

CIELAP Newsletter

CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW & POLICY

Canadian Environmental Protection Act (CEPA) Reform Bill Introduced Into Parliament

Changes reflect largely the December 1995 government response to Standing Committee report, however, in a number of key areas, the Bill proposes further steps backwards from the existing Act.

On December 10, 1996, the federal government tabled Bill C-74, the new *Canadian Environmental Protection Act* (CEPA), in the House of Commons. The 221 page, 360 section bill proposes a series of fundamental changes to the current Act.

Bill C-74 has been a long time coming. The existing CEPA was enacted in 1988, updating and incorporating the 1975 *Environmental Contaminants Act* and four

other federal environmental statutes. One of the provisions included in CEPA when it was adopted was a requirement that a Parliamentary Committee review the Act five years after its passage. This review commenced in early 1994, and between June of that year and May 1995, the House of Commons Standing Committee on Environment and Sustainable Development held public hearings across Canada on the effectiveness of CEPA.

In June 1995, the Standing Committee released its report on CEPA, entitled: *It's About Our Health! Towards Pollution Prevention*. The report concluded that the Act was in need of major revisions, and made 141 recommendations to strengthen it. The development of the government's response to the Committee's report engendered intense conflict within the federal government. The Departments of Natural Resources, Industry (*cont'd pg 5*)

Standing Committee on Environment and Sustainable Development Releases Report on Biotechnology Regulation in Canada

In May 1996, the House of Commons Standing Committee on Environment and Sustainable Development initiated a study of the regulation of biotechnology in Canada. The Committee's study was prompted partially by the government's proposals to weaken the existing biotechnology provisions of CEPA contained in its December 1995 response to the Committee's June 1995 report on CEPA.

The Committee heard submissions from a number of witnesses, including CIELAP, in May, and held a series of roundtables on environmental, regulatory and ethical issues in the regulation of biotechnology on October 8. CIELAP Research Director Mark Winfield participated in the roundtable on regulatory issues.

In mid-November the Standing Committee released its final report on the regulation of Biotechnology in Canada. The Committee's 6 recommendations dealt with 2 major issues.

First, the Committee recommended that the CEPA "equivalency" requirements for pre-manufacturing and import human health and environmental evaluations of products of bio-

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In this Issue:

A national survey of financial assurance requirements for the aggregate, waste management and recycling industries was recently completed by CIELAP for Finance Canada. See page 6

There is clearly one outstanding promise that the federal Liberal Party should be reminded of in this pre-election climate. See *Climate Change*, page 2 and Editorial page 3.

Many new projects are underway at the Institute for 1997 - some of which are in the international arena. See pages 4, 8

Starting with this issue, the *CIELAP Newsletter* will feature a column on environmental issues from a province or region of Canada. See *Nation at Large* on page 4.

technology regulated under other Acts of Parliament (e.g. genetically engineered crops under the *Seeds Act* and genetically engineered foods under the *Food and Drugs Act*) be strengthened.

Second, in the longer term, the Committee recommended that a National Advisory Commission on Biotechnology be established. The Commission would include representatives from the public at large, government, industry, and the environmental, academic and ethical communities. The (*continued on page 2*)

Climate Change : Science, Targets, Action and Promises

Here, in brief, is the record of progress on: a) climate change science; b) targets to reduce greenhouse gases; and c) Canada's record on reducing greenhouse gases, over the past 10 years.

a) Science: between 1988 and 1997 atmospheric scientists have met on a regular basis to compare notes, data, theories, and studies. Most notable of these meetings was the Intergovernmental Panel on Climate Change (IPCC) Meeting in Madrid in December 1995. At this conference, the IPCC issued its most definitive statement to date about the reality of climate change:

"Global mean surface temperature has increased by between about 0.3 and 0.6°C since the late 19th century, a change that is unlikely to be entirely natural in origin. The balance of evidence, from changes in global mean surface air temperature and from changes in geographical, seasonal and vertical patterns of atmospheric temperature, suggests a discernible human influence on global climate."

b) Targets: In 1988 at a conference in Toronto called The Changing Atmosphere: Implications for Global Security, a group of scientists recommended a 20% reduction in greenhouse gas emissions (baseline 1988) by the year 2005. Four years later, in 1992 world leaders at the Earth summit in Rio de Janeiro endorsed the goal of stabilization of greenhouse gases (baseline 1990) by the year 2000. The document embodying this goal was the *Framework Convention on Climate Change* which is ultimately intended to:

"achieve...stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system."

c) Action: Canada's projected GHG emission gap is between 9% and 13%. The emission gap is the difference between the projected 2000 levels and what they should be (ie. no more than the 1990 levels). In a speech at the Canadian Global Change Program's Climate Change symposium in November 1996, Environment Minister Sergio Marchi did not mince words:

"Canada is not doing as well as it should. Period. No excuses. Full stop...As of the end of 1995, Canada's emissions have increased more than nine per cent..That certainly isn't good enough."

What heightens the disappointment about this unfulfilled obligation, is that the obligation to reduce Canada's greenhouse gas emissions is *both an international and domestic one*. The domestic obligation arose as consequence of 1993 Liberal Party of Canada election platform. In its document, *Creating Opportunity: The Liberal Plan for Canada*, the party made the following promise:

"A Liberal government will work with provincial and urban governments to improve energy efficiency and increase the use of renewable energies, with the aim of cutting carbon dioxide emissions by 20 percent from 1988 levels by the year 2005."

Given that year 2000 emissions will probably be 9 to 13 % higher than in 1990, it is fairly safe to say that the Liberal Government has made little progress on this promise. Questions that spring to mind in light of this failure, include: Why have "energy efficiency" and "renewable energies" not played a larger role in preventing Canada's carbon dioxide emissions from exceeding

1988 levels? How large of a role will they play in reducing Canada's net emissions over the next three to eight years?

In fairness, the Liberal Party has partially responded to its lack of progress on this promise. The response can be found in the 1996 counterpart to the 1993 platform document called *A Record of Achievement: A Report on the Liberal Government's 36 Months in Office*. It cites efforts such as the National Action Program on Climate Change, the Voluntary Challenge and Registry, support to the 20 Per Cent Club, (a network of municipalities committed to the 20 percent reduction target), however,

"...despite these efforts, without further initiatives, the latest available forecast is that Canada's greenhouse gas emissions will remain at 13 percent above levels in 2000.

Since the years 2000 and 2005 are still a few years away, it is pertinent to ask the Liberal Government and particularly the Prime Minister, what future plans Canada has for fulfilling these important obligations. See letter to Prime Minister below or in editorial page 3.

CIELAP's Climate Change and Energy Research to date has demonstrated that the targets above are reasonable and can be met without regret. CIELAP has published two reports in this area, *Carbon Dioxide Reduction Options for Ontario (1994)* and most recently, *A CO₂ Strategy for Ontario (1996)* as well as numerous briefs. See page 7 or contact the Institute for more details.

Biotechnology Regulation (continued from page 1)

Commission would be mandated to review and report on the potential risks of biotechnology, its ethical aspects, the effectiveness of biotechnology regulations, and possible alternatives to the present regulatory framework in Canada. An early priority for the Commission would be to examine the advisability and utility of a "gene law" and "transgenics agency" to regulate biotechnology in Canada. Consideration of the ethical aspects of biotechnology, particularly in relation to recombinant-DNA technology, would also be a major focus of the Commission's work.

The Committee has requested a response to its recommendations from the Government, which must be delivered by May 1997. The Committee will also have the opportunity to put some of its recommendations into practice when it considers the CEPA reform bill (C-74) when Parliament resumes in February.

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Editor: Greg Jenish Regular Contributors: Anne Mitchell, Mark Winfield, Greg Jenish, Jan Rabantek. Guest Contributors: Jack Gibbons, Karen Clark, Ian Attridge, Julie Pelletier.

CIELAP provides leadership in the development of environmental law and policy which promotes the public interest and the principles of sustainability, including the protection of the health and well-being of present and future generations and the natural environment.

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A New Year's Message from CIELAP's Executive Director

Nineteen-ninety seven has begun as an extremely busy year for CIELAP. We have a number of research projects nearing completion such as the work on financial assurances (see page 6); several others at the mid-way stage (the Biodiversity in the Americas project and our partnership with an environmental law group in Costa Rica) and several which we are just beginning on hazardous waste, mapping the National Pollutant Release Inventory data, a citizen's guide to pollution prevention and reducing greenhouse gas emissions from waste management practices (see page 4).

At the same time, CIELAP is developing its own institutional capacity in the recognition that we are here for the long haul. During the first 25 years of CIELAP's existence, environmental protection steadily increased in Ontario and Canada. In the past year we have seen this protection stripped away at an unprecedented rate under the guise of the need for competitiveness. At a time when governments are downsizing and

offloading their responsibilities, the need for an organization like CIELAP is greater than ever before. There is a need for an organization which can research and analyze the various proposals being made and present this analysis to policy makers and the general public in a way which will help society understand very difficult decisions. Many of these decisions will have long term implications for the health and the environment of future generations of Canadians.

CIELAP's goal is to be able to continue to play that analytical and reflective role. It is CIELAP's goal to be able to provide a voice which is based on sound research but also provides an alternative vision to the current one that the bottom line and competitiveness is all that matters. There are other societal goals such as equity, fairness and the conservation of resources for the sake of future generations. CIELAP's goal is to articulate these goals and help develop policies and strategies to achieve them.

CIELAP's vision of a more equitable and fair society in the future is not just for Ontario and Canada. CIELAP is increasingly finding that organizations in other countries are interested in what we have to offer - in our history and our research and our vision.

If CIELAP is to be able to continue to contribute, and be a strong alternative voice, we need to increase our base of support so that our work can develop independent of both governments and industry. We do appreciate support from both governments and industry. However, we do not want to be dependent on either one for our survival.

You can help by giving us a donation, becoming an associate member, buying a publication, helping us to identify emerging issues requiring research and analysis, helping to identify sources of funds for our work. We look forward to working with you in 1997. All of us at CIELAP wish you a healthy and peaceful 1997.

EDITORIAL:

Dear Mister Prime Minister....

Dear Mr Prime Minister,

The Canadian Institute for Environmental Law and Policy would like to congratulate you on your government's success in carrying out a large number of the promises outlined in the Liberal Party's 1993 election platform "*Creating Opportunity, The Liberal Plan for Canada*" a.k.a. the Red Book. Recently you have characterized the success rate of completing Red Book election promises at something in the neighbourhood of 80%. While this is quite a record of performance, the Institute is keenly interested to know your government's position with respect to one of the promises comprising the 20% of the platform that is partially complete, or not completed at all and how it might be completed. Specifically, the Institute would like to know why progress on curbing Canada's greenhouse gas emissions seems to have been stymied to the degree that Canada will not likely meet its year 2000 stabilization commitment under the United Nations Framework Convention on Climate Change? Needless to say, this does not bode well for the target of reducing carbon dioxide emissions 20% by the year 2005 as identified in Liberal Red

Book: "A Liberal government will work with provincial and urban governments to improve energy efficiency and increase the use of renewable energies, with the aim of cutting carbon dioxide emissions by 20 percent from 1988 levels by the year 2005. An immediate priority will be to design a plan to achieve this target, working with all major stakeholders."

To be more specific, the Institute might ask why have "energy efficiency" and "renewable energies" not guided Canada toward stabilizing its carbon dioxide emissions and how large of a role will they play in actually reducing Canada's net emissions as required by the goal cited in the Liberal Party Red Book? Also, given that the Voluntary Challenge and Registry, has by your admission failed to ensure that Canada meets the year 2000 stabilization target, are you considering legislated caps or quotas in its place?

Thank you for taking the time to review these commitments and obligations made by your government and reporting back on their progress. We look forward to your response in the upcoming months.

NATION AT LARGE

CIELAP would like to introduce a regular feature in the *CIELAP Newsletter* called *National at Large*. This forum will elaborate on environmental law and policy issues from across Canada. In this edition, Julie Pelletier, counsel with the Centre Québécois du Droit de l'Environnement and CIELAP board member updates readers about the environment impacts of agriculture in Quebec.

Le développement non-viable de l'industrie porcine au Québec

Depuis plusieurs années, la production de porcs au Québec est la cause de nombreux problèmes environnementaux alors qu'une partie importante des établissements de production est en situation d'infraction en regard des normes environnementales en vigueur (principalement celles relatives à la gestion de fumiers). Il s'agit d'un dossier d'actualité qui occupe la première place de l'agenda environnemental au Québec depuis plusieurs mois.

Le développement intensif de cette industrie au Québec s'explique par une forte demande des marchés étrangers: plus de 50% de la production québécoise actuelle est vendue sur les marchés asiatique et américain. Cette industrie est, par ailleurs, généreusement appuyée par le gouvernement du Québec qui subventionne même les unités de production qui ne sont pas autorisées par le ministère de l'Environnement et de la Faune du Québec (MEF).

Le gouvernement du Québec est bien au fait du sérieux de la situation qui prévaut dans ce secteur d'activité agricole. Le MEF lui-même, admet que: «*Le volume de fumiers pour lequel les installations d'entreposage ne sont pas conformes à la réglementation est de plus de 9 millions de mètres cubes par an et il n'y a pas de superficies d'épandage disponibles à proximité des lieux de production pour plus de 3,6 millions de mètres cubes par an.*» Le dernier Rapport du Vérificateur général de Québec dénonce aussi la gravité et le ridicule de la situation.

Ainsi, le gouvernement a entrepris une réforme de sa législation. Cette réforme vient exonérer davantage les agriculteurs de l'application de certaines dispositions législatives et ainsi consacrer le «*droit de produire*» des agriculteurs. Ainsi, nul ne peut poursuivre une exploitation agricole pour des inconvénients tels les poussières, la fumée, les bruits, les odeurs et la lumière, dans la mesure où ils sont causés par une activité agricole qui respecte les pratiques dites «*normales*» et certaines normes législatives.

Le très puissant lobby que représente l'Union des producteurs agricoles (UPA) inquiète grandement les environnementalistes, suite à la signature d'une entente «*derrière des portes closes*» entre le MEF et l'UPA quant à certaines normes réglementaires applicables aux agriculteurs. Le débat se poursuit et une commission parlementaire sur cette importante question devrait avoir lieu en février 1997.

New Year, New Projects for CIELAP

Research and project development have been undertaken in earnest at 517 College Street with the beginning of a new year. Over the course of the year most of these projects under development will yield a publication of some sort. Some of the results of projects to look forward to in 1997 include:

- A map of Canada charting the data of the National Pollutant Release Inventory thanks to support from the EJLB Foundation and Environment Canada.
- A report on hazardous waste generation and management in Ontario thanks to support from the Laidlaw Foundation and the Peacock Foundation.
- A workshop and report on the possible directions and nature of environmental protection in Ontario courtesy of a grant from the Joyce Foundation.
- A report on municipal waste management practices and greenhouse gas emissions made possible by grants from the George Cedric Metcalf Foundation and the Toronto Atmospheric Fund.
- A Citizen's Guide to Pollution Prevention.
- Status reports on law reform particularly, environmental de-regulation.

Upcoming editions of the *CIELAP Newsletter* will keep you informed of the status of these projects and their publications.

Harmonization Returns

On November 20, the Canadian Council of Ministers of the Environment (CCME) approved a National Accord on Harmonization "in principle." The Ministers are now to take the Accord back to their cabinets to get authority to sign. This is scheduled to happen at the May 1997 CCME meeting.

However, the Ministers did not come to agreement on the substantive elements of the harmonization agreement, the Sub-Agreements on Standards and Inspections. It was stated that the sub-agreements were considered by the Ministers to be "complete" and the federal government has indicated that there is to be no further public consultation on them. The sub-agreements are to be considered for approval at the May 1997 CCME meeting. In the meantime, the CCME has begun consideration of the development of "Canada-wide standards" for a number of substances under the still unapproved standard sub-agreement.

The proposed approach to Environmental Assessment also failed to obtain approval in principle. There is to be further consultation and a "Canada-wide approach to environmental assessment" approved at the May 1997 meeting. However, as of the end of January, the governments had been unable to come to agreement on the multi-stakeholder "focus" group for the consultation process.

The November 1997 Accord seems to indicate that there is agreement in principle to the development of additional sub-agreements in the areas of monitoring and reporting, environmental emergency response, (continued on page 6)

Reform of the Canadian Environmental Protection Act {Continued from page 1}

and Agriculture and Agri-Food, sought to undermine the Committee's recommendations from the outset. As a result, the government's response, entitled: *Environmental Protection Legislation Designed for the Future - A Renewed CEPA - A Proposal*, emerged in December 1995 as a shadow of the Committee's proposal. In fact, in some places, such as the regulation of biotechnology, the government actually proposed to weaken the existing statute.

Bill C-74 largely follows the direction outlined in the December 1995 government response to the Standing Committee's report. However, in a number of key areas, particularly with respect to federal-provincial relations, and the status of CEPA with respect to other federal statutes, the Bill proposes further steps backwards from the existing Act. Among the key problems:

- *Bill C-74 will weaken the federal government's ability to act to protect Canada's environment.*

In November of 1996, the federal and provincial Ministers of the Environment "approved in principle" an agreement to harmonize federal and provincial environmental laws and policies (see *Harmonization Returns*, page opposite).

The themes of the "harmonization" Accord pervade Bill C-74. The Bill creates a statutory duty that the Act be administered in a manner consistent with the "harmonization" agreement. In addition, the federal government's ability to act without the agreement of the provinces in such key areas as environmental emergencies, and the implementation of Canada's environmental obligations under international treaties and customary international law would be severely constrained. The Bill also provides for the expanded use of "equivalency" agreements under which federal environmental laws and regulations do not apply in particular provinces.

- *Bill C-74 will make CEPA a residual statute.*

Under Bill C-74, CEPA would only be applicable where other federal laws do not apply. This would reduce CEPA from being the cornerstone of federal environmental law and policy to that of a residual statute, which only applies when nothing else does.

- *Bill C-74 will weaken the existing requirements of CEPA that all biotechnology products and new chemicals undergo environmental and human health evaluations before being introduced into Canada.*

Bill C-74 includes a new part dealing with Biotechnology products, such as genetically engineered plants, microorganisms and fish. However, its primary effect would be to permit Ministers other than the Minister of the Environment to exempt biotechnology products from CEPA's existing requirements that they undergo environmental and human health impact reviews prior to their introduction into Canada. The same changes are proposed for CEPA's provisions dealing with new chemicals, such as pesticides, regulated under statutes.

- *Bill C-74 will permit the continued generation and use of the worst toxic substances.*

The proposed bill was supposed to provide for the "virtual elimination" or phasing-out of the most harmful toxic substances. Instead, the Act defines "virtual elimination" in a way that allows for the continued generation and use of these substances, an approach far weaker than that prescribed in the 1978 Canada-U.S. *Great Lakes Water Quality Agreement*, the 5th, 6th, 7th and 8th biannual reports of the Canada-U.S. International Joint Commission under that Agreement, the Liberal "Red Book," which stated that "all uses of the most persistent toxic substances must be eliminated," and the federal government's own June 1995 Toxic Substances Management Policy. In addition, the bill creates a labyrinth of requirements for risk assessment and cost-benefit analysis before any action can actually be taken to "virtually eliminate" what the government itself has labelled the "very worst" of pollutants.

- *Bill C-74's citizen rights provisions will be ineffective.*

Bill C-74 proposes a new right for Canadians to bring to court those that are violating the provisions of CEPA. However, the right to bring such an action is limited by so many qualifications that it is meaningless. In addition, the provisions only permit citizens to initiate actions after damage to the environment or human health has occurred. It does not provide for actions to prevent harm before it happens.

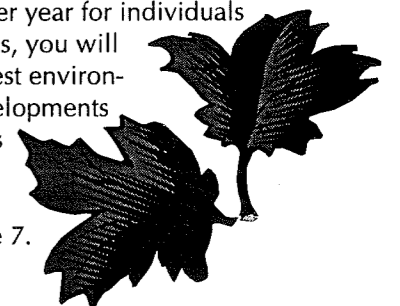
Bill C-74: Next Steps

It is expected that Bill C-74 will be brought forward for second reading when the House of Commons resumes sitting in early February 1997. At that time, it will probably be referred to the Standing Committee on Environment and Sustainable Development for public hearings. After the committee reports to the House, the bill will be given third and final reading and proceed to the Senate.

CIELAP, in conjunction with other members of the Canadian Environmental Network's Toxics and Biotechnology Caucuses are drafting in-depth submissions for the Standing Committee.

ASSOCIATE MEMBERS NEEDED

If you have not renewed your membership with the Institute for 1997 yet - you still have time. For those who have, we extend our thanks. For just \$100 per year for individuals and \$1000 for organizations, you will be kept informed of the latest environmental law and policy developments in Canada. For more details contact the Institute or use the Charitable Donation option on the form on page 7.



CIELAP Completes Financial Assurance Report For Finance Canada

The various forms of financial assurance employed in the aggregate and waste management industries could ensure that site restoration is properly conducted.

When someone applies for a permit to operate a gravel pit in Manitoba, they have to agree to pay to the province \$0.10 per tonne of gravel extracted as security against environmental liability. If the site is properly restored after operations cease, the province pays the security back to the operator. If the site is not properly restored, the security will provide funds for rehabilitation. This practice is called providing financial assurance. Recently, Finance Canada asked CIELAP to prepare a report about financial assurance requirements in all Canadian provinces and territories, for aggregate (gravel), waste management and recycling industries.

In just a little more than four weeks, CIELAP researchers had to locate, review and describe more than forty acts and regulations. They also had to contact ministry staff in three different departments in thirteen different jurisdictions (the provinces, territories and the federal Department of Indian Affairs and Northern Development) to provide information not found in the law. Thanks to the cooperation of all the people contacted, and the hard work of CIELAP staff and volunteers, the report was completed in the allotted time. The research showed that most provinces, and in particular Alberta, Manitoba, Quebec, and the two territories are increasingly prepared to require that operators provide financial assurance against environmental liability.

Requiring financial assurance makes good sense. If the amount of assurance required is high enough, it creates an incentive for the operator to properly restore the site and get his or her money back. If, for any reason, the operator cannot properly restore the site, then the province can accomplish the task without using public funds. So long as the restoration requirements are also adequate, the environment also benefits. Some jurisdictions -- British Columbia, Alberta, and Newfoundland -- are currently seeking ways to achieve a balance between security requirements, ability of the operator to pay, and proper environmental restoration.

Finance Canada's interest in financial assurance arises from its consideration of possibly providing some tax relief to operators required to pay financial assurance as announced in the February 1996 budget. Right now, except for the mining industry, amounts paid in cash for financial assurance are not tax deductible. If Finance Canada changes this policy, it may help create an incentive for provinces to require financial assurance from more operators, and in greater amounts. This could, in the end, also help the environment, so long as restoration requirements are also kept high. A copy of this report will be available in the very near future. Contact the Institute for details.

Return of the Harmonization Accord (from page 4) and research and development over the next 18 months. Sub-agreements in the areas of Policy and Legislation, International Agreements and State of the Environment Reporting are to be concluded within 3 years.

Prior to the CCME meeting, member organizations of the CEN

Harmonization Working Group released a position paper endorsed by nearly 100 environmental organizations from across Canada asking the federal Minister of the Environment not to endorse the proposed agreement. In an accompanying press release, Working Group members stated that the "federal government seems prepared to abandon the environment to its fate at the hands of provincial governments like those in Ontario and Alberta, as they dismantle their environmental laws and make dramatic cuts to their environment departments."

For its part, on November 12 CIELAP released an analysis of the harmonization initiative, entitled *Harmonizing to Protect the Environment*, prepared for the CEN Harmonization Working Group. Reviewing the history of the initiative, the Institute concluded that the initiative was being increasingly driven by political, as opposed to environmental considerations, as the devolution of federal authority over the environment has become a major component of the federal government's post-referendum "unity" agenda.

Copies of the Harmonization Working Group Statement and CIELAP's analysis of the CCME harmonization initiative are available from the Institute.

Transit Reductions Reduce Possibility of Air Quality Improvements in Southern Ontario

On January 15, the Ontario provincial government announced that it was eliminating \$557 million in transportation (most transit) spending and passing these responsibilities to the municipal level. Particularly hard hit by the announcement were the TTC and GO transit systems. The TTC operates the transit system within Metropolitan Toronto while GO operates a regional train and bus service within an approximate 100 kilometre radius of Toronto. To make up the shortfall from the provincial withdrawal, the TTC will need to make up \$95.8 million/year and GO Transit \$48 million/year. This follows several years of funding reduction to both agencies. While representatives from both agencies remarked that the change could provide for greater operating autonomy and responsiveness to customers' needs, it is difficult to imagine that the revenue shortfall could be managed without either increased fares or reduced services. If either or both of these cases arise, it is likely that ridership will be lost. The GO transit system alone carries 120,000 people each weekday which has the effect of replacing 100,000 vehicles that would be on the roads otherwise. Needless to say, the Greater Toronto Area road network could not bear another 100,000 road vehicles per day. If this restructuring leads to more personal vehicle ownership and use, as it likely will, emissions of carbon dioxide, carbon monoxide, nitrous oxides and volatile organic carbons will almost certainly increase. An increase in these emissions would arise as a consequence of personal vehicle transport being more emission intensive than transit, based on average occupancies. These emissions contribute to one or more of photochemical smog, climate change and acid precipitation. The Greater Toronto Area and indeed much of the Lake Ontario Basin already has frequent bouts of poor air quality; increased emissions could make it worse.

Other revisions to Ontario's transportation scheme include reductions of \$50 million in highway capital and \$25 million in highway operating funding for municipalities. Nonetheless, the province will still spend \$600 million per year on highways.

PUBLICATIONS AND PRODUCTS FROM CIELAP

New and Recent Books, Policy Reports and Briefs:

- **Biodiversity Law and Policy in Canada: Review and Recommendations** Edited by Ian Attridge. This 500-page report synthesizes the contributions of 6 Canadian law centres on the topic of biodiversity and provides the most current and comprehensive review of biodiversity law and policy in Canada. Includes chapters on a regional biodiversity basis as well as aboriginal issues. \$29.99
- **A CO₂ Strategy for Ontario: A Discussion Paper** This report outlines a strategy which could simultaneously reduce Ontario's CO₂ emissions by 20% and reduce the energy costs of Ontario's residential, commercial and industrial consumers. 110 pg. \$19.99
- **Ontario's Environment and the "Common Sense Revolution": A First Year Report** The sweeping changes brought to Ontario's environmental protection regime by way of the "Common Sense Revolution" are detailed in 90 pages. \$19.99
- **Toxic Time Bombs: The Regulation of Canada's Leaking Underground Storage Tanks** by John Swaigen. This publication addresses the serious hazard of leaking underground storage tanks (LUST). Ideal for those dealing with LUSTs or those seeking more fundamental reforms to the way we address public health, safety and environment threats. 199 pages. Soft cover. \$32.00.
- **The Citizen's Guide to Biotechnology** A thought provoking exploration of biotechnology. 73 pages. 1995 - \$19.99.
- **Environmentally Sustainable Agriculture In Canada: An Overview and Assessment of Critical Needs.** 1995 - \$25.00
- **Achieving the Holy Grail? A Legal and Political Analysis of Ontario's Environmental Bill of Rights.** 80 pages. 1995 - \$25.00
- **Putting the Environment in Environmental Industry Strategies:.... Restructuring for Sustainability.** 75 pages. 1995 - \$25.00

B R I E F S

- **Comments Regarding Responsive Environmental Protection : A Consultation Paper** 40 pages, 1996 - \$10.00
- **Electricity and Environmental Protection - A brief to the NDP Taskforce on Ontario Hydro.** 7 pages, 1996 - \$10.00
- **Brief to Stdg Comm on Bill 76 - The Environmental Assessment Consultation and Improvement Act** - 16 pg - \$10.00
- **Response to MoEE Incineration Information Package: Proposed Amendment to Regulation 347, 1995.** 13 pages. \$5 .00.
- **It's Still About Our Health! A Submission on the CEPA Review - Renewed CEPA - A Proposal 1996.** 120+400 pgs - \$40.00
- **Brief to the House of Commons Standing Comm on Natural Resources Reg'g Mining & Canada's Env , 1996.** 18 pages. \$10.00.
- **Submission to the Advisory Committee on Competition in Ontario's Electricity System, 1996.** 3 pages. \$5.00.
- **The Environmental Management Framework Agreement - A Model for Dysfunctional Federalism? 1996.** 89 pg - \$10.00
- **Submission to the Standing Comm on Env & Sust Dev on the 1996-97 Estimates for Environment Canada, 1996.** 20 pg - \$10.00
- **Brief to the Standing Committee on General Government on Bill 26, The Savings and Restructuring Act, 1995.** 18 pages. \$5.00.

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Province Off-Loads Sewer and Water Infrastructure, Regulation of Septic Systems onto Municipalities as Part of "Who Does What" Announcements

The environment was a major component of the Ontario government's "Megaweek" announcements on who does what in the province. Specifically, on January 15, Ontario Environment and Energy Minister Norm Sterling introduced the *Water and Sewage Services Improvement Act*. The Act has two major components. The first would transfer ownership of provincially owned water and sewage treatment plants to municipalities. This constitutes approximately 25% of the existing plants in the province, mostly in rural areas. The Bill's direction is consistent with the phasing out of provincial support for the construction, operation and maintenance of municipal sewer and water infrastructure, announced in April 1996.

The second component of the bill would transfer responsibility for the regulation of septic systems from the Ministry of Environment and Energy to municipalities, or in the case of areas without municipal organization, the Ministry of Municipal Affairs and Housing. The Bill also makes provision for the delegation of the inspection responsibilities to persons or bodies designated by municipalities, provided that they meets qualifications to be prescribed by regulation. This would appear to open the door to the privatization of these inspection functions.

The Bill's provisions regarding the transfer of provincially owned sewage treatment plants do require that any capital expenditures made by the province in relation to the works after April 1, 1978 be returned to the province if the municipality, in turn transfers (i.e. sells) the facility to another person, other than another municipality. This is intended to discourage the privatization of transferred sewer and water plants.

The requirement that municipalities internalize the costs of new sewer and water infrastructure could have the effect of discouraging new urban development. However, there is also the possibility that municipalities, anxious to obtain additional tax revenues from new developments, may be tempted to use their new authority to approve septic systems to facilitate such developments. This could add to the already serious environmental and public health problems which have been identified with respect to the use of septic systems in the province by the Sewell Commission and others.

In addition, serious questions must be raised about the capacity of municipalities to administer the septic system provisions of the *Environmental Protection Act* in light of the enormous range of new responsibilities being downloaded onto them by the province. Similarly, the capacity of the Ministry of Municipal Affairs to regulate septic systems in unorganized territories must also be challenged. The Ministry has no experience or expertise in environmental or public health regulation of this type, and no resources appear to be going to be transferred from the MoEE to help Municipal Affairs carry out its new responsibilities.

CIELAP's Work in the International Arena

The following are projects undertaken by CIELAP as part of a larger international process:

□ CIELAP continues to work in partnership with Fundacion Ambio in Costa Rica, with the help of the Canadian International Development Agency (CIDA). In particular, we are working with

Fundacion Ambio on waste management, biodiversity and public participation issues. Representatives from Fundacion Ambio will be in Canada in March to discuss these issues and to meet some of the individuals working on these issues in Ontario.

□ The Institute is still working on the draft of our Biodiversity in the Americas report. There is also now a draft of a comparative chart relating to legislation around access to genetic resources in each of our countries. The next phase of this project is for the partners to meet, probably in March or April, to review the comparative chart and see if there are specific recommendations that we can come forward with for the region. This project is being supported by the International Research Development Corporation (IDRC).

□ CIELAP is planning to host a workshop on transboundary movement of hazardous waste with organizational representatives from Canada, USA and Mexico. Some funds have been identified, mainly from IDRC and CIELAP has received funds to do a background report on hazardous waste in Ontario from the Laidlaw and Peacock Foundations. We will be approaching the North American Fund for Environmental Cooperation (NAFEC) for support. The workshop is planned for early fall 1997.

□ CIELAP is involved in helping Canada determine its position on the Biosafety Protocol which is intended to ensure the safe handling and transfer of living modified organisms across borders.

□ CIELAP is also involved in some of the preparatory meetings leading up to the Commission for Sustainable Development (CSD) meetings in June 1997 where we will review what has been accomplished since the Earth Summit in Rio in 1992.

Human Resources Round-up

Staff: Just after the publication of our last newsletter, CIELAP received a letter of resignation from its public relations officer, Cyrus Mavalwala. Cyrus has moved on to practise his communication skills in a very concentrated form (ie. with a public relations firm) We wish Cyrus the best of luck in the future.

Research Associates: CIELAP's research would not be possible without the assistance of a number of specialists who work on projects that demand their expertise. The Institute would like to thank Ian Attridge, Karen Clark, Glenna Ford, Doug Macdonald, Glennis Lewis and Terry Burrell for their contributions over the past year. **Volunteers:** *Andrew Daniels* had been helping with publications and financial management at the Institute before moving



on to work on publications for a financial management organization. *Nanda Purandare* has been applying her language skills to help issue replies to foreign correspondence. *Rayna Tchobanska* was with the Institute for eight weeks and helped with foundation research. *Chantal Saxe* has been working on a variety of

legal and policy research projects including the financial assurance and regulatory reform projects. *Ngoi Chi Lee* has been helping with a variety of projects and administrative matters. *Kumarie Khado* joined the Institute in November to help manage a precious resource the flow of information. *Natalie de Lima* has been with the Institute for several months and most recently has been assisting CIELAP's hazardous waste research. The Institute would like to thank these volunteers and wish them the best of luck in the future.