

**Caution:**

*This draft regulation is provided solely to facilitate public consultation under section 16 of the Environmental Bill of Rights, 1993. Draft proposed amendments to s. 15 of O. Reg. 231/08 under the Environmental Assessment Act are blacklined below. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the draft regulation are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.*

**CONSULTATION DRAFT**

**Environmental Assessment Act  
Loi sur les évaluations environnementales**

**ONTARIO REGULATION 231/08  
TRANSIT PROJECTS AND METROLINX UNDERTAKINGS**

**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.

(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.

(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).

(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. Other than in respect of a transit project described in subsection (22.1), Aa 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. Other than in respect of a transit project described in subsection (22.1), Aa 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).

6. In respect of a transit project described in subsection (22.1), a description of any impacts to the timeline for implementation of the transit project.

(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 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).

(6) Before distributing the notice of environmental project report addendum,

(a) the proponent shall contact the Director of the Ministry's Environmental Assessment 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.

(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.

(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.

(9) The proponent shall also post the notice of environmental project report addendum on its website, if any.

(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.

(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.

(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).

(13) Subsection (12) ceases to apply to an objection if the objector gives the Minister written notice of the withdrawal of the objection.

(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.

(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).

(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).

(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.

(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).

(19) The proponent shall also post the revised addendum on its website, if any.

(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.

(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).

(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.

(22.1) Subsections (11) to (22) do not apply in respect of changes to the following transit projects:

1. The transit project for a subway extension located in the City of Toronto known as the Scarborough Subway Extension and also known as the Line 2 East Extension.

2. The transit project for a subway extension extending from within the City of Toronto to within the Regional Municipality of York known as the Yonge Subway Extension and also known as the Yonge North Subway Extension.

3. The transit project for a light rail extension extending from within the City of Toronto to within the Regional Municipality of Peel known as the Eglinton West Light Rail Transit Extension and also known as the Western Extension (Phase 2) of the Eglinton Crosstown Light Rail Transit line.

(22.2) Subsections (22.3) to (22.11) apply instead of subsections (11) to (22) in respect of the transit projects listed in subsection (22.1).

(22.3) The proponent shall provide all of the persons to whom a copy of the notice under clause (5) (a) is given an opportunity to participate in consultation respecting the proposed change to the transit project.

(22.4) Subject to subsections (22.5) to (22.7), the proponent shall consult with aboriginal communities and interested persons in the way the proponent considers appropriate.

(22.5) The proponent shall ensure that all of the persons or aboriginal communities to whom a copy of the notice under clause (5) (a) is given are notified of the publication of the addendum to the environmental project report and are provided with access to a copy of it.

(22.6) As part of the consultation, the proponent shall discuss with each aboriginal community that may be negatively impacted by the change to the transit project,

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

(b) measures for mitigating potential negative impacts on the right referred to in clause (a), including any measures identified by the community.

(22.7) The proponent shall establish an issues resolution process to attempt to resolve any concerns raised by aboriginal communities or interested persons in a way that does not cause unreasonable delay to the implementation of the transit project.

(22.8) Within 65 days of publishing the notice of environmental project report addendum under clause (5) (b) or subsection (8), the proponent shall,

(a) complete the consultation described in subsection (22.4) and the issues resolution process described in subsection (22.7);

(b) update the addendum to the environmental project report, including by adding:

i. a description of the issues resolution process employed by the proponent in respect of any concerns expressed by interested persons and Indigenous communities,

ii. a description of what the proponent did in respect of the concerns expressed by interested persons and Indigenous communities, and

iii. a description of any impacts to the timeline for implementation of the transit project as a result how the proponent has addressed the concerns; and

(c) publish the addendum, as updated in accordance with clause (b), on its website.

(22.9) The proponent shall ensure that all of the persons to whom a copy of the notice under clause 5 (a) was given are notified of the updated addendum to the environmental project report and provided with access to a copy of it.

(22.10) Within 35 days after receipt of the notice given under subsection (22.9) by the Director of the Ministry's Environmental Assessment Branch, the Minister may give the proponent,

(a) a notice allowing the proponent to change the transit project in accordance with the addendum to the final environmental project report as updated in accordance with clause (22.8) (b);

(b) a notice allowing the proponent to change the transit project in accordance with the addendum to the final environmental project report, as updated in accordance with clause (22.8) (b), subject to conditions set out in the Minister's notice.

(22.11) The Minister may impose conditions pursuant to clause (22.10) (b) if,

(a) the conditions relate to a concern raised in the issues resolution process established by the proponent pursuant to clause (22.7);

(b) the Minister is of the opinion that the way in which the proponent has addressed the concern in the updated addendum to the final environmental project report would cause unreasonable delay to the implementation of the transit project; and

(c) the conditions modify the way in which the concern is addressed in the updated addendum to the final environmental project report and the Minister is of the opinion that the conditions would not cause unreasonable delay to the implementation of the transit project.

(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.

(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) or (22.10) (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) or (22.10) (b) 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,
- (iv.1) no notice is given by the Minister under subsection (22.10) 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).