



Modernizing Ontario's Environmental Assessment Program: Presentation for the Ontario Association of Impact Assessment

MINISTRY OF THE ENVIRONMENT, CONSERVATION AND PARKS
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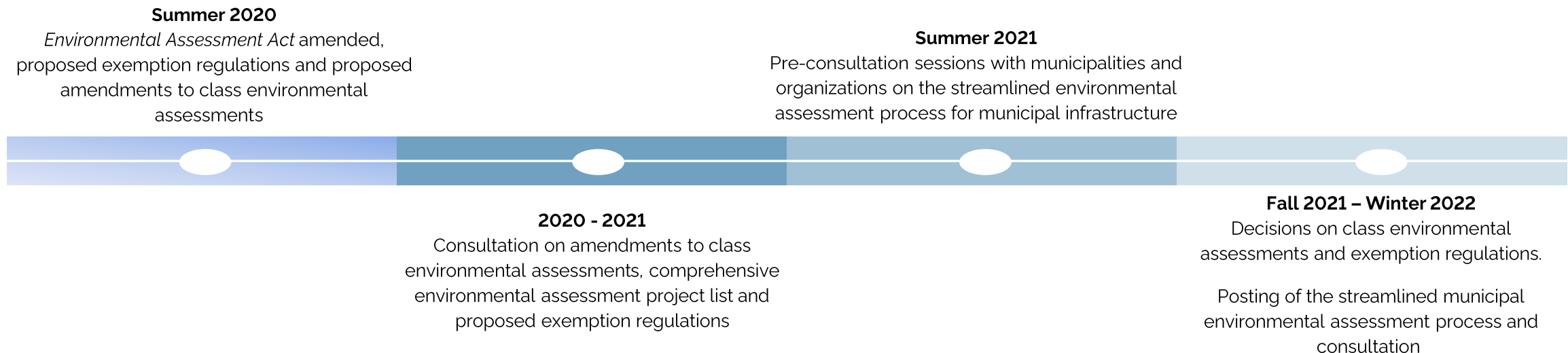


Part One:

Environmental Assessment
Modernization in Review

Our modernization journey

- Ontario is taking a strategic and phased approach to environmental assessment modernization.
- Building off the discussion paper that was consulted on in 2019, the ministry proposed enabling and other amendments to the **Environmental Assessment Act** through Bill 197, the **COVID-19 Economic Recovery Act, 2020**, which passed on July 21, 2020.
- Some changes to the Act came into force immediately. However, the majority of the key changes have not taken effect and, in general, the way the Act currently applies to projects will continue until the relevant amendments are proclaimed and required regulations are made.
- The ministry has also been consulting on exemption regulations and amendments to class environmental assessments to better align environmental assessment requirements with the potential for impacts, reduce duplication with other planning or approvals processes, and improve the assessment process so that it works more efficiently and effectively.



Summary of legislative changes

Pre-Amendment	Amended <i>Environmental Assessment Act</i>
Requiring environmental assessments for all public sector projects, unless exempt, and some private sector activities.	Project List: Require environmental assessments based on impact and project type.
A patchwork of 10 class environmental assessments, and 3 regulations for medium impact projects that all have different requirements for Indigenous consultation, public input, technical studies and objections (i.e. bump ups).	Streamlined Environmental Assessments: Consistent process requirements for all streamlined projects. Requests to the Minister to make an order requiring an individual environmental assessment are now focussed on consideration of potential adverse impacts of projects to constitutionally protected Aboriginal or treaty rights. The Minister has the authority to require a comprehensive (individual) environmental assessment or impose conditions on a streamlined project on his or her own initiative, within a time-limited period.
Project-specific workplans (i.e. Terms of Reference) which often take 2 years to complete.	Standardized Workplans: Based on sectors, saving up to 1.5 years.
Deadlines which are rarely achieved, and environmental assessments which never expire even if environmental conditions have changed.	Clear Timelines: A process with accountability for meeting timelines and clear expiry dates.
Federal - provincial environmental assessments which are coordinated, but still follow two processes and have two decisions.	Reduced Duplication: Working with the federal government to coordinate environmental assessments when there is a project that has federal and provincial requirements.
Paper-based environmental assessments which are large and hard to access.	Online Submissions: A modern submission process that sets the stage for an environmental assessment program that can be accessed online. Paper copies can still be provided.
While municipalities are engaged through the environmental assessment process, proponents do not need to demonstrate that the project has municipal support.	Municipal Support: New large landfills need to demonstrate that the project has support from host municipality and adjacent municipalities that have authorized residential uses within a set distance from the proposed new landfilling site.

On-going initiatives – Proposed amendments to the class environmental assessments

- Proponents of class environmental assessments reviewed their assessment process and proposed changes that would eliminate duplication and align the level of assessment with the environmental impact of the project for the following class environmental assessments
 - Waterpower
 - Municipal infrastructure
 - Minor transmissions facility
 - Remedial flood and erosion control
 - Ministry of Energy, Northern Development and Mines activities under the *Mining Act*
 - Public works
 - Resource stewardship and facility development projects
 - Provincial transportation facilities
- In July 2020, the ministry shared information on proposed amendments to eight class environmental assessments with the public on the Environmental Registry of Ontario, inviting comments, and also directly with Indigenous communities and organizations.
- These amendments, proposed by the proponents of the class environmental assessments, propose to exempt some low-impact projects from the requirements of the *Environmental Assessment Act* and make changes to make the process more efficient and effective.
- Since the original information was shared, the ministry has been working to answer specific questions raised by Indigenous communities including concern over duty to consult obligations, how archeological resources and burial sites would be considered for potentially exempted projects and how the ministry will be determining low risk in our own review of the proposals.
- The ministry is currently reviewing all the comments and feedback received throughout the consultation and is looking to make decisions in the near future.

On-going initiatives – Proposed exemption regulations

In summer 2020, the ministry also proposed regulatory exemptions from the *Environmental Assessment Act* to eliminate duplication and reduce delays for various projects and activities. One of the proposals will be upcoming for further consultation and the two of the proposed exemptions have been approved.

Decisions have been made on the following exemption regulations:

- 1. Select highway projects being planned by the Ministry of Transportation:** The ministry has made a regulation under the *Environmental Assessment Act* that conditionally exempts the Ministry of Transportation's Bradford Bypass from the requirements of the *Environmental Assessment Act*. The exemption is subject to conditions to promote environmental protection and provide for continued consultation with government agencies, Indigenous communities and members of the public.
- 2. Crown projects related to land claim settlements and other agreements with Indigenous communities:** Following the consultation on this proposal, a decision was made to exempt projects related to land claim settlements and certain other agreements with Indigenous communities about land, other than the Algonquin Land Claim Agreement, from the *Environmental Assessment Act*. As a result of the exemption, there will no longer be any requirements under the *Environmental Assessment Act* for projects or activities related to land claim settlements and other agreements with Indigenous communities concerning land.

Under review:

- 3. Projects within provincial parks and conservation reserves:** The ministry proposed to exempt all projects, by or on behalf of the ministry, in provincial parks and conservation reserves. We are also proposed an Environmental Impact Assessment Policy under the *Provincial Parks and Conservation Reserves Act, 2006* that would replace the requirements under the class environmental assessment and provide a similar process for impact assessment and consultation of projects within these protected areas.
- 4. Greater Toronto Area West Transportation Corridor project:** The ministry proposed a regulation to update the existing environmental assessment process for the Greater Toronto Area West Transportation Corridor project which would create, through an exemption, a new streamlined process for assessing potential environmental impacts and consultation.

On-going initiatives – Updating environmental assessment requirements for transmission lines

- We also recently consulted on proposed changes to the environmental assessment requirements for certain transmission line projects under the *Environmental Assessment Act*.
- Currently, an individual environmental assessment is required to establish a transmission line that is not associated with a generation facility that the Environmental Screening Process applies to under O. Reg 116/01, and is:
 - greater than 115 kV and less than 500 kV and greater than or equal to 50 km in length
 - greater than or equal to 500 kV and greater than 2 km in length
- We are proposing that establishing transmission lines:
 - 75 km or more in length and 345 kV or greater in voltage would be required to complete an individual environmental assessment; and
 - Those more than 2 km in length and with a nominal voltage of 115 kV or more, but which do not meet the criteria for an individual environmental assessment, would follow the Class Environmental Assessment for Minor Transmission Facilities.
- The proposed changes would align with Ontario's thresholds in the federal regulation under the federal *Impact Assessment Act* and would amend the Class Environmental Assessment for Minor Transmission Facilities to allow it to apply to establishing transmission line projects that have a voltage greater than or equal to 115 kilovolts but less than 345 kilovolts, greater than 2 kilometres in length or have a voltage greater than or equal to 345 kilovolts and less than 75 kilometres in length.
- The proposal was posted on the [Environmental Registry](#) with comments accepted through the Registry until September 3, 2021. Indigenous communities were provided additional time to submit comments, until September 24, 2021.



Part Two:

Environmental Assessment
Modernization the Year Ahead

Upcoming initiatives – Draft comprehensive environmental assessment project list regulation

- One of the key amendments to the *Environmental Assessment Act* was to allow us to move to a project list approach, clearly identifying projects that require an environmental assessment through regulation.
- Currently, projects are subject to environmental assessment based on “who” is doing the work, rather than what the project is. The project list for comprehensive and streamlined environmental assessments is critical to the transformational change required to modernize the environmental assessment program.
- In the fall of 2020, we sought input on a draft list of projects that would require a comprehensive environmental assessment under the future framework.
 - The ministry has been reviewing this feedback and developing a draft regulation that would designate projects as subject to a comprehensive environmental assessment.
- The ministry plans to further consult on the proposed Comprehensive Environmental Assessment Project List, including the draft regulation, in the near future.
- The ministry is also proposing a minor amendment to the *Environmental Assessment Act* to support a smooth transition to a modernized environmental assessment program by clarifying that the authority to amend a class environmental assessment and a class environmental assessment approval, includes changing the classes of projects that can follow a class environmental assessment.
 - More information can be found on the environmental registry: <https://ero.ontario.ca/notice/019-4189>

Upcoming initiatives – Proposal to exempt specific older projects from the new expiry date provisions

- At the same time as we consult on the draft regulation for the Comprehensive Environmental Assessment Project List, we will also be consulting on a proposal to extend select projects environmental assessment approvals.
- The amendments to the *Environmental Assessment Act*:
 - provide for a 10-year expiry date for approvals of projects that:
 - do not already have an expiry date
 - have not substantially started within 10 years (or an extended period if the Minister grants an extension) of approval being obtained
 - give the Minister the authority to issue a notice that extends the statutory expiry for certain older projects
- This statutory expiry date of 10 years, or any extended expiry date, will apply to approvals issued before the expiry date provision comes into force, if these older approvals do not have an expiry date.
- The proposed extensions would be granted through Minister's notices and the approval for these projects will not expire upon proclamation of the expiry date provisions in the *Environmental Assessment Act*.
- In considering whether to extend the statutory expiry, the ministry will be considering how to ensure continued environmental protection and oversight in relation to the infrastructure projects that matter most to Ontario communities.

Upcoming initiatives – Shifting to streamlined regulations from class environmental assessments

- One of the enabling changes made to the Act in July 2020 was to allow for the development a consistent, streamlined environmental assessment process to replace the replace outdated class environmental assessments and exemption regulations.
- The ministry is now moving forward with the development of a **proposal for a new streamlined environmental assessment regulation** beginning first for **municipal infrastructure projects**. Other streamlined processes will be developed afterwards, based on sectors.
- As a first step in developing the new process for municipal infrastructure, the environmental assessment modernization team held workshops with select municipalities and industry stakeholders to get early feedback on a streamlined environmental assessment process that:
 - sets out clear process requirements for impact assessment, consultation, and issues resolution;
 - applies to medium-impact municipal water, wastewater, and road projects (e.g. new water treatment plant);
 - creates process requirements that can be broadly and consistently applied to streamlined regulations for all project types that will be developed;
 - builds on our existing streamlined processes (i.e. the transit regulation, which provides a time-limited 6-month environmental assessment process and a focused impact assessment process); and
 - contains appropriate integration provisions to authorize that a single environmental assessment process be followed.
- The proposed amendments to the Municipal Class Environmental Assessment, as well as the feedback received on the proposal, will be used to inform the development of the new process as well as the projects that may be subject to it.
- Class environmental assessments and existing regulations will remain in place until consultation has occurred and these regulations are developed.

Upcoming Initiatives

Updated Deadlines Regulation

- This proposed regulation will impose time limits on proponents for completing its comprehensive environmental assessment and provide certainty on timelines for government decisions.
- The proposed timeline changes will not result in lessening the requirement to consultation with Indigenous communities.

Consultation on Proposed sectoral Terms of Reference Regulation

- The ministry will be developing a proposal for a regulation to set out “standardized workplans” (content for terms of reference) for key sectors. These workplans would allow a proponent to follow a pre-set workplan for the terms of reference for projects subject to a comprehensive environmental assessment.
- A terms of reference for a specific project prepared in accordance with any sectoral terms of reference regulation would still require approval of the Minister to allow for the Minister to consider whether any project-specific modifications to the terms of reference should be made.

Consultation on Proposed Changes to Code of Practice (non-regulatory)

- The ministry's guidance and expectations for proponents to consult with Indigenous communities is outlined in a Code of Practice.
- The ministry intends to propose updates to the Code of Practice through consultation with Indigenous communities, to ensure that the ministry's expectations of proponents are clearly outlined and to ensure that the code incorporates practices and guidance to promote meaningful consultation with Indigenous peoples where Aboriginal or treaty rights may be adversely impacted, and where communities have expressed interest in a project.

Canada – Ontario Agreement on Environmental Assessment Cooperation:

- The ministry and federal Impact Assessment Agency are working to update our 2004 Canada-Ontario Agreement on Environmental Assessment Cooperation.



Questions?

Website

<https://www.ontario.ca/page/modernizing-ontarios-environmental-assessment-program>

Contact

EAModernization.MECP@Ontario.ca