



# ***EBR* PERFORMANCE CHECKUP**

RESPECT FOR ONTARIO ENVIRONMENTAL RIGHTS  
2015/2016



A Special Report to the  
Legislative Assembly of Ontario



Environmental  
Commissioner  
of Ontario

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June 21, 2016

The Honourable Dave Levac  
Speaker of the Legislative Assembly of Ontario

Room 180, Legislative Building  
Legislative Assembly  
Province of Ontario  
Queen's Park

Dear Speaker,

In accordance with Section 58(4) of the *Environmental Bill of Rights, 1993 (EBR)*, I present the attached Special Report of the Environmental Commissioner of Ontario, *EBR Performance Checkup: Respect for Ontario Environmental Rights 2015/2016*, for your submission to the Legislative Assembly of Ontario.

This Special Report presents a new approach to reporting how prescribed ministries comply with the *EBR*, and how well their best practices empower the public to participate in significant environmental decisions.

Sincerely,

Dianne Saxe  
Environmental Commissioner of Ontario





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# Executive Summary

Ontarians have the right to participate in government decisions that affect the environment, thanks to the *Environmental Bill of Rights, 1993 (EBR)*. The *EBR* also empowers Ontarians to take action to protect the environment. The *EBR* increases the government's accountability for its environmental decision making. Fourteen prescribed ministries have varying responsibilities under the *EBR*.

The Environmental Commissioner of Ontario (ECO) is responsible for monitoring, and reporting annually, on how well the Ontario government respects Ontarians' environmental rights under the *EBR*. This year, the ECO has taken a new approach to reporting on ministry compliance with the *EBR*: by issuing a report card of how well each ministry executed its *EBR* responsibilities, supporting public engagement in environmental decisions. The results are presented graphically, depicting both the quality of a ministry's performance of its *EBR* duties, as well its *EBR* workload relative to other ministries.

The report cards show what prescribed ministries were doing well in 2015/2016 and what they need to improve; the ECO expects this will encourage better execution of their *EBR* responsibilities going forward. The ECO plans to use report cards annually to track weaknesses and improvements within and across ministries over time.

This year, the ECO found that ministries with a light *EBR* workload generally execute their few obligations well. Ministries with moderate and heavy *EBR* workloads are more likely to have instances of non-compliance or poor execution of their responsibilities. Fortunately, those ministries are making clear efforts to improve, and to comply with their *EBR* obligations. In December 2015, the ECO gave all ministries notice that we would be using a report card approach to report on their *EBR* compliance in 2015/2016; we are proud to report that many of them took advantage of this opportunity to make improvements to their *EBR* performance before the end of the 2015/2016 fiscal year. In early 2016, every prescribed ministry reaffirmed their commitment to the *EBR* in writing.

There are four priority areas of *EBR* responsibilities in which ministries need to significantly improve in 2016/2017:

1. Content of instrument notices posted on the Environmental Registry;
2. Posting decision notices promptly;
3. Avoiding outdated proposals; and
4. Avoiding overdue applications for review.

All prescribed ministries have the potential to improve the way they implement the *EBR* to better serve the public. And serving the public is what this is all about: ensuring that the *EBR* is being implemented in a way that doesn't just meet the letter of the law, but that recognizes the purpose of the law itself; to enable the public to meaningfully participate in government decisions that affect the environment.

# List of Prescribed Ministries as of April 1, 2016

Ministry of Aboriginal Affairs (MAA)

Ministry of Agriculture, Food and Rural Affairs (OMAFRA)

Ministry of Economic Development, Employment and Infrastructure (MEDEI)

Ministry of Education (EDU)

Ministry of Energy (ENG)

Ministry of the Environment and Climate Change (MOECC)

Ministry of Government and Consumer Services (MGCS)<sup>1</sup>

Ministry of Health and Long-Term Care (MOHLTC)

Ministry of Labour (MOL)

Ministry of Municipal Affairs and Housing (MMAH)

Ministry of Natural Resources and Forestry (MNR)

Ministry of Northern Development and Mines (MNDM)

Ministry of Tourism, Culture and Sport (MTCS)

Ministry of Transportation (MTO)

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<sup>1</sup> Includes the Technical Standards and Safety Authority (TSSA), which posts notices on the Environmental Registry

# Introduction

## The *Environmental Bill of Rights, 1993*

The *Environmental Bill of Rights, 1993 (EBR)* is a unique law that gives Ontarians the right to participate in government decisions that affect the environment, and to take action to protect the environment. The *EBR* increases the government's accountability for its environmental decision making.

The *EBR* gives the public the right to know about and comment on environmentally significant government proposals for policies, acts, regulations and instruments (e.g., approvals, permits, orders), and the right to know how the government considered the public's comments in making a final decision. Ontarians also have the right to challenge government decisions about some types of environmental permits and approvals.

The *EBR* also empowers the public to ask the government to review existing laws, policies, regulations and instruments that affect the environment, to review the need for new environmental laws and policies, and to investigate alleged violations of environmental laws. Last but not least, the *EBR* grants Ontarians increased access to the courts to protect the environment, and provides whistleblower protection for employees who are punished for taking action to protect the environment.

## The ECO's Mandate and Reporting Obligations

The Environmental Commissioner of Ontario (ECO) is an independent officer of the Legislative Assembly. One of the ECO's functions is to monitor and report on how government ministries that have responsibilities under the *EBR* ("prescribed ministries") carry out their obligations under the legislation. To that end, the ECO reports annually to the Legislative Assembly on: prescribed ministries' use of the Environmental Registry and the quality of the notices posted on the Registry; ministries' handling of applications for review and investigation submitted under the *EBR*; whether ministries considered their Statements of Environmental Values when making environmentally significant decisions; and how ministries co-operated with information requests from the ECO.

## A New Approach: Ministry *EBR* Report Cards

The ECO evaluated how each of the 14 prescribed ministries carried out their responsibilities under the *EBR* in our reporting year of April 1, 2015 to March 31, 2016.<sup>2</sup> Using a report card format, we examined five key categories of *EBR* responsibilities and highlighted strengths and weaknesses for each ministry.

The report cards show the public how well the Ontario government respects their environmental rights under the *EBR*. They also show ministries what they are doing well and what they need to improve. Ideally, each ministry will aim to improve on its own performance, year over year. Over time this should improve the public's access to information about environmentally significant proposals and decisions, and help the public participate in government environmental decision making. It will also make the government more accountable for ensuring the public can fully exercise its *EBR* rights to submit applications for review and investigation, and seek leave to appeal certain decisions.

“ The report cards show the public how well the Ontario government respects their environmental rights under the *EBR* ”

<sup>2</sup> In the 2015/2016 reporting year, there were 14 prescribed ministries (see List of Prescribed Ministries as of April 1, 2016). In May 2016 (after these report cards were completed), the Treasury Board Secretariat was newly prescribed under O. Reg. 73/94 made under the *EBR* (coming into effect on July 1, 2016), bringing the total number of prescribed ministries to 15.

# How we Evaluated the Ministries

## Beyond Compliance

Some *EBR* requirements are strict, with no room for interpretation: for example, all prescribed ministries must consider their Statement of Environmental Values. Timelines for applications are also clearly spelled out. Other *EBR* requirements allow ministers to use their discretion; for example, in deciding whether or not to provide enhanced public participation on proposals for certain approvals or permits.

The ECO believes that a ministry's compliance with *EBR* requirements and its exercise of legislative discretion should both be considered within the context of the objectives of the law. For example, the *EBR* requires a proposal notice on the Environmental Registry to include, among other things, "a brief description of the proposal." A brief proposal description may therefore satisfy the letter of the law. But if that brief description is not clearly written, or if the notice does not include enough information for a member of the public to understand and be able to meaningfully comment on the proposal, it does not – in the ECO's view – satisfy the public participation purposes of the *EBR*.

In these report cards, the ECO evaluates not just whether each ministry has complied with the strict legal requirements of the *EBR*, but also how well the ministry's actions have supported public participation in environmental decisions.

## Ministries Have Varying Challenges

Not all 14 prescribed ministries are subject to all *EBR* provisions. For example, while all ministries must give notice of and consult on their environmentally significant policies, acts and regulations, as well as develop and consider a Statement of Environmental Values, only five ministries must consult the public on proposals for environmentally significant "instruments" (e.g., approvals and permits). Similarly, only some ministries are obliged to consider and respond to applications for review and investigation under the *EBR*.

Prescribed ministries also have differing *EBR* "workloads." The environment is central to the MOECC's and the MNRF's mandates. Those ministries are responsible for a large number of environmentally significant laws and policies, make many proposals and decisions every year that affect the environment, and are subject to all *EBR* provisions. For other ministries, such as the EDU and the MOL, the environment is peripheral to their mandates; those ministries may only occasionally need to give notice of a proposal or decision on the Environmental Registry, and are not subject to all provisions of the *EBR*.

This variation in *EBR* workloads between prescribed ministries means that there is much more material for the ECO to evaluate from some ministries than from others. For example, in 2015/2016, the MOECC posted 50 proposal and decision notices for policies, acts and regulations, over 3,010 proposal and decision notices for instruments, and concluded 5 applications for review and 2 applications for investigation. By contrast, the ENG posted just nine proposal and decision notices for policies, acts and regulations on the Environmental Registry, zero instrument notices (because the ENG is not required to post instrument notices), and concluded a single application for review.

For more information about the variation in prescribed ministries' use of the Environmental Registry and *EBR* workloads, please refer to **Appendix 2**.

“ ministries also have differing *EBR* “workloads” ”

## Report Card Scope and Methodology

The report cards evaluate the 14 prescribed ministries' *EBR* performance during the ECO's 2015/2016 reporting year (April 1, 2015 – March 31, 2016). The ECO evaluated ministries based on five categories<sup>3</sup> of *EBR* responsibilities:

1. Quality of notices posted on the Environmental Registry;
2. Timeliness of decision notices, and avoiding outdated proposals;
3. Handling of applications for review and investigation;
4. Considering Statements of Environmental Values; and
5. Co-operation with ECO requests.

The ECO identified specific evaluation criteria for each category (for details, see Report Card Categories and Evaluation Criteria in **Appendix 1**). Those criteria are based on the strict requirements of the *EBR* and the ECO's assessment of what is required for a ministry to fulfil its *EBR* obligations in light of the purposes of the act. The criteria were developed to evaluate ministries consistently and fairly across the board.

Each ministry's results are presented graphically using coloured circles of varying sizes; the colour of the circle depicts the quality of the ministry's performance of its *EBR* duties, while the size of the circle represents the ministry's *EBR* workload relative to other ministries in the applicable category.

In each report card, the ECO has provided comments on the ministry's execution of its responsibilities in each category, as well as an overall comment on how well the ministry executes its *EBR* responsibilities. The ECO's comments point out ministries' strengths and weaknesses, as well as any special considerations or context.

The ECO gave each prescribed ministry an opportunity to review and comment on their report cards before presenting this report to the Legislature. The ministries' comments are published following the report cards at the end of this report.

## Summary of Results for 2015/2016

### Quality of Notices Posted on the Environmental Registry

The *EBR* sets out certain content that Registry notices are required to contain; for example, proposal notices must include a brief description of the proposal and information about how the public can participate in decision making on the proposal, and decision notices must briefly explain the effect, if any, of public participation on the final decision. In addition to checking that a notice fulfils the specific requirements of the *EBR*, the ECO evaluates the quality of a Registry notice by assessing whether the notice fulfils the intent of the *EBR* by enabling any member of the public to understand and meaningfully comment on the proposal (or understand the decision).

Generally, ministries posted good quality notices on the Environmental Registry for policies, acts and regulations. The most common problems we observed with these notices were unclear descriptions and missing links to key supporting information.

More often, problems identified in this category were related to instrument notices (i.e., for approvals, permits, orders, etc.) rather than notices for policies, acts or regulations. The most widespread problem with instrument notices is that ministries frequently fail to include key supporting information or links to that information – including copies of the instruments themselves. Some types of instrument notices, such as proposals for mining

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<sup>3</sup> The ECO has routinely reported on these categories of compliance in the ECO's annual reports to the Legislature.

exploration permits (MNDM), aggregate permits (MNRF), and Permits to take Water (MOECC) routinely lack the supporting information required for members of the public to make informed comments on the proposal – or, in the case of some decisions, exercise their right to seek leave to appeal. Some ministries could also do better by providing more user-friendly geographic information to describe the locations to which proposed instruments apply.

## “ ministries posted good quality notices on the Environmental Registry for policies, acts and regulations ”

The MGCS’s poor evaluation in this category is the result of the poor quality of many of the instrument notices posted by the Technical Standards and Safety Authority (TSSA) under the *Technical Standards and Safety Act, 2000*. In these notices, the TSSA regularly failed to describe the environmental impacts of the proposed instruments, to explain what decision was ultimately made, or to include links to any supporting information – including the instruments themselves.

### **Timeliness of Decision Notices and Avoiding Outdated Proposals**

Under this category, the ECO assessed ministries’ performance in two sub-categories, weighted equally: (1) posting notice of decisions on the Environmental Registry promptly after the decision is made, and (2) avoiding having “outdated” proposals (i.e., proposals more than two years old) on the Registry without a decision notice or update. When evaluating ministries’ success in avoiding outdated proposals, the ECO accounted for the progress that some ministries made in 2015/2016 to remedy the large number of outdated proposals that the ECO identified in our 2014/2015 annual report.

Ministries’ evaluations in this category were poorer than in any other. Almost every ministry that posted decision notices in 2015/2016 performed unacceptably in at least one of the sub-categories, and in some cases both.

Several ministries repeatedly failed to post decision notices promptly; of the 9 ministries that the ECO evaluated in this category, only 3 – the MGCS, the MMAH and the MNDM – posted decision notices within 2 weeks of the decision being made in more than 50 per cent of notices reviewed; 3 ministries – the ENG, the MNRF and OMAFRA – did so in less than 20 per cent of the notices reviewed.

Following the release of our 2014/2015 Annual Report and individual meetings in fall 2015 between the Commissioner and several deputy ministers of prescribed ministries, some of those ministries made significant efforts to remedy their outdated proposals on the Environmental Registry. In total, ministries remedied over 1,150 notices by posting long-overdue decision notices or, in some cases, posting updates to ongoing proposals. While encouraging, these remedied notices represent just over half of all outdated proposal notices for policies, acts and regulations, and about 60 per cent of all outdated proposal notices for instruments.

OMAFRA and the MTCS both successfully remedied all of their small number of outdated proposals during 2015/2016. Other ministries made disappointing progress, such as the MGCS, which only remedied 13 per cent of its outdated proposals, and MNDM at 47 per cent.

Two ministries in particular, the MOECC and the MNRF, continued to struggle with many outdated proposals on the Environmental Registry. While these ministries made significant efforts in 2015/2016 to remedy their outdated notices, these improvements were not enough to counter the effects of their remaining outstanding notices and failure to post decision notices promptly. The MOECC remedied 827 of 1,407 outdated notices reported in 2014/2015 (59 per cent) – an admirable effort, given the high volume of notices involved. However, because the MOECC still had 686 outdated notices on the Registry as of April 1, 2016 (which includes some notices that became outdated during 2015/2016), as well as the ministry’s poor record of posting decision notices promptly (only 48 per cent of notices assessed), the ministry’s results in the report card in this category are unacceptable.

Likewise, the MNRF remedied 218 of 303 outdated notices reported in 2014/2015 (72 per cent); however, at the

end of the reporting year the MNRF had 93 outdated proposals on the Registry (a small number of which became outdated during 2015/2016). This unacceptably high number of outdated proposals, combined with the MNRF's poor rate of posting decision notices promptly (just 16 per cent of notices assessed) resulted in the ECO's assessment of the MNRF's performance in this category as unacceptable.

### Handling of Applications for Review and Investigation

Under the *EBR*, any two Ontario residents can ask for a review of an environmentally significant law, policy or regulation, or for a review of the need for a new law, policy or regulation. Ontario residents may also request an investigation of alleged contraventions of certain environmentally significant laws, regulations or instruments. The ECO forwards submitted applications for review or investigation to the appropriate ministry, and is responsible for reviewing and reporting on ministries' handling of those applications. The ECO evaluates ministry handling of applications only once the applications are "concluded" (i.e., denied at the preliminary stage; or undertaken and completed, with the final outcome communicated to the applicants).

“ ministries handled applications reasonably well ”

In general, ministries handled applications reasonably well, and the MOECC and the MMAH handled some extremely well. In every case in which a ministry denied an application (i.e., decided not to undertake a review or investigation), the ECO concluded that the denial was valid based on the provisions of the *EBR*.

However, timeliness was a problem. In three applications, the responsible ministries (the MOHLTC, the MNRF and the MOECC, respectively) missed statutory deadlines for responding to applicants. Some ministries often failed to address all of the applicants' concerns and/or to clearly explain the rationales for their decisions. The MNRF and the MOECC both have long overdue reviews still outstanding. The MOECC has six, dating as far back as 2009, and the MNRF has one dating back to 2012.

Ministries had markedly varying workloads for *EBR* applications; the MOECC concluded seven applications in this review period, while OMAFRA concluded two applications and four other ministries concluded just one application each.

### Considering Statements of Environmental Values (SEVs)

Every ministry that is prescribed under the *EBR* must develop a Statement of Environmental Values (SEV) that explains how the ministry will apply the purposes of the *EBR* when making environmentally significant decisions. An SEV must also describe how the ministry will integrate the purposes of the *EBR* with other factors, including social, economic and scientific considerations that a ministry takes into account when making decisions.

The ECO is required to report on ministries' compliance with the requirement to consider their SEV. To fulfil this obligation, the ECO asks ministries to provide proof that they considered their SEV, in the form of an "SEV consideration document," for every decision notice posted on the Environmental Registry for a policy, act or regulation, and for select instrument decision notices. The ECO did not evaluate whether (or how well) ministries applied their SEVs when making decisions; nor did the ECO comment on the content of the SEVs themselves.

In 2015/2016, ministries had markedly varying workloads when it came to considering their SEVs. The ECO requested 50 SEV consideration documents from the MNRF and 124 from the MOECC. Both ministries usually responded to the ECO's requests; however both ministries occasionally asserted that SEV consideration (or documenting SEV consideration) was not required for particular instrument types. With few exceptions, the ECO disagreed with their position and considered those instances to be a failure to consider the ministries' SEV.

“ timeliness was a problem ”

The ECO made fewer than ten requests each of the MNDM, the MGCS, the MMAH, the MTCS, the MTO and OMAFRA, owing to the low number of policy, act and regulation notices posted by those ministries. Those ministries generally responded to the ECO's requests. However, both the MTCS and OMAFRA in some cases did not supply the proper documentation; we have clarified our request letter and we are working with those ministries to ensure that in the future they respond promptly and appropriately to the ECO's requests for proof of SEV consideration.

The ECO did not request SEV consideration documents from the MAA, the MEDEI, the EDU, the ENG, the MOHLTC or the MOL in 2015/2016.

### Co-operation with ECO Requests

Every year the ECO asks staff in prescribed ministries for documents, answers to questions, and briefings on particular issues, among other things. The ECO relies heavily on the information ministries supply to help us fulfil our mandate. Under the *EBR*, the ECO is required to report on whether ministries have co-operated with the ECO's requests for information.

All prescribed ministries were generally helpful and responsive to the ECO's requests for information, briefings, and other assistance in 2015/2016.

“ ministries were generally helpful and responsive ”

Every ministry responded to the ECO's request for them to reaffirm their commitment to the *EBR* in writing. Seven ministries – OMAFRA, the MEDEI, the ENG, the MMAH, the MNRF, the MOECC, and the MTO – co-operated particularly well with multiple and sometimes numerous requests from the ECO, in some cases meeting tight deadlines and going above and beyond to assist our office.

## ECO Comment

Ontarians cannot exercise their rights under the *EBR* if prescribed ministries do not do their part. For the public to be engaged on environmental issues, it is critical that ministries provide the public with prompt and meaningful information about environmentally significant proposals and decisions, and be accountable for those decisions. When this doesn't happen, the public's *EBR* rights are thwarted – and so too is the very purpose of the *EBR*.

The ministry *EBR* report cards have helped the ECO to identify the *EBR* responsibilities that ministries are already executing well, and where ministries need to improve. The ECO is extremely pleased that every prescribed ministry reaffirmed its commitment to the *EBR* in 2015/2016. Prescribed ministries across the board appear willing to work with the ECO to assist our office by responding to our questions and requests for information, providing briefings to our staff, and attending meetings to discuss important environmental issues affecting Ontario. Ministries' *EBR* co-ordinators (staff responsible for facilitating the implementation of the *EBR* within their ministry) work hard to liaise between the ECO and their ministries, and should be recognized for their efforts.

“ Ontarians cannot exercise their rights under the *EBR* if prescribed ministries do not do their part ”

Generally, the ministries with a light *EBR* workload execute their few obligations well. The ECO encourages those ministries to maintain a high standard of performance each and every time they implement the *EBR*. While ministries with moderate and heavy *EBR* workloads are more likely to have instances of non-compliance or poor execution of their responsibilities, those ministries are clearly willing and making efforts to comply with their *EBR* obligations.

Based on our evaluations, ministries should prioritize four key areas in 2016/2017:

#### 1. Quality of instrument notices

Instrument notices represent the bulk of the notices found on the Environmental Registry, and yet they are often falling short of meaningfully informing the public. Substandard instrument notices may prevent the public from participating effectively in decisions about approvals for activities that affect the environment right in their own communities.

Ministries could significantly improve their instrument notices with relatively little effort. For example, they could:

- ▶ develop standard text for each type of instrument that explains what it is and how it could affect the environment, and include that text in every notice for that type of instrument, in addition to specific information about the instrument being proposed (e.g., the MOECC could provide basic background information about permits to take water in every proposal notice for such a permit);
- ▶ make it a standard practice to include links to all proposed and final instrument documents;
- ▶ make it a standard practice to include links to any key supporting information that would be necessary for a member of the public to provide informed comment on the proposal; and
- ▶ consider whether the geographic information provided in an instrument notice would allow the general public to identify the relevant location (e.g., providing municipal addresses in addition to PIN or site and lot numbers; in notices for exploration permits, the MNDM could provide a link to the ClaimMaps website so that the public can more easily locate the mining claim numbers on a map).

These fairly simple improvements to instrument notices would help the public engage meaningfully in many site-specific environmental decisions.

## 2. Posting decision notices promptly

Once a ministry has made a decision on a proposal, the ministry should promptly inform the public. The ECO believes that a two-week window after a decision is made is a very reasonable timeframe within which it should be possible for a ministry to post a decision notice on the Environmental Registry. This is particularly important in the case of instrument notices for which the public has a right to seek leave to appeal; delays in posting decision notices after an instrument has been approved could potentially decrease the public's chances of success on a leave to appeal application.

## 3. Avoiding outdated proposals

Several ministries made good progress in 2015/2016 to clean up the Environmental Registry by posting decisions for their long-outdated proposal notices. However, as of April 1, 2016 over 800 outdated proposals notices remained on the Environmental Registry. This is primarily a legacy issue that ministries ought to remedy fully in 2016/2017, and then never allow to happen again.

## 4. Avoiding overdue Applications for Review

When a prescribed ministry agrees to undertake a review requested by way of an *EBR* application, that ministry is legally required to conduct the review "within a reasonable time." It is generally unacceptable for ministries to take years to conduct a review, unless the ministry can demonstrate the necessity of taking that much time. Ministries should keep both the applicants and the ECO apprised of their progress and anticipated timing on protracted reviews. Both the MOECC and the MNRF are guilty of taking an unreasonably long time to conclude reviews – effectively abandoning them and leaving the applicants in the dark. The ECO urges both ministries to conclude all overdue reviews in 2016/2017, and to conduct and provide decisions on reviews with greater alacrity going forward.



**ministries should prioritize four key areas in 2016/2017**



The ECO is committed to working with ministries and their *EBR* co-ordinators to help them improve their *EBR* performance in 2016/2017.

All prescribed ministries have the potential to improve the way they implement the *EBR* to better serve the public. And serving the public is what this is all about: ensuring that the *EBR* is being implemented in a way that doesn't just meet the letter of the law, but that recognizes the purpose of the law itself; to enable the public to meaningfully participate in government decisions that affect the environment.



# *EBR* Performance Report Cards

## MINISTRY OF ABORIGINAL AFFAIRS (MAA)

**ECO Comment:** The MAA is a relatively newly prescribed ministry and, to date, there is little material with which the ECO can evaluate the MAA's *EBR* performance. Nevertheless, we are pleased that the ministry has so far performed its few *EBR* obligations well. Going forward, the MAA can maintain a high quality of *EBR* performance by: continuing to co-operate with ECO requests for information; posting clearly written and sufficiently detailed notices of any environmentally significant proposals on the Environmental Registry for public consultation; giving prompt notice of its decisions on such proposals on the Registry; and considering its Statement of Environmental Values when making those decisions.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The MAA only posted one notice in 2015/2016; however, the quality of that notice was high.
Timeliness of Decision Notices and Avoiding Outdated Proposals		The MAA posted one proposal on the Environmental Registry, and it properly completed that proposal by posting a decision notice. It was not possible for the ECO to determine how promptly the notice was posted after the decision was made. The MAA has never had an outdated proposal.
Handling of Applications for Review and Investigation	N/A	The MAA is not prescribed for applications for review or investigation under the <i>EBR</i> .
Considering Statements of Environmental Values	N/A	The MAA finalized its Statement of Environmental Values this year. In the future, when the ministry posts a decision on the Environmental Registry, the ECO will request proof that the ministry considered its Statement of Environmental Values in making the decision.
Co-operation with ECO Requests		The MAA responded promptly to the ECO's sole request this year with a letter confirming its commitment to the <i>EBR</i> and the ministry's statutory obligations contained therein.

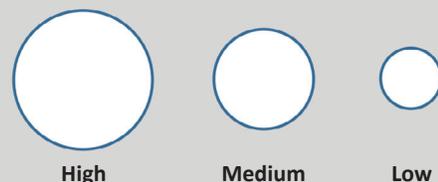
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

#### Quality of performance:

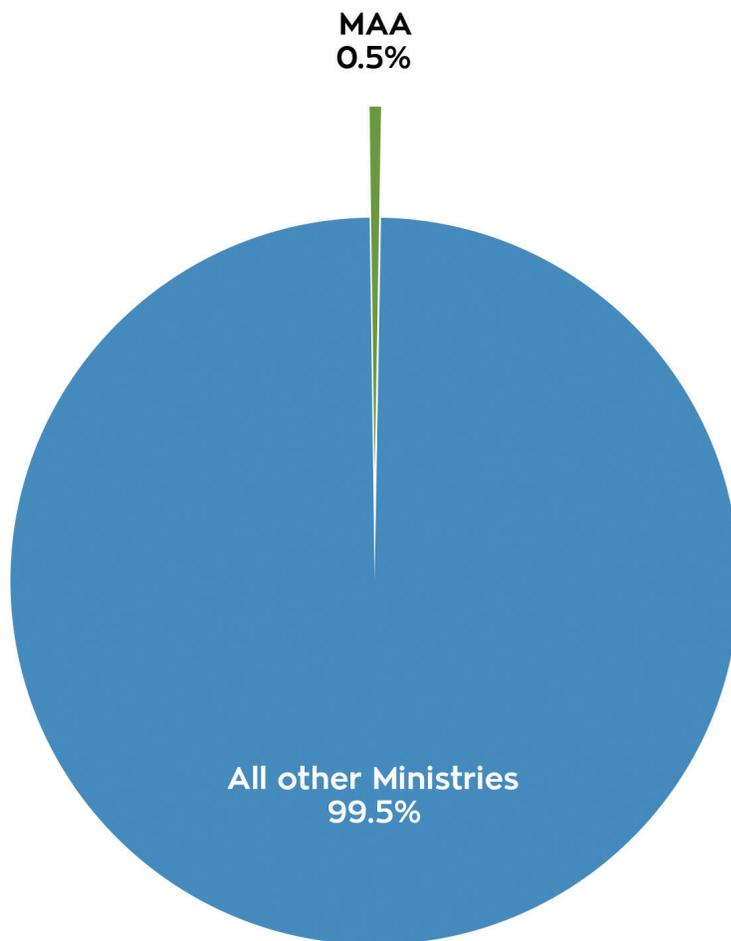
-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

#### Relative *EBR* workload:



For the ministry's comment on its *EBR* Report Card, please see "Ministry Comments," page 44.

**Ministry of Aboriginal Affairs (MAA) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MAA by the numbers in 2015/2016:**

	MAA	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	1	210
Total Proposal and Decision Notices for Policies, Acts and Regulations Reviewed by the ECO	1	401
Outdated Proposal Notices as of April 1, 2016	0	839
SEV Consideration Documents Requested by the ECO	0	194
Applications Concluded	N/A	13

# MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS (OMAFRA)

**ECO Comment:** OMAFRA executed many of its *EBR* responsibilities well, including posting clear, useful and detailed notices on the Environmental Registry, adhering to timelines for responding to applications, and maintaining a productive working relationship with the ECO. However, OMAFRA needs to post decision notices more promptly. OMAFRA should also respond to all requests for SEV documents promptly to show the ministry’s compliance with the *EBR* requirement to take every reasonable step to ensure their SEV is considered when making environmentally significant decisions.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		OMAFRA consistently posts good quality notices with clear descriptions, sufficient detail and, where appropriate, usually provides links to key supporting documents.
Timeliness of Decision Notices and Avoiding Outdated Proposals		OMAFRA had no outdated proposals as of April 1, 2016; the ministry remedied all four of its outdated proposals from 2014/2015. However, OMAFRA posted only 16% of its decision notices within two weeks of making a decision.
Handling of Applications for Review and Investigation		OMAFRA concluded two applications for review in 2015/2016, denying them both. While the ministry’s denials of the applications were valid and it explained its decisions clearly, it could have done a better job responding to all of the applicants’ key concerns. To assist the ECO in monitoring OMAFRA’s compliance with legislated application timelines, the ECO urges OMAFRA to copy the ECO on all of its correspondence with the applicants.
Considering Statements of Environmental Values		OMAFRA responded to all three of the ECO’s requests for SEV consideration documents in 2015/2016, but only responded within four weeks of our request in one of those cases. OMAFRA should ensure that it responds promptly to any ECO requests for proof of SEV consideration.
Co-operation with ECO Requests		OMAFRA responded promptly to numerous requests from the ECO this year, providing briefings, answers to questions and a letter reaffirming the ministry’s commitment to the <i>EBR</i> . Ministry staff were helpful and communicative, and welcomed an ECO staff member to present the ECO’s perspective at a working group meeting on soil health.

**LEGEND**

**Quality of performance:**

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

**Relative *EBR* workload:**



High



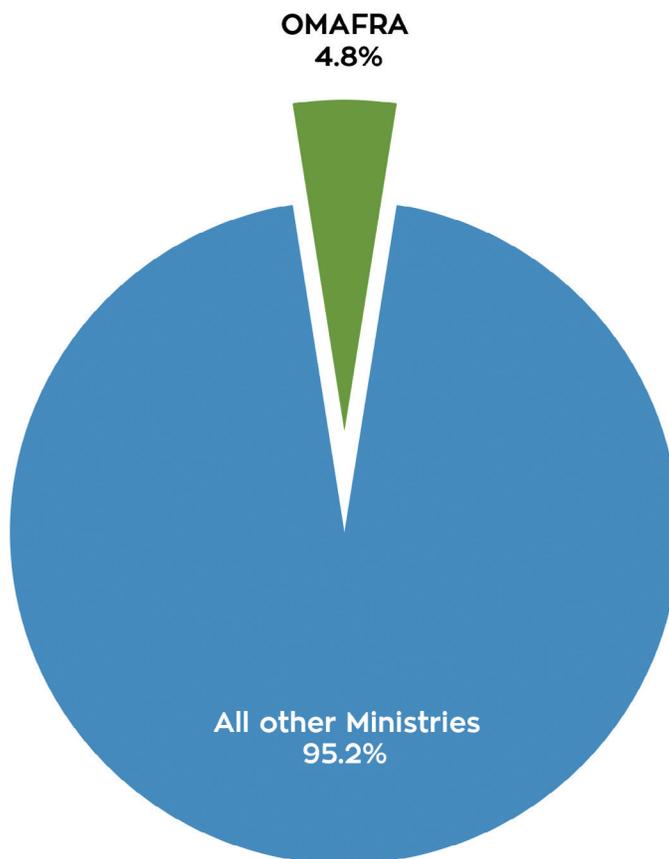
Medium



Low

For the ministry’s comment on its *EBR* Report Card, please see “Ministry Comments,” page 44.

**Ministry of Agriculture, Food and Rural Affairs (OMAFRA) - Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**OMAFRA by the numbers, 2015/2016:**

	OMAFRA	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	10	210
Total Proposal and Decision Notices for Policies, Acts and Regulations Reviewed by the ECO	10	401
Outdated Proposal Notices as of April 1, 2016	0	839
SEV Consideration Documents Requested by the ECO	3	194
Applications Concluded	2	13

# MINISTRY OF ECONOMIC DEVELOPMENT, EMPLOYMENT AND INFRASTRUCTURE (MEDEI)

**ECO Comment:** There was little material with which the ECO could evaluate the MEDEI’s thoroughness and efficacy in discharging its *EBR* responsibilities. However, the MEDEI was extremely co-operative in responding to ECO requests for information during the preparation of our annual Energy Conservation Report. Going forward, the MEDEI is encouraged to continue to co-operate with ECO requests for information, ensure that it posts clearly written and sufficiently detailed notices of any environmentally significant proposals on the Environmental Registry for public consultation; give prompt notice of its decisions on such proposals on the Registry; and consider its Statement of Environmental Values when making those decisions.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The MEDEI posted just three notices in 2015/2016. While all three notices were of very good quality, the ministry should ensure that, in a policy proposal notice’s “Purpose of Policy” section, it describes the purpose of the policy being proposed – not the purpose of the proposal notice.
Timeliness of Decision Notices and Avoiding Outdated Proposals		The MEDEI posted just one decision notice in 2015/2016, and it was not possible to determine whether it was posted within two weeks of the decision being made. The MEDEI has no outdated proposals on the Registry.
Handling of Applications for Review and Investigation	N/A	The MEDEI is not prescribed for applications for review or investigation under the <i>EBR</i> .
Considering Statements of Environmental Values	N/A	The ECO did not request proof of SEV consideration from the MEDEI this year.
Co-operation with ECO Requests		The MEDEI was particularly helpful to the ECO this year during the preparation of our annual Energy Conservation Report. MEDEI staff met with ECO staff to explain the rules for funding infrastructure retrofits, and responded promptly to the ECO’s invitation to reaffirm its commitment to the <i>EBR</i> .

**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

**Quality of performance:**

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

**Relative *EBR* workload:**



High



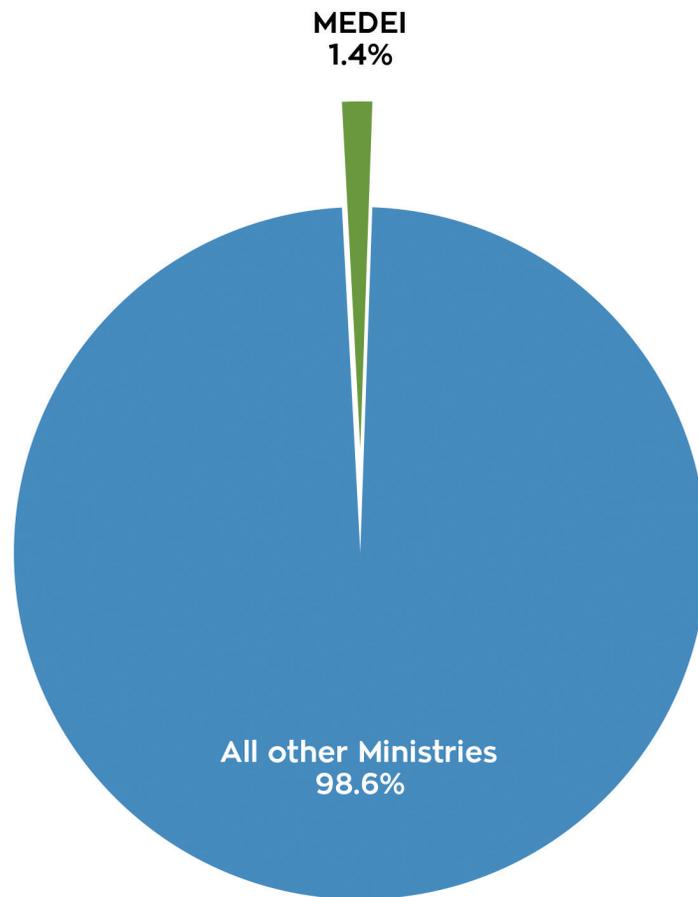
Medium



Low

For the ministry’s comment on its *EBR* Report Card, please see “Ministry Comments,” page 44.

**Ministry of Economic Development, Employment and Infrastructure (MEDEI) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MEDEI by the numbers, 2015/2016:**

	MEDEI	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	3	210
Total Proposal and Decision Notices for Policies, Acts and Regulations Reviewed by the ECO	3	401
Outdated Proposal Notices as of April 1, 2016	0	839
SEV Consideration Documents Requested by the ECO	0	194
Applications Concluded	N/A	13

## MINISTRY OF EDUCATION (EDU)

**ECO Comment:** There was very little material with which the ECO could evaluate the EDU’s thoroughness and efficacy in discharging its *EBR* responsibilities, as the ministry did not post any notices on the Environmental Registry. The ECO is pleased that the EDU reaffirmed its commitment to the *EBR*. Going forward, the EDU is encouraged to continue to co-operate with ECO requests for information, ensure that it posts clearly written and sufficiently detailed notices of any environmentally significant proposals on the Environmental Registry for public consultation; give prompt notice of its decisions on such proposals on the Registry; and consider its Statement of Environmental Values when making those decisions.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry	N/A	The EDU did not post any notices in 2015/2016.
Timeliness of Decision Notices and Avoiding Outdated Proposals		The EDU did not post any decision notices in 2015/2016. The EDU does not have any outdated proposals on the Registry.
Handling of Applications for Review and Investigation	N/A	The EDU is not prescribed for applications for review or investigation under the <i>EBR</i> .
Considering Statements of Environmental Values	N/A	The ECO did not request proof of SEV consideration from the EDU this year.
Co-operation with ECO Requests		The EDU responded promptly and helpfully to ECO requests this year, providing a letter reaffirming the ministry’s commitment to the <i>EBR</i> and supplying ECO staff with data about energy use in Ontario’s public schools.

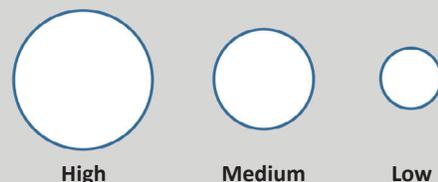
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

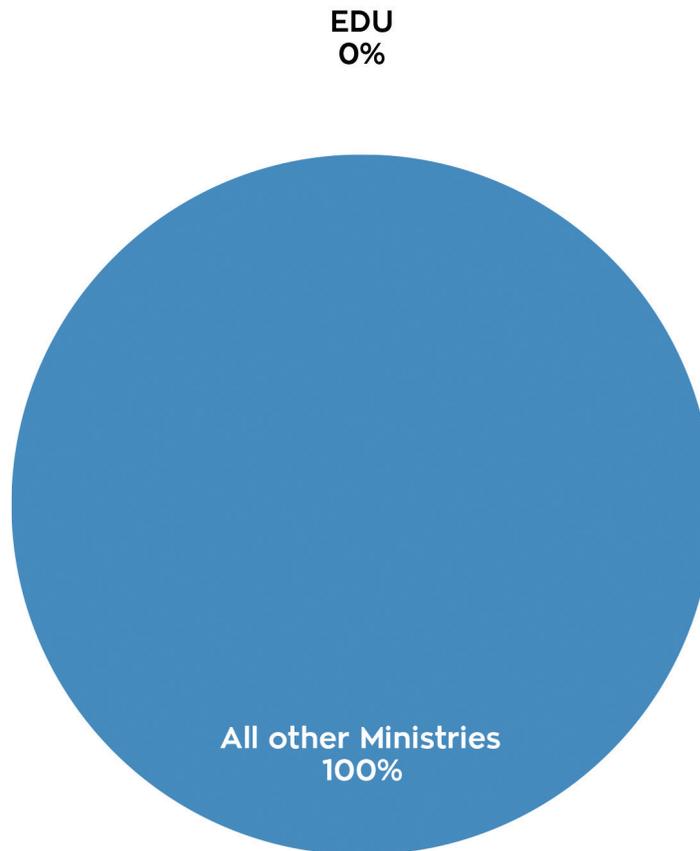
#### Quality of performance:

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

#### Relative *EBR* workload:



**Ministry of Education (EDU) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**EDU by the numbers, 2015/2016:**

	EDU	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	0	210
Total Proposal and Decision Notices Reviewed by the ECO	0	401
Outdated Proposal Notices as of April 1, 2016	0	839
SEV Consideration Documents Requested by the ECO	0	194
Applications Concluded	N/A	13

## MINISTRY OF ENERGY (ENG)

**ECO Comment:** The ENG posted excellent notices to the Registry this year, and made an effort to remedy its seven outdated proposals (two remain). However the ENG needs to post decision notices more promptly. The ministry should also ensure that it responds to any applications for review or investigation it may receive in the future in detail, addressing all of the applicants' main concerns. The ENG was very co-operative and helpful in responding to the ECO's requests for information and assistance, and is commended for its efforts.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The ENG posted consistently high quality notices.
Timeliness of Decision Notices and Avoiding Outdated Proposals		Of the six decision notices that the ENG posted in 2015/2016, only one was posted within two weeks of the decision being made. Encouragingly, the ENG remedied five of its seven outdated proposals, and had just two outdated notices as of April 1, 2016.
Handling of Applications for Review and Investigation		The ENG concluded one application for review in 2015/2016, denying the application. While the ministry met its statutory timelines and its decision to deny the application was valid, the ENG did not sufficiently respond to all of the applicants' key concerns and did not explain its decision in enough detail.
Considering Statements of Environmental Values	N/A	The ECO did not request proof of SEV consideration from the ENG in 2015/2016.
Co-operation with ECO Requests		The ECO asked the ENG for meetings, information and assistance several times this year. The ministry was extremely helpful in providing information and assistance – in some cases on a tight deadline. At the ECO's request, the ministry also reaffirmed its commitment to the <i>EBR</i> .

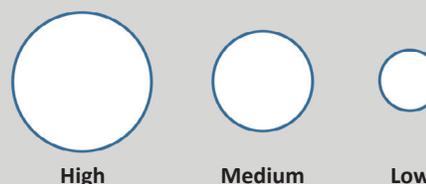
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

#### Quality of performance:

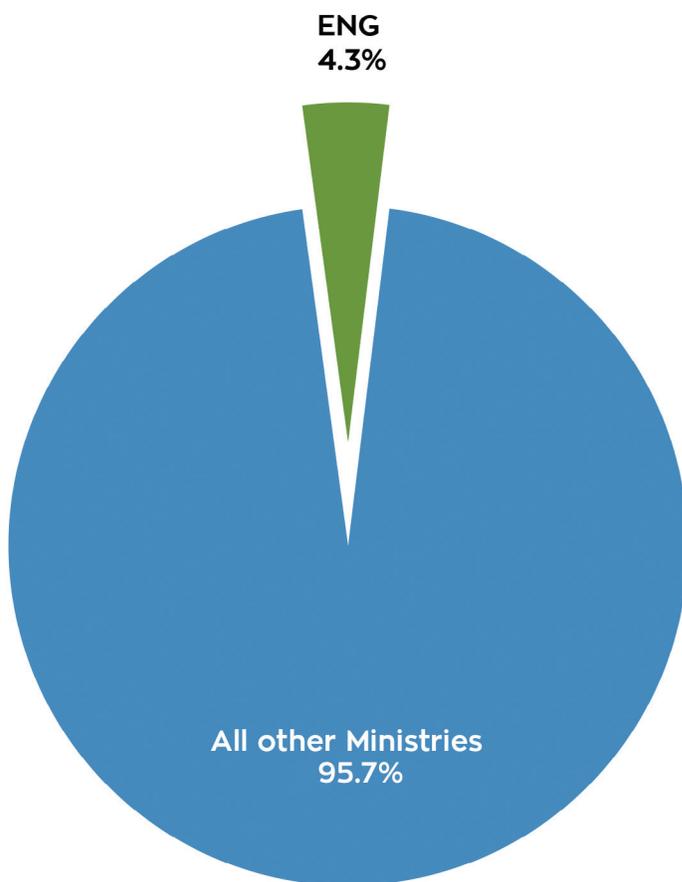
-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

#### Relative *EBR* workload:



For the ministry's comment on its *EBR* Report Card, please see "Ministry Comments," page 45.

**Ministry of Energy (ENG) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**

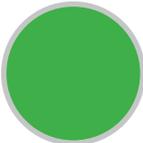
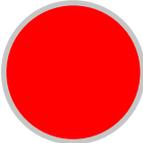
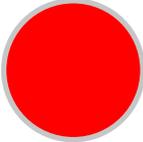
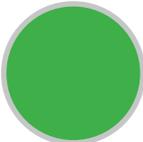


**ENG by the numbers in 2015/2016:**

	ENG	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	9	210
Total Proposal and Decision Notices for Policies, Acts and Regulations Reviewed by the ECO	9	401
Outdated Proposal Notices as of April 1, 2016	2	839
SEV Consideration Documents Requested by the ECO	0	194
Applications Concluded	1	13

# MINISTRY OF THE ENVIRONMENT AND CLIMATE CHANGE (MOECC)

**ECO Comment:** The MOECC has the heaviest *EBR* workload of all prescribed ministries, posting by far the most notices on the Registry and receiving the highest number of applications for review and investigation. The MOECC discharged its responsibilities relatively well, but consistently failed to post decision notices promptly. It also has a very large backlog of outdated proposal notices, which the ECO acknowledges the ministry has been working hard to remedy over the last two years. The ECO encourages the ministry to clear this backlog as quickly as possible. Similarly, the MOECC has a significant number of overdue reviews for which applicants are waiting. The ECO commends the MOECC for being consistently co-operative and helpful to the ECO, meeting with the Commissioner and providing information and briefings promptly.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The MOECC generally posts high quality notices. However, the ministry frequently fails to include links to key supporting documents, including draft or final approval documents, in instrument notices (e.g., permits to take water). Enabling the public to access supporting documents by clicking on a link is far superior to (and more efficient than) requiring the public to email the ministry to request a copy.
Timeliness of Decision Notices and Avoiding Outdated Proposals		The MOECC posted fewer than half of its assessed decision notices within two weeks of a decision being made. Although the MOECC remedied more than 800 of the 1,300+ outdated instrument proposal notices that the ECO identified in 2014/2015, the ministry only remedied 8 out of 94 outdated policy, act and regulation notices. As of April 1, 2016, the MOECC had 686 outdated notices on the Registry.
Handling of Applications for Review and Investigation		The MOECC concluded seven applications in 2015/2016; it denied two applications for review, undertook three reviews, and undertook two investigations. The ministry handled each of those applications very well. However, the MOECC has six long overdue applications – one dating back to 2009 – which it has yet to conclude.
Considering Statements of Environmental Values		The MOECC usually responds to the ECO's requests for SEV consideration documents reasonably promptly. However, for some notice types the MOECC takes the position that SEV consideration is not required, or that the consideration need not be specifically documented. The ECO disagrees, and in those cases considered the MOECC to have failed to consider its SEV.
Co-operation with ECO Requests		MOECC staff were extremely helpful to the ECO this year. MOECC staff regularly met with the Commissioner on a variety of issues, and provided briefings on source water protection and the proposed cap and trade program. The MOECC's <i>EBR</i> co-ordinator is very helpful at facilitating the ECO's requests for meetings and information.

**LEGEND**

**Quality of performance:**

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

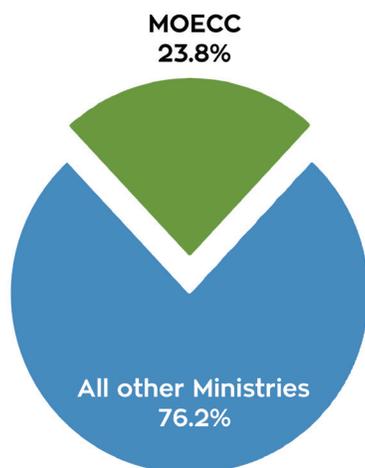
**Relative *EBR* workload:**

  
High

  
Medium

  
Low

**Ministry of the Environment and Climate Change (MOECC) - Percentage of All Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MOECC - Approximate Percentage of all Instrument Proposal and Decision Notices, 2015/2016:**



**MOECC by the numbers, 2015/2016:**

	MOECC	All Ministries
<b>Proposal and Decision Notices for Policies, Acts and Regulations Posted</b>	50	210
<b>Approximate Number of Instrument Proposal and Decision Notices Posted</b>	Over 3,010	Over 3,530
<b>Total Proposal and Decision Notices (all types) Reviewed by the ECO</b>	96	401
<b>Outdated Proposal Notices as of April 1, 2016</b>	686	839
<b>SEV Consideration Documents Requested by the ECO</b>	124	194
<b>Applications Concluded</b>	7	13

## MINISTRY OF GOVERNMENT AND CONSUMER SERVICES (MGCS)

**ECO Comment:** The Technical Standards and Safety Authority (TSSA), housed within the MGCS, is responsible for a substantial number of registry notices. Notices for policies, acts and regulations were useful and detailed, but the TSSA should improve its notices for instruments, which lack basic information the public needs in order to understand the implications of the instruments proposed or decided. The TSSA should also update or post decision notices for all of its outdated proposal notices. The ECO commends the TSSA for pro-actively contacting the ECO to discuss how to resolve a problem with TSSA appeal notices that would have deprived the public of correct information for seeking leave to appeal.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The MGCS (through the Technical Standards and Safety Authority) generally posts high quality notices for policies, acts and regulations. However, the ministry's notices for approvals of variances from the Liquid Fuels Handling Code are routinely substandard, failing to describe the environmental impact of the proposed instrument, to explain what decision was ultimately made, or to include links to any supporting information – including the instrument itself.
Timeliness of Decision Notices and Avoiding Outdated Proposals		The MGCS was one of the few ministries to consistently post decision notices promptly after making a decision; it did so for more than 90% of the decision notices that the ECO assessed. However, the MGCS made little effort to remedy its outdated proposal notices. It posted decision notices for just 2 of 15 outdated proposals. The ministry had 14 outdated notices as of April 1, 2016.
Handling of Applications for Review and Investigation	N/A	The MGCS did not conclude any applications for review or investigation under the <i>EBR</i> in 2015/2016.
Considering Statements of Environmental Values		The ECO only asked the MGCS for proof of SEV consideration once in 2015/2016; however, the ministry responded promptly.
Co-operation with ECO Requests		The MGCS responded promptly to the ECO's sole request this year with a letter confirming its commitment to the <i>EBR</i> and the ministry's statutory obligations contained therein.

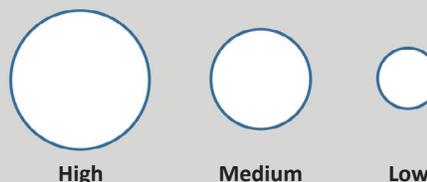
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

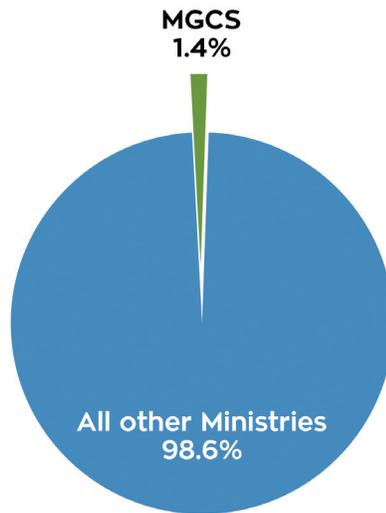
#### Quality of performance:

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

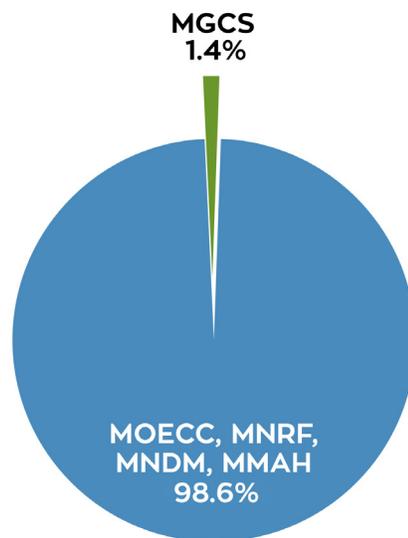
#### Relative *EBR* workload:



**Ministry of Government and Consumer Services (Technical Standards and Safety Authority) (MGCS - TSSA) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MGCS - TSSA - Approximate Percentage of all Instrument Proposal and Decision Notices, 2015/2016:**



**MGCS-TSSA by the numbers, 2015/2016:**

	MGCS-TSSA	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	3	210
Approximate Number of Instrument Proposal and Decision Notices Posted	Over 50	Over 3,530
Total Proposal and Decision Notices (all types) Reviewed by the ECO	52	401
Outdated Proposal Notices as of April 1, 2016	14	839
SEV Consideration Documents Requested by the ECO	1	194
Applications Concluded	0	13

## MINISTRY OF HEALTH AND LONG-TERM CARE (MOHLTC)

**ECO Comment:** The MOHLTC has a relatively low *EBR* workload, and the ministry did not post any notices on the Environmental Registry in 2015/2016. The ministry had some difficulty handling its one application for review in accordance with *EBR* timelines, and in providing a clear explanation of its decision to the applicants. The ECO is pleased that the MOHLTC reaffirmed its commitment to the *EBR*, and would be pleased to work with the MOHLTC's *EBR* co-ordinator to ensure the ministry makes improvements in executing its *EBR* responsibilities going forward.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry	N/A	The MOHLTC did not post any notices in 2015/2016.
Timeliness of Decision Notices and Avoiding Outdated Proposals		The MOHLTC did not post any decision notices in 2015/2016. The MOHLTC has no outdated proposals on the Registry.
Handling of Applications for Review and Investigation		The MOHLTC concluded one application for review in 2015/2016, denying the application. While the ministry's denial of the application was valid and it responded to all of the applicants' key concerns, it didn't clearly explain its decision, and it missed the legislated timeline for making the decision by a wide margin. The MOHLTC is not prescribed for applications for investigation under the <i>EBR</i> .
Considering Statements of Environmental Values	N/A	The ECO did not request proof of SEV consideration from the MOHLTC in 2015/2016.
Co-operation with ECO Requests		The MOHLTC responded promptly to the ECO's request for a letter reaffirming its commitment to the <i>EBR</i> .

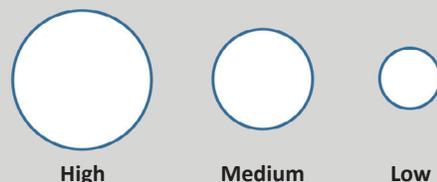
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

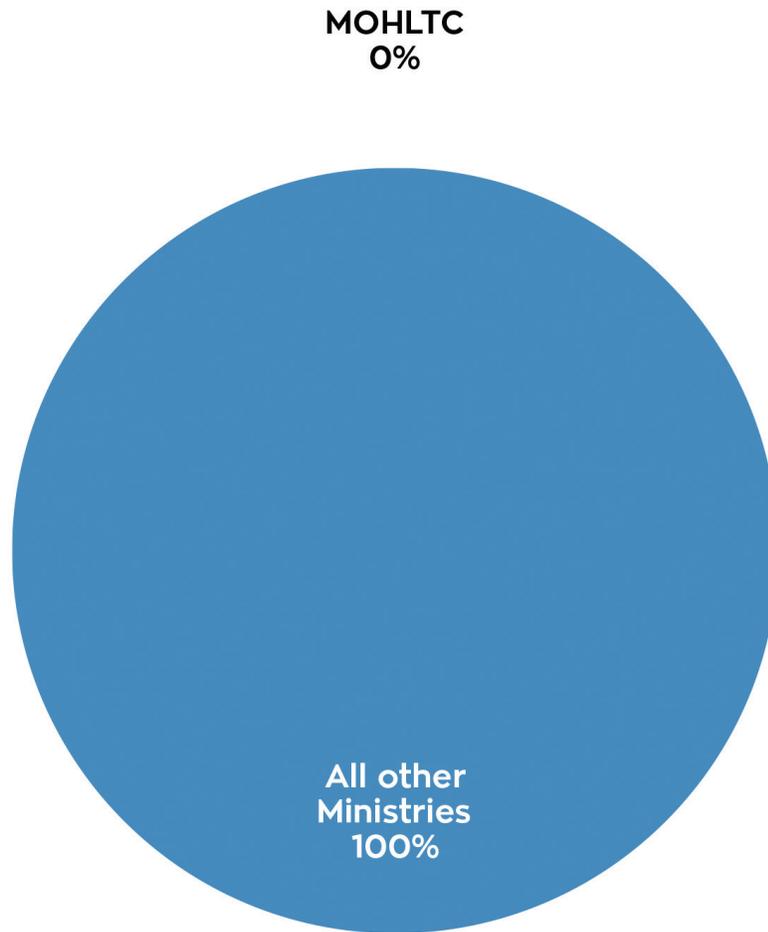
#### Quality of performance:

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

#### Relative *EBR* workload:



**Ministry of Health and Long-Term Care (MOHLTC) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MOHLTC by the numbers, 2015/2016:**

	MOHLTC	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	0	210
Total Proposal and Decision Notices Reviewed by the ECO	0	401
Outdated Proposal Notices as of April 1, 2016	0	839
SEV Consideration Documents Requested by the ECO	0	194
Applications Concluded	1	13

## MINISTRY OF LABOUR (MOL)

**ECO Comment:** The MOL has a relatively low *EBR* workload. There was little material with which the ECO could evaluate the MOL's thoroughness and efficacy in discharging its *EBR* responsibilities, as the ministry did not post any notices on the Environmental Registry. The ECO is pleased that the MOL reaffirmed its commitment to the *EBR*. Going forward, the MOL is encouraged to continue to co-operate with ECO requests for information, ensure that it posts clearly written and sufficiently detailed notices of any environmentally significant proposals on the Environmental Registry for public consultation; give prompt notice of its decisions on such proposals on the Registry; and consider its Statement of Environmental Values when making those decisions.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry	N/A	The MOL did not post any notices in 2015/2016.
Timeliness of Decision Notices and Avoiding Outdated Proposals		The MOL did not post any decision notices in 2015/2016. The MOL has no outdated proposals on the Registry.
Handling of Applications for Review and Investigation	N/A	The MOL is not prescribed for applications for review or investigation under the <i>EBR</i> .
Considering Statements of Environmental Values	N/A	The ECO did not request proof of SEV consideration from the MOL in 2015/2016.
Co-operation with ECO Requests		The MOL responded promptly to the ECO's sole request this year with a letter reaffirming its commitment to the <i>EBR</i> and the ministry's statutory obligations contained therein.

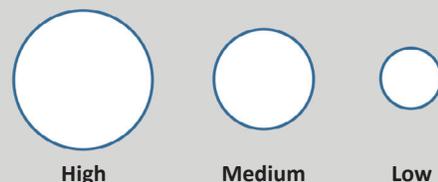
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

#### Quality of performance:

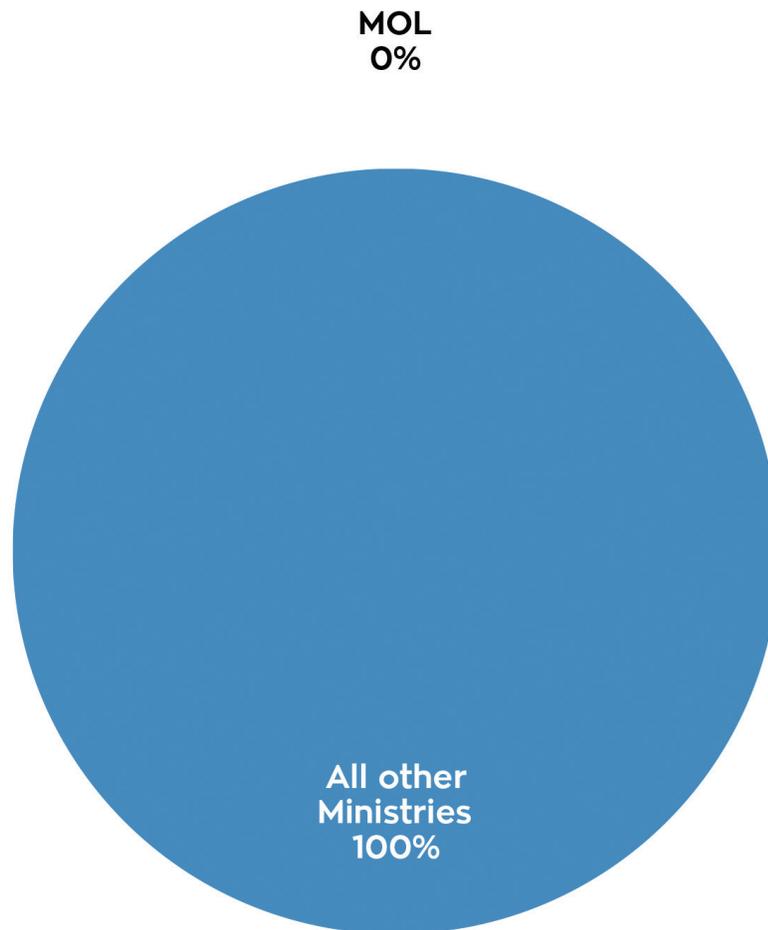
-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

#### Relative *EBR* workload:



For the ministry's comment on its *EBR* Report Card, please see "Ministry Comments," page 46.

**Ministry of Labour (MOL) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MOL by the numbers, 2015/2016:**

	MOL	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	0	210
Total Proposal and Decision Notices Reviewed by the ECO	0	401
Outdated Proposal Notices as of April 1, 2016	0	839
SEV Consideration Documents Requested by the ECO	0	194
Applications Concluded	N/A	13

## MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING (MMAH)

**ECO Comment:** The MMAH executed many of its *EBR* responsibilities well, including posting detailed policy, act and regulation notices on the Environmental Registry, responding thoroughly to the concerns raised in an application for review, taking steps to have the environmentally significant *Places to Grow Act, 2005* prescribed under the *EBR*, and co-operating extensively with the ECO's requests for briefings and information. The MMAH should continue to remedy its outdated proposals on the Environmental Registry, and improve the level of detail included in its instrument notices so they are more useful to the public.

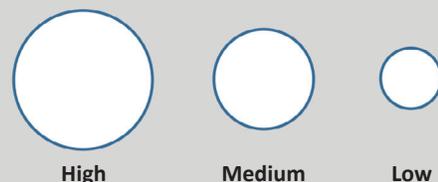
CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The MMAH generally posts high quality notices. However, the ministry should make instrument notices more helpful to the public by providing links to supporting documents; for example, the MMAH should routinely include links to the applicable Official Plans in proposal notices for provisional consent under the <i>Planning Act</i> , and for proposed Official Plans or amendments to Official Plans.
Timeliness of Decision Notices and Avoiding Outdated Proposals		Of the decision notices assessed, the MMAH posted about 60% within two weeks of decisions being made. The MMAH made a good effort to update outdated proposals, remedying over 85%. The MMAH had seven outdated proposals on the Registry as of April 1, 2016.
Handling of Applications for Review and Investigation		The MMAH concluded one application for review, denying the application. The ministry handled the application very well; it provided valid reasons for denying the application, which was jointly submitted to the MMAH and OMAFRA, and committed to supporting OMAFRA in its review.
Considering Statements of Environmental Values		The ECO only requested proof of SEV consideration from the MMAH four times this year; however, the MMAH was generally very good at responding to these requests promptly.
Co-operation with ECO Requests		This year, the MMAH was co-operative with the ECO's numerous requests, providing a briefing on the co-ordinated land use planning review and input to a chapter of our annual Energy Conservation Report, ensuring the ECO received copies of public comments submitted on Bill 73, and reaffirming its commitment to the <i>EBR</i> . The MMAH also took steps to have the <i>Places to Grow Act, 2005</i> prescribed under the <i>EBR</i> .

### LEGEND

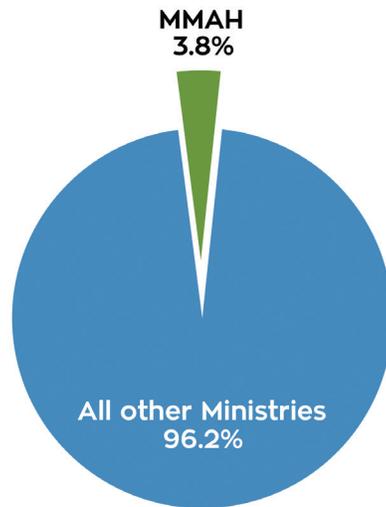
#### Quality of performance:

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

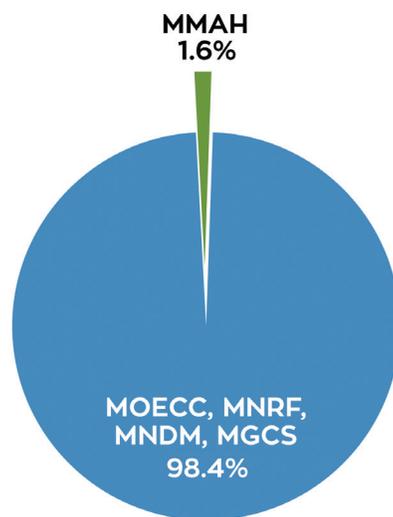
#### Relative *EBR* workload:



**Ministry of Municipal Affairs and Housing (MMAH) - Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MMAH - Approximate Percentage of all Instrument Proposal and Decision Notices, 2015/2016:**

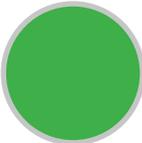
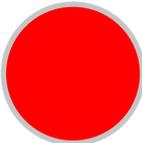


**MMAH by the numbers, 2015/2016:**

	MMAH	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	8	210
Approximate Number of Instrument Proposal and Decision Notices Posted	Over 55	Over 3,530
Total Proposal and Decision Notices (all types) Reviewed by the ECO	58	401
Outdated Proposal Notices as of April 1, 2016	7	839
SEV Consideration Documents Requested by the ECO	4	194
Applications Concluded	1	13

## MINISTRY OF NATURAL RESOURCES AND FORESTRY (MNRF)

**ECO Comment:** Next to the MOECC, the MNRF posts the highest number of notices to the Environmental Registry. The ECO is pleased with the overall quality of the MNRF's Registry notices, with the exception of some instrument notices that should have contained links to approval documents, as well as instrument notices under the *Aggregate Resources Act* which lacked sufficient detail. The MNRF has a productive working relationship with the ECO and spent considerable effort to provide information and briefings. However, the ministry has consistently failed to post decision notices within a reasonable time, and still has a large number of outdated instrument proposals that should be remedied. The MNRF also has one long overdue review, for which an application was submitted in 2012.

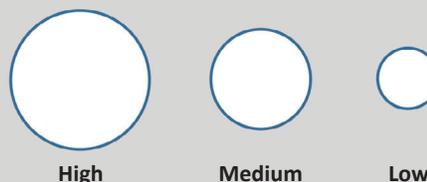
CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The MNRF generally posts high quality notices for policies, acts and regulations, although it frequently completes the "purpose of" portion of those notices incorrectly. The ministry's proposal and decision notices for <i>Aggregate Resources Act</i> instruments are chronically deficient, lacking sufficient detail to enable informed public comment. The MNRF should provide links to the approval documents in all instrument decision notices (e.g., under the <i>Aggregate Resources Act</i> , <i>Endangered Species Act, 2007</i> , <i>Niagara Escarpment Planning and Development Act</i> ).
Timeliness of Decision Notices and Avoiding Outdated Proposals		The MNRF posted less than 16% of the decision notices assessed within a reasonable time. Further, although the MNRF made exemplary efforts to remedy outdated proposal notices (over 93% of its outdated policy, act and regulation notices, and almost 65% of outdated instrument notices), as of April 1, 2016 the ministry still had 93 outdated proposals on the Registry.
Handling of Applications for Review and Investigation		The MNRF only concluded one application in this reporting year, denying a request for an investigation. The ministry handled the application well, except that it failed to meet the statutory timelines. The MNRF is also long overdue in delivering a decision on an application for review regarding hydraulic fracturing ("fracking") that was submitted in 2012.
Considering Statements of Environmental Values		The MNRF generally responds promptly to the ECO's requests for SEV consideration documents. On several occasions the MNRF asserted that an SEV consideration document was not required for a particular instrument or instrument type; with a couple of exceptions, the ECO disagreed with the ministry's interpretation and considered those instances to be a failure to document the ministry's SEV consideration.
Co-operation with ECO Requests		At the ECO's request, MNRF staff provided informative briefings on a wide range of topics in 2015/2016. The ministry's Aviation, Forest Fire and Emergency Services branch staff were also particularly helpful. While the ministry was slow to answer the ECO's questions on the Provincial Fish Strategy, the MNRF, including its <i>EBR</i> co-ordinator, generally co-operated very well with the ECO.

### LEGEND

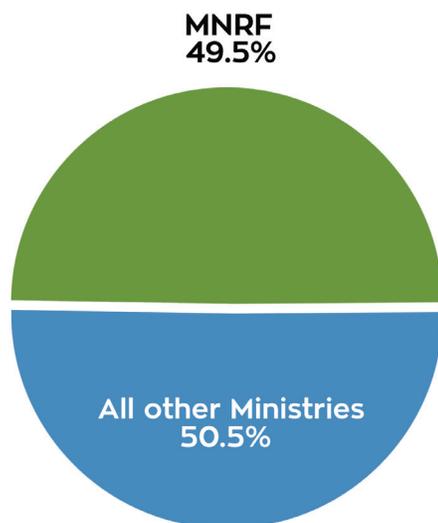
#### Quality of performance:

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

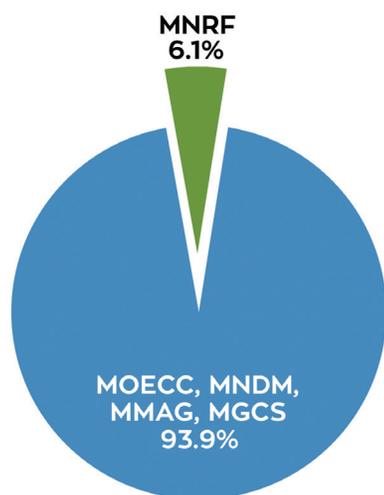
#### Relative *EBR* workload:



**Ministry of Natural Resources and Forestry (MNR) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MNR - Approximate Percentage of all Instrument Proposal and Decision Notices, 2015/2016:**



**MNR by the numbers, 2015/2016:**

	MNR	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	104	210
Approximate Number of Instrument Proposal and Decision Notices Posted	Over 215	Over 3,530
Total Proposal and Decision Notices (all types) Reviewed by the ECO	100	401
Outdated Proposal Notices as of April 1, 2016	93	839
SEV Consideration Documents Requested by the ECO	50	194
Applications Concluded	1	13

# MINISTRY OF NORTHERN DEVELOPMENT AND MINES (MNDM)

**ECO Comment:** The MNDM discharged many of its responsibilities under the *EBR* well; the ministry was prompt in responding to the ECO’s requests for SEV consideration documents, and posted good quality notices for policies, acts and regulations. However, the MNDM failed to post almost half of its decision notices within two weeks of the decision being made, and has 33 outdated instrument notices that should be remedied. The ministry could make its instrument notices more understandable and useful for the public by including plain language explanations of activities referred to in notices for exploration permits, and by providing links to supporting policy documents.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The MNDM’s notices are generally of good quality; however, instrument notices should be improved by providing links to key supporting documents or information. Also, since the location related to proposed exploration permits under the <i>Mining Act</i> is given by claim number, the MNDM should provide a link to ClaimMaps and explain that claim numbers can be located using that website.
Timeliness of Decision Notices and Avoiding Outdated Proposals		Only 58% of the MNDM decision notices assessed were posted within two weeks of the decision being made. The MNDM remedied all seven of its outdated policy, act and regulation notices, but only about a third of its outdated instrument notices. As of April 1, 2016, the MNDM still had 33 outdated instrument notices on the Registry.
Handling of Applications for Review and Investigation	N/A	The MNDM did not conclude any applications for review or investigation under the <i>EBR</i> in 2015/2016.
Considering Statements of Environmental Values		The MNDM was generally very prompt in responding to the ECO’s requests for proof of SEV consideration.
Co-operation with ECO Requests		The MNDM responded promptly to the ECO’s sole request this year with a letter reaffirming its commitment to the <i>EBR</i> and the ministry’s statutory obligations contained therein.

**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

**LEGEND**

**Quality of performance:**

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

**Relative *EBR* workload:**

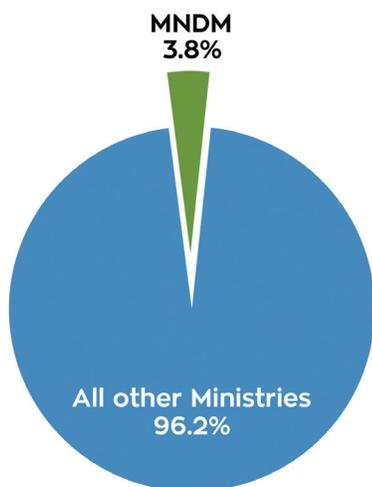
  
High

  
Medium

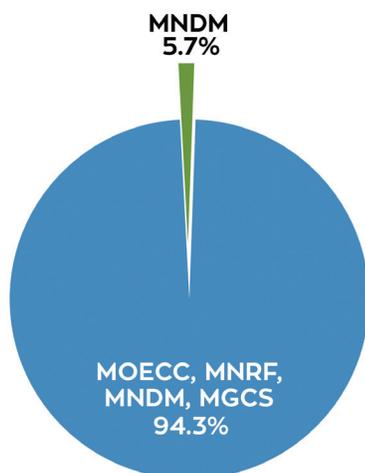
  
Low

For the ministry’s comment on its *EBR* Report Card, please see “Ministry Comments,” page 47.

**Ministry of Northern Development and Mines (MNDM) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MNDM - Approximate Percentage of all Instrument Proposal and Decision Notices, 2015/2016:**



**MNDM by the numbers, 2015/2016:**

	MNDM	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	8	210
Approximate Number of Instrument Proposal and Decision Notices Posted	Over 200	Over 3,530
Total Proposal and Decision Notices (all types) Reviewed by the ECO	58	401
Outdated Proposal Notices as of April 1, 2016	33	839
SEV Consideration Documents Requested by the ECO	6	194
Applications Concluded	0	13

## MINISTRY OF TOURISM, CULTURE AND SPORT (MTCS)

**ECO Comment:** While the MTCS discharged some of its relatively few *EBR* obligations very well, the ministry needs to make improvements in two key areas: first, by ensuring that it gives notice on the Environmental Registry of its decisions on environmentally significant proposals promptly after making the decisions, and, second, that it considers its Statement of Environmental Values and documents that consideration whenever it makes decisions that could have a significant effect on the environment. The ECO would be pleased to work with the MTCS's *EBR* co-ordinator to ensure the ministry executes all of its *EBR* responsibilities to a high standard going forward.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The MTCS only posted five notices in 2015/2016, but all were of very good quality.
Timeliness of Decision Notices and Avoiding Outdated Proposals		The MTCS only posted three decision notices on the Registry in 2015/2016, and only one of those notices was posted within two weeks of the decision being made. The ministry remedied both of its outdated proposals, and as of April 1, 2016 the MTCS had no outdated proposals on the Registry.
Handling of Applications for Review and Investigation	N/A	The MTCS is not prescribed for applications for review or investigation under the <i>EBR</i> .
Considering Statements of Environmental Values		The ECO requested three SEV consideration documents from the MTCS in 2015/2016. In two cases the ministry responded more than four months later, but did not provide acceptable documentation. The ministry did not respond to the ECO's attempt to contact the ministry and explain what documentation was required. The MTCS failed to respond altogether to the ECO's third request for an SEV consideration document.
Co-operation with ECO Requests		The MTCS responded promptly to the ECO's sole request this year with a letter reaffirming its commitment to the <i>EBR</i> and the ministry's statutory obligations contained therein.

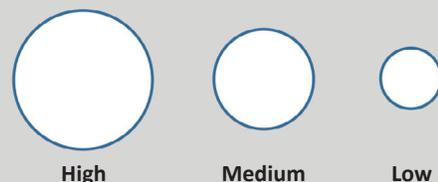
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

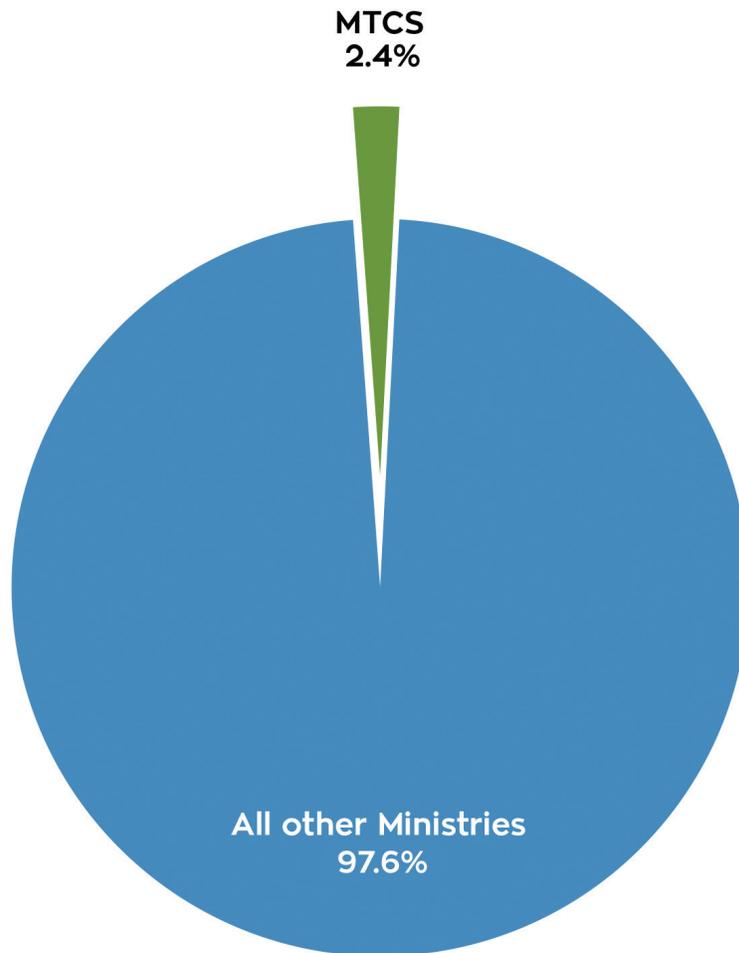
#### Quality of performance:

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

#### Relative *EBR* workload:



**Ministry of Tourism, Culture and Sport (MTCS) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MTCS by the numbers, 2015/2016:**

	MTCS	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	5	210
Total Proposal and Decision Notices Reviewed by the ECO	5	401
Outdated Proposal Notices as of April 1, 2016	0	839
SEV Consideration Documents Requested by the ECO	3	194
Applications Concluded	N/A	13

## MINISTRY OF TRANSPORTATION (MTO)

**ECO Comment:** The MTO generally executed its *EBR* responsibilities very well; it posted consistently good quality notices on the Environmental Registry, it documented its consideration of its SEV when making environmentally significant decisions, and it was co-operative with the ECO's information requests. There is just one area in which the MTO requires significant improvement: giving notice of environmentally significant decisions on the Environmental Registry promptly. The ECO encourages the MTO to remedy all remaining outdated notices in 2016/2017. Going forward, the MTO should avoid creating new outdated notices by ensuring that it posts a decision notice within two weeks of making a decision on any environmentally significant proposal.

CATEGORY	RESULT	ECO COMMENTS
Quality of Notices Posted on the Environmental Registry		The quality of the MTO's notices is generally very good. The ministry is encouraged to include links to supporting documents, where applicable, in all notices.
Timeliness of Decision Notices and Avoiding Outdated Proposals		Only two of the seven decision notices that the MTO posted on the Registry in 2015/2016 were posted within two weeks of the decision being made. The MTO remedied six out of ten of the outdated proposal notices identified in 2014/2015. As of April 1, 2016, the ministry had four outdated proposals remaining on the Registry.
Handling of Applications for Review and Investigation	N/A	The MTO did not conclude any applications for review in 2015/2016. The MTO is not prescribed for applications for investigation under the <i>EBR</i> .
Considering Statements of Environmental Values		The MTO promptly provided the three SEV consideration documents the ECO requested in 2015/2016.
Co-operation with ECO Requests		The MTO was very co-operative with the ECO's requests in 2015/2016, providing briefings, attending meetings, answering numerous questions and reviewing draft material for the ECO's energy team. The MTO also responded promptly to the ECO's request to reaffirm its commitment to the <i>EBR</i> .

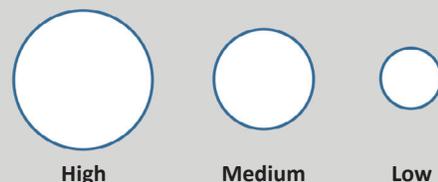
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

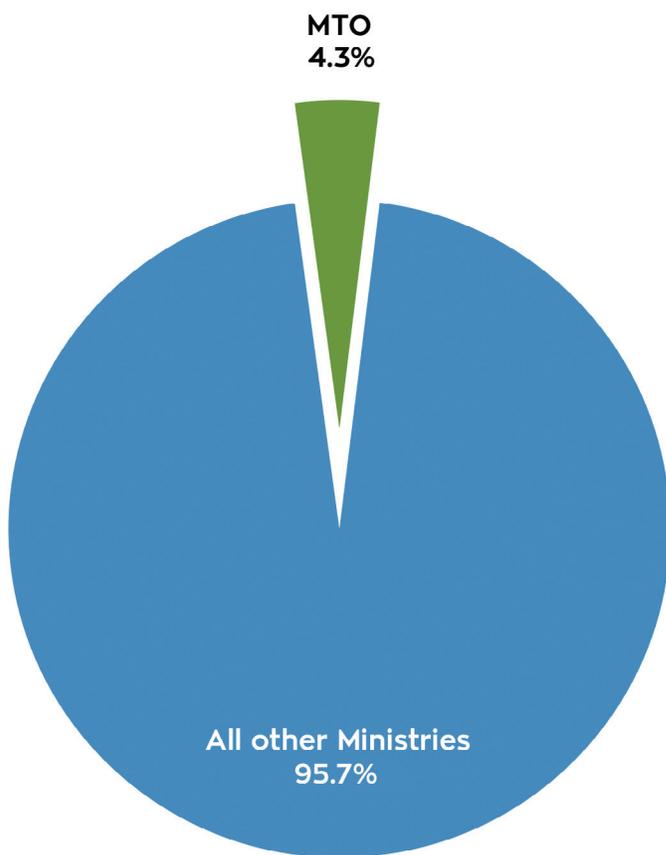
#### Quality of performance:

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

#### Relative *EBR* workload:



**Ministry of Transportation (MTO) – Percentage of all Policy, Act and Regulation Proposal and Decision Notices, 2015/2016:**



**MTO by the numbers, 2015/2016:**

	MTO	All Ministries
Proposal and Decision Notices for Policies, Acts and Regulations Posted	9	210
Total Proposal and Decision Notices Reviewed by the ECO	9	401
Outdated Proposal Notices as of April 1, 2016	4	839
SEV Consideration Documents Requested by the ECO	3	194
Applications Concluded	0	13

## Summary Table of Ministry *EBR* Report Card Results

Prescribed Ministry	Quality of Notices Posted on the Environmental Registry	Timeliness of Decision Notices and Avoiding Outdated Proposals	Handling of Applications for Review and Investigation	Considering Statements of Environmental Values (SEVs)	Co-operation with ECO Requests
MAA			N/A	N/A	
OMAFRA					
MEDEI			N/A	N/A	
EDU	N/A		N/A	N/A	
ENG				N/A	
MOECC					
MGCS			N/A		
MOHLTC	N/A			N/A	
MOL	N/A		N/A	N/A	
MMAH					
MNRF					

Prescribed Ministry	Quality of Notices Posted on the Environmental Registry	Timeliness of Decision Notices and Avoiding Outdated Proposals	Handling of Applications for Review and Investigation	Considering Statements of Environmental Values (SEVs)	Co-operation with ECO Requests
MNDM			N/A		
MTCS			N/A		
MTO			N/A		

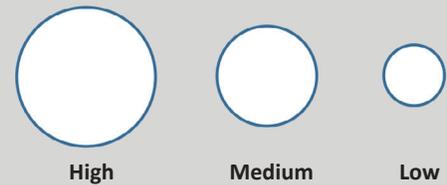
**N/A (not applicable):** The ministry is not prescribed for purposes of this category of *EBR* performance, or the ministry did not execute any responsibilities under this category in 2015/2016.

### LEGEND

#### Quality of performance:

-  Meets or exceeds expectations
-  Needs improvement
-  Unacceptable

#### Relative *EBR* workload:



# Ministry Comments

The ECO provided the Deputy Minister of each prescribed ministry with an advance copy of their ministry's *EBR* Report Card, and invited the ministries to comment. The ministry's comments on their *EBR* Report Cards are reproduced here.

## Ministry of Aboriginal Affairs (MAA)

As a recently prescribed ministry, the Ministry of Aboriginal Affairs (MAA) is committed to fulfilling its obligations under the *Environmental Bill of Rights (EBR)* and recognizes the *EBR's* value in improving public engagement and government performance on environmental stewardship. MAA appreciates the Environmental Commissioner's positive review of the ministry's performance under the *EBR*. Working with Indigenous people, as well as other Ontario ministries, the federal government, other governments and interested parties to create a healthful environment for Indigenous people in Ontario is an important aspect of MAA's work. MAA looks forward to continuing to work together with all partners in our shared goal of protecting the environment in Ontario.

## Ministry of Agriculture, Food and Rural Affairs (OMAFRA)

The Ontario ministry of Agriculture, Food and Rural Affairs (OMAFRA) is deeply committed to the Environmental Registry and the ministry's statutory obligations under the *Environmental Bill of Rights, 1993*.

The *EBR* Report Card for the 2015/2016 fiscal year confirms the value that the ministry places on using the Environmental Registry as an important vehicle for public engagement. OMAFRA acknowledges the areas for improvement that the ECO has identified in the *EBR* Report Card, and is committed to improving its performance in the future. Moving forward, OMAFRA is working to update its internal processes to better ensure consistency with its *EBR* responsibilities.

OMAFRA will continue to apply its Statement of Environmental Values (SEV) in making decisions that may have a significant effect on the environment. OMAFRA will be updating the ministry's SEV by the summer of this year.

## Ministry of Economic Development, Employment and Infrastructure (MEDEI)

Thank you for providing me with an advanced copy of MEDEI's Environmental Bill of Rights (*EBR*) Report Card for 2015-16.

I am very pleased that in your estimation, the ministry has met or exceeded expectations in all relevant areas.

MEDEI has fairly limited experience with the *EBR*, and we are progressing along a learning curve as we post new notices. We are committed to continuous improvement with each notice, and will carefully take note of your suggestion regarding the "Purpose of Policy" section.

We look forward to working together, sharing knowledge and information, and maintaining a constructive dialogue through 2016-17.

## Ministry of Education (EDU)

The Ministry of Education did not provide a comment.

## Ministry of Energy (ENG)

The Ministry of Energy thanks the Environmental Commissioner for providing valuable feedback on the ministry's compliance with the *Environmental Bill of Rights, 1993 (EBR)*.

Over the past year, the Ministry of Energy has consulted on a number of important issues, including regulatory amendments designed to improve energy efficiency of consumer products and the enabling of partial funding to connect remote First Nation communities to the provincial transmission grid. Part of the consultation process includes informing the public of the outcomes resulting from the Ministry's decisions. The Ministry recognizes the value in posting decisions in a timelier manner and has since taken action to remedy its two outdated decisions.

In 2015-16, the Ministry received one application for review. Going forward, the Ministry will continue to carefully review and consider all applications for review within the scope of the *EBR* while at the same time consider ways to improve responses, taking into account the ECO's recent evaluation.

## Ministry of the Environment and Climate Change (MOECC)

### Quality of Notices Posted on the Environmental Registry

The MOECC is committed to improving public access to information and modernizing the Registry to meet changes in societal expectations and technological innovations. The ministry plans to improve user friendliness, transparency and effectiveness of the Registry to enhance public participation in environmental decision making.

### Timeliness of Decision Notices and Avoiding Outdated Proposals

The MOECC agrees that timely posting of decision notices is important and is implementing a new process to ensure that happens. A project is also underway to modernize the Environmental Registry which will assist in avoiding outdated notices.

### Handling of Applications for Review and Investigation

The MOECC recognizes the need for timely responses to Applications for Review and Investigation. The ministry is providing updates to applicants this spring and, beginning in June 2016, will publish quarterly status reports on the Environmental Registry to keep the public informed.

### Considering Statements of Environmental Values

The MOECC recognizes the importance of applying and documenting Statement of Environmental Values (SEV) considerations and will provide documents in a timely manner as requested.

## Ministry of Government and Consumer Services (MGCS)<sup>4</sup>

I note that MGCS-related findings of the report card pertain to the Technical Standards and Safety Authority (TSSA), the quality of notices posted by TSSA on the environmental registry and the timeliness of TSSA decision notices.

As you know, Administrative Authorities (AAs) are private, not-for-profit corporations that administer legislation and regulate specific business sectors on behalf of our ministry. TSSA is an AA that administers regulations under the Technical Standards and Safety Act, 2000. While MGCS is responsible for legislation and regulations, TSSA is responsible for operations including meeting *EBR* requirements.

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<sup>4</sup> Includes the Technical Standards and Safety Authority (TSSA), which posts notices on the Environmental Registry

TSSA appreciates your acknowledgement of its prompt and consistent posting of decision notices on the environmental registry.

TSSA and MGCS will work to immediately address out-dated proposal notices, and to detail in a more fulsome manner notices for variance approvals by including descriptions of environmental impacts, explanations of decisions and links to supporting information.

## Ministry of Health and Long-Term Care (MOHLTC)

The Ministry of Health and Long-Term Care congratulates the Environmental Commissioner of Ontario on the release of her first report card on ministries prescribed under the *EBR*. We welcome the feedback provided in the report card, and will continue to work to ensure we address any complex matters raised with the ministry, involving the *EBR*, within legislated requirements.

## Ministry of Labour (MOL)

The Ministry of Labour is pleased to express its continued commitment to the Environmental Bill of Rights, 1993 (EBR) and its Statement of Environmental Values (SEV). The Ministry of Labour will continue to work with the Office of the Environmental Commissioner of Ontario and the Ministry of the Environment and Climate Change to ensure that the ministry is meeting its obligations under both the EBR and its SEV to help protect and conserve the environment.

## Ministry of Municipal Affairs and Housing (MMAH)

The Ministry appreciates the ECO's acknowledgement that it executes many of its EBR responsibilities well, including posting high quality notices on the Environmental Registry.

Of the Ministry's seven "outdated" notices (i.e., proposal notices posted prior to April 1, 2014, for which a decision has not been made), two have been closed and one is pending closure. Reasons the other four notices remain open include: a final decision remaining under consideration, upcoming third party studies, and municipalities requesting a decision be put on hold. The Ministry values the Environmental Registry and regularly monitors its notices to ensure they are current.

As recommended by the ECO, the Ministry will review ways to enhance access to information for instrument notices by including links to supporting documents.

The Ministry's commitment to the EBR is reflected in its decision to prescribe the *Places to Grow Act, 2005*, under the EBR Act.

## Ministry of Natural Resources and Forestry (MNRF)

The Ministry of Natural Resources and Forestry thanks the ECO for its assessment of ministry performance under the EBR.

The ministry is committed to making sure the public is kept up-to-date on the status of postings when decisions have yet to be made. As the Commissioner notes, the ministry made exemplary efforts to address outdated proposal notices.

We have taken significant action to update postings addressing over 200 outdated notices in the last eight months. In some cases the ministry is continuing to review proposals and no final decision has been made. In other cases, proposals may have been referred to the Ontario Municipal Board for a decision.



In every case, we remain committed to keeping our stakeholders and the public informed about the status of postings and will continue with the significant progress we've already achieved.

## Ministry of Northern Development and Mines (MNDM)

### Quality of Notices Posted on the Environmental Registry

- ▶ MNDM acknowledges the ECO's comments. MNDM will review instrument notices to determine where supporting documents may be appropriate to distribute to the reviewer.

### Timeliness of Decision Notices and Avoiding Outdated Proposals

- ▶ MNDM agrees to the requirements as set out by the *Environmental Bill of Rights, 1993*, including posting decision notices on the Registry as soon as reasonably possible.
- ▶ In respect of the 33 instrument notices that are referred to as "outdated", the applications referred to in those notices are on temporary hold for the reasons identified in Section 16 (1) of Regulation 308/12 (these reasons are: further time to consider potential impacts to Aboriginal and treaty rights and/or to align other regulatory processes and/or at the proponent's request). As the permit application process is on temporary hold, a permitting decision has not been made. On the basis of the above, the notices are not "outdated".
- ▶ MNDM is reviewing each notice and will provide an update on the Registry.

## Ministry of Tourism, Culture and Sport (MTCS)

The Ministry of Tourism, Culture and Sport (MTCS) appreciated the opportunity to work with the Environmental Commissioner of Ontario and other ministries prescribed under Ontario's *Environmental Bill of Rights* on the methodology underlying the new Report Card. All Ontarians benefit when the quality and accessibility of information on environmentally-related decisions are enhanced.

MTCS is committed to fulfilling all outstanding issues noted by ECO related to its 2015-16 Environmental Registry postings and remains committed to continuous improvement with respect to meeting all new ECO requirements, while maintaining its performance in those areas where the ministry is meeting or exceeding requirements.

MTCS appreciates the openness that the ECO has shown in terms of listening to feedback and making improvements to its own processes that will help to facilitate the ability of the ministry to meet its EBR responsibilities.

## Ministry of Transportation (MTO)

The Ministry of Transportation (MTO) has set a high standard for meeting its responsibilities to post on the Environmental Registry. We are pleased that the Commissioner has recognized the ministry's achievements in meeting and exceeding responsibilities in her Environmental Bill of Rights Report Card. MTO strives to fulfill its commitments under the Registry and to provide meaningful opportunities for public consultation on policies and new Acts that have environmental significance. We believe this was reflected in the Commissioner's evaluation. The ministry agrees that it is in the public's best interest to promptly post decision notices following decisions on proposals which have been posted to the Registry. We have remedied the majority of outdated proposals and are working to ensure prompt posting of decisions going forward. We thank the Commissioner for her evaluation.

# APPENDIX 1

## Report Card Categories and Evaluation Criteria

### 1. Quality of Notices Posted on the Environmental Registry

Ministries post notices on the Environmental Registry in accordance with the *EBR* to inform Ontarians about proposals that could have a significant effect on the environment, to provide an opportunity for the public to comment on those proposals before they are implemented, and to provide transparency about the effect of the public's comments on the final decision.

The *EBR* sets out what Registry notices are required to contain; for example, proposal notices must include a brief description of the proposal and information about how the public can participate in decision making on the proposal, and decision notices must include a brief explanation of the effect, if any, of public participation on the final decision.

In addition to checking that a notice fulfils the specific requirements of the *EBR*, the ECO evaluates the quality of a Registry notice by assessing whether the notice fulfils the intent of the *EBR* by enabling any member of the public to understand and meaningfully comment on the proposal (or understand the decision). To that end, the ECO developed evaluation criteria for each of the four types of notice being reviewed for the report cards (see Table 1, below). For example, while the *EBR* does not explicitly require it, the ECO believes that notices on the Environmental Registry should generally include links to available key supporting documents – something that may not have been contemplated when the *EBR* was enacted in 1993, but which should be easy for a ministry to do in 2016, and is simply good practice to ensure the public is adequately informed about a proposal or decision.

**Table 1.** ECO Criteria for Evaluating Quality of Notices on the Environmental Registry, 2015/2016.

<b>Proposal Notices for Policies, Acts and Regulations</b>	<b>Decision Notices for Policies, Acts and Regulations</b>
▶ Clearly describes the proposal and its purpose	▶ Clearly describes the decision
▶ Clearly describes the environmental impacts of the proposal	▶ Clearly describes the effect of public consultation
▶ Includes links to key supporting documents	▶ Includes links to all final supporting documents or information
▶ Is sufficiently detailed	▶ Is sufficiently detailed
▶ Provides sufficient time for comment	
▶ Describes other public consultation opportunities (bonus)	

### Proposal Notices for Instruments

- ▶ Clearly describes the proposal and its purpose
- ▶ Clearly explains the environmental impacts of the proposed instrument, including the geographic area that will be affected if the instrument is issued
- ▶ Includes links to key supporting information
- ▶ Is sufficiently detailed
- ▶ Provides sufficient time to comment
- ▶ Documents any additional notice/enhanced public participation (bonus)

### Decision Notices for Instruments

- ▶ Clearly describes the decision
- ▶ Clearly describes the effect of public consultation
- ▶ Includes links to all supporting information, including the instrument itself
- ▶ Clearly explains any appeal or leave to appeal rights

The ECO reviewed all proposal and decision notices that each ministry posted in 2015/2016 to a maximum of 25 notices per notice type (a maximum total of 100 notices evaluated per ministry). For ministries that posted more than 25 notices of any given notice type, the ECO randomly selected 25 notices from 2015/2016 to review for that notice type.

Evaluation of a ministry in this category was based on the average evaluation of all notices reviewed.

## 2. Timeliness of Decision Notices and Avoiding Outdated Proposals

Evaluations for this category assessed ministries' performance in two sub-categories, weighted equally: (1) posting notice of decisions on the Environmental Registry promptly after decisions are made, and (2) avoiding having "outdated" proposals (i.e., proposals more than two years old) on the Registry without a decision notice or update. When evaluating ministries' success in avoiding outdated proposals, the ECO accounted for the progress that some ministries made in 2015/2016 to remedy the large number of outdated proposals that the ECO identified in our 2014/2015 Annual Report (in our 2014/2015 report, we considered proposal notices "outdated" if they were more than fifteen months old).

### *Timeliness of Decision Notices*

Once a minister has made a decision about whether or not to implement a proposal on the Environmental Registry, the *EBR* requires the minister to post a decision notice "as soon as reasonably possible." Failing to post decision notices promptly can leave members of the public who may have submitted comments on the proposal in the dark about the outcome of the proposal and the effects of public comments on the ministry's decision. For decisions related to permits and approvals, it could also delay – or in extreme cases thwart – the public's opportunity to challenge those decisions by seeking leave to appeal.

The ECO believes ministries should be able to post a decision notice within two weeks of making a decision. Accordingly, we determined decision notices posted within two weeks of the decision being made to have been posted as soon as reasonably possible, while we determined decision notices posted more than two weeks after the decision was made to be overdue. Decision notices for which the ECO could not ascertain the decision date were not evaluated for timeliness.

### *Avoiding Outdated Proposals*

The Environmental Registry can only serve as a useful source of information about government proposals and decisions that affect the environment if the information posted on the Registry is kept up to date. The ECO has long pointed to the large number of outdated proposals on the Registry. In our 2014/2015 Annual Report, we identified 211 outdated proposals for policies, acts and regulations and over 1,500 outdated instrument proposals on the Registry.

This year, the ECO considered a proposal to be outdated if it was posted before April 1, 2014, and either did not have a corresponding decision notice or had not been updated as of April 1, 2016. The report cards evaluate each ministry based on the number of outdated proposal notices it had on the Registry at the end of the 2015/2016 reporting year.

In evaluating a ministry in this sub-category, the ECO took into account efforts made to remedy outdated notices that we identified in our 2014/2015 Annual Report by posting a decision notice or an update to the proposal notice. The ECO acknowledges the significant effort that some ministries made in this reporting year to deal with this legacy issue at the ECO's request.

### **3. Handling of Applications for Review and Investigation**

Under the *EBR*, any two Ontario residents can ask for a review of an environmentally significant law, policy or regulation, or for a review of the need for a new law, policy or regulation. Ontario residents may also request an investigation of alleged contraventions of certain environmentally significant laws, regulations or instruments. The ECO forwards submitted applications for review or investigation to the appropriate ministry, and is responsible for reviewing and reporting on ministries' handling of applications. Of the 14 ministries prescribed under the *EBR*, 9 are prescribed for purposes of receiving applications for review, and of those, 6 may also receive applications for investigation.

In the report cards, the ECO evaluated ministries' handling of applications that were "concluded" in 2015/2016, meaning the ministry either denied them at the preliminary stage; or the ministry undertook and completed them, and the ministry communicated the final outcome to the applicants. The ECO based our evaluation on whether a ministry:

- ▶ met all statutory deadlines in handling an application;
- ▶ had a valid basis for denying an application if the ministry chose to do so, or, if it undertook the application, gave notice of the final decision within a reasonable time;
- ▶ responded to the applicants' key concerns; and
- ▶ clearly explained its decision.

Additionally, in evaluating a ministry's performance in this category, the ECO took into account any "overdue" applications held by that ministry. The *EBR* requires that a ministry conduct a review "within a reasonable time" and then give notice of the outcome to applicants within 30 days of completing it. Sometimes ministries agree to undertake a review but fail to conclude it for many months or even years. For example, the MOECC has still not concluded a review it agreed to undertake in 2009. In the report cards, reviews that ministries agreed to undertake, but in the ECO's judgment failed to conduct within a reasonable time, were considered overdue. Having overdue applications negatively affected those ministries' evaluations in this category.

### **4. Considering Statements of Environmental Values**

Every ministry that is prescribed under the *EBR* must develop a Statement of Environmental Values (SEV) that explains how the ministry will apply the purposes of the *EBR* when making environmentally significant decisions. An SEV must also describe how the ministry will integrate the purposes of the *EBR* with other factors, including social, economic and scientific considerations that a ministry takes into account when making decisions.

The ECO is required to report on ministries' compliance with the requirement to consider their SEV. To fulfil this obligation, the ECO asks ministries to provide proof that they considered their SEV, in the form of an "SEV consideration document," for every decision notice posted on the Environmental Registry for a policy, act or regulation, and for select instrument decision notices. Every year, the ECO makes dozens of such requests of ministries that post notices on the Registry regularly, such as the MOECC and the MNRF. Relatively few (or even zero) requests are made of ministries with light *EBR* workloads such as the MEDEI and the MOHLTC.

The ECO evaluated ministries from which we requested SEV consideration documents in 2015/2016 based on the percentage of time those ministries a) responded to our requests, and b) provided the documents within four weeks of our request. The ECO does not currently systematically evaluate whether (or how well) ministries apply their SEVs when making decisions, or comment on the content of the SEVs themselves.

## **5. Co-operation with ECO Requests**

Every year the ECO asks staff in prescribed ministries for documents, answers to questions, and briefings on particular issues, among other things. The ECO relies heavily on the information ministries supply to help us fulfil our mandate. Under the *EBR*, the ECO is required to report on whether ministries have co-operated with the ECO's requests for information. In this category, the ECO considered how ministries responded to all types of information requests made in 2015/2016, with the exception of requests for SEV consideration documents, which we evaluated separately. The ECO also evaluated ministries' responses to the ECO's requests to bring its legislation into sync with the *EBR* by, for example, prescribing new environmentally significant laws or instruments, or making amendments to reflect a change in a ministry's name.

In 2015/2016, the ECO made at least one request of every prescribed ministry: to reaffirm their commitment to the *EBR* in writing. The ECO believes that a written commitment by each ministry should send an important signal to the public that the ministry intends to make the *EBR* matter. Every ministry responded to this request positively by providing a commitment letter to the ECO.

The ECO evaluated ministries in this category based on the collective experiences of ECO staff that interacted with the ministries in 2015/2016.

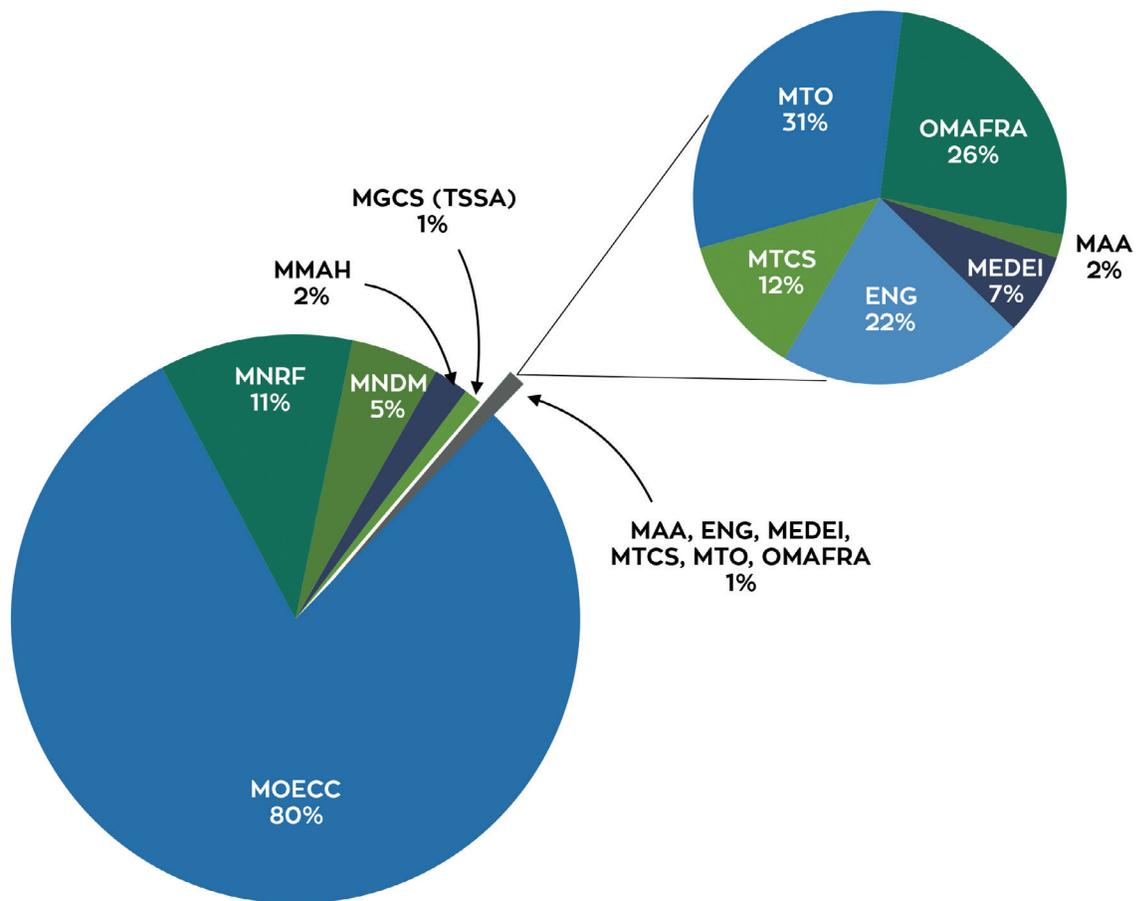
## APPENDIX 2

### EBR Prescribed Ministries by the Numbers

#### EBR Prescribed Ministries' EBR Activity in 2015/2016:

Ministry	Number of policy, act and regulation proposal and decision notices posted	Number of instrument proposal and decision notices posted	Total number of proposal and decision notices reviewed by the ECO	Number of outdated proposal notices	Number of SEV Consideration Documents requested by the ECO	Number of applications for review or investigation concluded
MAA	1	N/A	1	0	0	N/A
OMAFRA	10	N/A	10	0	3	2
MEDEI	3	N/A	3	0	0	N/A
EDU	0	N/A	0	0	0	N/A
ENG	9	N/A	9	2	0	1
MOECC	50	Over 3,010	96	686	124	7
MGCS (TSSA)	3	Over 50	52	14	1	0
MOHLTC	0	N/A	0	0	0	1
MOL	0	N/A	0	0	0	N/A
MMAH	8	Over 55	58	7	4	1
MNRF	104	Over 215	100	93	50	1
MNDM	8	Over 200	58	33	6	0
MTCS	5	N/A	5	0	3	N/A
MTO	9	N/A	9	4	3	0
<b>TOTAL:</b>	<b>210</b>	<b>Over 3,530</b>	<b>401</b>	<b>839</b>	<b>194</b>	<b>13</b>

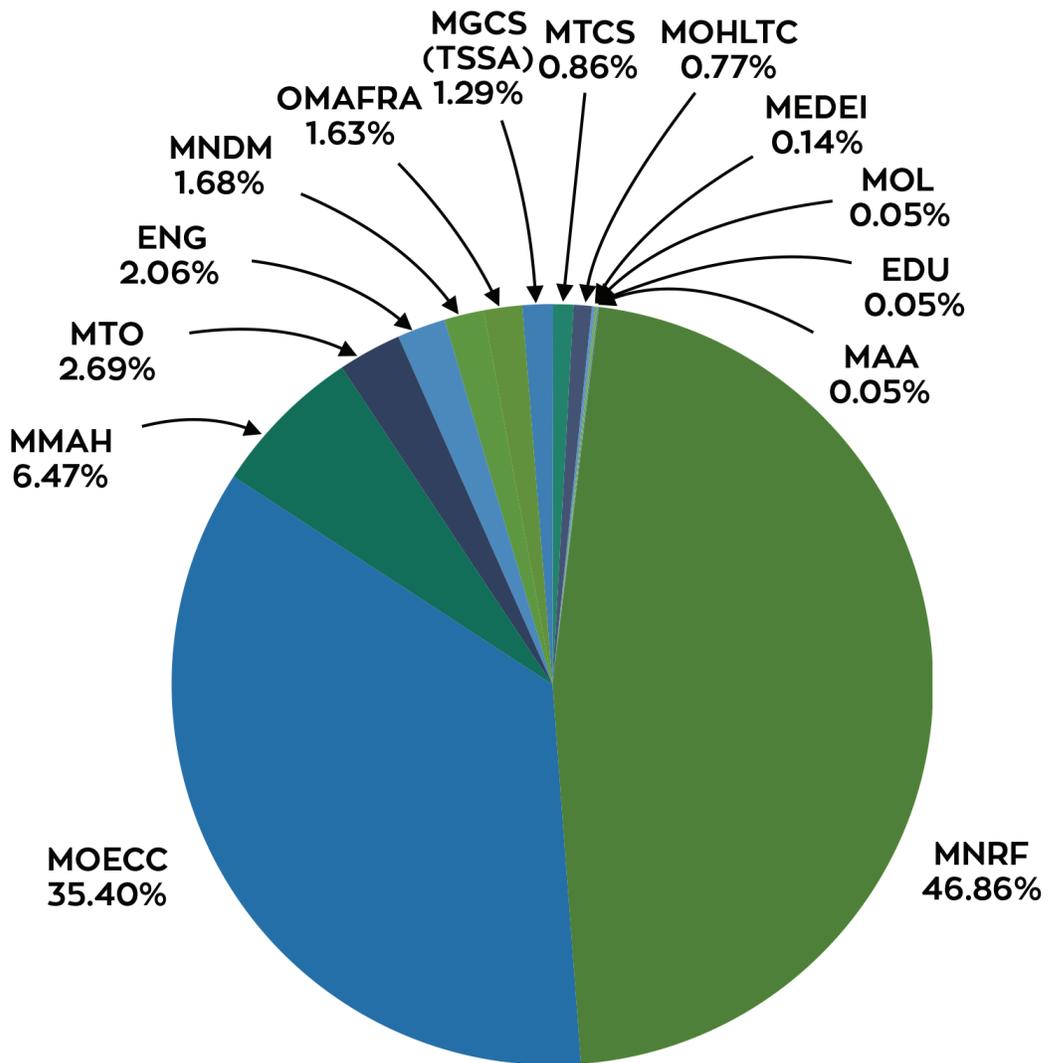
**Approximate Percentage of Notices (all types) Posted on the Environmental Registry per Ministry in 2015/2016:**



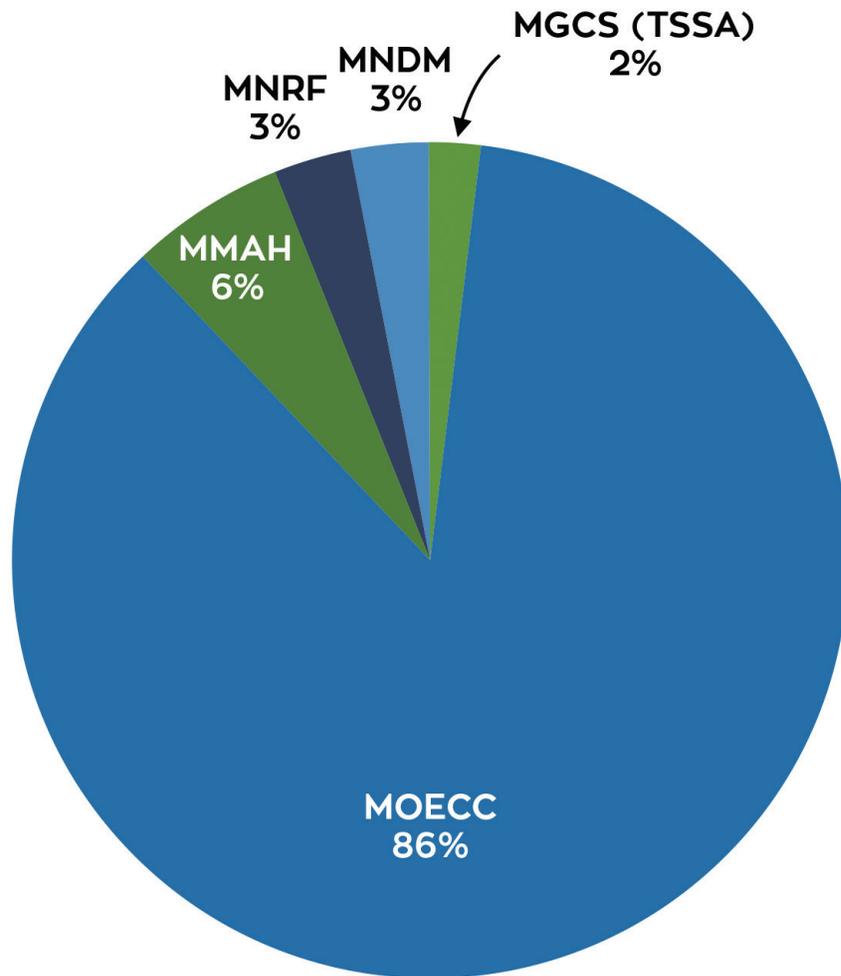
**Total Numbers of Notices by Type on the Environmental Registry (all years) as of April 2016:**

Notice type	Total number of notices on the Registry since 1994 (as of April 2016)	Percentage
Policy, Act, or Regulation	2,085	5.08%
Instrument	37,521	91.46%
Information	1,419	3.46%
<b>Total</b>	<b>41,025</b>	<b>100.00%</b>

All Policy, Act or Regulation Proposal and Decision Notices on the Registry by Ministry (all years) as of April 2016:



All Instrument Proposal and Decision Notices on the Registry by Ministry (all years) as of April, 2016:





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