

Ontario Law

Ontario's review of EBR policy raising key issues for industry

By JANET BOBECHKO

Transparency for provincial decision-making with an impact on the environment had a spotlight shone on it when Ontario's Environmental Bill of Rights (EBR) came into force in 1993.

The EBR, which is currently under review, is designed to protect, conserve and, where reasonable, restore the integrity of the environment, to provide sustainability of the environment and to protect the right to a healthful environment.

The EBR provides the public with an accessible platform through the web-based Environmental Registry to find information and be consulted on matters of environmental significance. Some government ministries were required to create a Statement of Environmental Values (SEVs). Significant decisions regarding the environment had to be made respecting the SEVs.

Very quickly the EBR became the go-to place to understand how government decision making could impact the environment from new policy directions to posting of approvals that the government was considering.

The registry and growth of the internet happened simultaneously. The public had a right to know and actively exercised it. Today, according to the Ministry of Environment and Climate Change (MOECC), about 1,000 individuals, environmental organizations, and industry representatives access the registry daily, viewing more than 60,000 pages. About 3,500 instruments are posted yearly.

Under the EBR, Ontarians have the right to request a minister to review an existing act, regulation, policy or instrument to protect the environment. An application was submitted for a review of the EBR and the MOECC's response was to create a discussion guide seeking input on eight specific questions.

The MOECC also wants input on the right to a healthy environment in the EBR. A dialogue is taking place across Canada to amend the Constitution to enshrine a right to a healthy environment.

Consultation closes this Nov. 8. The MOECC will analyze the submissions, post a summary of the comments and determine next steps in the review of the EBR.

The questions address potential expansion or modification of the principles of the EBR. Should additional ministries, instruments or legislation be added? Do SEVs need an overhaul? Are changes required to improve public engagement in decision-making through the registry and notice requirements? What about the leave to appeal process? Should changes be made to the applications for review and investigations for timelines and content of governmental responses?

Lastly, what about the *Environmental Assessment Act* exception where there is already a public consultation component. Is additional consultation required?

The review raises important issues that could impact users and those subject to EBR requirements.

For more information, visit: <http://bit.ly/2bJv2rM>. You can also send input to EBRreview@ontario.ca.

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