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<p style="text-align: center;">ONTARIO ENVIRONMENTAL PROTECTION ACT ANNOTATED Paula Lombardi Release No. 2, June 2025</p>
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This text clearly explains the intentions and effects of almost every section of the *Environmental Protection Act* (EPA), its regulations, and the *Environmental Bill of Rights, 1993*. Annotations of more than 3,000 reported and unreported cases with expert commentary and analysis are included. This text includes: all regulations made under the *Environmental Protection Act* (EPA) and the *Environmental Bill of Rights, 1993*; the purpose and effect of the EPA and the *Environmental Bill of Rights, 1993* and their place in the overall legislative scheme; the penalty for any infraction; a convenient catalogue of reported and unreported cases from both the courts and administrative tribunals; and a Table of Cases to facilitate research.

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What's New in this Update:

This release features updates to the case law, legislation and commentary in chapters 3 (Part II—General Provisions), 4 (Part II.1—Environmental Compliance Approvals), 8 (Part V—Waste Management), 16 (Part X—Spills), 19 (Part XIII—Appeal to Tribunal), 22 (Part XV.1—Records of Site Condition), 25 (Part XVII—Miscellaneous), Appendix B (Regulations—Air), Appendix N (Environmental Bill of Rights Concordance), Appendix P (Environmental Bill of Rights—Regulations), as well as updates to Appendix SLL (Selected Legal Literature).

Highlights

Spills Compensation – Section 99(2) – § 16.136.53 – In *Canadian National Railway Company v. The Corporation of the City of Kitchener*, 2025 ONSC 73 (Ont. S.C.J.), Canadian National Railway Company (CN) commenced an action in 1989 against Hogg Fuel & Supply Limited (Hogg) and the Corporation of the City of Kitchener (City). In the 1989 action it was alleged that between the 1920s and the 1950s, the City deposited coal tar on CN's property and Hogg's property, and that Hogg allowed coal tar and other wastes to migrate onto CN's property. 25 years later, in 2014, CN's action was dismissed for delay. CN commenced a second action in 2014 naming the same defendants and claiming damages for coal tar contamination and migration of coal tar from the Hogg property to the CN property. The 2014 action added a new claim specifically for the migration of benzene. Hogg moved for summary judgment to dismiss the 2014 action on grounds of *res judicata* and abuse of process due to this action being identical to the 1989 action. Summary judgment was granted for the part of the claim which related to coal tar contamination. The coal tar contamination claim amounted to an abuse of process because it was dismissed in 2014 by reason of CN's 25-year delay in prosecuting the action and failure to preserve evidence. The motion for summary judgment as it related to the benzene contamination claim was dismissed because it did not crystallize until 2014 and did not form a part of the argument or reasons for dismissing the 1989 action.

False Information –Section 184(2) – § 25:389.16 – In *R. v. The Recycling Depot GP Inc.*, 2024 CarswellOnt 21017 (Ont. C.J.) [PDR], York1 Trillium Transfer Ltd (York1) operated a waste disposal site in Toronto. This site was used for the transfer and processing of solid non-hazardous waste limited to excess soils and soils containing construction and demolition debris. The Environmental Compliance Approval (ECA) for the site required the ECA holder to create an annual report which included a summary from the preceding year of

the amount of excess soil received and transferred from the site. The Recycling Depot GP Inc (Recycling Depot) was the owner of the ECA, who notified the Ministry of the Environment, Conservation and Parks that York1 was the operator of the site. The 2021 annual report sent on behalf of York1 and the Recycling Depot to the Ministry failed to record 458 inbound soil shipments as evidenced by weight tickets and hauling records from the applicable time. As a result, the 2021 Annual Report was incomplete. The Recycling Depot, York1, George Kirchmair, and Gordon Whalen were charged under ss. 184(2)(3) and 186(1) of the *Environmental Protection Act* . Count 1 (give or submit false or misleading information in any statement, document, or data to the Ministry or agent of the Ministry contrary to s. 184(2) of the EPA) was withdrawn as against each defendant. The Recycling Depot and York1 plead guilty to count 2, whereby they committed the offence of including false or misleading information in the required Annual Report contrary to ss. 184(3) and 186 of the EPA. The fine for each defendant was \$25,000, totalling \$50,000 between all.