

REGIONAL MUNICIPALITY OF OTTAWA CARLETON
 MUNICIPALITÉ RÉGIONALE D'OTTAWA CARLETON

REPORT
 RAPPORT

Our File/N/Réf.
 Your File/V/Réf.

DATE	30 August 1996
TO/DEST.	Co-ordinator Planning and Environment Committee
FROM/EXP.	Environment and Transportation Commissioner Regional Solicitor
SUBJECT/OBJET	MOEE REGULATORY REVIEW PROJECT

DEPARTMENTAL RECOMMENDATION

That the Planning and Environment Committee recommend Council approve the following comments addressed to the Ministry of the Environment and Energy with respect to the MOEE Regulatory Review Project.

INTRODUCTION

The Region is in general agreement with the proposals suggested in this consultation paper and has the following more specific comments to suggest. The Regional Municipality of Ottawa-Carleton is pleased to provide the following comments to the Ministry of the Environment and Energy.

BACKGROUND

The Ministry of the Environment and Energy (MOEE) released, July 31, 1996 a discussion paper entitled *Responsive Environmental Protection*. The MOEE undertook an internal assessment of the regulations it administers in the fall of 1995.

The review questioned the continuing rationale for each regulation based on four factors:

- impact on the environment and human health;
- impact on regulatory burden and the economy;
- the Ministry's capacity to implement the reforms; and,
- the extent to which the reform has broad stakeholder support.

The public consultation period ends September 15, 1996, and we understand the Ministry will undertake the detailed technical and legal work necessary to obtain Government and Legislature approvals to proceed with the suggested reforms.

A. Air Quality

The Regional Municipality of Ottawa-Carleton does not have legislative authority in this context. However, the Region supports the Ministry proposal to consolidate the existing twenty air regulations into four; to harmonize federal and provincial regulations; and to set clear standards to define the acceptable levels of air quality to safeguard the ecosystem including human health.

B. Approvals

The Region welcomes the opportunity to comment on this issue and has developed a matrix entitled RMOE Criteria Evaluation Matrix (see Schedule A) which represents the proposed transfer of review responsibilities from the MOEE as well as identifying activities for which Certificates of Approvals are unnecessary. Fundamentally, consistent with the Class Environmental Assessment, activities of minor environmental impact, Schedule A, should not require a Certificate of Approval, whereas Schedules B and C should require a Certificate of Approval.

Fee Structure

The Ministry aims to create a revised fee schedule for approvals. The discussion paper advances the concept that a fee be based solely on the complexity of the proposal and the number of staff to issue the approval; this “Administrative Charge” approach could be based on full or partial cost recovery.

Alternatively, the Region suggest that the Ministry’s present practice of determining fees based on estimated construction costs does, to a large extent, reflect the overall complexity of the project and is therefore preferable than a more complex basis of calculating review fees. Whatever approach adopted, it should be based on full cost recovery.

With regard to the proposal that the fee be waived or reduced for pollution prevention activities that reduce contaminant/emission discharge below levels required by the Ministry, the Region would require further clarification on how this proposal would be implemented.

The Regional Municipality does not agree with the suggestion of a refund if the application is not reviewed within a given period of time. Such an approach could prove to be inflexible.

Using Single Site Approvals

The Ministry introduces the idea of establishing pilot projects with industry to assess the feasibility of single-site approvals, i.e. a single Certificate of Approval for all media within a site.

The Region applauds this proposal and the simplicity it offers. The integration of the conditions required under the EPA and the OWRA to cover an entire facility is a good suggestion. The Certificate of Approval for a facility should be a comprehensive document that outlines all the performance based aspects of a facility, but does not need to list details of the facility such as pump sizes etc. We would be pleased to assist the Ministry with the development of this initiative by offering some of our sites as possible pilot sites.

Reforming the Approvals Process for Private Sewage Systems

The Region would welcome the introduction of legislation enabling municipalities to require the routine inspection of private sewage systems for the purpose of assessing the ongoing performance of these systems and their possible impact on the groundwater and watershed quality. However, this increase in responsibility must be matched with an ability to charge a service fee. The legislation should also enable municipalities to require the regular pump out of private sewage systems as well as enabling municipalities, if desired, to pass by-laws requiring the regular pump out of private sewage systems.

C. Energy

The Regional Municipality of Ottawa-Carleton has provided a response to the Advisory Committee on Competition in Ontario's Electricity System (see Schedule B). The Region agrees with the proposal to amend and add four new and three revised product efficiency standards to ensure regulatory harmonization with other jurisdictions.

D. Environmental Assessment

The Regional Municipality of Ottawa-Carleton is in general agreement with the amendments suggested by Bill 76 and has provided its observations to the Regional Planning Commissioners of Ontario Association for the purpose of their representations before the Standing Committee on Social Development (see Schedule C).

However, one comment should be reiterated. The Bill contains explicit provisions enabling the Minister to refuse an Environmental Assessment at an early stage in the approvals process without having to refer it to a Board for a hearing. The Director will be required to consider the adequacy of the Environmental Assessment in relation to the approved terms of reference and the purpose of the Act and may issue the proponent a deficiency statement. There is an unreasonable short time frame of 7 days to correct the Environmental Assessment if the deficiencies have not been addressed. This time frame must be extended.

A clear distinction between the definition of a Class Environmental Assessment for a single undertaking as opposed to a group undertaking is lacking in the legislation.

In addition, there should be direction in the class environmental assessment document for watershed plans, sub-watershed plans or infrastructure master plans.

E. The Environmental Bill of Rights Registry

The consultation paper advocates the reconsideration of the *EBR Classification of Proposals for Instruments Regulation* (Regulation 681/94) to remove the notice requirements for proposals having little or no environmental impact or for which there is limited public interest relating to the registry posting.

While the Region applauds this initiative, we suggest that further work on definitions of some of the cited examples is required. For instance distinction must be made between spray irrigation and snow making systems used simply for that purpose and other systems which used these methods for the purpose of disposing of treated wastewaters. Certainly those proposals used solely for snow making or irrigation should be exempt, systems using these methods for treated wastewater disposal should remain required to post on the EBR Registry.

F. Pesticides

In general the proposed amendments are not anticipated to be a major impact on the operations of the Regional Municipality.

Simplifying Licensing and Upgrade Training Requirements

The proposal to reduce the number of licenses is well received. In the event that continued certification is deemed necessary, this would have a small impact on staff training requirements.

Integrated Pest Management

The Regional Municipality is currently drafting a pesticides policy which is based on the principle of using Integrated Pest Management (IPM). IPM incorporates the concepts of applying pesticides when and only when required and applying pesticides following a hierarchy of environmentally friendly products first and that pesticides are considered as a last resort. The Region Municipality support incorporating IPM principles into the regulatory reform.

Impacts of the Reform on the Regulated Community

The Region would require clarification of the definition of the following sentence: “Miscellaneous changes to clarify ambiguities in the regulation for industry...”. Who will continue to enforce the education and compliance aspect of the legislation? What are the implications for both local and regional governments?

With respect to the pesticide container recycling program the Region is in general accord with the comments made in the discussion paper.

G. Spills

The Ministry is recommending the review of the *Spills Regulation* (Reg. 360) to clarify reporting requirements and procedures.

The Region welcomes the proposal to eliminate trivial and frivolous reports and ensure that only environmentally significant spills are reported.

H. Training, Certification, Licensing and Accreditation (TCLA) Regulation

The Ministry proposes to create a new training, certification, licensing and accreditation regulation which would assemble requirements from existing regulations and develop a framework for future initiatives.

The Region would propose that with respect to solid waste facilities, training, certification, licensing and accreditation should be required.

In addition, the Region Municipality of Ottawa-Carleton would submit that the current guidelines provided in the Ontario Regulation 435/93, Certification for Water and Wastewater Treatment Operators must be maintained. The effort and resources spent by this Region and many other municipalities across the province in obtaining certification should not be wasted. Furthermore, to subject the Regional employees to another certification process would be frustrating and without benefit to the Regional Corporation, our water and wastewater customer base or the province

Benefits of Reform

The Region agrees with the concept of bringing core TCLA requirements into a single regulation.

I. Waste Management

The Regional Municipality of Ottawa-Carleton has submitted comments to the Solid Waste Association concerning the proposed landfill standards introduced recently (see Schedule D).

Waste Management Facility Approvals

The Region supports the streamlining of the approvals process related to waste management facilities. Large facilities, such as landfills and incinerators would remain subject to the EPA, while smaller facilities such as small quantity depots and composting sites would be subject to a standard approval. The Ministry should ensure that the standard approval process includes a public consultation component.

Waste Diversion

This section involves deregulation of certain materials in an effort to streamline recycling. Generally the Region supports these changes, which include the following initiatives.

- batteries, oil and metal bearing waste reclassified as recyclable material;
- five classes of inert fill to allow a wider range of diversion application;
- standard approval for soil conditioning (biosolids);
- allow municipalities greater latitude under regulation 101;
- set up “Manufacturer Controlled Networks”.

However, the Region is concerned about some of the proposed changes, including:

- i) Expand the definition of waste derived fuel to include non-hazardous solid waste and to specify minimum thermal energy value requirements.

This could prove counter productive to waste diversion efforts. Materials such as paper, plastics and wood waste have a high thermal energy value. Use of recyclable materials as waste derived fuel does not provide for sustainable resource management practices.

- ii) Revoke obsolete refillable regulations for soft drinks and milk.

These regulations were originally designed to foster the production and use of reusable beverage containers. Product stewardship measures should be implemented in place of existing refillable and disposable container regulations. Establishing Manufacturer Controlled Networks may accomplish this. Municipal support for a comprehensive industry based funding approach is well established.

- iii) Seek input on revoking the Waste and Packaging Audit and Reduction Workplan Regulations.

IC&I waste and packaging reduction is a complex issue and will not occur based upon financial savings alone. The packaging industry regulations are required in order to ensure that packaging reduction will remain a priority with other competing interests such as marketing, product sales and outmoded technology. Regulation 102 and 104 should not be revoked.

Hazardous Waste

Removal of regulations related to small quantities (collecting, transporting and storage) should increase diversion of hazardous wastes. Deregulation of biomedical waste may have a slight impact capacity within the Region, as currently it is all being disposed of out of region at special facilities.

J. Water Quality

The Ministry proposes to control municipal discharges by establishing a performance based regulation for sewage treatment plants in co-operation with stakeholders.

The Region submits that this proposal by the Ministry is unclear and not easily comprehended. Further work is required on this proposal prior to the Region being in a position to make a formal comment.

In addition the Region contends that the regulation should allow municipalities the ability to require the inspection of wells for the purposes of determining general water quality in an aquifer and protecting the Region's interests in that area of responsibility as well as the ability to charge a fee for such inspections. Periodic testing of the water supply by the owner should also be a requirement.

The Region is concerned regarding the Ministry's efforts to protect groundwater water quality and quantity and considers the change to electronic formatting of well records as only a very small step in an area that requires fundamental consideration. With respect to the issue of record maintenance, the Region seeks direction as to who will administer the proposed well records in electronic format and is of the opinion that licensing the well drillers does not adequately address the issue of groundwater quality for example the question of proper inspection must also be addressed.

With respect to the proposed Marinas Regulations, the Regional Municipality does not have legislative authority in this context but is in agreement with the proposals. The Region agrees with the proposal to replace Regulation 351 with a voluntary Code of Practice to be developed and implemented by the Clean Marine Partnership, an organization representing various stakeholders with an interest in pleasure boating and environment issues.

In relation to the Municipal Industrial Strategy for Abatement-MISA (regulations presently have not been enacted with respect to the municipal sector), the proposed amendments do not refer to effluent requirements for stormwater discharges. These regulations are currently considered overly restrictive by the Region and should be amended. As well, this section of the consultation paper has not made reference to other discharges. The Region suggests that the Ministry examine the present regulations as they relate to stormwater (management) discharges and this aspect of water quality be addressed.

Ground Source Heat Pumps

The discussion paper suggests upgrading Regulation 77/92 to restrict the use of methanol in ground water heat pumps, as safer heat transfer fluids are now available. The Region supports this initiative, but would offer the following suggestions.

An open-loop system refers to a system that draws heat from groundwater. With respect to open-loop systems, the installation requirement, especially in the area of record keeping for these wells should be the same as for a drinking water wells. Issues such as mixing of groundwater between aquifers, potential thermal contamination, potential water demand, concentration of salts, installation compliance, certification and inspection cost recovery should be addressed.

K. The Regulatory Process

The Region is in general agreement with the proposal by the Ministry to move beyond regulatory tools towards mechanisms (public education) that are incentive based; providing encouragement for self initiative and environmental stewardship; as well as continuous environmental improvement beyond the requirements of regulation.

CONSULTATION

The release of this discussion paper by the Province marks the initiation of the formal public consultation by the MOEE on specific proposals to reform the regulatory system. This consultation period ends September 15, 1996 after which the Ministry will obtain Government and Legislature approvals to proceed with the suggested reforms.

FINANCIAL IMPLICATIONS

There are no financial costs that would be attributed to the Regional Municipality of Ottawa-Carleton in this process.

*Approved by
M.J.E. Sheflin, P.Eng.*

*Approved by Donald W. Wilson
on behalf of J. Douglas Cameron*

MJE/JDC/ATM/

SCHEDULES

Schedule A	Transfer of Review Responsibilities MOEE RMOC Criteria Evaluation Matrix
Schedule B	Brief of the Regional Municipality of Ottawa-Carleton to the Advisory Committee on Competition in Ontario's Electricity System - Trail Road/Nepean Landfill Site Gas Utilization Program
Schedule C	Comment of the Regional Planning Commissioners of Ontario to the Standing Committee on Social Development for the Hearings on Bill 76
Schedule D	Proposed Landfill Standards

Transfer of Review Responsibilities - MOEE

RMOC Criteria Evaluation Matrix

DEFINITIONS

Solid Waste

- | | |
|-------|--|
| Minor | - administrative process only
- simple technical process
- MOEE guidelines/procedures exist |
| Major | - new technology
- high risk
- complex
- absence of MOEE guidelines/procedures
- large scope
- conflict of interest with RMOC |

LEGEND

- W - Water
SW - Solid Waste
STW - Stormwater
R - Roads
N/R - Not Required
C of A - Certificate of Approval
TC - Transport Canada
AA - Airport Authority
WW - Wastewater

Water/ Wastewater/Stormwater

- | | |
|--------|--|
| Minor | - Schedule "A" of Class Environmental Assessment |
| Medium | - Schedule "B" of Class Environmental Assessment |
| Major | - Schedule "C" of Class Environmental Assessment |

Road Noise Barriers

- | | |
|--------|--|
| Minor | - Schedule "A" of Class Environmental Assessment |
| Medium | - Schedule "C" of Class Environmental Assessment |

- "A": Less than \$6.0M
"C": More than \$6.0M

Transfer of Review Responsibilities - MOEE

RMOC Criteria Evaluation Matrix

<i>EXISTING MOEE REVIEW FUNCTIONS</i>	<i>DESIGNATION</i>	<i>DISCIPLINE</i>	<i>IMPACT</i>	<i>Is a C of A Required?</i>	<i>Is Any Approval Required?</i>	<i>Recommendation as to Review Responsibility</i>	<i>Comment</i>
Municipal Infrastructure Approval - Water	Urban	W	Minor	No	Yes	RMOC	Revenue to replace MOEE Fee
Municipal Infrastructure Approval - Wastewater	Urban	WW	Minor	No	Yes	RMOC	Revenue to replace MOEE Fee
Municipal Infrastructure Approval - Stormwater	Urban	STW	Minor	No	Yes	RMOC	Revenue to replace MOEE Fee
Water Treatment Plant Approval - Schedule A	Urban	W	Minor	No	Yes	RMOC	
Water Treatment Plant Approval - Schedule B	Urban	W	Medium	Yes	Yes	RMOC	MOEE Fee redirected to RMOC
Water Treatment Plant Approval - Schedule C	Urban	W	Major	Yes	Yes	MOEE	
Wastewater Treatment Plant Approval - Schedule A	Urban	WW	Minor	No	Yes	RMOC	
Wastewater Treatment Plant Approval - Schedule B	Urban	WW	Medium	Yes	Yes	RMOC	MOEE Fee redirected to RMOC
Wastewater Treatment Plant Approval - Schedule C	Urban	WW	Major	Yes	Yes	MOEE	
Capacity/Monitoring & Commitment - Water	Urban	W	Minor	No	No	RMOC	Ongoing management of infrastructure
Capacity/Monitoring & Commitment - Wastewater	Urban	WW	Minor	No	No	RMOC	Ongoing management of infrastructure
Sewage Treatment Plant Discharge	Urban						Clarification required from MOEE prior to evaluation
Drinking Water Quality	Urban						Clarification required from MOEE prior to evaluation
Servicing Plans/Master Plans - Local Municipality	Urban/Rural	All	Medium	No	Yes	RMOC	MOEE input sought on circulation
Servicing Plans/Master Plans - RMOC	Urban/Rural	All	Medium	No	Yes	RMOC	MOEE input sought on circulation
Solid Waste Facilities Approval	Urban/Rural	SW	Minor	No	Yes	RMOC	Revenue to replace MOEE Fee
Solid Waste Facilities Approval	Urban/Rural	SW	Medium	Yes	Yes	RMOC	MOEE Fee redirected to RMOC
Solid Waste Facilities Approval	Urban/Rural	SW	Major	Yes	Yes	MOEE	
Solid Waste Facilities Systems	Urban/Rural	SW	Major	Yes	Yes	MOEE	
Air Quality Approval	Urban/Rural	All	Major	Yes	Yes	MOEE	MOEE to re-examine regulations to reduce requirements
Need for Soil Contamination Report	Urban/Rural	All	Minor	No	No	RMOC	

Transfer of Review Responsibilities - MOEE

RMOC Criteria Evaluation Matrix

<i>EXISTING MOEE REVIEW FUNCTIONS</i>	<i>DESIGNATION</i>	<i>DISCIPLINE</i>	<i>IMPACT</i>	<i>Is a C of A Required?</i>	<i>Is Any Approval Required?</i>	<i>Recommendation as to Review Responsibility</i>	<i>COMMENT</i>
Soil Contamination Report - reporting conformance to guidelines	Urban/Rural	All	Minor	No	Yes	RMOC	
Soil Contamination Report - reporting non-conformance to guidelines	Urban/Rural	All	Major	No	Yes	MOEE	
Need for Groundwater Contamination Report	Urban/Rural	All	Minor	No	Yes	RMOC	
Groundwater Contamination Report - Reporting conformance to guidelines	Urban/Rural	All	Minor	No	Yes	RMOC	
Groundwater Contamination Report - reporting non-conformance to ODWO	Urban/Rural	All	Major	No	Yes	MOEE	
Site Decommissioning - Initial Screening Report	Urban/Rural	All	Minor	No	Yes	RMOC	
Site Decommissioning - Final Report including Rehabilitation recommendations	Urban/Rural	All	Major	No	Yes	MOEE	
Need for Traffic Noise Study - Local Road	Urban/Rural	R	Minor	No	Yes	Local Municipality	
Need for Traffic Noise Study - Regional Road	Urban/Rural	R	Minor	No	Yes	RMOC	
Need for Traffic Noise Study - Provincial Hwy	Urban/Rural	R	Minor	No	Yes	MTO/RMOC	
Need for Railway Noise Study	Urban/Rural	R	Minor	No	Yes	CP/CN/RMOC	
Traffic Noise Study - Local Road	Urban/Rural	R	Minor Medium	No	Yes	Local Municipality	
Traffic Noise Study - Regional Road	Urban/Rural	R	Minor Medium	No	Yes	RMOC	
Traffic Noise Study - Provincial Hwy.	Urban/Rural	R	Minor Medium	No	Yes	RMOC	
Railway Noise Study	Urban/Rural	R	Minor Medium	No	Yes	RMOC	

Transfer of Review Responsibilities - MOEE

RMOC Criteria Evaluation Matrix

<i>EXISTING MOEE REVIEW FUNCTIONS</i>	<i>DESIGNATION</i>	<i>DISCIPLINE</i>	<i>IMPACT</i>	<i>Is a C of A Required?</i>	<i>Is Any Approval Required?</i>	<i>Recommendation as to Review Responsibility</i>	<i>COMMENT</i>
Need for Stationary Noise Study	Urban/Rural	R	Minor	No	Yes	Local Municipality	
Stationary Noise Study	Urban/Rural	R	Minor	No	Yes	Local Municipality	
Need for Transformer Station - Noise Study	Urban/Rural	R	Minor	No	Yes	Local Municipality	
Transformer Station - Noise Study	Urban/Rural	R	Minor	No	Yes	Local Municipality	
Surface Water Quality - Provincial Guidelines	Urban/Rural	W, WW, STW	Major	No	Yes	MOEE	
Surface Water Quality - Regional Guidelines	Urban/Rural	W, WW, STW	Medium	No	Yes	RMOC	Awaiting acceptance of Regional role by Council
Watershed Study Strategy	Urban/Rural	W, WW, STW	Medium	No	Yes	RMOC	Awaiting acceptance of Regional role by Council
Watershed Planning	Urban/Rural	W, WW, STW	Major	No	Yes	MOEE	Awaiting acceptance of Regional role by Council. RMOC does studies with MOEE approving
Subwatershed Planning	Urban/Rural	W, WW, STW	Medium	No	Yes	RMOC	Awaiting acceptance of Regional role by Council. Local municipality does studies.
Stormwater Design Plan	Urban/Rural	STW	Minor	No	Yes	RMOC	Awaiting acceptance of Regional role by Council
Stormwater Management Facilities Approval - Schedule B	Urban/Rural	STW	Medium	Yes	Yes	RMOC	MOEE Fee redirected to RMOC. Awaiting acceptance of Regional role by Council
Stormwater Management Facilities Approval - Schedule C	Urban/Rural	STW	Major	Yes	Yes	MOEE	

Transfer of Review Responsibilities - MOEE

RMOC Criteria Evaluation Matrix

<i>EXISTING MOEE REVIEW FUNCTIONS</i>	<i>DESIGNATION</i>	<i>DISCIPLINE</i>	<i>IMPACT</i>	<i>Is a C of A Required?</i>	<i>Is Any Approval Required?</i>	<i>Recommendation as to Review Responsibility</i>	<i>COMMENTS</i>
Comments on Proposed Landfill Sites	Rural	SW	Major	Yes	Yes	MOEE	
Servicing Option Report - Site Specific	Rural	ALL	Medium	No	Yes	RMOC	Fees exist in Planning Processing Fee
Need for Communal Water Supply	Rural	W	Minor	No	Yes	RMOC	Fees exist in Planning Processing Fee
Need for Communal Wastewater Disposal	Rural	WW	Minor	No	Yes	RMOC	Fees exist in Planning Processing Fee
Communal Water Distribution Approval	Rural	W	Minor	No	Yes	RMOC	Revenue to replace MOEE Fee
Communal Wastewater Collection Approval	Rural	WW	Minor	No	Yes	RMOC	Revenue to replace MOEE Fee
Communal Wastewater Discharge	Rural						Clarification required of MOEE prior to evaluation
Communal Water Treatment Plant Approval - Sch A	Rural	W	Minor	No	Yes	RMOC	
Communal Water Treatment Plant Approval - Sch B	Rural	W	Medium	Yes	Yes	RMOC	MOEE Fee redirected to RMOC
Communal Water Treatment Plant Approval - Sch C	Rural	W	Major	Yes	Yes	MOEE	
Communal Wastewater Treatment Plant Approval - Schedule A	Rural	WW	Minor	No	Yes	RMOC	
Communal Wastewater Treatment Plant Approval - Schedule B	Rural	WW	Medium	Yes	Yes	RMOC	MOEE Fee redirected to RMOC
Communal Wastewater Treatment Plant Approval - Schedule C		WW	Major	Yes	Yes	MOEE	
Need for Water Taking Permit	Rural	W	Major	No	Yes	MOEE	
Water Taking Permit, Surface Water	Urban/Rural	W	Major	Yes	Yees	MOEE	
Water Taking Permit, Ground Water	Urban/Rural	W	Major	Yes	Yes	MOEE	

Transfer of Review Responsibilities - MOEE

RMOC Criteria Evaluation Matrix

<i>EXISTING MOEE REVIEW FUNCTIONS</i>	<i>DESIGNATION</i>	<i>DISCIPLINE</i>	<i>IMPACT</i>	<i>Is a C of A Required?</i>	<i>Is Any Approval Required?</i>	<i>Recommendation as to Review Responsibility</i>	<i>COMMENT</i>
Hydrogeology Report	Rural	W	Medium	No	Yes	RMOC	Requires transfer of database to RMOC from MOEE
Terrain Analysis Report	Rural	WW	Medium	No	Yes	RMOC	Requires transfer of database to RMOC from MOEE
Part VIII Approval (Private Sewage) Disposal Systems	Rural	WW	Medium	Yes	Yes	RMOC	RVCA does program on behalf of MOEE

RMOC

Transfer of Review Responsibilities - MOEE*

Resource Requirements - Matrix II*

FUNCTIONS	RMOC EVALUATION CRITERIA							Skill Required	Skill Presently Available?	Resource	Revenue	Comments
	Are Additional RMOC Resources Required?	Are Additional Revenues Required?	Does This Simplify Approval Process for the Customer?	Potential for Private Sector Involvement	Should C of A Be Required?	Is Any Approval Required?	Recommendation as to Review Responsibility					
TREATMENT												
Water Treatment Plant Approval - Schedule B	Limited	Exists	Yes	Possibly	Yes	Yes	RMOC	Engineering Administration	Yes	Quantum Uncertain	MOEE Fee	Have requested
Wastewater Treatment Plant Approval - Schedule B	Limited	Exists	Yes	Possibly	Yes	Yes	RMOC	Engineering Administration	Yes		Redirected	MOEE to
Communal Water Treatment Plant Approval - Schedule B	Limited	Exists	Yes	Possibly	Yes	Yes	RMOC	Engineering Administration	Yes		to	Provide
Communal Wastewater Treatment Plant Approval - Schedule B	Limited	Exists	Yes	Possibly	Yes	Yes	RMOC	Engineering Administration	Yes		RMOC	P/Y's
SOIL/GROUNDWATER												
Soil Contamination Report Reporting Conformance to Guidelines	Required	Required	Yes	Possibly	No	Yes	RMOC	Geotechnical	No	Private Sector Role	Directly	* Minimum of
Groundwater Contamination Report Reporting Conformance to Guidelines	Required	Required	Yes	Possibly	No	Yes	RMOC	Hydrogeology	No			2 P/Y's required.
Site Decommissioning Initial Screening Report	Required	Required	Yes	Possibly	No	Yes	RMOC	Geotechnical Hydrogeology	No		Charged to	* Use private
Hydrogeology Report	Required	Required	Yes	Possibly	No	Yes	RMOC	Hydrogeology	No			sector initially
Terrain Analysis Report	Required	Required	Yes	Possibly	No	Yes	RMOC	Hydrogeology	No		Developer	and access
Part VIII Approval Private Sewage Disposal Systems	Required	Required	Yes	Possibly	No	Yes	RMOC	Hydrogeology	No			workload

*The functions under the original matrix "RMOC Criteria Evaluation Matrix", if assumed, would have a resource impact - summarized in Matrix II

RMOE

Transfer of Review Responsibilities - MOEE*

Resource Requirements - Matrix II*

FUNCTIONS	RMOC EVALUATION CRITERIA							Skill Required	Skill Presently Available?	Resource	Revenue	Comments
	Are Additional RMOC Resources Required?	Are Additional Revenues Required?	Does This Simplify Approval Process for the Customer?	Potential for Private Sector Involvement	Should C of A Be Required?	Is Any Approval Required?	Recommendation as to Review Responsibility					
STORMWATER												
Watershed Study Strategy	N/R		Yes	N/R	No	Yes	RMOC	Water Resource Engineer	Yes	1 P/Y	* Establish	* Potential
Watershed Planning	Required	Required	Yes	Yes	No	Yes	RMOC	Water Resource Engineer	Yes		Revenue	relocation of
Subwatershed Planning	Required	Required	Yes	N/R	No	Yes	RMOC	Water Resource Engineer	Yes		Fee	existing staff and
Stormwater Design Plan	N/R	N/R	Yes	N/R	No	Yes	RMOC	Water Resource Engineer	Yes			provide training
Stormwater Management Facilities Approval - Schedule B	Required	Required	Yes	N/R	Yes	Yes	RMOC	Water Resource Engineer	Yes		MOEE Fee Redirected to RMOC	* Use of redundant vacant position
NOISE												
Traffic Noise Study Regional Road	Required	Required	Yes	Possibly	No	Yes	RMOC	Environmental Engineer	Yes	Quantum Uncertain	Establish Revenue Fee	Workload Assessment Required

*The functions under the original matrix "RMOE Criteria Evaluation Matrix", if assumed, would have a resource impact - summarized in Matrix II

SCHEDULE B**Brief to****The Ontario Advisory Committee on Competition in Ontario's Electric System**

The Regional Municipality of Ottawa-Carleton is pleased to have this opportunity to present a brief to the Advisory Committee on the future of electrical supply in the Province of Ontario. Principally, within the limits of the R.M.O.C., the Corporation itself is a large consumer of electrical power. Our municipal buildings, our water supply system and our sewer system all depend on a safe, reliable power supply system. The Ottawa-Carleton's wastewater treatment plant, the Robert O. Pickard Environmental Centre, is the largest single consumer of electric power within the limits of the City of Gloucester with an annual consumption of approximately 52,000 mwh. The supply of potable water to our population from our two water treatment plants located within the City of Ottawa has an annual consumption of 28,000 mwh.

In an effort to promote a sustainable future, the Regional Municipality of Ottawa-Carleton uses energy conservation techniques such as peak-shaving for its power consumption at its water treatment facilities with on-site diesel engines as well as the use of hydraulic energy from the Fleet Street aqueduct in Ottawa to provide power to pumps which distribute water into the distribution system.

The Regional Municipality of Ottawa-Carleton believes continued emphasis on energy conservation and uses of non-traditional power sources are options to be assessed in future projects, i.e. small cost power supply projects which harnesses energy that is presently being wasted. Examples of this are at our Robert O. Pickard Environmental Centre, we are considering co-generation to capture the waste heat from the digester gas process and converting that to electrical power to assist us in meeting the heavy electrical requirement to operate the wastewater treatment process. Also, we will be assessing the feasibility of harnessing the hydraulic energy that is available from the effluent discharge pipe of the wastewater treatment plant as it cascades to the Ottawa River. These two examples are use of on-site energy conservation techniques to reduce our power consumption requirements at our own facility.

A third example, which the corporation believes to be feasible and which has been endorsed by the Regional Council, is to look at the use of the establishment of a non-utility generator facility at the Trail Road Nepean Landfill Site utilizing the landfill gas as a source of energy. We believe this initiative is in keeping with Ontario Hydro's announced renewable energy technology strategy.

A description of the project is as follows. The Trail Road Landfill Site is owned and operated by the Regional Municipality of Ottawa-Carleton in the City of Nepean. The 65ha site received 150,000 tonnes of waste per year. In the fall of 1988, a landfill gas collection system was installed which has been subsequently expanded in phased in 1992 and 1993. In 1992 a flaring station was constructed that burned the landfill gas extracted from the various landfill areas in order to meet the required environmental conditions established by the Ministry of the Environment. The flaring station prevents the migration of landfill gases into the atmosphere which is a contributing factor to ozone depletion and the greenhouse effect.

The existing collection system and flaring station is infrastructure that is in place and which captures an energy source which could be used for power generation. Based on operating data collected at the flare station, it has been determined that about 3500 cubic metres/hour of landfill gas is available on a continuous basis for electrical energy production. This production rate will increase to 5000 cubic metres/hour at the beginning of the 21st century and will then slowly decrease by the third decade. Extensive studies have shown that the landfill gas collected between 1996 and 2025 can with internal combustion energy generating units produce approximately 1,000,000 mega watts which could be sold and distributed by the local hydro supplier.

The private sector is also interested in this project. The corporation has received numerous proposals to our expressions of interest in developing this resource. Presently five design build teams have been short-listed to submit detailed proposals, however; we have been unable to proceed further as we have been unable to obtain a purchase of sale agreement for this energy source with Ontario Hydro. The consequence of this action is that an energy source is presently being wasted.

The Regional Municipality believes it is paramount that Ontario Hydro support and encourage the Trail Road/Nepean Landfill Gas Utilization Programme. Proceeding with this project has environmental benefits in reducing greenhouse gases and reducing the demand on fossil fuels. The project also has the full support of the Regional Council and is an immediate opportunity to capitalize on a public/private business opportunity with benefits to all concerned.

We look for the support of the Advisory Committee in its hearings across Ontario to encourage these types of local initiatives and projects such as the Trail Road Landfill Gas Project, which have environmental benefits as well as an ability to enhance the electrical supply system for the province in a sustainable fashion.

COMMENTS OF THE REGIONAL PLANNING
COMMISSIONERS of ONTARIO

TO THE

STANDING COMMITTEE ON SOCIAL DEVELOPMENT
FOR THE
HEARINGS ON BILL 76

***ENVIRONMENTAL ASSESSMENT AND
CONSULTATION IMPROVEMENT ACT, 1996***

COMMITTEE REFERENCE NUMBER: 771-19-F

JULY, 1996

Introduction

This paper summarizes the response of the **Regional Planning Commissioners of Ontario** to the key changes made by the Province to the Environmental Assessment legislation through the introduction of Bill 76.

Regional Planning Commissioners of Ontario represents the chief planners of all the Regional municipalities in Ontario. It should be noted that this submission is based on general consensus, not total agreement to all positions advocated by all members of the group. Some Regional municipalities will be submitting their own corporate responses to Bill 76. This submission by the Regional Planning Commissioners of Ontario has not been reviewed or approved by the respective Councils of the Regional municipalities.

This paper examines each of the major points that the Province promoted in its background materials on the Bill and emphasizes our comments on the proposed change to Class EA's. Specific recommendations for revisions as suggested by the Regional Planning Commissioners are noted at the end of each section of this paper and summarized at the end of the paper. Also attached are other suggested specific revisions to the Bill which we recommend would provide needed improvement on a number of administrative matters but which are not discussed in detail.

In May 1996, the Regional Planning Commissioners established the following objectives for any new approach to an integrated Planning Act/Environmental Assessment Act planning process for municipal infrastructure projects in a position paper.

"A new approach should meet the following objectives:

- Achieve *efficiency, affordability and cost cutting* measures by *scoping the need* for projects.
- Evaluation of *reasonable alternatives* for each situation, reflecting the specific municipal context.
- Allow clear decision-making through complete documentation and which is *understandable* for all participants.
- Continue *public accountability* through municipal council process and decision making.

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- *Obtain closure* at key decision points through a process that is *goal-driven*.
 - *Provide public notice* and/or involvement at a scale commensurate with the project.
 - Provide means of *appeal* and use *alternative dispute resolution*, where appropriate to mediate disputes"

Overall, we are pleased to see that the proposed new legislation goes a long way to meeting most of these objectives.

Planning Act Integration

The initiation of the Environmental Assessment Act twenty years ago was intended to fill a gap in the planning for large scale environmentally significant projects – of which the Province was the main proponent. Since 1976, the planning profession, applicable legislation and procedural tools available outside the Environmental Assessment Act have become increasingly sophisticated and more environmentally responsible. Since 1981, the Environmental Assessment Act has been applied to a wide range of infrastructure projects carried out by municipalities. These projects were also subject to public review and related land use approvals under the Planning Act. As a result, municipalities are increasingly hampered by two "planning processes" under two pieces of legislation and for which two reports, two sets of public meetings and potential hearings are required. This inevitably leads to duplication, delay, extra costs and confusion.

The **Regional Planning Commissioners** believes that the time to eliminate the duplication and costliness of these two processes is during this revision to the Environmental Assessment Act. We therefore request that the government provide specific means for municipalities to meet the requirements for both the Planning and Environmental Assessment Acts together.

We are convinced that a more precise link between the Planning Act and the Environmental Assessment Act is necessary and possible. Ideally, the Planning and Environmental Assessment Act should be merged so that there is one process for planning and impact assessment for infrastructure projects resulting from land use planning decisions.

We suggest that a reference to the Planning Act be included in sections 6(2) and 13.1(2) dealing with the contents of the Terms of Reference. This would ensure that proponents may specifically access this related legislation in preparation of either an individual or Class Environmental Assessment.

Recommended Action:	Add reference to use of Planning Act provisions to the Terms of Reference in sections 6(2) and 13.1(2). A suggested addition to section 6(2) is as
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follows:

"(d) *indicate that the environmental assessment will be prepared in accordance with such requirements as may be prescribed in section 16.1 of the Planning Act.*"

(with necessary modifications for section 13.1(2).

New Provisions for Class Environmental Assessments

As municipal proponents we welcome a fuller and clearer description of the Class Environmental Assessment process in Bill 76. We are concerned over the lack of reference to purpose, rationale and consideration of alternatives in section 14(2) which describes the proposed contents of a Class EA. In the contents of a Class Environmental Assessment [section 14(2)], there is no reference to any equivalent to section 6.2(2) (a) or (b) which address purpose and rationale.

Also, in section 14 (2), we are opposed to the wording in item #8 which requires "a description of the method to be used to determine the *final design* of a proposed undertaking". We suggest that *final design* has a distinct meaning in the municipal context which is outside of the scope of a Environmental Assessment and should be replaced with "means to implement".

Recommended Actions: Add "*A description of the purpose and rationale for the class of undertakings*" and "*A description of alternatives to the undertakings within the class*" to section 14 (2) as information which must be contained in a parent Class Environmental Assessment.

Replace "final design" with "means to implement" in section 14(2) item #8.

Early and Clear Direction

The dilemma that the Ministry finds itself in is similar to that of a proponent -- how much flexibility and how much certainty should be provided to participants and stakeholders. We agree with the Ministry's attempts to provide early direction through the introduction of a Terms of Reference prior to the preparation of an Environmental Assessment. Unfortunately, that approach assumes that all participants can accurately predict the issues and points of contention before they occur. For example, to suggest that the Terms of Reference would be approved "*if the Minister is satisfied that an environmental assessment prepared in accordance with them will be consistent with the purpose of the Act and with the public interest*" [6(3)], is hopeful at best.

If parties could understand and agree on "the public interest", then we would hardly need mediation or Board hearings.

We applaud the opportunity for real scoping of all decisions through the use of the Terms of Reference. We recommend that this could be better accomplished by stating more clearly, in legislation, the purpose of the Act. An additional purpose, added to section 2, would assist in the focussing of issues and the preparation of Terms of Reference and Environmental Assessments. This purpose would be consistent with Federal Environmental Assessment framework and the principles of environmental assessment found in section 6.2 (2) of Bill 76. A suggested additional purpose to be added to section 2 of the Act is as follows:

"to plan undertakings in order to prevent, mitigate or remedy significant adverse environmental effects, including cumulative effects and effects upon future generations".

The Minister, in making her decision must have regard to a number of matters, specified in section 10(2). Similarly, the Board in section 9(6), as a key decision-maker, should be directed in its decisions by the purpose of the Act. Revised wording, including this reference should be included in section 9(6), as specified below.

The effect of the introduction of the Terms of Reference and their approval is that the real decisions will be made very early in the process. However, these Terms of Reference are not binding on all parties to the process, but only the proponent. To ensure that the Terms of Reference have the effect of "focussing" the process, all parties including the agencies, Minister, Director, mediator and public should be required to consider the approved Terms of Reference in providing comments and identifying issues in the process. We therefore, recommend revisions to section 6.5(2), 7.2(2), 9(6) and 10(2) to reference the Terms of Reference.

Recommended Actions:

Add a purpose to section 2 of the Act to assist in the definition of "public interest" and to guide the development of Terms of Reference and Environmental Assessments by proponents. A suggested purpose is as follows:

"to plan undertakings in order to prevent, mitigate or remedy significant adverse environmental effects, including cumulative effects and effects upon future generations".

Revise sections 6.5(2) and 7.2(2) to add reference to the "approved terms of reference" to ensure

that the public comments reflect the approved Terms of Reference.

Revise Sections 9(6) and 10(2) so that the Board and Minister make their decisions based solely on these documents. A suggested revision for 9(6) is as follows:

"In deciding an application, the Board shall:

a) be consistent with the purpose of the Act, approved terms of reference and any direction given by the Minister under subsection 9(3); and, b) have regard for only the following matters:

- 1. the environmental assessment;*
- 2. the Ministry review of the environmental assessment;*
- 3. the comments submitted under subsection 6.5(2) and 7.2(2); and,*
- 4. the mediators report, if any, given by the Minister under section 8."*

(with necessary modifications for section 10(2).

Guaranteed Public Consultation

The Terms of Reference could be used to delimit the public consultation which could have the benefit of shortening the process. Unfortunately, the Bill, as presently worded only provides for consultation on the "undertaking" and not on the alternatives, environmental effects and so on. Section 6.1 should be revised to address this matter.

Role of public in mediation is ambiguous. The Minister *may* identify and *may* dictate the "manner in which [parties] are to be identified" prior to the mediation [8(4)] and not the actual parties. The mediation is not open to the public unless the mediators decide to open the proceedings [(8(5))]. These provisions could lead to significant delays as interested, but excluded, persons seek leave to participate.

Recommended Actions: Revise section 6.1 to ensure consultation "during the preparation of the EA" and not merely the "undertaking".

Clarify in section 8 "who" may be considered parties to a mediation and that the Minister "shall" identify them.

Timely Decisions

Certain key decisions are subject to restrictive timelines which may be difficult to meet. For example, the Minister has a specified timeline to decide on an Environmental Assessment but this may be missed with no penalty. Experience with Planning Act application timelines show that there should be both amendment procedures for timelines and clear implications for missing certain timelines. We suggest that if the Minister fails to decide within a certain time frame, where no extensions are provided, then the Minister forfeits the opportunity to dispose of the application and it is automatically approved. This could be accomplished by deleting section 10(4). We note that the Minister would still retain rights under section 11.3(3) to amend a decision subject to prescribed rules.

Section 7(4) provides a timeline for a proponent of 7 days to respond to and correct deficiencies in an EA. This may have the effect of weeding out the really bad Environmental Assessments early in the process but it does little to assist a less experienced proponent trying to meet the requirement set out in the approved Terms of Reference. We recommend that sections 7 (4) and (5) be amended to eliminate this provision altogether as this short time frame would not be a useful addition to the process where the Environmental Assessment is clearly deficient. Instead, either a refusal, with reasons, should be provided by the Minister or, alternatively, conditions for the proponent should be given which would have the effect of correcting the deficiency.

Recommended Action: Delete section 10(4) which exempts the Minister from the prescribed deadline for decisions.

Delete provisions for 7 day notice to the proponent where an Environmental Assessment is deficient in sections 7(4) and (5).

Focussed Board Hearings

As noted above, the scoping of Board hearings through directions provided by the Minister is an excellent addition to the legislation. Section 9(6) should be amended, as noted above, to strengthen this provision such that the Board should be consistent with that Minister's direction and with the approved Terms of Reference and, in an effort to keep hearings scoped, should not be able to add indefinitely to the list of documents or matters to be considered.

Section 27 (1) provides for the Minister to develop policies to guide the Board. This section

should be broadened to include others who should be guided by these policies (e.g. proponent, Minister, Ministry staff, mediators and agencies).

Recommended Actions: **Revise section 27(1) to ensure other parties are bound by the Minister's guidelines by replacing "and the Board shall consider the guidelines" with "for the guidance of all parties to an application for approval...[and]".**

Mediation

We are pleased to note the addition of means to mediate disputes in Environmental Assessment practice. Often the key to a well-planned project is the ability of the proponent and or the approval authority to resolve specific issues through a mediated approach. The addition of section 8 provides for such resolution. However, consistent reference should be made to the mediation process throughout the new legislation (for example, in section 30(1.1) where the Ministry record is created). Revisions should also be made to indicate how and for what purposes a mediation may proceed and/or be used. The value of a mediation process is severely constrained if the resulting outcome is not used in the focussing of the matters affecting a decision by the Board or the Minister. For example, section 65 of the Planning Act states that the Minister, Board, or council of a municipality shall,

"if they consider it appropriate, at any time before a decision is made under this Act, use mediation, conciliation or other dispute resolution techniques to attempt to resolve concerns or disputes in respect of any planning application or matter".

Such direction would be welcomed in Bill 76 to replace the proposed wording which is "to endeavour to resolve such matters as may be identified by the Minister as being in dispute or of concern".

It is positive that Bill 76 provides for a 60 day response from mediators [8(7)] but, in order to add real value to the process, major, contentious issues should be permitted to have a longer timeframe in mediation, if required. Therefore, we recommend that the Minister specify the timeframe for each mediation. Using 60 days as a guide, a timeframe should be developed in consultation with the mediators, proponent or other parties.

Recommended Actions: **Add reference to the mediation report, if any, to section 30(1.1) for the record created by the Director.**

Add reference in section 8 to the use and value of

a mediation process and where, if applicable, such a mediation report may be used and by whom. For example, reference in section 8 should be made to mediation "for use by the Minister in directing the Board in 9(3) or making a decision in 10(1)".

Delete reference in section 8 (7) to "report to the Minister within 60 days or by such *earlier* deadline as the Minister may specify" and replace with "by such deadline as the Minister shall specify".

Minister's Orders

There are six (6) major types of Minister's orders:

section 3.1 to vary a requirement or exempt an undertaking for harmonization;

section 3.2 with Cabinet approval to exempt proponent from all or parts of this Act;

section 6.3(3) and (4) to impose, amend or revoke conditions for amending or withdrawing an Environmental Assessment after the deadline for Ministry review is completed;

section 9.2 with Cabinet for varying or substituting a Minister's decision for a Board decision

section 12.4 to direct that all or a portion of the new Act applies to an Environmental Assessment submitted under the existing Act

section 16 to direct a proponent of a Class Environmental Assessment undertaking to undertake part or all of the requirements for Part II

Replacing so called "exemption" orders and "bump up" decisions with Minister's orders will add much needed flexibility to the Environmental Assessment approval process. It remains unclear, however, how section 16 of the new legislation is triggered especially in the context of existing Class EA's. At what specific points would the Minister receive a request for a Minister's Order

under section 16(1)? It would appear that the proponent of an existing Class Environmental Assessment, for example, pursuant to 16(3), would be required to provide notice to the public that an objector could request a Minister's order. However, given the wording of section 16(1) and 16(3), a Minister could determine that an order may be appropriate *at any time* and not merely following the formal Notice of Completion in the existing Class Environmental Assessments. Clarification must be given and Class EA's will need to be amended to address this issue.

Recommended Action: **Revise section 16 to specify that a Minister's order, requiring that a proponent complete Part II, would only be given either when the process which would normally be carried out under a Class Environmental Assessment has been completed and a request has been received or at some other specified point in the Class Environmental Assessment process.**

Harmonization and Consolidation

The proposal to harmonize this Act's provisions with other jurisdictions [3.1] is welcomed. A Minister's order may be triggered when the Minister determines that requirements imposed by another jurisdiction are "equivalent to the requirements imposed under this Act" where the Minister declares that this Act does not apply to an undertaking [3.1(3)] or where only certain provisions of this Act will be applied [3.1(2)]. It is presumed that these types of orders would result from a request from a proponent and this must be made clearer. Also the basis upon which the Minister may make this decision should be specified. We recommend that the Minister should be guided by the purpose of the Act, section 6(2) of the Act and the "public interest".

In terms of consolidation, section 37.2 provides beneficial opportunities for harmonization between existing Ontario processes (e.g. Planning Act, Environmental Protection Act) by allowing for joint notices "concerning the same or a related matter".

Recommended Action: **Revise Section 3.1(2) so that in making an order on harmonization the Minister is guided by the "purpose of the Act, section 6(2) of the Act and the public interest".**

Other Matters

Upon detailed review of the Bill, we are pleased also to provide the attached additional suggestions for improvements to the administration of the Bill.

SUMMARY OF RECOMMENDED ACTIONS

Planning Act Integration

1. Add reference to use of Planning Act provisions to the Terms of Reference in sections(2) and 13.1(2). A suggested addition to section 6(2) is as follows:
 "(d) *indicate that the environmental assessment will be prepared in accordance with such requirements as may be prescribed in section 16.1 of the Planning Act.*"
 (with necessary modifications for section 13.1(2).

New Provisions for Class Environmental Assessments

2. Add "*A description of the purpose and rationale for the class of undertakings*" and "*A description of alternatives to the undertakings within the class*" to section 14 (2) as information which must be contained in a parent Class Environmental Assessment.
3. Replace reference to "final design" with "means to implement" in section 14(2) item #8.

Early and Clear Direction

4. Add a purpose to section 2 of the Act to assist in the definition of "public interest" and to guide the development of Terms of Reference and Environmental Assessments by proponents. A suggested purpose is as follows:
 "*to plan undertakings in order to prevent, mitigate or remedy significant adverse environmental effects, including cumulative effects and effects upon future generations*".
5. Revise sections 6.5(2) and 7.2(2) to add reference to the "*approved terms of reference*" to ensure that the public comments reflect the approved Terms of Reference.
6. Revise Sections 9(6) and 10(2) so that the Board and Minister make their decisions based solely on these documents. A suggested revision for 9(6) is as follows:
 "*In deciding an application, the Board shall:*
 a) *be consistent with the purpose of the Act, approved terms of reference and any direction given by the Minister under subsection 9(3); and,*
 b) *have regard for only the following matters:*
 1. *the environmental assessment;*
 2. *the Ministry review of the environmental assessment;*

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3. *the comments submitted under subsection 6.5(2) and 7.2(2);*
and,
4. *the mediators report, if any, given by the Minister*
under section 8."

(with necessary modifications for section 10(2).

Guaranteed Public Consultation

7. Revise section 6.1 to ensure consultation "during the preparation of the EA" and not merely the "undertaking".
8. Clarify in section 8 "who" may be considered parties to a mediation and that the Minister "shall" identify them.

Timely Decisions

9. Delete section 10(4) which exempts the Minister from the prescribed deadline for decisions.
10. Delete provisions for 7 day notice to the proponent where an Environmental Assessment is deficient in section 7(4) and (5).

Focussed Board Hearings

11. Revise section 27(1) to ensure other parties are bound by the Minister's guidelines by replacing "and the Board shall consider the guidelines" with "for the guidance of all parties to an application for approval...[and]".

Mediation

12. Add reference to the mediation report, if any, to section 30(1.1) for the record created by the Director.
13. Add reference in section 8 to the use and value of a mediation process and where, if applicable, such a mediation report may be used and by whom. For example, reference in section 8 should be made to mediation "for use by the Minister in directing the Board in 9(3) or making a decision in 10(1)".
14. Delete reference in section 8 (7) to "report to the Minister within 60 days or by such

earlier deadline as the Minister may specify" and replace with "by such deadline as the Minister shall specify".

Minister's Orders

15. Revise section 16 to specify that a Minister's order, requiring a that proponent complete Part II, would only be given either when the process which would normally be carried out under a Class Environmental Assessment has been completed and a request has been received or at some other specified point in the Class Environmental Assessment process.

Harmonization and Consolidation

16. Revise Section 3.1(2) so that in making this order the Minister is guided by the purpose of the Act, section 6(2) of the Act and the "public interest".

OTHER SUGGESTED IMPROVEMENTS

- 5(2) delete "Proposed" throughout (see also 13(2)) since the use of this word is meaningless in this context
- 6.3(3) proponent must be able to withdraw at any time, not just under conditions specified by Minister
- 6.4(2) the form and method of notice could be prescribed in addition to the information to be contained in such notice
- 6(5) form and type of notice should be prescribed
- 6(5) public must also have access to inspect the Terms of Reference along with the Environmental Assessment
- 7(4) "is deficient in relation to" is poorly worded; substitute "does not sufficiently address"
- 8(10) add a provision that the mediator could provide a report to the Minister on the fees and who should pay (e.g. not always the proponent)
- 10(3) & (4) should be provisions for the Minister to notify of late decision (beyond prescribed deadline)
- 10(5) Minister should not be required to give reasons for approval (reasons only required for variance or refusal)
- 10(6) add notification to clerks of affected municipalities (per section 7.1(1))
- 11.1(3) add requirement for new deadline for decision in writing since this deferral could be indefinite otherwise
- 11.3(3) this section gives the Minister disproportionate power and does not respect the proponent's "right" to change the undertaking
- 12 delete as there are cases where proponents need to appeal to Minister to revoke conditions or alter undertaking after approval prior to completion or during operations phase (i.e., the undertaking is built and the operational conditions are no longer valid)

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- 13.2 awkward - replace "it" with "the Class Environmental Assessment"
- 14(2) delete "proposed"
- 14(1) - (4) use the 6(2) format of providing three options which is clearer
- 14(3) delete "approved" as unnecessary
- 15 delete "proposed" as unnecessary
- 15.1 this is unnecessarily confusing and it may be better to include these items in section 13(3) of the Bill which provides for the application of Class Environmental Assessments
- 15.2 delete "approved"
- 16(8) prescribed deadline should apply for refusal as is the decision noted in 16(7)
- 30(1) record must consist of approved Terms of Reference but not the proposed Terms of Reference because there could be many draft and proposed versions prior to approval
- 1(2), 1(3) & 1(4) and Part II.1
The descriptions and definitions of Class Environmental Assessments continue to cause readers confusion. We suggest that "Class Environmental Assessment" be defined to refer to a "parent environmental assessment for which an application for approval is required prior to carrying out any undertakings identified within the Class of undertakings" and "Undertakings within a Class" be defined to refer to specified projects or activities carried out by specified person(s)". While there has been some thinking applied to this issue, the consistent reference to "class of undertakings" to refer to the category of undertakings as defined in section 1 and "undertakings within a class" to refer to projects, would be useful. These references become especially confusing in section 14(4), 15.2 and 16(1).

SCHEDULE D

Proposed Landfill Standards
Province of Ontario
Comments

Generally the new standards confirm many of the common landfill design practices and will serve to establish consistency across the province. However, it is not clear how these new standards will fit in with the Environmental Assessment Act. Also it is not clear what constitutes an expansion and how landfill reclamation applies.

The generic or default designs are so onerous that they are unlikely to ever be used. This will confuse the public as they are likely to always want the highest standard and not understand why a lesser level of environmental protection is recommended. The result could be more public debate and conflict which these standards are intended to reduce. It would be more practical to develop a standard design with an average or moderate level of protection and require proponents that want to use it to prove its appropriateness at their site using the Reasonable Use Guidelines at the property boundaries.

Limiting the hydrogeology to above the bedrock could overlook the potential for leachate migration through rock strata such as fractured limestone. Rock within the zone of influence of the leachate should be tested for competence.

The requirement for a Public Liaison Committee is an attempt to insure continued public involvement with the landfill site. These committees create a pressure group with interests that may not reflect the general community. It may be more useful and fair to require an annual meeting to present the annual report so anyone can attend.

The surface water control or leachate disposal sections should provide flexibility for the use of engineered wet lands.

A strong commitment to training landfill staff is needed. The Solid Waste Association Of North America has certification courses that could fulfil the training needs.

Scavenging is not permitted. However North America is one of the few places in the world where scavenging is not part of standard landfill operation. To allow us to reconsider scavenging as a waste diversion program the proposed clause should be changed to refer to “uncontrolled scavenging” not being permitted at landfills.

Daily and intermediate cover must pass the criteria for industrial lands as defined in the Ministry's Clean-up Guidelines unless the alternative material is justified in a report. Many of these reports would be eliminated if the leachate toxicity test were an acceptable alternative criteria at the landfill operators discretion.