

Heating Up EAA Reform: The New Waste Management Projects Regulation

Jennifer Agnolin

**Willms & Shier Environmental Lawyers
LLP**

www.willmsshier.com

**Municipal Waste Integration Network
Annual Meeting and Conference
June 12 - 14, 2007**

Overview

- ***The Ontario Environmental Assessment Act***
- **Review of the Waste Management Projects Regulation**
- **Review of the Screening Process**

Ontario

Environmental Assessment Act

- **Traditional EA Process**
 - Planning process: assessment of need, alternatives to the undertaking and alternative methods of carrying out the undertaking
 - Terms of Reference
 - Wide definition of environment must be considered
 - Project cannot proceed until approved by the Minister
 - Other environmental and planning approvals are still required post-EAA approval
- **Applies to proponents who are:**
 - Ontario government agencies
 - Municipalities
 - Private sector
 - Where designated by regulation or by Cabinet
 - Electricity Projects Regulation
 - Waste Projects Regulation

Ontario's Environmental Assessment Reform

- **Waste Management Projects Regulation (O. Reg 101/07)**
- **Three guidelines (Draft, October 2006)**
 - Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario
 - Consultation in Ontario's Environmental Assessment Process
 - Mediation in Ontario's Environmental Assessment Process

Waste Management Projects Regulation

- **Three categories of waste management undertakings**
 - Exempt
 - Environmental Screening Process
 - If Screening is successfully completed, undertaking is exempt from EAA
 - Individual EA (designated)
- **Undertakings that are exempt are not subject to EPA s. 30 mandatory hearings**

Waste Management Projects Regulation

- **Exemptions**
 - Waste Disposal Site
 - Change or expansion required by an Order/EPA/OWRA approval
 - Waste Disposal Site
 - Waste that is exempt by O. Reg 347
 - Landfill
 - Change to increase service area or rate waste received
 - Thermal Treatment Site
 - Operating < 12 months
 - Establish, change or expand site at industrial/commercial facilities if primary purpose not waste management, < 100 tpd , and no EFW or all energy used onsite

Waste Management Projects Regulation

- **The Screening Process adopts tools from Class EA and Electricity Projects Regulation**
 - Scoped EA
 - Type of facility is known and sited
 - Proponent Driven
 - End result is elevation or exemption
 - MOE Director can order “elevation” (bump up), and proponent must go directly to TOR, or
 - Proponent files ‘Statement of Completion’ and project proceeds

Waste Management Projects Regulation

- **Undertakings subject to Screening**
 - Landfill: establish, change or expand by 40,000 m³ to 100,000 m³ (approx. 75,000 tonnes)
 - Thermal Treatment Site:
 - Establish, change or expand EFW site (no capacity limit) if coal, oil or coke are not used as fuel
 - Establish, change or expand site with no EFW, if waste is less than or equal to 10 tpd
 - Waste Disposal Site (Transfer)
 - Establish, change or expand site where waste processed, handled, transferred at rate of >1,000 tpd

Waste Management Projects Regulation

- **Screening Process**
 - Part B of the “Guide to Environmental Assessment Requirements for Waste Management Projects.”
 - Incorporated by reference
 - Notice of Commencement
 - Apply Screening Criteria
 - Checklist at Schedule I of the Guideline
 - Consult
 - Assess potential negative effects, mitigate and consult again
 - Prepare Screening Report
 - Proponent files Notice of Completion of Screening Report
 - Opportunity for elevation requests
 - Statement of Completion to MOE

Waste Management Projects Regulation

- **When elevation requested, MOE Director must consider**
 - Basis of the request
 - Extent and nature of the concern
 - Potential significance for “negative” environmental effects
 - Views of government agencies and Aboriginal communities
 - The Screening Report, the consultation program, attempts at dispute resolution, how the proponent addressed concerns
 - Public benefits of elevation

Waste Management Projects Regulation

- **Individual EA (designated)**
 - Landfill: establish or expand by 100,000 m³
 - Thermal Treatment Site:
 - Using coal, oil, or petroleum coke
 - Establish, change or expand site that does not convert waste to energy and treats more than 10 tpd
 - Liquid Industrial or Hazardous Waste
 - Establish, change or expand final disposal site

Legal and Practical Issues

- **Clarity on what undertakings are designated**
- **Private sector is now formally designated**
- **Will Screening Process significantly streamline?**
- **How to evaluate risk that Screening will be sent back for Individual EA**
- **Municipal waste EFW facilities?**

Contact Information

Jennifer Agnolin

Phone: (416) 862-4830

jagnolin@willmsshier.com

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