

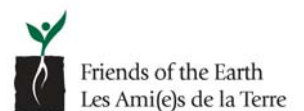
# Standing on Guard!

## Ranking Environmental Rights in Canada 2009

	Alberta	British Columbia	Canada	Manitoba	New Brunswick	Newfoundland	Northwest Territories/Nunavut	Nova Scotia	Ontario	Prince Edward Island	Quebec	Saskatchewan	Yukon
Information and Notice	C	B+	B+	B	B	D	C	C	A	D	B	C	B+
Public Participation	D	C+	C	C	C	C	C+	C	B	C	C+	C	B
Required Government Response	F	F	C+	C	C	F	F	F	B	F	F	F	C
Rights to Appeal	D	C	C	D	C+	C	F	C	B	F	C+	F	C
Citizen Initiated Investigations	C+	C+	B	D	C	B	C	C+	B	D	D	C+	A
Citizen Initiated Prosecution of Offences	C	C	B	C	C	C	A	C	C	C	C	C	B+
Suing to Protect Environment	C+	F	B	D	F	D	B	C	B	D	B	C	A
Whistleblower Protection	F	C	B	C	D	C+	B	C+	B	F	F	F	B
SLAPP Protection	F	F	F	F	F	F	F	F	D	F	B+	F	F
Independent Environment Auditor or Commissioner	F	C+	C	C	F	F	D	F	A	F	D	F	D
Grade Point Average	1.2	2.0	3.0	1.7	1.6	1.5	2.2	1.6	3.9	0.7	2.5	1.1	3.5
Extra Credit	N/A	N/A	N/A	+ .5	N/A	N/A	+ .5	+ .5	+ .5	+ .5	N/A	N/A	+ 1
<b>Final Grade</b>	<b>D</b>	<b>C</b>	<b>C+</b>	<b>C</b>	<b>C-</b>	<b>D+</b>	<b>C+</b>	<b>C</b>	<b>B</b>	<b>D</b>	<b>C+</b>	<b>D</b>	<b>B+</b>

<b>A</b>	Excellent	6
<b>B+</b>	Very Good (and some excellent features)	5
<b>B</b>	Good (slightly above average)	4
<b>C+</b>	Average/OK	3
<b>C</b>	Below Average	2
<b>D</b>	Performed but inadequate/meaningless	1
<b>F</b>	No Effort Visible	0

\*\*Disproportionate weighting of Extra Credit measures (points added after GPA average) to recognize and encourage innovation in this area\*\*



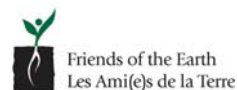
# Garde à nous!

## Bulletin des droits environnementaux au Canada 2009

	Alberta	Colombie-Britannique	Canada	Manitoba	Nouveau-Brunswick	Terre-Neuve	Territoires du Nord-Ouest/Nunavut	Nouvelle-Écosse	Ontario	Île-du-Prince-Édouard	Québec	Saskatchewan	Yukon
Information et avis	C	B+	B+	B	B	D	C	C	A	D	B	C	B+
Participation du public	D	C+	C	C	C	C	C+	C	B	C	C+	C	B
Obligation de réaction gouvernementale	F	F	C+	C	C	F	F	F	B	F	F	F	C
Droits d'appel	D	C	C	D	C+	C	F	C	B	F	C+	F	C
Enquêtes initiées par des citoyen(ne)s	C+	C+	B	D	C	B	C	C+	B	D	D	C+	A
Poursuites initiées par des citoyen(ne)s	C	C	B	C	C	C	A	C	C	C	C	C	B+
Poursuites visant à protéger l'environnement	C+	F	B	D	F	D	B	C	B	D	B	C	A
Protection des auteur(e)s de dénonciation	F	C	B	C	D	C+	B	C+	B	F	F	F	B
Protection contre les poursuites-bâillons	F	F	F	F	F	F	F	F	D	F	B+	F	F
Vérificateur ou commissaire indépendant pour l'environnement	F	C+	C	C	F	F	D	F	A	F	D	F	D
Note moyenne	1,2	2,0	3,0	1,7	1,6	1,5	2,2	1,6	3,9	0,7	2,5	1,1	3,5
Crédit additionnel	N.D.	N.D.	N.D.	+5	N.D.	N.D.	+5	+5	+5	+5	N.D.	N.D.	+1
<b>Note finale</b>	<b>D</b>	<b>C</b>	<b>C+</b>	<b>C</b>	<b>C-</b>	<b>D+</b>	<b>C+</b>	<b>C</b>	<b>B</b>	<b>D</b>	<b>C+</b>	<b>D</b>	<b>B+</b>

<b>A</b>	Excellent	6
<b>B+</b>	Très bien (et quelques points excellents)	5
<b>B</b>	Bien (légèrement au-dessus de la moyenne)	4
<b>C+</b>	Moyen/OK	3
<b>C</b>	Au-dessous de la moyenne	2
<b>D</b>	Performance inadéquate/insignifiante	1
<b>F</b>	Aucun effort notable	0

\*\*Pondération positive de mesures de crédit additionnel (points ajoutés à la Note moyenne) pour reconnaître et encourager l'innovation dans ce domaine\*\*



# Alberta

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>• Ok disclosure requirements, but manner of disclosure is discretionary. You can request a specific document, but may incur fees.</li> <li>• Is a register for environmental assessments, but only at physical locations, not available online and you can get one copy of any document in the register for free.</li> <li>• Good online Environmental Education Centre and an online Emissions Trading Registry.</li> </ul>	C
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>• In most cases, public participation requirements are discretionary. For Environmental Assessments, however, those who are “directly affected” are always able to submit comments. Unfortunately, “directly affected” has been interpreted very narrowly and excludes many from being involved in these processes.</li> <li>• Ability of regulations to exempt proposals or classes of proposals from the Environmental Assessment process.</li> <li>• Standard, 30 day timeline to submit concerns.</li> <li>• Intervener funding to participate in hearings is possible under the <i>Natural Resources Conservation Board Act</i> and the <i>Energy Resources Conservation Act</i></li> </ul>	D
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>• No government response or feedback to comments or concerns of the public is required.</li> </ul>	F
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>• Those who are “directly affected” by a decision can submit a notice of appeal on some decisions. Again, those who are “directly affected” is interpreted narrowly.</li> <li>• Environmental Appeal Board required to adhere to principles of natural justice.</li> <li>• People may submit a Request to Attend in order to make representations at an appeal.</li> <li>• Can’t appeal decision if the Government participated in a public review under <i>CEAA</i> regarding the matters set out in the notice of appeal.</li> <li>• Confusion regarding different appeal periods to the EAB under different Acts.</li> <li>• Generally, the EAB process is beyond the reach of the average citizen due to strict qualifications for standing, financial burden and complexity of the process.</li> </ul>	D
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>• Standard provision for residents to apply for an investigation where they believe an offence has been committed under the <i>EPEA</i> or <i>Climate Change and Emission Management Act</i>.</li> <li>• If aggrieved by an agricultural operation, may request a consideration of whether the disturbance results from a generally accepted agricultural practice under the <i>Agricultural Operation Practices Act</i>.</li> </ul>	C+
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>• Ability to do so under the common law; no fine splitting provisions.</li> </ul>	C
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>• May apply to the court for an injunction if you have suffered, are suffering or are about to suffer loss or damage, but only if it is a result of conduct that is contrary to the Act.</li> <li>• May also sue for damages if you have been personally affected by someone who was convicted of an offence under the Act.</li> </ul>	C+
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>• No protections for whistleblowers.</li> </ul>	F
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>• No protections against SLAPP suits.</li> </ul>	F
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>• No independent Auditor or Commissioner to review environmental matters.</li> </ul>	F
<p><b>Extra Credit</b></p>	N/A
<p><b>Final Grade</b></p>	D

# British Columbia

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>Contaminated sites registry is online, but access is not free.</li> <li>Other notification provisions re: waste management and detailed regulations on how to give public notice for different projects and applications.</li> <li>Environmental Assessment Registry (e-PIC) is online, easy to search and has lots of EA documents, reports and public comments.</li> <li>Other registries: Mineral Titles Online Registry, Ministry of Forests Online Registry, Greenbelt Register, Geothermal Resources Register, Oil and Gas Activities Register.</li> <li>Public reporting requirements are present in many other environmental statutes, such as GHG reduction legislation. Also note that the Ministry of Environment provides State of Environment Reports.</li> </ul>	<p><b>B+</b></p>
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>Only public consultation processes set out in <i>EMA</i> are with respect to waste management and contaminated sites.</li> <li>A person who may be adversely affected by the granting of a permit, approval or operational certificate, or amendment thereto, may notify a director in writing stating how that person is affected. If this is done after the 30 day period, the director may still take the information into consideration if he has not made a decision.</li> <li>Decent public consultation requirements for EAs when they are required. Ability to exempt contaminated sites and EAs from process; can also vary the scope or procedures of an EA if necessary to complete a “timely” EA.</li> <li>Mostly standard 30 day timelines, but some 75 days and requirements for executive director to consider further comment periods regarding EAs.</li> <li>Some public participation provisions under the <i>Water Act</i>, <i>Drinking Water Protection Act</i>, <i>Land Act</i>, <i>Integrated Pest Management Act</i>, <i>Fish Protection Act</i>, <i>Community Charter</i>, <i>Local Government Act</i> and Forestry legislation. Recently, good online public consultation regarding development of climate change legislation regulations.</li> <li>No funding for public participation.</li> </ul>	<p><b>C+</b></p>
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>No government response or feedback to comments or concerns of the public is required. BC’s Environmental Assessment Office requests that the project proponent respond to issues raised.</li> </ul>	<p><b>F</b></p>
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>A “person aggrieved” by a decision of a director or district director can appeal the decision to the Environmental Appeal Board. Potential appellants are subjected to a strict standing test due to the EAB’s narrow interpretation of the term “person aggrieved”.</li> <li>Hearings must be public.</li> <li>Lieutenant Governor in Council has the power to vary or rescind an order or decision of the EAB if it is in the public interest.</li> </ul>	<p><b>C</b></p>
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>Can request investigation of an offence under the <i>Greenhouse Gas Reduction (Cap and Trade) Act</i>.</li> <li>Can request investigations regarding forest and range practices and approvals under the <i>Forest and Range Practices Act</i>.</li> <li>If aggrieved by a disturbance resulting from a farm operation, can apply to the Farm Practices Board for a determination whether the disturbance results from a “normal farm practice” under the <i>Farm Practices Protection (Right to Farm) Act</i>.</li> <li>Can request an investigation under the <i>Drinking Water Protection Act</i> if you consider that there is a threat to your drinking water.</li> </ul>	<p><b>C+</b></p>
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>Ability to do so under common law; no fine splitting provisions.</li> </ul>	<p><b>C</b></p>

<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>No explicit rights to sue to protect the environment. Are provisions that clarify some liability and rights to seek relief issues regarding contaminated sites.</li> </ul>	<p><b>F</b></p>
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>Some protections provided for whistleblowers under the <i>Forest and Range Practices Act</i>, the <i>Mines Act</i> and the <i>Wildfire Act</i>. Violators of these provisions subject to harsh penalties (fine of up to \$100,000, one year imprisonment, or both).</li> </ul>	<p><b>C</b></p>
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>Are currently no SLAPP suit protections in BC; there was “anti-SLAPP” legislation passed in 2001, but it was repealed after a provincial election one month later.</li> </ul>	<p><b>F</b></p>
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>Auditor General can, and occasionally does, review environmental matters.</li> <li>BC Office of the Ombudsman’s general jurisdiction could include environmental matters, but usually does not look at substantive environmental issues.</li> <li>Forest Practices Board is the only real independent watchdog specifically for environmental issues. Many feel that this Board’s jurisdiction needs to be broadened into a Natural Resources Practices Board.</li> </ul>	<p><b>C+</b></p>
<p><b>Extra Credit</b></p>	<p><b>N/A</b></p>
<p><b>Final Grade</b></p>	<p><b>C</b></p>

# Canada

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>• Good Environmental Registry online; intended to encourage and support public participation, but not as a public consultation tool. Provides information about laws, regulations, current proposals and public participation opportunities.</li> <li>• Good Environmental Assessment Registry under <i>CEAA</i>.</li> <li>• National Pollutant Release Inventory (NPRI) and the Canadian Pollution Prevention Information Clearinghouse (CPPIC) also available online.</li> <li>• Under the <i>Pest Control Products Act</i>, the Minister of Health maintains an online Pesticide Product Information Database</li> </ul>	<p><b>B+</b></p>
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>• Under <i>CEPA</i>, all consultations with “persons generally interested” are discretionary.</li> <li>• Any person may file comments or a notice of objection regarding some proposed orders, regulations or instruments.</li> <li>• Theoretically good public consultation provisions for Environmental Assessments, but in practice the public is being excluded by scoping decisions which avoid comprehensive studies.</li> <li>• <i>CEAA</i> has a detailed participant funding program.</li> <li>• Good public consultation provisions under the <i>Pest Control Products Act</i>.</li> </ul>	<p><b>C</b></p>
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>• The Minister must report on how any comments or notices of objection regarding 1) proposed administration or equivalency agreements under <i>CEPA 1999</i>; or 2) proposed international air or water pollution regulations were dealt with. Any other kinds of comments do not require specific government response or feedback.</li> <li>• Where a person requests that a substance be added to the Priority Substances List, the Minister must inform that person of how the Minister intends to deal with the request and the reasons for doing so.</li> </ul>	<p><b>C+</b></p>
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>• Any person may file a notice of objection and request that a board of review be established regarding 1) proposed administration or equivalency agreements under <i>CEPA 1999</i>; 2) decisions pertaining to toxic substances or proposed instruments respecting preventive or control actions for toxic substances; or 3) if the Minister issues, refuses suspends or revokes a Canadian permit for loading or disposal of waste at sea.</li> <li>• The Minister has some discretion whether or not to establish a board of review in some cases. However, the Minister must establish a Board of Review where a notice of objection is filed in respect of 1) proposed regulations regarding international air or water pollution; proposed regulations regarding government operations and federal and aboriginal lands; 3) proposed regulations to prevent or reduce the release of nutrients into the water; or 4) the failure to decide whether a substance on the Priority Substances List is toxic within 5 of that substance being added to the list.</li> <li>• Under the <i>Pest Control Products Act</i>, any person may request that the Minister of Health initiate a “special review” of a pest control product.</li> </ul>	<p><b>C</b></p>
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>• Standard provisions and process to request an investigation of an offence under <i>CEPA 1999</i>. If the Minister fails to conduct an investigation and report within a reasonable time or the Minister’s response to the investigation is unreasonable, can commence an Environmental Protection Action.</li> </ul>	<p><b>B</b></p>
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>• Where a person has knowledge of the commission or reasonable likelihood of the commission of an offence under <i>CEPA 1999</i>, they may report any information relating to the offence and request that their identity be kept confidential.</li> <li>• If a private prosecution under the <i>Fisheries Act</i> results in a fine being imposed, half of the fine can be paid to the party who commenced the prosecution.</li> </ul>	<p><b>B</b></p>

<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>• May bring an Environmental Protection Action if you previously requested an investigation under <i>CEPA 1999</i>.</li> <li>• Can also seek an injunction or damages from the court where you are suffering or have suffered loss or damage as a result of conduct that violates <i>CEPA</i> or its regulations.</li> </ul>	<b>B</b>
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>• Under <i>CEPA 1999</i>, there are measures to protect the identity of persons reporting alleged offences as well as standard protections for whistleblowers.</li> </ul>	<b>B</b>
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>• No protections against SLAPP suits.</li> </ul>	<b>F</b>
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>• There is a Commissioner for Environment and Sustainable Development based in the Office of the Auditor General who produces an annual report and is responsible for the formal petition process which the public can use in order to raise environmental concerns. However, over the past few years, questions have arisen the actual “independence” of the Commissioner.</li> </ul>	<b>C</b>
<p><b>Extra Credit</b></p>	<b>N/A</b>
<p><b>Final Grade</b></p>	<b>C+</b>

# Manitoba

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>• Good online Registry, but need more reporting requirements and state of environment reports.</li> </ul>	<p><b>B</b></p>
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>• Different levels of discretion to request CEC to hold public hearings depending on the Class of the proposal. Many project proposals do not go through a hearing process.</li> <li>• Formulation or substantive review of regulations incorporating environmental standards, limits, terms or conditions on developments under <i>The Environment Act</i> require public consultation unless there are emergency circumstances.</li> <li>• Some public participation required for zoning, by-law and planning decisions under the <i>Planning Act</i>.</li> <li>• Good funding for public participation structure/provisions</li> </ul>	<p><b>C</b></p>
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>• Minister must provide reasons for not holding a public hearing if objections regarding a proposed development were received. Must also provide reasons if the Minister fails to accept recommendations of the CEC at a hearing.</li> </ul>	<p><b>C</b></p>
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>• A person who is affected by the Director's issuance of a licence or permit or any order, instruction, or directive of the Director can appeal to the Minister. A person who objected to a proposed Class 1 or 2 development can appeal a Director's failure to recommend a public hearing on the proposal. A person who is dissatisfied with the terms and conditions of a Class 3 license or with a decision of the Minister which results in no public hearings may file an appeal with the Minister. These appeal processes under <i>The Environment Act</i> are not very useful since there are no timelines to have to respond to an appeal.</li> <li>• Some appeal rights under the <i>Planning Act</i> for those who made representations at a hearing on an application.</li> </ul>	<p><b>D</b></p>
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>• No provisions under <i>The Environment Act</i> allow residents to request an investigation.</li> <li>• Under the <i>Public Interest Disclosure (Whistleblower Protection) Act</i>, persons may provide information regarding "wrongdoing" in or relating to the public service to the Ombudsman, but it is then up to the Ombudsman whether to investigate the wrongdoing.</li> </ul>	<p><b>D</b></p>
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>• Any person may lay an information in respect of any offence against the <i>Environment Act</i> or the regulations. No fine splitting provisions.</li> </ul>	<p><b>C</b></p>
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>• A judge may require a convicted person to pay damages or make restitution to any person who suffered damages by the offence under the Act.</li> </ul>	<p><b>D</b></p>
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>• Are whistleblower protections in the <i>Water Protection Act</i>, but not in <i>The Environment Act</i></li> <li>• The <i>Public Interest Disclosure (Whistleblower Protection) Act</i> provides whistleblower protections, but only in respect of wrongdoings in or relating to the public service.</li> </ul>	<p><b>C</b></p>
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>- No SLAPP suit protections.</li> </ul>	<p><b>F</b></p>
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>• The CEC is to encourage and facilitate public involvement in environmental matters and exercises their mandate through public hearings, investigations and mediations. However, this is not an independent body.</li> <li>• The Auditor General has done some audits regarding environmental matters, but there is no petition process to request that the Auditor General look into specific issues of concern.</li> </ul>	<p><b>C</b></p>

<b>Extra Credit</b> <ul style="list-style-type: none"><li>• Environmental Mediations</li><li>• Environmental Youth Corps</li></ul>	<b>+ .5</b>
<b>Final Grade</b>	<b>C</b>

# New Brunswick

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>Register under the <i>Clean Environment Act</i> must be maintained and open for inspection, but fees may apply and not online. A Register under the <i>Clean Water Act</i> is to contain “information the Minister considers appropriate” and requires a general and regional Registers of Designation Orders.</li> <li>Regulations currently require the Minister to maintain a record of registrations and determinations on EAs. The EA Registry is online; the record is to be open for inspection at the Fredericton Department of Environment office. The proponent’s EIA report, the Minister’s summary of the report, the committee’s review statement and summaries of public participation must also be made available at the office.</li> <li><i>Clean Air Act</i> Public Information Access Site provides good and easy to use information about air quality legislation, programs, compliance activities, air quality agreements, operating approvals and the status of applications for air quality approvals.</li> </ul>	<p><b>B</b></p>
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>For EAs, people may comment on draft guidelines and a proposed undertaking. There may also be public meetings and people may comment on the undertaking within 15 days after the meetings. But an undertaking can be exempted from these requirements. The Minister must hold consultations in relation to Class 1 approvals.</li> <li>The public may be given an opportunity to comment on air quality objectives.</li> <li>Before the Minister can make a Water Classification Order, the Minister must provide interested members of the public with opportunities for involvement in the process.</li> <li>Timelines for input range from 15 to 120 days. If the Minister determines that there was not a reasonable opportunity to comment, then s/he must extend the period.</li> <li>No funding for public participation.</li> </ul>	<p><b>C</b></p>
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>The government must summarize how public comments regarding air quality objectives and the plan to achieve them were taken into consideration. Also, if the Minister receives a request or recommendations from a person regarding a Water Classification Order and does not follow them, s/he must provide reasons for doing so.</li> </ul>	<p><b>C</b></p>
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>Rights of appeal limited to persons owning property subject to the decision or order; persons subject to the decision or order; applicants; license, permit or approval holders.</li> <li>A resident may appeal the Minister’s determination that the requirements regarding adequate public information and opportunity to comment have been met. Then the Minister cannot issue, renew or amend an approval until after the appeal is disposed of.</li> </ul>	<p><b>C+</b></p>
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>Only available for suspected offences under the <i>Clean Air Act</i>.</li> </ul>	<p><b>C</b></p>
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>Is at the Minister’s discretion to deliver records or documents in relation to a citizen initiated investigation to the Attorney General for the AG to consider what action to take.</li> <li>A person who knows of the occurrence or likelihood of a release of a contaminant in violation of the <i>Clean Air Act</i> or regulations, or who knows of a failure or refusal to comply with a directive, may report any information respecting the matter to an inspector.</li> <li>No fine splitting provisions.</li> </ul>	<p><b>C</b></p>
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>No provisions or regulations allowing for people to file a lawsuit in order to protect the environment exist.</li> </ul>	<p><b>F</b></p>
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>Protections for whistleblowers are only available under the <i>Clean Air Act</i>, and even then, the whistleblower can only request that their identity be kept secret; if their identity is revealed, nothing sets out what an employer is prohibited from doing.</li> </ul>	<p><b>D</b></p>

<b>SLAPP Protections</b> <ul style="list-style-type: none"> <li>No SLAPP suit protections.</li> </ul>	<b>F</b>
<b>Independent Environmental Auditor or Commissioner</b> <ul style="list-style-type: none"> <li>No independent environmental auditor or commissioner is created under the <i>Clean Environment Act</i>, the <i>Clean Air Act</i>, or the <i>Clean Water Act</i>.</li> </ul>	<b>F</b>
<b>Extra Credit</b>	<b>N/A</b>
<b>Final Grade</b>	<b>C-</b>

## Nouveau-Brunswick

<p><b>Droits du public à de l'information et des avis</b></p> <ul style="list-style-type: none"> <li>Le registre prévu dans la <i>Loi sur l'assainissement de l'environnement</i> doit être tenu à jour et pouvoir être inspecté, mais des frais peuvent être facturés et le registre n'est pas affiché en ligne. Un registre prévu aux termes de la <i>Loi sur l'assainissement de l'eau</i> doit contenir "les renseignements que le Ministre considère appropriés" et exige un registre général et des registres régionaux de désignation.</li> <li>Les règlements actuels exigent du/de la Ministre la tenue à jour d'un dossier des inscriptions et des déterminations liées aux évaluations environnementales (ÉA). Le registre des ÉA est en ligne et le dossier peut être inspecté au bureau de Fredericton du ministère de l'Environnement. Le rapport d'étude d'impacts environnementaux remis par le promoteur, le résumé que fait le/la Ministre de ce rapport, l'énoncé issu de l'examen du comité et des résumés de l'apport du public doivent également être disponibles au bureau du ministère.</li> <li>Le site Web d'information du public au sujet de la <i>Loi sur l'assainissement de l'air</i> fournit des renseignements de qualité et faciles à utiliser concernant la Loi, les programmes, les mesures de vérification du respect de la loi, les ententes sur la qualité de l'air, les autorisations et l'état des demandes d'autorisation en matière d'assainissement de l'air.</li> </ul>	<p><b>B</b></p>
<p><b>Garantie de participation du public aux prises de décision</b></p> <ul style="list-style-type: none"> <li>Dans le cas des ÉA, les gens peuvent commenter une version provisoire des directives et les projets d'initiatives. Des rencontres publiques peuvent aussi être organisées, et les gens ont jusqu'à 15 jours après ces rencontres pour commenter l'initiative. Mais une initiative peut être exemptée de ces exigences. Le/la Ministre est tenu de tenir des consultations dans le cas des autorisations de Classe 1.</li> <li>Le public peut être autorisé à commenter les objectifs d'assainissement de l'air.</li> <li>Avant d'émettre une ordonnance de classification de l'eau, le/la Ministre doit fournir aux parties intéressées des occasions de s'impliquer dans le processus.</li> <li>Les délais pour ces intrants peuvent aller de 15 à 120 jours. Si le/la Ministre détermine que le public a été privé d'un délai raisonnable pour commenter un projet, il ou elle doit prolonger la période assignée à cette fin.</li> <li>Aucun financement n'est prévu pour la participation du public.</li> </ul>	<p><b>C</b></p>
<p><b>Obligation de réaction ou de rétroaction gouvernementale</b></p> <ul style="list-style-type: none"> <li>Le gouvernement doit résumer la façon dont il a tenu compte des commentaires du public au sujet des objectifs d'assainissement de l'air et du plan visant à les atteindre. De plus, si le/la Ministre reçoit de quelqu'un une demande ou des recommandations concernant une ordonnance de classification de l'eau et qu'il/elle ne s'y conforme pas, il/elle doit justifier sa décision.</li> </ul>	<p><b>C</b></p>
<p><b>Droit d'appel de décisions</b></p> <ul style="list-style-type: none"> <li>Les droits de recours en appel sont limités aux intervenants suivants : les propriétaires de biens sujets à la décision ou à l'ordonnance; les personnes sujettes à la décision ou à l'ordonnance; les demandeurs; et les détenteurs de licences, permis ou autorisations.</li> <li>Un(e) résidant(e) peut porter en appel la détermination que le/la Ministre a satisfait aux exigences d'informer suffisamment le public et de lui permettre de commenter un projet. Dans ce cas, le/la Ministre ne peut émettre, renouveler ou modifier une autorisation tant qu'un tribunal n'a pas statué sur l'appel.</li> </ul>	<p><b>C+</b></p>
<p><b>Enquêtes initiées par des citoyen(ne)s</b></p> <ul style="list-style-type: none"> <li>Ces enquêtes ne sont possibles qu'en cas de soupçons d'infractions aux dispositions de la <i>Loi sur l'assainissement de l'air</i>.</li> </ul>	<p><b>C</b></p>
<p><b>Poursuites initiées par des citoyen(ne)s en cas de délits statutaires</b></p> <ul style="list-style-type: none"> <li>Le/la Ministre a toute discrétion pour livrer au Procureur général des dossiers ou documents relatifs à une enquête initiée par un citoyen(ne) pour considération par le PG des mesures à prendre.</li> <li>Une personne qui est au fait de l'occurrence ou de la probabilité d'un déversement de contaminant en contravention de la <i>Loi sur l'assainissement de l'air</i> ou de ses règlements,</li> </ul>	<p><b>C</b></p>

<p>ou qui est au fait d'une transgression d'une directive ou du refus de la respecter, peut signaler à un inspecteur toute information à ce sujet.</p> <ul style="list-style-type: none"> <li>• Aucune disposition de partage d'amendes.</li> </ul>	
<p><b>Accès des citoyen(ne)s à des poursuites visant à protéger l'environnement</b></p> <ul style="list-style-type: none"> <li>• Il n'existe aucune disposition juridique ou règlement permettant à des personnes d'intenter une poursuite en vue de protéger l'environnement.</li> </ul>	<b>F</b>
<p><b>Protection des auteur(e)s de dénonciation</b></p> <ul style="list-style-type: none"> <li>• Il n'existe de mesures visant à protéger les personnes qui dénoncent des infractions qu'aux termes de la <i>Loi sur l'assainissement de l'air</i>, et même dans ce cas, la personne qui dénonce ne peut que demander que son identité soit tenue secrète; si son identité est révélée, aucune disposition ne précise ce qu'un employeur n'est pas en droit de faire.</li> </ul>	<b>D</b>
<p><b>Protections contre les poursuites-bâillons</b></p> <ul style="list-style-type: none"> <li>• Il n'existe aucune protection contre les poursuites-bâillons.</li> </ul>	<b>F</b>
<p><b>Vérificateur ou commissaire indépendant pour l'environnement</b></p> <ul style="list-style-type: none"> <li>• Aucun poste de vérificateur ou de commissaire indépendant pour l'environnement n'est créé aux termes de la <i>Loi sur l'assainissement de l'environnement</i>, la <i>Loi sur l'assainissement de l'air</i> ou la <i>Loi sur l'assainissement de l'eau</i>.</li> </ul>	<b>F</b>
<b>Crédit additionnel</b>	<b>N.D.</b>
<b>Note finale</b>	<b>C-</b>

# Newfoundland & Labrador

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>• Is a Water Rights Registry, but no other registry system. Are some notification requirements re: contaminated sites, waste disposal sites, proposed undertakings and environmental assessment documents.</li> <li>• The Minister may decline to disclose documents or matters in order to protect the public interest where the Minister is of the opinion that their disclosure is not in the public interest.</li> </ul>	D
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>• Under the <i>Environmental Protection Act</i>, only with respect to Environmental Assessments; interested persons may comment on guidelines for the environmental impact statement, the environmental preview report, or the component study that is part of the environmental impact statement. The Minister may advise that public hearings be held where there is strong public interest in an undertaking.</li> <li>• Some public participation rights under the <i>Sustainable Development Act</i> and the <i>Wilderness and Ecological Reserves Act</i> as well.</li> <li>• Timelines for input range from 35 to 50 days.</li> <li>• No funding for public participation.</li> </ul>	C
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>• No government response or feedback to public participation of comments is required under the <i>Environmental Protection Act</i>.</li> </ul>	F
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>• Right of appeal limited to those who are “aggrieved” by a decision or order made under the <i>Environmental Protection Act</i> and the <i>Water Resources Act</i>.</li> </ul>	C
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>• Where a person has a reasonable belief that a person has contravened or is contravening the <i>Environmental Protection Act</i> or the regulations, that person may request that the Department investigate the alleged contravention. If the Minister receives two or more requests to investigate the same matter, the Minister must investigate. Two or more persons can also request investigations under the <i>Water Resources Act</i>.</li> </ul>	B
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>• A person may report a concern regarding enforcement of the <i>Environmental Protection Act</i> to the Department.</li> <li>• Ability to commence private prosecutions under the common law, but no fine splitting provisions.</li> </ul>	C
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>• A person suing for loss or damages suffered as a result of an offence under the Act may use a conviction of an offence under the Act as evidence of negligence for the purposes of their personal law suit.</li> </ul>	D
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>• The <i>Environmental Protection Act</i> and the <i>Water Resources Act</i> prohibits employers from dismissing, threatening to dismiss, disciplining, suspending, penalizing, intimidating or coercing an employee who refuses to carry out an action which is contrary to the Act or who reports an act or omission that contravenes the Act, an approval or a licence.</li> </ul>	C+
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>• No SLAPP suit protections.</li> </ul>	F
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>• No environmental auditor or commissioner is established under the <i>Environmental Protection Act</i>.</li> </ul>	F
<p><b>Extra Credit</b></p>	N/A
<p><b>Final Grade</b></p>	D+

# Northwest Territories & Nunavut

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>No environmental registry, but are information and notification requirements under the <i>Environmental Protection Act</i> re: boards to provide advice on matters, applications for permits and licenses and proposed regulations.</li> <li>Under the <i>Environmental Rights Act</i>, the Minister must annually report on all applications for investigations, prosecutions, actions and convictions under the Act.</li> </ul>	<b>C</b>
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>Any person may comment on an application for a permit or licence under the <i>Environmental Protection Act</i> to the Controller of Licensing. Also, interested persons must be given a “reasonable opportunity” to make representations regarding proposed regulations respecting contaminants; creating classes of permits and licences; respecting the requirements, including public participation, for the application, issuing, refusal and suspension of permits and licences; and respecting appeal procedures.</li> <li>Ability to regulate timelines for public input and funding for public participation, but no such regulations are in place at this time.</li> </ul>	<b>C+</b>
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>No government response or feedback to public input is required under either the <i>Environmental Protection Act</i> or in the <i>Environmental Rights Act</i>.</li> </ul>	<b>F</b>
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>The Commissioner may make regulations regarding procedures relating to appeals and public participation relating to appeals. Currently, there are no such regulations.</li> </ul>	<b>F</b>
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>Standard provision to request an investigation, but only of a contaminant being released into the environment.</li> </ul>	<b>C</b>
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>Any resident can prosecute an offence where they believe that an offence has been committed under a variety of environmental protection Acts. Where that resident conducts the prosecution, the court may order that some of the fine imposed be paid to the person conducting the prosecution to reimburse them for costs and expenses incurred.</li> </ul>	<b>A</b>
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>Every resident has the right to protect the environment and the public trust, but only from the release of contaminants, by commencing an action in the Supreme Court against any person releasing any contaminant into the environment. Nobody is barred from commencing such an action only because they are unable to show that they have any greater or different right, harm or interest than any other person or any pecuniary or proprietary right or interest in the subject matter of the proceeding.</li> </ul>	<b>B</b>
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>Standard protections for whistleblowers with harsh penalties (possibility of 90 day imprisonment in addition to a fine) for those who violate the provisions.</li> </ul>	<b>B</b>
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>No SLAPP suit protections.</li> </ul>	<b>F</b>
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>No independent environmental auditor or commissioner has been established. The <i>Mackenzie Valley Resource Management Act</i> requires independent environmental audits.</li> </ul>	<b>D</b>
<p><b>Extra Credit</b></p> <ul style="list-style-type: none"> <li>Environmental Mediation and a Voluntary Reporting regime</li> </ul>	<b>+ .5</b>
<p><b>Final Grade</b></p>	<b>C+</b>

# Nova Scotia

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>To access records on the Registry, must send in an application form and \$23 for each civic address you would like searched.</li> <li>Average notification provisions re: proposals and Environmental Assessments; information and documents related to ongoing EAs available online for free.</li> <li>Pesticide Applications Approval Database available online to show current pesticide applications and approvals by community or county.</li> <li><i>Environmental Goals and Sustainable Prosperity Act</i> requires annual reporting on progress toward achieving goals and adequacy of the goals.</li> </ul>	C
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>Discretionary public review/consultation requirements. Mandatory public comment period and some public consultations for EAs. Applications for approvals must be accompanied by description of public consultation undertaken or proposed by applicant.</li> <li>The Governor in Council may make regulations exempting a person or class or persons, activities, matters or things from this Act. Are currently no such regulations.</li> <li>Timelines for public input for EAs tend to be between 30 and 48 days with opportunities for the Minister to extend the period if necessary.</li> <li>No funding for public participation.</li> </ul>	C
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>No provisions require a government response or feedback to public comments or input.</li> </ul>	F
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>A person aggrieved by a decision or order of an administrator may appeal the decision to the Minister who can either dismiss or allow the appeal.</li> <li>A person aggrieved by a regulation or a decision of the Minister may appeal to the Court, but no appeal from the Court's decision to the Court of Appeal is allowed.</li> </ul>	C
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>The Minister must establish programs to promote the reporting of acts or omissions that cause adverse effects or that may constitute offences under the <i>Environment Act</i>.</li> <li>Standard provision to request investigation of an alleged offence under the <i>Environment Act</i>.</li> </ul>	C+
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>Ability to privately prosecute offences under the common law; no fine splitting</li> </ul>	C
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>If an offender is being prosecuted, a person aggrieved by the offence can apply to the court for compensation for loss/damage to their property caused by the offence. An injured party can also use conviction of an offence under the <i>Environment Act</i> as evidence of negligence and take the offender to court to sue them for loss/damage that resulted from the offence.</li> <li>Where injury is occurring in another jurisdiction but is being caused by pollution from Nova Scotia, an action may be brought in the Nova Scotia courts.</li> </ul>	C+
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>Standard protections for whistleblowers.</li> </ul>	C+
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>No SLAPP suit protections.</li> </ul>	F
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>No environmental auditor or commissioner is established under the <i>Environment Act</i>.</li> </ul>	F
<p><b>Extra Credit</b></p> <ul style="list-style-type: none"> <li>Nova Scotia Youth Conservation Corps</li> </ul>	+ .5
<p><b>Final Grade</b></p>	C

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>• Brownfields Environmental Site registry available online; can be searched for free.</li> <li>• Environmental Registry under the <i>EBR</i> used as a notification and public participation tool; contains information about proposals, decisions and events that could affect the environment as well as things done under the Act. A person can search the Registry for free and can save their searches with the "My <i>EBR</i>" function. Note that only ministries subject to the <i>EBR</i> must post things to the Registry.</li> <li>• Public notice must also be given at various stages of Environmental Assessments. However, while environmentally significant policies and regulations under the <i>EAA</i>, amendments to the <i>EAA</i>, and exemptions from the EA process are posted on the <i>EBR</i> Registry, approvals under the <i>EAA</i> and instruments under other Acts which implement decisions that were already approved as part of an EA are not posted to the Registry.</li> </ul>	<p><b>A</b></p>
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>• Basic and enhanced requirements for public participation in different classes of proposals; range from submitting written comments to holding public hearings. Public can request opportunities for enhanced participation for proposals of particular interest.</li> <li>• For EAs, proponents must consult with interested persons when preparing terms of reference and the EA. Any person may comment in writing on proposed terms of reference, the EA and the Ministry review of the EA. Note that the <i>EAA</i> consultation processes are not as good as those provided under the <i>EBR</i>. Also, regulations can exempt any person, undertaking or class of person/undertaking from the Act or regulations.</li> <li>• Public participation provisions under the <i>EBR</i> don't apply where the Minister believes the delay would cause danger to health or safety; harm to the environment; or injury or damage to property. They also don't apply where the environmentally significant aspects of a proposal have already been or will be considered in an equivalent process of public participation.</li> <li>• Standard 30 day comment periods; governments can and regularly are encouraged by the ECO to extend the comment periods. Minister must always consider allowing more than 30 days to permit more informed public consultation.</li> <li>• No funding for public participation.</li> </ul>	<p><b>B</b></p>
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>• A Minister who gives notice of a proposed policy, Act or regulation must ensure all comments on a proposal are considered when decisions are made. Also, after a decision on whether to implement a Class I, II or III instrument is made, public notice must include an explanation of the effect that public participation had on the decision. Finally, the ECO evaluates how public comments are considered.</li> </ul>	<p><b>B</b></p>
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>• A couple of provisions in the <i>Environmental Protection Act</i> allow for appeals, but only by people who were a party to the proceedings being appealed from.</li> <li>• The <i>EBR</i> provides some opportunity for citizens to seek an appeal of a government decision re: instruments prescribed under the <i>EBR</i>. Any resident has the right to seek leave to appeal a decision whether or not to implement a proposal for a Class I or II instrument if the person has an interest in the decision and certain, very difficult, tests are met. The <i>Lafarge</i> decision in 2008 has helped to clarify the leave to appeal test. The Environmental Review Tribunal decides whether the leave to appeal test is met and, if not, there is no ability to appeal the decision.</li> <li>• Proponents have automatic rights to appeal ministry decisions and interested members of the public can seek out various levels of "status" in proponent-initiated appeals.</li> </ul>	<p><b>B</b></p>
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>• Standard provision in the <i>EBR</i> to request an investigation of an alleged offence under a prescribed Act, regulation or instrument. The ECO will follow-up and receive reasons if the Minister decides an investigation is not required.</li> </ul>	<p><b>B</b></p>

<ul style="list-style-type: none"> <li>No time limits in the <i>EBR</i> for applications for investigation; can lead to multi-year investigations.</li> </ul>	
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>Ability to privately prosecute a statutory offence under common law; no fine splitting.</li> </ul>	<b>C</b>
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>Any person has a right to compensation for loss or damage incurred from a spill of a pollutant or from neglect or default in carrying out a duty, order or direction. The right to compensation may be enforced by court action and liability does not depend upon fault or negligence.</li> <li>Where a person has contravened or will imminently contravene an Act, regulation or instrument and the contravention has or will cause significant harm to a public resource, any resident may bring a court action against the person and is entitled to judgment (injunction, court-ordered restoration plan, declaratory relief, costs) if successful. The plaintiff must first have applied for an investigation and not received one of the required responses within a reasonable time or received an unreasonable response. For such an action, however, class actions are prohibited and the onus is on the plaintiff to prove the contravention. Also, it is a defence that the defendant was duly diligent in attempting to comply with the legislation, that the defendant had a licence or statutory authorization, or that the defendant complied with a reasonable interpretation of the permit. Furthermore, unlicensed contraventions of non-prescribed statutes are also not actionable.</li> <li>No person who has suffered direct economic loss or personal injury as a result of a public nuisance that caused harm to the environment is barred from bringing an action only because they have not suffered loss or injury greater than other persons.</li> </ul>	<b>B</b>
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>Standard provisions in <i>Environmental Protection Act</i> and in <i>EBR</i>. Under both, file complaint to OLRB; in an inquiry, burden of proof lies upon the employer to establish that they did not contravene the Whistleblower Protection provision.</li> </ul>	<b>B</b>
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>While there are currently no protections from SLAPP suits, a proposed Private Members Bill to introduce such protections is currently before the Legislative Assembly.</li> </ul>	<b>D</b>
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>Environmental Commissioner monitors the <i>EBR</i>'s implementation and reports deficiencies to the Legislature. The Environmental Commissioner's Office (ECO) is present to bring political pressure and hold the government accountable, but has few actual powers.</li> <li>Is one of the most involved Environmental Commissioners for facilitating public participation in environmental decisions. The ECO plays a critical role in facilitating the public's ability to use the <i>EBR</i> by handling thousands of calls and emails each year from individuals wanting to learn how they can make use of their rights under the <i>EBR</i>.</li> </ul>	<b>A</b>
<p><b>Extra Credit</b></p> <ul style="list-style-type: none"> <li>Citizens may request a review of a policy, Act, regulation or instrument if they believe the existing policy, Act, regulation or instrument should be amended, repealed or revoked to protect the environment. Citizens may also apply for a review of the need for a new policy, Act or regulation. Despite the ability to request a review, applications for review have rarely been granted and some reviews have extended over multiple years.</li> </ul>	<b>+ .5</b>
<p><b>Final Grade</b></p>	<b>B</b>

# Prince Edward Island

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>No general registry; is a contaminated sites registry, but not online and are fees to access the information. Ability to request information re: orders that have been made. Is also a registry established under the <i>Mineral Resources Act</i>.</li> <li>Discretionary notification requirements for proposed undertakings.</li> <li>Regulations can set fees payable for a record search (\$20-\$50 per property) and the review of an environmental impact statement (not established).</li> </ul>	D
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>Yes for establishing or varying waste management service rates; is at Minister's discretion for proposed undertakings.</li> <li>Can make regulations ensuring specific opportunity for public involvement in the screening and assessment of undertakings and respecting the procedures for applications for licenses or permits. No such regulations at this time.</li> <li>Public participation requirements to change a natural area designation under the <i>Natural Areas Protection Act</i> or to change a designation under the <i>Wildlife Conservation Act</i>.</li> <li>No funding for public participation.</li> </ul>	C
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>No government response or feedback to public comments or submissions is required under the <i>Environmental Protection Act</i>.</li> </ul>	F
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>The <i>Environmental Protection Act</i> does not create an ability for citizens to appeal decisions that they see as being harmful to the environment.</li> </ul>	F
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>Can only request an investigation under the <i>Farm Practices Act</i> regarding whether a disturbance resulting from an agricultural operation results from a normal farm practice. Under that Act, the public can also request a review of a code of practice for conformity with normal farm practices.</li> </ul>	D
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>Ability to privately prosecute statutory offences under the common law; no fine splitting</li> </ul>	C
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>The Minister, but not a citizen, may apply to the court for an injunction to restrain any contravention or violation of the <i>Environmental Protection Act</i> or regulations.</li> <li>Under the <i>Transboundary Pollution (Reciprocal Access) Act</i>, a person who has suffered damage in a reciprocating jurisdiction may bring an action in PEI for pollution that may originate in PEI.</li> </ul>	D
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>No protections for whistleblowers.</li> </ul>	F
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>No SLAPP suit protections.</li> </ul>	F
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>No independent environmental auditor or commissioner exists.</li> </ul>	F
<p><b>Extra Credit</b></p> <ul style="list-style-type: none"> <li>To increase environmental awareness in the province, the Minister may support and encourage the development of educational programs respecting environmental management. There is currently an Environment Futures Program for students in high school and university to learn to do environmental protection and enhancement work.</li> </ul>	+ .5
<p><b>Final Grade</b></p>	D

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>• Online register of public information is supposed to contain applications for authorizations, certificates and approvals; notices; environmental impact assessment statements; results relating to the control and monitoring of contaminant discharge; agreements, orders and notices. For certificates and authorizations under s. 22 of the <i>EQA</i>, however, information is not online and a freedom of information request is required to obtain such documentation.</li> <li>• Are also public notification and information requirements for the s. 31.1 EIA and review procedure under the <i>EQA</i>.</li> <li>• Municipalities must prepare and maintain public lists of contaminated lands.</li> </ul>	<p><b>B</b></p>
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>• Must accept written comments regarding draft regulations. Various levels of consultation required for different EAs; any person can apply for a public hearing.</li> <li>• Some projects are automatically subject to the assessment and review procedure, and some projects are automatically exempt from the assessment and review procedures; the government can amend these lists. The government can also exempt a project from all or part of the assessment and review procedure where necessary and in the public interest.</li> <li>• Timelines for public input appear to range from 15 to 45 days. The Government may extend a time limit if the circumstances warrant an extension.</li> <li>• The Minister may establish a fund to encourage the involvement of persons, groups and municipalities in public hearings. However, such a fund does not appear to exist at this time.</li> </ul>	<p><b>C+</b></p>
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>• No government response to public comments or submissions is required under the <i>EQA</i>.</li> </ul>	<p><b>F</b></p>
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>• Most orders by the Minister may be contested by a concerned person before the Administrative Tribunal of Quebec. Are also rights to intervene in appeals to the Administrative Tribunal of Québec and under the <i>Code of Civil Procedure</i>.</li> </ul>	<p><b>C+</b></p>
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>• If a person believes that he can attribute damage to his health or property to the presence or discharge of a contaminant, he may request that the Minister investigate.</li> </ul>	<p><b>D</b></p>
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>• The Attorney General has the exclusive right to prosecute, but sometimes gives up this right to allows others to take action to defend the public interest. No fine splitting ability.</li> </ul>	<p><b>C</b></p>
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>• Any resident of Quebec who frequents a place or the immediate vicinity of a place may apply to the court for an injunction to prohibit any act or operation which interferes or might interfere with their right to a healthy environment. This right of action is limited to activities which violate the Act or regulations, orders, and approvals made under it.</li> <li>• May also seek to protect the environment under the <i>Quebec Charter</i> right to live in a healthful environment, but only if you are a personal victim of the environmental harm.</li> </ul>	<p><b>B</b></p>
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>• No protections for whistleblowers currently exist.</li> </ul>	<p><b>F</b></p>
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>• New legislation, passed in June 2009, makes Quebec the only jurisdiction in Canada to have protections against improper use of the courts in order to promote freedom of expression and citizen participation in public debate.</li> </ul> <p><i>NOTE: As of June 3, 2009, Quebec has adopted anti-SLAPP legislation, making it the only Canadian jurisdiction to have such legislation in place. For the full text of <u>Bill 9, An Act to amend the Code of Civil Procedure to prevent improper use of the courts and promote freedom of expression and citizen participation in public debate</u>, please see <a href="http://www.assnat.qc.ca/eng/39legislature1/Projets-loi/Publics/09-a009.htm">http://www.assnat.qc.ca/eng/39legislature1/Projets-loi/Publics/09-a009.htm</a>.</i></p>	<p><b>B+</b></p>

<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>Quebec did establish an independent Sustainable Development Commissioner to audit progress in sustainable development, but the Commissioner's contract was not renewed at the end of 2008. The Auditor General has started the recruitment process for a new Commissioner, but currently there is no acting Sustainable Development Commissioner.</li> </ul>	<p><b>D</b></p>
<p><b>Extra Credit</b></p>	<p><b>N/A</b></p>
<p><b>Final Grade</b></p>	<p><b>C+</b></p>

<p><b>Droits du public à de l'information et des avis</b></p> <ul style="list-style-type: none"> <li>• Un registre en ligne de renseignements publics est censé contenir des formulaires de demande d'autorisations, de certificats et d'approbations; des avis; des études d'impacts environnementaux; des résultats liés au contrôle et à la surveillance d'agents contaminants rejetés; ainsi que des textes d'ententes, d'ordonnances et d'avis. Cependant, pour ce qui est des certificats et autorisations prévus à l'article 22 de la <i>Loi sur la qualité de l'environnement (LQE)</i>, l'information n'est pas en ligne et l'accès à cette documentation nécessite une demande aux termes de la <i>Loi sur l'accès à l'information</i>.</li> <li>• Des exigences d'avis et d'information publique liées à la procédure d'étude d'impact environnemental et d'examen figurent également au sous-article 31.1 de la <i>LQE</i>.</li> <li>• Les municipalités doivent préparer et tenir à jour des listes publiques des terrains contaminés.</li> </ul>	<p><b>B</b></p>
<p><b>Garantie de participation du public aux prises de décisions</b></p> <ul style="list-style-type: none"> <li>• Le gouvernement doit accepter des commentaires écrits concernant les versions préliminaires des règlements. Différentes évaluations environnementales appellent différents niveaux de consultation; toute personne peut réclamer d'être entendue en audience publique.</li> <li>• Certains projets sont automatiquement sujets au protocole d'évaluation et d'examen et d'autres en sont automatiquement exemptés, sur des listes que le gouvernement peut modifier. L'État peut également exempter tout projet d'une partie ou de l'ensemble du processus d'évaluation et d'examen quand c'est nécessaire et dans l'intérêt du public.</li> <li>• Les délais accordés au public pour formuler ses commentaires semblent varier de 15 à 45 jours. Le gouvernement peut prolonger un délai si les circonstances le justifient.</li> <li>• Le/la Ministre peut créer un fonds pour encourager la participation de personnes, d'organisations ou de municipalités aux audiences publiques. Cependant, il ne semble pas exister encore de tel fonds .</li> </ul>	<p><b>C+</b></p>
<p><b>Obligation de réaction ou de rétroaction gouvernementale</b></p> <ul style="list-style-type: none"> <li>• Aucune réaction du gouvernement aux commentaires ou mémoires publics n'est requise aux termes de la <i>LQE</i>.</li> </ul>	<p><b>F</b></p>
<p><b>Droit d'appel de décisions</b></p> <ul style="list-style-type: none"> <li>• La plupart des ordonnances rendues par le/la Ministre peuvent être contestées par une personne concernée devant le Tribunal Administratif du Québec. Des droits d'intervention existent aussi sous forme de recours auprès du Tribunal Administratif du Québec et aux termes du <i>Code de la procédure civile</i>.</li> </ul>	<p><b>C+</b></p>
<p><b>Enquêtes initiées par des citoyen(ne)s</b></p> <ul style="list-style-type: none"> <li>• Si une personne croit pouvoir attribuer des dommages à sa santé ou à ses biens à la présence ou au déversement d'un contaminant, elle peut demander au/à la Ministre de faire enquête à ce sujet.</li> </ul>	<p><b>D</b></p>
<p><b>Poursuites initiées par des citoyen(ne)s en cas de délits statutaires</b></p> <ul style="list-style-type: none"> <li>• Le Procureur général est seul à avoir le droit d'intenter des poursuites, mais il alloue parfois ce droit pour permettre à d'autres intervenants de prendre des mesures au nom de l'intérêt public. Aucune disposition de partage des amendes.</li> </ul>	<p><b>C</b></p>
<p><b>Accès des citoyen(ne)s à des poursuites visant à protéger l'environnement</b></p> <ul style="list-style-type: none"> <li>• Tout(e) résidant(e) du Québec qui fréquente un endroit ou la proximité immédiate d'un endroit peut s'adresser au tribunal pour une injonction visant à y prohiber tout acte ou activité qui nuit ou risque de nuire à son droit à un environnement sain. Ce droit d'intenter une action est limité aux activités qui violent la Loi ou les règlements, ordonnances et autorisations effectués en son nom.</li> <li>• On peut également tenter de protéger l'environnement aux termes du droit à un environnement sain inscrit dans la <i>Charte des droits et libertés de la personne</i>, mais seulement si l'on est personnellement victime du tort fait à l'environnement.</li> </ul>	<p><b>B</b></p>

<p><b>Protection des auteur(e)s de dénonciation</b></p> <ul style="list-style-type: none"> <li>Il n'existe présentement aucune mesure de protection pour les personnes qui dénoncent des infractions.</li> </ul>	<p><b>F</b></p>
<p><b>Protections contre les poursuites-bâillons</b></p> <ul style="list-style-type: none"> <li>Une nouvelle loi, adoptée en juin 2009, fait du Québec le seul territoire au Canada à offrir des mesures de protection contre un usage indu des tribunaux, afin de promouvoir la liberté d'expression et la participation des citoyens au débat public.</li> </ul> <p><i>NOTA : Le 3 juin 2009, le Québec a adopté une loi contre l'utilisation abusive des tribunaux, ce qui en fait le seul territoire juridique au Canada à disposer d'une telle loi. Pour le texte complet de la Loi 9, Loi modifiant le Code de procédure civile pour prévenir l'utilisation abusive des tribunaux et favoriser le respect de la liberté d'expression et la participation des citoyens aux débats publics, voir <a href="http://www.assnat.qc.ca/fra/39legislature1/Projets-loi/Publics/09-f009.htm">http://www.assnat.qc.ca/fra/39legislature1/Projets-loi/Publics/09-f009.htm</a></i></p>	<p><b>B+</b></p>
<p><b>Vérificateur ou commissaire indépendant pour l'environnement</b></p> <ul style="list-style-type: none"> <li>Le Québec a bel et bien établi un poste de Commissaire indépendant au développement durable pour vérifier les progrès effectués à ce titre, mais le contrat du Commissaire n'a pas été renouvelé à la fin de 2008. Le Vérificateur général a entamé le processus de recrutement d'un nouveau Commissaire, mais aucun Commissaire par intérim au développement durable n'a été nommé.</li> </ul>	<p><b>D</b></p>
<p><b>Crédit additionnel</b></p>	<p><b>N.D.</b></p>
<p><b>Note finale</b></p>	<p><b>C+</b></p>

# Saskatchewan

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>No environmental registry, but there are notice requirements re: contaminated sites, EAs and reviews of proposed projects. While there is a kind of registry set up for environmental assessments, there are many projects that should be assessed but are not.</li> <li><u>May</u> provide information to the public on the quality and use of the environment, the quantity of any substances or things in the environment and precautionary drinking water advisories.</li> <li><i>State of Environment Report Act</i> requires state of environment reporting every two years.</li> </ul>	C
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>At discretion of Minister to inquire into or hold, or appoint a person to conduct public hearings re: (i) the management, use or protection of the environment; and (ii) any economic, social or other effects relevant to the environment.</li> <li>Only guarantee is that any person may inspect a project proposal subject to the EA process and the review and make written submissions. Any development, class of developments, or proponent can be exempt from the application of the Act or regulations if there is an emergency or if it is in the public interest or the interest of any person.</li> <li>Timelines for input are 30 days with a possible additional 30 days.</li> <li>No funding for public participation.</li> </ul>	C
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>No government response or feedback to public comments is required under the <i>EMPA</i> or the <i>EAA</i>.</li> </ul>	F
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>No specific ability for citizens to appeal decisions they believe are harmful to the environment.</li> </ul>	F
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>Standard provision for requesting investigations of an alleged offence under the <i>EMPA</i>.</li> </ul>	C+
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>Ability to privately prosecute a statutory offence under common law; no fine splitting.</li> </ul>	C
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>Any person has a right to compensation from the person responsible for a discharge for loss or damage incurred as a result of i) the discharge; ii) neglect or default in the execution of a duty; or iii) an investigation or action taken; AND from any person to whom an environmental protection order has been issued for loss or damage incurred as a result of the execution or intended execution, or neglect or default in the execution, of the environmental protection order <u>without proof of fault, negligence or wilful intent</u>.</li> <li>If any person proceeds with a development for which Ministerial approval is required without that approval, they are liable to any person who suffers loss, damage or injury as a result of the development without the injured person having to prove negligence or intention to inflict loss, damage or injury.</li> </ul>	C
<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>No whistleblower protection provisions.</li> </ul>	F
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>No protections against SLAPP suits.</li> </ul>	F
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>No environmental auditor or commissioner exists in Saskatchewan.</li> </ul>	F
<p><b>Extra Credit</b></p>	N/A
<p><b>Final Grade</b></p>	D

<p><b>Public Rights to Information and Notice</b></p> <ul style="list-style-type: none"> <li>• No general registry, but a contaminated sites register is required and a registry of non-compliance notices may be established. Neither is available online at this time and the contaminated sites register needs to be updated.</li> <li>• State of Environment Reports required every three years.</li> <li>• Good Yukon Environmental and Socio-Economic Assessment Registry which allows access to project documentation and provides a way to comment on proposed projects.</li> <li>• Notification requirements for proposed regulations, for applications for proposed developments or activities and for spills. Any person/group may request to be added to the list for proposal notifications and the Minister must place them on the list for one year.</li> <li>• Are public environmental information and awareness programs.</li> </ul>	<p><b>B+</b></p>
<p><b>Guarantee of Public Participation in Decision Making</b></p> <ul style="list-style-type: none"> <li>• Must consult with affected interests in the development of regulations. If warranted, must hold public hearings. Must ensure that opportunities are provided for public involvement in preparing revisions to the Yukon Conservation Strategy</li> <li>• Minister specifically required to provide for participation of Yukon First Nation Members.</li> <li>• Yukon Environmental and Socio-Economic Assessment Board must provide opportunities for the public to participate in any assessment conducted by the Board. Project proponents also have public consultation duties.</li> <li>• Public consultation provisions can be avoided by regulation.</li> <li>• Minister may establish participant funding for First Nations, NGOs, but not yet done.</li> </ul>	<p><b>B</b></p>
<p><b>Required Government Response or Feedback</b></p> <ul style="list-style-type: none"> <li>• After considering a proposal and related submissions, the Minister must report on the reasons for recommendation and send the report to all persons who made submissions.</li> </ul>	<p><b>C</b></p>
<p><b>Ability to Appeal Decisions</b></p> <ul style="list-style-type: none"> <li>• Any person or group may complain to the Minister re: a decision, recommendation, act, or omission of an authority. The complaint may be dealt with by Minister or referred to mediation; Council on the Economy and the Environment is to review complaints and may recommend that the Minister reconsider the complaint or refer the complaint to the Commissioner in Executive Council for a decision.</li> </ul>	<p><b>C</b></p>
<p><b>Citizen Initiated Investigations</b></p> <ul style="list-style-type: none"> <li>• Residents who believe that an activity is impairing or is likely to impair the natural environment may apply for an investigation, regardless of whether or not an offence is alleged. Minister must attempt to resolve investigation within 180 days.</li> </ul>	<p><b>A</b></p>
<p><b>Citizen Initiated Prosecution of Statutory Offences</b></p> <ul style="list-style-type: none"> <li>• Residents may commence a private prosecution in respect of an offence under the Act or a regulation or any existing law. If a conviction results, the court may order that some of the fine imposed be paid to the person who commenced the private prosecution to assist in defraying the expenses incurred by the person.</li> </ul>	<p><b>B+</b></p>
<p><b>Ability of Citizens to Sue to Protect the Environment</b></p> <ul style="list-style-type: none"> <li>• Residents can commence a court action if they believe a person has impaired or is likely to impair the natural environment. Remedies available are broad and directly aimed at restoring environmental quality. Where impairment is caused by a contaminant and the defendant released a contaminant of that type, reverse onus provision requires defendant to prove that they did not cause impairment.</li> <li>• Still a defence if the activity was licensed or if the activity was confined to polluter's property or there was no feasible and prudent alternative to the activity.</li> <li>• Residents can also commence a public trust action against the government if they believe that the government has failed to meet its responsibilities as trustee of the public trust to protect the natural environment from actual or likely impairment. Above defences not available for this type of action.</li> </ul>	<p><b>A</b></p>

<p><b>Whistleblower Protections</b></p> <ul style="list-style-type: none"> <li>Standard protections for whistleblowers with harsh penalties (possibility of 90 day imprisonment in addition to a fine) for those who violate the provisions.</li> </ul>	<p><b>B</b></p>
<p><b>SLAPP Protections</b></p> <ul style="list-style-type: none"> <li>No SLAPP suit protections.</li> </ul>	<p><b>F</b></p>
<p><b>Independent Environmental Auditor or Commissioner</b></p> <ul style="list-style-type: none"> <li>Yukon Council on the Economy and the Environment was established to encourage sustainable development in the Yukon. The Council may review the policies of the government and evaluate their implementation and promote public awareness of sustainable development.</li> <li>The YCEE has not met since 2005; an internal government review is currently underway to determine whether to get the Council back up and running.</li> </ul>	<p><b>D</b></p>
<p><b>Extra Credit</b></p> <ul style="list-style-type: none"> <li>Any resident may, by petition to the Minister propose 1) that a regulation be made, amended, or revoked; or 2) that a waste management plan be made, amended, or revoked. The petitioner(s) may also request that their proposal be submitted to public review.</li> <li>Conservation Action Team and Yukon Youth Conservation Corps youth programs.</li> </ul>	<p><b>+1</b></p>
<p><b>Final Grade</b></p>	<p><b>B+</b></p>