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# **CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY**

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

## **Implications of Recent Changes in Environmental Laws and Regulations for the Delivery of Environmental Protection Services in Ontario**

**prepared for the  
Environmental Protection Branch  
Environment Canada**

**Requisition No. KW405-5-2091**

**prepared by  
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(CIELAP)**

**April 10, 1996**

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## Part I : Introduction

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### Ontario Provincial Political Chronology over Study Period

During the study period (January 1993 - March 1996) for this report two different administrations formed the Government in Ontario. Over most of the study period (from January 1993 until June 1995) a majority New Democratic Party administration formed the government in Ontario. The New Democratic Party government was elected in 1990 on a platform which included reforms to a range of environmental and land use planning legislation. Some of the most significant legislative initiatives during the study period include the proclamation of the Environmental Bill of Rights, the establishment of the Clean Water Agency, substantial planning and land use reforms, and the completion of regulations for the Municipal Industrial Strategy for Abatement. This administration's term commenced on September 6, 1990 and was completed on June 8, 1995.

The second government formed during the study period, and which has been in office for the remainder of the study period, was that of the Progressive Conservative Party of Ontario. The Progressive Conservative government was elected on a platform which included deficit reduction, government downsizing, program elimination and regulatory streamlining. Government initiatives in the area of environment management during this period have been consistent with the commitment to streamline, downsize, simplify and de-regulate. Some of this government's most notable legislative initiatives to date include: Bill 26, the *Government Savings and Restructuring Act* and Bill 20, the *Land Use Planning and Protection Act*. Budgetary initiatives of note include a series of cost cutting exercises from July to October 1995 which are consolidated in the Economic Statement of Nov 29, 1995. The new government's term commenced on June 8, 1995.

### Federal Political Chronology over Study Period

During the study period (January 1993 - March 1996) for this report three federal administrations have been in office. Over the study period (January 1993 until October 1993) a Progressive Conservative majority formed two administrations in Ottawa. The Progressive Conservative party received a second majority mandate on November 21, 1988. The first PC government was led by the Honourable Brian Mulroney; it completed on June 25, 1993. The second government to form within this mandate was that of the Honourable Kim Campbell; it lasted until the election on October 25, 1993. In terms of environmental protection legislation these mandates included few initiatives, the most significant being a regulatory review initiated in February 1993.

The third government to form during the study period was Liberal and has remained in office for the duration of the study period. The Liberal Party campaigned in Autumn 1993 on a platform of economic growth, job creation and fiscal concerns, but also including

social and justice issues, infrastructure renewal and various reforms of government. The Liberal Party's intent was expressed in the document *Creating Opportunity The Liberal Plan for Canada*, otherwise known as the 'Red Book'. This document a number of promised environmental initiatives. The environmental initiatives identified in the Liberal Party's Red Book included support for pollution prevention, energy conservation, environmental industry, renewable resources and international leadership on sustainable development. Some specific goals included: cutting carbon dioxide emissions by 20 percent from 1988 levels by the year 2005; preserving 12 percent of Canada's natural regions as park space by 2000 and hastening the phase-out of ozone depleting substances. The Liberal Party secured a majority government mandate on October 25, 1993.

This report will review the actions, amendments and initiatives taken by these administrations in the area of environmental law, policy and regulation, over the study period and present the implications of these actions, amendments and initiatives on the delivery of environmental protection services in Ontario.

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## Part II: Review of Initiatives affecting Ontario's Environment

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### i) Legal and Regulatory Changes: January 1993 - March 1996

#### Federal

The following items detail changes brought about by the federal government since January 1993 which have an impact on the environmental protection framework in Ontario.

<u>Date</u>	<u>Initiative</u>
March 27/93	<ul style="list-style-type: none"><li>• National Pollutant Release Inventory Reporting Requirements established under the <i>Canadian Environment Protection Act</i>.</li></ul>
May 1/93	<ul style="list-style-type: none"><li>• Pre-publication of CEPA New Substances Notification Regulations Parts I and II (New Chemical Substances).</li></ul>
February '94	<ul style="list-style-type: none"><li>• Completion of CEPA PSL I Substances Assessment Reports:<ul style="list-style-type: none"><li>* 26 "toxic;"</li><li>* 6 not "toxic;"</li><li>* 13 undetermined.</li></ul></li><li>• substances for which no determination made are removed from PSL I.</li><li>• Strategic Options Process (SOP) initiated for "toxic" substances.</li></ul>
June 1/94	<ul style="list-style-type: none"><li>• Coming into force of amended CEPA Ozone Depleting Substances Regulations:<ul style="list-style-type: none"><li>* require phase-out of CFCs, halons, carbon tetrachloride, methyl chloroform, and HBFCs.</li></ul></li></ul>
July 1/94	<ul style="list-style-type: none"><li>• Coming into force of CEPA New Substances Notification Regulations Parts I and II (New Chemical Substances).</li></ul>
September 27/94	<ul style="list-style-type: none"><li>• Draft Toxic Substances Management Policy released.</li></ul>
October 25/94	<ul style="list-style-type: none"><li>• Federal Chlorine Action Plan announced:<ul style="list-style-type: none"><li>* proposes elimination of release of most harmful chlorinated substances (under proposed TSMP);</li><li>* environmental performance agreements with industry;</li><li>* better science and information on chlorine and its impacts on</li></ul></li></ul>

the environment and human health.

- December '94 • CEPA PSL I "toxics" Strategic Options Process issue tables - begin meetings.
- December 6/94 • Introduction of Bill C-62 - the *Regulatory Efficiency Act*.
  - \* proposes "compliance agreements" to replace regulations;
  - \* proposes delegation of administration of federal regulations to "any person."
- December 22/94 • *Canadian Environmental Assessment Act* comes into force.
- March '95 • Release of First Accelerated Reduction and Elimination of Toxics (ARETS) report.
- March '95 • Draft Federal Pollution Prevention Strategic Framework released.
- April 27/95 • First National Pollutant Release Inventory Report Released.
- June 2/95 • Release of Toxic Substances Management Policy.
  - \* proposes virtual elimination of release of Persistent, Toxic and Bioaccumulative Substances;
  - \* proposes "life-cycle" management of other "toxic" substances.
- July 7/95 • Release of Pollution Prevention: A Federal Strategy for Action:
  - \* defines pollution prevention;
  - \* commits to federal pollution prevention legislation.
- July 24/95 • Ban on lead shot from National Parks and Migratory Bird Sanctuaries through the *Migratory Birds Convention Act*.
- August 29/95 • Department of Fisheries and Oceans Proposes to Amend *Fisheries Act* to delegate administration and issuing of authorizations under s.35(2) (habitat protection) to the provinces.
- November 16/95 • PCB Export Ban to United States Interim Order imposed.
- November 24/95 • Amendments to the *Bankruptcy Act* introduced:
  - \* environmental remediation costs given priority over claims of creditors and governments;
  - \* exemption from environmental liability for trustees.
- November 28/95 • Third Reading in House of Commons of Bill C-94 (Regulates interprovincial trade and the importation for commercial purposes

of certain manganese-based substances (MMT Ban)).

- December 15/95 • Enactment of amendments to the *Auditor-General Act*, establishing position of federal Commissioner of Environment and Sustainable Development:
  - \* requires Departments and Agencies to develop Sustainable development plans.
- December 16/95 • Second CEPA Priority Substances List Published (PSL II)
  - \* 25 substances on PSL 2.
- February 1/96 • Parliamentary Session Prorogued - Bills C-62, the *Regulatory Efficiency Act*, C-94 (contained MMT Ban), C-117 (would have amended *Fisheries Act*) die on order paper.
- February 27/96 • Throne speech outlines some specific federal initiatives (For Environment Minister's response, see Intergovernmental Initiatives Section, March 6, 1996):
  - \* modernization of the *Canadian Environmental Protection Act*;
  - \* introduce an "Endangered Species Protection Act";
  - \* legislation to ratify the UN Straddling Stocks Agreement and Law of the Sea Convention to be presented to Parliament;
  - \* promote conservation of, and revitalize the Pacific salmon fishery and revitalize the east coast fishery.
- February 28/96 • PCB Export Ban to United States Interim Order extended.



## Provincial

The following items detail changes brought about by the provincial government since January 1993 which have an impact on the environmental protection framework in Ontario.

<u>Date</u>	<u>Initiative</u>
February 2/93	<ul style="list-style-type: none"><li>• Release of Draft MISA Pulp and Paper Sector Regulations.</li></ul>
February '93	<ul style="list-style-type: none"><li>• Clean Water Agency established to assume sewer and water services and financing functions on the Ministry of Environment and Energy.</li></ul>
April 29/93	<ul style="list-style-type: none"><li>• Release of Draft Municipal Solid Waste 3Rs Regulations.</li></ul>
May 17/93	<ul style="list-style-type: none"><li>• Release of Draft Ozone Depleting Substances Regulations.</li></ul>
June '93	<ul style="list-style-type: none"><li>• Canada/Ontario/Motor Vehicle Manufacturers' Association Memorandum of Understanding on Pollution Prevention.</li></ul>
September 10/93	<ul style="list-style-type: none"><li>• Promulgation of MISA Effluent Limits Regulation for the Petroleum Sector.<ul style="list-style-type: none"><li>* includes effluent limits for Ammonia plus Ammonium, Dissolved Organic Carbon, Phosphorus, TSS, Volatile Suspended Solids, Phenolics, Sulphide, Oil and Grease, and dioxin and furan.</li></ul></li></ul>
September 13/93	<ul style="list-style-type: none"><li>• Release of Draft MISA Effluent Limits Regulation for Metal Mining Sector.</li></ul>
September 20/93	<ul style="list-style-type: none"><li>• Pollution Prevention Pledge Program Announced.<ul style="list-style-type: none"><li>* voluntary program to promote pollution prevention.</li></ul></li></ul>
November 25/93	<ul style="list-style-type: none"><li>• Promulgation of MISA Effluent Limits Regulation for the Pulp and Paper Sector.<ul style="list-style-type: none"><li>* requires planning for elimination of AOX for pulp and paper mill effluent by 2002.</li><li>* establishes effluent limits for Biological Oxygen Demand, phosphorus, TSS, chloroform, toluene, phenol, and dioxins and furans.</li></ul></li></ul>
December '93	<ul style="list-style-type: none"><li>• Canada/Ontario/Automotive Parts Manufacturers' Association Memorandum of Understanding on Pollution Prevention.</li></ul>
December 15/93	<ul style="list-style-type: none"><li>• <i>Environmental Bill of Rights</i> enacted:</li></ul>

- \* establishes electronic registry;
- \* establishes minimum public participation requirements in decision-making;
- \* permits requests of reviews of environmental laws, policies and regulations;
- \* permits requests for investigations of alleged environmental offenses;
- \* provides for citizen suits and public nuisances actions; and
- \* provides protection to environmental "whistleblowers."

- February 9/94 • Release of Draft Dry Cleaner Training and Certification Regulation.
- February 15/94 • Proclamation of *Environmental Bill of Rights*.
- February 16/94 • Promulgation of EBR Implementation Schedule Regulation.
- March 2/94 • Release of Draft Regulation on Halons.
- March 3/94 • 3Rs Regulations Promulgated. The regulations require:
  - \* recycling and backyard composting programs for all municipalities with a population of 5,000 or more;
  - \* leaf and yard composting in municipalities with a population of 5,000 or more that have existing collection programs for these wastes, and in all municipalities with a population of more than 50,000;
  - \* waste audits and waste reduction work plans for large retail complexes, hospitals, schools, hotels and motels, restaurants, office buildings large construction and demolition projects, and manufacturing establishments;
  - \* recycling programs for large retail complexes, hospitals, schools, hotels and motels, restaurants and office buildings in municipalities of 5,000 or more population, and large construction and demolition projects and manufacturing establishments regardless of location;
  - \* packaging audits and packaging reduction work plans for Ontario manufacturers, packagers or importers of packaged food, beverages, paper and chemical products; and
  - \* recycling programs for multi-unit residential buildings with six or more units in municipalities of 5,000 or more population;
  - \* exempt recycling facilities from normal approvals requirements.
- March 30/94 • Promulgation of ODS Regulations:
  - \* prohibits venting or release of CFCs, HFCs and HCFCs;

- \* prohibits use of CFCs and HCFCs in motor vehicle air conditioning systems; and
  - \* requires certification of refrigerant handling technicians.
- April 21/94
- Voluntary vehicle emission inspection centre established in Toronto.
- May 18/94
- Dry cleaning regulation made under *Environmental Protection Act*:
    - \* requires "trained persons" for operation of commercial dry cleaning equipment.
  - Release of Comprehensive Set of Policy Statements and introduction of Bill 163 to amend the Planning Act. To create new policies for environmental protection in land use planning; will be proclaimed once Bill 163 passes and implementation guidelines are drafted.
- June '94
- Release of proposed New Guidelines for Clean-up of Contaminated Sites in Ontario.
- June 15/94
- Release of Ontario/CIPSI proposal for funding of "Blue Box" recycling programs.
- June 28/94
- Promulgation of Halons Regulations.
    - \* prohibit all releases except for fire fighting;
    - \* new halon extinguishers and systems, and existing halon fire extinguishers to be phased out.
- June 29/94
- Release of Draft Regulations on Ozone Depleting Solvents and Sterilants.
- July 6/94
- *Canada/Ontario Agreement Respecting the Great Lakes Basin Ecosystem*
    - \* \$1.6 Billion to be invested over six years to fulfil *Great Lakes Water Quality Agreement* commitments;
    - \* seeks restoration and de-listing of 9 of 17 Canadian IJC areas of concern;
    - \* seeks virtual elimination of 13 PBT's for basin and voluntary reduction of releases of 26 other pollutants of concern; and
    - \* seeks creation of a network of protected wildlife and fish habitat in the basin.
- August 17/94
- Promulgation of MISA Monitoring and Effluent Limits Regulation for the Metal Mining Sector:
    - \* establishes effluent limits for total cyanide, total suspended

- solids (TSS), copper, lead, nickel, zinc and arsenic.
  - Promulgation of MISA Monitoring and Effluent Limits Regulation for the Metal Casting Sector:
    - \* establishes effluent limits for biological oxygen demand, dissolved organic carbon, total cyanide, ammonia and ammonium, phosphorous, TSS, aluminum, chromium, copper, silver, zinc, phenolics, and fluoride.
  - Promulgation of MISA Monitoring and Effluent Limits Regulation for Industrial Minerals Sector:
    - \* establishes effluent limits for TSS.
- November 23/94
- Environmental Assessment Board rejects Ontario Waste Management Corporation proposal for hazardous waste treatment and disposal facility.
- December 6/94
- Promulgation of Ozone Depleting Solvent and Sterilants Regulations:
    - \* establish timetables for phase-out of production, use, and transportation of sterilants and solvents containing CFCs halons, HCFCs, carbon tetrachloride and methyl chloroform.
- December 9/94
- Enactment of the *Planning and Municipal Statute Law Amendment Act*.
  - Enactment of the *Crown Timber Sustainability Act*.
- February 1/95
- Promulgation of MISA Monitoring and Effluent Limits Regulation for the Organic Chemicals Manufacturing Sector:
    - \* includes effluent limits for wide range of pollutants.
  - Promulgation of MISA Monitoring and Effluent Limits Regulation for the Inorganic Chemicals Manufacturing Sector:
    - \* includes effluent limits for wide range of pollutants.
- February 7/95
- Ontario cabinet upholds Environmental Assessment Board ruling against OWMC facility.
- March 28/95
- Proclamation of *Planning and Municipal Statute Law Amendment Act*.
    - \* provides for public participation in decision-making; and
    - \* requires planning decisions "be consistent with" provincial planning policies.
  - Coming into force of *Planning Act* policy statements. Policy statements include:
    - \* Natural Heritage, Environmental Protection and Hazards (includes protection of natural heritage features and areas, wetlands, shorelines, flood plains, and erosion areas);
    - \* Community Economic Development and Infrastructure

- Policies;
- \* Housing;
- \* Agricultural Land (includes protection of prime agricultural lands (specialty crop lands and Canada Land Inventory Classes 1, 2 and 3));
- \* Energy and Water Conservation and Waste 3Rs; and
- \* Mineral Aggregate, Mineral and Petroleum Resources.

April 7/95

- A new practice for issuing field orders under *EPA*, *OWRA* and the *Pesticides Act*. The new Compliance Guidelines create a system that is faster and more effective than the previous system involving the writing of Director's Orders.

April 12/95

- Promulgation of MISA Monitoring and Effluent Limits Regulation for Electric Power Generation Sector:
  - \* includes effluent limits for Biological Oxygen Demand, ammonia plus ammonium, phosphorus, TSS, aluminum, zinc, sulphide, iron, and oil and grease.
- Promulgation of MISA Monitoring and Effluent Limits Regulation for the Iron and Steel Manufacturing Sector:
  - \* includes effluent limits for cyanide, ammonia plus ammonium, TSS, lead, zinc, chromium, nickel, phenolics, benzene, benzopyrene, naphthalene, and oil and grease.

April '95

- Environment Minister orders a bump-up of the City of Toronto Western Beaches Storage Tunnel to a full environment assessment.

May '95

- The Advisory Committee on Environmental Standards releases recommendations on soil clean-up guidelines. The guidelines are under review and expected to be announced some time in 1996.

**Date**                      **Initiative**

June 8/95

- The remaining items detail the legal and regulatory changes to Ontario's environmental protection regime under the Ontario Progressive Conservative administration. The PC government received its mandate on this day.

July 5/95

- Ontario Government announces the dismantlement of the Interim Waste Authority. Responsibility for waste management is returned to the GTA municipalities. Province to assume only standard setting and site regulation in future.

July 26/95

- Minister of Environment and Energy opens the hourly electricity market to spot market electricity sales on experimental basis.

- July 31/95

  - Ontario government formally posts its proposal to repeal the ban on new municipal solid waste incinerators on the *Environmental Bill of Rights* environmental registry. Proposal includes new emission standards for incinerators.
    - \* Ontario Government proposes exemption order under the *Environmental Assessment Act* which would effectively require many municipalities to consider incineration as an alternative.
  
- August 19/95

  - Ontario Northland Transportation Commission given approval to actively plan for use of Kirkland Lake abandoned mine for waste disposal.
  
- August '95

  - Ministry of Natural Resources releases a proposed land use plan for the Temagami Region which would open virtually all of the lands outside of provincial parks to mining, forestry, and other forms of development.
  
- August 31/95

  - The wrap-up of the Ontario Waste Management Corporation. Responsibility for hazardous waste management assigned to the private sector instead of seeking a public sector solution. Savings detailed in Premier's Statement of October 6/95.
  
- September 7-15/95

  - Four separate approvals for a waste disposal site were issued on either an emergency basis, or that delay in approval may cause greater environmental harm, or that approval would provide time to study alternatives. All but one was explicitly excepted from public comment.
  
- September 8/95

  - Minister of Municipal Affairs disallows City of Toronto anti-idling by-law. The by-law was intended to curb smog by reducing emissions from vehicles at rest.
  
- September 12/95

  - The Ontario Round Table on Environment and Economy is disbanded. Office closed on November 17/95. ORTEE's mandate was the establishment of a sustainability strategy for Ontario.
  
- September 26/95

  - Amendments proposed on the EBR to revise MISA Regulation 537/93 which deals with effluent limits for the petroleum sector. Intent of revision is to make original regulation "more efficient, effective, flexible and fair."
  - Numerous other amendments to the Effluent Monitoring and Effluent Limits regulations posted on the EBR Registry:
    - \* organic and inorganic chemical sectors to conduct toxicity testing of cooling water;

- \* metal mining sector to receive regulatory exemption for closed and abandoned sites;
  - \* certain pulp and paper Sector AOX limits may be relaxed or raised.
- September 27/95
- Throne speech includes indication that:
    - \* reduced spending/deficit reduction will be priorities;
    - \* transfer payments will be lowered;
    - \* government will be restructured;
    - \* land use legislation will be changed; and
    - \* the Ontario government intends to conduct two major reviews that have implications for environmental protection: the 'red tape review' for all of the Province's 45,000 regulations, and another for the Province's boards, agencies and commissions (for details, see section Regulatory/Policy Reviews).
- September 29/95
- Environment and Energy Minister Brenda Elliott announced the termination of three committees: the Advisory Committee on Environmental Standards; the Environmental Assessment Advisory Committee and the Municipal Industrial Strategy for Abatement Advisory Committee. The committees, in brief, performed the following functions:
    - \* MISA: advised on pollutant limits in industrial waste water.
    - \* EAAC: forum to comment on the EAA's rules and application to specific projects.
    - \* ACES: specific contaminant guideline establishment e.g. tritium.
- September '95
- MoEE creates a committee called the Policy Advisory Council on Environment. The stakeholder committee will represent various stakeholder interests and advise the Minister on policy matters. The committee may hold some informal roundtable sessions and consultations.
- October 2/95
- A proposal for a new streamlined pesticide licensing system announced by Minister of Environment and Energy. Licences would be reduced from the current 53 to 15 and recertification requirements would be created for certified growers.
- October 3/95
- Minister of Environment and Energy announces that a 5-year rate freeze is being instituted at Ontario Hydro.
- October 24/95
- Ministry of Northern Development and Mines announces the replacement of the current mine closure review process with a self-regulating system. The onus for financial assurance and certification that a mine is properly closed will be placed on the

officials of mining companies. Ministry oversight reduced.

- November 16/95
- Government introduces Bill 20, the *Land Use Planning and Protection Act*. Bill will repeal recommendations of the Commission on Planning and Development Reform in Ontario. Key changes:
    - \* the requirement that planning decisions "be consistent with" Bill 163 will be replaced with "have regard to." In other words, the language of the Act will revert back to what it was before the reform effort;
    - \* many provisions related to public participation in planning and decision-making will be diluted or repealed;
    - \* loss of provincial approval functions/enhanced municipal control;
    - \* many revisions to reduce urban sprawl will be removed such as the prematurity test (ensures services/utilities can manage new developments) and the permitting of house apartments.
- November 20/95
- Minister of Environment and Energy endorses National Action Plan and Voluntary Challenge Registry (the federal government's approach to greenhouse gas reduction) at a meeting of Canada's environment and energy ministers.
  - Exemption from the Environmental Assessment Process granted to the City of Toronto Western Beaches stormwater storage tunnel by the Minister of Environment and Energy.
- November 28/95
- Advisory Committee on Competition in Ontario's Electricity System appointed.
- November 29/95
- *Ontario Regulation 482/95* promulgated. Effect is to exempt the Ministry of Finance from the Environmental Bill of Rights, and temporarily suspend specific public notice requirements for cost-cutting measures for the next ten months even if they could be environmentally significant in their impact. The Regulation itself was not posted on the EBR registry.
  - Government introduces Bill 26 the *Government Savings and Restructuring Act*. This Bill would implement changes to a wide range of legislation including conservation and mining legislation.
- November '95
- Minister of Natural Resources dispatches correspondence to Federal Environment Minister opposing the timeline for the phase-out of lead shot for water fowl hunting.
- December 12/95
- Metro Toronto and Region Conservation Authority given



clearance to expropriate land in Etobicoke for a new mixed park and private housing development.

- December 13/95
- Province announces it will market surplus government land throughout Ontario for productive development.
  - Ministry of Environment and Energy lifts ban on new municipal solid waste (MSW) incinerators.
  - Minister of Environment and Energy announces a new policy governing the liability of prospectors for environmental damage. Assumption of responsibility for contamination at former industrial/mineral sites waived for new users of these sites.
- December 18/95
- Minister of Environment and Energy announces a new policy governing the liability of lenders when they assume a site with environmental damage. An exemption from environmental liability has been granted to lenders for the clean-up of sites of which they take possession. Creditors can now investigate a property in cases of insolvency without assuming liability for past environmental damage.
- December 19/95
- New guidelines are released by Minister of Environment and Energy that reinforce the confidentiality of environmental audits and place limits on government access to information contained in self-initiated environmental evaluations. The Ministry will now only seek access to such information under certain conditions such as emergencies involving serious risk and after seeking counsel.
- December 22/95
- Minister of Environment and Energy requests Ontario Energy Board to seek stakeholder input on exempting utilities from their prior OEB approval requirements. Such exemptions will allow utilities to participate in a wide range of non-regulated "Designated Business Areas". Changes could result in expansion of natural gas industry, may diminish conservation efforts and result in higher emissions of carbon dioxide.
- January 2/96
- A revised draft Provincial Policy Statement to accompany Bill 20 is released by Minister of Municipal Affairs. It reduces the protection for naturally significant features and prime agricultural land, and weakens policies to reduce urban sprawl and intensify development.
  - A new guideline for emissions from new municipal solid waste incinerators issued by the Minister of Environment and Energy.

Limits are performance-based and require continuous stack monitoring.

- January 5/96 • "Temagami Area Draft Land Use Proposal" placed on EBR Registry. The Comprehensive Planning Council will submit its recommendations to the MNR on March 1, 1996.
- January 10/96 • Positions of five board members of Ontario Hydro revoked. The members were considered to be the strongest advocates of environmental protection on the board.
- January 11/96 • The MoEE announces new guidelines on the EBR Registry: "Guidelines for the Utilization of Biosolids and Other Wastes on Agricultural Land" will amalgamate former guidelines for sewage sludge with draft interim guidelines on the agricultural application of waste other than sewage sludge.
- January 19/96 • Ontario Divisional Court Judge overturns the Environment Minister's decision of January 10, 1996 to relieve five Ontario Hydro Board members of their positions.
- January 26/96 • Ministry of Housing releases a consultation paper entitled "Back to Basics" which focuses on streamlining and simplifying the Building Code. Key directions:
  - \* set only minimum standards for health and safety;
  - \* reduce or eliminate energy efficiency and environmental standards in the Building Code
  - \* new provisions should be cost-effective;
  - \* reduce construction costs;
  - \* harmonization with National Building Code.Such changes would have an obvious impact on land use, urban design, greenhouse gases and atmospheric emissions.
- January 29/96 • Bill 26, the *Governments Saving and Restructuring Act* enacted by the Ontario legislature. The Bill contained amendments to many acts. Those with the most significant environmental consequences are summarized below. Almost universally, the Bill converted many of the acts' statutory obligations to regulatory requirements as deemed / if deemed necessary by the minister responsible. Many of the changes could have significant negative economic as well as environmental consequences. Most promote resource use/extraction. Accountability to the provincial legislature is diminished. Summarized briefly are the changes to:
  - \* the *Forest Fire Prevention Act*: repeal fire, travel and work permit provisions;

- \* the *Lakes and Rivers Improvement Act*: reduce or eliminate permitting requirements when constructing, altering or using a dam or other water works;
- \* the *Public Lands Act*: repeal fire, travel and work permit provisions; reduces capacity of courts to order restoration;
- \* the *Acts* above have been amended in a manner which permits for virtually any activity on public lands and waters unless the minister responsible has prescribed regulations to the contrary; formerly, unacceptable and permitted activities were defined by the *Acts*.
- \* the *Mining Act*: generally reduce obligations for reporting, financial assurance, mine closure, decommissioning and rehabilitation; potentially expose the public to increased environmental, health and economic costs;
- \* the *Game and Fish Act*: creation of an account separate from consolidated revenue fund to manage monies collected from fees and licences; expenditures at Minister's discretion;
- \* the *Freedom of Information and Protection of Privacy Act*: easier to reject requests that are considered frivolous or vexatious. Information granting will become more subjective;
- \* the *Municipal Freedom of Information and Protection of Privacy Act*: easier to reject requests that are considered frivolous or vexatious. Information granting will become very subjective;
- \* Both freedom of information acts established the ability to set fees for both applying for, and retrieving information.
- \* the *Municipal Act*: easier municipal restructuring, land annexation, and service cost or user fee implementation;
- \* the *Conservation Authorities Act*: new provisions could lead to the dissolution and sale of CA lands in some cases. Limitations placed on scope of CA activities.

- January 29/96
  - Ministry of Environment and Energy releases its review of its land use planning process. If recommendations are adopted, it would create an approach consistent with Bill 20: the MoEE would shift its emphasis away from the review of site-specific applications to involvement in official plan policy formulation. Greater municipal authority would be the result in an effort to "streamline and eliminate duplication".
- February 5/96
  - Fees for both applying for, and retrieval of information set under freedom of information acts.
- February 23/96
  - Minister of Natural Resources announces a number of fish and game policy changes: MNR plans to reintroduce bobwhite quail from the US in 1996-97; elk herd restoration by reintroduction;

two fishing rods per angler now effective on Lake Erie; and pursue changes to allow the hunting of migratory birds with raptors. In addition, the fish and wildlife account created by Bill 26 is announced as well as a separate foundation to receive donations from citizens for fish and wildlife management.

March 26/96

- Bill 20, the *Land Use Planning and Protection Act* passed.

March 29/96

- The Ontario Government announces on the Environmental Bill of Rights Registry that it will allow the *Intervenor Funding Project Act* to expire on April 1, 1996. Its expiration will make citizen participation in *Environmental Assessment Act*, *Ontario Energy Board* and *Consolidated Hearings Act* processes less feasible.

April 1/96

- *Intervenor Funding Project Act* expires.

## ii) Budgetary and Staff Changes: January 1993 - March 1996

### Federal

The following items detail the budgetary changes by the federal government since January 1993 which have an impact on the environmental protection framework in Ontario.

#### Date

#### Initiative

- February 27/95
- The Federal Government's Budget and Program Review establishes a 30% reduction (\$234 million) in Environment Canada budget, 1,400 positions to be eliminated over three years:
    - \* largest reductions are to Atmospheric Environment Service;
    - \* 56 local weather information offices to be closed;
    - \* elimination of federal contributions to the National Contaminated Sites Remediation Program and of the Federal PCB Destruction Program;
    - \* responsibilities related to pesticides transferred to Health Canada; ocean dumping, shellfish monitoring and coastal ecosystem pollution prevention to DFO;
    - \* focus on enforcement at international borders, domestic enforcement of federal law to be delegated to provinces and territories;
    - \* closure of 4 water survey offices and 1110 water quality sites;
    - \* 40% reduction in large ecosystem initiatives (Atlantic Coastal Action, St. Lawrence Vision 2000, Great Lakes 2000, Northern Rivers Study, Fraser River Action Plan);
    - \* 40% reduction in emergencies preparedness;
    - \* reduction in green industry strategy funding;
    - \* state of the environment reporting to be terminated;
    - \* environmental choice, environmental innovations, technology incentive programs eliminated;
    - \* stewardship services to other departments eliminated.

#### Great Lakes Impacts

- Ontario Region Budget reduced 30% over three years, 376 positions to be eliminated;
- Great Lakes 2000 Program funding maintained at \$110 M, but over an extended time-frame;
- studies on climate change in basin, contaminated site clean-up, PCB destruction, wetlands acquisition and emergency response preparedness and training deferred.
- "reassessment" of COA targets, federal contribution to

province of Ontario under agreement eliminated (\$700,000);

- delayed implementation of Canada-Ontario Wildlife Conservation Action Plan.
  - support for water management programs under *Canada Water Act*, such as Lake-of-the-Woods and Ottawa River Management Boards reduced.
  - Great Lakes Water Quality University Research Grant Program eliminated (\$558,000).
- Department of Fisheries and Oceans Program Review:
    - \* authority for freshwater fish habitat, protection and management to be transferred to provincial governments;
    - \* discussions have occurred between DFO and Environment Canada re: transfer of DFO freshwater responsibilities to Environment Canada - no conclusion as of March 1996;
    - \* reference to "partnership" with provinces on freshwater fish habitat in February 27 Throne Speech.
  - Department of Natural Resources Program Review:
    - \* elimination of Canadian Forest Service research and closure of research facilities.
- March 5/96
- Federal Budget:
    - \* further 3.5% cut to Departmental budgets.

## Provincial

The following items detail budgetary changes by the provincial government since January 1993 which have an impact on the environmental protection framework in Ontario.

<u>Date</u>	<u>Initiative</u>
February '93	<ul style="list-style-type: none"><li>• Ministries of Environment and Energy combined into Ministry of Environment and Energy.</li></ul>
April '93	<ul style="list-style-type: none"><li>• The provincial government announces 1993-94 budgets for the MOEE and MNR. Reductions to the MOEE operating budget total \$79.4 M and arise from the following areas: administration (\$12.9 M); environmental services (\$22.5 M); environmental control (\$14.0 M); utility/operations (\$19.9 M); energy planning (\$6.4 M). Total operating budget is reduced from \$483 M to \$404 M. Some specific program reductions include: The MOEE capital budget increases by \$67 M, to total \$216 M. Increases are made to:<ul style="list-style-type: none"><li>* environmental services (water resources) up by \$3.9 M;</li><li>* sewage/water treatment engineering increased by \$56 M;</li><li>* energy efficient technologies up by \$6.7 M;</li></ul>Overall MOEE budget increases by \$12.4 M and totals \$620 M.</li><li>• Reductions to the Ministry of Natural Resources operating budget include: administration (\$7.2 M); information (\$5.9 M); operations (\$72.0 M). In total, MNR operating budget is reduced \$93.6 M from \$480 M to \$386 M. Some specifics include:<ul style="list-style-type: none"><li>* \$10.4 M from resource management and protection programs;</li><li>* \$5 M from operating grants to conservation authorities, in addition to \$3.6 M in Conservation Land Tax rebate program;</li><li>* \$3 M from forest herbicide spraying.</li></ul>The capital budget increases \$37.4 M, from \$33.8 M to \$71.4 M. Some increases in capital spending include:<ul style="list-style-type: none"><li>* infrastructure for recreation, resource management and protection up by \$32.2 M;</li><li>* transfer payments for local conservation \$2.8 M;</li></ul>Overall Ministry of Natural Resources budget reduced by \$56.2 M in total with 266 positions eliminated. Total budget is \$457 M.</li></ul>
December 1/93	<ul style="list-style-type: none"><li>• Ontario Fair Tax Commission Report<ul style="list-style-type: none"><li>* extensive discussion of potential use of economic instruments</li></ul></li></ul>

in environmental policy.

April '94

- Ontario Government releases its 1994-95 budget. The MOEE and MNR are subject to reductions, some expenditure increases and restructuring. The Ministry of Environment and Energy operating budget is revised as follows:
  - \* Administration to be reduced by \$2.8 M or 6.5%;
  - \* Environmental and Energy Services to be reduced by \$4.3 M or 3.5%;
  - \* Environmental Control to be increased by \$2.6 M or 2.3%;
  - \* Utility planning to have \$100 M of its \$220 M budget allocated to the Ontario Clean Water Agency (OCWA);The MOEE capital budget is reduced from \$216 M to \$75 M by way of transferring ~\$100 M in expenditures to the Ontario Clean Water Agency and by reductions to environmental and energy services. The total of MOEE budget expenditures, if OCWA is excluded, is estimated to be \$376 M for the budget year 1994-95; if OCWA expenditures are included, \$631 M.
- The Ministry of Natural Resources has its operating budget enlarged and its capital budget trimmed. Operating expenditures are increased by \$111 M, creating a budget of \$497 M. The capital budget is cut \$31 M leaving \$59 M. Total ministry spending is \$556 M.

**Date**

**Initiative**

June 8/95

- The remaining items detail the budgetary and staffing changes to Ontario's environmental protection framework under the Ontario Progressive Conservative administration.

June '95

- Toronto subway expansion temporarily halted. The Province retracts funding for Eglinton Avenue Line but maintains support to the Sheppard Line. Metro Toronto uncertain about its ability to finance even this line in the face of other fiscal restraints.

July 5/95

- Photo radar system of highway speed control abolished.

July 13/95

- Agriculture Minister announces the province will be withdrawing funding for an agricultural land trust to protect the Niagara Fruit Belt from urban development.

July 21/95

- Government-wide ministry spending reductions released by the Minister of Finance. Cuts are to capital and operating budgets:  
Operating



- \* Freeze MoEE direct assistance to business to save \$3 M;
- \* Niagara Tender Fruit Lands \$15 M over coming decade;

Capital

- \* municipal road budget cut by \$74 M;
- \* GTA rapid transit budget cut \$42 M;
- \* provincial highway and other MTO initiatives \$69 M;
- \* reduce GO Transit grant \$15 M;
- \* provincial portion of Canada-Ontario Infrastructure Works cut by \$73 M;

Also, the Minister announces value-for-money audits of Ontario Bus Industries and Toronto's Ataratiri land reclamation project.

August 29/95

- Transport Minister announces that the MTO will defer the development of new GO Transit commuter rail services.

October 6/95

- Government-wide operating budget reductions released by the Office of the Premier. These reductions are in addition to those made in July. The Ministry of Environment and Energy had its operating budget reduced by \$14.9 M in each of the years 1995-96 and 1996-97. The 1996-97 cutbacks are part of, but not the final and total. Programs, boards and committees affected:
  - \* reduce environmental research grants (\$1.0 M);
  - \* reduce environmental monitoring, analytical testing and standards development (\$1.85 M);
  - \* downsize boards and committees (\$0.8 M);
  - \* reduce program administration and support (\$4.0 M);
  - \* redesign municipal recycling support program (\$3.22 M);
  - \* reduce energy conservation grants (\$0.7 M);
  - \* reduce conservation and planning spending (\$0.68 M);
  - \* reduce regional operation's program delivery (\$1.4 M);
  - \* redesign compensation for emergency response program (\$0.65 M);
  - \* elimination of ACES, EAAC, MISA advisory committees plus the OWMC as cited above (\$0.8 M).
- In the same document, the Premier's Office announces government-wide capital budget reductions. The Ministry of Environment and Energy had the following items reduced from its capital budget:
  - \* \$31.8 M from the Ontario Clean Water Agency.
- Reductions to Ministry of Natural Resources:
  - \* fire management \$0.5 M;
  - \* sustainable forest / timber EA program \$19.1 M;
  - \* nursery closures \$0.4 M;
  - \* park staff reductions \$0.06 M;

- \* conservation authorities' operating transfer payments \$1.2 M;
- \* science, management, Great Lakes, aboriginal and field programs \$10.2 M;

In total, \$31.3 M in 1995-96 and the same amount to roughly the same programs in 1996-97.

- Reductions to the Ministry of Transportation:
  - \* municipal transit operating subsidies \$16 M;
  - \* GO Transit operating subsidy \$3.8 M;
  - \* service, staff, board and program reduction \$19.6 M;
 In total, \$39.4 M in 1995-96 and \$36.2 M in 1996-97.
- Reductions to the Ministry of Northern Development and Mines:
  - \* mine-site rehabilitation program redesign \$1.3 M in 1996-97.

November 29/95

- An economic statement is delivered by the Finance Minister in the legislature. The statement largely consolidates the cutbacks announced to date by the government. In total, the MoEE's operating budget is reduced ~\$15 M and its capital budget by ~\$31.8 M for a total of \$46.7 M for 1995/96. Staff has been reduced by 63 members. See table below for the effect over 1995-1997.

Table 1: Ministry of Environment and Energy Budgetary Impacts

Event	Operating	Capital	Totals
Actual Expenditures 1994/95	\$272 M	\$271 M	\$543 M
Jul-Oct '95 Reductions	(\$14.9 M)	(\$31.8 M)	(\$46.7 M)
November '95 Reductions for 1996-97	(\$14.1 M)	(\$23.2 M)	(\$37.3 M)
Totals	\$243 M	\$216 M	\$459 M

- Total cumulative ministry reduction for 1995-1997 is projected to be \$84 M or about 16%. Expenditure and reduction estimates are preliminary; reductions could increase over time.

November 30/95

- Five year, \$100 million funding announced for the Red Hill Creek Expressway in Hamilton-Wentworth.

December 1/95

- The Ministry of Environment and Energy announces some projected operating budget cutbacks for the 1996/97 fiscal year:

Terminated programs

- \* recycling, reduction, reuse support (\$5.6 M);
- \* household hazardous waste funding (\$0.2 M);
- \* urban and rural beach cleanup / restoration (\$8.2 M);
- \* green Communities (\$1.7 M);
- \* home green-ups (\$8.4 M);
- \* energy education, training, standards development and conservation (\$1.2 M);
- \* environmental research and public education (\$2.3 M);

Reduced Funding

- \* Niagara Escarpment Commission (\$0.7 M);
- \* Ontario Energy Board (\$0.5 M);
- \* Environmental Appeal Board (\$0.07 M);
- \* Environmental Compensation Corporation (\$0.05 M);
- \* Canadian Council of Ministers of the Environment (\$0.23 M);
- \* grants programs support/administrative (\$2.72 M).

Total operating and capital budget reductions for 1996/97 is \$37.3 M.

- December 8/95 • Funding announced for the completion of Highway 416 between Ottawa and Highway 401.
- February 26/96 • Ontario Public Service Employees Union begins province-wide strike. Inspection, monitoring and enforcement activities of many departments affected. Most notably, water and sewage treatment operating procedures/guidelines may have been violated. Other areas may have also been affected (eg. spills, MISA reporting).
- March 25/96 • Province-wide strike of Ontario Public Service Employees ends.

### iii) Regulatory/Policy Reviews: January 1993 - March 1996

#### Federal

The following items detail reviews conducted or being conducted by the federal government since January 1993 which have an impact on the environmental protection framework in Ontario.

<u>Date</u>	<u>Initiative</u>
February '92	<ul style="list-style-type: none"><li>• Regulatory Review initiated as part of February 1992 budget.</li></ul>
June '93	<ul style="list-style-type: none"><li>• Assessment of Aquatic Effects of Mine Effluents initiated as first step in review of <i>Fisheries Act</i> Metal Mining Liquid Effluent Regulations.</li></ul>
November '93	<ul style="list-style-type: none"><li>• Environment Canada Regulatory Review Report (35 regulations):<ul style="list-style-type: none"><li>* recommends consideration be given to revoking <i>Fisheries Act</i> Potato Processing Plant Liquid Effluent Regulations, Meat and Poultry Products Plant Liquid Effluent Regulations (ineffective), and the CEPA Chlorofluorocarbon Regulations (redundant), and the additives part of the Fuels Information Regulations No.1 (data not used).</li></ul></li></ul>
November '94	<ul style="list-style-type: none"><li>• Report of Task Force on Economic Instruments and Disincentives to Sound Environmental Practices.</li></ul>
June 20/95	<ul style="list-style-type: none"><li>• House of Commons Standing Committee on Environment and Sustainable Development releases report on review of <i>Canadian Environmental Protection Act</i> (CEPA) (<u>It's About Our Health!</u>). Recommends major changes to the Act including:<ul style="list-style-type: none"><li>* toxicity assessments based on "inherent" toxicity, or regulation in other OECD jurisdictions;</li><li>* mandatory pollution prevention planning for "toxic" substances;</li><li>* action forcing provisions for control of "toxic" substances;</li><li>* new biotechnology part;</li><li>* strengthened ocean dumping provisions;</li><li>* strengthen environmental protection on aboriginal lands and in the North;</li><li>* improved environmental management within the federal government;</li><li>* expanded opportunities for public participation in decision-making;</li></ul></li></ul>

- \* citizen suits and private prosecution provisions;
  - \* strengthened enforcement; and
  - \* strengthened accountability mechanisms in federal-provincial relations.
- December 15/95 • Federal Government Response to House of Commons Standing Committee on Environment and Sustainable Development CEPA Report (Environmental Protection Legislation Designed for the Future) released:
- \* proposes significant improvements in areas of Ocean Dumping and Enforcement;
  - \* incremental improvements related to toxics, pollution prevention, citizen rights;
  - \* major retrenchments related to biotechnology and federal authority to implement international environmental agreements related to air pollution.
- December 15/95 • House of Commons Standing Committee on Natural Resources tables interim report Streamlining Environmental Regulation for Mining and requests government response. Report recommends:
- \* "streamlining" and "harmonization" of federal environmental assessment requirements affecting mining;
  - \* delegation of freshwater fish habitat protection to provinces;
  - \* "harmonization" of *Fisheries Act* Metal Mining Liquid Effluent Regulations with province requirements; and
  - \* redefinition of wastes for purposes of *Basel Convention on Transboundary Movement of Hazardous Wastes* to exclude wastes destined for recycling or other "environmentally beneficial processes."
- Government response due May 1996.
- December 15/95 • House of Commons Standing Committee on Environment and Sustainable Development tables report Keeping a Promise: Towards a Sustainable Budget and requests government response. Report recommends:
- \* completion of baseline study of federal taxes, grants and subsidies in order to identify barriers and disincentives to sound environmental practices;
  - \* terminate CANDU Owners Group Agreement;
  - \* elimination of subsidies to AECL;
  - \* elimination of direct subsidies to the petroleum industry;
  - \* equal treatment for renewable energy sources under the Income Tax Act;
  - \* reduction of tax benefits provided to the mining industry; and
  - \* review of transport subsidies.
- Government response due May 1996.

## Provincial

The following items detail reviews conducted or being conducted by the provincial government since January 1993 which have an impact on the environmental protection framework in Ontario.

<u>Date</u>	<u>Initiative</u>
June 1/93	<ul style="list-style-type: none"><li>• Final Report of Commission on Planning and Development Reform in Ontario.</li></ul>
November '94	<ul style="list-style-type: none"><li>• Report of Advisory Committee on Environmental Standard on Proposed Guideline for the Clean-up of Contaminated Sites in Ontario.</li></ul>
November 1/95	<ul style="list-style-type: none"><li>• Ontario Ministry of Environment and Energy announces review of all of its 78 regulations within twelve months. The MoEE states that the review will focus on streamlining, removal of duplicative purpose and easing of reporting requirements. The review is not intended to compromise environmental integrity and as a first step will not involve changes to the acts from which the regulations arise.</li></ul>
November 2/95	<ul style="list-style-type: none"><li>• Minister of Environment and Energy announces the establishment of the Advisory Committee on Competition in Ontario's Electricity System. Mandate of the committee is to evaluate options for phasing in competition in these areas:<ul style="list-style-type: none"><li>* structural changes to the electrical utility industry;</li><li>* regulatory reform to ensure a healthy, competitive environment;</li><li>* introduction of private equity in the electric utility sector.</li></ul></li></ul>
November 15/95	<ul style="list-style-type: none"><li>• Interim report of the Golden Task Force on the Greater Toronto Area. If recommendations proceed sweeping changes could be introduced to the area's land use, services and taxation policy.</li></ul>
November 29/95	<ul style="list-style-type: none"><li>• MPP Frank Sheehan appointed to chair the Red Tape Review Committee. It will review all 45,000 regulations in effect in the Province and attempt to streamline or eliminate as many as possible within 12 months.</li><li>• Ontario government announces that another committee of government will review the mandates of the Province's agencies, boards and commissions.</li></ul>

#### iv) Intergovernmental Initiatives

The following items detail intergovernmental initiatives since January 1993 which have an impact on the environmental protection framework in Ontario.

<u>Date</u>	<u>Initiative</u>
November '93	<ul style="list-style-type: none"><li>• Canadian Council of Ministers of the Environment initiates Environmental "Harmonization" Project.</li></ul>
July 6/94	<ul style="list-style-type: none"><li>• <i>Canada/Ontario Agreement Respecting the Great Lakes Basin Ecosystem</i><ul style="list-style-type: none"><li>* \$1.6 B to be invested over six years to fulfil <i>Great Lakes Water Quality Agreement</i> commitments;</li><li>* seeks restoration and de-listing of 9 of 17 Canadian IJC areas of concern;</li><li>* seeks virtual elimination of 13 PBT's for basin and voluntary reduction of releases of 26 other pollutants of concern; and</li><li>* seeks creation of a network of protected wildlife and fish habitat in the basin.</li></ul></li></ul>
December '94	<ul style="list-style-type: none"><li>• Release of Draft Environmental Management Framework Agreement and Environmental Assessment, Compliance, Monitoring, and International Affairs Schedules.</li></ul>
May '95	<ul style="list-style-type: none"><li>• Federal Participation of CCME Harmonization Project Suspended.</li></ul>
October 24/95	<ul style="list-style-type: none"><li>• Ontario Minister of Environment and Energy endorses national clean air standards proposed by the Task Force on Cleaner Vehicles and Fuels. Proposal includes the promotion of: fuel efficient / alternate fuel vehicles; inspection and maintenance programs; low emission vehicles by 2001; and new fuel standards.</li></ul>
October '95	<ul style="list-style-type: none"><li>• Release of Second Draft EMFA and 10 Schedules (Monitoring, Compliance, International Affairs, Guidelines and Standards, Policy and Law, Environmental Education, Environmental Emergencies, Research and Development, State of the Environment Reporting, Pollution Prevention.</li></ul>
February 27/96	<ul style="list-style-type: none"><li>• Federal Throne Speech references to federal-provincial "partnerships" in environmental management and inland fish habitat protection, federal withdrawal from areas of mining and forestry.</li></ul>

March 6/96

- Minister of the Environment's Follow-up to Speech from Throne:
  - \* federal-provincial cooperation does not mean "giving away the store;"
  - \* focus will be in ensuring no gaps;
  - \* work out with provinces and territories a "measured journey" - "one step at a time."



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## Part III: Summary and Conclusions

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### Implications of Federal Initiatives

#### *January 1993 - October 1993*

The final months of the federal Progressive Conservative government were marked by few significant environmental initiatives. The Department of the Environment's primary activity appeared to be focused on the regulatory review initiated as part of the government's February 1992 budget. In addition, there was growing interest in voluntary environmental initiatives through such processes as the Accelerated Reduction and Elimination of Toxics (ARET) initiative.

#### *October 1993 - Present*

The October 1993 election platform of the Liberal Party of Canada contained a number of major environmental commitments. These included: a baseline study of federal taxes, grants and subsidies to identify barriers to sound environmental practices; the establishment of an Environmental Auditor General's office; amendments to the *Canadian Environmental Assessment Act*; major revisions to CEPA to promote pollution prevention; an environmental industry strategy; initiatives to improve energy efficiency and to fulfil Canada's international commitments regarding carbon dioxide emissions; and the promotion of stronger consideration of environmental issues in international trade negotiations.

Despite these commitments, the actual results of the current federal government's environmental efforts have been limited. A number of measures initiated by the previous government have been completed, including the coming into force of the *Canadian Environmental Assessment Act*, and of the New Substances Notification Regulations and Ozone Depleting Substances regulations under CEPA. In addition, a number of major policies have been announced, including the Toxic Substances Management Policy and a Pollution Prevention Strategic Framework. However, these policies have yet to be translated into legislative action.

The government has begun a number of major legislative initiatives, including proposals for a federal Endangered Species Act and a renewed CEPA, the introduction of legislation to establish an Office of the Environmental Commissioner, and to ban the fuel additive MMT. However, only the legislation related to the Environmental Commissioner's office has been enacted, and some of the other initiatives, particularly the proposed endangered species legislation, and the CEPA review have engendered significant conflict within the government.

Within the Great Lakes Basin the federal government's most important initiative has been the negotiation of the July 1994 *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem* with the government of Ontario. This six year agreement outlines the commitments and obligations of the federal and provincial governments in the implementation of the *Canada-U.S. Great Lakes Water Quality Agreement*.

However, even these limited achievements must be balanced against the impact of the Program Review contained in the federal government's February 1995 Budget. This reduced Environment Canada's budget by 30%, resulting in the reduction or elimination of a wide range of programs. Major reductions were also made to the budgets of the Departments of Natural Resources and of Fisheries and Oceans. The Department of Fisheries and Oceans has responded to the reductions in its budgetary resources with proposals to delegate responsibility for freshwater fisheries management, including habitat protection, to the provinces and territories.

Regulatory reform has also emerged as a major theme in the federal government's "jobs and growth" agenda over the past year. The introduction of the *Regulatory Efficiency Act* was particularly significant in this context. The impact of these initiatives on existing federal environmental protection requirements has been limited. However, they have made it much more difficult to move new initiatives, such as the reform of CEPA and the proposed endangered species legislation, forward.

In addition, the possibility of the devolution of major federal environmental responsibilities to the provinces and territories has been the subject of considerable attention over the past two years. These moves have been driven by a combination of factors, including budgetary pressures emerging from the Program Review process, and pressures for a number of provinces, particularly in Western Canada. The government's February 1996 Throne Speech made reference to "strengthened partnerships" with the provinces in the areas of environmental management and fish habitat protection. At the same time, however, there are indications that the federal government is unlikely to move forward with the proposed Canadian Council of Ministers of the Environment (CCME) environmental "harmonization" agreement.

The completion of the CEPA review, the Strategic Options Process (SOP) for CEPA "toxic" substances, and the introduction of federal endangered species legislation seem likely to be the federal government's primary environmental initiatives for the remainder of its term. There are also likely to be continuing pressures for a weakening of existing federal environmental requirements from the mining, chemical and fossil fuel industries, and other federal government departments including Industry Canada and Natural Resources Canada. Calls for the devolution of federal environmental responsibilities from a number of provinces will continue as well, with Ontario potentially adding its voice to the chorus.

## Implications of Ontario Provincial Initiatives

*January 1993 - June 1995*

Developments in environmental law and public policy in Ontario over the period between January 1993 and the present fall into two distinct phases. Between January 1993 and June 1995, the New Democratic Party government completed a number of major environmental initiatives, some of which originated with the previous Liberal government. Among the most significant events were:

- \* the enactment of an *Environmental Bill of Rights* in December 1993;
- \* the enactment of major reforms to the *Planning Act*, and the development of a comprehensive set of provincial planning policy statements, based on the work of the Commission on Planning and Development Reform, in March 1995;
- \* the completion of the Municipal-Industrial Strategy for Abatement direct discharge program with the promulgation between September 1993 and February 1995 of effluent monitoring and discharge regulations for the nine industrial sectors targeted by the program;
- \* the promulgation between March and December 1994 of regulations controlling or phasing-out the use of a range of ozone depleting substances, including CFCs, HCFCs, halons, carbon tetrachloride and methyl chloroform; and
- \* the implementation of regulations requiring the provision of municipal solid waste recycling services by municipalities, and solid waste source separation and waste reduction planning by commercial, industrial and institutional waste generators. These regulations flowed from amendments to the *Environmental Protection Act* regarding waste management proclaimed in April 1992.

In addition, as noted earlier, a *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem* was concluded between the government of Ontario and the federal government in July 1994.

However, there were also substantial reductions in the budget of the Ministry of Environment and Energy during this period. The most significant reductions occurred in the April 1993 budget, in which the Ministry's allocation was reduced by \$66.1 million from the previous year. In addition, the Ministry's sewer and water service operating functions and assistance programs for municipalities were transferred to a new Crown Corporation, the Clean Water Agency (OCWA). Significant reductions (\$81 million) were made to the budget of the Ministry of Natural Resources at the same time, primarily affecting resource management and conservation activities.

### *June 1995 - Present*

The June 1995 provincial election has emerged as a major watershed in environmental management in the province of Ontario. Since its election, the Progressive Conservative government has taken a series of initiatives which will have major implications for environmental management within the province.

Major changes to the land-use planning regime have been introduced through the *Government Savings and Restructuring Act, 1996* (Bill 26) and the *Land Use Planning and Protection Act, 1996* (Bill 20). Bill 20 reversed many of the reforms contained in the March 1995 amendments to the *Planning Act*, particularly with respect to the protection of environmentally significant areas and public participation in decision-making. In addition, through Bill 26 many of the controls on activities on Crown Lands, and in relation to "improvements" to lakes and rivers, seem likely to be removed. The mandate and capacity of Conservation Authorities was also significantly curtailed through Bill 26. The dissolution of many of the Authorities and the sale of their lands seems a likely outcome.

The new government has also made reductions in the current year operating budget of the Ministry of Environment and Energy of \$15 million and to capital budget of the Clean Water Agency of \$23 million. Further reductions, totalling \$30.5 million (from 1994/95 base year) to the budgets of these agencies are projected for the 1996-97 fiscal year. The possibility of the privatization of the operations of the Clean Water Agency has also been raised. The primary focus of the reductions to the Environment Ministry's budget has been on educational activities, environmental research, environmental technology development and diffusion, energy efficiency, waste diversion, and standards development. There have also been major reductions in the budgets of the Niagara Escarpment Commission, and the Ontario Energy Board.

Furthermore, there have been significant reductions in the budgets of the Ministry of Natural Resources for resources management and in operating funds for Conservation Authorities. Funding for the Ministry of Northern Development and Mines' mine closure and remediation program has essentially been eliminated. Major cuts have also occurred to operating support for public transit services from the Ministry of Transportation.

In addition to these legislative and budgetary developments, the government has initiated two wide ranging reviews, one focused on the regulations made and administered by the provincial government and its agencies, boards and commissions, and the other on the government's agencies, boards and commissions themselves. The Ministry of Environment and Energy initiated its component of the regulatory review in November 1995. The primary focus appears to be on the Ministry's regulations related to air and water pollution, including the MISA regulations, and the approval and oversight of waste disposal facilities.

It seems unlikely that any of these regulations will be strengthened as a result of this exercise. Significant retrenchment, particularly with respect to reporting and monitoring

requirements is a more probable outcome. The elimination of requirements for approvals for certain types of activities and the adoption of permit-by-rule systems for others, following the models employed in Alberta, also seem likely results.

In addition, the Environment Ministry appears to be moving to withdraw from most of its functions with respect to land-use planning. Furthermore, the incidence of exemptions of undertakings from the *Environmental Assessment Act* is rising. No new public hearings by the Environmental Assessment Board have been granted since June 1995.

In the meantime the province has already undertaken a number of significant regulatory "reform" initiatives. These include the repeal of the previous government's ban on new municipal solid waste incineration facilities, the effective suspension of the public notice and comment requirements of the *Environmental Bill of Rights*, for the period between December 1995 and September 1996, and the making of revisions to the monitoring provisions of several of the MISA effluent regulations. In addition, the province has granted exemptions from environmental liability under the *Environmental Protection Act* to lenders and prospectors, and reinforced the confidentiality of self-initiated environmental audits.

The province appears to be attempting to focus on what it considers to be its "core" environmental functions. The changes to the land-use planning system contained in Bills 20 and 26, the reduction and potential elimination of the Conservation Authorities, and the moves to limit the application of the *Environmental Assessment Act* indicate that efforts at long-term environmental planning and ecosystem management are to be abandoned. Similarly, the Ministry of Natural Resources' withdrawal of funding to implement the requirements of the Class Environmental Assessment on Timber Management, and effective privatization of wildlife management, suggest that efforts to introduce more ecosystem-based approaches to resources management and to ensure the protection of biological diversity, are also to be ended.

Other initiatives intended to move Ontario's society and economy on to a more environmentally sustainable basis are being eliminated as well. These include termination of the Ontario Round Table on the Environment and Economy, and of most of the province's programs related to environmental education, environmental research, the development and diffusion of environmental technologies, community environmental initiatives, energy efficiency, and waste diversion. Efforts both to require the remediation of past environmental damage, and to ensure that provision is made for remediation in relation to the new activities, such as new mines, are also being reduced or eliminated.

What seems likely to be left of the province's environmental functions will be a permitting regime for direct discharges of pollutants to air and water, and for the approval of waste disposal sites. This is at best, a return to the situation which existed in 1971 at the time of the creation of the Ministry of the Environment and the passage of the *Environmental Protection Act*. Indeed, even in these basic, "core" areas, permit-by-rule and voluntary, "self-regulation" systems seem to be under consideration. With respect to land use and broader resource management, the effective result of the province's actions seems likely

to be an unrestricted development regime on public and private lands throughout the province, effectively the situation which existed prior to the creation of the Conservation Authorities in 1946.

Such an approach seems to provide little chance of enhancing the environmental sustainability of Ontario's economy and society. The developments with respect to land-use are particularly problematic, as much of the resulting damage is likely to be irreversible. In addition, the reversal of political will at the provincial level and repeal of significant components of the existing environmental protection framework in the province raises serious questions about the ability of the province to meet its obligations under a number of existing intergovernmental agreements, particularly the *1994 Canada-Ontario Agreement on the Great Lakes Ecosystem Basin*, or to assist the federal government in meeting Canada's obligations under the *Great Lakes Water Quality Agreement*. Forward movement on air issue related to the *Canada-U.S. Air Quality Accord* or other emerging issues also seems improbable.

### **Implications for the Federal Role in Environmental Management in Ontario**

These developments at the provincial level have significant implications for the environmental role of the federal government in the Ontario region. Unfortunately, Environment Canada has suffered significant reductions in its resources as a result of the February 1995 program review. Consequently, its capacity to take on new or expanded functions within the region is limited.

In light of the province's withdrawal from environmental monitoring, research, education, and remediation activities, the federal government's activities in these areas, and its promotion of the importance of ecosystem-based planning and the conservation of biological diversity will take on a new importance. In addition, there is a potential need for increased federal environmental law enforcement efforts in the region in light of the likely weakening or repeal of key provincial requirements, and a reduced enforcement effort at the provincial level. This may be particularly important in relation to the CEPA, and the *Fisheries Act* pulp and paper sector regulations, other *Fisheries Act* sectoral regulations, and the CEPA requirements related to Ozone Depleting Substances, PCB storage and transboundary waste movements.

Efforts by the province to seek the delegation of federal environmental responsibilities through CEPA administrative or equivalency agreements, the delegation of permitting authority under section 35(2) (habitat protection) of the *Fisheries Act*, or through a broader environmental management agreement should be approached with great caution. This is due to the serious questions which must be raised with respect to the current capacity and will of the province to provide an effective environmental management regime.

The delegation of the administration of the *Fisheries Act* habitat protection provisions would be particularly problematic. In the context of the province's land-use planning

initiatives both through the Bill 26 amendments to the *Public Lands Act*, *Lakes and Rivers Improvement Act*, and the *Conservation Authorities Act*, and the Bill 20 amendments to the *Planning Act* and their accompanying Provincial Policy Statement, the current provisions of the *Fisheries Act* are the only legal protection available to wetlands, shorelines, and other environmentally significant areas in the province.

## **Conclusions**

The face of environmental management in the province of Ontario has undergone an enormous transformation over the past eight months. There has been almost a complete reversal of direction by the provincial government. The province has moved from an active and extensive efforts to move Ontario's society and economy on to a more environmentally sustainable basis, towards the complete abandonment of any commitment to long-term environmental planning, to ecosystem-based environmental management, or even to the core principle of environmental sustainability itself. The long-term consequences of this direction for present and future generations of Ontarians and Canadians are likely to be severe, and in many cases, irreversible.

## Glossary of Acronyms Used

3Rs	-	Reduce, Reuse, Recycle
ACES	-	Advisory Committee on Environmental Standards
AECL	-	Atomic Energy of Canada Limited
AOX	-	Adsorbable Organic Halides
ARET	-	Accelerated Reduction and Elimination of Toxics
CANDU	-	Canadian Deuterium-Uranium Reactor
CCME	-	Canadian Council of Ministers of the Environment
CEPA	-	Canadian Environmental Protection Act
CFC	-	Chlorofluorocarbons
CIPSI	-	Canadian Industry Packaging Stewardship Initiative
COA	-	Certificate of Approval
DFO	-	Department of Fisheries and Oceans
EAAC	-	Environmental Assessment Advisory Committee
EBR	-	Environmental Bill of Rights
EMFA	-	Environmental Management Framework Agreement
EPA	-	Environmental Protection Act
GO	-	Government of Ontario
GTA	-	Greater Toronto Area
HBFC	-	Hydrobromofluorocarbons
HCFC	-	Hydrochlorofluorocarbons
HFC	-	Hydrofluorocarbons
IJC	-	International Joint Commission
M	-	Millions of dollars, Canadian
MISA	-	Municipal-Industrial Strategy for Abatement
MMT	-	Methylcyclopentadienyl Manganese Tricarbonyl
MNR	-	Ministry of Natural Resources
MoEE	-	Ministry of Environment and Energy (Ontario), also OMEE
MPPs	-	Members of Provincial Parliament
MSW	-	Municipal Solid Waste
MTO	-	Ministry of Transportation (Ontario)
ODS	-	Ozone Depleting Substances
OEB	-	Ontario Energy Board
OECD	-	Organization for Economic Cooperation and Development
ORTEE	-	Ontario Round Table on Environment and Economy
OWMC	-	Ontario Waste Management Corporation
OWRA	-	Ontario Water Resources Act
PBT	-	Persistent Bioaccumulative Toxins
PCB	-	Polychlorinated Biphenols
PSL	-	Priority Substance List
SOP	-	Strategic Options Process
TSMF	-	Toxic Substance Management Policy
TSS	-	Total Suspended Solids



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