



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

MINISTRY OF THE ENVIRONMENT, CONSERVATION AND PARKS
OCTOBER 2023

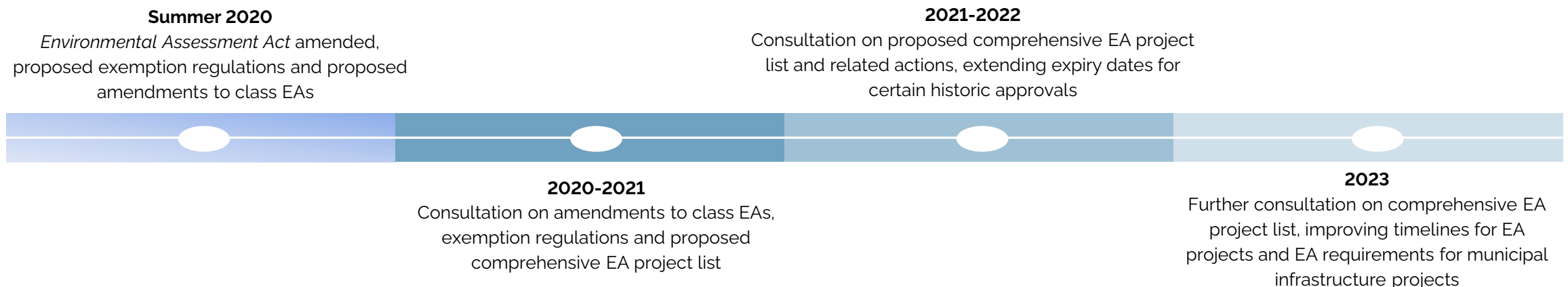


Part One:

Environmental Assessment
Modernization in Review

Our modernization journey

- Ontario is modernizing its almost 50-year-old environmental assessment (EA) program. We are phasing-in sensible, practical changes to the EA program that will maintain environmental oversight, while reducing delays on priority projects.
- 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 EA Act came into force immediately. However, most of the key changes will not take effect until the relevant amendments are proclaimed and required regulations are made (please see next slide).
- The following slides outline our progress to-date on EA modernization and describe some next steps. A timeline of key initiatives is presented below.



Summary of legislative changes

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

Progress to-date – Exemptions and Efficiencies

The ministry has been consulting on amendments to class EAs and exemption regulations to better align EA requirements with potential for impact, reduce duplication with other planning or approvals processes, and make processes more efficient.

Proponents of class EAs 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.

In July 2020, the ministry consulted on amendments proposed by the proponents of the eight class EAs.

- Activities under the Mining Act
- **Minor transmission facilities**
- **Municipal**
- Provincial transportation facilities
- Public works
- Remedial flood and erosion control
- Resource stewardship and facility development projects
- **Waterpower**

To date, we have approved amendments to three Class EAs (in bold above) and continue to consider feedback on the remainder. The ministry has responded to questions raised by Indigenous communities including concerns over duty to consult obligations, how archeological resources and burial sites would be considered for potentially exempted projects and how the ministry determines what is ‘low risk’ in our own review of the proposals.

Progress to-date – Exemptions and Efficiencies

Exempting low-risk activities

- Summer 2019: Exempted more than 350 low-impact projects like snow-plowing and de-icing, and adding bike lanes.
- January and July 2022: Class EA for Minor Transmission Facilities amended, including more transmission projects able to follow a streamlined process and low-risk projects exempted.
- February 2022: Class EA for Waterpower Projects amended, including a screening process for certain waterpower projects.
- March 2023: Amended the Municipal Class EA, exempting more low-risk projects.
- September 2023: Exempted projects related to provincial parks and conservation reserves.

Reducing duplication

- July 2020: Exempted forestry activities to remove duplication with MNRF requirements.
- March 2021/September 2023: Exempted projects related to Indigenous land claim settlements to remove duplication with IAO.

Process efficiencies and streamlining

- July 2020: focussed the grounds for appeal for Class EA projects to impacts on Aboriginal and treaty rights.
- July 2022: updated EA thresholds for thermal treatment facilities engaging in advanced recycling.
- May 2023: amended the EA Act to allow the Minister to waive or alter 30-day waiting period after Class EA process
- August 2023: regulatory changes to allow certain landfill expansions to follow a streamlined EA process.

Comprehensive Project List Proposal

- As noted earlier, one of the key amendments to the *Environmental Assessment Act* allows us to move to a project list approach, clearly identifying projects that require an EA 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 is a key component of the transformational change required to modernize the environmental assessment program.
- In 2020, 2021-22 and again in 2023 (<https://ero.ontario.ca/notice/019-4219>) we sought input on a proposed list of projects that would require a comprehensive EA under the future framework.

Date	Activity
September 2020	The ministry began consulting Indigenous communities and organizations on the proposed list of projects that would require a comprehensive EA.
November 2021	The ministry began consulting on the draft regulations and related actions for moving to a comprehensive EA project list, held webinars and meetings with Indigenous communities and organizations, as well as municipalities and other stakeholders.
March 2023	We began consulting on an updated proposal that would move all transmission and transportation (rail and highway) projects to the applicable streamlined process. Significant waste, large waterpower facilities, oil generation facilities and large waterfront projects would be subject to the comprehensive EA process.

Municipal Infrastructure Proposal

- Following approval of the amendments to the Municipal Class EA, the ministry recognized that more could be done to further improve the EA process for critical infrastructure projects.
- In March 2023 we began consultation on a proposal to evaluate EA requirements for municipal infrastructure (road, water and wastewater) projects that are currently subject to the Municipal Class EA (<https://ero.ontario.ca/notice/019-6693>).
- Depending on the project and location there may be other legislative, planning processes or authorizations required that would provide for the assessment of a project's impacts, consultation requirements, and any other conditions for proceeding (e.g., technical studies) outside of the Municipal Class EA process. Many municipalities prepare and update capital planning, asset management plans and Servicing Master Plans for infrastructure such as roads, water, and wastewater.
- During the consultation period, we received input from Indigenous communities, municipalities, home builders and others, and are currently reviewing feedback received.

Improving EA Timelines

- Also in March 2023 we notified of a posting seeking input to improve timelines for comprehensive EA projects (<https://ero.ontario.ca/notice/019-6705>).
- The posting identified four areas for improvement:
 - Sector-based terms of reference
 - Guidance for proponents
 - Updating the codes of practice
 - Improving internal review processes
- We continue to review and seek further input to inform future proposals to improve timelines for comprehensive EA projects.

Extending the expiry dates of certain projects

- At the same time as we consulted on the draft regulation for the Comprehensive Environmental Assessment Project List in 2021-22, we also consulted on a proposal to extend the EA approvals for certain historic projects (<https://ero.ontario.ca/notice/019-4428>).
- 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.



Part Two:

Environmental Assessment
Modernization Next Steps

Ongoing Initiatives – Next Steps

Comprehensive EA Project List

- We are reviewing feedback received on the most recent comprehensive EA project list proposal, and related actions. When a decision is made, it will include new regulations and updates to existing ones, as well as updated guidance documents and changes to Class EAs to align with the proposal.
- Decisions on the proposed extensions to certain expiry dates would occur at the same time.

Municipal Infrastructure

- We are reviewing feedback received on the proposal to inform our next steps.

Upcoming Initiatives

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.

Looking at Guidance and Internal Processes

- The ministry's guidance and expectations for proponents on how to carry-out environmental assessment are outlined in EA codes of practice (Preparing and Reviewing Terms of Reference, Preparing and Reviewing EAs, Consultation, etc.).
- The ministry will seek input as the codes are updated.



Questions?

Website

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

Contact

EAModernization.MECP@Ontario.ca