial air quality standards, after two years only nine guidelines have been produced and no enforceable standards;
- Ministries of Municipal Affairs and Housing and of Transportation have done little to support environmentally sustainable land use and transportation;

Specific Program Performance. :

- Climate Change: lack of effort and lack of analysis by ministries to support their GHG reduction strategies;
- Drive Clean: behind schedule; impact minimal relative to all smog-causing agents; program weaknesses need to be corrected;
- Blue Box: not as strong at beverage container return as most other systems in Canada and still costing municipalities more than its revenue;
- Lands for Life: poor public participation process; shifting goals;
- Standardized Approval Regulations: loss of EBR rights, rights to appeal / seek reviews; concern that public will be frustrated by inability to comment.
- Hazardous Waste : MoE is not supporting its SEV which calls for pollution prevention ahead of pollutant management; heavy reliance on voluntary initiatives; lack of adequate response to legitimate issues raised; better reporting needed.
- Domind: the rules governing 'recycling' of waste pulp liquor need strengthening and clarification;

Ministry Compliance with 1997 ECO Recommendations

- Groundwater Protection Strategy: no formal strategy yet; mixed performance by ministries involved; MoE taking some action.
- Crown Land Sale Consultation : partially met; generally land strategy to be posted but no specific details.
- Air Standards Development: Slow to no progress; guidelines instead of standards for: ethylene dichloride, carbon tetrachloride, and 1,4 dichlorobenzene; no point of impingement standards to be attempted for methylene chloride or tetrachlorethylene;
- Roadless Wilderness: MNR is still very slow in clarifying this policy; internal working group assembled; fall of 1998 report deadline missed; failed to provide insight to the Lands for Life process.

Expiry of the *Intervenor Funding Project Act*

The *Intervenor Funding Project Act* expired on April 1, 1996. Enacted in December 1988 by then Attorney-General Ian Scott, the Act provided financial assistance to public interest intervenors in hearings before the Environmental Assessment Board, the Ontario Energy Board, and Joint Boards of the Environmental Assessment Board and the Ontario Municipal Board.

The government stated that its decision to let the Act expire was "consistent with our commitment to make hearings more efficient and to reduce non-essential administrative processes" and that it would encourage proponents to voluntarily supply intervenor funding.²³ For her part, the Minister of the Environment stated that "people are able to come forward as volunteers still."²⁴

The expiry of the Act has made it extremely difficult for ordinary citizens and community and public interest groups to make their voices heard in major environmental decisions in Ontario. The problems created by the absence of intervenor funding were highlighted by the Environmental Assessment Board itself in December 1997 decision regarding the approval of a scrap metal smelting furnace as a low-level PCB destruction facility.²⁵

Amendments to Specific Legislation to Reduce Opportunities for Public Participation in Decision-Making.

In addition to the problems identified by the Environmental Commissioner in the application of the Environmental Bill of Rights, over the past four years, the government has amended a number of environmental and natural resources statutes in ways which reduce opportunities of public participation in environmental decision-making. The *Environmental Protection Act*, *Ontario Water Resources Act*, *Environmental Assessment Act*, and *Aggregate Resources Act*, for example, have been altered to grant Ministers much wider discretion with regard to when a public hearing is required prior to the granting of an approval under these statutes. Bill 20, *The Land Use Planning and Protection Act* amended the *Planning Act* to reduce public comment periods on official plan amendments from 30 to 20 days, remove public meeting requirements for subdivision plans, and disallow of minor variance appeals to the Ontario Municipal Board.²⁶

ENVIRONMENTAL ASSESSMENT & APPROVALS

Introduction and Overview

Changes to the environmental approvals process have been a major focus of the government's regulatory 'reform' initiatives. The impact of changes to legislation, particularly Bill 57, the *Environmental Approvals Process Improvement Act*, passed in June 1997, and Bill 76, the *Environmental Assessment and Consultation Improvement Act*, passed in November 1996, and consequences of budgetary reductions to the Ministry of the Environment have become increasingly evident over the past two years. This has been especially true in the area of waste management.

Opportunities for public participation in decision-making have been reduced, both through the discretionary waiving of public hearing requirements, and as a consequence of the expiry of the *Intervenor Funding Project Act*, in April 1996. In addition, the scope of the environmental assessment of a number of major undertakings has been significantly reduced.

Concerns regarding the operation of the environmental assessment process were expressed by the Provincial Auditor in his November 1997 Annual Report, particularly regarding monitoring compliance with terms and conditions of environmental assessment decisions. In addition, in September 1997 the Ministry of Natural Resource was convicted for violating the *Environmental Assessment Act* with respect to the construction of a logging road. Furthermore, a landmark February 1998 Court decision found the Ministry's forest management practices to be out of compliance with the *Crown Forest Sustainability Act* and the Terms and Conditions of the Class Environmental Assessment on Timber Management decision of the Environmental Assessment Board.

The Ministry of the Environment has proposed to introduce 'Standardized' approvals for a wide range of activities, and has adopted "Approval Exemption Regulations" for a variety of undertakings. Under 'Standardized' approvals, exemptions from the normal approval requirements of the *Environmental Protection Act* or *Ontario Water Resources Act* are granted subject to certain conditions. Activities covered by AER's are granted unconditional exemptions from approval requirements. Major concerns have been raised regarding the significance of some of the activities which have been proposed for 'standardized' approvals and approval exemptions, the Ministry of the Environment's capacity to monitor and oversee the facilities operating under these systems, and their legal implications. The Ministry's April 1998 'Delivery Strategy' document directed officials not to respond to complaints related to many of the activities which had been proposed to be covered by 'standardized' approvals and AERs.

Bill 76 *The Environmental Assessment and Consultation Improvement Act*

On June 13, 1996, the Minister of Environment and Energy introduced Bill 76, the *Environmental Assessment and Consultation Improvement Act*. The Bill was passed in November 1996, and proclaimed in force on January 1, 1997. The Bill was developed in the absence of any consultation with non-governmental stakeholders. In her 1996 Annual Report, the Environmental Commissioner was critical of the government's failure to provide any detailed analysis of proposed amendments or adequate opportunities for public consultation in their development.²⁷

Bill 76 made major amendments to the *Environmental Assessment Act*. The Bill contained some useful additions to the Act, including the establishment of provisions for pre-hearing mediation, the development of provincial policy statements to guide the environmental assessment process, and the establishment of requirements that municipalities using the facilities or services of another person for the final disposal of waste obtain an approval under the Act. However, its overall direction was to fundamentally alter, and weaken, the structure and goals of the Ontario environmental assessment process.

The Bill included provisions to:²⁸

- replace the current requirements for the consideration of the need for undertakings, and the availability of alternatives to them, with a process for the development of "terms of reference" for each individual assessment, within which these requirements may be dispensed with at the discretion of the minister;
- permit the Minister to establish timelines for the conduct of environmental assessments and, most importantly, the conduct of hearings by the Environmental Assessment Board;
- permit the Minister to determine the scope of hearings by the Environmental Assessment Board;
- broaden the scope of exemptions to include classes of proponents and undertakings, rather than individuals;
- permit the Minister of Environment and Energy to waive any or all of the requirements of the Ontario *Environmental Assessment Act* where another jurisdiction's environmental assessment process may apply to an undertaking; and
- permit the Minister to amend the terms and conditions of approvals in light of changed circumstances or new information,²⁹ and the Lieutenant-Governor in Council to vary class environmental assessment decisions as they apply to new proponents.³⁰

Under the amendments, the scope of the environmental assessment process has been significantly narrowed, as was the case with respect to the proposed Adams Mine Landfill in Northern Ontario.³¹ There are also concerns that the amendments may be used

to vary the terms and conditions of important Environmental Assessment Board decisions, such as the Class Environmental Assessment of Timber Management on Crown Lands.³²

The Bill's provisions must be also read in conjunction with the expiry of the *Intervenor Funding Project Act* (IFPA) in April 1996. Bill 76 made no provision for the establishment of "participant" or "intervenor" funding to replace the IFPA. This has presented significant barriers to the participation of individual citizens, and community and public interest organizations, in the environmental assessment process.

Finally, despite making major amendments to the Act, the Bill failed to deal with a number of long-standing issues related to the reform of the Ontario environmental assessment process. These included: the application of the Act to private sector undertakings; the assessment of government programs and policies; the incorporation of considerations of cumulative effects and an ecosystem approach into the assessment process; the better integration of the environmental assessment process into the land use planning process; and ensuring the implementation of terms and conditions imposed on undertakings through monitoring, reporting and enforcement mechanisms.³³

The Bill also failed to consider the re-establishment of the Environmental Assessment Advisory Committee, abolished in September 1995. This was despite the Committee's long history of outstanding work in providing the Minister with independent advice on requests for exemptions from the environmental assessment process, and the reform of the process.³⁴

Waste Approvals

The impact of the Bill 76 changes to the environmental assessment process have become increasingly apparent over the past two years. This has been especially evident in the area of waste management. In September 1997, for example, the Ministry of the Environment approved a 1.9 million cubic meter expansion of Laidlaw Environmental Services hazardous waste landfill in Sarnia with no public hearing under either the *Environmental Protection Act* or the *Environmental Assessment Act*. This was despite concerns raised by members of the public regarding the proposal.³⁵ The facility is the only hazardous waste landfill in the province. The expansion is expected to extend its life for another 15-20 years.³⁶

In December 1997, the use of a scrap metal smelting furnace as the province's only permanent low-level PCB destruction facility was approved by the Ministry of the Environment. However, in its decision the Environmental Assessment Board highlighted a number of concerns regarding the undertaking. In particular, the Board questioned why the project had not been designated for review under the *Environmental Assessment Act*, despite its implications for non-incineration PCB destruction technologies. It also noted the inability of members of the public to participate effectively in the process due to the absence of intervenor funding and it expressed concern over the granting of an approval to proponent with no previous experience in handling hazardous wastes.³⁷

The Assessment Board's decision also suggested that the Ministry of the Environment had failed to follow through on its own staff's concerns regarding the potential health impacts of the facility.³⁸ In her April 1998 report to the Legislature, the Environmental Commissioner highlighted the Ministry of the Environment's failure to post the proposed approval for the facility on *Environmental Bill of Rights* (EBR) registry.³⁹ A second proposal for the use of a scrap metal smelting furnace as a PCB destruction facility is currently before the Environmental Assessment Board. Like the proposal approved in December 1997, it has not been designated for review under the *Environmental Assessment Act*.⁴⁰

The Ministry of the Environment has also made use of the provisions of the Bill 76 amendments to the *Environmental Assessment Act* to limit the scope of the environmental assessments of individual undertakings. The most prominent example of this kind of action has been with respect to the environmental assessment of the proposed Adams Mine Landfill in Northeastern Ontario. Directions issued by the Minister of the Environment in December 1997 limited the Environmental Assessment Board to hearing evidence on two issues about the site: its hydrogeology and surface water characteristics and leakage containment.⁴¹ Issues such as consideration of the need for the facility, and the availability of alternatives to it, which would have been required elements of the assessment under the pre-Bill 76 provisions of the *Environmental Assessment Act*, were excluded from the assessment of the proposal.

The proposed landfill was approved by the Cabinet in August 1998 and a Certificate of Approval granted in April 1999. A coalition of environmental organizations and local residents had unsuccessfully sought a judicial review of the cabinet's environmental assessment approval of the undertaking.⁴²

Forestry and Environmental Assessment

There have been a number of major legal developments regarding the Ministry of Natural Resource's compliance with the requirements of the *Environmental Assessment Act* in its forest management activities. These developments, including the Ministry's September 1997 conviction under the Act for the construction of a logging road, and the February 1998 Ontario Court decision regarding the Ministry's compliance with the Terms and Conditions of the Class Environmental Assessment for Timber Management on Crown Lands decision and the *Crown Forest Sustainability Act* are described in detail in the "Forestry" chapter of this report.

Provincial Auditor's 1997 Annual Report

The November 1997 Annual Report of the Provincial Auditor highlighted a number of problems with the environmental assessment process. In particular, the Auditor noted the lack of indicators to measure and report on the effectiveness of the process and monitor compliance with the terms and conditions of approved projects.⁴³

'Standardized' Approvals and Approval Exemptions

The Ministry of the Environment has indicated its intention to proceed with further changes to the environmental approvals process. The Ministry proposed to establish a 'standardized' approval process for a wide range of activities in its July 1996 "Responsive Environmental Protection" and November 1997 "Better, Stronger Clearer Environmental Regulations for Ontario," documents. It also indicated its intention to provide outright exemptions from the approval process for a wide range of activities.

In the case of 'standardized' approvals, an exemption from the requirement to obtain a Certificate of Approval would be granted for facilities which meet conditions outlined in the 'standardized' approval regulation relevant to the facility in question. The first proposals for Standardized Approval Regulations (SARs) and Approval Exemption Regulations (AERs) were posted on EBR registry in February 1998.⁴⁴ The Ministry's specific proposals are outlined in Table 2.1.

The Ministry's proposals gave rise to a number of serious concerns. These included:⁴⁵

- the lack of a Ministry strategy to ensure compliance with the requirements of SAR's;
- the loss of public notice of proposed undertakings, as proposed individual SAR approvals would not be posted on the *Environmental Bill of Rights* Environmental Registry;
- the scope, scale and environmental significance of the activities covered by some of the proposed SARs; and
- the legal implications of approvals granted through SAR regulations. In particular, it appears that the granting of an approval through a SAR regulation would provide proponents with a defence of statutory authorization against any civil action taken against them by someone who is harmed by activities conducted under the SAR. This defence is generally not thought to be provided by normal Certificates of Approval issued under the *Environmental Protection Act*.

In addition, as a result of the Crown immunity clause included in Bill 57, individuals whose persons or property were harmed as a result of an activity approved through a SAR or exempted through an AER would potentially face significant difficulties initiating an action against the Ministry of the Environment for 'regulatory negligence.'⁴⁶

Table 2.1 - Standardized Approvals and Approval Exemptions Proposed by the MoE (February 1998).

Regulation 347 - Environmental Protection Act (Waste Management)	
SAR Candidates: a) Municipal Waste Transfer/Processing Sites b) Utilization of Sewage BioSolids on Agricultural Land	
Ontario Water Resources Act ss. 34, 52, &53 (Water and Sewage Works)	
SAR Candidates: a) Water and Sewage Work Modifications b) Watermain and Sewers Construction c) Spill Containment and Stormwater Management works at Electrical Transformer Stations d) Water and Sewage Pumping Stations e) Temporary Water Taking from Ground Water	AER (Exemption) Candidates: a) Service Connections b) Appurtenances (e.g. fire hydrants) c) Area Drains. d) Relining Sewer and Water Mains. e) Replacement of watermains and sewers. f) Bottled Water Plants g) Stormwater Management facilities
Environmental Protection Act s. 9 (Air)	
SAR Candidates: a) Modifications resulting in less than 10% change in emissions, provided total emissions are 50% below current permitted levels b) Combustion Equipment for space heating or industrial processes where only emissions are from burning of fuel. c) Emergency Generator Sets d) Sterilizers e) Arc Welding AER (exemption) Candidates: a) Ventilation systems for: non-process areas; drainage systems; indoor emission discharges (i.e. emissions directed back into source building; and warehouses. b) Food Preparation Exhaust Systems c) Air Conditioners d) Mobile Equipment to be used in construction and maintenance activities; duct, carpet or upholstery cleaning; asbestos removal; and crushing stone and screening stone, where the equipment will be below grade in pits or quarries;	e) Washing With Aqueous Detergents; f) Fireplaces and stoves; g) Household Can handling included aerosol cans; h) Area sources: -building and structure construction, alteration, demolition, drilling, blasting, crushing, screening, storage and sandblasting; - dust from roads or parking lots; lagoons, clarifiers, or ponds for the treatment or detention of sewage; - irrigation of farmland with effluent; -MNR prescribed forestry burns; -fire fighting exercises and training; -festivals and special events, including speedway events, concerns, fireworks, fairs, boat races, air shows, etc.; and -snow-making. i) anything used in connection with a building or structure designed for the housing of not more than three families.

The Ministry's first Approval Exemption Regulation came into force in September 1998, covering the activities proposed for AERs in February 1998.⁴⁷ The Ministry posted a second set of proposed AERs in December 1998.⁴⁸ These included:

Air

- contaminants from the grounds of a race track, if the emission of contaminants is attributable to the racing of horses, dogs, or motorized or non-motorized vehicles;

- emissions of contaminants from the grounds or premises upon or in which a special amusement, entertainment, charitable, political, education, artistic, musical or sporting event is held, if the emission of contaminants is attributable to the special event;
- natural gas or propane gas dispensing units;
- emission of contaminants from a shooting range, if the contaminants are attributable to the firing of a gun or guns;
- any equipment, apparatus, mechanism or thing that is used for the ventilation of emissions resulting from vehicles, trains, forklifts, etc used in warehouses and enclosed storage areas; and
- any equipment, apparatus, mechanism or thing that is used solely to mitigate the effects of an emergency declared to exist under the *Emergency Plans Act*.

Water

- the establishment, alteration, extension or replacement of, or a change in a water or sewage works that is used solely to mitigate the effects of an emergency declared to exist under the *Emergency Plans Act*;
- the taking of more than 50,000 litres a day to mitigate the effects of an emergency under the *Emergency Plans Act*; and
- the taking of water and establishment, alteration, or replacement of drains, pump devices and appurtenances for the collection and disposal or drainage from building foundations.

The Ministry's proposals for 'standardized' approvals are still under review. 'Standardized' approvals and AERs were proposed by the Ministry of the Environment for a wide range of activities related to waste management in June 1998.⁴⁹

Ministry 'Delivery Strategies'

In February 1999, it was revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. These included many of the activities that the Ministry had proposed to place under the 'standardized' approval or AER systems. Specific examples included problems arising from: construction and demolition; diesel generators; inert fill; recycling and composting regulatory requirements; and tire disposal sites with less than 5,000 tires.⁵⁰

STANDARDS SETTING & REGULATORY PROCESSES

Introduction and Overview

Over the past four years, there has been a dramatic re-working of the province's regulatory framework for environmental protection and natural resources management. Every significant statute affecting the environment or natural resources, with the exception of the *Environmental Bill of Rights* has been significantly amended. Consistent with themes first established through Bill 26, *The Government Savings and Restructuring Act* enacted in January 1996, these changes have generally increased the discretion of Ministers and the cabinet, limited opportunities for public participation in decision-making, and shielded the government from regulatory negligence lawsuits. These measures are having a major effect on the ways in which environmental standards are established, implemented and enforced in the province.

One of the government's earliest initiatives was to dissolve the province's independent advisory committees that existed with respect to the environment. These included the MISA Advisory Committee, the Advisory Committee on Environmental Standards, the Environmental Assessment Advisory Committee and the Ontario Round Table on the Environment and Economy.

In July 1996, the Ministry of Environment and Energy proposed major revisions to the regulations administered by the Agency in a document entitled *Responsive Environmental Protection*. These would have significantly weakened many of the Ministry's regulations. A subsequent November 1997 document entitled "Better, Stronger, Clearer: Environmental Regulations for Ontario" backed away from many of these proposals, particularly with respect to air pollution. However, the Ministry indicated its intention to proceed with its proposals regarding waste management, the Municipal-Industrial Strategy for Abatement (MISA) regulations, and pesticides regulations.

Specific proposals with respect to MISA and waste management were advanced in December 1997 and June 1998 respectively, and major revisions to the pesticide licencing system were implemented in August and September 1998. The Ministry's first 'Approval Exemption Regulations' (AERs) for air and water approvals came into force in September 1998 as well. Further AERs and 'standardized' approvals for a wide range of activities have been proposed by the Ministry

The period since June 1995 has been marked by a major decline in the environmental law enforcement activities of the Ministry of the Environment. Annual total fines for environmental offences have declined to their lowest level in more than a decade, and the Ministry's April 1998 'Delivery Strategy' directed Ministry staff not to respond to complaints regarding pollution from a wide range of sources.

In November 1998 the Ministry released a proposed policy entitled "Recognizing

and Encouraging Voluntary Action" (REVA). In effect, the Ministry proposed to offer reduced oversight of facilities on the basis of their promises of good environmental performance. The Ministry also proposed to limit its future initiatives on the basis of these commitments, and to tie such initiatives to a 'quid pro quo' with industry.

"Commissions" of government MPP's on "red tape" and the future of the province's agencies, boards and commissions, established in December 1995, delivered their reports in January and February 1997. The 'Red Tape Commission' has come to play a major role in reviewing proposed laws, regulations and policies prior to their submission to cabinet. It has been particularly active with regard to the operations of the Ministry of the Environment. In November 1998 it was revealed that the Chair of the 'Commission' had attempted to intervene in a prosecution by the Ministry.

A broad range of industries have been placed on self-monitoring and compliance systems. In the case of the Ministry of Natural Resources, these have included the forestry, aggregates, petroleum, brine, commercial fisheries and fur industries. In addition, the regulatory functions of the Technical Standards Division of the Ministry of Consumer and Commercial Relations have been delegated to a private organization named the Technical Standards and Safety Authority.

The Ministry of the Environment and Energy announced a major project to revise its standards for water, air, soil contaminants in October 1996. Air standards were to be a priority in this review. However, progress on this initiative has been very slow. Nine standards for hazardous air pollutants were adopted in December 1998, although in most cases, they did not represent significant improvements over existing requirements. Proposals for a further 18 revised air standards were presented in January 1999.

Over the past four years, the annual reports of both the Provincial Auditor and the Environmental Commissioner have been critical of the government's environmental performance. Weaknesses in the government's efforts in the areas of air quality, waste management, and fish and wildlife management have been figured prominently in these assessments.

The Elimination of Independent Advisory Committees

Advisory Committee on Environmental Standards, Environmental Assessment Advisory Committee, and MISA Advisory Committee

The Advisory Committee on Environmental Standards (ACES) and the Environmental Assessment Advisory Committee (EAAC), were disbanded by the Minister of Environment and Energy in September 1995. These bodies, consisting of independent individuals with appropriate expertise, received public input and provided advice to the Minister of Environment and Energy. The multi-stakeholder MISA Advisory Committee was disbanded at the same time. The MISA Advisory Committee had been established in 1986 to provide independent advice to the Minister of the Environment on proposed regulations under the MISA program.

On the occasion of their dissolution, the Minister of Environment and Energy stated that their work was completed, and that the Ministry could receive public input on proposed standards and undertakings through other means, particularly the notice and comment process under the *Environmental Bill of Rights*.⁵¹

Dissolution of the Ontario Round Table on the Environment and Economy

On September 12, 1995, the Minister of Environment and Energy dissolved the Ontario Round Table on Environment and Economy. The Round Table, established in 1989 to promote sustainable development in the province, was a multi-stakeholder body, supported by a small secretariat. It had worked towards the integration of environmental and economic decision-making in the province and the resolution of conflicts between environmental protection and economic development.

The Policy Advisory Council on the Environment

At the same time that ACES, EAAC, the MISA Advisory Committee and the Ontario Round Table on the Environment and Economy were dissolved, a new body, calling itself the Policy Advisory Council on the Environment emerged. Described as a "grassroots" policy process, it was made up of "a dozen or so volunteer stakeholders from different industries."⁵² The Council was originally co-chaired by Robert Power, a lawyer, and Guy Crittenden, the Chair of the Environmental Policy Committee of the Progressive Conservative Party of Ontario.

The Council's recommendations to the Minister of Environment and Energy included the repeal of the ban on new municipal solid waste incinerators, the introduction of "rigorous" environmental performance standards for incinerators and landfills, "improvements" in the approvals process, "streamlining" the environmental assessment process, and an "overhaul" of regulation.⁵³ However, the significance of the Council's role declined following Norm Sterling's appointment as Minister of the Environment in August 1996.

Bill 26 Amendments to Freedom of Information and Protection of Privacy Acts

Schedule K of Bill 26, the *Savings and Restructuring Act*, enacted in January 1996, amended the *Freedom of Information and Protection of Privacy Act*, and the *Municipal Freedom of Information and Protection of Privacy Act* to permit the establishment of fees for appeals of access to information decisions, permit charges for the first two hours of search time in relation to access requests, allow heads of agencies to deny access to records on the basis that requests are "frivolous or vexatious" and permitted the Lieutenant-Governor in Council to establish regulations for determining what constitutes a "frivolous or vexatious" request. Schedule O of the Act amended the FOIPPA to state that the provisions of the *Mining Act* regarding the confidentiality of financial information provided by mining companies with respect to financial security requirements related to

mine closure prevailed over the FOIPPA.

These amendments to the Acts were strongly opposed by the Freedom of Information and Privacy Commissioner,⁵⁴ and by many members of the public and non-governmental organizations.⁵⁵ Although the new provisions of the Acts related to the establishment of standards for frivolous and vexatious requests have not been employed, a \$25 fee for appeals of denied access requests has been implemented, and charges are being levied by agencies for the first two hours of search time in relation to requests. As most freedom of information requests require less than two hours of search time to fulfil, this means that charges are now being levied for access to information that was previously free of charge. The Information and Privacy Commissioner has stated that these charges are emerging as a barrier to public access to information.⁵⁶

Bill 57, The *Environmental Approvals Process Improvement Act*

In June 1996, the then Minister of Environment and Energy, Brenda Elliott, introduced Bill 57, *The Environmental Approvals Improvement Act*. This legislation, which was enacted in June 1997, was typical of the regulatory "reform" legislation being enacted by the government.

The Bill amended the *Environmental Protection Act* and *Ontario Water Resources Act* to permit the cabinet to exempt any person or activity from the requirements of the legislation. In addition, the Bill permitted the cabinet to make regulations controlling or prohibiting virtually any activity which fell under the jurisdiction of the *Environmental Protection Act* and *Ontario Water Resources Act*. In effect, the amendments permitted the cabinet to repeal almost any provision of these statutes, and replace it with whatever it chose to put in place.

Other provisions of Bill 57:

- permitted the cabinet to "deem" environmental approvals to exist without the actual review of applications by the Ministry;
- established a bar on civil lawsuits against the government by individuals if their property is damaged as a result of exemptions from environmental laws granted through the Bill;
- provided for the delegation to municipalities of the power to grant approvals under the *Environmental Protection Act*;
- permitted the Ministry of Environment and Energy to charge members of the public fees for access to documents and other materials related to proposed environmental approvals; and
- dissolved the Environmental Compensation Corporation, which provided compensation to innocent victims of environmental "spills" or individuals who have

- taken voluntary action to clean-up spills for which they were not responsible; and
- dissolved the Ontario Waste Management Corporation, originally established in 1980 to construct a hazardous waste treatment and disposal facility in the province.⁵⁷

Among other things, the Bill's provisions were intended to permit the implementation of the 'standardized' approval process and 'Approval Exemption Regulations' described under *Environmental Assessment and Approvals*.

'Responsive Environmental Protection'

Bill 57 was intended to provide for the implementation of changes to virtually every regulation administered by the Ministry of Environment and Energy proposed in a document entitled *Responsive Environmental Protection* (REP) which was released on July 31, 1996. This document proposed enormous changes to the framework of environmental regulations established under the *Environmental Protection Act*, *Ontario Water Resources Act*, and *Pesticides Act*. Some of the key amendments would have included the following.

Air Pollution

Responsive Environmental Protection proposed to:

- replace "Hot Mix Asphalt Facilities" regulation (controls air emissions from facilities) with voluntary code of practice, which may be incorporated into "permit by rule" approvals;
- repeal Lambton Industry Meteorological Alert Regulation and its replacement with a memorandum of understanding with industry. The regulation currently requires reductions in SO₂ emissions by industry in Lambton county during alerts. Under the Ministry's proposal, industry would do monitoring and decide when to call an alert under the proposed agreement;
- reduce reporting requirements under Countdown Acid Rain Program from quarterly to annual reports;
- delegate air quality management to Local Airshed Management Units, run by representatives of "community" (not defined); and
- repeal of "sulphur content of fuels regulation," a regulation intended to control SO₂ emissions in Metro Toronto from the burning of fuel oil.

General Approvals Process

Responsive Environmental Protection proposed to:

- eliminate approvals completely for yet undefined "environmentally insignificant activities;"
- move to a "standardized" (i.e. permit-by-rule) approval process for a wide range of activities (undefined but possibly including new water mains, sanitary sewers, storm sewers, spill containment for electrical transformer stations (may involve PCB's) and petroleum storage and distribution facilities);
- remove public hearing requirements for the approval of new waste management technologies under the *Environmental Protection Act*;
- transfer responsibility for approvals related to dust, odour and noise to municipalities.

Environmental Bill of Rights

Responsive Environmental Protection proposed to:

- remove EBR registry public notice requirements for "minor" approvals including exhaust systems for battery charging operations, laboratory exhausts, pilot tests and demonstration projects, composting operations, prescribed burns for forestry control, air from plumbing drainage systems, vehicle emissions during vehicle repairs, equipment used in fire fighting exercises and training and a range of other activities.

Pesticides

Responsive Environmental Protection proposed to:

- remove pesticide application permit requirements for pesticide applications that "pose little environmental risk;"
- remove EBR registry public notice requirements for approval of pesticides with new active ingredients on the basis that an as yet to be established "national" system will provide equivalent public notice; and
- simplify (eliminate?) requirements for public notice (i.e. signs) where "integrated pest management" practices are in place.

Spills

Responsive Environmental Protection proposed to:

- expand reporting exemptions for "minor" spills.

Waste Management

Responsive Environmental Protection proposed to:

- carry out the complete de-regulation of activities related to the handling of "recyclable materials," including hazardous wastes such as batteries, photochemical wastes, and metal bearing sludges;
- remove "liquid industrial wastes" from the province's definition of "subject" (i.e. hazardous) wastes;
- weaken Ministry oversight on the establishment and operation of on-site hazardous waste storage sites and hazardous waste transfer stations, the burning of hazardous wastes as "fuel," and the use of hazardous and liquid industrial wastes for dust suppression; and
- seek "input" on repeal of *Waste Packaging Audit and Reduction Workplan Regulations* and Refillable soft drink container regulations.

Water Pollution

Responsive Environmental Protection proposed to:

- implement new discharge regulations for sewage treatment plants;
- replace the *Marinas Regulation* (requires all marinas to have pump-out facilities and solid waste disposal facilities) with voluntary code of practice;
- remove the requirement for planing for zero discharge of AOX from pulp and paper mills from the *Municipal-Industrial Strategy for Abatement* (MISA) discharge regulation for the sector; and
- weaken monitoring and reporting requirements for other MISA sector regulations (e.g. chemicals, mining, iron and steel, petroleum refining) for "good" performers.

New Environmental Standards

Responsive Environmental Protection proposed to:

- apply a "Less Paper/More Jobs Test" (cost/benefit test) to proposed new environmental regulations; and
- put sunset clauses in all new regulations.

The REP proposals prompted a very strong negative response from a wide range of stakeholders,⁵⁸ who were initially given only 45 days to comment on the Ministry's initiative. This period was extended by a further month by Norm Sterling following his appointment as Minister of Environment and Energy in August 1996. Background documents obtained by the Canadian Environmental Law Association through a freedom

of information request revealed that many of the proposals in the document contradicted the recommendations of the Ministry of Environment and Energy's own staff in its development.⁵⁹ The Ministry's approach to the process was subsequently heavily criticized by the Environmental Commissioner in both her October 1996 Special Report⁶⁰ and April 1997 Annual Report to the Legislature.

Better, Stronger, Clearer: Environmental Regulations in Ontario

In November 1997, the Ministry of the Environment released a document entitled *Better, Stronger, Clearer: Environmental Regulations for Ontario* (see Figure 2.4). In this document, the Ministry backed away from many of the proposals contained in the July 1996 *Responsive Environmental Protection* consultation paper.⁶¹ This was particularly evident with respect to the regulation of sources of air pollution (see also Table 2.2).

However, the Ministry's proposals to weaken its regulations in the area of waste management remained largely intact, particularly with respect to hazardous waste. The Ministry also proposed to weaken the reporting and monitoring requirements under the MISA regulations, and to remove the AOX elimination planning requirement from the MISA pulp and paper regulation. Proposals to implement changes contained in "Better, Stronger, Clearer," related to air quality,⁶² the Environmental Bill of Rights⁶³ and MISA,⁶⁴ began to appear on the EBR Registry in December 1997. However, as of June 1999, these proposals had not been implemented. Major changes to the pesticide licencing system, flowing from the Ministry's November 1997 proposals, were adopted in August and September 1998. Proposals to remove reporting requirements for certain types of spills were posted on the EBR registry in April 1998.⁶⁵

Proposals for 'standardized approvals' related to air quality, water use, and waste management were posted on the Registry in February 1998⁶⁶ and the first 'Approval Exemption Regulations' related to air and water approvals came into force in September 1998. The Ministry of the environment presented proposals for major revisions to the province's waste management regulations in June 1998.⁶⁷ These proposals reflected the directions laid out in *Responsive Environmental Protection* and *Better, Stronger, Clearer, Environmental Regulations for Ontario* and would weaken regulatory controls on a wide range of activities involving both hazardous and municipal solid wastes.

Environmental Law Enforcement

Enforcement Activities

In addition to these regulatory 'reform' initiatives, the 1995-1999 period witnessed a precipitous decline in the province's environmental law enforcement activities. The total fines obtained by the Ministry of the Environment in 1998 the most recent year for which data could be obtained, were \$863,840 - the lowest figure since 1986/87, and less than

one third of the total for 1995. Fines fell, in part, as a consequence of the 28% reduction in Investigation and Enforcement Branch staff between 1995-1998.

A March 1999, analysis of the Ministry's 1996 law enforcement activities by the Sierra Legal Defence Fund indicated that only three of 134 companies and sewage treatment plants that had violated water pollution control requirements had been successfully prosecuted by the Ministry.⁶⁸ A similar analysis of air pollution infractions indicated that in 1997 there were 1,224 violations of air pollution regulations, resulting in four charges. In 1998 there were 3,354 violations, resulting in two charges.⁶⁹

Ministry of the Environment 'Delivery Strategy'

In February 1999 it was revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. Specific examples included problems arising from: activities related to agriculture; construction and demolition; diesel generators; gravel pits and quarries; mobile sources; oil from vehicles; septic systems; boating; sewers; drinking water quality; road salt; inert fill; pop bottles; industrial, institutional and commercial waste source separation; recycling and composting regulatory requirements; tire disposal sites with less than 5,000 tires; litter; abandoned vehicles; inquiries about pesticide use; and residential pesticide use.⁷⁰ Many of these subjects had been targets of the Ministry's "Responsive Environmental Protection" and "Better, Clearer, Stronger" regulatory 'reform' proposals.

Program Approvals

In her April 1999 Annual Report, the Environmental Commissioner noted a marked increase in the Ministry of the Environment's use of 'Program Approvals' with only two such approvals being granted in the period 1994-1997, and nine being issued in 1998. 'Program Approvals' permit companies to operate and emit pollutants at levels higher than regulated limits, on the basis that the polluter is undertaking a program that will eventually result in the company's achieving compliance. While a 'Program Approval' is in place, a polluter may not be prosecuted with respect to company processes described in the approval, and the Ministry of the Environment cannot revoke or amend a 'Program Approval' before its expiration date except in certain circumstances. The Ministry's ability to issue control or stop orders is also restricted when a 'Program Approval' is in place.⁷¹

This change appears to flow from a 1995 amendment to the Ministry's Compliance Guideline, which removed restrictions on the authority of Ministry Directors to issue 'Program Approvals.' Each of the nine Program Approvals granted in 1998 were provided to companies that had failed to comply with pollution limits established by the MISA regulations. The Commissioner noted that the companies in question had negotiated generous phase-in periods to comply with the requirements of the MISA regulations, and that the use of 'Program Approvals' in this way may weaken the impact of the regulations,

and signal a retreat by the Ministry from the enforcement of regulatory controls.⁷²

Figure 2.4 : Summary of MoE's November 1997 regulatory 'reform' proposals.

"Better, Stronger, Clearer: Environmental Regulations for Ontario."	
<p>Nov 27/98. Ministry releases "Better, Stronger, Clearer: Environmental Regulations for Ontario."</p> <p>Waste. Specific proposal related to waste management include:</p> <ul style="list-style-type: none"> • revoke regulation thus permitting eight waste disposal sites to receive Liquid Industrial Wastes. None of the sites currently receive such wastes; • amend the regulation governing deep well disposal to bring oil field brine disposal under the <i>Environmental Protection Act</i>, eliminate the oil field brine exemption, and consolidate the requirements into a revised general waste regulation; • amend definition for agricultural wastes, waste-derived fuel, and clarify the management requirements for biomedical waste and asbestos waste; • simplify approval and administrative requirements for "manufacturer controlled networks," to promote "product stewardship"; • introduce four classes of approvals: Class I: mandatory hearings under EPA and as required under EAA; Class II: Discretionary hearing under EPA; Class III: Standardized Approvals; and Class IV: exemptions from waste approval requirements. • numerous changes related to hazardous waste management including: <ul style="list-style-type: none"> • reducing reporting requirements for small movements of hazardous wastes; • amending the definition of a "site" (presumably to include all facilities within a given municipality as proposed in July 1996); 	<ul style="list-style-type: none"> • remove generator registration requirements for registerable solid waste; • exempt battery and precious metal bearing waste recycling activities from regulatory requirements; • modify (weaken) the definition of PCB wastes and establish standardized approvals for PCB storage and transfer sites; • numerous changes related to municipal solid waste management: • amend Recycling and Composting Municipal Waste Regulations to allow two stream collection systems, amend (weaken?) the 50 metre buffer requirement, and allow food composting at leaf and yard composting facilities; • revoke regulations related to the types of disposable containers than may be used to package milk; • retain refillable and non-refillable soft drink container regulations; • amendment of the Waste Audits and Waste Reduction Workplan Regulations and Packaging Audits and Packaging Reduction Workplan Regulations to "streamline" the regulations, "increase their flexibility" and "reduce the paper burden on the regulated community;" <p>Spills. Proposed changes related to spills include:</p> <ul style="list-style-type: none"> • proposal to eliminate reporting requirements for notification of "insignificant" spills under the <i>Environmental Protection Act</i>.

Figure 2.4 - Continued

<p>Nov 27/98. Ministry releases "Better, Stronger, Clearer: Environmental Regulations for Ontario."</p> <p>Energy. Proposed changes related to energy regulations include:</p> <ul style="list-style-type: none"> • repeal of regulations related to electric stationary water heaters under the <i>Energy Efficiency Act</i>, as this type of heater is no longer permitted for sale or lease in Ontario; • establish energy efficiency standards for gas- 	<p>fired room heaters; wall furnaces; and fluorescent lamps;</p> <ul style="list-style-type: none"> • establish uniform systems of accounting for utilities regulated by the Ontario Energy Board; • Remove obsolete exemptions related to completed transactions regulated by the Ontario Energy Board; and • permit the Ontario Energy Board to set its own rules of procedure.
--	--

Figure 2.4 - Continued

<p>Nov 27/98. Ministry releases "Better, Stronger, Clearer: Environmental Regulations for Ontario."</p> <p>Air. Proposed changes related to air regulations include :</p> <ul style="list-style-type: none">• consolidate the Gasoline Volatility Regulation, Motor Vehicles Regulation and Recovery of Gasoline Vapour in Bulk Transfers Regulation into one regulation.• consolidate the four Countdown Acid Rain regulations into one and reduce reporting requirements from quarterly to annual reports. The regulations apply to the four largest sources of Acidifying emissions in Ontario, Ontario Hydro, Inco, Falconbridge and Algoma Steel.	<ul style="list-style-type: none">• consolidate Ambient Air Quality and General - Air Pollution Regulations;• revoke obsolete Air Contaminants from Ferris Foundries Regulation;• retain Hot Mix Asphalt Facilities regulation and supplement with an industry code of practice. The Ministry had proposed to replace this regulation with a SAR;• retain the Lambton Industry Meteorological Alert Regulation, and supplement with a contractual agreement with the Lambton Industrial Society. The Ministry had proposed to repeal this regulation.• retain the Sulphur Content of Fuels Regulation and the Boilers Regulation. The Ministry had proposed to repeal these regulations and replace them with a SAR.
--	--

Figure 2.4 - Continued

<p>Nov 27/98. Ministry releases "Better, Stronger, Clearer: Environmental Regulations for Ontario."</p> <p>Pesticides and Agriculture. Proposed changes related to pesticides include:</p> <ul style="list-style-type: none">• prohibition of the burial of empty pesticide containers and require recycling of agricultural and commercial containers made of plastic or metal;• elimination of the sections of Regulation 914 dealing with obsolete pesticides that are no	<ul style="list-style-type: none">longer available; and• consolidation and clarification of the sections of Regulation 914 on fumigants.• simplify the licensing system and reduce the number of types of licences;• upgrade training requirements for exterminators; and• eliminate exterminator licences requirement for the use of some "low risk" pesticides.• introduce Standardized Approvals for applications of "low risk" pesticides.
--	---

Recognizing and Encouraging Voluntary Actions (REVA)

In November 1998, the Ministry of the Environment posted a proposed policy framework entitled "Recognizing and Encouraging Voluntary Actions" (REVA) on the EBR registry. The proposed policy would offer reduced Ministry oversight of industrial facilities on the basis of promises of good environmental performance. The Ministry also proposed to limit its future regulatory initiatives on the basis of these commitments.

The Ministry's proposals would move from relying on voluntary action by industry as a supplement to a baseline regulatory framework to protect the environment and human health, to employing promises of voluntary action as a basis for modifications to that framework.

In addition, the Ministry's proposal appeared to provide affected industries with a

privileged position in the Ministry's program and policy development, approval, administrative, and enforcement processes and to provide a commitment not to move forward significant new initiatives without industry consent under guise of regulatory "certainty." The proposal also implied that if new requirements are moved forward, they would be accompanied by "quid pro quo" concessions to industry. This would suggest that there could be no net gain in environmental protection requirements.⁷³

The 'Red Tape Commission' and 'Agencies, Boards and Commissions Review Commission'

In December 1995, the government established two "commissions" of government MPP's, one to review the regulations administered by the province,⁷⁴ and the other to review the status of the provincial government's agencies, boards and commissions.

The 'Red Tape' Commission

The "Red Tape Review Commission" delivered its report in January 1997.⁷⁵ The report, reflecting a strong influence by industry interests, largely reiterated proposals which had been presented in the Ministry of Environment and Energy's July 1996 document, *Responsive Environmental Protection*. The Commission also emphasized the application of cost-benefit tests and sunset clauses to new regulations, the establishment of a "regulatory watchdog committee" formed of MPP's and "representatives of the private sector,"⁷⁶ and the need for public servants to put customer (i.e. regulatee) service first.⁷⁷

The 'Red Tape' Commission has been heavily involved in reviewing the implementation of the Ministry of the Environment's regulatory 'reform' proposals, and all other regulatory proposals put forward by Ontario government agencies. Specific cases in which the Commission became involved have included the Ministry of the Environment's proposals for the introduction of 'cost-recovery' charges on the manifesting of hazardous and liquid industrial wastes for 'off-site' disposal,⁷⁸ and the application of the Ministry of the Environment's 'Drive Clean' program to heavy trucks.⁷⁹

The following statement regarding the role of the 'Red Tape' Commission was included in a decision of the Freedom of Information and Protection of Privacy Commissioner regarding an appeal of freedom of information requests regarding records related to the Commission's activities by CIELAP:

"According to the cabinet office, the RTC is inextricably connected to the Cabinet decision-making process. Ministries are asked to appear before the RTC to discuss their policy proposals or draft legislation before they appear before Cabinet or its Committees. Cabinet may also recommend that a Ministry take its proposal before the RTC for review and comment. The RTC reviews policy proposals, draft legislation, Cabinet Submissions, Cabinet presentation slides, provides Ministries with comments and directly advises cabinet or its committees on proposal it has reviewed. Cabinet Office points out that since the RTC came into existence, it has served as a screening

process for Cabinet and its Committees on a wide range of policy items. Cabinet Office explains that after the RTC has reviewed an item, the Chair will usually write the Minister and/or the Chair of the Cabinet Committee, raise any concerns, and provide advice and recommendations on the item. The Chair and members of the RTC are often invited to attend Cabinet Committee meetings in order to provide advice or make recommendations to the Committee on the reviewed items."

"... the RTC performs an integral role in the Cabinet decision-making process in the area of regulatory review and reform. Cabinet has chosen to rely on the views and opinions of the RTC in considering reforms, and has established a process which requires various Ministers and Ministries to involve the RTC in certain matters prior to submitting them to Cabinet. Although the RTC is not a Committee of Cabinet, in discharging its mandate it would frequently deal with matters that are subsequently placed before cabinet or one of its Committees for deliberation."⁸⁰

The Commission has maintained a very close watch on the activities of the Ministry of the Environment. A freedom of information request filed by CIELAP in April 1998 regarding communications between the Commission and the Ministry, resulted in a response that its fulfilment would require reviewing the files of a large number of individuals in the Ministry, and involve up to 100 hours of search time.

In addition to the review of proposed legislation, regulations and policies, the 'Red Tape Commission' has attempted to involve itself in the operational activities of the Ministry of the Environment. A record provided by the Cabinet Office in response to CIELAP's freedom of information requests indicated, for example, that in March 1998 the Chair of the 'Red Tape Commission' Mr. Frank Sheehan, M.P.P. attempted to intervene in the Ministry of the Environment's conduct of a prosecution under the *Environmental Protection Act*.⁸¹

The Commission has also focussed on 'streamlining' building approvals with the Ministry of Municipal Affairs and Housing.⁸² Such streamlining will likely further facilitate urban sprawl.

'Red Tape Reduction' Legislation

In December 1998 Bill 25, *The Red Tape Reduction Act*, an omnibus bill similar to the January 1996 Bill 26, *Government Savings and Restructuring Act*, was enacted. The Bill amended more than a dozen natural resources statutes, permitting the delegation of decision-making authority over a wide range of activities on public lands and affecting lakes and rivers to "any person," removing requirements for conservation authority approvals of aggregates extraction, and facilitating the sale of public lands. Schedule 'C' of the Act, *Statute and Regulation Revision Act, 1998*, made provision for the adoption of revisions to statutes by the Chief Legislative Council, without approval by the Legislature.

A second omnibus 'red tape reduction' bill, Bill 101, *The Red Tape Reduction Act #2*, introduced on December 16, 1998, died on the Order Paper when the Legislative session ended on December 18. Schedule M of the Bill would have amended seven natural resources statutes, including the *Aggregate Resources Act*, *Fish Inspection Act*, *Forest Fires Prevention Act*, *Fish and Wildlife Act*, *Niagara Escarpment Planning and Development Act*, *Oil, Gas and Salt Resources Act*, and *the Public Lands Act*.

Agencies, Boards and Commissions Review Commission

The Agencies, Boards and Commissions Review Commission delivered its reports in January and February 1997. Among its recommendations were the consolidation of the Environmental Assessment Board and the Environmental Appeal Board into an Environmental Appeals Tribunal.⁸³ These bodies were subsequently amalgamated. The Niagara Escarpment Commission and the Ontario Energy Board were to remain unchanged.⁸⁴ Consistent with the provisions of Bill 57, the Commission also recommended the elimination of the Environmental Compensation Corporation.⁸⁵

In addition, the Commission recommended the elimination of the Toronto Waterfront Regeneration Trust and the North Pickering Development Corporation.⁸⁶ The Waterfront Trust was converted into a private charitable entity in January 1999. The pickering proposal raised immediate concerns regarding the implied sale of 3,500 hectares of land designated as a "green belt" agricultural reserve on the eastern boarder of Metropolitan Toronto.⁸⁷

A review of the need for the Ontario Clean Water Agency was proposed as well, on the basis that the Agency competed directly with the private sector and that sewer and water services were a municipal responsibility.⁸⁸ Subsequently, in March 1998, the Office of Privatization identified the Ontario Clean Water Agency as a potential target for the government's privatization efforts.⁸⁹ The agency currently operates approximately one third of the sewer and water works in the province, including 123 municipal water treatment facilities and 234 municipal sewage treatment facilities.⁹⁰

Appointments to Agencies, Boards and Commissions

The independence and impartiality of many provincial agencies, boards and commissions charged with the protection of major environmental resources, has been seriously eroded over the past few years. In the case of the Niagara Escarpment Commission, for example, appointments over the past two years have included individuals known to be hostile to the goal of the protection of the ecological integrity of the escarpment,⁹¹ or who have had economic interests in its exploitation.⁹²

Similarly, in December 1997, a seconded civil servant was appointed Chair of both the Environmental Assessment Board and Environmental Appeal Board.⁹³ This raised concerns that as a civil servant on secondment, the chair would be perceived to be too closely allied with the government, that it would seem inappropriate for the staff of government ministries and agencies appear before "one of their own," and that the result

would be that the Board's decisions would lack credibility.⁹⁴

Similar concerns have been raised regarding the impact of recent appointments on other regulatory and adjudicative bodies, including ones outside of the environmental field.⁹⁵ Both the Chief Justice of Ontario,⁹⁶ and the Ombudsman⁹⁷ have felt the need to make public statements regarding the need to ensure the independence and impartiality of the province's adjudicative agencies in light of these appointments.

Delegated Regulatory Organizations

The practice of delegating provincial regulatory functions to non-governmental actors has been a major feature of the past four years. These changes have taken a number of different forms. In the case of the Ministry of Natural Resources, self-monitoring and compliance systems have been established for the forestry, aggregates, petroleum, brine, commercial fisheries, and fur industries which were previously regulated by the Ministry. Similar arrangements have been proposed for the baiffish industry and have been under consideration regarding the regulation of the closure of mines by the Ministry of Northern Development and Mines since the enactment of amendments to the *Mining Act* through Bill 26 in January 1996.

In the case of the Ministry of Consumer and Corporate Relations, in May 1997 the regulatory functions of the Ministry related to underground storage tanks, boilers, pressure vessels, fuels, elevators, amusement devices, and upholstered furniture were transferred to a private organization called the Technical Standards and Safety Authority (TSSA). The Authority's board of directors is dominated by representatives of the industries it is to regulate.⁹⁸ The Independent Market Operator and Electrical Safety Authority are similar entities created through Bill 35, *The Energy Competition Act, 1998*.

Serious questions regarding the implications of these transfers have been raised by the Environmental Commissioner,⁹⁹ Provincial Ombudsman¹⁰⁰ and Information and Privacy Commissioner.¹⁰¹ There are particular concerns that, as these functions are no longer be carried out by provincial government agencies, they escape the application of such statutes as the *Environmental Bill of Rights, Freedom of Information and Protection and Privacy Act, Ombudsman Act, Environmental Assessment Act, and the French Language Services Act* and mechanisms for public and legislative oversight and accountability, such as the Provincial Auditor.¹⁰² Although some of these entities, such as the TSSA, carry out law enforcement activities, it is also unclear whether the *Canadian Charter of Rights and Freedoms* applies to their actions.

Ministry of Environment and Energy Standards Review

The Ministry of Environment and Energy announced a major project to revise its standards for water, air and soil contaminants in October 1996.¹⁰³ Air standards were to be a priority in this review, as the province's current standards in this area are widely recognized as being out of date and inadequate.¹⁰⁴

The standards revision process to date has been extremely slow. In the first year of the review only one new standard was adopted, an Acceptable Air Quality Criteria (AAQC) for PM10 (particulate matter up to 10 microns in diameter). However, even this standard was a guideline, and would not be incorporated into existing Certificates of Approval.

Proposals for revised air standards for 10 toxic substances were posted on the EBR environmental registry in March 1998.¹⁰⁵ However, in some cases, the proposed standards were significantly weaker than the proposals put forward by the Ministry in January 1997.¹⁰⁶ Proposals for new standards for four heavy metals (nickel, chromium IV, cadmium and arsenic), which included some of the most dramatic changes, were dropped altogether. The revised standards for nine substances were adopted in December 1998.¹⁰⁷ Table 2 provides a comparison between the Ministry's original January 1997 proposals, and the proposals posted in March 1998, and the final December 1998 decisions.

There were indications that very strong lobbying from the affected industries was a major factor in the weakening of the Ministry's January 1997 proposals. It was reported in the press that these industries had been given opportunities to 'preview' the proposed standards before they were made available to the general public.¹⁰⁸

The Ministry of the Environment posted proposed revisions to an additional 18 standards for hazardous air pollutants in January 1999.¹⁰⁹ As of June 1999 no action had been taken to implement these proposals. There have been strong indications that the Ministry of the Environment intends to rely on Canadian Council of Ministers of the Environment (CCME) for virtually all other new standards to be adopted through the standards revision program.¹¹⁰ The CCME standards developed process have been widely criticized for leading to lowest common denominator outcomes.¹¹¹

Table 2. 2 - Proposed revisions to standards for hazardous air pollutants

Chemical	Existing Standard	January 1997 Proposals	March 31, 1998 EBR posting	December 23, 1998 Decision	Comments
1,2 dichlorbenzene	None	AAQC: 230 ug/m ³ (24 Hour) POI: 690 ug/m ³	AAQC: 95 ug/m ³ (24 hour) POI 285 ug/m ³	AAQC: 95 ug/m ³ (24 hour) POI 285 ug/m ³ (standard)	Stronger than January Proposal but only a guideline.
Formaldehyde	AAQC: 65 ug/m ³ POI: 65 ug/m ³ (standard)	No Change.	No Change.	No Change	No change from current standard.
Tetrachlorethylene (perchloroethylene)	AAQC: 4000 ug/m ³ POI: 10000 ug/m ³ (guideline)	AAQC: 100 ug/m ³ POI: 300 ug/m ³	AAQC 285 ug/m ³ POI: No proposal.	AAQC: 360 ug/m ³ POI: 10000 ug/m ³ (guideline)	AAQC and POI weaker than January 1997 proposals.
Trichloroethylene	AAQC: 28000 ug/m ³ POI: 85000 ug/m ³ (standard)	AAQC: 640 ug/m ³ POI: 1900 ug/m ³	AAQC: 115 ug/m ³ (guideline) POI: No proposal	AAQC: 115 ug/m ³ (guideline) POI: 3500 ug/m ³ (proposed standard)	AAQC stronger, POI weaker than January 1997 proposals.
1,2 dichloroethane (ethylene dichloride)	AAQC: 400 ug/m ³ POI: 1200 ug/m ³ (guideline)	AAQC: 2 ug/m ³ POI: 6 ug/m ³	AAQC: 2 ug/m ³ POI: 6 ug/m ³ (guideline)	AAQC: 2 ug/m ³ POI: 6 ug/m ³ (guideline)	No change from January proposal.
Carbon Tetrachloride	AAQC: 600 ug/m ³ POI: 1800 ug/m ³ (guideline)	AAQC: 2.4 ug/m ³ POI: 7.2 ug/m ³	AAQC: 2.4 ug/m ³ POI: 7.2 ug/m ³	AAQC: 2.4 ug/m ³ POI: 7.2 ug/m ³ (guideline)	No Change from January Proposal.
Cyclohexane	AAQC: 100000 ug/m ³ POI: 300000 ug/m ³ (guideline)	AAQC: 280 ug/m ³ POI: 840 ug/m ³	AAQC: 500 ug/m ³ POI: 500 ug/m ³ (guideline)	No Decision.	No decision.

Chemical	Existing Standard	January 1997 Proposals	March 31, 1998 EBR posting	December 23, 1998 Decision	Comments
Styrene	AAQC: 400 ug/m ³ POI: 400 ug/m ³ (standard)	AAQC: 125 ug/m ³ POI: 400 ug/m ³	AAQC: 400 ug/m ³ POI: 400 ug/m ³ (standard)	AAQC: 400 ug/m ³ POI: 400 ug/m ³ (standard)	AAQC weakened from January 1997.
Methylene Chloride	AAQC: 1765 ug/m ³ POI: 5300 ug/m ³ (guideline)	AAQC: 50 ug/m ³ POI: 150 ug/m ³	AAQC: 220 ug/m ³ POI: No proposal.	AAQC: 220 ug/m ³ POI: 5300 ug/m ³ (guideline)	AAQC and POI weakened from January 1997 proposal.
Acetaldehyde	No current standard	AAQC: 9 ug/m ³ POI: 27 ug/m ³	AAQC: 500 ug/m ³ POI: 500 ug/m ³	AAQC: 500 ug/m ³ POI: 500 ug/m ³ (guideline)	AAQC and POI weakened from January 1997 proposal.
Cadmium	AAQC: 2000 ng/m ³ POI: 5000 ng/m ³ (standard)	AAQC: 20 ng/m ³ POI: 60 ng/m ³	No proposal.	No Decision	No proposal.
Chromium IV	AAQC: 1.5 ng/m ³ POI: 5 ng/m ³ (guideline) (not clear if existing standard sources conflict).	AAQC: 2 ng/m ³ POI: 15 ng/m ³	No proposal.	No Decision	No proposal.
Nickel	AAQC: 2000 ng/m ³ POI: 5000 ng/m ³ (standard)	AAQC: 200 ng/m ³ POI: 600 ng/m ³	No proposal.	No Decision	No proposal
Arsenic	AAQC: 300 ng/m ³ POI: 1000 ng/m ³ (guideline)	AAQC: 50 ng/m ³ POI: 150 ng/m ³	No proposal.	No Decision	No proposal.

- Notes:** *
- * All AAQCs (Ambient Air Quality Criteria) are 24 Hour.
 - * POI (Point of Impingement) Guidelines would only be applied to new or modified facilities
 - * POI (Point of Impingement) standards would be applied to all new and existing facilities.

Annual Reports of the Provincial Auditor

The Environment has been a major focus of the Provincial Auditor's Annual Reports since 1995.

The Auditor's November 1996 report included the following major points:¹¹²

- the identification of weaknesses in the Hazardous Waste Information System, including the Ministry of the Environment's failure to follow-up on registered generators of hazardous waste who do not report disposal;
- comments on the Ministry of the Environment's failure to act on the findings a 1992 review showed that 226 of 289 air pollutant standards required reduction, reassessment, or further review, to ensure the protection of human health and the environment.
- the identification of deficiencies in the Ministry of Environment and Energy's handling of its water well information system Of 200,000 well records submitted to the MOEE over the past 12 years, only about 30,000 had entered into the water well information system; and
- the failure of the Ministry of the Environment to monitor groundwater quality systematically throughout the province.

The Auditor's November 1997 Annual Report included the following key findings:¹¹³

- the measuring of, and reporting on the Province's waste reduction targets needed to be strengthened;
- the province needed to work with municipalities on reducing the cost of collecting and processing recycled materials as well as implementing a full costing approach for waste disposal;
- the provincial goal of 50% waste diversion from disposal should be incorporated into the Ministry of the Environment's Waste Reduction Branch's business plan;
- the Ministry should expedite the resolution of issues surrounding refillable soft drink containers and address municipal concerns;
- the environmental assessment process required better monitoring of the compliance with EA decision terms and conditions;
- water or sewage expansion projects should not be funded by the province unless municipalities have implemented and maximized water conservation; documentation filing and grant overpayment need to be better monitored as well.

The Auditor's November 1998 report highlighted weaknesses in the Ministry of Natural Resource's wildlife management programs, noting that:¹¹⁴

- the Ministry had not developed proper effectiveness measures to assess the program's success in achieving the sustained development of the province's fish and wildlife resources;
- the Ministry did not have adequate policies in place for the management of big

- game species (moose, deer and bear); and
- that information from the assessment of fish populations and other data were often not available to assist management in managing regeneration, stocking and harvesting.

The report was also critical of Ministry of the Environment's failure to act on the Auditor's 1996 recommendations regarding the revision of the province's standards for hazardous air pollutants.¹¹⁵

Annual Reports of the Environmental Commissioner for Ontario

The Environmental Commission of Ontario has tabled four Annual Reports and two special reports to the Legislature since June 1995.¹¹⁶ These reports all reflected a number of common themes regarding the government's adherence to the requirements of the EBR. These have included:

- failures of ministries to post environmentally significant decisions on the environmental registry, as required by the EBR;
- failures of Ministries to provide Ontarians with adequate time, information and opportunity for comment on those proposed decisions which are posted on the registry; and
- failures of Ministries to assess and report on the environmental effects of proposed changes, or their consistency with Ministry statements of environmental values, as required by the EBR.

The contents of these reports are described in detail in the *Environmental Bill of Rights & Public Participation in Decision-Making* section of this report.

LAND USE PLANNING

Introduction and Overview

The central feature of the government's policies related to land-use in Southern Ontario has been the degree to which they have both facilitated and, in many cases, promoted urban sprawl. This pattern began with the repeal of the Commission on Planning and Development Reform in Ontario's recommended changes to the land-use planning process in March 1996, and continued with the enactment of the December 1997 *Development Charges Act*, the extension of the Land Transfer Tax Rebate Program, the removal of most provincial approval requirements for official plan amendments, subdivisions and land severances, and the activities of the 'Red Tape Commission' to 'streamline' the building approvals process.

Provincial funding for public transit and sewer and water infrastructure was withdrawn through the January 1997 'mega-week' restructuring announcements. Responsibility for the regulation of septic systems was downloaded onto municipalities through Bill 107, *The Water and Sewerage Services Improvement Act*. The Act, which was adopted in May 1997, also made provision for the transfer of the ownership and operation of provincially-owned and operated sewer and water systems to municipalities.

The government has required the amalgamation of many municipalities around the province, in many cases over the clearly expressed wishes of the municipal councils and residents of the affected communities. The most prominent of these initiatives was the amalgamation of the six lower-tier and one upper-tier municipal governments forming Metropolitan Toronto into a single "City of Toronto" in January 1998. Major amendments have also been proposed to the *Municipal Act*, although these have yet to be adopted.

The integrity of the Niagara Escarpment has come under threat in many ways. Approval requirements for the expansion of pre-1975 aggregate extraction activities were largely removed in October 1996, and responsibility for the administration of the *Niagara Escarpment Planning and Development Act* and Niagara Escarpment Commission transferred from the Ministry of the Environment to the Ministry of Natural Resources. Individuals likely to be hostile to the protection of the Escarpment have been appointed to the Commission.

The mandates and authority of the province's 38 Conservation Authorities have been significantly reduced, and provincial funding to Authorities has fallen by an estimated 70% since 1995. Many Authorities report significant reductions in staff and programs as a result. The loss of many of their water quality programs has been of particular concern.

The May 1998 *Farming and Food Production Act* maintained the prohibitions on civil nuisance actions against farmers by neighbouring landowners contained in the 1988 *Farm Practices Protection Act*, and introduced new provisions permitting farmers to seek to have

municipal by-laws intended to control farm related nuisances overturned.

In November 1996, controls on a wide range of activities on public lands, including approval requirements for mineral exploration work, were removed. Approval requirements for activities related to lakes and rivers were significantly reduced. The government responded to the October 1998 recommendations of the 'Land for Life' round tables in March 1999, making commitments to the protection of 12% of the public lands in the planning area, which includes approximately 47% of the province's land area. However, this protection is subject to some significant limitations, including the possibility of the removal of lands from protection for the purpose of mining. At the same time, there are indications that the tenure of forestry operations on public lands outside of the protected areas may be extended to the point of virtual ownership.

Land-Use Planning

Bill 20, the Land Use Planning and Protection Act, 1996, and new provincial policy statement.

A number of significant changes to the land-use planning system introduced by the previous government as a result of the work of the Commission on Planning and Development Reform in Ontario, were repealed through Bill 20 (The *Land Use Planning and Protection Act*)¹¹⁷ in March 1996. The Commission's work had placed a strong emphasis on ecosystem based approaches to planning and the containment of urban sprawl.¹¹⁸

In particular, the Bill 20 amendments removed the requirement that municipal planning decisions be consistent with provincial planning policy statements. Instead, such decisions must simply "have regard to" provincial policy. In addition, the participation of the Ministries of Environment and of Natural Resources in reviewing development proposals was limited to situations where they are invited to do so by the Ministry of Municipal Affairs and Housing. Both Ministries have subsequently ended almost all of their activities related to land use planning.¹¹⁹ In the past, both had acted as voices for environmental protection and natural resources conservation in the planning process.

A new Provincial Policy Statement was introduced at the time of the passage of Bill 20 in 1996, replacing the set of Comprehensive Policy Statements adopted in 1995. The new Policy Statement weakened requirements related to natural heritage and environmental protection in a number of significant ways. Specifically, the protection for wetlands was altered to apply to a smaller area of the province, and to remove explicit requirements for impact studies of proposed developments in or adjacent to wetlands.¹²⁰

In addition, references to the protection of significant ravine, river and stream corridors and adjacent lands, were placed by a less specific reference to "significant valleylands." Reference to the protection of the habitat of 'vulnerable' species, and shorelines of lakes, rivers and streams, natural corridors, and biodiversity conservation were completely removed from the Provincial Policy Statement.¹²¹ The 1995 Conservation

Policy Statement, which had been intended to promote water and energy efficiency, the 3Rs and the use of public transit, was entirely deleted from the new policy statement.

Although the Bill 20 amendments to the *Planning Act* were intended to give municipalities more control over the planning process the Minister of Municipal Affairs and Housing has overridden local planning decisions on a number of occasions in favour of particular economic interests. This has been especially true with respect to the aggregates industry,¹²² and is discussed in more detail in the section on *Mineral Aggregates, Petroleum Resources, and Brine Industries*.

Development Approval Delegation

In December 1997, the Ministry of Municipal Affairs and Housing released an implementation strategy for the delegation of development approval authority to municipalities under Bill 20. The first phase of the strategy was completed in January 1998, exempting official plan amendments of most regional and single tier municipalities from provincial approval requirements. In the second phase, requirements for provincial approval will be removed for most consents (i.e. land severences), subdivision and condominium approvals, and lower tier official plan amendments.¹²³

The removal of requirements for provincial approval of official plan amendments, consents, subdivisions and condominiums will further weaken the degree to which municipalities are required to adhere to the directions laid out in the Provincial Policy Statement in their planning decisions. This is likely to result in even less protection for ecologically significant areas and prime agricultural lands in the planning process and a further facilitation of urban sprawl.

Development Charges

Bill 20 also amended the *Development Charges Act* to require that all new development charges by municipalities be approved by the Minister of Municipal Affairs and Housing. Development charges are applied by municipalities to new developments to support the infrastructure necessary to support them. During debate on the Bill, the Minister of Municipal Affairs and Housing stated that approval would only be granted to municipalities for development charges for "hard" services, such as roads and sewers. Charges would not be approved to finance new "soft" infrastructure, such as schools and libraries. These services will have to be provided to new developments out of existing municipal resources.

These directions continued through the *Development Charges Act*, adopted in December 1997.¹²⁴ The Act:

- reduced the scope of services eligible for development charges to exclude services that benefit the broader community, such as cultural and entertainment facilities, tourism facilities, parkland acquisition, hospitals, waste management services and

- city halls;
- required the discounting by 10 per cent of certain services such as transit and recreation facilities;
- limited development charge revenues to anticipated capital costs; and
- prohibited the imposition of new charges, in addition to development charges, through conditions of approval or agreements under the *Planning Act*.

These provisions effectively require municipalities to subsidize urban sprawl, by limiting the degree to which municipal governments can require that the infrastructure costs of new developments to be internalized.

Land Transfer Tax Exemption

The impact of the removal of constraints on urban sprawl and termination of provincial efforts to promote urban intensification in the government's new provincial Planning Policy Statement was compounded by the government's May 1996 Budget. The budget suspended the Land Transfer Tax on the purchase of new houses for nine months, effectively providing a subsidy to the purchase of houses in new urban developments. This rebate of up to \$1,725 per new home, which was continued in the 1997 and 1998 budgets, encourages urban sprawl by subsidizing the purchase of homes in new developments. Total expenditures under the program were over \$16 million in the 1996-97 fiscal year, and rose to over \$20.5 million in the 1997-98 fiscal year.¹²⁵

Conservation Lands Taxation

Significant changes to the property tax assessment regime for conservation, managed forest and farm lands were made through the *Fair Municipal Finance Act*, passed in May 1997. The reforms converted existing rebate programs into either an exemption from property taxation (conservation lands) or a new property class with a tax ratio of .25 of residential rates (farm and managed forest lands). Conservation lands are defined as endangered species habitat, areas of natural and scientific interest (ANSIs), provincially significant wetlands (classes 1-3), Niagara Escarpment natural zones, and lands which contribute to provincial conservation objects that are owned by non-profit conservation groups. Conservation Authorities are to be treated in the same fashion as any other landowner.¹²⁶

While the announcement of the conservation lands program emphasized the need for long-term support for private landowners, in 1998 MNR staff placed a moratorium on adding new lands under the "Other Conservation Lands" portion of the program. This category was intended to cover lands held for conservation purposes by land trusts and similar organizations. As a result, non-profit groups have had to pay taxes at full rates while the program is being re-evaluated.

To qualify for the farm program, applicants must demonstrate that they are bona fide farmers with a certain income, and also must be members of the Ontario Federation of

Agriculture or the Christian Farmers' Association. This may limit the availability of tax relief to organic farmers. A large part of the managed forest program is administered by the Ontario Forestry Association and the Ontario Woodlot Association.¹²⁷

Downloading and Restructuring

Downloading/Who Does What?

A panel on municipal and provincial roles and responsibilities chaired by former Toronto mayor David Crombie delivered its report on environmental and transportation matters in November 1996. The government moved to implement elements of the *Who Does What? Panel's* recommendations through a series of Bills introduced in January 1997 during what the government labelled "mega-week." Major components included the withdrawal of provincial funding for municipal sewer and water services and transportation infrastructure, including public transit, and the transfer of provincially operated sewer and water systems to municipalities. Responsibility for the regulation of septic systems was also transferred to municipal governments through Bill 107, the *Water and Sewage Services Improvement Act*¹²⁸ introduced as part of the "Mega-week" package, and enacted in May 1997.

The withdrawal of subsidies for new sewer and water and road infrastructure may have the effect of curbing urban sprawl. However, serious concerns were raised regarding the possibility of the privatization of municipal sewer and water services,¹²⁹ and the approval of inappropriate uses of septic systems to support new development.¹³⁰ The future provision of public transit systems was also thrown into question given removal of provincial funding for such services.

Municipal Amalgamations

The government has required the amalgamation of many municipalities around the province, in many cases over the clearly expressed wishes of the municipal councils and residents of the affected communities. The most prominent of these initiatives was the amalgamation of the six lower-tier and one upper-tier municipal governments forming Metropolitan Toronto into a single "City of Toronto" in January 1998¹³¹ Although such amalgamations do not have a direct impact on the environment, serious concerns have been raised regarding the long-term effect of these moves on environmental policy development and implementation at the local level.

Local governments have often been centres of innovation in the development and delivery of environmental programs, and the province's moves to produce much larger municipal units may reduce opportunities for such innovations in the future.¹³² Existing innovative approaches to program delivery may also be lost through the amalgamation process and the resulting standardization of programs throughout the amalgamated entity.

Municipal Act Amendments

In February 1998 the government proposed extensive amendments to the *Municipal Act*.¹³³ The proposals would give municipalities clearer authority to make by-laws in a number of areas related to the environment, including public health and safety, waste management, nuisance, noise, odour, vibration, illumination, dust, tree protection and the "natural environment." At the same time, however, the proposed amendments would prohibit municipalities from preventing competition from the private sector in the delivery of municipal services, such as waste management and public transit.

The proposed amendments have led to expressions of concern that the private sector will provide municipal services on profitable routes, and leave municipal governments having to provide services in less profitable areas. Concerns have also been raised about degree to which the Act would permit the Cabinet to restrict the powers of municipalities under the Act, or any other Act of the Legislature, through regulations.¹³⁴

Conservation Authorities

There are 38 Conservation Authorities in Ontario. They are the only institutions in the province established on an ecosystem basis, being organized around major watersheds. First established in 1946, the Conservation Authorities own or are responsible for the management of 121,400 hectares of land in Ontario. Their lands include a wide range of ecologically significant areas, such as wetlands, ravines and woodlots.

Conservation Authorities have been heavily affected by the "Common Sense Revolution." Provincial capital and operating support to Authorities has declined by approximately 70%.¹³⁵ Amendments were also made to the *Conservation Authorities Act* through Bill 26 in January 1996 to limit the mandate of authorities and facilitate their dissolution and the sale of their lands. The use of provincial funds by Authorities has been limited to flood control activities and the payment of property taxes.¹³⁶

Smaller Authorities, operating in rural areas, have tended to be the most heavily affected by the province's reductions in financial support, as they often have been most dependent upon such support. The results of an informal survey of Conservation Authorities regarding the impact of the withdrawal of provincial support conducted in late 1996 by the Federation of Ontario Naturalists (FON) are presented in Table 2.3.

The Authorities responding to the FON's survey indicated that they had typically lost between 20 and 50% of their staff, and more than half indicated that they had terminated programs, or changed the way in which they manage their lands to bring in additional income. In particular, some authorities have indicated their willingness to sell lands, even donated properties or properties purchased with donated funds, in order to generate income.¹³⁷

Table 2.3 : Effect of Provincial Changes on Conservation Authorities

Conservation Authority:	Percentage of Staff Lost	Discontinued Programs ¹	Additional Revenue sought from Lands ²
Ausable / Bayfield	50%	NA	Yes
Cataraqui	50%	Yes	Yes
Catfish Creek	0%	No	Yes
Central	20%	NA	No
Credit Valley	33%	Yes	NA
Essex	25%	NA	Yes
Kawartha	54%	Yes	No
Kettle Creek	43%	Yes	No
Lake Simcoe	21%	No	Unsure
Lower Trent	30%	Yes	NA
Long Point	23%	No	No
Metro Toronto	20%	NA	Yes
Niagara	25%	NA	No
Nickel District	50%	Yes	Yes
Nottawasaga	0%	Yes	Yes
Rideau	22%	Yes	Yes
South Nation River	0%	Yes	Yes

Notes : 1) Actual Question: "Have programs been discontinued?"
2) Actual Question: "Will lands be managed differently to bring additional income?"

Source: 1996 Survey of Conservation Authorities by the Federation of Ontario Naturalists

Bill 25, The Red Tape Reduction Act, 1998.

The role of Conservation Authorities was further weakened by Bill 25, the *Red Tape Reduction Act, 1998*. Schedule I of the Bill, enacted in December 1998, amended the *Conservation Authorities Act* to remove the requirement for Conservation Authority approval for changing, diverting or interfering with watercourses, wetlands, Great Lakes - St. Lawrence River shorelines, inland lakes, river and stream valleys, and hazardous lands for activities approved under the *Aggregate Resources Act* (i.e. aggregate extraction).

Niagara Escarpment Commission

The Niagara Escarpment is internationally recognized as a World Biosphere Reserve by the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Niagara Escarpment Commission (NEC) was established under the 1973 *Niagara Escarpment Planning and Development Act*. The NEC administers the Niagara Escarpment Plan, which was adopted in 1985 by the previous Progressive Conservative government, and renewed in 1994 after a public review process. The Plan effectively "zones" the Escarpment into protective land use categories, and limits the uses which may be undertaken within these zones. All new land uses or developments within the plan area require a development permit from the NEC, with the exception of some mostly minor exemptions provided by regulation.

Like the province's Conservation Authorities, the Niagara Escarpment Commission has been heavily affected by budgetary reductions, amounting to a loss of approximately 36% of its budget measured against the 1994/95 fiscal year¹³⁸ and a reduction in staff from 38 positions to 23.¹³⁹

The integrity of the Escarpment plan has been under attack in a number of ways. In August 1996, the Ministry of Environment and Energy proposed to exempt aggregate pits and quarries licensed before June 10, 1975 (when provincial development control of the Escarpment began) from having to obtain permits from the NEC to expand their facilities.¹⁴⁰ The proposal had the potential to affect several aggregate operations on the Escarpment, and was widely seen as an attempt to reverse a court decision that the facilities in question did have to obtain a development permit in order to expand their operations.¹⁴¹

Following strong protest from environmental and conservation organizations, the proposal was modified to require development permits for activities involving the taking of water and its discharge into the environment, and for the construction of buildings and structures needed for aggregate operations which commenced prior to June 1975. It was incorporated into regulation in October 1996.¹⁴² However, the modified decision was widely criticized as effectively leaving the original exemption proposal intact.¹⁴³

It was subsequently revealed in May 1997, that the then Minister of Environment and Energy, Brenda Elliott, when questioned by a quarry operator in March 1996, had advised them to continue expanding a pit on the Escarpment, despite the court decision requiring it to obtain a development permit from the Commission.¹⁴⁴ The Minister's action was revealed in the course of a private prosecution regarding the expansion of the quarry in question.¹⁴⁵

Concern over the future of the Escarpment was heightened when responsibility for the administration of the Escarpment Plan and the Commission was transferred from the Ministry of Environment and Energy to the Ministry of Natural Resources in March 1997. The transfer, which was widely interpreted as a personal defeat for the Minister of Environment and Energy, Norm Sterling,¹⁴⁶ was compared by the Coalition on the Niagara Escarpment (CONE) with "putting Dracula in charge of the blood bank,"¹⁴⁷ given the Natural Resources Ministry's close association with the Aggregates industry and dual roles as regulation of both natural resources exploitation, and natural areas protection.

The 1997 and 1998 saw the appointment of a number of Commissioners who were likely to be hostile to the principles of protecting the Escarpment.¹⁴⁸ The government's appointments to the Commission included the former President of the Aggregate Producers' Association of Ontario.¹⁴⁹

In June 1998, the Niagara Escarpment Commission voted to reject the advice of its professional planning staff and approve a major winery-related resort development on lands designated Escarpment Protection Area within the Niagara Escarpment Plan Area. The property in question includes a provincially significant Area of Natural and Scientific Interest that is designated Escarpment Natural Area in the Niagara Escarpment Plan. In November 1998, a report by independent Hearing Officers recommended that the proposed development, which includes a winery and 120-seat restaurant; a culinary teaching centre (including a lecture theatre, teaching kitchen, and greenhouse); and 56 guest cottages, each housing two people, be approved.¹⁵⁰

The Coalition on the Niagara Escarpment, some local vintners, and Niagara Escarpment Commission planning staff have all stated that if the development is approved, it would set a precedent for resort developments in the rural parts of the Niagara Escarpment Plan Area. Resorts are supposed to locate on lands designated Escarpment Recreation Area, Urban Areas, or Minor Urban Centres (i.e. villages). "The floodgates will be open for other developers to apply for similar approvals to destroy the escarpment - a UNESCO World Biosphere Reserve" according to CONE.¹⁵¹ In January 1999, the Niagara Escarpment Commission recommended to the Minister of Natural Resources that the project be approved, and it is now before Cabinet for a decision.

The government's May 1998 budget included a commitment to spend \$20 million over four years to purchase lands for protection purposes.¹⁵² \$13 million of this was earmarked for Escarpment lands. The remainder was for lands in the Rouge Valley and at Lynde Marsh in Whitby.¹⁵³

The *Farming and Food Production Protection Act, 1998*

In June 1997, the government introduced the *Farming and Food Production Protection Act*. The Bill received Royal Assent and came into force in May 1998. The Bill maintained the prohibition in the 1988 *Farm Practices Protection Act* against neighbours of farms from undertaking civil law actions in relation to nuisances which arise from 'normal' farm practices. It also permits farmers to appeal municipal by-laws to control such nuisances to 'Normal' Farm Practices Protection Board. The Board is granted power to disallow these by-laws in response to an appeal by a farmer.¹⁵⁴

The legislation is particularly disturbing given that a draft State of the Environment Report prepared by the Ministry of Environment and Energy and released to the public in February 1997, indicated that runoff from agricultural operations was the leading cause of declining surface water quality in Southern Ontario.¹⁵⁵ Evidence of the growing environmental impacts of industrial agricultural operations in the province has also emerged from other sources.¹⁵⁶

Public Lands

Public lands constitute 87% on Ontario's total land area.¹⁵⁷ Major changes to the planning and control system for public lands were set in motion through the January 1996 Bill 26 amendments to the *Public Lands Act* and the *Lakes and Rivers Improvement Act*. These replaced the existing statutory requirement to obtain approval from the Minister of Natural Resources before undertaking any activities on public lands or affecting public waterways, with provisions which permit the cabinet to make regulations defining when approvals will be required.

In November 1996, regulations were adopted to implement these changes. Approval requirements for mineral exploration activities on public lands were removed, including clearing, mechanical stripping, bulk sampling, drilling and blasting, moving heavy equipment and drilling rigs and building trails.¹⁵⁸ Regulations under the *Lakes and Rivers Improvement Act* removed requirements for approvals from the Ministry of Natural Resources for a wide range of "small-scale" activities affecting shorelines, lakes and rivers, such as the construction of docks and boathouses, and the removal of aquatic plants.¹⁵⁹

In April 1997, the Ministry of Natural Resources announced a "Lands for Life" initiative. This was intended to establish a broader planning process for the future use of public lands in the province. In June 1997, three "Regional Round Tables" were appointed to seek public input and make recommendations on future land use in the Boreal East (bounded by Kirkland Lake, Hearst and Wawa), Boreal West (North of Superior from Marathon to Thunder Bay to Fort Frances) and Great Lakes-St Lawrence planning areas.¹⁶⁰ The Round Table recommendations were presented in October 1998.

The government announced its response to the recommendations of the 'Lands for Life' Round Table Reports in March 1999, stating its intention to protect 12% of the lands in the planning area from development, a significant increase over current levels and the recommendations of the Round Tables.¹⁶¹ However, this commitment is subject to a number of major concessions to the forestry and mining industries, and other interests. In the case of mining, statements issued by the Ministry of Northern Development and Mines indicate that mineral tenure in new parks and protected areas is to be maintained, prospecting and exploration permitted in these areas, and land 'borrowed' from parks for mining purposes if significant mineral deposits are found. More than \$20 million in new subsidies to the mining industry are also to be provided.¹⁶²

With respect to forestry, the government has committed to: no long-term reduction in wood supply; no increases in the costs of the wood supply; potential exemptions for the biodiversity protection provisions of the *Crown Forest Sustainability Act* in areas where intensive silviculture is to be practiced; and \$21 million in new subsidies and compensation to the forest industry.¹⁶³ The issue of extended tenure for forest companies was not addressed in the government's announcements, but extensions of tenure appear to be implicit in the 'Lands for Life' process. Statements issued by the government also indicate that any future expansion of parks and protected areas will require the "mutual agreement" of the forest and mining industries.¹⁶⁴ Finally, commercial fur harvesting and sport hunting

and fishing are to be permitted in most new protected areas.¹⁶⁵

It is important to note that the elements of the Ministry of Northern Development and Mines' announcements on March 29 regarding mining directly contradicted provisions of the 1999 Ontario Forest Accord, signed by the representatives of the Partnership for Public Lands,¹⁶⁶ the forest industry and the Ministry of Natural Resources. The Accord stated that mining would be excluded from parks and protected areas,¹⁶⁷ provided for interim protection from mining activities for areas proposed as parks or protected areas,¹⁶⁸ and stated that the Ontario Forest Accord Advisory Board would develop a strategy for additions to the parks and protected areas system.¹⁶⁹

ENVIRONMENTAL SCIENCE, MONITORING AND EDUCATION

Overview and Summary

Environmental research and monitoring programs are essential components of environmental protection systems. Environmental science enables the identification of emerging problems, the establishment of priority areas for action, and the evaluation of the effectiveness of the policies and programs which are put in place in response to these challenges.

Environmental monitoring is also critical to holding governments accountable for their actions with respect to the environment. This is especially important in the context of the enormous changes which have been made to Ontario's environmental laws and institutions over the past four years. Throughout the 1995-1999 period, the Premier¹⁷⁰ and the Minister of Environment and Energy¹⁷¹ insisted that the government's actions would not result in damage to the environment or human health. The only way in which these claims could be assessed is through the results of environmental monitoring programs.

Unhappily, the overwhelming trend in environmental science and monitoring in Ontario over the past four years has been one of retreat by the provincial government. Many independent and authoritative agencies both within and outside of the province have delivered reports highlighting the decline of environmental conditions in Ontario, and in the provincial government's capacity to monitor and assess this situation.

Major changes to the elementary school curriculum were adopted in April 1998, and revisions to the secondary curriculum in March 1999. In both cases the environmental content of the curriculum was significantly reduced. This may represent one of the most significant changes in environmental policy undertaken by the province, as in the long term it will result in a population that is less aware of the environmental challenges facing Ontario society.

Budgetary Reductions and Program Terminations

The province's environmental monitoring, research and science activities have been among those most heavily affected by the budgetary reductions and program terminations over the four year duration of the 'Common Sense Revolution.' The withdrawal of most funding for environmental research external to the provincial government (i.e. universities) was among the government's earliest actions.¹⁷² Research programs on environmental technologies, energy efficiency and waste management were also eliminated.¹⁷³

In 1996, the major reductions in the budgets of the Ministries of Environment and Energy (MoEE) and of Natural Resources (MNR) resulted in the lay-off of large numbers of scientific personnel, the termination of long-term research projects.¹⁷⁴ Some of the specific losses in capacity are detailed in Figure 2.5.

Figure 2.5 : Lost environmental monitoring capacity in 1995-1996 period

According to the Ontario Public Service Employees Union, the Environmental Commissioner of Ontario and the Ministry of Natural Resources, the following reductions were made within the first two years of the Ontario government's mandate:

- a reduction in the number of MoEE Air Quality Monitoring Stations from 35 to 20 facilities;¹⁷⁵
- a reduction in the number of MoEE Water Quality Monitoring Facilities from 700 in 1991 to 200 today. It is has been reported that no facilities remain in operation north of Barrie;¹⁷⁶
- a 53% reduction in MoEE groundwater and hydrogeology staff;¹⁷⁷
- a 21% reduction in MoEE aquatic, aquatic toxicology and ecosystem science staff;¹⁷⁸
- the termination of drinking water testing services for municipalities by the Ministries of Environment and Energy and of Health;¹⁷⁹
- the disbandment of the MoEE's Marine Service Unit, which provided vessels and staff for sampling water and sediments and obtaining data for geographic information systems;
- a reduction in the number of sites monitoring acid rain deposition from 39 to 16. Ten years of deposition data have yet to be analyzed, and quality assurance procedures have been reduced as a result of budget cuts. This may compromise the completeness and integrity of the data collected. There is evidence of continuing serious impacts of acid rain, and of a need for further action to curb acid rain causing emissions;¹⁸⁰
- 61% of the science and technology staff of the Ministry of Natural Resources' Forest Management branch were laid off;¹⁸¹
- fish and wildlife field assessment programs delivered by MNR would be "significantly impacted," by restructuring, especially the Science, Technology and Transfer Units, Fisheries Assessment Units, and Great Lakes Assessment Units;¹⁸² and'
- testing services for pesticide residues provided to the Ministry of Environment and Energy by the Ministry of Agriculture, Food and Rural Affairs were terminated.¹⁸³

Independent Assessments

The province's weakening of its environmental science and monitoring capacity has prompted expressions of concern from a number of sources. The Environmental Commissioner highlighted the growing problems in her April 1997 Second Annual Report, particularly in the areas of drinking water testing and monitoring the impacts of acid rain.¹⁸⁴ The Commissioner's April 1998 third Annual report expanded on these themes, noting that data were not being collected in such areas as:

- the loading of toxic substances into Ontario's lakes and rivers;
- the presence of persistent toxic substances in sewage treatment plant effluent;
- total loadings of raw sewage spills into waterways;
- the condition of the more than 1 million septic systems in the province;
- inventories of emissions of inhalable particles;
- no analysis of figures for harvested forest areas since 1991;
- few population surveys of small game species or non-game wildlife.
- no population estimates for most wildlife species that are considered vulnerable, threatened or endangered;
- no analysis of big game mortality; and
- weak information on rare species in Northern Ontario.¹⁸⁵

The Provincial Auditor highlighted weaknesses in the province's monitoring programs for ambient air quality, hazardous waste management, and surface and

groundwater quality in his 1996 Annual Report.¹⁸⁶ Major gaps in the Ministry's of Natural Resource's fish and wildlife monitoring programs were identified in the Auditor's 1998 report.¹⁸⁷

Serious concerns about the impact of budgetary reductions to environmental research programs in the Great Lakes basin by federal, state, and provincial governments, including Ontario's, were expressed by the International Joint Commission (IJC) in its 1996 8th *Eighth Biennial Report on Great Lakes Water Quality*. The Commission is responsible for overseeing and reporting on the implementation of the 1978 *Canada-U.S. Great Lakes Water Quality Agreement*. The Commission noted that by 1997, a reduction of between 47-62% in the number of researchers active in the basin was projected against a 1991-92 baseline.¹⁸⁸

In its report, the IJC also noted that programs under the *1994 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem (COA)*, such as targets for the achievements in Remedial Action Plans, and persistent toxic substances reductions, "are under stress from government restructuring and resource constraints, as well as regulatory review in Ontario."¹⁸⁹ The COA agreement is the primary vehicle for the implementation of Canada's obligations under the *Great Lakes Water Quality Agreement*.

Commission's expressed its concerns more strongly in its 1998 *9th Biennial Report*, observing that:

"The ability of governments at all levels to deliver, however, is being stressed, and programs to restore and protect the Great Lakes have drastically slowed or halted."¹⁹⁰

Concerns over the decline in environmental monitoring capacity in Ontario and elsewhere in North America have also been expressed by the North American Commission on Environmental Cooperation.¹⁹¹

The Evidence of Harm

Over the past two years reports have been published by a range independent and authoritative bodies identifying major threats to the health of Ontarians and their environment. These included an October 1998 report from the North American Commission on Environmental Cooperation,¹⁹² indicating that the province was the third largest source of releases to the environment and transfers to disposal of pollutants in Canada and the United States.¹⁹³ As shown in Table 2.4, Ontario's 1995 releases and transfers of pollutants were exceeded only by those of the states of Texas and Louisiana.

Other reports from the Commission on Environmental Cooperation,¹⁹⁴ Environmental Commissioner for Ontario,¹⁹⁵ Ontario Medical Association,¹⁹⁶ International Joint Commission,¹⁹⁷ the Acidifying Emissions Task Group of the National Air Issues Coordinating Committee,¹⁹⁸ the North East States for Coordinated Air Use Management,¹⁹⁹ and the University of Toronto²⁰⁰ have stressed the province's air pollution problems and their impacts on human health.

A report by the Office of the Fire Marshal in the aftermath of the July 1997 Plastimet PVC fire raised serious questions about the adequacy of the province's regulation of waste 'recycling' and handling sites.²⁰¹ Similar issues were identified by the Canadian Institute for Environmental Law and Policy in a February 1998 report on the management of hazardous wastes in Ontario.²⁰²

Additional reports have raised concerns over dam safety,²⁰³ the health of the Great Lakes Basin Ecosystem²⁰⁴ the impacts of climate change on Ontario,²⁰⁵ and the safety at Ontario Hydro's nuclear generating facilities.²⁰⁶

Many of these reports made recommendations for immediate action by government to address the problems identified. The province has taken virtually no action to implement these recommendations.

Table 2.4 : The Top Twelve Jurisdictions in North American Releases and Transfers by State and Province, 1994 (Matched Chemicals and Industries)²⁰⁷

Province/ State	Population (1994)	Total Releases and transfers (kg) (1994)	Total Releases and Transfers (kg (1995)
Texas	18,378,000	134,570,175	151,082,326
Tennessee	5,175,000	79,366,746	48,249,163
Ontario	10,928,000	78,803,309	74,278,803
Ohio	11,102,000	73,481,781	71,555,943
Louisiana	4,315,000	70,018,775	74,495,761
Illinois	11,752,000	69,769,517	49,704,025
Alabama	4,219,000	65,189,966	49,861,913
Pennsylvania	12,052,000	59,436,588	56,361,058
Michigan	9,496,000	56,855,878	47,645,358
Mississippi	2,669,000	55,278,082	24,821,703
Indiana	5,752,000	53,444,669	46,399,360
Quebec	7,281,000	52,809,233	27,336,541

State of the Environment Reporting

The question of environmental monitoring was highlighted by the controversy in early 1997 over the release of a draft "state of the environment" report prepared by the MoEE in 1992. The Ministry initially denied the existence of the report in response to a

freedom of information request.²⁰⁸ However, the report was subsequently released by the Minister of Environment and Energy.²⁰⁹ It was also reported that the Ministry had begun work on a more comprehensive report for release in 1995, but determined that completing and releasing the report was not worth the estimated \$250,000 cost.²¹⁰

In a letter in response to a March 1997 request from a coalition of environmental organizations that the Ministry commit itself to delivering regular State of the Environment Reports, so that the government's claims that its actions were not having a negative effect on the environment could be validated,²¹¹ the Minister stated that such a report would be "a waste of taxpayers' money."²¹²

Environmental Education Curriculum

Finally, one of the most significant, yet least noticed, environmental initiatives of the government were the changes to province's elementary and secondary school curricula. In April 1998 the government adopted a new elementary school curriculum. The environmental content of the new curriculum was significantly reduced. An evaluation of the new curriculum by the Ontario Society for Environmental Education concluded that its environmental content averaged less than five percent of learning outcomes for all grades except Grade 7. The Society concluded that there are few and only fragmented requirements for awareness or knowledge building on environmental subjects in lower grades.²¹³

A new secondary curriculum was adopted in March 1999.²¹⁴ Its environmental content has also been reduced. These changes to the school curricula may represent one of the most significant changes in environmental policy undertaken by the province, as in the long term it will result in a population that is less aware of the environmental challenges facing Ontario society.

Strengthening Monitoring Capacity?

There were only two measures throughout the four-year Common Sense Revolution period which could be regarded as having the potential to strengthen environmental science and monitoring capacity in the province.

Research and Development Challenge Fund

In the government's 1997 budget, the Finance Minister announced that an R&D Challenge Fund was to be established. The Fund provides tax credits and some direct support to industries conducting research and development primarily in advanced technology. Environmental Sciences were listed as one of four target areas after Natural Sciences and Engineering, Mathematics and Health Sciences. All disciplines, however, were eligible to apply to the Fund. In her April 1999 Annual Report the Environmental Commissioner of Ontario noted that not a single environmental science project had been supported by the Fund.²¹⁵

Air Monitoring Network Upgrades

The Province of Ontario claims a \$3 million expenditure to upgrade its air monitoring network over the past few years.²¹⁶ However, the Ontario Public Service Employees Union (OPSEU) reported a reduction in number of air quality monitoring stations from 55 to 40 between May and December 1996 and a 45% reduction in technical staff for monitoring since 1992.²¹⁷

Endnotes

1. See *Ontario Regulation 482/95 and the Environmental Bill of Rights: A Special Report to the Legislative Assembly of Ontario* (Toronto: Environmental Commissioner of Ontario, January 17, 1996).
2. MoEE, *Responsive Environmental Protection*.
3. *Responsive Environmental Protection: A Consultation Paper* (Toronto: Ministry of Environment and Energy, July 1997).
4. Ibid.
5. Environmental Commission for Ontario, 1998 Report (Toronto: ECO, April 1999), pg.158.
6. EBR Registry No. RD7E0001, September 1, 1998.
7. EBR Registry No. RD7E0001, June 12, 1998.
8. Ontario Regulations 324/99 and 325/99, June 1, 1999.
9. ECO, 1998 Annual Report, pp.190-191.
10. *Environmental Bill of Rights*, Ch. 28, S.O., 1993, s.117.
11. The second special report was issued in October 1996. See Environmental Commissioner of Ontario, Keep the Door to Environmental Protection Open: A Special Report to the Legislative Assembly of Ontario (Toronto: Legislative Assembly of Ontario, October 1996).
12. Speaking notes for Eva Ligeti, Environmental Commission of Ontario, New Conference, 11 A.M., April 22, 1997.
13. ECO Press Release, "Environment Low Priority for Province, says Environmental Commissioner," April 29, 1998.
14. ECO, 1997 Annual Report, pg.4.
15. ECO, 1998 Annual Report, pg.??
16. Ibid.
17. "Road illegal, groups claim," The Globe and Mail, December 12, 1996.
18. MoEE, Media Release, April 17, 1997.
19. J.Mahoney, "Groups urge probe of Hydro's dumping into Lake Ontario," The Globe and Mail, June 11, 1997.
20. EBR Request for Review Application 98002.
21. EBR Request for Review Application EBRO 99EBR001.R.
22. J.Saunders, "Inquiry sought into Ontario's air-pollution record," The Globe and Mail, May 17, 1999.
23. Ministry of Environment and Energy EBR Registry Notice, Expiry of Intervenor Funding Act , April 1, 1996.
24. M. Mittelstaedt, "Environmental intervenor funds cut off by Ontario," The Globe and Mail, April 1, 1996.
25. Environmental Assessment Board, "Gary Steacy Dismantling Ltd., Reasons for Decision and Decision," December 1997, EP-97-03.
26. For a detailed discussion of these amendments see Submission of the Canadian Environmental Law Association to the Standing Committee on Resources Development Reviewing Bill 20, pp. 11-12.
27. ECO, Second Annual Report, pg.23.
28. For a detailed analysis of the Bill see M.Winfield, "Brief to the Standing Committee on Social Development Re: Bill 76 - the *Environmental Assessment and Consultation Improvement Act* (Toronto: CIELAP, August 1996). See also R.Lindgren, "Submission of the Canadian Environmental Law Association to the Standing Committee on

Social Development Regarding Bill 76 - the *Environmental Assessment and Consultation Improvement Act, 1996* (Toronto: CELA, July 1996).

29. *Environmental Assessment and Consultation Improvement Act, 1996*, ss.11.4.

30. Ibid., s.15.2.

31. M. Mittelstaedt, "Board approves garbage dump in mine," The Globe and Mail, June 20, 1998.

32. Pers. comm., Tim Gray, Wildlands League, July 1997.

33. R. Gibson and B. Savan, Environmental Assessment in Ontario (Toronto: CELRF, 1986).

34. See, Environmental Assessment Advisory Committee, Reforms to the Environmental Assessment Program (Toronto: Ministry of Environment, 1991)

35. See Review Under the Environmental Assessment Act prepared by Ministry and Agencies of the Province of Ontario: Review of the Laidlaw Environmental Services Ltd. Environmental Assessment Hazardous Waste Landfill Expansion (Toronto: Province of Ontario, December 1996).

36. In a similar case, in July 1996, a 10 million tonne landfill for solid non-hazardous industrial wastes in the town of Stoney Creek, on the Niagara Escarpment was approved without a public hearing before the Environmental Assessment Board. The landfill is operated by a subsidiary of Philip Environmental called Taro Aggregates Ltd. See J. Nichol and S. Nolen, "Dark days at Philip," McLean's, March 2, 1998

37. "Gary Steacy Dismantling Ltd: Reasons for Decision and Decision" (Toronto: Environmental Assessment Board (File EP-97-93), December 1997)

38. Ibid.

39. ECO, Annual Report 1997 Supplement, Appendix C.

40. See EBR Registry No. IA8E1428, October 14, 1998, Environmental Assessment Board file 98-123, Material Resource Recovery SRBP Inc, Application for Amendment to Certificate of Approval for processing PCB wastes.

41. Pers. comm., Brennain Lloyd, Northwatch, May 1998. .

42. "Landfill project gets go-ahead," The Globe and Mail, April 24, 1999.

43. Office of the Provincial Auditor, 1997 Annual Report (Toronto: Queen's Printer, November 1997) pg.123.

44. EBR Registry No. RA8E0008.P.

45. See M. Winfield and R. Nadarajah, "Comments on MoE's Proposal for Standardized Approval Regulations and Approval Exempting Regulations," (Toronto: Canadian Environmental Law Association and Canadian Institute for Environmental Law and Policy, March 1998).

46. Ibid.

47. Ontario Regulation 524/98 (*Environmental Protection Act*) and 525/98 (*Ontario Water Resources Act*), September 30, 1998.

48. EBR Registry No. RA8E0036, December 2, 1998.

49. See Ministry of the Environment, Draft Regulation General - Waste Management, June 2, 1998.

50. Summary Document for the Delivery Strategies - Draft, Ministry of the Environment, April 9, 1998.

51. "Environment and Energy Minister sunsets three committees," News Release, September 29, 1995.

52. "The Policy Advisory Council on Environment," Hazardous Materials Management April/May 1996.

53. Ibid.

54. Letter Re: Bill 26, Savings and Restructuring Act, 1995, (Schedules K and O (*Mining Act* amendments)) from Tom Wright, Freedom of Information and Privacy Commissioner to Jack Carroll, MPP, Chair, Standing Committee on General Government, December 18, 1998. The Commissioner also raised concerns regarding Schedules F (*Independent Health Facilities Act* amendments), G (*Ontario Drug Benefit Act* amendments), H (*Health Insurance Act*). See Letter Re: Bill 26, *Savings and Restructuring Act, 1995*, from Tom Wright, Freedom of Information and Privacy Commissioner to Jack Carroll, MPP, Chair, Standing Committee on General Government, December 21, 1996.
55. Canadian Institute for Environmental Law and Policy Submission to the Standing Committee on General Government Re: Bill 26, The Savings and Restructuring Act, 1996 (Toronto: CIELAP, December 1995).
56. M. Mittelstaedt, "Ontario urged to restore access to information about Hydro," The Globe and Mail, June 10, 1999.
57. For a detailed commentary on Bill 57, see M. Winfield, "Brief to the Standing Committee on Resources Development Re: Bill 57: *An Act to Improve the Efficiency of the Environmental Approvals Process and Certain Other Matters*" (Toronto: Canadian Institute for Environmental Law and Policy, October 1996).
58. For detailed commentaries on the document see M. Winfield and G. Jenish, Comments on Responsive Environmental Protection (Toronto: Canadian Institute for Environmental Law and Policy, October 1996), and Responding to the Rollbacks: Comments on Responsive Environmental Protection (Toronto: Canadian Environmental Law Association, October 1996).
59. See CELA, Responding to the Rollbacks.
60. ECO. Keep the Door to Environmental Protection Open: A Special Report to the Legislative Assembly of Ontario, October 1996.
61. See M. Winfield and G. Jenish, Ontario's Environment and the 'Common Sense Revolution': A Second Year Report (Toronto: CIELAP, 1997) for a detailed summary of the contents of this document.
62. EBR Registry Posting RA7E0030.P.
63. EBR Registry No. RA7E0028.P and RA7E0029.P.
64. EBR Registry Nos. RA7E0018.P-RA7E0026.P.
65. EBR Registry No. RA8E0017, April 3, 1998.
66. EBR Registry No. RA8E0008.P.
67. Ministry of the Environment, "Draft Regulation: General - Waste Management," June 2, 1998.
68. Ontario's Water Polluters: The Ontario Waste Water Discharge Violations Report (Toronto: Sierra Legal Defence Fund, March 1999).
69. M. Mittelstaedt, "Ontario polluters unchecked, group says," The Globe and Mail, May 10, 1999.
70. Summary Document for the Delivery Strategies - Draft, Ministry of the Environment, April 9, 1998.
71. ECO, Report 1998, pg. 192.
72. Ibid., pp. 192-193.
73. For a detailed discussion of REVA see "Comments on EBR Registry Proposal No. (A8E033 (REVA))," CIELAP Brief 1/99, January 1999.
74. Information provided to the Information and Privacy Commissioner by the Cabinet Office in response to CIELAP's appeals of its freedom of information requests regarding the 'Commission's' activities indicate that an Order-in-Council establishing the Commission was not adopted until December 1997.
75. Red Tape Review Commission, Cutting the Red Tape Barriers to Jobs and Better Government (Toronto: Cabinet Office, January 1997).
76. Ibid., pg. vii.

77.Ibid.

78. See "Index of Records, FOI Access Request 98004" (April 1998 CIELAP request for access to records related to communications between the Red Tape Commission and Ministry of the Environment.

79. See letter from Frank Sheehan, Chair, Red Tape Commission, to David H. Bradley, President, Ontario Trucking Association, September 21, 1998.

80. Information and Privacy Commissioner/Ontario, Order PO 1673, Appeal PA-98-213-1, Cabinet Office, April 30, 1999.

81. CIELAP freedom of information requests, April 1998, Cabinet Office Record 16; See also Ministry of the Environment Record 21.

82. Press Release: "Red Tape Commission - Ontario Government Explores 'One-Window' Approach to Building Regulations and Approvals," February 11, 1998.

83. Government Task Force on Agencies, Boards and Commissions, Report on Restructuring Regulatory and Adjudicative Agencies (Toronto: Cabinet Office, February 1997), pg.26.

84. Ibid., pp.34 and 35.

85. Ibid., pg.13.

86. Government Task Force on Agencies, Boards and Commissions, Report on Operational Agencies, (Toronto Cabinet Office, January 1997).

87. S. Josey, "Pickering may allow building on 'green' area," The Toronto Star, February 12, 1997.

88. Task Force on Agencies, Boards and Commissions, Report on Operational Agencies, pg.9.

89. News Release: "Government's Role in Operations of Water and Sewage Treatment Systems to be Reviewed," Office of Privatization, March 9, 1998.

90. Ibid.

91. Winfield and Jenish, Ontario's Environment and the CSR: A Second Year Report, pg.31.

92. In February 1998, the past president of the Aggregate Producers Association of Ontario was appointed to the Commission. Aggregate extraction is seen as a major threat to the integrity of the escarpment. T. Boyle, "Opposition criticizes appointments," The Toronto Star, April 16, 1998.

93. Ministry of Environment and Energy, News Release, "New Chair Appointed for Environmental Assessment and Appeal Boards," December 3, 1997. As Chair of the Environmental Assessment/Appeal Board, the individual concerned is also able to sit as a Hearing Officer for the purposes of the *Niagara Escarpment Planning and Development Act*.

94. Letter to the Hon. N. Sterling, Minister of the Environment, from John Riley, Acting Executive Director, Federation of Ontario Naturalists, December 11, 1997.

95. I. Urquhart, "Power play beneath the surface," The Toronto Star, January 24, 1998.

96. Ibid.

97. Letter to Agency Reform Commission, Re: Regulatory and Adjudicative Agency Reform Consultation from R.L. Jamieson, Ombudsman, November 14, 1997. See also T. Boyle, "Public service sector 'in a state of crisis'," The Toronto Star, June 16, 1999.

98. See M. Winfield and G. Jenish, Ontario's Environment and the 'Common Sense Revolution': A Third Year Report (Toronto: Canadian Institute for Environmental Law and Policy, July 1998), pp.115-125.

99. ECO, Annual Report 1996.

100. Ombudsman Ontario, Annual Report (Toronto: June 1996), pg.3.

- 101.Information and Privacy Commissioner, 1998 Annual Report (Toronto: June 1999) www.ipc.on.ca/web_site.ups/intro/frames.htm.
- 102.The Independent Market Operator created through Bill 35 was brought under the *Freedom of Information and Protection of Privacy Act* through regulation 138/99.
- 103.EBR Registry Notice PA6E0014.P, October 10, 1996.
104. See generally I.Dick, J.McGowan, P.Meneguzzi and J.Swaigen, "Air Quality," in J.Swaigen and D.Estrin, Environment on Trial: A Guide to Ontario Environmental Law and Policy (Toronto: Emond-Montgomery Publishers Ltd. and CIELAP, 1993). See also Office of the Provincial Auditor 1996 Annual Report: Accounting Accountability and Value for Money (Toronto: Queen's Printer for Ontario, 1996), pp.115-116.
- 105.EBR Registry Notices PA8E0009 - PA8E0017, March 31, 1998.
- 106."Proposed Standards Information Package: Presentation Overhead," Standards Development Branch, Ministry of Environment and Energy, January 1997.
- 107.EBR Registry Notices PA8E009-PA8E0017, December 23, 1998.
- 108.M.Mittelstaedt, "Firms get first say on levels of toxics," The Globe and Mail, December 17, 1996.
- 109.EBR Registry Notice PA9E0002, January 22, 1999.
- 110."Background on Other Standards Under Development," Ministry of the Environment, February 1998.
111. See for example, P.Fafard, "Green Harmonization: The Success or Failure of Recent Environmental Intergovernmental Relations," in H.Lazar, ed., Canada: The State of the Federation 1997/Non-Constitutional Renewal (Kingston: Queen's University Institute for Intergovernmental Relations, 1998).
- 112.Office of the Provincial Auditor, 1996 Annual Report (Toronto: Queen's Printer for Ontario, October 1996), pp.112-128.
- 113.1997 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly (Toronto: Queen's Printer, November 1997), pp.112-127.
- 114.1998 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly (Toronto: Queen's Printer, November 1998), pp.175-193.
- 115.Ibid., pp.272-273.
- 116.ECO, Annual Report 1995 (Toronto: ECO, June 1996); ECO, Annual Report 1996, (Toronto: ECO, April 1997); ECO, Annual Report 1997; (Toronto: ECO, April 1998) ECO, Report 1998 (Toronto: ECO, April 1999); Ontario Regulation 482/95 and the Environmental Bill of Rights: A Special Report to the Legislative Assembly of Ontario (Toronto: ECO, January 1996); Keep the Door to Environmental Protection Open: A Special Report to the Legislative Assembly of Ontario (Toronto: ECO, October 1996).
117. For a detailed discussion of the impact of Bill 20 see Submission of the Canadian Environmental Law Association to the Standing Committee on Resources Development Reviewing Bill 20 (Toronto: Canadian Environmental Law Association, February 1996).
- 118.Commission on Planning and Development Reform in Ontario, Final Report (Toronto: Ministry of Municipal Affairs and Housing, June 1992).
119. The MNR has reduced its budget for participation in land-use planning activities by \$3.2 million/yr in its April 11, 1996 Business Plan. The Ministry of Environment and Energy announced a reduction of \$680,000/yr in spending in this area on October 6, 1996.
120. See: Ministry of Municipal Affairs, Comprehensive Set of Policy Statements, Natural Heritage, Environmental Protection and Hazard Policies; and Ministry of Municipal Affairs and Housing, Provincial Policy Statement, 2.3 Natural Heritage.
- 121.Ibid.
- 122.T.Appleby, "Town traded for gravel, furious residents say," The Globe and Mail, March 6, 1997.

123. Ministry of Municipal Affairs and Housing, Press Release, "Next Steps in the Progressive Delegation of Planning Authority Announced," July 16, 1998.
124. Ministry of Municipal Affairs and Housing, Background Information "A balanced framework - The Development Charges Act, 1997," March 2, 1998.
125. Ministry of Finance, response to Freedom of Information Request G-98-0053-01, May 27, 1998.
126. For a detailed commentary on Bill 106 see C. Baines and I. Attridge, "Submission to the Standing Committee on Financial and Financial Affairs Concerning the *Fair Municipal Finance Act, 1997* (Bill 106), (Toronto: The Georgian Bay Land Trust, April 1997).
127. Pers. comm., Ian Attridge, Research Associate, CIELAP, July 5, 1999.
128. In areas without municipal organization, regulatory functions are transferred to the Ministry of Municipal Affairs.
129. R. Lindgren and S. Miller, Ontario Water Resources: The Need for Public Interest Regulation: Submission to the Ontario Ministry of Environment and Energy Re: Bill 107 (Toronto: Canadian Environmental Law Association and Great Lakes United, February 1997).
130. See M. Winfield, "Brief to the Standing Committee on Resources Development on Bill 107: *The Water and Sewerage Services Improvements Act*" (Toronto: Canadian Institute for Environmental Law and Policy, April 1997).
131. Bill 103, the *City of Toronto Act, 1996*.
132. See, for example, M. Winfield, "Presentation to the Standing Committee on General Government Regarding Bill 103, *The City of Toronto Act*," March 3, 1997.
133. Press Release: "Draft Municipal Act Released for Consultation," February 11, 1998.
134. Letter from John Sewell, to the Ministry of Municipal Affairs and Housing, Local Government Policy Branch, April 20, 1998.
135. Richard O'Brien, Chair, Metro Toronto Region Conservation Authority, remarks to Conservation Council of Ontario, January 29, 1997.
136. Ibid.
137. Ibid. See also, S. Kneisel, "Erosion Control: Conservation Authorities fight to stay afloat even as their funding is pulled," Seasons, Summer 1999.
138. NEC 1994/95 Budget \$2.5 million; 1996/97 \$1.6 Million.
139. Employment within Ministries of Environment and Natural Resources, 1994/95 and 1997/98 fiscal years, responses to CIELAP Freedom of Information Requests, presented in Winfield and Jenish, Ontario's Environment and the 'Common Sense Revolution: A Third Year Report, Tables vi and v .
140. EBR Registry Notice RA6E011.P, August 12, 1996.
141. M. Mittelstaedt, "Tories have put Niagara Escarpment at risk, critics say," The Globe and Mail, August 21, 1996.
142. See EBR Registry Number RA6E0011.D, October 17, 1996.
143. M. Mittelstaedt, "Conservatives ease rules for long-time quarries on Niagara Escarpment," The Globe and Mail, October 18, 1996.
144. B. McAndrew, "Environment minister in '96 okayed quarry dig, court told," The Toronto Star, May 9, 1997.
145. Ibid.
146. Mr. Sterling had been instrumental in ensuring the passage of the Plan in 1985.
147. M. Mittelstaedt, "Groups fear exploitation of Niagara Escarpment," The Globe and Mail, March 18, 1997.
148. Winfield and Jenish, Ontario's Environment and the 'Common Sense Revolution: A Second Year Report, pg.31.

- 149.T.Boyle, "Opposition criticizes appointments," The Toronto Star, April 16, 1998.
- 150."Report to the Niagara Escarpment Commission in the Matter an Application by the Niagara Land Company to Amend the Niagara Escarpment Plan" by Carl Dombek and Pauline Browes, November 12, 1998, PN-120-97.
- 151.Coalition on the Niagara Escarpment, Action Alert "Winery Resort Threatens Escarpment," December 1998.
- 152."\$35 million for environment," The Toronto Star, May 6, 1998.
- 153.Pers. comm., Linda Pim, Federation of Ontario Naturalists, July 19, 1999.
- 154.For a detailed commentary on the Bill see, P.McCulloch, "Submission to the Standing Committee on Resources Development Regarding Bill 146, An Act to Protect Farming and Food Production" (Toronto: Canadian Environmental Law Association, 1998).
- 155.1992 Status Report on Ontario's Air, Water and Waste (Toronto: Ministry of Environment and Energy, unpublished), pg.45.
- 156.T.Walkom, "The Whole Hog," The Toronto Star, May 9, 1998.
- 157.MNR Fact Sheet: Working on Crown Land, November 1996.
- 158.See Ministry of Natural Resources Press Release and Fact Sheets, "New Regulations Guide Activities on Crown Land," November 5, 1997.
- 159.Ibid.
- 160.MNR, Press Release, "Hodgson, Announces Lands for Life Committees, June 17, 1997.
- 161.Ministry of Natural Resources, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
- 162.Ministry of Northern Development and Mines, *Backgrounder: Ontario's Commitments to the Mineral Industry*, March 29, 1999; Ministry of Northern Development and Mines, *Press Release* "Hodgeson Announces \$19 Million for Operation Treasure Hunt," March 29, 1999; Ministry of Northern Development and Mines, *Press Release*, "Hodgeson Announces \$4 Million for Ontario Prospectors," March 29, 1999.
- 163.Ministry of Natural Resources, *Backgrounders - Ontario's Living Legacy/The Ontario Forest Accord and the Living Legacy*, March 29, 1999.
- 164.MNDM, *Ontario's Commitments to the Minerals Industry*.
- 165.MNR, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
- 166.Consisting of the Wildlands League, the Federation of Ontario Naturalists, and the World Wildlife Fund Canada.
- 167.The 1999 Forest Accord, Article 1.
- 168.Ibid., Art.2.
- 169.Ibid., Art.6.
- 170.Quoted in The Globe and Mail, August 17, 1996.
- 171.MoEE News Release "Sterling extends consultation on responsive environmental protection," September 5, 1996.
- 172.See Winfield and Jenish, Ontario's Environment and the "Common Sense Revolution." pp.63-64.
- 173.Ibid.
- 174.See, for example, D.Bell et.al., "The Urgent Need to Sustain Long-Term Ecological Research and Monitoring in Canada," a paper resulting from A Workshop on Environmental Science Research, Faculty of Environmental Studies, York University, Toronto, May 22, 1997.

175. Ontario Public Service Employees Union (OPSEU), Nothing Left to Cut, January 9, 1997, Fig.4a.
176. Ibid., pg.1.
177. Ibid., figure 9.
178. Ibid.
179. ECO, Second Annual Report, pp.17-20.
180. Ibid., pp. 20-21.
181. Forest Management Branch, Forest Management Business Plan, (Toronto: MNR, May 1996).
182. MNR, Fish and Wildlife Management Business Plan: Overview of Fish & Wildlife Management Review (Toronto: June 1997). pg.8.
183. B. McAndrew, "Cutbacks could affect pesticide testing," The Toronto Star, January 30, 1997.
184. ECO, 1996 Annual Report.
185. ECO, 1997 Annual Report.
186. Office of the Provincial Auditor, 1996 Annual Report: Accounting/Accountability/Value for Money (Toronto: Queen's Printer, October 1996), pp.113-128.
187. Office of the Provincial Auditor, 1998 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly (Toronto: Queen's Printer, 1998) pp.175-193.
188. International Joint Commission, Eighth Biennial Report on Great Lakes Water Quality (Washington and Ottawa: 1996), pp.5-7.
189. Ibid., pp. 4-5.
190. IJC, 9th Biennial Report on Great Lakes Water Quality, pg.18.
191. Continental Pollutant Pathways: An Agenda for Cooperation to Address Long-Range Transport of Air Pollution in North America (Montreal: Commission on Environmental Cooperation, September 1997) and Long-Range Transport of Ground-Level Ozone and its Precursors: Assessment of Methods to Quantify Transboundary Transport within the Northeastern United States and Eastern Canada (Montreal: Commission on Environmental Cooperation, October 1997).
192. Taking Stock: North American Pollutant Releases and Transfers : 1995 (Montreal: Commission for Environmental Cooperation, 1998).
193. Taking Stock: North American Pollutant Releases and Transfers: 1994 (Montreal: North American Commission on Environmental Cooperation, 1997).
194. Continental Pollutant Pathways: An Agenda for Cooperation to Address Long-Range Transport of Air Pollution in North America (Montreal: North American Commission for Environmental Cooperation, 1997); Long-Range Transport of Ground-Level Ozone and Its Precursors (Montreal: North American Commission for Environmental Cooperation, 1997).
195. Open Doors - Ontario's Environmental Bill of Rights: Annual Report 1997 (Toronto: Environmental Commissioner for Ontario, April 1998).
196. The Health Effects of Ground-Level Ozone, Acid Aerosols and Particulate Matter (Toronto: Ontario Medical Association, May 1998).
197. The IJC and the 21st Century (Washington D.C. and Ottawa: International Joint Commission, 1997).
198. Acidifying Emissions Task Group, Towards a National Acid Rain Strategy (Ottawa: NAICC/Environment Canada, October 1997).

- 199.Air Pollution Impacts of Increased Deregulation in the Electric Power Industry: An Initial Analysis (Northeast States for Coordinated Air Use Management, January 1998).
- 200.Emissions from Coal-Fired Electric Stations: Environmental Health Effects and Reduction Options (Toronto: University of Toronto Institute for Environmental Studies and Pollution Probe, January 1998).
- 201.Office of the Fire Marshal, Protecting the Public and the Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities (Toronto: Ministry of the Solicitor General and Correctional Services, August 1997).
- 202.M.Winfield, Hazardous Waste Management in Ontario: A Report and Recommendations (Toronto: Canadian Institute for Environmental Law and Policy, February 1998).
- 203.Unsafe Dams? A Report by the IJC (Washington D.C. and Ottawa: International Joint Commission, February 1998).
- 204.The IJC and the 21st Century (Washington and Ottawa: International Joint Commission, October 1997).
- 205.The Canada Country Study: Climate Impacts and Adaptation, Ontario Region (Ottawa: Environment Canada, November 1997).
- 206.Report to Management: IIPA/SSFI Evaluation Findings and Recommendations (Toronto: Ontario Hydro, July 1997).
- 207.Commission for Environmental Cooperation "Taking Stock / North American Pollutant Releases and Transfers 1994", Montreal 1997, page 21.
- 208.M.Mittelstaedt, "Ministry denies study exists," The Globe and Mail, January 21, 1997.
- 209.For a detailed analysis of the contents of the report, and other sources on information regarding the issues addressed in it, see D.Macdonald, R. Nadarajah, M.Winfield, and C.Winter, Our Future, Our Health! A Statement of Concern by Ontario Environmental Non-Governmental Organizations (Toronto: Ontario Environmental Protection Working Group, March 1997).
- 210.M.Mittelstaedt, "Ontario scrapped review of pollution threats, records show," The Globe and Mail, March 15, 1997.
- 211.See D.Macdonald, R.Nadarajah, W.Winfield and C.Winter, Our Future, Our Health: A Statement of Concern by Ontario Environmental Organizations (Toronto: Ontario Environmental Protection Working Group, March 1997).
- 212.Correspondence from the Hon. Norm Sterling, Minister of Environment and Energy, to the Ontario Environmental Protection Working Group, June 2, 1997.
- 213."OSEE ranks frequency of environmental outcomes generally low in new Ontario elementary science curriculum," Parent's Environmental Network Newsletter, May 1998.
- 214.Ontario Ministry of Education and Training, News Release, "ontario's new high school curriculum increases emphasis on math science and English," March 4, 1999.
- 215.ECO, 1998 Annual Report, pg.31.
- 216.Ministry of the Environment, Media Backgrounder "Ontario's Ministry of the Environment: Key Initiatives," June 22, 1998.
- 217.Ontario Public Service Employees Union, Nothing Left to Cut, pp.2-3.