

Environmental Assessment Act
Loi sur les évaluations environnementales

ONTARIO REGULATION 231/08

TRANSIT PROJECTS AND METROLINX UNDERTAKINGS

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Interpretation

Interpretation

1. (1) In this Regulation,

“project commencement date” means, with respect to a transit project, the earliest date that,

(a) any construction or installation begins as part of the project, or

(b) any service is started, stopped or changed as part of the project;

“transit project” means,

(a) an enterprise or activity that is the planning, designing, establishing, constructing, operating, changing or retiring of,

(i) a facility or service that, aside from any incidental use for walking, bicycling or other means of transporting people by human power, is used exclusively for the transportation of passengers by bus or rail, or

(ii) anything that is ancillary to a facility or service described in subclause (i) and that is used to support or facilitate the transportation of passengers by bus or rail, or

(b) a proposal, plan or program in respect of an enterprise or activity described in clause (a);

“transit project assessment process” means the process set out in sections 5 to 17 of this Regulation. O. Reg. 231/08, s. 1 (1).

(2) For the purposes of this Regulation,

(a) the site of a transit project is the site of the facility or service referred to in subclause (a) (i) of the definition of “transit project” in subsection (1); and

(b) the site of a change to a transit project is the site of the change to the facility or service referred to in subclause (a) (i) of the definition of “transit project” in subsection (1). O. Reg. 231/08, s. 1 (2); O. Reg. 231/08, s. 18 (1).

Exemptions

Exemption conditional on compliance with transit project assessment process

2. (1) A transit project that belongs to a class of transit projects described in Schedule 1 is exempt from Part II and subsection 13 (3) of the Act if the proponent has commenced the transit project assessment process and complies with that process. O. Reg. 355/11, s. 2.

(2) Subsection (3) applies if, before the day this section came into force,

(a) the proponent of a transit project submitted an environmental assessment or proposed terms of reference in respect of the project to the Ministry; or

(b) the proponent of a transit project gave a notice to the public in accordance with an approved class environmental assessment. O. Reg. 231/08, s. 2 (2).

(3) In the circumstances described in subsection (2), subsection (1) does not apply to the transit project unless, not later than December 22, 2008, the Director of the Ministry’s Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry have received written notice from the proponent stating that the proponent will comply with the transit project assessment process. O. Reg. 231/08, s. 2 (3); O. Reg. 301/08, s. 1.

(4) The validity of anything done before the day this section came into force is not affected if, after receipt of the notices referred to in subsection (3), the transit project assessment process is terminated under subsection 6 (3) or clause 13 (4) (b) or 15 (20) (b). O. Reg. 231/08, s. 2 (4).

(5) If, pursuant to subsection (1), Part II of the Act does not apply to a transit project and proceeding with the project conflicts with a condition imposed by an approval under the Act that applies to another undertaking, subsections 5 (4) and 12.2 (6) and section 38 of the Act do not apply to the condition to the extent of the conflict. O. Reg. 231/08, s. 2 (5).

(6) Subsection (1) ceases to apply to a transit project if the proponent gives the Director of the Ministry’s Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry written notice indicating that the proponent will proceed with the transit project in accordance with Part II of the Act or an approved class environmental assessment. O. Reg. 231/08, s. 2 (6).

Unconditional exemption of other transit projects

3. (1) A transit project that does not belong to a class of transit projects described in Schedule 1 is exempt from Part II and subsection 13 (3) of the Act. O. Reg. 231/08, s. 3 (1); O. Reg. 355/11, s. 3.

(2) Subsection (1) ceases to apply to a transit project if the proponent gives the Director of the Ministry’s Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry

written notice indicating that the proponent will proceed with the transit project in accordance with Part II of the Act or an approved class environmental assessment. O. Reg. 231/08, s. 3 (2).

Metrolinx undertakings

4. (1) Any undertaking of Metrolinx that is described in section 6, 7, 8 or 8.1 of the Metrolinx Act, 2006 is exempt from Part II and subsection 13 (3) of the Environmental Assessment Act. O. Reg. 355/11, s. 4.

(2) Subsection (1) does not apply to an undertaking that is a transit project if the transit project belongs to a class of transit projects described in Schedule 1. O. Reg. 231/08, s. 4 (2).

Transit Project Assessment Process

Application

5. Sections 6 to 17 apply if the proponent of a transit project that belongs to a class of transit projects described in Schedule 1 seeks to rely on subsection 2 (1). O. Reg. 231/08, s. 5.

Process and timing

6. (1) Before the project commencement date, the proponent shall complete the following steps:

1. Prepare and distribute a notice of commencement of the transit project assessment process under section 7.
2. Conduct consultations under section 8.
3. Prepare an environmental project report under section 9.
4. Prepare and distribute a notice of completion of the environmental project report under section 11.
5. Submit statements of completion of the transit project assessment process to the Director of the Ministry's Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry under section 14. O. Reg. 231/08, s. 6 (1).

(2) Subject to section 10, the notice of completion of the environmental project report referred to in paragraph 4 of subsection (1) shall be prepared and distributed within 120 days after,

(a) the first day on which the notice of commencement of the transit project assessment process is published in a newspaper under clause 7 (3) (b); or

(b) if there is no newspaper publication under clause 7 (3) (b) because there is no newspaper with general circulation in the area where the site of the transit project is located, the date on which the notice of commencement of the transit project assessment process is first published under subsection 7 (6). O. Reg. 231/08, s. 6 (2).

(3) A proponent may, at any time before submitting a statement of completion of the transit project assessment process under section 14, terminate the transit project assessment process by giving notices to that effect to the Director of the Ministry's Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry. O. Reg. 231/08, s. 6 (3).

(4) The termination of the transit project assessment process by the proponent under subsection (3) does not prevent the proponent from,

(a) preparing and distributing a new notice of commencement of the transit project assessment process under section 7 and starting the transit project assessment process again; or

(b) proceeding with the transit project in accordance with Part II of the Act or an approved class environmental assessment. O. Reg. 231/08, s. 6 (4).

Notice of commencement of the transit project assessment process

7. (1) The proponent shall prepare a notice of commencement of the transit project assessment process that complies with subsection (2) and distribute it as described in subsection (3). O. Reg. 231/08, s. 7 (1).

(2) The notice of commencement of the transit project assessment process shall include the following information:

1. The proponent's name and address.
2. The name and phone number, and email address if any, of a person who may be contacted on behalf of the proponent.
3. A description of the transit project.
4. A statement that the environmental impact of the transit project is being assessed in accordance with the transit project assessment process under this Regulation.
5. A map showing the site of the transit project.
6. Information on how to obtain a summary of publicly-available documents prepared by the proponent in connection with the transit project, including any of the following documents prepared by the proponent that are publicly available:
 - i. Any preliminary studies relating to the transit project.
 - ii. Any analysis of existing environmental conditions at the site of the transit project.
 - iii. Any analysis of the impacts that the transit project may have on the environment and, in the case of negative impacts, any analysis of potential mitigation measures.
 - iv. Any documents relating to planning and consultation that have taken place with respect to the transit project. O. Reg. 231/08, s. 7 (2).

(3) The proponent shall distribute the notice of commencement of the transit project assessment process by,

(a) giving a copy of the notice to,

- (i) every assessed owner of land within 30 metres of the site of the transit project,
- (ii) the Director of the Ministry's Environmental Assessment and Approvals Branch,
- (iii) the appropriate regional director of the Ministry,

(iv) every aboriginal community that is identified under clause (4) (b), and any other aboriginal community that, in the opinion of the proponent, may be interested in the transit project, and

(v) any other person who, in the opinion of the proponent, may be interested in the transit project; and

(b) publishing the notice, on two separate days, in a newspaper with general circulation in the area where the site of the transit project is located, subject to subsection (6). O. Reg. 231/08, s. 7 (3).

(4) Before distributing the notice of commencement of the transit project assessment process,

(a) the proponent shall contact the Director of the Ministry's Environmental Assessment and Approvals Branch for a list of bodies that, in the opinion of the Director, would be able to assist in identifying aboriginal communities that may be interested in the transit project; and

(b) the proponent shall contact the bodies listed under clause (a) and ask them to identify aboriginal communities that may be interested in the transit project. O. Reg. 231/08, s. 7 (4).

(5) For the purposes of subclause (3) (a) (v), the proponent shall have regard to Schedule 2 in identifying persons who may be interested in the transit project. O. Reg. 231/08, s. 7 (5).

(6) If there is no newspaper with general circulation in the area where the site of the transit project is located, the proponent shall publish the notice of commencement of the transit project assessment process in some other way that, in the proponent's opinion, will promptly bring the notice to the attention of the public in that area. O. Reg. 231/08, s. 7 (6).

(7) The proponent shall also post the notice of commencement of the transit project assessment process on its website, if any. O. Reg. 231/08, s. 7 (7).

(8) When a copy of the notice of commencement of the transit project assessment process is given to an aboriginal community under subsection (3), the proponent shall request the aboriginal community to advise the proponent in writing of the nature of any interest that it has in the transit project. O. Reg. 231/08, s. 7 (8).

Consultation

8. (1) Subject to subsection (2), the proponent shall consult with persons, including aboriginal communities, who, in the opinion of the proponent, may be interested in the transit project. O. Reg. 231/08, s. 8 (1).

(2) The proponent shall ensure that all of the persons to whom a copy of the notice of commencement of the transit project assessment process was given under clause 7 (3) (a) are given an opportunity to participate in the consultation. O. Reg. 231/08, s. 8 (2).

(3) Subject to subsections (4) and (5), the consultation shall be conducted in the way the proponent considers appropriate. O. Reg. 231/08, s. 8 (3).

(4) As part of the consultation, the proponent shall provide information about,

(a) the basis on which the proponent selected the preferred method of carrying out the transit project, including,

(i) the proponent's assessment and evaluation of the impacts that the preferred method and the other methods considered might have on the environment,

(ii) the proponent's criteria for assessment and evaluation of those impacts, and

(iii) any completed studies with respect to those impacts;

(b) any measures proposed by the proponent for mitigating any negative impacts that the preferred method of carrying out the transit project might have on the environment; and

(c) if mitigation measures are proposed under clause (b), a description of the means the proponent proposes to use to monitor or verify their effectiveness. O. Reg. 231/08, s. 8 (4).

(5) As part of the consultation, the proponent shall discuss with each aboriginal community that may be interested in the transit project,

(a) any constitutionally protected aboriginal or treaty right that is identified by the community as potentially being negatively impacted by the transit project; and

(b) measures for mitigating potential negative impacts on the right referred to in clause (a), including any measures identified by the community. O. Reg. 231/08, s. 8 (5).

Environmental project report

9. (1) The proponent shall prepare an environmental project report in accordance with subsection (2). O. Reg. 231/08, s. 9 (1).

(2) The environmental project report shall contain the following:

1. A statement of the purpose of the transit project and a summary of background information relating to the transit project.
2. The final description of the transit project, including a description of the preferred method of carrying out the transit project, and a description of the other methods that were considered.
3. A map showing the site of the transit project.
4. A description of the local environmental conditions at the site of the transit project.
5. A description of all studies undertaken in relation to the transit project, including,
 - i. a summary of all data collected or reviewed, and
 - ii. a summary of all results and conclusions.
6. The proponent's assessment and evaluation of the impacts that the preferred method of carrying out the transit project and other methods might have on the environment, and the proponent's criteria for assessment and evaluation of those impacts.
7. A description of any measures proposed by the proponent for mitigating any negative impacts that the preferred method of carrying out the transit project might have on the environment.
8. If mitigation measures are proposed under paragraph 7, a description of the means the proponent proposes to use to monitor or verify their effectiveness.
9. A description of any municipal, provincial, federal or other approvals or permits that may be required for the transit project.
10. A consultation record, including,
 - i. a description of the consultations carried out with interested persons, including aboriginal communities,
 - ii. a list of the interested persons, including aboriginal communities, who participated in the consultations,
 - iii. summaries of the comments submitted by interested persons, including aboriginal communities,
 - iv. a summary of discussions that the proponent had with aboriginal communities under subsection 8 (5), and copies of all written comments submitted by aboriginal communities, and
 - v. a description of what the proponent did to respond to concerns expressed by interested persons, including aboriginal communities.

11. A summary of each issue in respect of which notice was given to the Director of the Ministry's Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry under subsection 10 (1), including,

- i. a description of the issue,
- ii. a description of what the proponent did to respond to the issue and the results of those efforts, and
- iii. the dates that notices were given to the Director of the Ministry's Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry under subsections 10 (1) and (3). O. Reg. 231/08, s. 9 (2).

Notice of issue, suspension of 120-day period

10. (1) If, at any time during the 120-day period referred to in subsection 6 (2), the proponent is of the opinion that the transit project may have a negative impact on a matter of provincial importance that relates to the natural environment or has cultural heritage value or interest, or on a constitutionally protected aboriginal or treaty right, the proponent may give written notices describing the issue to the Director of the Ministry's Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry. O. Reg. 231/08, s. 10 (1).

(2) The proponent shall also post the notice on its website, if any. O. Reg. 231/08, s. 10 (2).

(3) If notice is given under subsection (1), the 120-day period referred to in subsection 6 (2) stops running until the proponent gives notices of resumption to the Director of the Ministry's Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry. O. Reg. 231/08, s. 10 (3).

Notice of completion of environmental project report

11. (1) After conducting consultations in accordance with section 8 and preparing the environmental project report in accordance with section 9, the proponent shall prepare a notice of completion of the environmental project report and shall,

(a) give a copy of the notice to,

(i) every person to whom a notice was given under clause 7 (3) (a),

(ii) every person from whom the proponent has received a written request for a copy of the notice, and

(iii) every person who, in the opinion of the proponent, may be interested in receiving a copy of the notice; and

(b) cause the notice to be published in a newspaper having general circulation in the area where the site of the transit project is located, subject to subsection (4). O. Reg. 231/08, s. 11 (1).

(2) The proponent shall also post the notice on its website, if any. O. Reg. 231/08, s. 11 (2).

(3) The notice of completion of the environmental project report shall include the following:

1. Information as to where and how members of the public may examine the environmental project report and obtain copies.

2. A statement that there are circumstances in which the Minister has authority to require further consideration of the transit project, or impose conditions on it, if he or she is of the opinion that,

- i. the transit project may have a negative impact on a matter of provincial importance that relates to the natural environment or has cultural heritage value or interest, or
- ii. the transit project may have a negative impact on a constitutionally protected aboriginal or treaty right.

3. A statement that, before exercising the authority referred to in paragraph 2, the Minister is required to consider any written objections to the transit project that he or she receives within 30 days after the notice of completion of the environmental project report is first published under clause (1) (b) or subsection (4). O. Reg. 231/08, s. 11 (3).

(4) If there is no newspaper with general circulation in the area where the site of the transit project is located, the proponent shall publish the notice of completion of the environmental project report in some other way that, in the proponent's opinion, will promptly bring the notice to the attention of the public in that area. O. Reg. 231/08, s. 11 (4).

(5) If the proponent has given a notice describing an issue under subsection 10 (1), a notice of completion of the environmental project report shall not be prepared or distributed under this section unless the proponent has also given notices of resumption under subsection 10 (3) in respect of the issue. O. Reg. 231/08, s. 11 (5).

Minister's powers

12. (1) The Minister may, not earlier than 30 days and not later than 65 days after the notice of completion of the environmental project report is first published under clause 11 (1) (b) or subsection 11 (4), give the proponent,

(a) a notice allowing the proponent to proceed with the transit project in accordance with the environmental project report;

(b) a notice requiring further consideration of the transit project, as described in subsection 13 (1); or

(c) a notice allowing the proponent to proceed with the transit project in accordance with the environmental project report, subject to conditions set out in the notice. O. Reg. 231/08, s. 12 (1).

(2) The Minister shall consider any written objections to the transit project that the Minister receives within 30 days after the notice of completion of the environmental project report is first published under clause 11 (1) (b) or subsection 11 (4). O. Reg. 231/08, s. 12 (2).

(3) Subsection (2) ceases to apply to an objection if the objector gives the Minister written notice of the withdrawal of the objection. O. Reg. 231/08, s. 12 (3).

(4) If the Minister receives a written objection within the time period referred to in subsection (2), the Minister shall not give a notice under clause (1) (b) or (c) unless he or she has given the proponent an opportunity to comment in writing on the objection. O. Reg. 231/08, s. 12 (4).

(5) The Minister may give a notice under clause (1) (b) only if,

(a) the Minister is of the opinion that,

(i) the transit project may have a negative impact on a matter of provincial importance that relates to the natural environment or has cultural heritage value or interest, and

(ii) it is desirable to take the steps required by the notice under clause (1) (b) in order to further consider the negative impact referred to in subclause (i); or

(b) the Minister is of the opinion that,

(i) the transit project may have a negative impact on a constitutionally protected aboriginal or treaty right, and

(ii) it is desirable to take the steps required by the notice under clause (1) (b) in order to further consider the negative impact referred to in subclause (i). O. Reg. 231/08, s. 12 (5).

(6) The Minister may give a notice under clause (1) (c) only if,

(a) the Minister is of the opinion that,

(i) the transit project may have a negative impact on a matter of provincial importance that relates to the natural environment or has cultural heritage value or interest, and

(ii) the conditions set out in the notice under clause (1) (c) appropriately address the negative impact referred to in subclause (i); or

(b) the Minister is of the opinion that,

(i) the transit project may have a negative impact on a constitutionally protected aboriginal or treaty right, and

(ii) the conditions set out in the notice under clause (1) (c) appropriately address the negative impact referred to in subclause (i). O. Reg. 231/08, s. 12 (6).

Revised environmental project report

13. (1) A notice under clause 12 (1) (b) requiring further consideration of a transit project shall require the proponent to, within time periods specified in the notice,

(a) take such steps as are specified in the notice to give further consideration to the transit project, including consultation with specified persons; and

(b) prepare a revised environmental project report that includes a description of the steps taken under clause (a) and any changes to the report that arise from taking those steps. O. Reg. 231/08, s. 13 (1).

(2) After preparing the revised environmental project report, the proponent shall give a copy of the revised report to the Minister and to such other persons as may be specified in the notice given under clause 12 (1) (b). O. Reg. 231/08, s. 13 (2).

(3) The proponent shall also post the revised environmental project report on its website, if any. O. Reg. 231/08, s. 13 (3).

(4) The Minister may, within 30 days after receiving the revised environmental project report, give the proponent,

(a) a notice allowing the proponent to proceed with the transit project in accordance with the revised environmental project report; or

(b) a notice terminating the transit project assessment process and requiring the proponent to comply with Part II of the Act or an approved class environmental assessment before proceeding with the transit project. O. Reg. 231/08, s. 13 (4).

(5) The Minister may give a notice under clause (4) (b) only if he or she is of the opinion that the revised environmental project report does not appropriately address,

(a) the negative impact referred to in subclause 12 (5) (a) (i), if the notice requiring further consideration of the transit project was given under clause 12 (5) (a); or

(b) the negative impact referred to in subclause 12 (5) (b) (i), if the notice requiring further consideration of the transit project was given under clause 12 (5) (b). O. Reg. 231/08, s. 13 (5).

Statement of completion of transit project assessment process

14. (1) The proponent may submit statements of completion of the transit project assessment process to the Director of the Ministry's Environmental Assessment and Approvals Branch and the appropriate regional director of the Ministry if,

(a) the Minister gives the proponent a notice under clause 12 (1) (a) allowing the proponent to proceed with the transit project in accordance with the environmental project report;

(b) the Minister gives the proponent a notice under clause 12 (1) (c) allowing the proponent to proceed with the transit project in accordance with the environmental project report, subject to conditions set out in the notice;

(c) no notice is given by the Minister under subsection 12 (1) within the time period specified in that subsection;

(d) the Minister gives the proponent a notice under clause 13 (4) (a) allowing the proponent to proceed with the transit project in accordance with a revised environmental project report; or

(e) the proponent gives a copy of a revised environmental project report to the Minister under subsection 13 (2) and no notice is given by the Minister under subsection 13 (4) within the time period specified in subsection 13 (4). O. Reg. 231/08, s. 14 (1).

(2) The statement of completion of the transit project assessment process shall indicate that the proponent intends to proceed with the transit project in accordance with,

(a) the environmental project report, if clause (1) (a) or (c) applies;

(b) the environmental project report, subject to the conditions set out by the Minister in the notice under clause 12 (1) (c), if clause (1) (b) applies; or

(c) the revised environmental project report, if clause (1) (d) or (e) applies. O. Reg. 231/08, s. 14 (2).

(3) The proponent shall also post the statement of completion of the transit project assessment process on its website, if any. O. Reg. 231/08, s. 14 (3).

(4) Subject to subsection 15 (24), if the proponent proceeds with the transit project, the proponent shall proceed in accordance with,

(a) the environmental project report, if clause (1) (a) or (c) applies;

(b) the environmental project report, subject to conditions set out by the Minister in the notice under clause 12 (1) (c), if clause (1) (b) applies; or

(c) the revised environmental project report, if clause (1) (d) or (e) applies. O. Reg. 231/08, s. 14 (4).

Changes after statement of completion of transit project assessment process

15. (1) If, after submitting a statement of completion of the transit project assessment process, the proponent wishes to make a change to the transit project that is inconsistent with the environmental project

report referred to in that statement, the proponent shall prepare an addendum to the environmental project report that contains the following information:

1. A description of the change.
2. The reasons for the change.
3. The proponent's assessment and evaluation of any impacts that the change might have on the environment.
4. A description of any measures proposed by the proponent for mitigating any negative impacts that the change might have on the environment.
5. A statement of whether the proponent is of the opinion that the change is a significant change to the transit project, and the reasons for the opinion. O. Reg. 231/08, s. 15 (1).

(2) Subsection (1) does not apply to a change that is required to comply with another Act, a regulation made under another Act, or an order, permit, approval or other instrument issued under another Act. O. Reg. 231/08, s. 15 (2).

(3) If the proponent is of the opinion that a change described in an addendum prepared under subsection (1) is a significant change to the transit project, the proponent shall prepare a notice of environmental project report addendum in accordance with subsection (4). O. Reg. 231/08, s. 15 (3).

(4) The notice of environmental project report addendum shall contain the following:

1. A description of the change to the transit project.
2. The reasons for the change.
3. Information as to where and how members of the public may examine the addendum and obtain copies.
4. A statement that there are circumstances in which the Minister has authority to require further consideration of the change to the transit project, or to impose conditions on the change, if he or she is of the opinion that,
 - i. the change may have a negative impact on a matter of provincial importance that relates to the natural environment or has cultural heritage value or interest, or
 - ii. the change may have a negative impact on a constitutionally protected aboriginal or treaty right.
5. A statement that, before exercising the authority referred to in paragraph 4, the Minister is required to consider any written objections to the change to the transit project that he or she receives within 30 days after the notice of environmental project report addendum is first published under clause (5) (b) or subsection (8). O. Reg. 231/08, s. 15 (4).

(5) The proponent shall distribute the notice of environmental project report addendum by,

(a) giving a copy of the notice to,

- (i) every assessed owner of land within 30 metres of the site of the change to the transit project,
- (ii) the Director of the Ministry's Environmental Assessment and Approvals Branch,
- (iii) the appropriate regional director of the Ministry,

- (iv) every aboriginal community that is identified under clause (6) (b), and any other aboriginal community that, in the opinion of the proponent, may be interested in the change to the transit project, and
- (v) any other person who, in the opinion of the proponent, may be interested in the change to the transit project; and
- (b) causing the notice be published in a newspaper having general circulation in the area where the site of the change to the transit project is located, subject to subsection (8). O. Reg. 231/08, s. 15 (5).
- (6) Before distributing the notice of environmental project report addendum,
- (a) the proponent shall contact the Director of the Ministry's Environmental Assessment and Approvals Branch for a list of bodies that, in the opinion of the Director, would be able to assist in identifying aboriginal communities that may be interested in the change to the transit project; and
- (b) the proponent shall contact the bodies listed under clause (a) and ask them to identify aboriginal communities that may be interested in the change to the transit project. O. Reg. 231/08, s. 15 (6).
- (7) For the purposes of subclause (5) (a) (v), the proponent shall have regard to Schedule 2 in identifying persons who may be interested in the change to the transit project. O. Reg. 231/08, s. 15 (7).
- (8) If there is no newspaper with general circulation in the area where the site of the change to the transit project is located, the proponent shall publish the notice of environmental project report addendum in some other way that, in the proponent's opinion, will promptly bring the notice to the attention of the public in that area. O. Reg. 231/08, s. 15 (8).
- (9) The proponent shall also post the notice of environmental project report addendum on its website, if any. O. Reg. 231/08, s. 15 (9).
- (10) When a copy of the notice of environmental project report addendum is given to an aboriginal community under subsection (5), the proponent shall request the aboriginal community to advise the proponent in writing of the nature of any interest that it has in the change to the transit project. O. Reg. 231/08, s. 15 (10).
- (11) The Minister may, not earlier than 30 days and not later than 65 days after the notice of environmental project report addendum is first published under clause (5) (b) or subsection (8), give the proponent,
- (a) a notice allowing the proponent to change the transit project in accordance with the addendum;
- (b) a notice requiring further consideration of the change described in the addendum, as described in subsection (17); or
- (c) a notice allowing the proponent to change the transit project in accordance with the addendum, subject to conditions set out in the notice. O. Reg. 231/08, s. 15 (11).
- (12) The Minister shall consider any written objections to the change to the transit project that the Minister receives within 30 days after the notice of environmental project report addendum is first published under clause (5) (b) or subsection (8). O. Reg. 231/08, s. 15 (12).
- (13) Subsection (12) ceases to apply to an objection if the objector gives the Minister written notice of the withdrawal of the objection. O. Reg. 231/08, s. 15 (13).
- (14) If the Minister receives a written objection within the time period referred to in subsection (12), the Minister shall not give a notice under clause (11) (b) or (c) unless he or she has given the proponent an opportunity to comment in writing on the objection. O. Reg. 231/08, s. 15 (14).

(15) The Minister may give a notice under clause (11) (b) only if,

(a) the Minister is of the opinion that,

(i) the change to the transit project may have a negative impact on a matter of provincial importance that relates to the natural environment or has cultural heritage value or interest, and

(ii) it is desirable to take the steps required by the notice under clause (11) (b) in order to further consider the negative impact referred to in subclause (i); or

(b) the Minister is of the opinion that,

(i) the change to the transit project may have a negative impact on a constitutionally protected aboriginal or treaty right, and

(ii) it is desirable to take the steps required by the notice under clause (11) (b) in order to further consider the negative impact referred to in subclause (i). O. Reg. 231/08, s. 15 (15).

(16) The Minister may give a notice under clause (11) (c) only if,

(a) the Minister is of the opinion that,

(i) the change to the transit project may have a negative impact on a matter of provincial importance that relates to the natural environment or has cultural heritage value or interest, and

(ii) the conditions set out in the notice under clause (11) (c) appropriately address the negative impact referred to in subclause (i); or

(b) the Minister is of the opinion that,

(i) the change to the transit project may have a negative impact on a constitutionally protected aboriginal or treaty right, and

(ii) the conditions set out in the notice under clause (11) (c) appropriately address the negative impact referred to in subclause (i). O. Reg. 231/08, s. 15 (16).

(17) A notice under clause (11) (b) requiring further consideration of the change described in an addendum shall require the proponent to, within time periods specified in the notice,

(a) take such steps as are specified in the notice to give further consideration to the change described in the addendum, including consultation with specified persons; and

(b) prepare a revised addendum that includes a description of the steps taken under clause (a) and any changes to the addendum that arise from taking those steps. O. Reg. 231/08, s. 15 (17).

(18) After preparing the revised addendum under clause (17) (b), the proponent shall give a copy of the revised addendum to the Minister and to such other persons as may be specified in the notice given under clause (11) (b). O. Reg. 231/08, s. 15 (18).

(19) The proponent shall also post the revised addendum on its website, if any. O. Reg. 231/08, s. 15 (19).

(20) The Minister may, within 30 days after receiving the revised addendum, give the proponent,

(a) a notice allowing the proponent to proceed with the transit project in accordance with the change described in the revised addendum; or

(b) a notice terminating the transit project assessment process and requiring the proponent to comply with Part II of the Act or an approved class environmental assessment before proceeding with the transit project. O. Reg. 231/08, s. 15 (20).

(21) The Minister may give a notice under clause (20) (b) only if he or she is of the opinion that the revised addendum does not appropriately address,

(a) the negative impact referred to in subclause (15) (a) (i), if the notice requiring further consideration of the transit project was given under clause (15) (a); or

(b) the negative impact referred to in subclause (15) (b) (i), if the notice requiring further consideration of the transit project was given under clause (15) (b). O. Reg. 231/08, s. 15 (21).

(22) Subsections (1) to (21) cease to apply if,

(a) the proponent gives the Minister notice that it will proceed with the change to the transit project in accordance with Part II of the Act or an approved class environmental assessment; or

(b) the proponent gives the Minister notice that it will not proceed with the change to the transit project. O. Reg. 231/08, s. 15 (22).

(23) The giving of a notice under subsection (22) does not prevent the proponent from preparing a new addendum to the environmental project report in accordance with subsection (1), in which case subsections (1) to (21) apply in respect of the new addendum. O. Reg. 231/08, s. 15 (23).

(24) A proponent shall not, after submitting a statement of completion of the transit project assessment process, make a change to a transit project that is inconsistent with the environmental project report referred to in that statement unless,

(a) the change is required to comply with another Act, a regulation made under another Act, or an order, permit, approval or other instrument issued under another Act; or

(b) the proponent has prepared an addendum in accordance with subsection (1) that describes the change and,

(i) the proponent is of the opinion that the change is not a significant change to the transit project,

(ii) the Minister gives the proponent a notice under clause (11) (a) allowing the proponent to change the transit project in accordance with the addendum,

(iii) the Minister gives the proponent a notice under clause (11) (c) allowing the proponent to change the transit project in accordance with the addendum, subject to conditions set out in the notice,

(iv) no notice is given by the Minister under subsection (11) within the time period specified in that subsection,

(v) the Minister gives the proponent a notice under clause (20) (a) allowing the proponent to proceed with the transit project in accordance with the change described in a revised addendum, or

(vi) the proponent gives a copy of a revised addendum to the Minister under subsection (18) and no notice is given by the Minister under subsection (20) within the time period specified in subsection (20). O. Reg. 231/08, s. 15 (24).

Review of transit projects not commenced within 10 years

16. If the project commencement date of a transit project does not occur within 10 years after the earliest date the proponent was permitted by subsection 14 (1) to submit statements of completion of the transit project assessment process, the proponent shall not proceed with the project unless,

(a) the proponent has prepared a review of the transit project that includes,

(i) an analysis of existing environmental conditions at the site of the transit project, and

(ii) an analysis of whether any changes are required to the measures for mitigating any negative impacts that the transit project may have on the environment;

(b) the proponent has posted the review on its website, if any;

(c) the proponent has complied with section 15 with respect to any changes to the transit project; and

(d) the proponent is of the opinion that it is still appropriate to proceed with the transit project. O. Reg. 231/08, s. 16.

Time

17. Time limits in sections 5 to 16 that would otherwise expire on a Saturday are extended to include the next day that is not a holiday. O. Reg. 231/08, s. 17.

18. Omitted (provides for amendments to this Regulation). O. Reg. 231/08, s. 18.

19. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 231/08, s. 19.

SCHEDULE 1

CLASSES OF TRANSIT PROJECTS EXEMPTED CONDITIONAL ON COMPLIANCE WITH TRANSIT PROJECT ASSESSMENT PROCESS

Transit projects by municipalities, Metrolinx, etc.

1. (1) Subsection 2 (1) of the regulation applies to a transit project that is carried out by a municipality or by Metrolinx or any of its successors or assigns if the transit project includes any one or more of the following:

1. Culvert repair or replacement where the capacity of the culvert or drainage area is changed.

2. Reconstruction of water crossing where the reconstructed facility will not be for the same purpose, use, capacity and at the same location as the facility being reconstructed (capacity refers to hydraulic capacity).

3. Construction of new stations in or adjacent to residential land-use or an environmentally-sensitive area including natural heritage features, cultural heritage and archaeological resources, recreational or other sensitive land-uses.

4. Construction of new passenger pick-up/drop off areas (e.g. Kiss and Ride), and park and ride lots in or adjacent to residential land-use or an environmentally-sensitive area including natural heritage features, cultural heritage and archaeological resources, recreational or other sensitive land-uses.

5. Construction of new grade separation.

6. Construction of new storage facilities in or adjacent to residential land-use or an environmentally-sensitive area including natural heritage features, cultural heritage and archaeological resources, recreational or other sensitive land-uses.

7. Reconstruction, widening or expansion of linear components of a transit system where the reconstructed facility will not be for the same purpose, use, and at the same location as the facility being reconstructed (e.g. a change from an existing Reserved Bus Lane (RBL) that is separated from general purpose lanes by signage and pavement markings only to a Reserved Bus Lane (RBL) in a right-of-way that is physically separated from general purpose lanes).

8. Widening of an existing road to create new transit lanes for bus or light rail.

9. Construction of new maintenance facilities in or adjacent to residential land-use or an environmentally-sensitive area including natural heritage features, cultural heritage and archaeological resources, recreational or other sensitive land-uses.

10. Construction of new Transit System i.e. involving construction of new infrastructure.

(2) Subject to subsection (3), words and expressions used in the paragraphs of subsection (1) have the same meanings as in the Tables to the Schedules relating to Municipal Transit Projects in Appendix 1 of the Municipal Class Environmental Assessment prepared by the Municipal Engineers Association and approved by the Lieutenant Governor in Council in Order in Council 1923/2000, including the amendment approved and made by the Minister of the Environment on September 6, 2007.

(3) For greater certainty, for the purpose of interpreting words and expressions used in the paragraphs of subsection (1), the expression "Municipal Transit" in Part D of the class environmental assessment referred to in subsection (2) shall be deemed to include heavy rail (subway).

Transit projects by GO Transit, Metrolinx, etc.

2. (1) Subsection 2 (1) of the regulation applies to a transit project that is carried out by Metrolinx or any of its successors or assigns if the transit project includes any one or more of the following:

1. Construction of a new or extended Commuter Rail Line. Involves construction of a new rail corridor.

2. Establishment of a new Commuter Rail Route or rail Route Extension on an existing rail corridor. May involve construction of trackwork, including mainline sidings and switches.

3. Construction of a new commuter Rail Station, Bus Terminal, and/or ancillary Commuter Service Facilities. Terminal may include major Transfer Station or Intermodal Station. In the case of a Rail Station, may include modifications or additions to track within the Station area.

4. Construction or modification of tracks required to increase the commuter rail service (including a change to All-Day Service) on an existing rail corridor, including such activities as,

i. construction of additional mainline tracks or passing track,

ii. modification of existing mainline tracks,

iii. construction along short sections of one or more tracks to maintain continuity of existing corridor or for capacity requirements,

iv. construction, reconstruction or widening of structures,

v. construction and/or relocation of storage yard facilities, and

vi. construction of additional switches.

5. Construction of a new Maintenance Yard and facilities for commuter rail or bus service.

6. Construction or modification of a Storage Yard and facilities for commuter rail or bus service.
7. Electrification of rail equipment propulsion on existing commuter rail corridor and associated power distribution system.

(2) Words and expressions used in a paragraph of subsection (1) have the same meanings as in the GO Transit Class Environmental Assessment Document prepared by GO Transit and approved by the Lieutenant Governor in Council in Order in Council 2316/95, including the amendment approved by the Minister of the Environment on August 8, 2005.

Transit projects by Ministry of Transportation

3. Subsection 2 (1) of the regulation applies to a transit project carried out by the Ministry of Transportation if the transit project includes any one or more of the following:

1. Construction of new provincial transit infrastructure, including transitways, reserved bus lanes, transit stations, parking lots, operating and maintenance facilities and other analogous projects.
2. Modifications to existing reserved bus lanes or transitways, including extensions and realignments of existing reserved bus lanes or transitways.
3. Modifications to existing transit stations, parking lots, operating and maintenance facilities or other analogous projects.

O. Reg. 231/08, Sched. 1; O. Reg. 231/08, s. 18 (2); O. Reg. 355/11, s. 5.

SCHEDULE 2 IDENTIFICATION OF INTERESTED PERSONS

Identification of interested persons

1. (1) The Table to this section is intended to assist in identifying persons who may be interested in a transit project.
- (2) In a situation described in Column 1 of the Table, one or more of the persons referred to in Column 2 may be interested in a transit project.
- (3) The examples in Column 3 of the Table are intended to assist in clarifying the scope of the situations described in Column 1.
- (4) This section applies, with necessary modifications, to the identification of persons who may be interested in a change to a transit project.

TABLE

Column 1
Column 2
Column 3

Situation
Persons who may be interested
Examples

1.
All situations

- Regional coordinator of the Ministry of the Environment regional office
- Local and regional transit operating agencies adjacent to project
- Local municipality
- Upper-tier municipality
- Planning board
All situations

2.

Transit project potentially affects navigable waterways or permanent or intermittent watercourses

- Conservation authority
- Local Ministry of Natural Resources office
- Ministry of Culture
- Transport Canada
- Fisheries and Oceans Canada — Fish Habitat Management
- Environment Canada
- Parks Canada
Rivers

Streams, creeks

Marshes, bogs

Lakes, ponds

Outfalls, crossings

Municipal drains

3.

Transit project potentially affects groundwater

- Local health unit
- Local Ministry of Natural Resources office
Wells, aquifers

Groundwater recharge areas

4.

Transit project potentially affects extirpated, endangered, threatened or special concern species, provincially rare species, game wildlife, specially protected wildlife, regionally significant wildlife, fish or flora, migratory birds, or a significant assemblage of plant or animal species

- Local Ministry of Natural Resources office
- Conservation authority
- Ministry of Culture

- Ministry of Natural Resources — Natural Heritage Information Office
- Committee on the Status of Endangered Wildlife in Canada (COSEWIC)
- Committee on the Status of Species at Risk in Ontario (COSSARO)
- Environment Canada
- Parks Canada
Species listed on the Species at Risk in Ontario List

Species listed on the List of Wildlife Species at Risk under the Species at Risk Act (Canada)

Species identified as provincially rare species by the Ministry of Natural Resources — Natural Heritage Information Office

Game wildlife or specially protected wildlife under the Fish and Wildlife Conservation Act, 1997

Regionally significant wildlife, fish or flora

Migratory birds protected under Migratory Birds Convention Act, 1994 (Canada)

5.

Transit project potentially affects fisheries or fish habitat

- Local Ministry of Natural Resources office
- Conservation authority
- Fisheries and Oceans Canada — Fish Habitat Management
- Parks Canada
Rivers, lakes

Navigable waters

Highways

6.

Transit project potentially affects environmentally sensitive areas (ESA) or areas of natural or earth scientific interest (ANSI or AESI)

- Local Ministry of Natural Resources office
- Conservation authority
ESA as identified in an official plan or in a Ministry of Natural Resources plan or conservation authority plan

7.

Transit project potentially affects air quality, noise or vibration

- Local health unit
- Health Canada
Emissions from buses or vehicles in park n' rides

Subways

Light rail transit

8.

Transit project potentially affects hazard land

- Local Ministry of Natural Resources office

- Conservation authority

Unstable soils

Steep slopes

Floodplain land

9.

Transit project potentially affects woodlots, Crown wildlife management areas, Crown land managed by the Ministry of Natural Resources, or significant wildlife habitat

- Local Ministry of Natural Resources office

Agreement forests

Significant woodland

Wildlife Management Areas

Crown Land

10.

Transit project potentially affects natural heritage features

- Local Ministry of Natural Resources office

- Conservation authority

- Environment Canada

- Parks Canada

- Ontario Heritage Trust

Provincially, regionally and locally significant natural heritage features (such as significant woodlots and wetlands) and associated ecological functions

National wildlife areas

11.

Transit project potentially affects ornamental or street trees

- Owners of property on which trees are located and owners of adjacent properties

- Municipal staff responsible for trees

Trees on municipal land

12.

Transit project potentially affects recreational areas

- Ministry of Culture

- Local Ministry of Natural Resources office

- Conservation authority

- Parks Canada

- Ministry of Natural Resources — Land Use and Environmental Planning Section (for transit projects in Niagara Escarpment Parks and Open Space System)

Provincial parks and conservation reserves

Conservation areas

Niagara Parks Commission

National parks

Heritage land

Municipal parks, open spaces and trail system

Niagara Escarpment Parks and Open Space System (NEPOSS)

13.

Transit project potentially affects tourist facilities

- Ministry of Tourism

- Ministry of Culture

Motels

Restaurants, scenic lookouts

14.

Transit project potentially affects cultural heritage resources

- Local municipal heritage committee

- Local historical society

- Ministry of Culture

- Ontario Heritage Trust

- Architectural Conservancy of Ontario

- Parks Canada

- Heritage Canada Foundation

Heritage buildings

Heritage structures

Scenic areas

Archaeological sites including marine archaeological sites

National historic sites

Historic regions e.g. Rideau-Trent-Severn Corridor, designated heritage rivers

Cultural heritage landscapes

15.

Transit project potentially affects aboriginal interests, including aboriginal or treaty rights

- Ministry of Culture
- Local aboriginal community
- Ministry of Aboriginal Affairs
- Local Ministry of Natural Resources office
- Indian and Northern Affairs Canada
Places of importance for reasons of traditional use, sacred significance, or cultural or natural heritage significance

16.

Transit project potentially affects social service or health facilities

- Ministry of Community and Social Services district office
- Ministry of Health and Long-Term Care and applicable Local Health Integration Network (LHIN)
Long-term care homes

Psychiatric homes

Group homes

Hospitals

Assistive Living Settings

17.

Transit project potentially affects transportation service facilities

- Ministry of Transportation district office and regional manager of engineering and right-of-way
- Fisheries and Oceans Canada
- Transport Canada
- Owners of rail corridor
- Canadian Transportation Agency
- Metrolinx
Highways

Navigable waters

Harbours

St. Lawrence Seaway

Airports

Railway crossings

18.

Transit project potentially affects provincial government property

- Strategic Real Estate Asset Management Division of the Ministry of Infrastructure
Provincially-owned or maintained buildings or property

19.

Transit project potentially affects utilities

- Local utility companies

- Ontario Power Generation

- Hydro One
Electrical lines

Telephone lines

Oil pipelines

Gas pipelines

Water or sewage works

20.

Transit project potentially affects sensitive or special planning areas

- Ministry of Municipal Affairs and Housing — Provincial Planning and Environmental Services Branch
- Ministry of Economic Development and Trade
- Ministry of Northern Development and Mines
- Ministry of Tourism
- Ministry of Culture
- Local Ministry of Natural Resources office
- Parks Canada
- Niagara Escarpment Commission (for transit projects in Niagara Escarpment Planning Area)
Regionally significant growth centres

Major industrial parks or subdivisions

Development in northern Ontario

Areas with potential for tourism development or designation

Niagara Escarpment Planning Area

Parkway Belt Planning Area

Oak Ridges Moraine

21.

Transit project potentially affects prime agricultural areas or specialty crop areas

- Ministry of Agriculture, Food and Rural Affairs — Land Use Planning
- Agriculture and Agri-Food Canada

Areas designated for prime agricultural in municipal official plans or areas where, using the classifications of the Canada Land Inventory, soil classes 1, 2 and 3 predominate

22.

Transit project is funded in whole or in part by the federal government or potentially affects federal land

- Funding agency or land owner

Federal infrastructure programs

Sale or leasing of federal land

23.

Transit project potentially affects Great Lakes interconnecting channels

- Local Ministry of Natural Resources office

• Fisheries and Oceans Canada — Canadian Coast Guard

• Fisheries and Oceans Canada — Fish Habitat Management

• Environment Canada

• Foreign Affairs and International Trade Canada

• Transport Canada

St. Mary's River

St. Clair River

Detroit River

Niagara River

St. Lawrence River

O. Reg. 231/08, Sched. 2; O. Reg. 231/08, s. 18 (3); O. Reg. 107/10, s. 1; O. Reg. 309/11, s. 1; O. Reg. 355/11, s. 6.