



**ENVIRONMENTAL**

**ASSESSMENT**

**REFORM**

*A report on improvements  
in program administration*

 **Ontario**

*Ministry of Environment and Energy*

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## MINISTER'S MESSAGE

Since it began 17 years ago, Ontario's environmental assessment (EA) program has been very effective in preventing environmental problems.

The Ministry of Environment and Energy is committed to building on the success of the program by making it clearer, more efficient and less costly. These were the goals of the Environmental Assessment Program Improvement Project (EAPIP), which was established in 1988.

The EAPIP Task Force, after extensive consultation, published its final report in December 1990. This report then was reviewed during a series of public meetings held by the Environmental Assessment Advisory Committee (EAAC). EAAC submitted the final part of its report in January 1992. With this report, I am pleased to provide the EAAC report on EA reform for your information and reference.

Those who took part in both the EAPIP and EAAC public consultations raised significant issues. The comments raised, and the EAPIP Task Force and EAAC recommendations which resulted from those comments, were the building blocks for the EA reform initiatives and direction you see presented in this report.

Many of the EA reforms outlined here in *Environmental assessment reform A report on improvements in program administration* are already underway. For example, we have reduced the average length of time it takes to prepare and publish EA reviews from 16 months to 10 months. We have published draft decision-making criteria by which we assess bump-up, designation and exemption requests. The ministry published more EA reviews in the 1991-92 fiscal year than in the previous four fiscal years combined. Similar performance was achieved in 1992/93. Furthermore, we are providing better direction to EA proponents regarding the requirements they need to meet at the outset of their planning.

We have decided to concentrate first on administrative measures to improve the efficiency and clarity of direction in EA, enhance public consultation in EA and streamline the EA review and hearing process, rather than proceeding with immediate legislative reforms as recommended by the EAPIP Task Force and EAAC. I believe that the ministry, people undertaking projects and the public need experience working with these administrative reforms before we can determine where legislative amendments are needed.

Although the EA Act will not be extended to apply to the private sector at this time, I am committed to the development of a regulation which applies the act comprehensively to private sector waste activities. As well, I will continue to review public requests to designate other select private sector activities under the EA Act. The government also has passed a regulation recently making select privately constructed municipal roads, sewage and water projects subject to class EAs.

I would like to thank each of you who contributed to the development of these reforms and I look forward to your continuing role in their implementation. Together we can make the environmental assessment program an even better protector of the environment.

C.J. (Bud) Wildman  
July 19, 1993

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## REPORT SUMMARY

### What is environmental assessment?

Environmental assessment, or EA, is a process that promotes good environmental planning in Ontario. The aim of this process is to protect and conserve Ontario's environment by considering the broad range of environmental effects which result from development activities and what the alternatives to those activities might be. Through these considerations, sufficient information on a proposal can be collected to allow an informed decision to be made.

The authority for the EA planning process lies with the *Environmental Assessment Act* (EA Act), which came into force in 1976. The purpose of the act is "the betterment of the people of the whole, or any part of, Ontario by providing for the protection, conservation and wise management of the environment." The EA Act provides a broad definition of "environment" which includes not only the natural environment but also the social, cultural and economic components of the environment.

Currently, the EA Act applies to projects of Ontario government ministries and agencies and to municipal and conservation authority projects. Projects carried out by the private sector generally are not subject to the act. However, private sector projects can be made subject to the act if the potential environmental impacts are considered sufficient to warrant such action.

### Why the need for environmental assessment reform?

By 1988, the purpose of the EA Act was still considered to be sound by the ministry. However, it was clear that the administration of the act needed to be improved and clarified in response to concerns that the process was too long, too expensive and that more detailed guidance through the process was needed. The Environmental Assessment Program Improvement Project (EAPIP) was initiated to respond to this need.

The guiding principles of EAPIP were to:

- ▶ Make environmental decision-making easier,
- ▶ Promote early and meaningful consultation with affected people;
- ▶ Reduce the length of time it takes to complete EA reviews and to conduct EA Board hearing;
- ▶ Provide clear, timely and consistent advice to people involved in the EA process;
- ▶ Reduce the time and costs spent by people in the EA process;
- ▶ Ensure that the purpose of the act is maintained or improved.

The stated goal of EAPIP was: "to improve the EA program's effectiveness, fairness, efficiency, clarity, certainty and value for money," while maintaining the purpose of the act.

## **What will this report do?**

The Ministry of Environment and Energy (MOEE) is now in the implementation stage of EA reforms. This report sets out how the ministry will implement these reforms. In this report, you will find the following chapters:

Chapter 1 explains how the ministry is processing EA documents more efficiently using a streamlined EA review process.

Chapter 2 outlines the variety of methods being used to clarify instructions given in the EA process. These include new documents to define the EA planning process, to interpret the EA Act and to define the roles of various participants in the EA process. All these documents will be written using clear, understandable language.

In chapter 3, the methods by which the consultation process in EA will be made more effective are identified, as are the ways in which they will be implemented.

Chapter 4 discusses ways in which the

class environmental assessment process will be promoted and clarified. A class EA guideline is proposed to provide clear requirements for this significant component of the EA program.

The focus of chapter 5 is how more timely and effective EA Board hearings will be achieved. A variety of initiatives are proposed to reduce hearing cost and length.

Chapter 6 explains how EA decisions by the Ministry of Environment and Energy will be made in a more open and accountable way and how the consideration of environmental effects will be broadened. As well, responsibilities for protecting the environment after the completion of a project will be made more clear.

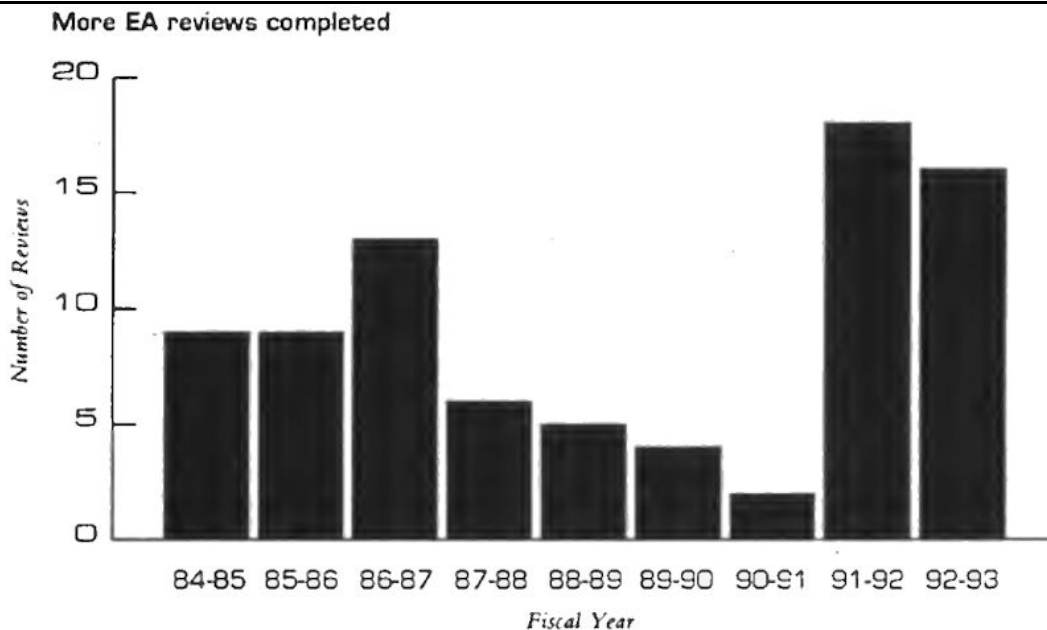
Chapter 7 provides a summary on how the individual EA process will be improved and chapter 8 shows how the effectiveness of EA reform will be monitored. Appendix A provides a glossary of EA terms which are used in this report and Appendix B presents a comprehensive list of the EA reform documents the ministry intends to produce.

## CHAPTER 1. STREAMLINING THE EA REVIEW PROCESS

One of the key goals of EA reforms is to expedite the EA review and approval process.

In the 1991-1992 fiscal year, more EA reviews were completed than in the previous four fiscal years combined.

For the 1992-1993 fiscal year, 16 EA reviews were completed and published.



The improvements presented in the chart above have occurred as a result of the successful implementation of several reform initiatives, including:

► ***A more efficient review process***

In the ministry's administration of the EA program, new priority has been given to the timely completion of reviews and the provision of clear advice.

The EA Branch is conducting concurrent public and government agency reviews of EAs, providing members of the public with an opportunity to have their concerns addressed in the review as well as once the review is completed. This differs from the former

practice which was to solicit public comment only after the government review was completed. Standard notice formats and procedures are being developed to improve communication of information and to speed up the EA submission and review process. There are also continuing efforts to standardize the contents of the EA review. This will improve consistency and clarity and help focus the proponent on what the reviewers are looking for in an EA document.

Finally, the minister is committed to reducing the time it takes to make decisions on EA approvals. The ministry intends to set out all time frames associated with the EA process in MOEE policy.

► ***Better staff training and resourcing***

Recently upgraded EA Branch staff training has improved the consistency and clarity of direction to EA Branch client groups. Increased resources have been assigned to the EA Branch to address problems with workload levels and with commitments to completion times for reviews. New units within the branch have been added to implement EA reforms. A roster of consultants with EA-related expertise has also been developed. The services of consultants are helping the branch respond to peak work demands and provide specific expertise. Finally, a manual has been prepared of all EA Branch practices and procedures. These practices and procedures guide staff on the effective administration of their duties.

► ***A commitment to resolving issues of concern***

During the preparation and review of an EA, efforts towards resolving outstanding issues can consume a great deal of time. Channelling selected issues to alternative dispute resolution mechanisms, such as using trained mediators, has been tried and will continue to be explored. Using this method of conflict resolution can reduce the length and number of hearings.

The negotiation of terms and conditions of approval of an undertaking also is being encouraged as a method to address outstanding concerns about an EA. This speeds up the process and reduces the need for a hearing.

**EA review approval time shortened**

The EA reform goal is to reduce the average length of the EA process from submission to approval decision - to 12 months.

**EA approval times**

Historic 1976 - 1991	24.6 months
EA reform goal1	2 months



**List of reviews completed 1991-1992 fiscal year (April 1, 1991 - March 31, 1992)**

<b>CLASS EA AND AMENDMENTS TO CLASS EA REVIEWS</b>		<b>DATE NOTICE ISSUED MM/YY</b>
GT	Amendments to GO Transit Class EA	05/91
OH	Minor Transmission Facilities Class EA	09/91
MEA	Amendments to Municipal Sewage & Water Projects Class EA	02/92
MEA	Amendments to Municipal Road Projects Class EA	02/92
ACAO	Amendments to Water Management Structures Class. EA	08/91
<b>INDIVIDUAL EA REVIEWS COMPLETED</b>		
GT	GO Train Service Expansion - Burlington to Hamilton	05/91
MTO	Highway 6 (new) Hamilton to Caledonia	06/91
PRIVATE	Storrington Landfill - Laidlaw	08/91
OH	Lake Gibson Small Hydro Generating Station	09/91
MUN	Metro-Toronto/Leslie Street Extension	09/91
MUN	TTC - Spadina Light Rail Transit	09/91
MUN	TTC - Spadina Subway Extension	09/91
GRCA	Dunnville Boat Lock with Dam & Weir Rehabilitation	10/91
OH	RSI - Acton Quarry Landfill EA	11/91
OH	Nobel Switching Station	01/92
OH	West of London - Bulk Electrical Transmission	01/92
OH	Northeastern Ontario Transmission Reinforcement	02/92
MUN	Howland/Little Current Waste EA	02/92

**Legend:**

ACAO, Association of Conservation Authorities of Ontario; GRCA, Grand River Conservation Authority; GT, GO Transit; MEA, Municipal Engineers Association; MGS, Ministry of Government Services; MNR, Ministry of Natural Resources; MTO, Ministry of Transportation; MUN, Municipality; OH, Ontario Hydro; OWMC, Ontario Waste Management Corporation

## CHAPTER 2. CLARIFYING DIRECTION IN EA

### Defining the planning process: Environmental Assessment Proposals (EAPs)

An EAP defines the planning process that will be followed by a proponent — someone undertaking a project — to comply with EA requirements. Its intent is to ensure sound and consultative planning under the EA Act. The primary function of the EAP is to set out the proponent's plan for addressing the requirements of the EA Act. This information can then be shared with potentially interested groups/people to initiate discussion, identify concerns and stimulate conflict resolution early in the process.

EAPs are optional for proponents to prepare and follow. However, there are distinct advantages for proponents in using the EAP approach. EAPs can make it easier both for members of the public and for agencies to be involved in a proponent's EA planning for a project; as well they can provide clear direction to the proponent early in the EA planning process. If the EAP is carefully prepared and followed, and the proponent carries out effective consultation before submitting the EA document to the ministry, a good EA and speedy review should follow.

### EAP options

Proponents will have three EAP options to choose from: sectoral EAP, individual EAP, no EAP

### SECTORAL EAP

- ▶ Sets out EA planning process for specific types or sectors of undertakings
- ▶ proponent follows prescribed process set out in sectoral EAP
- ▶ Where no sectoral EAP guideline exists, proponents are encouraged to prepare individual EAPs.

### The EAP should:

- 1) describe the problem or opportunity being addressed by the EA project or study;
- 2) define the area potentially affected by the EA project or study;
- 3) set out how alternatives initially will be considered through preliminary screening criteria;
- 4) propose reasonable alternatives and list the criteria by which they will be evaluated;
- 5) describe any associated planning and decision-making related to the EA project or study;
- 6) outline a public and agency consultation plan, including methods of consultation, a tentative schedule and appropriate contacts;
- 7) list issues, concerns and propose resolution methods;
- 8) indicate supporting studies that will be undertaken;
- 9) describe the extent of documentation that will be prepared.

A sectoral EAP sets out a detailed EA planning process for a type or sector of undertaking. Sectoral EAP guidelines are being prepared for: waste management facilities, electrical transmission facilities, major transportation facilities, major sewer and water facilities and waterfront parks. These guidelines are being prepared by the Ministry of Environment and Energy, or in conjunction with proponent ministries, to assist those undertaking projects in the

preparation of EAs for undertakings in a specific sector. Proponents are instructed on the alternatives that should be considered, criteria for reviewing, screening and evaluating those alternatives, methods to be used in selecting a site and how to prepare a public consultation plan.

### **INDIVIDUAL EAP**

- ▶ proponent prepares EAP specific to proposed undertaking
- ▶ follows MOEE guideline on how to prepare an EAP

An individual EAP is written by a proponent for a specific project early in the planning process. Its intent is to provide a unique, detailed planning process for the particular undertaking. The EAP is shared with government agencies and persons/groups potentially interested in the project. It is used to stimulate early discussion of the project and to determine what the planning process for the project will be.

The EAP is prepared following the Guideline for Preparing Environmental Assessment Proposals, published by the ministry in May, 1992.

### **No EAP**

- ▶ proponent develops own EA planning process

In this option, a person undertaking a project decides to proceed with the EA planning process, but not with an EAP.

Essentially the proponent would proceed as in the past.

### **Interpreting the act**

To many people, the requirements of the EA Act and the general regulation under the EA Act (Ontario Regulation 334) can be complicated. As part of its EA reforms, the ministry intends to revise and clarify the Language in Ontario Regulation 334 and produce a user's guide in plain language to the EA Act.

EA reform regulations which will be developed to clarify and interpret the act's provisions include:

- ▶ Revision to Ontario Regulation 334
- ▶ Regulation setting out EA document contents

Guidelines which will be prepared to provide interpretation of the EA Act in plain language include:

- ▶ Revised EA planning and approvals guide
- ▶ Clarification of subsection 5(3) of the EA Act: Specifying its requirements
- ▶ How to avoid common errors: An EA user guidebook
- ▶ Guidelines for the preparation of proposal, plan and program EAs: How the EA Act can apply to proponents' big-picture initiatives
- ▶ Planner's guide to the EA Act: A clause-by-clause analysis of the act
- ▶ Changes/clarifications to approved EAs: What to do when you need to change your approved project.

### **EAPIP/EAAC public consultation**

One of the major concerns expressed to the EAPIP Task Force and EAAC by proponents was that they were not being given sufficient guidance on how to conduct their EA planning. The EAP concept was developed in response to these concerns to clarify what is expected of them early in their EA planning before significant time and money are expended.

### **EAPIP/EAAC public consultation**

Both the EAPIP Task Force and EAAC and discussed how the EA Act can be extended beyond what it currently applies to. EAAC, in particular, stressed the need to clarify how the EA Act can apply to proposals, plans and programs of activities or initiatives. The MOEE agrees and will clarify the requirements of such big-picture EAs, and the approval process for projects within them, in a guideline. The EA Branch is already working with transit and transportation proponents on the preparation of plan EAs.

As part of its EA reforms, the Ministry of Environment and Energy is co-authoring a series of guidelines with specific provincial agencies and ministries which will:

- ▶ improve guidance to proponents by telling them what ministries and agencies want to see in EA submissions;
- ▶ improve quality of EAs and reduce review time;
- ▶ provide MOEE staff with ability to assess completeness of EA documents submitted.

At this time, the following core ministry/agency information guidelines have been prepared or are in preparation:

- ▶ Ministry of Culture, Tourism and Recreation
- ▶ Ministry of Environment and Energy
- ▶ Ministry of Transportation
- ▶ Ministry of Natural Resources
- ▶ Ministry of Municipal Affairs
- ▶ Ministry of Agriculture and Food
- ▶ Ontario Hydro

### **What review agencies want to see in EAs**

The effective involvement of provincial ministries and agencies is critical to the successful administration of the EA program. Staff from such ministries and agencies:

- ▶ participate in the consultation process carried out by proponents before they submit their EA, filling such roles as reviewers, members of a working group or technical information sources;
- ▶ provide guidance to proponents on what is required of them in the EA process;
- ▶ review final EA documents when submitted, evaluate whether their areas of interest and responsibility have been adequately considered and provide a position on the EA document and the proposed undertaking;
- ▶ appear at EA Board hearings, where necessary, to provide testimony on how adequately their areas of responsibility have been addressed.

## Integration with other legislation

- ▶ Harmonization between the Canadian *Environmental Assessment Act* and the Ontario EA Act

The new Canadian EA Act is expected to be enacted at the earliest by the fall of 1993. Currently, four regulations which are necessary to implement the legislation are in preparation.

A harmonized hearings process covering the requirements of the federal and Ontario EA Acts has been agreed to by the two governments. This will negate the necessity of two separate EA hearings for one project.

It also is desirable to harmonize the EA documentation required under the two EA acts. Such harmonization will ensure consistency and reduce potential conflicts, while simplifying the review and approval processes and reducing the time and money spent on EA reviews.

- ▶ Harmonization between the Ontario EA process and the EA processes of Canada,

provinces and territories will also be promoted by attempting to standardize EA process, documentation and planning procedures in different jurisdictions. The Canadian Council of Ministers of the Environment has initiated this work with its draft Framework for Environmental Assessment Harmonization agreement.

- ▶ Harmonizing the relationship between the EA Act and the *Planning Act*

The Ministry of the Environment and Energy participated in the work of the Commission on Planning and Development Reform (Sewell Commission) to propose a land-use planning process which is less repetitive, more efficient and more environmentally conscious. As a result of the Sewell Commission's work, we will have a reformed land-use planning process which incorporates certain EA principles (i.e. the evaluation of alternatives, public consultation, the assessment of environmental effects) into land-use decision-making.

## CHAPTER 3. IMPROVING THE CONSULTATION PROCESS

Effective consultation means involving those with an interest in a particular project in the decision-making for that project. Clearly defined opportunities for input by those interested must be identified early in the planning process. In the EA reform program, significant effort will be made towards improving consultation in the EA process.

### **Merits of public consultation in the EA process**

- ▶ encourages interested people/groups to identify themselves early in the process;
- ▶ provides for the early identification of issues;
- ▶ enables early resolution of issues to occur;
- ▶ provides opportunity for building trust and co-operation;
- ▶ fosters effective decision-making;
- ▶ can mean avoiding a hearing.

### **Success stories in consultation and conflict resolution**

#### **ACAO**

The Association of Conservation Authorities of Ontario, in the development of its new Class EA for Remedial Flood and Erosion Control Projects, developed a full public consultation plan at the outset of the development of its class EA. This plan proposed how the public was going to be consulted and what the eventual class EA might look like. More than 400 groups and/or individuals were invited to comment on the plan. From this exercise, the ACAO was able to resolve issues as it prepared its class EA rather than after its completion. This class EA was approved by

cabinet without the need for a hearing.

#### **SPADINA LRT/SUBWAY EXTENSION**

Both these transit projects resulted in requests for EA Board hearings. In the Spadina LRT case, 15 submissions were made to the Minister. A facilitator was appointed by the Minister to resolve concerns. In a one-day session, a series of conditions of approval were negotiated among the proponent, the ministry and the citizens who made submissions to the Minister. These resolved the concerns so that there was no need for a hearing. In the Spadina subway extension case, the request for an EA Board hearing was withdrawn after a series of conditions of approval, agreed upon by the proponent, were negotiated with EA Branch assistance.

#### **WATERLOO LANDFILL EXPANSION**

The Region of Waterloo received approval from the Minister in September 1991 to expand an existing landfill site. This undertaking was approved without the need for a hearing, primarily due to the extensive public education program associated with the planning of this project. Communities were actively involved in decision-making and significant concerns raised by the community were incorporated into the decision-making process. As a result, a sense of trust developed between the region and the community which contributed to the resolution of issues.

### **Initiatives to improve public consultation in EA**

#### **ENVIRONMENTAL ASSESSMENT PUBLIC CONSULTATION GUIDELINE**

The ministry is currently preparing a guideline to assist those undertaking projects in public consultation in the EA process. This document will describe consultation practices acceptable to the ministry, as well as discuss the advantages of different consultation options.

## **INDIVIDUAL EAP CONSULTATION PLANS**

Each environmental assessment proposal (EAP) prepared will contain a specific section devoted to consultation. This section will detail what consultation will occur, when in the planning process and with what groups. The method of consultation will be documented and accompanied by a statement of reasons for the consultation proposed.

## **A GUIDELINE ON FIRST NATIONS INVOLVEMENT IN EA**

In accordance with the Statement of Political Relationship signed in 1991 between Ontario and the First Nations of Ontario, a guideline will be prepared suggesting how aboriginal people can be involved in the EA planning process.

In addition to this guideline, opportunities for involvement of First Nations in the EA process also shall include:

- ▶ ***Consultation with First Nations by those undertaking projects***
  - proponents shall be encouraged to actively consult with potentially affected First Nations early in their planning
  - those undertaking projects shall follow MOEE's guidance document on Consultation with First Nations in EA
  - proponents shall identify the First Nations potentially affected by their EA projects and shall prescribe how they intend to consult with those First Nations in each individual EAP. Also, sectoral EAPs will provide direction on how First Nations are to be involved in the planning of projects in that sector
  - the EA Branch will prepare a regulation on

the required contents of EA documents. A section on First Nations will be a requirement for all EA documents.

- ***First Nations involvement in EA reviews***
- First Nations, potentially affected by an EA project will be notified when an EA document is submitted to the Minister and will be provided with an opportunity to review the document at the same time as government reviewers
- a specific section in EA reviews will be dedicated to First Nation comments and resolution of First Nation issues
- First Nations will receive a copy of the Notice of Completion of EA Reviews for all EA projects.

## **PARTICIPANT FUNDING**

During the planning of some past EA projects, persons or groups interested in those projects have commented that they lacked the financial or professional resources to adequately participate in the planning of those projects.

In such circumstances, the EA Branch has encouraged proponents to provide funds to interested persons or groups at this planning stage of the EA process. This participant funding has been useful in providing resources to interested persons/groups to be more directly involved in consultation and decision-making. Though not mandatory, the EA Branch will continue to encourage this public consultation mechanism where it thinks it may be beneficial.

## **STANDARDIZING EA NOTICES**

EA notices published in newspapers will be improved to be more useful to interested groups or people. All EA notices are being standardized to increase clarity, eliminate jargon and communicate necessary information.

## **EA DOCUMENT AND EA REVIEW CONSULTATION SECTION**

For each EA document submitted to the Minister, a section detailing the proponent's consultation will be required. This will include the method(s) of consultation employed, when it was employed in the planning process, the people/groups involved, the issues identified and the results of consultation. When an EA is submitted, a concurrent public/agency review will be initiated which will give the public the opportunity to be involved in the EA review. In evaluating the EA document, a separate section will be devoted to public input to the EA review.

## **REVISED CITIZEN'S GUIDE TO THE ENVIRONMENTAL ASSESSMENT ACT**

The existing guide, which provides the public with a brief, but readily understandable, explanation of the EA Act, will be revised. The purpose of this revision is for the new guide to reflect EA reform initiatives and to ensure easy comprehension of the act.

## **How you will be consulted on EA reform implementation**

Depending on the EA reform initiative, consultation with affected people or groups will take different forms. This consultation will be guided by the following principles:

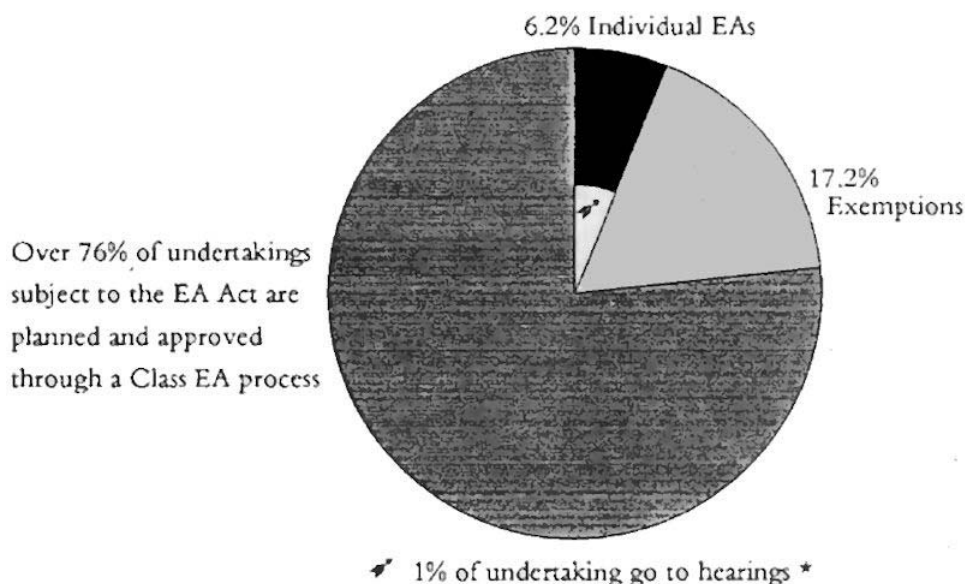
- ▶ the ministry will consult with all affected groups or people on all reform initiatives;
- ▶ draft reform initiatives will be circulated to affected groups or people for review/comment;
- ▶ the first draft of EAP guidelines will be prepared in consultation with selected groups or people (i.e. those with special interest in a particular guideline);
- ▶ certain EA reform initiatives will be referred by the Minister to EAAC for it to carry out an open public review. EAAC's advice will also be sought on other EA reform initiatives;
- ▶ full public consultation will be undertaken for all sectoral EAPs;
- ▶ select reform initiatives will be tested on a trial basis before finalizing;
- ▶ reform regulations will proceed through the formal regulation approval process, including associated consultation;
- ▶ consultation on proposed reforms can include:
  - group workshops
  - document circulation for comment
  - public meetings
  - specific stakeholder meetings
  - telephone discussions
  - inter-ministerial liaison committee meetings.



## CHAPTER 4. CLARIFYING AND PROMOTING CLASS ENVIRONMENTAL ASSESSMENTS

Class environmental assessments (class EAs) play an extremely significant role in the EA program in Ontario. A class EA is a document which sets out a streamlined environmental assessment planning and approval process for a class of undertakings which have predictable environmental effects and which are not of a size, scale or strategic significance warranting an individual EA. For many types of projects subject to the act, adhering to the approved procedures set out in a class EA is the manner in which the requirements of the EA Act are met.

Of the 12 class EAs currently approved in the EA program, few have similar administrative procedures and some have significantly different planning processes. This situation has demonstrated a need for better public understanding and, therefore, a need for consistency of process and class EA requirements. See table on page 16 for a comprehensive listing of all class EAs in the EA program.



\* Statistics based on a survey of three major groups with undertakings requiring EAs in the years 1986-1990 (Ontario Hydro, Ministry of Transportation, the Metropolitan Toronto and Region Conservation Authority).

<b>EAPIP/EAAC public consultation</b>	EA documentation;
<p>Many people commented to both the EAPIP Task Force and to EAAC that the MOEE's requirements for class EAs are unclear and that their application to various types of project is vague. In response to these concerns a class EA guideline is being prepared by the MOEE that:</p> <ul style="list-style-type: none"> <li>▶ defines class EAs;</li> <li>▶ sets out MOEE's requirements for class</li> </ul>	<ul style="list-style-type: none"> <li>▶ prescribes a standard class EA planning process;</li> <li>▶ prescribes standard class EA administrative procedures.</li> </ul> <p>As new class EAs are submitted for approval or as existing class EAs are revised, they will need to reflect the class EA reforms set out in the class EA guideline.</p>

## Current class EAs in the program

Title of class EA	Proponent	Approval date	Current status
Small Scale MNR Projects*	MNR	Oct/92	Expires Oct/96 with opportunity for 1 year extension by Minister.
Fishery Reclamation	MNR	May/87	Approval extended until Dec/94. Amendments to class EA being discussed between MOEE and MNR.
Municipal Road Projects	MEA	June/93	Expires June/98.
Sewage and Water Systems	MOEE	Sept/83	Approval extended until May/94. Approval will not be renewed as new MOEE sewage and water projects will be carried out under the MEN class EA for Municipal Water and Wastewater Projects.
Municipal Water and Wastewater Projects	MEA	June/93	Expires June/98.
Remedial Flood and Erosion Control Projects	ACAO	Feb/93	Expires Feb/98.
Minor Transmission Facilities	OH	Apr/92	Expires Apr/97.
Provincial Highways Program	MTO	Nov/92	Expires Dec 1/97
Commuter Facilities	GO	Feb/87	Approval extended to Dec 31/93. New class EA currently under review.
Shoreline and Riverbank Improvements	OH	Dec/87	Approval extended to Dec 30/93. Approval decision on new class EA expected in fall of '93.
Modification to Hydro Facilities	OH	Dec/87	Approval extended to Dec 30/93. Approval decision on new class EA expected in fall of '93.
Timber Management	MNR		EA Board hearing concluded. Board decision expected in Oct/93.
Parent class EA for Realty Projects	MGS	Dec/92	Expires Dec 9/97.

\* Small Scale MNR Projects: Access points and docks; Access roads; Dams and dykes; Fish stocking in new waters; Fishways; Shoreline and streambank stabilization; Water-related excavation, dredge and fill activities; Ponds; Solid waste disposal; Canoe routes.

Proponent legend: MNR - Ministry of Natural Resources; MEA - Municipal Engineers Association; MOEE - Ministry of Environment and Energy; ACAO - Association of Conservation Authorities of Ontario; OH - Ontario Hydro; MTO - Ministry of Transportation; GO - Go Transit; MGS - Ministry of Government Services (Management Board); OFIA - Ontario Forest Industries Association.

## CHAPTER 5. ACHIEVING MORE TIMELY AND EFFECTIVE HEARINGS

The Environmental Assessment Board is an administrative tribunal, set up under the EA Act, which conducts hearings and renders environmentally significant decisions on complex and controversial matters referred to it by the Minister. One per cent of projects subject to the act require an EA Board or Consolidated Hearings Board hearing. The EA Board exercises the Minister's decision-making powers upon referral of a project to the board by the Minister and its decisions are final. However, the hearings process has been criticized for being too costly and time-consuming.

- ▶ allowing filing of evidence without oral presentation and establishing specific time frames for oral summaries of evidence;
- ▶ increasing the use of alternative dispute resolution;
- ▶ increasing EA Board member training to achieve efficient hearings;
- ▶ dismissing referred matters early if the board is satisfied that they cannot succeed;
- ▶ ordering more work on referred matters, if needed.

### EA hearing reform goals

- ▶ To reduce average length of the hearings process to 10 months from 20 months
- ▶ To reduce average hearing length to six months from 12 months
- ▶ To render decisions within 90 days of hearing completion

### EAPIP/EAAC public consultation

Several proponents expressed their concerns to both the EAPIP Task Force and to EAAC that EA Board hearings take too long and cost too much. The Ministry of Environment and Energy and the Environmental Assessment Board have embarked upon all the above-noted improvements to the board's administrative procedures to shorten the hearings process while maintaining the integrity of the board's decisions.

### EA HEARING REFORMS

The EA Board has taken the following initiatives to achieve the EA hearing reform goals:

- ▶ assigning case managers to hearings and developing case management techniques for various types of hearings;
- ▶ eliciting, at preliminary hearings, good estimates of hearing time required and holding hearing parties to those estimates;
- ▶ using preliminary hearings to clearly define issues in contention so that evidence and argument can be confined to those issues;
- ▶ requiring pre-hearing settlement conferences where the board is satisfied that some benefit can result;

### INTERVENOR FUNDING

The *Intervenor Funding Project Act* was passed in 1988 to establish a pilot project for a four-year period. The act states that persons or groups with concerns about an environmental assessment that is going to a hearing may be allocated funds as intervenors so they may more effectively put forward their concerns to the board. Before the hearing takes place, board members not associated with the hearing itself sit on a funding panel to determine which intervenors will receive funding and how much they will receive from the person or persons undertaking the project. The act was extended for an additional four-year period in 1992.

## **CHAPTER 6. ENHANCING ENVIRONMENTAL ACCOUNTABILITY**

The intent of the EA program is that the environment is protected in the planning and implementation of development projects. Those undertaking projects have a responsibility to demonstrate leadership by planning and designing their projects in an environmentally sound manner. The Ministry of Environment and Energy has taken responsibility by improving the environmental accountability of the EA program. The ministry will carry out the following EA reform initiatives to improve its environmental accountability in the EA program.

### **THE MINISTER WILL PROVIDE WRITTEN REASONS FOR ALL EA DECISIONS**

The information considered and the reasons for decisions made by the Minister will be provided to improve the openness and fairness of the process.

### **THE MINISTER WILL PUBLISH A POLICY SETTING OUT DECISION-MAKING CRITERIA**

Draft criteria have been developed to clarify and assist in EA decision-making for exemptions, designations and bump-ups. Exemptions are cabinet decisions to remove the application of the act from an activity or group of activities subject to the act. Designations are cabinet decisions to apply the requirements of the act to an activity or groups of activities which are not covered by the act. Bump-ups are Minister's decisions to raise the status of a project from one being planned in accordance with an approved class EA to one requiring an individual EA review and approval. Any person can request the Minister of Environment and Energy to exempt, designate or bump up an undertaking. The Minister, before making any of these decisions, can seek the advice of EAAC. In two recent cases, the Minister requested EAAC's advice on:

- ▶ whether to designate the Megasin Lake

Timber Management Plan (proposed northeast of Sault Ste. Marie) under the EA Act (the Minister decided to designate and the proponent, the Ministry of Natural Resources, is carrying out the individual EA process);

- ▶ whether to bump up the Ajax Water Supply Plant to an individual EA. (The Minister did not bump it up, but terms and conditions of the Minister's decision, developed through EAAC, responded to concerns of the public regarding the water supply plant.)

Exemption, designation and bump-up decisions can have significant environmental implications. For this reason, the ministry has drafted the criteria used by staff to evaluate exemption, designation and bump-up requests made by the public. Once a trial use period is completed for these draft decision-making criteria, they will become ministry policy.

### **ADDRESSING CUMULATIVE ENVIRONMENTAL EFFECTS**

The evaluation of environmental effects which result from the combination of a number of development activities is a science which is evolving. Guidance is needed for persons undertaking projects, review agencies and the public. The ministry will prepare a guideline to respond to the need for workable, practical direction in the assessment of cumulative environmental effects. This guideline will focus on what indicators in the natural, social and economic environment should be used to assess cumulative environmental change. These indicators could be based upon the components of the environment we value the most and could be drawn from state-of-the-environment reporting currently underway in a number of Canadian jurisdictions. A collaborative effort is underway with EA administrators across Canada toward developing a uniform approach to cumulative effects assessment. An approach

using indicators is seen only as an initial response to this issue. Ultimately a more comprehensive, ecologically-based approach may emerge from the work being done at universities, research institutes and government agencies.

#### **MONITORING FOR COMPLIANCE AND EFFECTIVENESS WILL BE IMPROVED**

The effectiveness of the EA process in protecting and enhancing the environment will be monitored and evaluated. This will include monitoring how adequately proponents comply with commitments made in their EAs and

monitoring the effectiveness of their mitigation measures. A guideline will be prepared to assist proponents in these exercises. Ministry staff also will be trained in their role in the monitoring of EA projects.

#### **MORE CONSISTENT CONSIDERATION OF THE SOCIAL ENVIRONMENT WILL BE EXPECTED**

A guidance document will be provided for consideration of the social environment in EAs. People undertaking projects currently have little direction in how to assess the effects of projects on people and their communities.

## CHAPTER 7. ENHANCEMENTS TO THE EXISTING INDIVIDUAL EA PROCESS

The existing individual EA process will be improved as result of the following reforms:

- ▶ **Introduction of EAPs**
  - ensures planning process is developed for majority of individual Eas
  - standardizes planning processes for sectors of activities
  - expedites issue identification and resolution
- ▶ **Enhanced public consultation**
  - provides for increased consultation opportunities in process (EAPs, concurrent public and agency EA reviews)
  - provides for consultation earlier in process
- ▶ **Standardized EA documentation**
  - ensures all major review areas covered
  - provides for development of easily understood format
  - develops consistent format for EA documents and EA reviews
  - clarifies what areas will be covered in review
- ▶ **Concurrent public/agency reviews of EAs**
  - permits public review of EA earlier in process
  - provides opportunity for issue resolution and setting of terms and conditions
- ▶ **Average EA time frame, from submission to approval decision (without a hearing), of 12 months**
  - expedites approvals of proposed undertaking
  - provides certainty about duration of process
- **Revised notice process**
  - expedites EA Branch administrative processing of notices
  - standardizes and clarifies notices
- ▶ **Minister's standard decision-making timeframes**
  - provides certainty to process timing
  - clarifies Minister's timing objectives
- ▶ **Terms and conditions of EA approval**
  - makes issue resolution easier
  - reduces frequency of undertakings proceeding to hearings
  - speeds up project decisions
- ▶ **Monitoring program**
  - assesses compliance of project, when built, with approval conditions
  - provides opportunity to determine project's actual environmental effects
  - enables remedial action to occur, where appropriate

## CHAPTER 8. EA REFORM PERFORMANCE INDICATORS

To help the EA Branch monitor the improvements of EA reforms, performance indicators for the EA process have been identified. These are:

- ▶ The reduction of average EA decision times to 12 months from 24.6 months where a hearing is not required;
- ▶ The reduction of average hearing length to 6 months from 12 months;
- ▶ The delivery of EA board decisions within 90 days of completion of hearing ;
- ▶ The provision of written, clear guidance on a number of EA matters (see appendix B).

### **Conclusion**

The administrative reforms presented in this report are expected to provide an effective, efficient, fair, clear, decisive, economical and environmentally conscious EA program in Ontario. This was the goal of the Environmental Assessment Program Improvement Project when it began in 1988. Much of this work is well underway now with demonstrated improvements being realized.

## APPENDIX A. GLOSSARY

The following definitions of commonly used terms are provided as an aid to the interpretation of the *Environmental Assessment Act*. Many of these definitions appear in the act and the class EA documents. However, some of them have been developed through experience with the act's implementation.

All references to section numbers refer to the *Environmental Assessment Act*.

The following abbreviations are used in this glossary: Board for either the Environmental Assessment Board or the Joint Board; EA Act for *Environmental Assessment Act*, EA for environmental assessment; EA Branch for the Environmental Assessment Branch; EP Act for Environmental Protection Act; Minister for Minister of Environment and Energy; MOEE for the Ministry of Environment and Energy.

**Acceptance** The decision by the Minister or the board to accept an EA (section 9) indicates that the EA provides a sufficient basis for a decision to be made on whether or not the undertaking should be approved. The Minister can accept the EA as it is. If not, the Minister can amend and accept the EA or order further research prior to accepting the EA.

**Approval** The decision by the Minister or the board to approve an undertaking (section 14) is made after the acceptance of the EA. This decision means that a proponent may proceed with the undertaking as specified in the EA, subject to any conditions of approval imposed at the time.

**Bump-up** A decision by the Minister of Environment and Energy that the environmental significance of an undertaking is of such a nature that the procedures for environmental assessment provided for in a class EA are not sufficient and that an individual environmental assessment is required for that undertaking.

**Class EA** A class EA is a document that sets out a streamlined environmental assessment planning and approval process for a class of undertakings which have predictable environmental effects and are not of a size, scale or strategic significance warranting an individual EA.

**Consolidated Hearings Act (CHA)** This act is intended to streamline the approvals process for undertakings which may require a hearing under more than one statute. For example, hearings required according to the EA, EP, Planning and Expropriations acts, may be consolidated into one hearing under the CH Act.

**Designation** A decision made by cabinet, by way of a regulation under section 39, which makes the EA Act apply to any major commercial business enterprise or activity.

**Environment** The definition of environment in the EA Act includes not only the natural environment, but also the social, economic, technical and cultural environments and their interrelationships.



**EA Advisory Committee (EAAC)** A committee established by the Minister of Environment and Energy to provide advice to the Minister on requests for bump-up, exemption or designation or on other EA matters the Minister considers appropriate.

**Environmental Assessment** EA is the identification and evaluation of the effects of an undertaking and its alternatives on the environment. The term EA refers both to the process of identifying and evaluating alternatives and their effects on the environment and to the document which describes how that process was conducted in the selection of the proposed undertaking. The contents of an EA are described in subsection 5(3) of the EA Act.

**Environmental Assessment Board (EAB)** The EAB is an administrative tribunal and has the authority to conduct hearings when they are required by the Minister under the EA Act. The EAB has the authority to decide on questions of acceptance of the EA and of approval of the undertaking.

**Environmental Assessment Proposal (EAP)** An environmental assessment proposal is a document prepared by a proponent which outlines how the proponent plans to address the requirements of the EA Act. It is prepared at an early stage of project planning in order to initiate discussion, identify concerns and stimulate conflict resolution among interested or potentially affected persons or groups.

**Environmental Protection Act (EPA)** The purpose of this act is to provide for the protection and conservation of the natural environment. The EP Act defines the natural environment as air, land and water or any combination or part thereof, of the Province of Ontario.

**Exemption** An exemption removes the need for a proponent to carry out an environmental assessment. It may exempt a proponent or an undertaking from the act and is approved by cabinet with or without terms and conditions.

**Hearing** A hearing on an EA may be conducted by the Environmental Assessment Board or a Joint Board on whether to accept an EA, and whether to approve the undertaking with or without terms and conditions.

**Proponent** A proponent is the person, agency, municipality or government ministry carrying out, or proposing to carry out, an undertaking, or is the owner or person having charge, management or control of an undertaking.

**Review** Clause 7(1)(a) of the EA Act requires the Minister of Environment and Energy to "cause a review of the assessment to be prepared". A review co-ordinator from the Environmental Assessment Branch of the ministry and staff members of various government ministries and agencies are assigned to review the EA prepared by the proponent.

**Reviewers** Reviewers are Ontario government staff or members of the public who contribute to the preparation of the review of an EA.

**Stakeholder** Any individual, agency or group which may have direct or indirect interest in a proposed project.

**Undertaking** An undertaking is an enterprise, activity, or a proposal, plan or program in respect of an enterprise or activity, which a proponent initiates or proposes to initiate.

## APPENDIX B. EA REFORM DOCUMENTS BEING PREPARED

### Document Name

#### REGULATIONS

- R1 Regulation 334 revision
- R2 EA Document contents
- R3 Cumulative effects\*
- R4 Private sector waste comprehensive designation\*
- R5 Regulation 335 revision\*

#### POLICIES

- P1 EA program process timing
- P2 EA document review
- P3 EAA/Planning Act co-ordination
- P4 Exemption/bump-up/designation criteria
- P5 Minister's written decision rationale

#### GUIDELINES

- G1 General EAP
- G2 Municipal waste EAP
- G3 Private waste EAP
- G4 Electrical transmission EAP
- G5 OH Hydraulic EAP\*
- G6 NUGS (Non-Utility Generators) EAP\*
- G7 Transportation (MTO) EAP
- G8 Major sewer/water EAP\*

- G9 Waterfront parks EAP
- G10 Timber management EAP\*
- G11 Planner's Guide to EA Act
- G12 Public Guide to EA Act
- G13 Revised EA planning and approvals guide
- G14 MCCTR mandate
- G15 MOE and Energy mandate
- G16 MTO mandate
- G17 MNR mandate
- G18 MMA mandate
- G19 OMAF mandate
- G20 OH mandate
- G21 Consultation
- G22 Role of EA co-ordinator
- G23 EA document deficiencies
- G24 Amendments to approved EAs
- G25 Compliance/effects monitoring
- G26 Cumulative effects assessment
- G27 Class EA
- G28 Exemption/bump-up/designation requests
- G29 EA document amendments after submission
- G30 Program/plan/proposal EAs
- G31 First Nations involvement with EA

\* Denotes if necessary