



November 9, 2001

Brian Cameron  
District Manager  
Sudbury District Office  
Ministry of the Environment  
199 Larch St.  
Suite 1101  
Sudbury, Ontario  
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**By Fax: (705)-564-4180**

**Re: EBR Registry No.IA01E1207 INCO Ltd. Control Order.  
EBR Registry No.IA01E1208 Falconbridge Ltd. Control Order.**

Dear Mr. Cameron,

I am writing to you regarding the Ministry of the Environment's posting of proposed revised Control Orders for the INCO Ltd. and Falconbridge Ltd. smelting operations in the Sudbury region, posted on the *Environmental Bill of Rights* Registry on September 11, 2001

While the Institute welcomes the direction of the Ministry's proposals, we have a number of significant concerns with their specific provisions. These are as follows.

**1. The Proposed Reductions in Sulphur Dioxide Emissions are Inadequate.**

The Ministry proposes to reduce the sulphur dioxide emission caps on Falconbridge and Inco by 34% relative to their existing caps under the Countdown Acid Rain program. This involves a reduction from 100,000 tonnes to 66,000 tonnes for Falconbridge and from 265,000 tonnes to 174,9000 tonnes for INCO.

While these reductions are welcome, they fall far short of the target of a 75% reduction relative to existing emission limits identified by the National Air Issues Coordinating Committee's Acidifying Emissions Task Group in its October 1997 report. Task Group concluded that such a reduction was necessary to safeguard human health and halt further damage to the environment as a result of acidifying emissions.

In light of these findings, the Ministry should identify a specific date on which a 75% reduction in sulphur dioxide emissions must be achieved for these facilities.

**2. The Ministry's proposals fail to address other substances of concern emitted by the Inco and Falconbridge facilities.**

In addition to being major sources of releases of acidifying emissions, the Inco and Falconbridge facilities are important generators of emissions of toxic substances. Data provided by the facilities to the National Pollutant Release Inventory, for example, indicates that in 1999, the Inco Copper Cliff Smelter Complex released 84.39 tonnes of Nickel, 80 tonnes of Lead and 63.68 tonnes of Arsenic to the air. The Falconbridge facility reported air releases of 12 tonnes of Nickel and 7 tonnes of Lead.

These are pollutants of serious concern. In addition to being recognized carcinogens, Nickel, Arsenic and Lead have all been declared to be "toxic" substances for the purposes of the *Canadian Environmental Protection Act*. The Ministry acknowledged the need to dramatically strengthen its air standards for several heavy metals including Nickel and Arsenic 1997, highlighting the gaps, in some cases of a scale of multiple orders of magnitude, between current Ontario standards and those adopted in other jurisdictions. However, the Ministry has articulated no new standards for these substances to date.

The Ministry should adopt standards with respect to air releases of these substances with the goal of their virtual elimination.

The metal smelting industry is also a major source of greenhouse gas emissions. As with heavy metals, the proposed Orders are silent on this issue. This is of significant concern, given Canada's international commitments to reduce its greenhouse gas emissions.

**3. The relationship between the proposed Control Order limits for Inco and Falconbridge and the Emission Trading Scheme announced October 24, 2001 is unclear.**

The Ministry of the Environment's October 24, 2001 announcement indicates that NO<sub>x</sub> and SO<sub>2</sub> emission caps are to be developed for industrial sectors other than electricity generation to complement the caps announced for that sector. It is unclear if the proposed Control Order limits are to form part of those caps. The relationship between the two caps and the emission trading system should be clarified. Will, for example, reductions undertaken by Inco and Falconbridge under the proposed order be considered to be emission reduction credits available for sale under the trading system?

**4. The Transfer of Responsibility for Operating and Maintaining MoE's Sudbury Air Monitoring Network makes no provision for Public Access to Information.**

In addition to its emission reduction proposals, the Ministry proposes to transfer responsibility for the operation and maintenance of its air-monitoring network in Sudbury as of January 1, 2003. However, the Ministry's proposed regulation makes no provision for ensuring public access to the data gathered through the network once it is transferred to the companies. This is a serious concern, as following the transfer data gathered through the network will become third party information for the purposes of the *Freedom of Information and Protection of Privacy Act*, and therefore public access to the data will not be guaranteed.

The proposed regulations should be amended to state that the companies will provide members of the public with all data gathered through the air-monitoring network upon request without delay.

Please feel free to contact me should you have any questions regarding the Institute's comments on this important matter.

Yours sincerely,

Mark S. Winfield, Ph.D.  
Director, Environmental Governance.

Cc: The Hon. E. Witmer, Minister of the Environment.  
J. Bradley, M.P.P., Liberal Environment Critic.  
M.Churley, M.P.P., N.D.P. Environment Critic.  
Gordon Miller, Environmental Commissioner of Ontario.