

THE ENVIRONMENTAL BILL OF RIGHTS: ACCOUNTABILITY AND TRANSPARENCY IN ENVIRONMENTAL DECISION-MAKING

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Abstract

The Environmental Bill of Rights (EBR) is one of the most significant environmental laws in Canada. It empowers all Ontarians to participate in environmentally significant decisions being made by the provincial government before they are finalized. This presentation teaches participants the contents of the Environmental Bill of Rights and how to use these rights to hold the Ontario government accountable for environmentally significant decisions. The presentation also provides an overview of the Environmental Registry and the role of the Environmental Commissioner of Ontario (ECO). Participants will learn how to exercise their new EBR rights to: comment on environmentally significant proposals before they are finalized; use the Environmental Registry to influence and track environmental decisions; appeal environmental decisions; request a review of an existing environmental law or policy, or the need for a new one; request an investigation of alleged environmental harm; and, take action, without fear of reprisal, if an employer is harming the environment.

Principles of the Environmental Bill of Rights (EBR)

The Environmental Bill of Rights (EBR) specifically acknowledges the fact that Ontarians recognize the “*inherent value of natural environment.*” (Environmental Bill of Rights, 1993) It provides tools to support their “*right to a healthful environment*” connecting this to the idea that “*it is a common goal of Ontarians to protect, conserve, and restore the natural environment.*” (Environmental Bill of Rights, 1993) The EBR recognizes (by its very passage) that Ontarians need a means to achieve these goals “*in an effective, timely, open and fair manner.*” (Environmental Bill of Rights, 1993)

Scope of the EBR: Prescribed Ministries

There are 13 Ministries of the Ontario Crown who are subject to the EBR. They are:

1. Agriculture, Food and Rural Affairs;
2. Citizenship, Culture and Recreation;
3. Consumer and Commercial Relations;
4. Economic Development, Trade and Tourism;
5. Energy, Science and Technology;

6. Environment;
7. Health;
8. Labour;
9. Management Board Secretariat;
10. Municipal Affairs and Housing;
11. Natural Resources;
12. Northern Development and Mines; and,
13. Transportation.

Another important part of the EBR is to remind Ontarians of where the main responsibility for environmental protection in Canada lies: *“the EBR Recognizes that while... the provincial government has the primary responsibility for protecting the environment, the people have a right to participate and need a means to hold the government accountable for that responsibility.”* (Environmental Bill of Rights, 1993)

Specific Goals of the EBR:

- Right to a Healthful Environment;
- Protect, Conserve, Restore;
- Provide Sustainability;
- Protection of Sensitive Areas;
- Wise Resource Management;
- Protection of Ecological Systems;
- Protection of Biodiversity; and,
- Pollution Prevention and Reduction.

The main means by which these are to be achieved is through public participation and an independent review agency.

The EBR Rights:

1. Notice (Environmental Registry);
2. Comment (30 Days);
3. Appeal (New 3rd party right on instruments);
4. Request a review of existing legislation or propose that new legislation be passed;
5. Request an Investigation;
6. Right to sue in a) public nuisance, or b) to protect a public resource; and,
7. Whistleblower protection.

Environmental Registry:

The main reference point for both Ontarians and the ECO is the Environmental Registry. The Environmental Registry is a Web site whereon ministry obligations to give notice of “environmentally significant” proposals for a minimum of 30 days. It is also a source of information on those proposals including the ministry’s rationale in putting it forth. It is run by the Ministry of Environment and there is also a link on the ECO’s Website

(<http://www.eco.on.ca>). It is a free and easy to use, searchable bilingual database that is accessible on the Internet, in public libraries or at ECO's public resource centre (at 1075 Bay Street in Toronto).

What's on the Registry?

- Proposals and Decisions
- Policy, Acts, regulations, instruments
- Proposal type
- Proposal summary
- Comment period
- Contact details
- Final decisions
- General Information
- EBR text
- Your EBR rights
- Prescribed ministries
- Glossary of terms
- Other information
- Court actions
- Appeals
- SEVs
- Exceptions (discretion to exempt in emergencies, if not environmentally significant etc., but use of discretion is reviewed by ECO)

The Environmental Commissioner of Ontario (ECO)

Impartial and Independent Officer of the Legislative Assembly appointed by an all-party committee of the Legislative Assembly of Ontario for a 5 year renewable term.

The Role of the ECO:

- Reviews and reports on government compliance with the EBR and implementation of the EBR;
- Source for citizen applications; and
- public education and assistance through presentations, public resource centre, Web site, publications, etc. (ECO, 2003)

References

- Environmental Bill of Rights (EBR). 1993. S.O. 1993, CHAPTER 28. Available: 192.75.156.68/DBLaws/Statutes/English/93e28_e.htm
- The Environmental Commissioner of Ontario (ECO). 2003. Available: www.eco.on.ca/english/