

IMPROVING ENVIRONMENTAL ASSESSMENT IN ONTARIO

Sponsored by the Canadian Environmental Law Association
& the Resource Library for the Environment and the Law

CONFIDENTIAL SURVEY FORM

Substantial changes to the Ontario EA Act came into effect in January 1997. Other significant changes affecting EA began occurring before then, particularly since 1995. CELA and RLEL have commenced a review of EA in Ontario with a view to determining whether it is effective and practical, and to develop a consensus on how it might be improved. We are interested in hearing about your experience with and views on EA in Ontario, both positive and negative.

The following is a listing of areas and issues on which you might comment, but it is not expected that you will necessarily deal with all or even most of it. Nor is the list intended to be exclusive. Discuss any concerns, issues and observations on EA in Ontario which interest you, including areas where EA has been enhanced. Where appropriate, please provide detailed examples. If possible, indicate where your comments also reflect the views and concerns of your firm or organization.

Your response will be kept confidential, unless you indicate otherwise, or may be anonymous. It may be either in writing or oral, or both. Please contact **Alan D. Levy** at (416) 929-8282, fax 929-9895, email aldb@interlog.com or **Fe de Leon** at CELA: (416) 960-2284, fax 960-9392, email fdeleon@ccla.ca.

Your name:

Your field of work:

Firm or organization:

Address:

Telephone:

Fax:

E-mail:

Date of your submission:

Nature and length of your involvement in EA matters:

Application of EAA:

1. Exemptions from EA Act.
2. Application to policies and programs.
3. Inclusion of private sector undertakings, and public-private partnership undertakings.
4. Size of individual undertakings and application of EA Act.
5. Extent of diversion of decision-making on environmental issues away from EA Act to other legislation (EPA, OWRA, *Planning Act*).

Ministry of Environment:

6. The role of the EA Branch of the MOE.
7. Effectiveness of EA Branch.
8. Usefulness of written guidance documentation and assistance from staff.
9. Impact of MOE downsizing on EA process, decision-making and compliance.

10. Extent of pre- and post-decision monitoring.
11. Level of investigation and enforcement of compliance with conditions of approval.
12. Investigation and enforcement of EA Act violations.

Public Access:

13. Adequacy of public notice.
14. Public Consultation.
15. Usefulness of the EA Branch web site.
16. Participant Funding.
17. Experience since intervenor funding legislation terminated in 1996.

EA Process:

18. Terms of reference process.
19. Comprehensiveness of EA study requirements (e.g. need, range of alternatives to and alternative methods).
20. Quality of EA planning process (e.g. transparent, methodical, traceable, iterative, rational, objective).
21. Ministry review.
22. Use of voluntary mediation, and mediation required by the Minister.
23. Impact of elimination of acceptance decision.
24. Integrity of EA decision-making (e.g. independent, informed, thorough, transparent, consistent, consensual, fully explained, credible).
25. Time lines in processing EAs.
26. Role of cumulative effects analysis in EA process and decision-making.
27. Impact of scientific uncertainty on EA process and decision-making.
28. Use of the Statement of Environmental Values of MOE and other ministries.

Class EA:

29. Class assessment - parent EA process and decision-making.
30. Quality of class assessment process and decision-making under parent EA.
31. Are Class EAs being properly used?
32. Are they being applied throughout the province?
33. Bump-ups.
34. Compare merits of Class EA process and individual EA process.
35. Attempts to harmonize the *Planning Act* and Class EA processes.

Political Intervention in EA:

36. Process of Ministerial decision-making.
37. Written reasons for decisions made by Minister.
38. Terms of reference decision by Minister.
39. Approval decision by Minister.
40. Appointment of EAB Chair and members (process, terms of appointment).
41. Referral by Minister to hearing under EA Act.
42. Scoping decision on issues for hearing by Minister.
43. Hearing deadline imposed by Minister on EA Board.
44. Minister represented as party at hearings.
45. Minister's reconsideration power over an approval by EAB or Minister under s. 11.4 of Act.
46. Cabinet appeals (appropriateness, process, role of Minister, basis for decision, reasons for decision).
47. Impact of elimination of Environmental Assessment Advisory Committee (EAAC) in 1996.

Environmental Assessment Board:

48. Role of EA Board.
49. Independence of EA Board.
50. Competence of EA Board.
51. Nature and quality of EA Board hearings.
52. Quality of EA Board decisions.

Ontario Municipal Board:

53. Role of OMB in EA decision-making.
54. Joint Board hearings.
55. Independence of OMB Board.
56. Competence of OMB Board.
57. Nature and quality of OMB hearings on environmental issues.
58. Quality of OMB environmental decisions.

Court Intervention:

59. Judicial review.
60. Appeals.

Miscellaneous:

61. Harmonization of EAA in specific cases with CEAA, the federal EA process.
62. Role of First Nations' treaty rights and land claims in Ontario EA process.

63. Practical effect of other revisions (not already discussed) to EA Act (Bill 76).
64. Potential merging of EAA with other environmental legislation.
65. Other issues and comments.
66. Suggested changes to improve Ontario EA process.

Dec.1/2000