Ontario Bill 140 Explained



CELA Webinar on Bill 140

April Weppler, Ramani Nadarajah, Richard Lindgren

November 12, 2026

Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.

Photo: Linda Pim

cela.ca

Canadian Environmental Law Association (CELA)

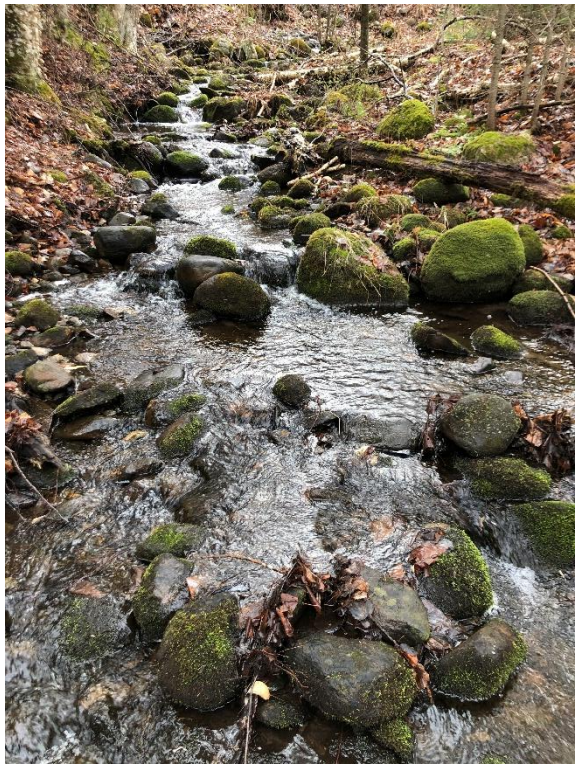


Photo: Kelly Mathews

- Specialty legal aid clinic dedicated to environmental equity, justice, and health
- Founded in 1970, funded by Legal Aid Ontario since 1978
- CELA provides free legal services relating to environmental justice in Ontario, including representing qualifying low-income and vulnerable communities in the courts and before tribunals. CELA also provides free summary advice to the public and engages in legal education and law reform initiatives.

Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.

Canadian Environmental Law Foundation

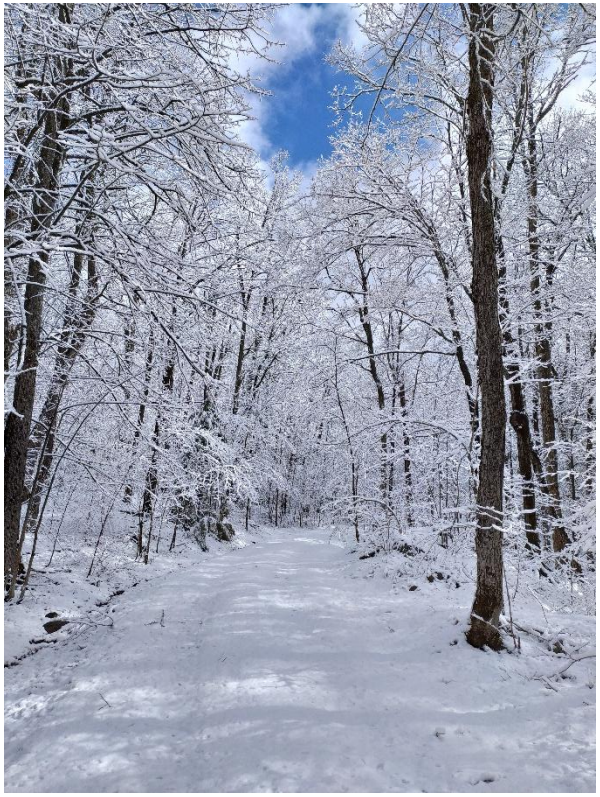


Photo: Ghislain Tillard

- Key initiatives include:
  - Canadian Environmental Law Archives
  - Annual fellowship for one aspiring environmental lawyer,
  - Access to Justice for Northern Communities Initiative.
- The Foundation also supports ongoing education and outreach efforts to promote public participation in environmental decision-making.

Canadian Environmental Law Foundation

Presentation Overview

1. *Environmental Bill of Rights* (EBR) background
2. Review of Bill 140 changes to Parts I and II of the EBR, *Environmental Assessment Act* and *Environmental Protection Act*
3. Review of Bill 140 changes to Parts IV, V, and VI of the EBR, transitional provisions.
4. Next steps, how to take action
5. Q&A

What is the EBR?

- Ontario's *Environmental Bill of Rights* (EBR) was enacted in 1993 and proclaimed into force in 1994
- For over 30 years, this landmark law has contained important legal tools that Ontario residents have used to protect themselves and their communities from environmental harm
- The purposes of the EBR are to ensure environmental protection, public participation, and governmental accountability for environmental decisions

Development of the EBR

- In the late 1970s, CELA and other groups began advocating for enactment of the EBR to address systemic gaps in enviro law
- In 1991-92, CELA was a member of the Environment Minister's EBR Task Force which drafted and consulted on the proposed EBR
- In 1993, the Ontario Legislature enacted the EBR with all-party support
- The EBR has remained intact and unchanged under successive provincial governments until 2018 (elimination of ECO) and now Bill 140

The EBR At A Glance

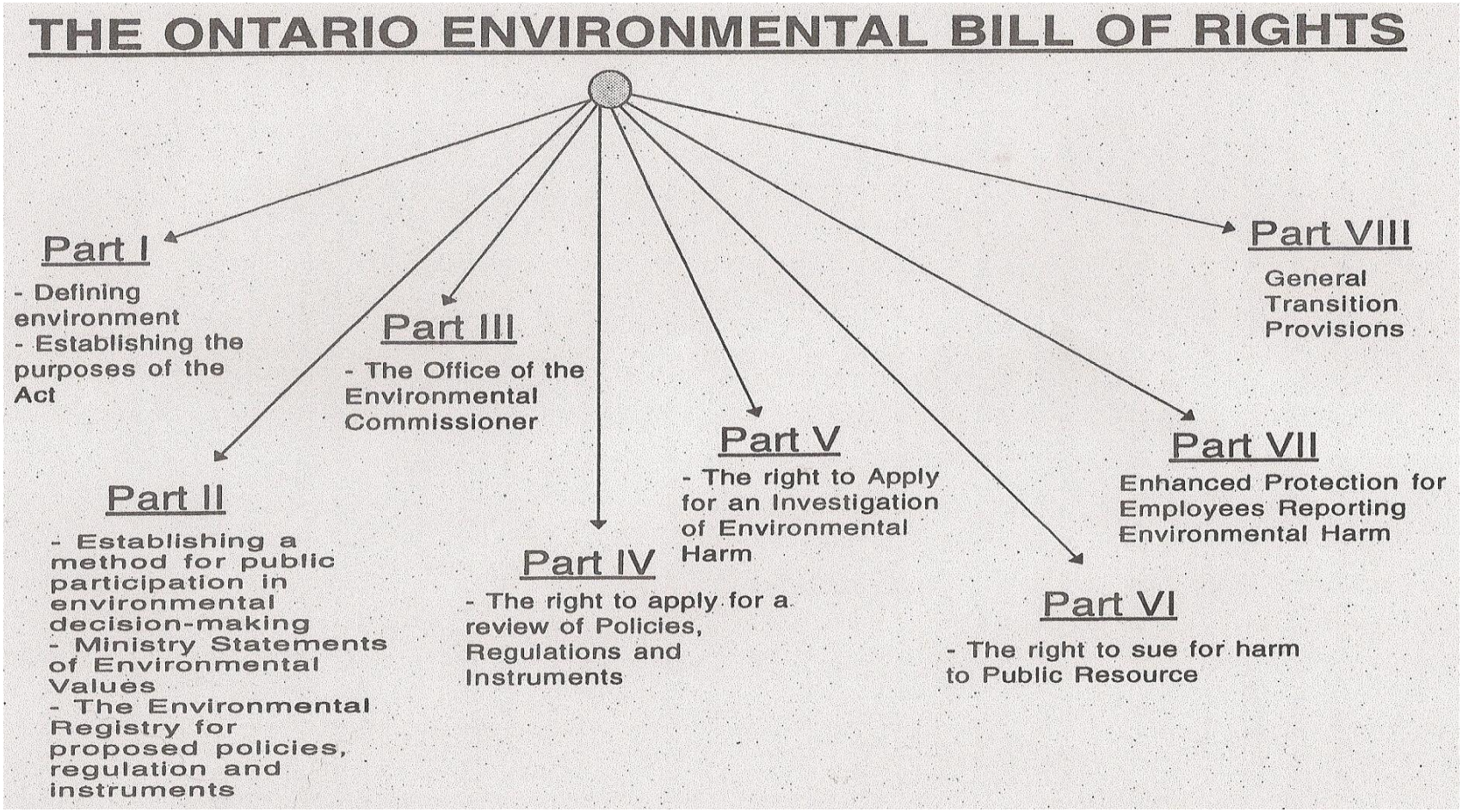


Photo: Report of the EBR Task Force (1992)

Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.

Bill 140 Summary



Photo: Fe de Leon

- *Building Ontario Faster Act, 2026* is an omnibus bill introduced on Oct. 27th
- Schedule 7 amends the *Environmental Assessment Act* (EAA)
- Schedule 8 amends the EBR
- Schedule 9 amends the *Environmental Protection Act* (EPA)

Schedule 8 changes to the EBR (1)

- Section 2 of the EBR sets out several public interest purposes to be achieved by the EBR
- Purpose statements assist in interpreting and applying statutory provisions
- If enacted, Schedule 8 of Bill 140 will repeal two important EBR purposes:

(a) Restore the environment where reasonable

(b) Increase access to the courts by Ontario residents for protection of the environment (see below regarding repeal of Part VI tools)

Schedule 8 changes to the EBR (2)

- Sections 7 to 11 of the EBR require prescribed Ministries to develop “Statements of Environmental Values” (SEVs)
- SEVs are ministry-specific mission statements that explain how the purposes of the EBR will be considered and operationalized during decision-making on proposed enviro laws, regulations, policies and approvals
- The MECP SEV includes the precautionary principle, ecosystem approach, pollution prevention, polluter pays, etc.

Schedule 8 changes to the EBR (3)

- SEVs have been an important tool for Ontarians pushing for better and more accountable environmental decisions (see the Lafarge example below)
- However, former ECO's and the Auditor General have often raised concerns about ministry non-consideration of their SEVs
- Schedule 8 proposes to repeal sections 7 to 11 of the EBR, which would eliminate Ministers' duty to "take every reasonable step" to ensure SEV consideration during enviro decision-making

Schedule 8 changes to the EBR (4)

- Sections 15 and 16 of the EBR require Ministers to provide public notice of proposals for Acts, regulations, and policies that could have a significant impact on the environment
- Notice is required via the Environmental Registry of Ontario (ERO), and public comment periods are at least 30 days (and usually longer for these kinds of proposals)
- There are some limited exceptions to this notice/comment requirement (i.e. proposals dealing with emergencies)

Schedule 8 changes to the EBR (5)

- If enacted, Schedule 8 of Bill 140 will exempt a broad class of proposals from EBR notice/comment requirements if they are "instruments" (i.e. draft bill, regulation, or policy) as defined under the *Modernizing Ontario for People and Businesses Act, 2020*
- These proposals will be placed on the Ontario Regulatory Registry instead of the ERO
- However, mandatory EBR obligations (i.e. minimum 30 days notice, SEV consideration, Auditor General review) will be inapplicable

Schedule 8 changes to the EBR (6)

- Section 22 of the EBR requires mandatory public notice/comment opportunities regarding proposed enviro approvals
- Notice is required via the ERO for a minimum 30-day period (this is the usual timeline)
- If enacted, Schedule 8 leaves this notice obligation in place, but other key EBR provisions will no longer be applicable (i.e. SEV consideration, Auditor General review)
- Schedule 8 of Bill 140 will also repeal sections 38 to 48 of the EBR re public appeal rights

Schedule 8 changes to the EBR (7)

- This “third-party appeal” right under the EBR enables the public to seek leave (permission) to appeal unreasonable approval decisions that could result in significant environmental harm
- Leave applications are heard in writing by the independent Ontario Land Tribunal; if leave is granted, the Tribunal holds a public hearing and decides whether to allow/dismiss the appeal
- The EBR appeal right has been successfully used by Ontarians to secure revocation of potentially harmful approvals, or to obtain more stringent and protective conditions in approvals

Lafarge Case: EBR Appeal Right



Photo: Rick Lindgren

- The EBR appeal right was used to obtain revocation of 2 EPA approvals for burning tires, plastics, etc. as "alternative fuel" in a cement plant
- The Tribunal's leave decision was upheld by the Divisional Court

Bill 140 change to the EAA



Photo: Rick Lindgren

- Section 17.5 of the EAA requires landfill proponents to obtain local municipal support, thereby giving municipalities more leverage
- Schedule 7 of Bill 140 repeals section 17.5

Bill 140 change to the EPA (1)



Photo: Rick Lindgren

- Under the EPA, large renewable energy projects must obtain a Renewable Energy Approval (REA)
- REA decisions can be appealed to the Tribunal if the project will cause (a) serious harm to human health; or (b) serious and irreversible enviro harm

Bill 140 change to the EPA (2)

- If enacted, Schedule 9 of Bill 140 will repeal these existing third-party appeal rights in sections 142.1 and 142.2 of the EPA, which have been in place since 2009
- Schedule 9 also amends EPA definitions of "renewable energy project" and "renewable energy generation facility" to include prescribed types of bio-mass
- This change opens the door to burning more organic material in EFW incinerators (rather than diverting this valuable resource from disposal)

Application for Review

- S. 61(1) Allows any two residents in Ontario to file an application for review with the appropriate Minister if they believe that an existing policy, Act or regulation should be changed to protect the environment

- S. 61(2) Allows any two persons resident in Ontario to seek a new policy, Act or regulation

Application for review – Timelines

- S. 65(1) Minister is obligated to acknowledge receipt of the application for review within 20 days of receipt
- S.66 (1) Minister required to give notice to anyone who may have direct interest in the matters raised in the application
- S. 69(1) Minister required to conduct the review within a reasonable time
- S. 70(1) Minister required to give notice of his or her decision whether to conduct the review to the applicants, the Auditor General, and any other person who may be directly affected by the decision.

Successful Applications for Reviews

- ED - Dump 19
- Rehabilitation of aggregate pits and quarries
- Improving sewage management in provincial parks
- Ending the hunting of snapping turtles, which are a species of special concern



Photo: J.D Taylor

Application for Investigation

- S. 74(1)Allows any two persons resident in Ontario who believe that a prescribed Act, regulation or instrument has been contravened to apply to the appropriate Minster for an investigation
- S. 74(2) Application for investigation must be in the appropriate form and must include certain information, including:
  - the names and addresses of the applicants;
  - a statement about the nature of the alleged contravention;
  - the names and addresses of each person alleged to have been involved in the commission of the contravention
  - a summary of the evidence supporting the allegations of the applicants;

Application for Investigation- Timelines (1)

- s. 74 (5) The minister must acknowledge receipt of an application for investigation to the applicants within 20 days of receiving the application.

- s. 77)(1) The minister shall investigate all matters to the extent that the minister considers necessary in relation to a contravention alleged in an application

- s. 77((2) Minister not required to conduct an investigation if the Minister consider that the
  - (a) the application is frivolous or vexatious;
  - (b) the alleged contravention is not serious enough to warrant an investigation; or
  - (c) the alleged contravention is not likely to cause harm to the environment

Application for Investigation- Timelines (2)

- s. 78(1) If the minister decides that an investigation is not required, the minister shall give notice of the decision, together with a brief statement of the reasons for the decision, to,
  - (a) the applicants;
  - (b) each person alleged in the application to have been involved in the commission of the contravention for whom an address is given in the application; and
  - (c) the Auditor General

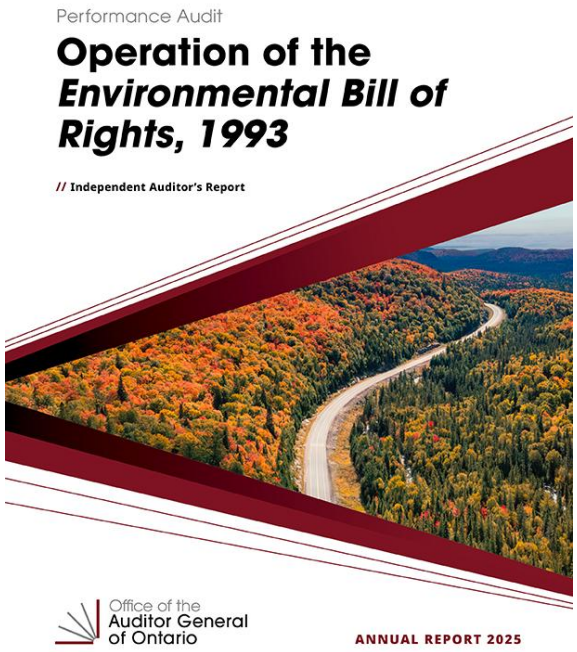
- s. 78 (3) A notice under subsection (1) shall be given within 60 days of receiving the application for investigation.

Successful Applications for Investigations

- Application for Investigation of noise complaint against a commercial operation resulted in conviction and fine

- Auditor General's 2025 Annual Report:
  - Environment Ministry ordered mining company to prevent water contamination originating from its tailing facility

  - Environment Ministry ensure proper approvals were in place for sewage works related to severance and development of three private lots.



Harm to Public Resources

- S. 84 (1) Allows any person resident in Ontario to bring a court action where a person has contravened or will immediately contravene an Act, regulation or instrument which has caused or will cause significant harm to a public resource in Ontario

- S. 84(2) Must first apply for request for investigation and response has not been provided within a reasonable time or the response was responsible

- S. 84(6) No need to comply with section s. 84(2) if delay in complying with the section may result in significant harm to a public resource

Defences to Action for Harm to Public Resources

- S. 85(1) Defence of due diligence
- S. 85(2) Alleged contravention of an Act, regulation or instrument was statutorily authorized
- S. 85(3) Interpretation of the instrument was reasonable
- S. 85(4) No limits on other defences that may be available.

Public Nuisance

- 103(1) Allows a person who has suffered a direct economic loss or direct injury by public nuisance that caused harm to the environment to bring an action. There is no requirement to obtain consent of the Attorney General.

- Previously, a person had to get the Attorney General consent or demonstrate that they had suffered a harm that was different from and greater than the rest of the public

Transition Provisions & Liability Limits

- Bill 140 provides for broad authority on transitional matters. Including allowing for regulations to be “effective with reference to a period before it is filed”

- If enacted Bill 140 would eliminate the following environmental rights as of October 27, 2026:
  - the right to seek leave to appeal
  - the right to file an application for review
  - the right to commence a civil action for harm to public resource under the EBR; and
  - the right to commence a civil action for public nuisance in accordance with the provisions under the EBR

- Bill 140 precludes compensation for repeal of the EBR or for enacting regulations dealing with transitional matters

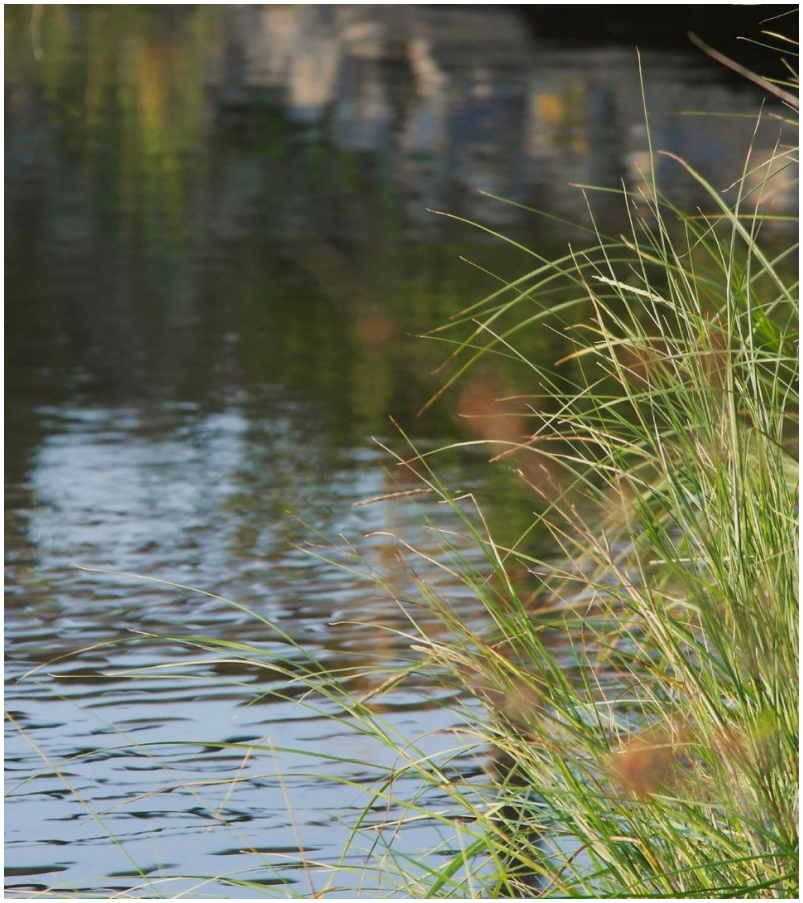


Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.

Tell the Government to Withdraw Bill 140

- Submit your comments through the Environmental Registry before November 26th
  - https://ero.ontario.ca/notice/026-1109
- Send a written submission to the Standing Committee on the Interior by November 17th at 6:00pm
  - sci@ola.org
- Contact your MPP and ask them to oppose Bill 140

Support Our Work



Canadian Environmental Law Foundation

Your support is critical to ensure that environmental law continues to evolve and the gains of the last 50 years are not forgotten

celafoundation.ca/donate

Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.

Stay in Touch



416-960-2284
1-844-755-1420

cela.ca

cela.ca/sign-up-stay-informed-cela-bulletin/

info@cela.ca

Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.