



**Municipal
Engineers
Association**

**MUNICIPAL CLASS EA PROCESS
FIVE YEAR REVIEW
Recognizing 30 Years of Application
October 2017**

***Prepared by the Municipal Engineers
Association in consultation with the
Ministry of the Environment***

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1.0 INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

The “parent” Municipal Class Environmental Assessment (EA) enables the planning of municipal infrastructure to be undertaken in accordance with an approved procedure designed to protect the environment. The Class EA approach to dealing with municipal infrastructure projects has been proved to be an effective way of complying with the Ontario Environmental Assessment Act (EA Act) through over twenty years of experience. It provides:

- a reasonable mechanism for proponents to fulfill their responsibilities to the public for the provision of municipal services in an efficient, timely, economic and environmentally responsible manner;
- a consistent, streamlined and easily understood process for planning and implementing infrastructure projects; and
- the flexibility to tailor the planning process to a specific project taking into account the environmental setting, local public interests and unique project requirements.

Municipalities undertake hundreds of projects. The Class EA process provides a decision-making framework that enables the requirements of the EA Act to be met in an effective manner. The alternatives to a parent Class EA would be: to undertake individual environmental assessments for all municipal projects; for each municipality to develop their own class environmental assessment process; and/or, for municipalities to obtain exemptions. These alternatives would be extremely onerous, time consuming and costly. Over two decades of experience have demonstrated that considerable public, economic and environmental benefits are achieved by applying the Class EA concept to municipal infrastructure projects.

The Municipal Class EA dated June 2000 was approved with conditions by Order of Cabinet on October 4, 2000. An amendment, to the Class EA, was approved on November 5th, 2007. Further amendments were approved on August 17th, 2011 and October 2015.

Condition #4, of the original approval, requires that a Municipal Class EA Monitoring Program be further defined and implemented. The Municipal Class EA Monitoring Program has been prepared by the Municipal Engineers Association (MEA) through discussions with the Ministry of the Environment (MOE) and the Ministry of Municipal Affairs and Housing (MMAH) for submission to the Director of the MOE - Environmental Assessment and Approvals Branch (EAAB) by October 4, 2001 for approval.

Part 1 provides information regarding the parent document and the development of the Monitoring Program prior to describing the actual program in Part 2. Part 3 outlines the 5 Year Review.

1.2 BACKGROUND - MUNICIPAL CLASS EA PARENT DOCUMENT

It is important to understand the history of the Municipal Class EA parent document since this in turn has affected the nature of the Monitoring Program. Section A.1.2 of the Municipal Class EA Parent Document provides a good review with the key points summarized herein.

On April 9, 1987, the first Municipal Class EA parent documents, prepared by MEA on behalf of proponent Ontario Municipalities, were approved under the EA Act. At that time, two Class EAs were implemented to deal with:

- i) municipal road projects, and,
- ii) municipal water and wastewater projects.

In 1993, the Municipal Class EAs were reviewed, determined to be working well, updated and their approval extended until May 31, 1998.

In 1997, the MEA in conjunction with the MOE-EAAB commenced the municipal Class EAs Renewal Project that is described in Section A.1.2.4 of the approved Municipal Class EA. From comments received since the Municipal Class EAs were first approved, and during the Renewal Project, many municipalities, MOE and other key stakeholders have indicated that the process has, and is working well. This was also borne out through the stakeholder survey done during the 1998 review which included a questionnaire distributed to over 1370 stakeholders, of which 85 completed the questionnaire and returned it to MEA.

Consequently, it was recognized that much had been achieved over the years of working with and refining the Municipal Class EAs and therefore a wholesale change in the process was neither necessary nor appropriate. Therefore, the underlying principle in the review and updating of the Municipal Class EAs was to maintain the substance of the existing process while making any necessary changes.

Through the Renewal Project, the Class EAs for municipal roads and water and waste water projects were consolidated into one document and updated. The Municipal Class EA parent document is broad in scope given its application to a variety of projects being undertaken by numerous proponents across the province. As a result, first and foremost, the Municipal Class EA provides the framework for EA planning of municipal infrastructure projects to fulfill the requirements of the EA Act. It establishes principles and certain minimum mandatory requirements and has been set-up as a proponent-driven self-assessment process which is sufficiently flexible to allow different proponents to meet the needs of specific projects while ensuring that the requirements of the EA Act are met. While the Municipal Class EA defines the minimum requirements for environmental assessment planning, the proponent is encouraged to and is responsible for customizing the process to reflect the specific complexities and needs of a project.

In 2005, the five year review identified a number of issues. These were addressed through three amendments to the Municipal Class EA. In summary, these amendments included:

- a minor amendment which addresses a number of housekeeping issues;
- a major amendment which creates a new sub-class of activities (Schedule A+) and reorganizes the classification of certain activities; and
- a new chapter which expands the scope of the Class EA to include municipal transit projects.

These amendments were approved on September 6th, 2007 and a consolidated document has been printed.

Furthermore, on October 7, 2015, an amendment was approved that is known as the “Cycling Amendment”. This amendment included:

- clarification on the Part II Order process;
- inclusion of the Clean Water Act and specifically Source Water Protection considerations;
- inclusion and/or clarification of cycling infrastructure;
- inclusion of mitigation measures for potential environmental effects;
- sample notices including a memo to MOECC-EAB, and;
- consequential amendments to address the concern related to Schedule A projects being implemented without having regard for requirements under the Ontario Heritage Act.

The Provincial Government’s Ontario’s Business Sector Strategy establishes an open dialogue and collaborative relationship between government and key business stakeholders. Sector representatives are asked to identify five priorities under jurisdiction of the provincial government that, if addressed, would strengthen their sector’s success. This joint understanding of priorities allows government and the business sector to work together more effectively to generate economic growth, create jobs for Ontario families, and protect the public interest. BILD represents the first sector to identify its priorities under Ontario’s Business Sector Strategy.

BILD identified a concern with the Municipal Engineers Association (MEA) Municipal Class Environmental Assessment (Municipal Class EA) process related to the duplication of work between the Municipal Class EA requirements and those under Planning Act processes. The ministry consulted with various municipalities and requested their input on the existing integration provisions. Municipalities indicated that the integration provisions could be enhanced and clarified and suggested that recognition of prior planning assessment could be used in the Municipal Class EA process to streamline proponent’s efforts and effectively meet requirements of both the Planning Act and the Environmental Assessment Act.

In addition, the Residential Civil Construction Alliance of Ontario has produced a report which recommends several changes to the Municipal Class EA and MEA’s ongoing monitoring has highlighted the need for revisions.

As a result of these concerns, in 2010 the MEA together with the Ministry of the Environment (MOE) proposed changes be made to the Municipal Class EA.

These changes included:

- Revisions to the Municipal Class EA to recognize studies and consultation undertaken by the proponent or municipality that comply with the Environmental Assessment Act, but are undertaken through the Planning Act that will reduce potential duplication, delays and unnecessary costs.
- Clarification of the integration provisions to make sure they are understandable and can be used effectively by project proponents.
- List of recommended changes for the MOE’s “Code of Practice: Preparing, Reviewing and Using Class Environmental Assessments in Ontario” to be consistent with the amendments proposed to the Municipal Class EA integration provision.

These changes resulted in a major amendment that was approved on August 17th, 2011 and a consolidated document has been printed.

In addition the MEA committed to and delivered an education and outreach strategy, including outreach material that can be used by MEA or MOE, to promote the use of the integration provision by project proponents and facilitate understanding of the Municipal Class EA.

1.3 APPROVED MUNICIPAL CLASS EA

The Municipal Class EA was approved with conditions on October 4, 2000 by Order in Council No.1923/2000. It should be noted that the approval is open-ended with the result that there is added responsibility for both MEA and MOE to ensure the continued effectiveness and compliance of the Municipal Class EA parent document under the EA Act.

The conditions of approval that apply specifically to the Monitoring Program are discussed in Section 1.3.1.

1.3.1 CONDITIONS OF APPROVAL

Condition of Approval #4 states that:

The proponents, or the Municipal Engineers Association on behalf of the proponents, shall work to further define and implement a Municipal Class Environmental Assessment Monitoring Program. Details of this Program and its implementation shall be developed by the proponents, and/or the Municipal Engineers Association acting on behalf of the proponents and approved by the Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment. These details shall be submitted to the Director of the Environmental Assessment and Approvals Branch for approval within one year of the date of this approval. Yearly Monitoring Reports will be submitted to the Director of the Environmental Assessment and Approvals Branch commencing two years after the date of this approval and then every year thereafter. In order to ensure compliance with the Class environment assessment process and the implementation of the projects under the Class process, the monitoring program shall provide clear documentation of how the Municipal Class Environmental Assessment is consistent with Class Environmental Assessment program objectives.

In addition, Condition of Approval 33 requires that a review of the Municipal Class EA be undertaken every five years from the date of its approval “*in order to ensure that the environmental assessment is still compliant with legislative requirements and planning practices and continues to satisfy the purpose of the Environmental Assessment Act*”.

Consequently, this report represents the 2017 - MEA 5 Year Review.

1.4 2017 5 Year Review Contents

In order to ensure that the environmental assessment is still compliant with legislative requirements and planning practices and continues to satisfy the purpose of the Environmental Assessment Act, a review will be undertaken every 5 years.

This review includes a summary of any issues and proposed amendments that may arise during the review period and includes a detailed account of how the issues and amendments will be addressed, for approval by the Director of the Environmental Assessment and Approvals Branch. The 5 Year Review includes the following:

- Summary of key activities and actions from previous years monitoring reports;
- Summary of key activities and actions from 2016;
- Deferred Activities
- Compliance Monitoring
- Proposed Monitoring Reporting Format

- Summary

Summary of Key Activities 2012-2016

1.4.1 Key Activities 2012

Cost adjustments

The Road Project Tables were updated based on MTO data as of June 7, 2012 and are posted on the MEA website. Data from MTO has not been available since and this is the current table.

1.4.2 Key Activities 2013

Major Amendment

An annual monitoring report was not prepared in 2013. In lieu of report preparation, MEA Monitoring Committee volunteers utilized their time and resources to undertake a major amendment to address the issues raised through the 2012- 5 Year Review. The amendment provided:

- clarification on the Part II Order process;
- inclusion of the Clean Water Act and specifically Source Water Protection considerations;
- inclusion and/or clarification of cycling infrastructure;
- inclusion of mitigation measures for potential environmental effects;
- sample notices including a memo to MOECC-EAB, and;
- consequential amendments to address the concern related to Schedule A projects being implemented without having regard for requirements under the Ontario Heritage Act.

1.4.3 Key Activities 2014

Meeting with MCEA Stakeholders

Meeting was held at the Region of Peel offices with a number of MCEA Stakeholders (Peel, RCCAO, BILD, Consultants). Issues or concerns discussed included expansion of study scope and reducing the time/cost to undertake the MCEA process. MEA commented that changes to the MCEA were not required to address these concerns.

MCEA Companion Guide

MEA initiated the development of a companion guide to provide practical advice on satisfying the minimum requirements of Schedule A+, B and C projects with real life examples.

AFP/P3 Projects

Brant County initiated a pilot Schedule C project for alternative project delivery which would contain limited details and maximum flexibility for design/build procurement. MEA was monitoring the process and would report on success.

Exemption for Pre-Approved Projects

MEA sought a regulation to address the MOECC's interpretation that pre-approved projects could be subject to Part II of the EAA. As the adoption of such a regulation was not identified as a priority for MOECC senior staff, MEA wrote the Minister requesting due consideration.

Delegation of Part II Order Requests

MEA wrote the Minister re: delegation of Part II Orders to the Director of EAB, outlining the delay in project implementation due to a lack of timely decisions and the impact to proponents.

Major Amendment

Consultation process for the major amendment continued. Comments on the proposed amendment were received from various organizations such as Ontario Professional Planners Institute.

1.4.4 Key Activities 2015

Delays in Responding to Part II Order Requests

MEA noted that the average response time to make a decision had risen to 347 days and there had been a lack of progress on addressing the need for a regulation to exempt Schedule A and A+ projects.

Major Amendment

The Major Amendment was approved on October 7, 2015 and provided:

- clarification on the Part II Order process;
- inclusion of the Clean Water Act and specifically Source Water Protection considerations;
- inclusion and/or clarification of cycling infrastructure;
- inclusion of mitigation measures for potential environmental effects;

- sample notices including a memo to MOECC-EAB, and;
- consequential amendments to address the concern related to Schedule A projects being implemented without having regard for requirements under the Ontario Heritage Act.

MCEA Companion Guide

Work on the companion guide to provide practical advice on satisfying the minimum requirements of Schedule A+, B and C projects with real life examples was on going.

AFP/P3 Projects

Brant County initiated a pilot Schedule C project for alternative project delivery which would contain limited details and maximum flexibility for design/build procurement. MEA was monitoring the process and would report on success in the Fall of 2015. The pilot was suspended.

EA Review

MEA awaiting an announcement of an EA Review.

2.0 2016 Key Activities

2.1.1 Auditor General's Report

On November 30, 2016, the Auditor General's release their audit which included a review of the Environmental Assessment process in Ontario. As a Class EA owner, MOECC reached out to MEA to discuss the Auditor General's recommendations and specifically requested a written response to address the following recommendations, namely:

- Review and revising criteria for determining whether a comprehensive or streamlined environmental assessment is required to ensure that the thoroughness of assessment is commensurate with the project's risk and potential impact;
- Ensure that the MOECC has an opportunity to provide input on projects undergoing streamlined assessments;
- Ensure that streamlined assessments are conducted properly, and;
- Enable the public to fully participate in the environmental assessment process, the MOECC should update its website so that the public has access to all relevant information, including the status, for all environmental assessments.

Subsequently, MEA and Residential and Civil Construction Alliance of Ontario (RCCAO) submitted a joint application, under Section 61 of the Environmental Bill of Rights to call for a review of and changes to the Environmental Assessment Act related to the MCEA process. The review and changes are required to identify and implement reforms that are urgently needed and allow municipal proponents to complete the MCEA process in a reasonably timely, efficient and effective manner. MEA was not satisfied with the MOECC's response to the Auditor General's recommendations as they relate to Part II Order requests.

3.0 Deferred Actions to 2017

3.1.1 MOECC's Consideration of Climate Change in Environmental

Assessment in Ontario

In 2016, MOECC has prepared its Consideration of Climate Change in Environmental Assessment in Ontario guide. MOECC met with Class EA owners in January 2017 to discuss the guide and incorporation of climate change into EA decision making, specifically streamlined EA processes. MEA provided MOECC with its perspective and the discussion will continue.

3.1.1 MOECC's Environmental Assessment Act Review

Following MEA and RCCAO's joint application, in April 2017 notification was received indicating that the MOECC would be reviewing the Environmental Assessment Act. The completion of the review is anticipated to be December 2018.

4.0 Compliance Monitoring

4.1 MOE Reporting

4.1.1 Compliance Audits

At the annual meeting with MOECC staff, we were informed that compliance audits were not anticipated. As such, there is nothing to report.

4.1.2 Notices of Completion

Notices of Completion for all Schedule B or C projects must be emailed to MEA.Notices.EAAB@ontario.ca with a copy also sent to the Regional EA Planner/Coordinator.

4.1.3 Part II Order Requests

A summary of the Minister's Decisions, related to Part II Order requests dealt with in 2016 was furnished by MOECC staff, is found below:

- 9 Part II Order Request responses were issue in 2016
- 8 were denied and 0 had conditions imposed
- 1 Part II was granted for a project with 91 requests
- 3 of the responses were from 2014 or earlier
- The Minister took 107 to 927 days to respond. Overall the average response time was 445 days

Response Timing

In the past, Part II Order requests have sometimes caused significant delays for projects. The EA branch implemented process improvements so that their review of requests can be completed within the established time frame. The practice will now be to focus the review to the key issue raised in the Part II Order Request. Proponents were advised to be prepared to provide written responses to the key issues raised to the Branch within two (2) weeks. Otherwise, the Class EA could be deemed incomplete and the Notice of Completion may need to be re-issued.

The following graph indicates that review time had substantially improved over the 2005 to 2011 period, as reported in the last 5 Year Review in 2011. In 2011, the average review period was less than 300 days but the trend indicated was toward longer delays. Over the past 5 years, the review periods have been on the rise with the average review period now exceeding 400 days.

4.2 Key Comments

As part of the compliance monitoring undertaken by MEA, comments are collected through surveys and ongoing input received from key stakeholders. The following were the key comments received from the questionnaires and submissions, as well as comments from the 2011 Amendments review.

4.2.1 Relationships with other Class EAs and Legislation

Several comments have been received regarding the relationship of the Municipal Class EA with other Class EA and federal and provincial legislation. Some comments suggest the Municipal Class EA document should summarize and incorporate the interrelationships and additional legislative requirements that may be associated with other EAs or legislation.

Response

The Municipal Class EA clearly states “*It is the responsibility of the proponent to ensure that they have obtained any other necessary approvals or permits prior to implementing the project.*”

The Municipal Class EA does however identify several key pieces of associated legislation. Many of these have undergone, or are about to undergo, substantive changes including the Canadian Environmental Assessment Act. The document “Building Common Ground: A New Vision for Impact Assessment in Canada” was recently released for comment, outlining a review of the Federal Environmental Assessment process.

It is well beyond the scope of the Municipal Class EA to outline all the potential legislation and regulatory requirements of municipal projects. It is the responsibility of the proponent to ensure that all requirements are met.

MEA has a representative on the *Environmental Assessment Proponents Group* (EAPG). This Committee consists of proponents of Class EAs and discusses issues and topics related to Class EAs.

Recommendations

- Provide a clarification indicating that Section A.2.10 RELATIONSHIP OF PROJECTS WITHIN THE CLASS EA TO OTHER LEGISLATION is not intended to be an exhaustive list of approvals or undergo regular updates to reflect ongoing changes to legislation. It is the responsibility of the proponent to ensure that all approval requirements are met prior to project implementation.
- Continued involvement with EAPG Committee to discuss area of mutual benefits and concerns.

4.2.2 Agency Reviews

Proponents indicate review agencies are not always responsive in a timely manner. Review agencies indicate they are not always given enough time to respond.

Response

As time pressures increase and priorities change for both the public and private sector, the requirements for reviews and contacts should be re-assessed.

Recommendations

Appendix 3 of the Municipal Class EA provides guidelines to assist proponents in establishing contact with appropriate review agencies. Review agencies should be contacted and confirm the following:

- contact triggers
- level of detail / information required for review
- timing for initial contact
- time required for review
- review and input expectations (e.g., information, approvals, EA document review)

Information collected could be collated into a Review Agency training module for distribution on the MEA website.

4.2.3 Proponent Municipalities

Some municipalities have expressed an interest in becoming proponent municipalities to the Municipal Class EA.

Response

Ontario Regulation 334 enables all municipalities to make use of the approved process to fulfill EA Act requirements. Only one small difference between the proponent and the non-proponent municipalities is identified in the document is that in the case of non-proponent municipalities, Schedule A projects could be designated under the EA Act. This interpretation is currently the subject to new legal interpretation by the MOE indicating there are no differences.

The municipal proponents were identified during the establishment of the 2000 MEA. No new document is planned and as such there is no opportunity to add proponents to the document.

Recommendations

No action.

4.2.4 Database

It has been suggested that a database of completed class EAs would be a helpful resource.

Response

Class EA reports are provided to the MOE upon MOE's request. If MOE has not been involved in the Class EA process for a particular project (especially for a Schedule A+ or B project), MOE would only receive documentation when a Part II Order Request is made. Therefore, not all types of reports are available for any type of posting. MEA does not receive copies of any completed Class EAs. Maintenance and administration of such a database including the collection of all EA reports would be exceptionally onerous.

Recommendations

Municipalities are continually expanding their website content and many now include completed Class EA documents or contact information on how to obtain copies of the documents. Interested parties are encouraged to search these websites to find appropriate examples as required. MEA will not be preparing or hosting a database of completed Class EA documents.

4.2.5 First Nations Consultation

Requests for a description of expectations as to when/how consultation with Aboriginal communities (First Nations and Métis) is to take place, has been requested by proponents.

Response

MEA intends to file a major amendment to update Section A.3.7, First Nations and Aboriginal Peoples, of the MEA Class EA. It is proposed that the amendment will provide details on the basic elements of consultation with First Nation and Métis communities. The elements of consultation will vary depending on the project schedule and specific requirements for the following may be included in the amendment:

- provide notice of the undertaking to elected leadership;
- provide detailed notification early in the Class EA process;

- provide adequate time for First Nation and Métis communities to review and comment on potential impacts of the project;
- provide the opportunity for face to face meetings with First Nation and Métis communities and/or follow up phone calls;
- consider and respond to any concerns and questions about the project; and
- implement, as appropriate, any changes to the project in respect of concerns raised by the First Nation and Métis communities.

Further, it is proposed that a statement be included in the Class EA that the MOE's Director of the Environmental Approvals Branch be advised if a First Nation and Métis community has asserted that the project may have adverse impacts on an Aboriginal and/or Treaty Right.

The Class EA may also be amended to include a requirement for a proponent to create a consultation record. The consultation record would be made available to the MOE upon request and most likely in the event of a Part II Order request. A consultation record could include:

- identification of which First Nation and Métis communities were consulted, including a rationale for their inclusion on the list;
- all notification activities (including dates and copies of all letters and follow up phone calls to First Nation and Métis communities);
- a record of the type of information provided to the First Nation and Métis communities;
- concerns raised in correspondence from First Nation and Métis communities;
- meeting summaries outlining the dates of face to face meetings, teleconferences, etc...who attended, the purpose of the meeting, what concerns, if any, were raised and what was agreed to;
- how concerns raised by the First Nation and Métis communities were addressed; and
- a list of any changes to the project that were made as a result of consultation.

Recommendations

THAT MEA and MOECC review First Nations Consultation through the upcoming Environmental Assessment Act review process.

4.2.6 Cycling Facilities

Several questions have been received regarding the application of the MCEA to cycling facilities.

Cycling facilities that are part of a roadway/road ROW are considered as part of the Class EA. Definitions in Appendix A – Project Schedules include these facilities within the ROW.

Stand alone cycling or recreational facilities outside of a ROW are not considered. They could be considered under R.R.O. 1990, REGULATION 334 where an undertaking by a municipality is exempt from section 5 of the Act where it has an estimated cost of not more than \$3,500,000.

Recommendations

THAT MEA work with larger municipalities to submit a recommendation to be incorporated through the upcoming Environmental Assessment Act review process.

4.2.7 RCCAO Categorization Study

In January 2012 RCCAO published a Categorization Review Study of Municipal Class Environmental Assessments. The review included the environmental assessment laws and procedures of more than 20 other jurisdictions as they relate to municipal infrastructure projects such as roads, water and wastewater systems. The following is a summary of the key points and the MEA response.

1. The use of capital cost of a construction project or improvement was not used in any other jurisdiction to determine the intensity of environmental assessment. Therefore, the primary recommendation is to discontinue the use of “capital cost” of a municipal infrastructure project under the Municipal Class EA process. Instead, the use of physical parameters for Class EA projects will improve predictability and certainty with respect to the regulatory oversight embedded in the schedule scheme already in place for those projects.

Other provinces across Canada requiring EA for Road:

- In Nova Scotia, no environmental assessment is required for a new road unless it is designed for four or more lanes of traffic and is longer than two kilometres (km), or is designed for two or three lanes of traffic and is longer than 10 km
- In B.C., road projects requiring an environmental assessment are paved public roads of at least 20 km that involve the construction of at least two or more lanes.
- There are no statutes or regulations in any other Province that require environmental assessments of municipal infrastructure projects such as intersection improvements, grade separations or road widening.

It is submitted that criteria such as length of roadway or width of right of way are much more stable, predictable, and appropriate criteria for determining the appropriate intensity of Municipal Class Environmental Assessment for the respective projects.

Response:

The Municipal Class EA includes a definition of various classifications of roadways (local, arterial, collector) which incorporates factors such as length (qualitatively), use and number of lanes. These classifications are included in the schedule definitions. Construction of local roads which are required as condition of approval on a site plan, consent, plan of subdivision or plan of condominium which will come into effect under the Planning Act prior to the construction of the road are considered as Schedule A. Reconstruction projects, of several types, are also considered as Schedule A if they are for the same purpose, use, capacity and at the same location regardless of costs.

Other new roadway construction projects are classified based on costs with costs being considered an appropriate measure of the scope of size and potential impacts of a project. Most municipal roadway projects in Ontario are much less than 10 km in length but should still be considered under the Municipal Class EA.

The use of costs is also included in MOE regulations as reflected by R.R.O. 1990, REGULATION 334 where an undertaking by a municipality is exempt from section 5 of the Act where, it has an estimated cost of not more than \$3,500,000. Note however this capital cost exemption does not apply to an undertaking of a type described in the Municipal Class Environmental Assessment;

As identified in the preamble to the schedule definition, road projects, however, by their nature, may be relatively large in terms of their total cost, whereas their environmental impact may or may not be significant. The definition of project schedule by costs relate to the extent of the level of EA required and provide, in Municipal Class EAs opinion, an appropriate measure of impact that can be consistently applied across the province.

2. Under the Ontario MEA Guideline, municipal road patrol yards and maintenance facilities, pedestrian over or under passes and streetscaping will require a Schedule A+, a Schedule B or a Schedule C review depending on capital costs.

Response:

Recent amendment to the Municipal Class EA has resulted in the following changes to address maintenance facilities and streetscaping:

- Expansions, improvements and modifications to existing patrol yards and maintenance facilities where no land acquisition is required is Schedule A with no cost limit;
- Expansions, improvements and modifications to existing patrol yards and maintenance facilities where land acquisition is required provided project conforms to Planning Act requirements and with municipal and other requirements is Schedule A with no cost limit;
- Establish new patrol yards or maintenance facilities provided project conforms to planning Act requirements and with municipal and other requirements is Schedule A with no cost limit;
- Streetscaping (e.g. decorative lighting, benches, landscaping) not part of another project are considered A+ regardless of cost;
- Pedestrian bridges are still subject to the requirements of the Class EA based on costs.

3. In many jurisdictions pedestrian bridges over roadways, streetscaping, and the addition of bicycle lanes are exempted from an environmental assessment provided that such improvements do not require additional lands beyond the existing road allowances. If the addition resulted in a reduction of any motor vehicle lanes, the project generally requires an environmental assessment.

Response:

The Municipal Class EA does not require EAs sidewalks or streetscaping as standalone projects if no land is required.

- Construction or operation of sidewalks or bicycle paths or bike lanes within existing rights-of-way are considered A+ regardless of costs.

4. Under Ontario's MEA Guideline, expansions or the addition of certain components to a wastewater treatment plant or sewage piping system will require a Schedule A+, Schedule B, or Schedule C review depending on whether the new capacity exceeds the rated capacity or whether the new works are situated in existing structures or lands. While almost every jurisdiction reviewed requires a form of environmental assessment for the construction or expansion of wastewater treatment plants or sewer systems, most of these had a physical screening criteria below which a lesser or no environmental assessment was required.

Response

The Municipal Class EA has different classifications for wastewater treatment systems projects based on screening criteria such as land requirements or other approvals. Examples include:

- Sewage projects planned and approved under Ontario Regulation 586/06 – Schedule A;
- Establish, extend, or enlarge a sewage collection system and all necessary works to connect the system to an existing sewage outlet, where it is required as a condition of approval which will come into effect under the Planning Act– Schedule A;
- Establish, extend or enlarge a sewage collection system and all works necessary to connect the system to an existing sewage outlet where such facilities are not in an existing road allowance or an existing utility corridor – Schedule B;

- Communal sewage systems (new or expanded) with subsurface effluent disposal subject to approval under Section 53 of the Ontario Water Resources Act – Schedule B;
 - New facilities are subject to the full Class EA requirements – Schedule C
5. Although most jurisdictions will require an environmental assessment for wastewater treatment plant expansions that require additional lands, no jurisdiction reviewed imposed an environmental assessment requirement for standby electrical power generators on an existing site.

Response:

Recent amendment to the Municipal Class EA has resulted in the following changes:

- Installation or replacement of standby power equipment where new equipment is located in a new building or structure is considered Schedule A
6. Treatment plants and delivery systems for drinking water were often exempt from the requirement to undertake an environmental assessment. The criteria for water treatment plants and water mains were physical plant capacity, e.g. the quantity of water that can be treated or the length of additional water mains that must be constructed.

Response:

The Municipal Class EA also classifies water treatment plants based on capacity and or land requirements, which is often reflective of the length of additional water mains. For example:

- Increasing pumping station capacity by adding or replacing equipment where new equipment is located within an existing building or structure – Schedule A;
- Establish, extend or enlarge water distribution system and all necessary works to connect the system to an existing system, where it is required as a condition of approval on a site plan, consent, plan of subdivision or plan of condominium which will come into effect under the Planning Act – Schedule A;
- Establish, extend or enlarge a water distribution system and all works necessary to connect the system to an existing system or water source, provided all such facilities are in either an existing road allowance or an existing utility corridor – Schedule A+;
- Increase pumping station capacity by adding or replacing equipment and appurtenances where new equipment is located in a new building or structure – Schedule B;
- Construct new water treatment plant or expand existing water treatment plant beyond existing rated capacity – Schedule C

Recommendations

In summary, the recent changes to the Municipal Class EA (2011) reflect many of the points raised by the report and have been incorporated. The methods to screen the impacts of water and wastewater treatment based on property requirements and capacity are deemed to be adequately reflected in the current EA process. The use of costs is still supported by the MEA as a determining factor to assess the physical size of the road projects to dictate whether the project was exempted and determined the level of review.

4.2.8 Schedule A projects

During the 2011 Amendment process, MOE provided a legal opinion that under section 16 of the EAA, anyone may request the Minister of the Environment to review any undertaking and issue an Order making a Class EA project subject to Part II of the Environmental Assessment Act (EAA). MEA

recognize that the EAA has not changed and however we feel this new interpretation will introduce new requirements, new burdens or a rescheduling of integrated projects. This legal interpretation was previously unknown and hence this is viewed as a new requirement. The Municipal Class EA has existed for more than a decade through two revisions with everyone understanding that there was no ability for a Part II order request on a Schedule A or an integrated project. We view this recent legal interpretation as a loophole that cannot be address through the Municipal Class EA but that needs to be fixed by MOE. MEA suggests that this be considered through the Environmental Assessment Review.

RCCAO has also meet with Minister Bradley in early February to discuss the integration provisions and the request for a S. 16 legislative amendment to minimize the chance for bump-up requests after a combined public consultation process has been completed.

No other approved Class EA in Ontario includes a provision for Part II Orders on their pre-approved projects.

GO Transit –Glass EA

P 23 section 3.1.1

Group A – pre approved

No mention in notices that Part II orders are possible

Waterpower Projects

Category A – “exempt” No notice or opportunities for Part II orders

MTO Class EA

Group C projects

“Approved under the EA Act subject to environmental screening”

“Group C projects are not eligible for bump-up” Section 6.2

MEI CLASS ENVIRONMENTAL ASSESSMENT PROCESS

Category A

No notice or opportunities for Part II orders

“Category A projects, proceed without further EA action”

Class Environmental Assessment for Remedial Flood and Erosion Control Projects – Conservation Authorities

Certain types of projects are considered approved projects and not subject to the planning and design process of this Class EA.

Class EA for MNR Resource Stewardship and Facility Development Projects

Category A - Planning and implementation of these projects is allowed to proceed in accordance with conditions imposed by MNR to mitigate negative effects without further public review or approval.

Part II Order request opportunities only noted for Category B and C

Class EA for Provincial Parks and Conservation Reserves

Category A - Planning and implementation of these projects is allowed to proceed in accordance with relevant MNR policies, procedures, bulletins, manuals and standards, in most cases without further public review or evaluation under the processes of this Class EA.

Part II Order request opportunities only noted for Category B and C

Section 6.6

“This Class EA provides opportunities for Aboriginal groups, agencies, stakeholders and interested parties to provide input to MNR’s decision making for Category B and C projects. The Part II Order provisions described in this section are not intended to apply during the screening or project evaluation processes. As illustrated in Figure 4, they may be used after the posting of a Notice of Completion if there is concern that a project evaluation under this Class EA is insufficient to address public concerns or the characteristics and effects of the project.”

MNR Class EA for Forest Management on Crown lands

No approved projects for comparison.

MOE intends to introduce a new regulation that would exempt pre-approved projects in all Class EA’s from Section 16 of the EA Act.

4.2.9 MOE COMMENTS

MOE has provided a number of comments and suggested amendments to the MCEA. These will be reviewed through the upcoming Environmental Assessment Act review process.

5.0 Proposed Monitoring Reporting Format

5.1 MOE Reporting

As part of the Municipal Class EA monitoring of the effectiveness and benefits the Master Planning and Integrated Approach processes, proponents are required to submit to the MOE:

- a summary of how the Master Plan followed Class EA requirements: and/or
- a summary of how the Integrated Approach has met the conditions in section A.2.9

These summaries or the information contained therein should be provided to MEA for review and incorporation into the annual monitoring.

5.2 Revised General Questionnaire

In an effort to make the monitoring more inclusive and gather information from a boarder input a new questionnaire format is being used. The questionnaire is made available on the MEA website and provide structured input into the Class EA process on an on-going basis from practioners and participants in the process.

This information is collected using a ‘Survey Monkey’ type application and utilized in annual monitoring reports.

MUNICIPAL CLASS ENVIRONMENTAL ASSESSMENT FEEDBACK

Are you a

Proponent/Municipality

1 In general, do you find the project schedules appropriate for the type and scope of your projects?

	Yes	No	Comments
•roads			
•water			
•waste water			
•transit			

2 Do you have difficulty determining the appropriate schedule?

Often	Sometimes	Never	Comments

- a. What resources did you have available / seek out to assist in determining the schedule, if required?

- b. Where these resources helpful? What additional information / resources would be useful?

- c. Has your choice/interpretation been challenged?

Often	Sometimes	Never

- d. If yes, how was the challenge resolved?

- 3 MOE has introduced a regulation to exempt transit projects from the EA Act if they follow the process in the regulation. Do you still use the Transit schedules contained in the Municipal Class EA approval process?

Yes

No

If yes, please identify the specific schedule and provide comments?

- 4 In 2011 MEA submitted a major amendment to the Municipal Class EA that re-writes the

section on integration with the Planning Act and revises the Schedule classification for certain projects. Details of this proposed amendment are available at www.municipalengineers.on.ca. Have you used the Integrated Approach?

Yes

No

a. If yes did you find the Approach beneficial?

Comments

b. If no why not?

Not familiar

Not appropriate

Not enough information

Comments

5 Are there any additional specific project schedules (see Appendixes of the Municipal Class EA) which should be modified/changed/deleted/added?

Yes

No

If yes, please identify the specific schedule and provide comments?

Name: _____
 E-mail: _____
 Phone: _____
 Fax: _____

Review Agency

- 1 In 2011 MEA submitted a major amendment to the Municipal Class EA that re-writes the section on integration with the Planning Act and revises the Schedule classification for certain projects. Details of this proposed amendment are available at www.municipalengineers.on.ca. Have you used the Integrated Approach?

Yes

No

- a. If yes did you find the Approach beneficial?

Comments

- b. If no why not?

Not familiar

Not appropriate

Not enough information

Comments

- 2 In general, do you find the project schedules appropriate for the type and scope of your projects?

	Yes	No	Comments
•roads			
•water			
•waste water			
•transit			

- 3 MOE has introduced a regulation to exempt transit projects from the EA Act if they follow the process in the regulation. Do you still use the Transit Schedules contained in the Municipal Class EA approval process?

Yes

No

If yes, please identify the specific schedule and provide comments?

Name: _____
 E-mail: _____
 Phone: _____
 Fax: _____

Public/Other Stakeholder

Name: _____
 E-mail: _____
 Phone: _____
 Fax: _____

CONSULTATION

Are you a

Proponent

1 Please list the methods of delivery used for notification. Indicate all that apply.

- Daily newspaper
- Local/community newspaper
- Flyers
- email
- website
- Other

a. Have you/the municipality established a procedure for notifying the public regarding similar projects under other applicable provincial legislation, to fulfill their requirements for “published notice”.

Yes No

2 In general, do technical agencies participate in the process and provide input/comments in a timely manner?

Yes No

Comments

3 In general, do First Nations participate in the process and provide input/comments in a timely manner?

Yes No

Comments

4 In general, do project stakeholders indicate that they are satisfied with the level of notice, consultation and documentation?

Yes No

Comments

Name: _____
E-mail: _____
Phone: _____
Fax: _____

Review Agency

Name: _____
E-mail: _____
Phone: _____
Fax: _____

Public/Other Stakeholder

Name: _____
E-mail: _____
Phone: _____
Fax: _____

PART II ORDER REQUESTS

Are you a

Proponent/Municipality

1 Please list the methods of delivery used for notification. Indicate all that apply.

- Daily newspaper
- Local/community newspaper
- Flyers
- email
- website
- Other

a. Have you/the municipality established a procedure for notifying the public regarding similar projects under other applicable provincial legislation, to fulfill their requirements for “published notice”.

Yes No

2 In general, do technical agencies participate in the process and provide input/comments in a timely manner?

Yes No

Comments

3 In general, do First Nations participate in the process and provide input/comments in a timely manner?

Yes No

Comments

4 In general, do project stakeholders indicate that they are satisfied with the level of notice, consultation and documentation?

Yes

No

Comments

Name: _____
E-mail: _____
Phone: _____
Fax: _____

Review Agency

Name: _____
E-mail: _____
Phone: _____
Fax: _____

Public/Other Stakeholder

Name: _____
E-mail: _____
Phone: _____
Fax: _____

TRAINING/QUESTIONS

Are you a

Proponent/Municipality

1 In general, is the Municipal Class EA process easy to follow and to apply?

Yes

No

Comments

2 Training modules currently available are:

- Introduction to Municipal Class Environmental Assessment (Municipal Class EA) Process
- Amendments and Clarifications to the 2007 Municipal Class EA
- Master Plans and the Municipal Class EA Process
- Part II Order Requests
- Proponency
- Integration with the Planning Act
- Scoping

Additional modules under development include:

- First Nation Consultation
- 40 Year Old Structures

a. Please provide comments on the Content of the proposed training modules or additional topics.

- b. How would you like to see training modules delivered?
- i. Webinar
 - ii. Youtube
 - iii. Online documents
 - iv. Other

Name: _____
E-mail: _____
Phone: _____
Fax: _____

Review Agency

Name: _____
E-mail: _____
Phone: _____
Fax: _____

Public/Other Stakeholder

Name: _____
E-mail: _____
Phone: _____
Fax: _____

5.2.1 **Revised Annual Monitoring Report Format**

Based on the foregoing proposed revisions and an attempt to streamline the annual reporting, the following format is suggested for future reporting.

- Introduction
- Summary of Activities
- Deferred actions from previous years
- Compliance Monitoring
 - MOE Reporting
 - Compliance Audits
 - Notices of Completion
 - Part II Order Requests
 - Master Plan Process Summary
 - Integrated Approach Process Summary
 - Questionnaire Summary
 - project definition and progress
 - consultation
 - Part II Order required
 - Training/Questions
 - Annual Key Comments
 - Comment
 - Response
 - Recommendation
- Summary of Recommended Actions

6.0 Summary of Recommended Actions

The MEA and the MOE have collected comments and information on the application of the Municipal Class EA. Based on a review of this information, the following actions are recommended as part of the 5 Year Review.

-Provide a clarification indicating that Section A.2.10 RELATIONSHIP OF PROJECTS WITHIN THE CLASS EA TO OTHER LEGISLATION is not intended to be an exhaustive list of approvals or undergo regular updates to reflect ongoing changes to legislation. It is the responsibility of the proponent to ensure that all approval requirements are met prior to project implementation.

-Continued involvement with EAPG Committee to discuss area of mutual benefits and concerns. In particular, participate fully in the upcoming Environmental Assessment Act review process.

-Remind Proponents

- Notices of Completion for all Schedule B or C projects must be emailed to MEA.Notices.EAAB@ontario.ca with a copy also sent to the Regional EA Planner/Coordinator.
- Proponents are reminded that reporting to MOE is often part of the condition of approval and must be completed.

6.1.1 Notices of Completion

Proponent	Project Name	Type	Element Status	# Requestors	Request Submission Date	Decision Date	Number of Days	NoC Date
Central								
Milton, Town of	Boyne Survey Community Collector Road 16 Mile Creek Crossing	Transportation	Denied	1	21-Apr-15	8-Mar-16	322	2-Apr-15
Milton, Town of	Fifth Line Improvements - Derry Rd to Hwy 401 and Main St	Transportation	Denied	1	1-Jun-15	8-Mar-16	281	21-May-15
Halton, Regional Municipality of	Britannian Road (Regional Road 6) Transportation Corridor Improvements	Transportation	Denied	4	12-Nov-14	30-May-16	565	9-Oct-14
Tay, Township of	Grandview Beach and Paradise Point- Expansion of Sewer and Water	Sewage Works	Denied	3	21-Sep-15	6-Jul-16	289	10-Sep-15
Toronto, City of	West Toronto Railpath Extension	Transportation	Denied	1	31-Jan-16	17-May-16	107	15-Feb-16
Eastern								
Peterborough, City of	Parkway Corridor (Lansdowne St to Water St at Carnegie Ave)	Transportation	Granted	91	4-Mar-14	16-Sep-16	927	14-Jan-16
West Central								
City of Hamilton	Cormorant Road Extension	Transportation	Denied	1	14-Dec-15	24-Jun-16	558	5-Mar-15
Waterloo, Regional Municipality of	River Road Extension	Transportation	Denied	3	18-Jul-14	16-Jun-16	699	13-Jun-14
County, Norfolk	Porters Bridge Class Environmental Assessment	Transportation	Denied	1	17-Aug-15	8-May-16	265	1-Jun-15