



---

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

MINISTRY OF THE ENVIRONMENT, CONSERVATION AND PARKS  
OCTOBER 2024





# **Part One:**

## **Environmental Assessment Modernization in Review**

---

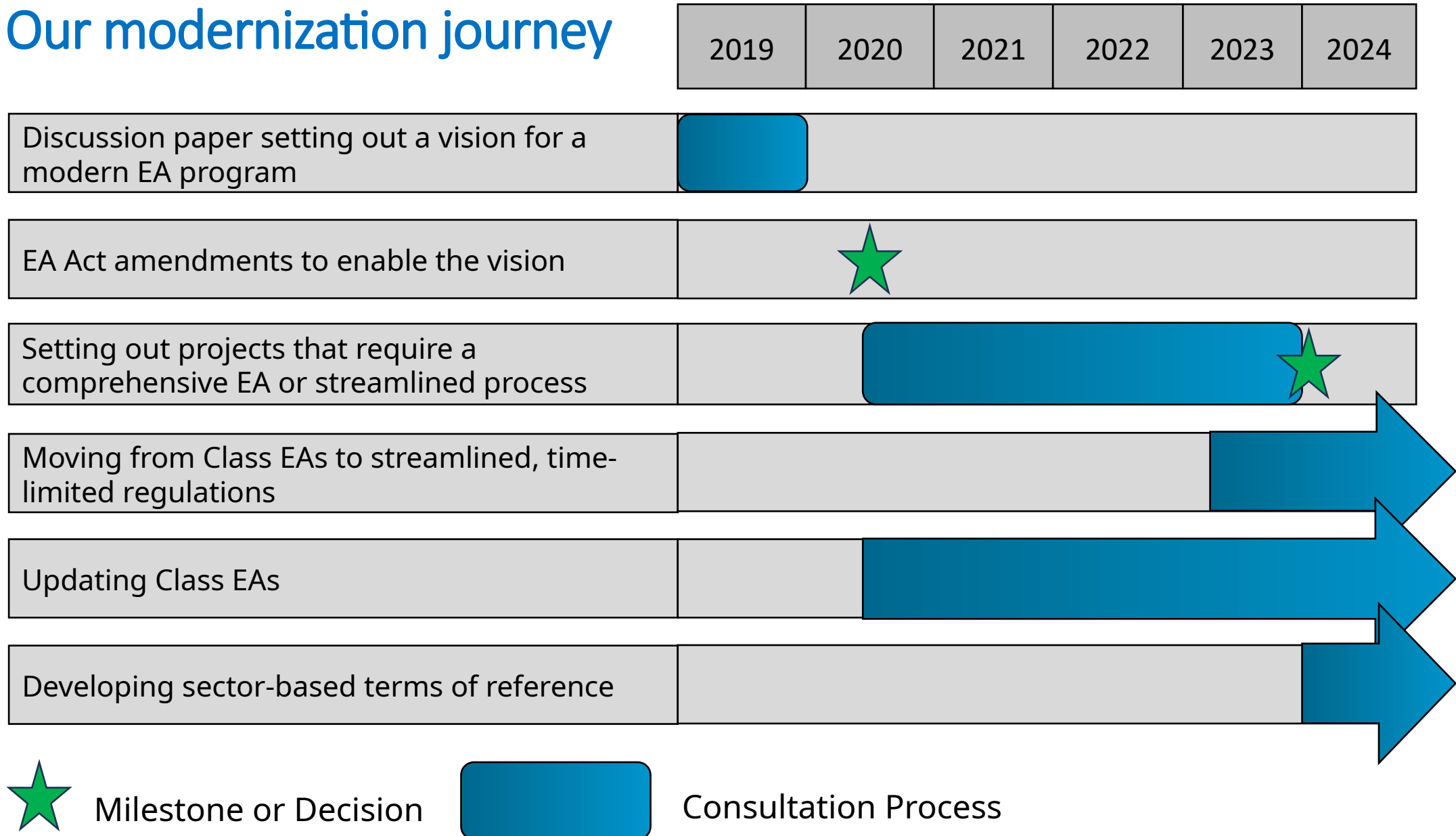
# Our modernization journey

- 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 and help get critical infrastructure built faster to support Ontario's growing population.
- Building on our 2019 vision for a modernized EA program, amendments were made to the **Environmental Assessment Act** in 2020.
- We've implemented a number of changes to make the program more efficient, reduce duplication and align the level of assessment to potential environmental impact.
- Projects subject to EA must continue to be implemented in a way that is protective of the environment.
- The following slides outline our progress to-date on EA modernization and describe some next steps.

# Summary of EA Act changes

| Before EA Modernization Changes  | EA Modernization Changes   |
|--|--|
| Environmental Assessment (EA)s required for all public sector projects, unless exempt, and some private sector activities.   | <b>Enable Project List:</b> Projects that require a comprehensive EA are now identified in regulation. More projects can follow a streamlined process.   |
| 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). | <b>Enable Streamlined Processes:</b> Consistent process requirements for all streamlined projects being developed.<br><br>Process for elevation of Class EA project to a comprehensive EA now focused on potential adverse impacts to Aboriginal or treaty rights (Section 16) |
| Project-specific workplans (i.e. Terms of Reference) which often take 2 years to complete.   | <b>Enable Standardized Workplans:</b> Sector-based term of reference, saving up to 1.5 years, being developed.   |
| Deadlines which are rarely achieved, and EAs which never expire even if environmental conditions have changed.   | <b>Clarify Timelines:</b> Process improvements (e.g., letters sent by ministry when deadlines not met) and 10-year expiry dates on EA approvals.   |
| Federal - provincial IA/EAs which are coordinated, but still follow two processes and have two decisions.  | <b>Reduce Duplication:</b> 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.  | <b>Move to Online Submissions:</b> Working to develop a modern submission process 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.   | <b>Demonstrate Municipal Support:</b> New large landfills now need to demonstrate support from the host municipality and certain adjacent ones.  |

# Our modernization journey



## Progress to Date – Moving to a Project List Approach

After consulting on the comprehensive EA project list proposal in 2020, 2021-22 and again in 2023, a series of regulations have been made and took effect in February 2024 (see Appendix A):

- The Comprehensive EA Projects Regulation lists the projects that are subject to the comprehensive EA process as well as those conditionally exempt from this process subject to following an applicable streamlined EA process.
- Now, only those project types listed in the Comprehensive EA Projects Regulation, and those set out in approved class EAs, are subject to EA requirements.
- No changes were made to the EA process for those projects that continue to require the highest level of assessment.
- Projects not subject to EA can still be made subject through regulation, and proponents can still volunteer to carry out an EA.

# Comprehensive EA Projects List – A Snapshot

| Individual EA Projects (before February 22, 2024)  | Projects in Comprehensive EA Projects Regulation   |
|--|--|
| <b>Transportation</b>  |  |
| <ul style="list-style-type: none"> <li>• All new provincial freeways</li> <li>• All new municipal expressways regardless of length, and major changes to existing ones</li> </ul>  | No transportation projects are on the list (moved to Provincial Transportation Facilities and Municipal Expressways Class EA).   |
| <b>Rail</b>  |  |
| <ul style="list-style-type: none"> <li>• Railway line projects for freight &amp; passenger could trigger an individual EA process depending on the proponent</li> </ul>  | No rail projects are on the list (moved to Transit and Rail Project Assessment Process).   |
| <b>Electricity - Generation</b>  |  |
| Establishing or significant modifications to: <ul style="list-style-type: none"> <li>• Hydroelectric facilities with capacity <math>\geq 200</math> Megawatts (MW)</li> <li>• Generating facilities that use oil, with capacity <math>&gt; 5</math> MW</li> <li>• Generating facilities that use coal</li> </ul> | No changes   |
| <b>Electricity - Transmission</b>  |  |
| <ul style="list-style-type: none"> <li>• Transmission lines <math>\geq 345</math> kV and <math>\geq 75</math> km in length</li> <li>• Transformer stations designed to operate at <math>&gt; 500</math> kV</li> </ul>  | No transmission line or station projects are on the list (moved to Transmission Facilities Class EA)   |
| <b>Waterfront Projects</b>   |  |
| <ul style="list-style-type: none"> <li>• Waterfront projects could trigger an individual EA process depending on proponent and the cost (e.g., municipal cost threshold is \$3.5M)</li> </ul>  | Projects located in the Great Lakes-St. Lawrence River System that involve establishing works that both: <ul style="list-style-type: none"> <li>• alter <math>&gt;1</math> km of shoreline; and</li> </ul> |

# Comprehensive EA Projects List – A Snapshot

## Individual EA Projects (before February 22, 2024)

## Projects in Comprehensive EA Projects Regulation

### Waste

#### Landfills

- Establishing a new landfill greater than 100,000 m<sup>3</sup>
- Expansions > 375,000 m<sup>3</sup>; > 100,000 m<sup>3</sup> and > 25% increase in total waste
- Certain projects that involve excavation of waste

No changes.

#### Hazardous Waste

- Establish a waste disposal site where hazardous or liquid industrial waste is finally disposed of, and certain changes to these facilities

No changes.

#### Thermal Treatment

- Individual EA requirements for thermal treatment sites are based on tonnage, uses and fuel type.
- E.g. Class D sites\* that treat > 1000 tonnes per day (TPD); and sites that treat > 100 and ≤ 1000 TPD with < 70% of material recovered, certain changes to these facilities.

No changes.

### Other

- Public sector undertakings that do not have access to a streamlined EA process or exemption (e.g. university satellite campuses and war memorials).

Only projects on the list require a comprehensive EA.

\*Advanced recycling site that does not use coal oil or petroleum coke as a fuel, and does not include generating energy from waste



# Progress to Date- Extending expiry dates of approvals for certain projects

- As the environment and regulatory standards change over time, the EA Act now provides 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 granted by the Minister) of approval being obtained
- The Minister has the authority to extend the expiry date for older projects, and to include conditions, including for increased environmental protection.
- When amendments to the EA Act were proclaimed in February 2024, we also extended the statutory expiry date for eight projects by 10 years, subject to the conditions of the original EA approval and the conditions of the extension which.



## **Part Two:**

### **Environmental Assessment Modernization: Ongoing and Upcoming Initiatives**

---

# Ongoing Initiatives: Municipal Infrastructure Proposal

## Background

- Amendments were made to the Municipal Class EA (MCEA) in 2023 as part of the first phase of EA Modernization.
- The ministry recognized that more could be done to further improve the EA process for critical municipal infrastructure projects to support Ontario's rapidly growing population.
- In March 2023 we consulted on a proposal to evaluate EA requirements for municipal infrastructure (road, water and wastewater) projects that are currently subject to the MCEA.
- In February 2024, the Ministry sought input on a more detailed proposal to replace the MCEA with a streamlined regulation setting out a time-limited EA process, the Municipal Project Assessment Process (MPAP).

# Ongoing Initiatives: Municipal Infrastructure Proposal (Continued)

- We proposed that certain water, sewage, and shoreline/in-water infrastructure projects undertaken by municipalities would continue to be subject to the EA Act. These projects are, for the most part, currently subject to Schedule C of the MCEA.
- Examples of these project types include:

|                             |  |
|-----------------------------|--|
| Drinking water facilities   | <ul style="list-style-type: none"><li>• establishing a new surface water source</li><li>• constructing a new water treatment plant</li></ul>   |
| Sewage treatment facilities | <ul style="list-style-type: none"><li>• constructing a new sewage treatment plant that processes over 50,000 litres of sewage per day</li><li>• establishing new lagoons greater than 50 000 lpd capacity or expanding lagoons beyond 25% of their existing rated capacity</li></ul> |
| Shoreline/In-water works    | <ul style="list-style-type: none"><li>• constructing a new dam in a watercourse</li><li>• constructing new shoreline works such as offshore breakwaters or sea walls</li></ul>   |

- The proposed changes would lead to some projects no longer having EA Act requirements, e.g., private sector projects, municipal projects currently listed in Schedule B of the MCEA and road projects (except municipal expressways).

# Ongoing Initiatives: Municipal Infrastructure Proposal (Continued)

Under the proposed new process, proponents will be required to undertake an assessment of the project's potential environment impacts, consider mitigation and consult.

## MCEA

- Timeline typically 18-24 months – proponent led
- MCEA requires 'alternatives to' a project to be considered for those in Schedule C.
- Proponent required to assess and consult on alternative methods of carrying out the project
- Three mandatory consultation points
- 30-day comment period
- 30-day Minister's review period
- Minister's order requests focused on adverse impacts to Aboriginal or treaty rights

## Proposed MPAP

- Regulated timeline (6 months with possibility of up to 30-days "time-out")
- MPAP process begins once the proponent has defined the proposed project is (after any consideration of 'alternatives to').
- Proponent required to consult on any alternative methods of carrying out the project.
- Three mandatory consultation points
- 30-day comment period
- 35-day Minister's review period
- Minister's order requests focused on adverse impacts to Aboriginal or treaty rights

# Improving EA Timelines – Sector-based ToR for Landfill Projects

The ministry is developing a proposal for a regulation and supporting guidance to set out a “Sectoral Terms of Reference (ToR)” or standardized workplan for certain types of projects.

- Proponent could follow a pre-set workplan for a project subject to a comprehensive EA, rather than having to start a ToR from scratch.
- We anticipate this would allow a project to complete the ToR phase in as little as 6 months, down from the 2 years on average it currently takes while maintaining a robust EA process.
- A project planned under a sectoral ToR regulation would still require approval of the ToR from the Minister.

The ministry will be developing the first sector-based ToR for landfill expansion projects.

- Proponents of landfill projects undertake the same types of studies and consider same alternatives and mitigation as part of the EA process.

The ministry will also be looking into developing sector-based ToRs for other types of projects.

# Improving EA Timelines – Updates to Codes of Practice

The ministry's guidance and expectations for proponents on how to carry-out comprehensive EAs are mainly outlined in EA codes of practice (Preparing and Reviewing Terms of Reference, Preparing and Reviewing EAs, Consultation, etc.).

The EA Codes of Practice were developed in 2007 and last updated in 2014.

Updates to the Codes of Practice are necessary to:

- Reflect the 2020 amendments to the EA Act and other recent changes.
- Provide a more clear and concise explanation of EA requirements and expectations, including the studies required to understand the project's potential impact to the environment.
- Generate better quality submissions.
- Improve EA timelines.

The ministry will seek input from the public and Indigenous communities when the comprehensive EA guidance is reviewed/updated.



Questions?

---

Website

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

Contact

EAModernization.MECP@Ontario.ca



## APPENDIX A: Moving to a Project List Approach – Related Actions

| Action Taken                                 | Description   |
|--|---|
| <b>Various Proclamations</b>                 | <ul style="list-style-type: none"> <li>Sections of EA Act relevant to moving to a project list approach and Comprehensive EAs</li> <li>Consequential amendments to 18 laws other than the EA Act</li> </ul>   |
| <b>3 New Regulations</b>                     | <ul style="list-style-type: none"> <li>O. Reg. 50/24 – Part II.3 Projects: Designations and Exemptions <ul style="list-style-type: none"> <li>Replaced O. Reg. 116/01 and O. Reg. 101/07</li> </ul> </li> <li>O. Reg 51/24 – Exemptions Regulation <ul style="list-style-type: none"> <li>Replaced Regulation 334 – General</li> </ul> </li> <li>O. Reg. 53/24 – General and Transitional Matters Regulation <ul style="list-style-type: none"> <li>Replaced O. Reg. 345/93 – Designation and Exemption - Private Sector Developer</li> </ul> </li> </ul> |
| <b>15 Amendments to Existing Regulations</b> | <ul style="list-style-type: none"> <li>Consequential amendments to regulations to align them with amended EA Act and new regulations</li> <li>Amendments to O. Reg 231/08, which sets out the Transit and Rail Project Assessment Process</li> </ul>  |
| <b>126 Revocations</b>                       | <ul style="list-style-type: none"> <li>Exemption regulations, declaration orders and GO Transit Class EA were revoked as they are no longer required or applicable with the move to a project list approach</li> </ul>  |
| <b>7 Class EA Amendments</b>                 | <ul style="list-style-type: none"> <li>Amended class EAs to align with the amended EA Act and new regulations <ul style="list-style-type: none"> <li>Two of the class EAs were also amended to provide coverage for highway and transmission projects</li> </ul> </li> </ul>  |
| <b>3 EA Guide Updates</b>                    | <ul style="list-style-type: none"> <li>Waste Management Projects, Electricity Projects and Transit and Rail Projects EA Guides were updated to align with the amended EA Act and new regulations</li> </ul>   |