



Operation of the *Environmental Bill of Rights, 1993*

Chapter 1: Transparency and Accountability in Environmental Decision-Making

2019/20 Review

Why We Did This Audit

- The *Environmental Bill of Rights, 1993* (EBR Act)—which provides rights for Ontarians and obligations for 15 Ontario government ministries (prescribed ministries) that are intended to work together to protect, conserve and restore the environment—requires our Office to report annually on the operation of the EBR Act.
- Chapter 1 includes our findings on the operation of the EBR Act since our last report, including a number of findings about environmentally significant ministry decisions that were not consistent with the purposes of the EBR Act.

Why It Matters

- The EBR Act provides for accountability and transparency in the government's environmental decision-making.
- When ministries carry out their responsibilities consistent with the EBR Act's purposes, Ontarians can participate meaningfully in environmental decision-making and support better government decisions about the environment.
- When ministries make decisions that are consistent with the EBR Act's purposes, they can achieve better outcomes for the environment.

What We Found

- The Ministry of the Environment, Conservation and Parks (Environment Ministry) created an overly broad temporary exemption from the EBR Act's public consultation requirements to allow the government to act quickly to address issues arising from the COVID-19 pandemic. As a result, Ontarians lost the right to seek leave to appeal decisions about 197 environmentally significant permits and approvals that were unrelated to COVID-19 but were proposed during the exemption period from April 1, 2020 to June 15, 2020.
- In July 2020, the Environment Ministry and the Ministry of Municipal Affairs and Housing did not consult Ontarians through the Environmental Registry about changes to the *Environmental Assessment Act* and the *Planning Act* included in the *COVID-19 Economic Recovery Act, 2020* (Bill 197). A provision in Bill 197 retroactively deemed the EBR Act's public consultation requirements not to have applied to the *Environmental Assessment Act* amendments.
- The Environment Ministry did not have processes in place to identify all of the ministries and laws and assess whether they should be subject to the EBR Act and to propose that those ministries and laws be prescribed.
- The Ministry of Natural Resources and Forestry and the Environment Ministry did not give Ontarians sufficient information about, or time to comment on, a series of proposals that, together, would make significant changes to how the ministries regulate commercial forestry on Crown land, affecting protections for species at risk.
- The Environment Ministry made significant amendments to the *Endangered Species Act, 2007* that reduced legal protection for species at risk and were inconsistent with both the Ministry's objectives to improve outcomes for those species, and with the purposes of the EBR Act.

Conclusions

- Ministries reduced government transparency and accountability, and risked undermining public confidence in government environmental decision-making, by making decisions that were not consistent with purposes of the EBR Act.
- The Environment Ministry, as the ministry with primary responsibility for protecting the environment, and responsible for administering the EBR Act and its regulations, did not lead by example when it came to carrying out the requirements and meeting the purposes of the EBR Act.