



CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY

L'INSTITUT CANADIEN DU DROIT ET DE LA POLITIQUE DE L'ENVIRONNEMENT

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Ms. Judy Hayes  
Senior Policy Advisor  
Policy and Relations Branch  
Ministry of Consumer and Commercial Relations  
35th Floor  
250 Yonge St.  
Toronto, Ontario  
M5B 2N5

**Re: EBR Posting AJ8E0001 - Technical Standards and Safety Act, 1998**

Dear Ms. Hayes,

Please find attached a copy of a preliminary discussion paper on the legal and policy issues raised by the creation of the Technical Standards and Safety Authority prepared for the Canadian Institute for Environmental Law and Policy.

We are filing this discussion paper as our comment on the Ministry's proposed *Technical Standards and Safety Act, 1998* under the *Environmental Bill of Rights, 1993*.

The proposed Bill partially addresses some of the issues raised in the discussion paper, such as the application of the *Environmental Bill of Rights* and the creation of an appeal mechanism in relation to decisions made by the Authority. However, many of the other structural concerns regarding the Authority identified in the paper will remain unresolved. These include the structure and role of the Authority's Board of Directors, the application of the *Freedom of Information and Protection of Privacy Act*, *Ombudsman Act*, *Audit Act*, and *French Language Services Act*, to the Authority, the legal status of enforcement actions undertaken by the Authority, and a number of other issues.

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Canadian Institute for Environmental Law and  
Policy; Kaufman, Shelly; Winfield, Mark S.  
A Preliminary Legal and Policy Analysis of the  
Technical Safety and Standards Authority

RN 27193

Please feel free to contact the Institute should you wish to further discuss our comments on this matter.

Yours sincerely,



Anne Mitchell,  
Executive Director



Mark S. Winfield, Ph.D.  
Director of Research

cc: The Hon. D. Tsubouchi, Minister of Consumer and Commercial Relation  
Eva Ligeti, Environmental Commissioner for Ontario.  
John Walter, Chief Executive Officer, TSSA.  
David Scriven, Policy Analyst, TSSA.

**A Preliminary Legal and Policy Analysis  
of the Technical Safety and Standards Authority created  
through Ontario's *Safety and Consumer Statutes Amendment Act, 1996***

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Canadian Institute for Environmental Law and Policy  
August 1997

**A Legal and Policy Analysis  
of the Technical Safety and Standards Authority created  
through Ontario's *Safety and Consumer Statutes Amendment Act, 1996***

**1. Introduction**

The *Safety and Consumer Statutes Administration Act, 1996* (the SCSAA), which was proclaimed in force on July 22, 1996, provided for the creation of a non-profit, private organization to deliver the technical standards and safety programs of the Ontario Ministry of Consumer and Commercial Relations (MCCR). As of May 5, 1997, delivery of these programs and services have been carried out by the newly established *Technical Standards and Safety Authority* (TSSA). Details of the transfer are outlined in an Administrative Agreement, as required by the SCSAA, that was signed by the TSSA and MCCR Minister David Tsubouchi on January 13, 1997.

The transfer of responsibilities from the MCCR to the TSSA represents one of the most sweeping privatizations ever undertaken in Canada, involving major regulatory, administrative and law enforcement functions. In effect, virtually the entire Technical Standards and Safety Division of the MCCR has been privatized. However, to date, the transfer has been the subject of little public attention or scrutiny. This review aims to highlight some of the chief concerns which arise from the creation of a private body to administer and enforce public safety legislation in Ontario.

**2. The New Regime**

On May 16, 1996 in his Notes for a Statement to the Legislature, then Minister of the MCCR, Norman Sterling, stated that he would be "introducing legislation in this House to support our government's mandate of redefining the role of government in the delivery of programs and services to the public, while reducing red tape that hinders economic growth." The Bill introduced that day is now the *Safety and Consumer Statutes Administration Act, 1996*.

The SCSAA allows for the creation of a new safety organization to oversee the regulation of boilers and pressure vessels, elevating and amusement devices, hydrocarbon fuels (natural gas, propane, fuel oil and gasoline) and equipment, and upholstered and stuffed articles. The Act also allows certain regulated industries to enter into self-management agreements with the government. Real estate agents, travel agents and wholesalers, motor vehicle dealers and cemetery operators will be allowed to fulfil the functions currently belonging to the MCCR Business Division.

This discussion focuses on the public safety aspect of the transfers. Effectively, the new TSSA has replaced the MCCR Technical Standards and Safety Division. The TSSA is now responsible for such activities as licensing, registration and certification, reviewing

engineering designs, inspection, enforcement and compliance, professional development and training, and promoting national harmonization of safety codes and standards. The provincial government remains responsible for the development of amendments to the relevant legislation, changes to the relevant regulations, standards setting and overseeing public safety policy.

The Ontario government's rationale for pursuing this delegation process is that a self-funded, not-for-profit safety organization can reduce the financial burden on the taxpayer while enhancing public safety. As stated in its brochure on the TSSA:

"The Ontario Government believes that some services can be delivered more effectively, efficiently, and appropriately by the private sector than the public sector."<sup>1</sup>

The government argues that the new structure will be more efficient in addressing new issues, allow the government to focus on preserving the public interest and setting safety standards, create more flexibility to work with other jurisdictions on harmonization, and ensure that technologies required by regulators are acquired. The government also states that the organization may reduce the risk of public safety being damaged by reductions in government funding levels, as the TSSA is required to use all of the revenues it generates to support its regulatory and administrative functions.

In June 1996, an Industry Working Group was formed. Its membership reflected the industries affected by the SCSAA, then Bill 54. The role of this group was to work with MCCR to establish the new safety organization by creating the self-funded corporation, reach agreement with MCCR on related administrative agreements, and oversee the transfer to the new organization.

The TSSA was incorporated on August 30, 1996 and its Board of Directors has held several meetings since that date. Since its incorporation, the letters patent of the TSSA have been amended several times to make room for the development of the initial Board of Directors. The Board will consist of 15 members made up of the following:

- o 10 regulated industry representatives;
- o 1 non-industry representative;
- o 1 government representative;
- o 2 consumer representatives; and
- o the CEO.

The Board, in addition to its responsibilities set out in the Act and the Agreement, will be responsible for corporate governance and strategic policy development

The task of identifying and discussing safety issues in the industry sectors will fall to eight Industry Advisory Councils (IAC). These councils, six of which are to evolve from the Technical Standards Division's existing Councils, will represent each of the regulated sectors. The IACs are voluntary, sector-specific, and industry led. They will be

encouraged to reflect the interests of all sector stakeholders, as they are to fulfil a dual role of ensuring protection of the public interest while supporting the continued growth of their industries. In relation to the TSSA, their role will be to advise the CEO and staff of the TSSA, provide a forum for information sharing between TSSA and industry, act as a coordinating body for public education, and establish the necessary technical and other advisory committees.

A February 11, 1997 TSSA hand-out prepared for a stakeholder meeting suggests that there will also be a consumers advisory panel in addition to the IACs. This panel and the IACs will liaise with the CEO and Board. The TSSA will have four divisions encompassing administrative services, fuels safety, boilers and pressure vessels safety, and elevating and amusement devices safety.

The terms of the relationship between the TSSA and the government are set out in the Administrative Agreement. As of May 5, 1997, the TSSA has been designated as the sole authority to deliver the delegated legislative responsibilities. The government has stated that 95% of the current staff of the Technical Standards Division of the MCCR have been transferred to the TSSA.<sup>2</sup>

### **3. Analysis and Assessment**

On first reading, the contents of the SCSAA and its related Administrative Agreement suggest that the process merely involves a delegation of responsibilities in the name of efficiency. However, the concrete impact of this agreement must be recognized. As of May 5, 1997, a private organization has become responsible for administering the statutes which ensure that the ferris wheels and elevators which the public rides are safe and that propane tanks or underground gasoline storage tanks do not leak or explode.

These are significant responsibilities, which have major impacts on the everyday lives of the public. While such activities may seem innocuous, and generally go unnoticed, if there were no safety standards and inspectors to ensure that elevators, boilers and pressure vessels operated as they should, the consequences would be headline news.

Limited examples of programs similar to that initiated in Ontario do exist, such as the German TUV (Technical Inspections Association, Inc.) which the government states is the model on which the TSSA is based.<sup>3</sup> In Alberta, the Boilers Safety Association and the Petroleum Tank Management Association of Alberta (PTMAA) are both operational and perform similar tasks to the new TSSA. At the Federal level, Transport Canada is in the process of delegating responsibility for its air navigation system to a new private sector corporation called NAV Canada.

However, it is important to note that the TSSA delegation goes much further than that involved with the PTMAA or NAV Canada. In the case of the TSSA, enforcement functions have been delegated in addition to licensing responsibilities.

The novelty of these types of privatizations in Canada must be acknowledged. These new organizations are concrete manifestations of the recent trend by governments to off-load responsibilities in a drive towards "efficiency". While efficiency may be a valid objective, questions have to be raised as to whether it is being pursued at the expense of the public interest. The TSSA may act as a prototype for future delegations in Ontario. Consequently, its structure and functions must be analyzed carefully, in order to ensure that safety, accountability and other important principles, are not compromised en route to a more "efficient" form of government.

### **Institutional and Structural Issues**

Several institutional and structural concerns arise out of the objectives of the Act and the resulting organization. The TSSA is clearly a private organization yet it is charged with many public responsibilities. The organization is given statutory authority to raise revenue through the requirement that firms in the industries which it is to regulate become members. It is also given a mandate to represent the province in intergovernmental standard setting activities. In addition, the TSSA is charged with responsibility for the enforcement of the statutes through which the industries under its jurisdiction are regulated. In this context, the authority's institutional structure gives rise to a number of serious potential problems.

#### *Conflict of Interest*

##### *The TSSA Board of Directors*

"the board is composed of industry, non-industry, government and consumer representatives, so that business and public interests will be represented."<sup>4</sup>

Notwithstanding the "representational" board concept, one of the defining features of the TSSA is the degree to which it appears to institutionalize conflicts of interest as an organizing principle. The overwhelming majority of the directors are to be elected by the members, who are to be the regulated parties under the various statutes.

Prior to February 6, 1997, ten members of the TSSA Board represented the various regulated industries, along with one non-industry representative. One of these initial members has since resigned. The twelfth member, TSSA president and CEO John Walter, was the Assistant Deputy Minister of the MCCR Technical Standards Division before his appointment. Three ministerial appointments were made on February 6, 1997. Ms. Rosalie Daly Todd and Ms. Joyce Feinberg are the two consumer representatives. Ms. Sue Cork, a government representative, is also the MCCR liaison person.

Despite the obvious potential for conflict of interest on the part of the industry nominated TSSA directors, no conflict of interest provisions are found in the MCCR/TSSA Agreement or the SCSAA. While the Board must provide the Minister with its conflict of

interest by-laws in accordance with paragraph 6(7) of the Agreement, any such provisions will be self-defined and imposed.

It is likely to be difficult for the small number of consumer and governmental representatives on the board to play an effective role in the face of such an overwhelming majority of industry representatives. While it is recognized that the other Board members reflect the various industries affected by the delegated legislation, this only emphasizes the difficult task facing the non-industry directors. It will be their responsibility to represent consumer interests in relation to all of the affected sectors. These board members must also ensure that no brokering or trade-offs occur among the industry sector representatives.

### *Purpose and Board Mandate*

The problem of the institutionalization of conflict of interest in the TSSA board structure is compounded by the consideration that there is no clear statement, either in the SCSAA or the MCCR/TSSA Agreement, that the Board has a duty to protect the health and safety interests of the public. The Preamble to the Agreement and subparagraph 3(4)(a) merely refer to the creation of a "fair, safe and informed marketplace, that supports a competitive economy."

This purpose appears to be at least as much client (i.e. regulatee)-focused as safety-oriented. There is no clear requirement that public safety and the public interest take precedence over the economic interests of the regulated industries. Indeed, the conflicts of interest inherent in the composition of the Board, combined with the absence of a duty imposed on the Board to ensure public safety, may create an atmosphere in which efforts to provide for public safety and to protect the public interest are impeded.

### **Issues of Legal and Political Accountability**

The TSSA structure also gives rise to a wide range of serious issues of accountability in both legal and political terms. The TSSA is a private corporation with interests independent of government and, as noted earlier, no clear direction to uphold the public interest in its operations. In recognition that the accountability of this private corporation is an important issue, some accountability measures have been incorporated into the TSSA/MCCR Agreement. These include requirements for business plans and annual reports to be tabled in the Legislature,<sup>5</sup> and for third party audits to be provided as part of the annual report requirements.<sup>6</sup> In addition, under section 6 of the SCSAA, the government maintains the authority to revoke the powers of the corporation when certain conditions are met.

While these measures are laudable, they do not adequately address the issues raised by the fact that an agency mandated to exercise the regulatory powers of the provincial government will escape oversight by the Legislature and its Officers in a number of important ways. It is unclear the extent to which the Minister will accept



responsibility to the Legislature for the TSSA's actions, or simply attempt to direct blame for errors or wrongdoing towards the TSSA Board of Directors. Furthermore, as the TSSA is a private organization, rather than an agency of the provincial government, the TSSA will no longer be subject to oversight by the Provincial Auditor, Ombudsman, Freedom of Information and Privacy Commissioner or the Environmental Commissioner.

Each of these agencies play a major role in holding the government accountable for the exercise of the authorities granted to it by the Legislature, ensuring the appropriate and cost-effective use of public funds, and providing for the fair treatment of Ontario residents by the provincial government and its agencies. Concerns over the impact of the TSSA structure on the rights of Ontarians under the province's *Environmental Bill of Rights* have already been raised by the Environmental Commissioner in her 1996 Annual Report.<sup>7</sup> Similar concerns regarding transfers of this nature were also raised by the provincial Ombudsman.<sup>8</sup>

Although the Minister maintains the legislative authority to revoke powers given to the Authority,<sup>9</sup> this procedure is unlikely following the transfers of authority and staff. As the TSSA has absorbed the staff of the Technical Standards Division of the MCCR, there is no government capacity left in place to resume the functions delegated to the authority. Consequently, the significance of this safeguard is severely limited.

The government could have addressed some of these issues by taking such steps as naming the Provincial Auditor as the TSSA's corporate auditor, and making it clear in the SCSAA that the TSSA was to be subject to the *Environmental Bill of Rights, Freedom of Information and Protection of Privacy Act* and *Ombudsman Act*. However, the government failed to do so. Rather, it is clear that in the process of attempting to create more efficient and effective service through privatization, the government has reduced the ability of the public and the Legislature to monitor and oversee its actions and the activities of its agents for which it is ultimately responsible.

### *Principles of Natural Justice*

The granting of the authority to issue licenses and other forms of approvals to the TSSA raises several other issues. In Alberta, for example, the government delegated responsibility for the regulatory aspects of underground storage tanks to the Petroleum Tank Management Association (PTMMA) in 1994. In an article on Alberta's first Designated Regulatory Organization, the question was raised as to where the principles of natural justice and procedural fairness fell in such an organization.<sup>10</sup> The same questions must be raised with respect to the Ontario TSSA.

Widely accepted principles of natural justice in Canadian jurisprudence require that those affected by governmental decisions have the right to know and to answer the cases against them, to bring evidence and make argument and, the right to an unbiased decision-maker.<sup>11</sup> These principles emerged to deal with situations in the public sphere similar to those which are likely to arise under the exercise of the TSSA's delegated authority.

It is unclear how this principle will be upheld when the board of directors of the agency which is to initiate prosecutions is dominated by representatives of interests are the likely defendants in any enforcement action taken by it. Furthermore, within the government all prosecutors are considered accountable to the Attorney-General for their actions. It is unclear, on the other hand, who prosecutors acting on behalf of the TSSA would be answerable to.

While the TSSA has the authority to retain membership fees, all fines must be forwarded to the Ministry of Finance.<sup>13</sup> It appears that administrative penalties, imposed under the responsibility of the Director, on the other hand, can bring in revenue which can be retained by the Authority. Administrative penalties can be effective and efficient if used appropriately. However, the arrangement within the TSSA provides strong incentives to apply administrative penalties rather than initiate prosecutions, even for serious violations.

## **Additional Concerns**

### *Regulatory Negligence and Insurance*

Regulatory negligence suits give the public an avenue to sue government for failing to properly enforce its own rules and regulations. While the government appears to maintain some ultimate responsibility for the safety of the public, limitations on its liability, as set out in the Agreement, raise additional questions as to where liability will ultimately be found.

At the same time, it should be recognized that members of the public can still sue the TSSA for damages. Furthermore, in its capacity to be sued, it may not have the same protection as the provincial government. Public authorities have a discretionary right to implement enforcement programs on the basis of established public policy and budgetary resources.<sup>14</sup> However, as a private entity, the TSSA may not be able to avail itself of this public policy defence against regulatory negligence actions. Consequently an action against the TSSA may have a greater chance of success than one initiated against the province. A successful suit might raise other issues which do not arise in actions against the Crown, particularly the possibility that a large damage award might bankrupt the TSSA.

The MCCR/TSSA Agreement has extensive provisions regarding the type of insurance which the authority must carry and the kind of protection it must provide for the Minister. Part 15(5) of the Agreement discusses the procedure in the event that the Minister imposes a new regulatory or legislative obligation on the Authority giving rise to exposure for which insurance is not available. The Authority has the power to identify, with the Minister, appropriate measures to resolve such potential liability issues. However, the Agreement does not appear to require coverage for regulatory negligence, or coverage to deal with the known worst-case outcomes in the areas under the Authority's jurisdiction.<sup>15</sup>

### *Divided Authority*

Under the new SCSAA the government retains responsibility for the development of new legislation and the adoption of new regulations, while the TSSA has responsibility for the delivery of programs. Although there are mechanisms in place for consultation between the TSSA and MCCR on required changes to legislation and regulations, the practical result of this divided authority may simply be an additional level of decision-making.

### *Harmonization and Jurisdictional Flexibility*

The government claims that a benefit of the TSSA structure will be greater flexibility in dealing with other jurisdictions on matters of standards harmonization. However, it is unclear why it would be easier for a private organization to deal with governmental organizations from other jurisdictions. Indeed, they may be reluctant to deal with a private entity given the conventions of confidentiality and mutual trust which exist in the context of intergovernmental negotiations.

### *Financial Issues*

Section 12(4) of the Act makes it clear that any money collected by the administrative authority in carrying out its delegated functions is not public money and that the administrative authority may use it for its own purposes.

Several of the schedules set out the consideration to be paid to the Ministry by the TSSA. For example, Schedule "D" sets out the consideration for Ministry Assets and Intellectual Property, and Schedule "J" outlines the types of services the TSSA will have to pay the government to perform. These include its ongoing legal, policy and regulatory roles. Schedule "I" sets up the fee setting process.

Questions which arise with respect to these issues include whether the consideration itself is adequate. It is unclear how the public can be assured that the government is getting good value for turning over its assets, particularly in light of the degree to which the TSSA's activities are not subject to review by the Provincial Auditor. Furthermore, while the TSSA is to be required to pay for services provided by the government, it is not clear what is to be done if the authority does not, or cannot, pay.

### *Language of Service*

Certain provisions in the Act and Agreement address French language concerns.<sup>16</sup> It will be important to monitor whether the same services that would be available to an individual through the government in either language under the *French Language Services Act* and other government policies, are also made available under the TSSA regime.

### *Amendments*

Part 20 of the MCCR/TSSA Agreement deals with amendments to it. There are no requirements for public consultation or review by a legislative committee prior to amendments being made to the Agreement. Nor are any mechanisms provided for a public review of the effectiveness or efficiency of the TSSA structure at some point in the future.

#### **4. Conclusions and Recommendations**

The transfer of the Ontario Ministry of Consumer and Commercial Relations' Technical Standards and Safety Division to the Technical Standards and Safety Authority constitutes an unprecedented exercise in privatization in the Canadian experience. The arrangement gives rise to several legal and policy questions.

Attempts have been made in the MCCR/TSSA Agreement and SCSAA to address some areas of concern with the TSSA regime, such as accountability and access to information. In addition, TSSA staff appear sensitive to many of the issues which have been raised in this analysis.

However, notwithstanding these considerations, the TSSA suffers from a number of serious structural problems which may prove difficult to overcome. The Agency itself is a hybrid of public and private functions and authorities. It is a private agency charged with the administration and enforcement of public law. It is given authority by the Legislature to require membership by its regulatees, and to collect and retain membership and other fees. This arrangement raises major questions of accountability, as despite its exercise of public authorities and duties, the agency, as a private entity, will escape most of the oversight and accountability structures of the Legislature and its Officers.

Furthermore, the Authority is structured around a fundamental conflict of interest. Its board of directors is dominated by representatives of the economic interests it is supposed to regulate. Despite this inherent conflict, the TSSA and its Board are given no clear mandate to ensure the protection of public safety in the execution of their duties.

Serious questions also arise with respect to how the principles of natural justice which would normally apply to a public decision-making body will apply to the TSSA. This issue will likely only be resolved through litigation. Concerns also exist regarding the capacity of a private agency of this nature to deal with public regulatory bodies in other jurisdictions, the degree to which minority language services will be provided, and a host of freedom of information and protection of privacy issues.

A continued effort must be made to watch the progress of the MCCR/TSSA transformation, as the Ontario initiative may provide the model for actions by other governments. In particular, it is important to ensure that the instruments which society has chosen to use to monitor and oversee government behaviour and actions not be undermined. Furthermore, the protection of public health and safety remain the first consideration in the public interest regulation of economic activities.

In this context, we make the following proposals regarding how a number of the problems related to the mandate, structure and accountability of the Authority might be addressed:

1. The Board of Directors of the TSSA should be re-constituted to ensure its independence from the economic interests which it is to regulate. In particular, Board members should be subject to stringent conflict of interest requirements, prohibiting membership by any person who is an owner, shareholder, or employee of an entity regulated by the TSSA, and members of their immediate families.
2. The SCSAA should be amended to provide the TSSA and its Directors with a clear mandate and direction to protect public safety, public health and the environment in the discharge of its responsibilities. In the interim, this mandate and direction should be incorporated into the MCCR/TSSA Agreement.
3. The SCSAA should be amended to state that the *Freedom of Information and Protection of Privacy Act* applies to all information transferred to, held or acquired by the TSSA. In the interim, the information and privacy provisions of the MCCR/TSSA agreement should be amended to be consistent with the requirements of the (FOIPPA).
4. The Provincial Auditor should be designated as the TSSA's corporate auditor. This could be achieved through an amendment to the MCCR/TSSA Agreement or the SCSAA.
5. The Minister of Consumer and Commercial Relations should formally delegate his relevant responsibilities under *Environmental Bill of Rights*, as provided for in s.114 of the EBR, to the TSSA.
6. The SCSAA should be amended so that *Ombudsman Act* applies to TSSA. In the interim, the MCCR/TSSA agreement should be amended to provide for public complaints process.
7. Responsibility for the conduct of investigations, prosecutions and other enforcement actions should be transferred back to the Ministry of Consumer and Commercial Relations immediately.
8. The SCSAA should be amended to enhance and specify contents of the annual reports to be table in the Legislature by the TSSA through the Minister of Consumer and Commercial Relations.
9. The operations and administration of the TSSA be subject to a public review and report, by the Legislature's Standing Committee on Resources Development, or its successor. This review should commence no more than two years from the date of the Authority's assumption of the functions of the Ministry of Consumer and Commercial Relations. The Standing Committee should be provided with the

resources, including research support through the Legislative Library, necessary to complete this review.

## Endnotes

1. MCCR, New Directions in Public Safety Program Delivery, 1997.
2. MCCR Press Release, May 5, 1997.
3. MCCR, Transitions, vol. 1 no.1 (July 1996) at 2.
4. MCCR, Backgrounder: Technical Standards and Safety Authority (TSSA), February 6, 1997.
5. MCCR/TSSA Agreement, Section 5.
6. MCCR/TSSA Agreement, Schedule "C"
7. Ontario, Environmental *Commissioner of Ontario Annual Report 1996*, (April 1997) 22)
8. Ombudsman Ontario, Annual Report 1996/97 (Toronto: June 1997), pg.3.
9. MCCR/TSSA Agreement, s.6.
10. Environmental Law Centre, Vol. 11 No. 4 (Nov 4, 1996) at 7.
11. See, for example, *Nicolson v. Halimand Norfolk Regional Board of Commissioners of Police* (1979) S.C.R. 311 and *Committee for Justice and Liberty v. the W.E.B.* (1978) S.C.R. 369.
12. On private prosecutions see generally J.Swaigen, "Private Prosecutions," in J.Swaigen and D.Estrin, eds., Environment on Trial: A Guide to Ontario Environmental Law and Policy (Toronto: Canadian Institute for Environmental Law and Policy and Emond-Montgomery Publishers Ltd., 1993), pp.827-833.
13. Agreement, 8(2).
14. J.M. Evans, H.N. Janisch, D.J. Mulligan and R.C.B. Risk, Administrative Law: Cases and Materials (Toronto: Emond-Montgomery Publishers Ltd., 1995), pp.1447-1484.
15. The worst-case remediation costs for a leaking underground oil tank in Canada is \$35 million. Pers. Comm., J. Swaigen, June 1997.
16. Agreement, Section 5.

## Appendices