



Video Transcript

Operation of the *Environmental Bill of Rights* (2020)

I'd like to talk to you about our audit of the operation of the *Environmental Bill of Rights*.

Under Section 51 (1) of Ontario's *Environmental Bill of Rights*, the Auditor General is required to report annually on the operation of this Act.

The *Environmental Bill of Rights*, or the EBR, is a law that recognizes that Ontarians have the right to know about and participate in government decisions that affect the environment.

It also helps Ontarians hold the government accountable for those decisions.

Transparency and accountability in environmental decision-making is how the EBR helps to protect the environment.

The EBR requires a number of government ministries to post proposals – for environmentally significant policies, acts and regulations, as well as permits and approvals – on the online Environmental Registry.

These ministries must post their proposals to the registry because many of the laws they are responsible for and many of the proposals they bring forward can have an effect on the environment.

These proposals must be posted for at least 30 days, and ministries must allow the public to provide comments for at least 30 days. When they make a decision about their proposal – whether to proceed or not, or whether the proposal will be changed – they are required to post the decision on the EBR for the public.

The EBR includes other environmental rights as well. It enables the public to ask the government to investigate if they think a person or company is breaking an environmental law. Ontarians can also ask the government to review the need for a new environmental law, or changes to existing laws.

Reviewing whether government ministries are performing their responsibilities under the EBR, including how they consult with Ontarians, and respond to Ontarians' requests, is a responsibility of my Office.

This work is performed by our environmental portfolio team led by the Commissioner of the Environment who also examines the impacts on Ontarians' rights and the environment when ministries make decisions that don't meet the purposes of the EBR Act to protect the environment.



This is my Office's second report to the legislature on the operation of the EBR since we became responsible for this work on April 1, 2019.

In this review, we looked at each of 15 ministries to see if they were carrying out their EBR duties as required and in accordance with best practices.

Our work is reported in two chapters.

In Chapter 1, we report on environmentally significant decisions made by the province, and in Chapter 2, we report on ministries' compliance with the requirements of the EBR covering the period from April 1, 2019 to March 31, 2020.

This year, our overall conclusion is that we found reduced transparency and accountability in environmental decision-making that risked undermining public confidence.

While certain ministries generally complied with the EBR or were improving their compliance other ministries' non-compliance with the EBR, and related best practices, prevented the effective operation of the EBR.

In particular, the Ministry of Environment, Conservation and Parks, which has primary responsibility for environmental matters in Ontario, is not leading by example. We found many instances of its non-compliance, even though it is responsible for the administration of the EBR.

In Chapter 1 we reported that:

- the Environment Ministry made significant amendments to the *Endangered Species Act* that also reduced legal protection for species at risk.
- the Environment Ministry created a temporary COVID-19 exemption to the EBR that allowed ministries to forgo their EBR responsibilities to post proposals. As a result, Ontarians lost the right to appeal decisions about 197 environmentally significant permits and approvals that were unrelated to COVID-19 but were proposed during the exemption period from April 1 to June 15, 2020.
- the Environment and Municipal Affairs ministries did not consult Ontarians about changes to the *Environmental Assessment Act* and the *Planning Act*.
- the Natural Resources and Environment ministries proposed to make significant changes to how they regulate commercial forestry - affecting protections for species at risk - without giving Ontarians sufficient information or time to comment.

In Chapter 2, we found that five ministries had not updated their Statements of Environmental Values with their current mandates and government priorities. As well,



certain ministries did not use consultation best practices in public postings to the Environmental Registry.

For example, some environmentally significant proposals were posted for too short a time for Ontarians to provide informed comment, and ministries did not give appropriate notice of all environmentally significant proposals they were considering and certain ministries posted proposals and decisions to the Registry without giving enough information to the public to help them participate in a meaningful way in decision-making, or understand the final decisions.

Key recommendations:

Chapter 1 of this report contains **16** recommendations to various ministries including:

- For the Environment Ministry, ensure the EBR applies to all relevant ministries and laws;
- For the Environment Ministry, refrain from exempting proposals from public consultation under the EBR; and
- For all ministries, ensure public consultation on environmental matters is transparent.

Chapter 2 of this report contains **41** recommendations to various ministries. Two of these recommendations include:

- For ministries to comply with the requirements of the EBR and best practices in consultation, and update statements of environmental values, and
- For the Environment Ministry, develop a plan for providing educational programs for the public, as required by the EBR.