

**Class Municipal E A 5 Year Review
1st November 2012**

The MOE are seeking comments from the First Nation and Métis communities, the public, government agencies, and interested persons on the MEA's five year review report.

The MOE is accepting comments at:

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In addition to the First Nations section, other sections of interest such as Training Modules, Revised General Questionnaire, and Summary of Recommended actions can be accessed using the bookmarks feature of this document.

Comments will be accepted up to December 21st 2012



**Municipal
Engineers
Association**

**MUNICIPAL CLASS EA PROCESS
FIVE YEAR REVIEW
October 2012**

*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. A further amendment was approved on August 17th, 2011.

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.

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 2012 - MEA 5 Year Review.

1.4 2012 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 2012;
- Deferred Activities
- Compliance Monitoring
- Proposed Monitoring Reporting Format
- Summary

2.0 Summary of Key Activities 2008-2011

2.1.1 Key Activities 2008

Cost adjustments

MEA submitted a minor amendment, to the Municipal Class EA, to adjust the cost limits identified for Schedule B and C projects and ensure the 10 year shelf life applies to all Schedule B and C projects completed after September 6th, 2007.

These amendments were approved and posted to the MEA website. MEA continues, on an annual basis to update and posts adjusted costs.

Clarifications

Clarifications were approved and posted which explains pumping stations are located throughout a collection system and that the headworks of a Sewage Treatment Plant should not be considered a pumping station.

2.1.2 Key Activities 2009

Clarifications

Clarifications were approved and posted as follows:

- Dams and weir refer to flow control structures located in a watercourse. Any outfall structure at a lagoon would be part of the treatment facility;
- Under Ont. Reg. 116/01 - Installation or replacement of standby power equipment where new equipment is located in a new building or structure is exempt from the EA Act if the equipment is a generation facility within the meaning of O. Reg. 116/01, is constructed for the purpose of providing electricity to the side, and is carried out by Her Majesty in Right of Ontario, a municipality or a public body is defined in the Environment Assessment Act.
- Although septage, while hauled by truck, is considered waste, for storage or treatment facilities septage should be included with sewage in the Municipal Class EA. Also, leachate should also be included with sewage
- Notices should only be sent to those contacts who either have expressed an interest in the project or whom may have an interest in the project. Notices should not be sent to the Ministry of the Attorney General without reason
- Relevant notices should be emailed to MEA.Notices.EAAB@ontario.ca with a copy also sent to the Regional EA Planner/Coordinator
- In accessing the magnitude and extent of a problem (e.g. the scope of the project) where multiple projects may be possible, it is important, that the projects not be broken down or piecemealed into component parts or phases with each part being addressed through separate studies”

Carried Forward

Comments and feedback from 2009 that required additional consideration and were carried forward for consideration in the amendments proposed for 2010. These items included:

- make all streetscaping projects Schedule A+ regardless of cost;
- Clarify 40 year old bridges
- Changes to Roads Activity 35

A Notice of these proposed amendments was posted on the MEA website.

Consistency with Code of Practice for Preparing Environmental Assessments

In November 2008, MOE released a Code of Practice for Preparing, Reviewing and Using Class Environment Assessments in Ontario. In 2009 a comparison of the Municipal Class EA with this code was prepared and recommendations were made for potential amendments to ensure consistency with the Class EA as a minor amendment.

As part of the 2012 5 Year Review the potential amendments were revisited and are summarized below with update responses.

Comment	2009 Response	2012 Response
<p>Consultation Plan should be changed to Consultation Summary in order to be consistent with the Code of Practice;</p>	<p>agrees</p>	<p>The consultation Plan references in the Municipal Class EA refer to a plan to be developed by the proponent as a guide to consulting during the EA process. The preparation of project documentation includes a requirement for a description of the consultation process and an explanation of how concerns raised by the public and review agencies have been addressed in developing the project. This requirement is consistent with the intent of the consultation summary. This is consistent with the Code of Practice.</p> <p>No changes / amendments are proposed</p>

Comment	2009 Response	2012 Response
ii) a definition of Aboriginal People should be added to the glossary;	agrees	Definition to be included in First Nations Consultation Training Module No changes / amendments are proposed
iii) a new sub-section regarding Aboriginal People and Consultation should be created to include specifics on consultation methods as well as a more detailed description of Aboriginal People and their role in the EA process that is consistent with Section 2.3 of the Code of Practice;	agrees	included in First Nations Consultation Training Module No changes / amendments are proposed
iv) the headings of Documentation Report should be modified to be consistent with the headings of the Code of Practice Documentation Requirements (4.3);	iv) not relevant - not included	No changes / amendments are proposed
v) sample notices should include the appropriate notification templates that are included in the Code of Practice;	v) not relevant - not included	No changes / amendments are proposed
vi) MEA Class EA does not include Project Management Principles. A section outlining Project Management Principles that are consistent with the Code of Practice should be added;	vi) not necessary - not included	No changes / amendments are proposed
vii) Environmental Assessment Principles are present in the document and are consistent with those of the Code of Practice, however their terminology should be changed from “Key Principles of Successful EA Planning” to “EA Principles”	agrees	Change in terminology not required No changes / amendments are proposed
viii) MEA Class EA should differentiate between compliance monitoring and effects monitoring throughout the document;	viii) comment relates to parent document and is not applicable	No changes / amendments are proposed

Comment	2009 Response	2012 Response
ix) no clear indication of the requirement of effects monitoring is evident in the Class EA;	MEA will consider during next update of Municipal Class EA	See section 4.1.1 of 2012 review
x) discussion of compliance monitoring is consistent;	x) okay	No changes / amendments are proposed
xi) importance of monitoring throughout the EA process should be emphasized in both compliance and effects monitoring sections; and	xi) MEA will consider during next update of Municipal Class EA	See section 4.1.1 of 2012 review
xii) add or amend definitions as per Appendix A of the comparison.	xii) agree MEA will consider if all definitions are required	See section 4.1.1 of the 2012 review

Safe Drinking Water Act

Prior to the next reprinting of the Municipal Class EA, wording will be reviewed to identify areas requiring change to reflect new requirements under the Safe Drinking Water Act and to consider the concept of a drinking water system with multiple supply and/or treatment systems.

The Safe Water Drinking Act is identified in the MCEA in section A.2.10 “Other key provincial legislation”. 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.

2.1.3 Key Activities 2010

New Web Site

The MEA commenced work to launch a new web site to provide up to date information about the Municipal Class EA, allow users to view web based training modules and provide an opportunity to submit questions.

The website www.municipalclassea.ca was launched in April 2011.

Cost Adjustments

The annual updating of costs was approved as a minor amendment. 2010 cost adjustment were posted on the MEA web site and continue to be adjusted automatically annually.

Clarifications

Submit a minor amendment to clarify Dams and Weirs and Piecemealing.

Included as part of the 2011 Amendment approved on August 17th 2011.

Major Amendment

A major amendment was initiated in 2010 addressing

- 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.
- Changes to the project Schedule (A, A+, B or C) of selected projects integration provision.

The Amendment was approved on August 17th 2011.

2.1.4 Key Activities 2011***New Web Site***

The MEA continued to work to launch a new web site to provide up to date information about the Municipal Class EA, allow users to view web based training modules and provide an opportunity to submit questions.

The website www.municipalclassea.ca was launched in April 2011.

Cost Adjustments

2010 cost adjustment were posted on the MEA web site and continue to be adjusted automatically annually.

Training Modules

It was decided to develop training modules on the following topics for display on the MCEA web site:

- 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
- First Nation Consultation
- 40 Year Old Structures

3.0 2012 Key Activities

3.1.1 Cost Adjustments

2011 cost adjustment were posted on the MEA web site and continue to be adjusted automatically annually.

3.1.2 Training Modules

Training modules were developed and 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

Based on feedback received during the 2011 Amendment Webinars, the following additional training modules are being considered for development

- Class EA Amendment Process
- Review Agencies

4.0 Deferred Actions to 2012

4.1.1 MOE Codes of Practice

As part of the MOE administration of the Environmental Assessment Act Codes of Practice are prepared to provide direction and clarification for environmental assessment. These include:

- Code of Practice - Preparing and Reviewing Environmental Assessments in Ontario
- Code of Practice - Consultation in Ontario's Environmental Assessment Process

As the Municipal Class EA evolves and is amended, efforts have been made to ensure consistency with these Codes. In 2009 proposed amendments to the Class EA were suggested and were summarized in the key issues for 2009. Some recommendations were identified for further consideration during this review and are outlined below.

Monitoring

Comments

No clear indication of the requirement of effects monitoring is evident in the Class EA and importance of monitoring throughout the EA process should be emphasized in both compliance and effects monitoring sections.

Response

The Municipal Class EA includes requirements and direction for effects monitoring including the following:

POTENTIAL MITIGATING MEASURES Executive Summary

The Class EA also requires proponents to make provision for post-construction monitoring to ensure that projects are built and operated in accordance with the approved design and that environmental impacts are as predicted.

CONTENTS OF A PROJECT FILE

The Project File shall be organized chronologically in such a way as to clearly demonstrate that the appropriate steps in Phases 1 and 2 have been followed and explain the following:

- follow-up commitments, including any monitoring necessary

ENVIRONMENTAL STUDY REPORT Contents

...should describe the monitoring program developed during the planning process designed to be carried out during and after construction. The program should monitor and review the environmental impacts predicted and the commitments made to mitigation throughout the planning and design process.

IMPLEMENTATION

Monitoring for environmental provisions and commitments. The ESR will detail the potential effects of a project on the environment, and the mitigating measures, if any, to be taken to avoid, eliminate, prevent or minimize such effects. The monitoring program outlined in the ESR shall be undertaken to ensure that the environmental provisions and commitments made in the ESR are fulfilled and are effective. Monitoring of project operation may be necessary to ensure the effectiveness of the selected solution in resolving the problem. The results of the monitoring program shall be communicated to the public and review agencies, if requested.

The Municipal Class EA is a self assessment process and the proponent is responsible for project compliance with the Municipal Class EA. This is noted consistently throughout the document.

Recommendations

- The Municipal Class EA is a self assessment process that clearly identifies and requires the identification of compliance and effects monitoring, if required. No additional changes are proposed to ensure consistency with the Codes regarding monitoring.
- The adherence to these requirements could be confirmed through ongoing MOE Compliance Audits.
- If the Audits indicate this is not being well addressed, a training module could be developed.

Definition**Comments**

Add or amend definitions

Response

Many of the definitions in the Codes of Practice:

- do not apply to the Municipal Class EA Process (i.e., Applicant The person seeking approval of a class environmental assessment.)
- have different meanings (i.e., amendment)
- not referenced (i.e., Project Evaluator)

Other definitions which are applicable to both the Codes and the Municipal Class EA are consistent in the intent of the definition but not in the terminology. For example the Code of Practice for Preparing, Reviewing and Using Class Environmental Assessments in Ontario has the following definition:

Undertaking - An enterprise, activity or a proposal, plan, or program that a proponent initiates or proposes to initiate.

The Municipal Class EA has this definition:

Project - Means a specific activity planned and implemented in accordance with the Class EA (may also be referred to as the undertaking). The project consists of all those activities necessary to solve a specific problem (deficiency) or address an opportunity.

Both appropriately define an activity consistent with the language contained in the related documents.

The Code of Practice for Preparing, Reviewing and Using Class Environmental Assessments in Ontario defines Alternative methods and the Municipal Class EA defines Alternative Designs. Again both appropriately define an activity consistent with the language contained in the related documents.

Recommendations

- No changes to the Municipal Class EA are proposed to ensure consistency with the MOE Codes of Practice
- Remove NOTICE OF INTENT TO AMEND THE Municipal Class EA - Municipal Class EA CONSISTENCY

5.0 Compliance Monitoring

5.1 MOE Reporting

5.1.1 Compliance Audits

A summary of the MOE compliance audits which were conducted by MOE in 2011 is found below.

The Ministry of the Environment has completed its audit of randomly selected projects assessed under the Municipal Engineers Association (MEA) Municipal Class Environmental Assessment (EA) for the 2011-2012 fiscal year.

For the 2011-2012 fiscal year, ministry staff audited ten projects that were assessed under the MEA Class EA. The audits were conducted on six files where Part II Order requests were denied with conditions, two files where Part II Order requests were denied with no conditions and two Class EA projects.

The ministry found one instance of non-compliance with conditions on Part II Order requests that were denied. In summary, conditions were placed on a project in relation to notifying the ministry about the mitigation measures developed during construction of a project and the effectiveness of the mitigation measures that were implemented. The proponent failed to provide the information to the ministry, as required. The ministry is working with the proponent to ensure that the conditions imposed on the project are met.

Recommendation

Proponents are reminded that reporting to MOE is often part of the condition of approval and must be completed.

5.1.2 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.

5.1.3 Part II Order Requests

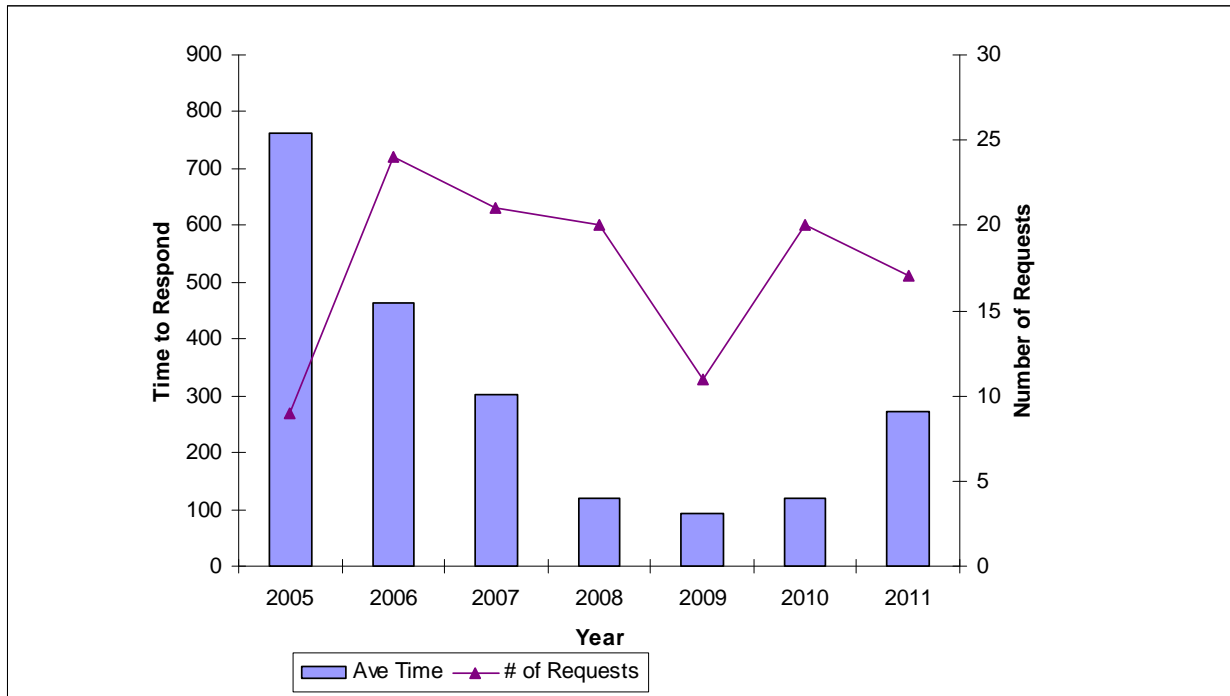
A summary of the Minister's Decisions, related to Part II Order requests which were dealt with by MOE in 2011 is found below.

- Seventeen (17) Part II Order Request responses were issues in 2011
- All were denied and five (5) had conditions imposed
- Eight (8) of the responses were from 2010 or earlier
- With the exception of one from 2006 the average response time was 181 days. Overall the average response time was 272 days
 - One (1) response was through delegated authority to the Director of the EAAB

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 have substantially improved over the last 5 years. Response times have decreased from years to a few months but trends have started to increase again.



5.2 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.

5.2.1 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.

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.

5.2.2 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.

5.2.3 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.

5.2.4 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.

5.2.5 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 prepare a training module outlining best practices for First Nations Consultation and pursue an amendment to A.3.7 incorporating feedback opportunities into the amendment process.

5.2.6 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 major amendment to address cycling facilities.

5.2.7 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 watermains. 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.

5.2.8 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 addressed through the Municipal Class EA but that needs to be fixed by MOE.

RCCAO has also met 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.

5.2.9 MOE COMMENTS

MOE has provided a number of comments and suggested amendments to the MCEA.

Recommendation

THAT MEA work with MOE during preparation of proposed regulations and then review the MCEA to determine if amendments are required.

THAT MEA review MOE’s comments in detail and then appropriately address these comments in a major amendment to the MCEA.

6.0 Proposed Monitoring Reporting Format

6.1 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.

6.2 Revised General Questionnaire

In an effort to make the monitoring more inclusive and gather information from a boarder input a new questionnaire format is proposed. The questionnaire will be 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 would be collected using a ‘Survey Monkey’ type application and utilized in subsequent 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: _____

6.2.1 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

7.0 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.

- Remove NOTICE OF INTENT TO AMEND THE Municipal Class EA - Municipal Class EA CONSISTENCY
- 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.
- Complete First Nations and Heritage Bridges training module.
- Develop Review Agency training module for proponents
- Develop Class EA Amendments training module
- Revise Annual Monitoring Report Format – web based survey
- Prepare a major amendment to address
 - cycling facilities
 - MOE comments
 - new regulations providing exemption for preapproved project
 - First Nations consultation
- 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.

7.1.1 Notices of Completion