

How to Make a Part II Order Request

The Environmental Assessment Act allows an interested person, Aboriginal community, or government agency to ask for a higher level of assessment for a class environmental assessment (Class EA) project if they feel there are significant outstanding issues that have not been adequately addressed and could be addressed through an individual environmental assessment process. This is known as a Part II Order.

There are currently 10 approved Class EAs in Ontario. Each Class EA establishes general procedures for requesting a Part II Order, timelines for the Ministry of the Environment's review of requests, and other administrative matters. These vary between Class EAs.

When can I submit a Part II Order Request?

A Part II Order request may be submitted in writing to the Minister of the Environment within the 30-day review period after the proponent has issued a Notice of Completion of the process or the assessment report which is commonly referred to as an Environmental Study Report.

A request should be made only when there are outstanding significant environmental issues that cannot be resolved through the class environmental process, discussions with the proponent or mediation.

A Part II Order request is considered to be premature when it is received before the proponent issues the Notice of Completion.

If the request is premature, the requestor will be advised to bring the issues to the attention of the proponent.

What is a valid Part II Order Request?

A valid Part II Order request:

- Must be made in writing to the Minister or delegate with a copy to the proponent.
- Must be made after the proponent issues the Notice of Completion and within the specified review period outlined in the Notice so that all of the potential environmental effects and impact management measures are understood.
- Must not be made for the sole purpose of delaying, stopping or frustrating the planning and implementation of a Class EA project.
- Must focus on potential environmental effects of the project, the Class EA process, and not on decisions made outside the Class EA process, e.g. land use planning decisions made under the Planning Act or issues related to municipal decision-making about the project.
- Must not raise issues that are not related to the project.

A requestor should promptly withdraw a Part II Order request if the proponent has satisfied the requestor's concerns.

What information should I include in a Part II Order Request?

Information in a Part II Order request should include, but is not limited to:

- name and address of the requestor
- name of the project and proponent
- details about the undertaking
- a clear indication that a request for a Part II Order is being made
- specific reasons for which the request is being made
- rationale as to why a higher level of assessment would address the concerns raised in the request
- information about any efforts to date to discuss and resolve the concerns with the proponent
- other matters that may be considered relevant.

Requestors should refer to the appropriate Class EAs for specific requirements.

Under the Freedom of Information and Protection of Privacy Act and the Environmental Assessment Act, unless otherwise stated in the submission, personal information such as name, address, telephone number and property location in a submission become part of the public record and will be released, if requested, to any person. Requests should also be sent to the proponent. If not already provided requests will be shared with the proponent for a response. The proponent's response to the issues raised will also be considered as part of the decision on a Part II Order request.

What does the Minister consider when making a Part II Order decision?

In making a decision, the Minister of the Environment will consider the following, based on matters set out under subsection 16(4) of the Environmental Assessment Act:

1. The purpose of the act.
2. The factors suggesting the proposed undertaking differs from other undertakings in the class to which the Class EA applies.
3. The significance of the factors and of the differences mentioned in paragraph two.
4. Any reasons given by a person who requests the order.
5. The mediator's report, if any.
6. Such other matters as may be prescribed.

7. Such other matters as the Minister considers appropriate.

Other matters the Minister may consider appropriate could include, but are not limited to:

- extent and nature of public concern
- potential for significant adverse environmental effects
- the proponent's consideration of alternatives
- considerations of urgency
- the requestor's participation in the planning process
- nature of request
- implications for matters of significant provincial interest
- degree to which public consultation and dispute resolution have taken place.

How long does the Minister take to make a decision on a Part II Order request?

Each Class EA establishes timelines for the ministry's review of requests. Depending upon the project, the ministry's review typically lasts between 30 and 66 days.

What options does the Minister have for a decision on a Part II Order request?

The Minister or delegate has four options for a decision on a Part II Order request:

1. Refer the matter to mediation before making a decision under the provisions of subsection 16(6) of the EAA.
2. Deny the request for an order and inform the proponent and requestor of the decision and rationale.
3. Deny the request for an order but impose conditions.
4. Require the proponent to comply with Part II of the Environmental Assessment Act which requires the preparation of a terms of reference and an individual environmental assessment.

What happens after the Minister has made a decision on a Part II Order request?

Once a Part II Order request has been denied, the proponent may implement the project subject to any conditions imposed.

Where a Part II Order has been granted, the proponent may begin to prepare terms of reference for an environmental assessment if the proponent wishes to receive approval for the project under the Environmental Assessment Act.

The Minister's decision on a Part II Order request is final.

APPROVED CLASS ENVIRONMENTAL ASSESSMENTS IN ONTARIO

Class EA	Proponent	Date Approved
Class Environmental Assessment for Waterpower Projects	Ontario Waterpower Association	October 2008
Municipal Class Environmental Assessment	Municipal Engineers Association	October 2000 Amended September 2007
Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario (Declaration Order MNR-71) Amending Declaration Order MNR 71/2	Ministry of Natural Resources	June 2003 Amended March 21, 2007
Class Environmental Assessment for Provincial Parks and Conservation Reserves	Ministry of Natural Resources	December 2004
Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects	Ministry of Natural Resources	March 2003
Class Environmental Assessment Process for the Ministry of Energy and Infrastructure for Realty Activities Other Than Electricity Projects	Ministry of Energy and Infrastructure	April 2004 Amended September 2008
GO Transit Class Environmental Assessment Document	GO Transit	December 2003 Amended August 2005
Class Environmental Assessment for Minor Transmission Facilities	Hydro One	April 1992
Class Environmental Assessment for Remedial Flood and Erosion Control Projects	Conservation Ontario	June 2002 Amended September 2009
Class Environmental Assessment for Provincial Transportation Facilities	Ministry of Transportation	December 1997 and Revised July 2000

The information in this document is of a general nature and is not intended to constitute advice for any specific situation.

The texts of many Ontario statutes and regulations are available on the Internet at www.e-laws.gov.on.ca.

For more information about environmental assessment in Ontario please contact:

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