

Ontario EA Update



Presentation to Water Drop-In Webinar

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May 26, 2026



Canadian
Environmental Law
Association
EQUITY. JUSTICE. HEALTH.

Photo: Linda Pim

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Canadian Environmental Law Association (CELA)

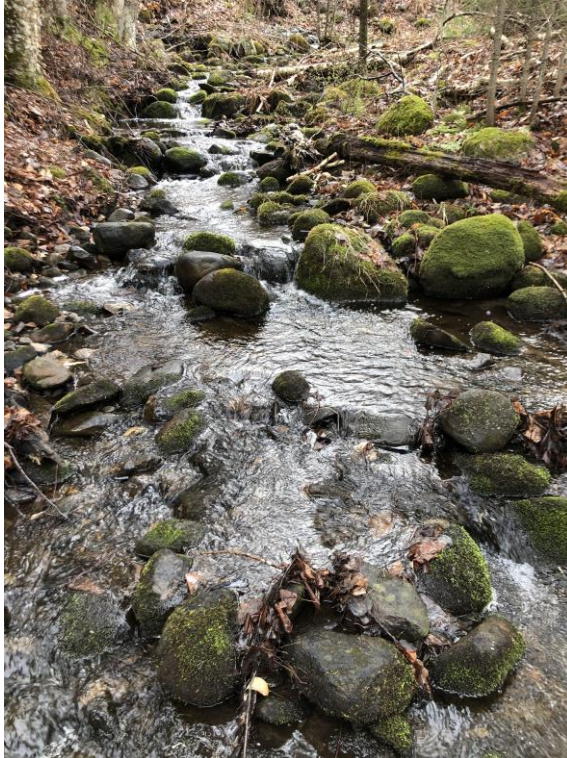


Photo: Kelly Mathews

- Specialty legal aid clinic dedicated to environmental equity, justice, and health
- Founded in 1970, funded by Legal Aid Ontario since 1978
- CELA provides free legal services relating to environmental justice in Ontario, including representing qualifying low-income and vulnerable communities in the courts and before tribunals. CELA also provides free summary advice to the public and engages in legal education and law reform initiatives.



Canadian Environmental Law Foundation



Photo: Ghislain Tillard

- Key initiatives include:
 - Canadian Environmental Law Archives
 - Annual fellowship for one aspiring environmental lawyer,
 - Access to Justice for Northern Communities Initiative.
- The Foundation also supports ongoing education and outreach efforts to promote public participation in environmental decision-making.

Overview of Presentation

- Introduction to Ontario's Environmental Assessment Act (EA Act)
- Background: Overview of Reforms to Ontario's EA program
- Review of EA Changes that have been Passed or Proposed in Ontario since 2024

Intro to the EA Act (1)

- EA = formal process for gathering information & making decisions about environmentally significant proposals
- If subject to EA requirements, proposals cannot proceed until EA application is reviewed & approved (usually with binding/enforceable conditions)
- Why do EA? “Look before you leap!” (exercise the precautionary principle; prevent serious harm; promote sustainability; facilitate enviro justice)

Intro to the EA Act (2)

- Ontario's EA Act was first enacted in 1975
- This was Canada's first EA law and was widely regarded as the "gold standard"
- **The EA Act contains a broad statement of the law's public interest purpose (s.2):**

"The purpose of this Act is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment."

Intro to the EA Act (3)

- The EA Act contains a broad definition of “environment” (s.1):

“environment” means,

(a) air, land or water,

(b) plant and animal life, including human life,

(c) the social, economic and cultural conditions that influence the life of humans or a community,

(d) any building, structure, machine or other device or thing made by humans,

(e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities, or

(f) any part or combination of the foregoing and the interrelationships between any two or more of them,

in or of Ontario;



Background: EA Reform (1)



Photo: Fe de Leon

- The EA Act was amended by the Ont govt in 1996 and again in 2020 [via omnibus Bill 197]
- The Bill 197 changes were made without public consultation under the EBR → court challenge was dismissed



Background: EA Reform (2)

- Traditional rule was that *EA Act* applied to all public sector “undertakings” (unless exempted by regulation/order [many!]); but did not apply to private sector undertakings (unless designated by regulation/order [few!])
- Bill 197 changed this traditional approach; EA requirements are now only applicable to a small handful of public or private “projects” prescribed on a regulatory list [see below]

Background: EA Reform (3)

- Due to Bill 197, there are now 3 basic types of processes under the *EA Act*: **Comprehensive EA** (formerly individual EA); **Streamlined EA** (formerly Class EA); **sectoral environmental screening process**
- **Comprehensive EA** process only applies to designated projects and has 4 main steps: Terms of Reference (TOR); EA preparation; Ministry review; Ministerial decision: yes/no/Tribunal referral
- Proponents must consult “interested persons” re the TOR & EA

Background: EA Reform (4)

- Bill 197 changes to the EA Act now require landfill proponents to obtain local municipal support
- This includes the “host” community & any residential settlement areas within 3.5 km of the proposed site



Background: EA Reform(5)

- **Class EAs:** streamlined enviro planning process for certain categories of smaller-scale projects that recur frequently (e.g., roads, sewers) with moderate/known enviro impacts that are amenable to standard mitigation measures; the approved Class EA process sets out planning, documentation, & notification requirements
- “bump-up” request (Part II order) was available to the public re contentious projects; Bill 197 now restricts it to treaty/aboriginal rights under s. 35, & current Class EAs to be replaced by “Streamlined EAs” in future regulations



Recent EA Changes (1)

- in 2024, the Ont govt finalized the list of designated projects that require Comprehensive EA: see [O.Reg.50/24](#)
- List includes large projects that may affect water quality or quantity (i.e. **waterpower facilities** generating more the 200 MW of electricity; **landfilling sites or dumps** with a total waste disposal volume > 100,000 cubic metres; certain types of **incinerators**; large **waterfront projects** (> 1 km of shoreline alteration and > 4 ha of lakefilling in the GL-SLR system, etc.).
- List excludes many types of private projects that may affect water quantity or quantity (i.e. mines, mills, smelters, etc.); see ENGO [brief](#) on the project list

Recent EA Changes (2)

- In 2025, the Ont govt also enacted omnibus **Bill 5**, which amended the EA Act.
- Bill 5 retroactively exempted two contentious projects (i.e. the Dresden Landfill proposal in southwestern Ontario and the proposed Eagle's Nest mine in the Ring of Fire) from the EA Act, although both projects were previously designated under the Act.
- Bill 5 also contains the [Special Economic Zones Act](#), which enables the govt to designate zones where municipal by-laws and provincial laws (including enviro statutes such as the EA Act) do not apply in order to expedite economic development and promote priority projects.

Recent EA Changes (3)

- The Ont govt has undertaken various public consultations on its proposal to revoke the current Municipal Class EA, and to replace it with a new **Streamlined EA** regulation
- In 2025-26, certain updates were proposed in relation to the draft regulation (i.e. adding an archeological assessment process for certain roads & road-related infrastructure)
- See the Registry Notice: [New regulation to focus municipal environmental assessment requirements | Environmental Registry of Ontario](#)

Recent EA Changes (4)

- The Ont govt's omnibus Bill 105 is currently awaiting Third Reading in the Legislature
- Schedule 2 of Bill 105 further amends the EA Act, including removal of key public participation rights (i.e. right to request a referral to the OLT for a public hearing and decision; right to read/comment on the Ministry review of the proponent's EA, etc.)
- Bill 105 also enables the Enviro Minister to decide an EA application without Cabinet approval
- See CELA's [brief](#) on Bill 105 changes

Glossary (1)

- EA Act = Environmental Assessment Act
- EBR = Environmental Bill of Rights
- Class EA = Class Environmental Assessment
- OLT = Ontario Land Tribunal
- GL-SLR = Great Lakes - St. Lawrence River



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