

Ministry programs and initiatives

Important Milestone for Environmental Assessment in Ontario

The Environmental Assessment and Consultation Improvement Act, 1996, which came into force on January 1, 1997, promises to change the face of environmental assessment (EA) in Ontario.

Twenty years of experience gained since 1975 — when the Environmental Assessment Act was first enacted — provided evidence that we needed to take a fresh approach to EA in Ontario.

The result — an environmental assessment process that is less costly, more timely and more effective. Not only will these changes provide high quality environmental protection, but they will make it easier for people to participate in the decision-making process.

In drafting this legislation, we successfully built upon the strengths of the Environment Assessment Act by preserving its key elements.

For the First Time

What defines EA has not changed, but important new features have been added.

For the first time:

- proponents (those proposing a project) will be legally required to consult with the public to ensure that issues are identified and resolved early on;
- early, clear direction will be provided to all stakeholders (groups or individuals with an interest in the project) at the start of an environmental assessment through the development of Terms of Reference. These benchmarks will be approved by the Minister and will be legally binding;
- timeframes will be established in regulation for all key steps in the decision-making process — these will act as deadlines for all those involved and will ensure timely decisions;
- the Minister will be able to refer disputes to mediation so they are not prolonged needlessly;
- a clear role will be defined for Class Environmental Assessments;
- the Minister will have the ability to reject an incomplete assessment early in the process — currently, the Minister's only recourse is to refer

such a submission to a costly and potentially time-consuming hearing;

- Ontario will work jointly with the federal government towards harmonizing federal and provincial requirements — this would ensure that one project undergoes only one assessment;
- EA Board hearings will be focused on outstanding contentious issues with hearing timeframes set by the Minister.

Background

Since 1989, when reform proposals were first considered, the ministry has met with groups and individuals across Ontario, including environmental and community groups on improving the EA process.

Over the past year public hearings were held in Chatham, Toronto, Kingston, North Bay and Thunder Bay during which numerous submissions were put forward by stakeholder groups and the public.

Bill 76 accomplishes what has long been sought after by the people of Ontario — it improves and strengthens Ontario's environmental protection and environmental assessment process.

EA reforms will give clear direction to proponents and stakeholders, ensure timely reviews and decisions, focus assessments on environmental effects, and will accelerate the decision-making process.

The EAA will continue to apply to most public sector projects and to some private sector projects when a regulation is passed designating them under the Act. For example, most private sector landfills and certain major infrastructure projects are subject to the Act.

How the New Act Benefits the People of Ontario

Bill 76 strengthens environmental protection, making the environmental assessment process more workable and ensuring public consultation — all of which contribute to sound environmental decision-making. Environmental protection remains the overriding objective of the Act. The following results are expected from the Act:

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The new Act will make the environmental assessment process less costly, more timely, more effective, and easier for people to participate.
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- improved environmental protection;
- timeframes for government decision-making will be reduced and fixed;
- overall EA preparation and approval time will be reduced — i.e. get to “yes” faster for good projects and “no” for bad projects;
- issues will be identified and resolved early on through Terms of Reference and mediation;
- EAs will cost less since studies will focus only on significant issues — it will no longer be necessary for proponents to try to cover an exhaustive list of possible requirements that might be placed on them;
- public consultation will be encouraged and red tape discouraged;
- EA will focus more on environmental effects and less on process;
- role of class EAs will be clarified;
- EA Board hearings will have set timeframes and will focus on the outstanding contentious environmental issues.

Next steps

Implementation of the reforms has already begun with the placement of several items for consultation on the Environmental Bill of Rights Registry related to:

- transitional provisions including providing directions to proponents with projects already in the process to enable them to take advantage of the reforms;
- a Consolidated Hearings Act regulation to reduce duplication and overlap in hearings before the Joint Board;
- regulations to prevent duplicate hearings under the Environmental Protection Act and the Ontario Water Resources Act.

Other consultations of this type are expected to be carried out on future regulations.

FOR MORE INFORMATION

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This fact sheet and other information about Ministry of Environment and Energy initiatives can be accessed through the following Internet Web site: <http://www.ene.gov.on.ca>

Copies of the Environmental Assessment and Consultation Improvement Act, 1996 are available through government bookstores.

KEY COMPONENTS OF THE NEW ACT

Terms of Reference

Terms of Reference will detail how the proponent will carry out the work involved in the proposed EA project and will focus on the environmentally significant issues of an undertaking. Proponents will prepare a Terms of Reference for each project after consultation with the public and government review agencies. Once prepared, the Terms of Reference will receive Minister's approval and be made available to the public.

Developing the Terms of Reference will be an open process and will give interested parties an opportunity to comment on the concerns to be addressed in the EA. An environmental assessment must be prepared in accordance with the approved Terms of Reference. The key elements of an EA will be maintained and will include a broad definition of environment and identify which alternatives will be examined.

Timelines

Tight regulated timelines will be established for all key decisions in the review and approval process and for the following tasks: approval of the terms of reference, completion of the government's technical review and the Minister's decision to approve a project. These timelines will provide certainty for all participants and ensure that decisions are made on time.

Consultation/Mediation

The Ministry has enshrined the requirement for early public involvement in the EA Act. Making public consultation a requirement early on in the process protects the public's interest and is expected to ensure issues are identified and resolved where possible, or reduce the number of issues that may need to be addressed at a hearing. New powers also exist to allow the Minister to send contentious issues to mediation at any step in the process. This will help resolve issues early on before positions become entrenched and polarized. Time limits will be set for the length of the mediation processes with a maximum timeframe of 60 days. The intent of the mediation is to resolve issues without the need for a hearing. Anyone can be appointed as a mediator, including the EA Board.

EA Board Hearings

The public's right to request a hearing remains an integral part of the Act. No one wants unnecessary or lengthy hearings. When a hearing is in the public interest, the Act allows the Minister to focus the hearing to outstanding, environmentally contentious issues only and to set a timeframe for the Board to report its decision.

If hearings are required, concentrating on specific outstanding issues only will prevent the rehashing of issues which have already been resolved. The Minister's power to scope issues will reduce the time and money spent on hearings. Post-hearing cost awards will continue to be available where the EA Board considers them warranted.