

**Guide  
to  
Environmental Assessment  
Requirements  
for  
Electricity Projects**

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Ministry of the Environment  
Environmental Assessment  
and Approvals Branch





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## INTRODUCTION

In November 1997, the Ontario government released “Direction For Change” (commonly referred to as the White Paper), outlining the government’s plan to introduce full competition into Ontario’s electricity system. In the White Paper, the government committed to creating a level playing field with respect to regulatory requirements, and to maintaining and enforcing its standards for environmental protection in a competitive electricity market.

As part of the implementation of the White Paper, in 1998 the government enacted the *Electricity Competition Act, 1998*. In order to fulfill the White Paper commitments to maintain environmental protection and create a level playing field, changes to requirements under the *Environmental Assessment Act* were also required. The *Environmental Assessment Act* has historically applied to public sector projects only, and does not automatically apply to private sector projects. In the electricity sector, this meant that the *Environmental Assessment Act* applied only to electricity projects undertaken by the successor companies to Ontario Hydro, municipal electricity corporations and other public bodies, and not to private sector projects. Under this regime, in a competitive electricity market, environmental protection would not be assured, and the Ontario Hydro successor companies and municipal electricity corporations would be at a competitive disadvantage.

As a result, the Ministry of the Environment has developed new environmental assessment requirements for electricity projects which apply equally to public and private sector proponents. The new environmental assessment requirements provide for the protection, conservation, and wise management of Ontario’s environment by ensuring that the environmental effects of new electricity projects are reviewed in a manner that is consistent with the potential environmental effects of the project.

This Guide to the new requirements consists of two parts:

- Part A of the Guide is intended to help proponents of electricity projects, consultants, the public and other interested parties understand the new environmental assessment requirements for electricity projects which are set out in Regulation 116/01 (referred to throughout this Guide as the “Electricity Projects Regulation”), made under the *Environmental Assessment Act*. It also provides some overview information about the Environmental Screening Process which is found in the Part B of this Guide.
- Part B of the Guide consists of the Environmental Screening Process for electricity projects. As set out in the Electricity Projects Regulation, certain electricity projects are designated as subject to the *Environmental Assessment Act*, but are exempt on the condition that they fulfill the requirements of the Environmental Screening Process. The Environmental Screening Process contained in Part B of this Guide is referenced in the Electricity Projects Regulation and is given the force of law under the *Environmental Assessment Act* and that Regulation. Proponents relying on the screening exemption

outlined in section 4 of the Electricity Projects Regulation are legally required to meet the requirements of the Environmental Screening Process.

Guide users should check the Ministry of the Environment Website or contact the Environmental Assessment and Approvals Branch to find out if there have been any revisions to this Guide.

Environmental Assessment and Approvals Branch  
Ministry of the Environment  
2 St Clair Avenue West, Floor 12A  
Toronto, ON M4V 1L5  
Telephone: (416) 314-8001  
Toll-free: 1-800-461-6290  
Fax: (416) 314-8452  
Email: [EAABGen@ene.gov.on.ca](mailto:EAABGen@ene.gov.on.ca)  
Website: [http://www.ene.gov.on.ca/envision/env\\_reg/ea/English/](http://www.ene.gov.on.ca/envision/env_reg/ea/English/)

Any suggestions for revision or clarification are welcomed and should be sent to the Director of the Environmental Assessment and Approvals Branch at the address listed above.

Ce document n'est disponible qu'en anglais.

## GLOSSARY OF TERMS

The Electricity Projects Regulation (Ontario Regulation 116/01) contains definitions of relevant terms. The following are additional definitions of terms and explanations of short forms used in this Guide.

<b>Class Environmental Assessment</b>	Class Environmental Assessments are environmental assessments approved under the <i>Environmental Assessment Act</i> to pre-approve certain classes of projects that have predictable and mitigable environmental effects. A proponent who receives approval for a class of undertakings does not need to obtain separate approval under the EAA for each specific project, provided the class planning process is adhered to for the specific project.
<b>Cogeneration</b>	Cogeneration produces both electricity and heat from a single process. Heat that would normally be lost from the combustion of fuel is recovered and is then used in heating buildings or related industrial processes.
<b>Director</b>	Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment.
<b>EA</b>	Environmental assessment.
<b>EAAB</b>	Environmental Assessment and Approvals Branch, Ministry of the Environment.
<b>Elevation</b>	During the mandatory review period for reports prepared under the Environmental Screening Process, members of the public or agencies with outstanding environmental concerns may make a written request to the Director of the EAAB to elevate a project. A project at the Screening stage, or a project for which an Addendum was prepared, can be elevated to either an Environmental Review within the Environmental Screening Process, or to an individual EA. A project at the Environmental Review stage, or a project for which an Equivalent Review Process Report was prepared, can be elevated to an individual EA.

<b>Environment</b>	Environment means: <ul style="list-style-type: none"><li>(i) air, land or water;</li><li>(ii) plant and animal life, including man;</li><li>(iii) the social, economic and cultural conditions that influence the life of man or a community;</li><li>(iv) any building, structure, machine or other device or thing made by man;</li><li>(v) any solid, liquid, gas, odour, heat, vibration or radiation resulting directly or indirectly from the activities of man, or;</li><li>(vi) any part or combination of the foregoing and the interrelationships between any two or more of them.</li></ul>
<b>Environmental Assessment</b>	When used in relation to a proposed undertaking, means an environmental assessment submitted pursuant to subsection 5(1) of the EAA.
<b><i>Environmental Assessment Act (EAA)</i></b>	The <i>Environmental Assessment Act</i> (EAA), as amended by the <i>Environmental Assessment and Consultation Improvement Act, 1996</i> , S.O. 1996 c. 27, and Schedule E and F of the <i>Red Tape Reduction Act, 2000</i> , S.O. 2000 provides for the protection, conservation and wise management of the environment in Ontario by providing an accountable, logical and reproducible process of decision making. The EAA lays out a planning process and encourages environmental protection within the context of a broadly defined environment.
<b>Fuel Cells</b>	Electrochemical devices which combine a hydrogen-based fuel and oxygen to directly generate electricity (without combustion). Fuel cells can use natural gas, landfill gas, or propane as initial fuel (or hydrogen directly in specialized applications).
<b>Hydroelectric</b>	Hydroelectric generating stations use the energy released by falling water to turn turbines and generators which transform this energy into electricity. Hydroelectric generating facilities usually involve dams and headponds (i.e., impoundment) but can also be run-of-the-river (with no impoundment).
<b>“Individual” EA</b>	A term used to differentiate an EA performed under subsection 5(1) of the EAA from Class EA projects (i.e., projects carried out in accordance with an approved Class Environmental Assessment).

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<b>Kilovolt (kV)</b>	One thousand volts (see volt). Used to describe “high voltage” electrical conductors, as in 115 kV.
<b>Megawatt (MW)</b>	One million watts (see "Watt"). Megawatt is the unit used to describe the size/capacity of generation facilities to produce electrical energy. One MW of generation can produce enough electrical energy to supply the power needs of about 500 homes for a year.
<b>Minister</b>	Minister of the Environment.
<b>Ministry</b>	Ministry of the Environment.
<b>Minor Modification</b>	A modification that is below the threshold for a “significant modification” as set out in section 1 of the Electricity Projects Regulation. For example, a modification that increases the capacity of a natural gas-fired generating station by 5 MW or more is defined as a “significant modification” in section 1 of the Regulation. Therefore, a modification that increases the capacity of a natural gas-fired generating station by less than 5 MW, or that does not increase capacity, would be considered a minor modification.
<b>MOE</b>	The Ministry of the Environment.
<b>Negative Environmental Effects</b>	Negative environmental effects include the negative effects that a project has, or could potentially have, directly or indirectly on the environment at any stage in the project life cycle. Negative environmental effects may include, but are not limited to, the harmful alteration, disruption, destruction, or loss of natural features, flora or fauna and their habitat, ecological functions, natural resources, air or water quality, and cultural or heritage resources. Negative environmental effects may also include the displacement, impairment, conflict or interference with existing land uses, approved land use plans, businesses or economic enterprises, recreational uses or activities, cultural pursuits, social conditions or economic structure.
<b>Net Effects</b>	Negative environmental effects of a project and related activities that will remain after mitigation and impact management measures have been applied.

<b>Proponent</b>	A person who (a) carries out or proposes to carry out a project; or (b) is the owner or person having charge, management or control of a project.
<b>Solar Cells</b>	Solar cells are solid-state semiconductor devices with no moving parts that convert light directly into electricity (also known as “photovoltaic cells”).
<b>Volt (V)</b>	A measure of electrical "potential difference" between two points in an electric field. A volt is a unit of electrical “pressure” (analogous to the pressure in a garden hose) which causes an electric current to flow through a wire.
<b>WPPG</b>	Waterpower Program Guidelines, administered by the Ministry of Natural Resources.
<b>Watt (W)</b>	A standard unit used to measure amounts of electrical power. One horsepower is equivalent to approximately 746 watts.

## **PART A: OVERVIEW OF ENVIRONMENTAL ASSESSMENT REQUIREMENTS FOR ELECTRICITY PROJECTS**

### **A.1 PURPOSE OF PART A**

The purpose of Part A of this Guide is to help proponents of electricity projects, consultants, the public and other interested parties understand the new requirements as set out in the Electricity Projects Regulation under the *Environmental Assessment Act*. Specifically, Part A is designed to assist proponents in determining what environmental assessment requirements (if any) apply to a particular electricity project, and to provide some overview information about the Environmental Screening Process, which applies to some electricity projects.

Users of Part A of this Guide should note that information on the regulatory requirements of the Electricity Projects Regulation have been included here for convenience only. An unofficial copy of the Electricity Projects Regulation is provided in Appendix A to this Guide. The Regulation should be read and used in conjunction with Part A of the Guide. Official copies of the *Environmental Assessment Act*, the Electricity Projects Regulation and other Acts and Regulations may be obtained from Publications Ontario at:

Publications Ontario  
880 Bay Street  
Toronto, ON M7A 1N8  
Phone: (416) 326-5300  
Toll-free: 1-800-668-9938  
Fax: (416) 326-5317  
Website: [www.publications.gov.on.ca](http://www.publications.gov.on.ca)

Electronic version of Acts and Regulations are now available on Publications Ontario's Website (see Website address above; click on "Statutes and Regulations").

### **A.2 PROJECT CLASSIFICATION**

#### **A.2.1 New Projects**

Under the new environmental assessment (EA) requirements for electricity projects, the Ministry of the Environment has classified electricity projects based on the type of fuel to be used, the size and, in some cases, the efficiency of the planned facility. There are three categories of projects, each with different requirements (see Chart 1: Electricity Project Classification).

Category A projects are those which are expected to have minimal environmental effects. These projects do not require approval under the *Environmental Assessment Act*, and are not designated

as being subject to the Act in the Electricity Projects Regulation. Although projects in this category are not subject to EA requirements under the Electricity Projects Regulation, they are required to comply with any other applicable existing legislative requirements. In addition, if Crown resources are necessary to carry out a project, there are requirements under the *Environmental Assessment Act* related to the disposition of Crown resources that must also be fulfilled (e.g., an environmental review by the Ministry of Natural Resources prior to the occupation or sale of Crown land). If there are significant environmental effects associated with a project in Category A, the Minister of the Environment (with the approval of the Lieutenant Governor) could designate it as being subject to an individual environmental assessment (individual EA) under the *Environmental Assessment Act*.

Category B projects are projects which have potential environmental effects that can likely be mitigated. These projects (listed in section 4 of the Electricity Projects Regulation) are subject to the *Environmental Assessment Act*, but proponents of these projects are not required to prepare an individual EA on the condition that they complete the Environmental Screening Process (set out in Part B of this Guide). There are provisions in the Environmental Screening Process to elevate projects from Category B to Category C.

Category C projects are major projects with known significant environmental effects. These projects require an individual EA. For more information on the steps required to conduct an individual EA, contact:

Environmental Assessment and Approvals Branch  
Ministry of the Environment  
2 St Clair Avenue West, Floor 12A  
Toronto, ON M4V 1L5  
Telephone: (416) 314-8001  
Toll-free: 1-800-461-6290  
Fax: (416) 314-8452  
Email: [EAABGen@ene.gov.on.ca](mailto:EAABGen@ene.gov.on.ca)  
Website: [http://www.ene.gov.on.ca/envision/env\\_reg/ea/English/](http://www.ene.gov.on.ca/envision/env_reg/ea/English/)

### Chart 1: Electricity Project Classification

The information in this chart is provided for the convenience of the reader only. A copy of the Electricity Projects Regulation should be used in conjunction with this chart.

Electricity Project Type	Category A: No EAA Requirements <sup>1</sup>	Category B: <sup>2</sup> Environmental Screening Process <sup>3</sup>	Category C: Individual EA
Solar Photovoltaic	all	-	-
Any technology using an energy source not designated in the Regulation (e.g., fuel cells using hydrogen as fuel)	all	-	-
Emergency Generators	all	-	-
Transmission lines	<ul style="list-style-type: none"> <li>&lt; 115 kV</li> <li>≥ 115 kV and ≤ 2 km, unless associated with a Category B generation project</li> </ul>	<ul style="list-style-type: none"> <li>if associated with a Category B generation project and ≥ 115 kV, subject to Environmental Screening Process</li> <li>if not associated with a Category B generation project and                             <ul style="list-style-type: none"> <li>▶ 115 kV and &gt; 2 km; or</li> <li>▶ &gt; 115 kV and &lt; 500 kV and &gt; 2 km and &lt; 50 km,</li> </ul>                             subject to the Class EA for Minor Transmission Facilities                         </li> </ul>	<ul style="list-style-type: none"> <li>&gt; 115 kV and &lt; 500 kV and ≥ 50 km</li> <li>≥ 500 kV and &gt; 2 km</li> </ul>
Transformer Stations	< 115 kV	<ul style="list-style-type: none"> <li>if associated with a Category B generation project and ≥ 115 kV, subject to Environmental Screening Process</li> <li>if not associated with a Category B generation project and                             <ul style="list-style-type: none"> <li>▶ ≥ 115 kV and ≤ 500 kV,</li> </ul>                             subject to the Class EA for Minor Transmission Facilities                         </li> </ul>	> 500 kV
Wind turbines	< 2 MW	≥ 2 MW	-
Hydroelectric facilities	-	< 200 MW	≥ 200 MW
Natural gas <sup>4</sup>	< 5 MW	≥ 5 MW	-

Electricity Project Type	Category A: No EAA Requirements <sup>1</sup>	Category B: <sup>2</sup> Environmental Screening Process <sup>3</sup>	Category C: Individual EA
Biomass (not including waste material) <sup>4</sup>	< 5 MW	≥ 5 MW	-
Landfill Gas/ Biogas	< 25 MW	≥ 25 MW	-
Waste biomass (includes woodwaste) <sup>4</sup>	< 10 MW	≥ 10 MW	-
<b>Cogeneration</b> - natural gas, biomass and waste biomass facilities with an efficiency of > 60%	< 25 MW	≥ 25 MW	-
<b>Generation for use on-site</b> - natural gas, biomass, waste biomass and on-site municipal waste facilities, where none of the electricity generated is being sold to the grid	< 25 MW	≥ 25 MW	-
Oil	< 1 MW	1 to < 5 MW	≥ 5 MW
Coal	-	-	all
Municipal Solid Waste	-	<ul style="list-style-type: none"> <li>for which an EPA s.30 hearing is not required (facilities incinerating less than 1500 persons domestic waste); or</li> <li>that incinerates ≤ 100 tonnes/day municipal waste</li> </ul>	<ul style="list-style-type: none"> <li>for which an EPA s.30 hearing would be required (facilities incinerating 1500 persons domestic waste or more); or</li> <li>that incinerates &gt; 100 tonnes/day municipal waste</li> </ul>
Liquid Industrial or Hazardous Waste	-	sites incinerating only waste generated on-site	sites receiving and incinerating waste generated off-site

- 1 Anyone can request that the Minister of the Environment make a Category A project subject to the *Environmental Assessment Act*.
- 2 The Environmental Screening Process outlines a process by which members of the public and agencies with outstanding environmental concerns can request that a project in Category B be elevated to an individual EA (Category C).
- 3 Some transmission facilities listed under Category B in this chart are subject to review under the Class EA for Minor Transmission Facilities.
- 4 “Cogeneration” or “Generation for use on-site” exemptions also apply to some facilities using these fuels.

## A.2.2 Modifications/Expansions

Under the Electricity Projects Regulation, some changes and expansions to electricity facilities are subject to EA requirements.

Projects designated in section 3 of the Electricity Projects Regulation are subject to Part II of the *Environmental Assessment Act* and therefore require an individual EA. These projects are referred to as Category C projects in this Guide. A change or expansion to a Category C project that is a “significant modification” as defined in the Regulation is subject to an individual EA. A change or expansion that is below the threshold for a “significant modification” as set out in the Regulation is considered a “minor modification”. Minor modifications to Category C projects can be reviewed under the Environmental Screening Process (see subsection 3(4) of the Regulation). For definitions of significant modifications, see section 1 of the Electricity Projects Regulation.

Projects designated in section 4 of the Electricity Projects Regulation are subject to review under the Environmental Screening Process. These projects are referred to as Category B projects in this Guide. Changes and expansions to Category B project are also subject to the Environmental Screening Process. A change or expansion that is a “significant modification” as defined in the Regulation is subject to the full review process set out in the Environmental Screening Process. For most projects, a change or expansion that increases the capacity of a facility by equal to or greater than the threshold for that technology is defined as a “significant modification”. For example, a 5 MW or greater increase in the capacity of a natural gas-fired generating station would require review under the Environmental Screening Process. A change or expansion to a Category B project that is not a “significant modification” as set out in the Regulation is considered a “minor modification”. Minor modifications to Category B projects are subject to the reduced requirements set out in the Addendum provisions in section B.5.2 of the Environmental Screening Process<sup>1</sup>. For definitions of “significant modifications”, see the Electricity Projects Regulation.

Section 5 of the Electricity Projects Regulation addresses conversions of facilities that use coal, liquid industrial or hazardous waste, municipal waste or oil. Where a facility is being modified or expanded so that it will use less of one of these fuels, that modification will not be subject to EA requirements if the name plate capacity of the facility will be less than the maximum name plate capacity determined in accordance with the formula set out in the Regulation.

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<sup>1</sup> Note that minor modifications to facilities constructed before the Electricity Projects Regulation came into force are grandparented from EA requirements; see section A.3 of the Guide and section 6 of the Regulation for more information.

### A.3 GRANDPARENTING AND SWITCHING TO THE ENVIRONMENTAL SCREENING PROCESS

Some projects will have been initiated prior to the Electricity Projects Regulation coming into force. Section 6 of the Regulation determines what kinds of projects are “grandparented” from the provisions of the Regulation. Section 6 states that the constructing, operating, changing, expanding or retiring of a facility that did not require *Environmental Assessment Act* approval for construction is not subject to the new EA requirements if:

- the project was already constructed or was under construction before the Electricity Projects Regulation came into force [for the purposes of the Regulation, construction is deemed to have begun either on the date when the first contract was awarded for construction, or (where no contracts are awarded) on the date construction started]; or
- any approvals needed to construct the facility, and any approvals required under *Environmental Protection Act* or the *Ontario Water Resources Act* to operate the facility, were obtained before the Regulation came into force.

“Minor” modifications to projects that meet the above grandparenting conditions are also grandparented. A “minor modification” is a modification that is below the threshold for a “significant” modification as set out in section 1 of the Electricity Projects Regulation. For example, a modification that increases the capacity of a gas-fired generating station by less than 5 MW would be considered a minor modification.

“Significant modifications” (as defined in the Electricity Projects Regulation) to projects that meet the above conditions are not grandparented. For example, a significant modification (i.e., one that increases the capacity by 25% or more) to a hydroelectric generating station that did not require *Environmental Assessment Act* approval when it was originally constructed will be subject to the new EA requirements. Projects for which planning has started, but which do not meet the grandparenting conditions set out above, will be subject to the transition provisions set out in section B.5.1.

If a Category B project was previously subject to an individual EA, and the proponent had submitted its Environmental Assessment or Terms of Reference, the proponent can switch to the Environmental Screening Process, instead of completing the review as an individual EA. However, subsection 4(6) of the Electricity Projects Regulation requires proponents who elect to switch to the Environmental Screening Process to advise the Director of the Environmental Assessment and Approvals Branch (EAAB) of the Ministry of the Environment (MOE) in writing that the project will be carried out in accordance with the procedure set out in the Environmental Screening Process. This notice must be received by the Director within 60 days of the Electricity Projects Regulation coming into force.

## A.4 PROVISIONS FOR HYDROELECTRIC PROJECTS

### A.4.1 New Hydroelectric Facilities

Proponents who are planning to develop new hydroelectric facilities under 200 MW must meet the requirements of the Environmental Screening Process. Proponents of new hydroelectric projects must also meet the requirements of the Ministry of Natural Resources' (MNR) Waterpower Program Guidelines (WPPG). Authorization from MNR is required under the *Lakes and Rivers Improvement Act* to locate dams, and under the *Public Lands Act*, if Crown land is required to create reservoirs.

MNR will use a “request for proposals” method for disposing of most sites for hydroelectric facilities; some may be made available on a “first-come, first-served” basis. Proponents should contact the local MNR office to confirm which disposition method will be used for specific sites; the WPPG sets out the steps to be followed for applications to be given consideration, depending upon the disposition method.

In the interest of harmonizing the WPPG with the Environmental Screening Process, proponents should prepare one report which addresses the requirements of both the Environmental Screening Process and the WPPG's “Project Information Package”, and combine the notification requirements of both processes. Proponents are also encouraged to contact local MNR offices to discuss the best way to harmonize the development and review of their project proposals. Because of MNR's mandate and its authority over the issuance of location approvals for dams, and reservoirs that occupy Crown land, proponents will be required to:

- copy the local MNR office whenever public notice is given as part of the Environmental Screening Process;
- circulate draft Screening or Environmental Review Reports prepared under the Environmental Screening Process to the local MNR office; and
- as set out in the WPPG, meet with MNR staff as necessary to discuss and resolve issues that relate to that ministry's mandate.

Addressing public and agency concerns (e.g., MNR, federal Department of Fisheries and Oceans) will be necessary to prevent requests at the end of the Environmental Screening Process that the Director of the EAAB elevate the project.

The requirements of the *Environmental Assessment Act* are considered to be met upon the proponent's issuance of a Statement of Completion (see section B.4.2 of the Environmental Screening Process in Part B of this Guide for further information on the Statement of Completion requirements). Proponents are required to mail or deliver a copy of the Statement of Completion to the local MNR office. MNR also requires that proponents submit a completed copy of the Screening or Environmental Review Report prepared under the Environmental Screening Process so that it may be considered by that ministry for the purposes of the remaining steps in the

WPPG's approval process (e.g., location approval for a dam under the *Lakes and Rivers Improvement Act*, the surveying of and entering into a Waterpower Lease Agreement under the *Public Lands Act* for a reservoir, etc.).

Please consult with the local MNR office for further information about the WPPG and how best to integrate its requirements with the Environmental Screening Process.

#### **A.4.2 Modifications to Hydroelectric Facilities**

Modifications to existing hydroelectric facilities which would result in an increase of the name plate capacity of the facility by 25% or more are considered “significant modifications” under the Electricity Projects Regulation. Significant modifications of facilities 200 MW or greater are subject to review under Part II of the *Environmental Assessment Act*, and therefore require the preparation of an individual EA.

Significant modifications of facilities under 200 MW (that are undertaken by proponents other than Ontario Power Generation) are subject to the Environmental Screening Process. Some of these modifications may also trigger MNR's Waterpower Program Guidelines (e.g., if a larger “footprint” for a dam and powerhouse requires a new location approval, or the expansion of a reservoir would result in the occupation of additional Crown land). Where this is the case, the information above on preparing one report to meet the requirements of both processes applies with necessary modifications.

Ontario Power Generation (OPG) has an existing Class Environmental Assessment for Modifications to Hydroelectric Facilities. OPG is required to consult with other waterpower developers about their interest in modifying the Class EA or developing a new Class EA to reflect changes in the electricity market and to reflect the types of hydroelectric modification projects designated by the Electricity Projects Regulation. If a new Class EA is developed for use by waterpower developers, all proponents will be required to complete the Class EA process rather than the Environmental Screening Process for projects of this type. If a new Class EA is not developed, the Ministry intends to revoke the approval of the Class EA for Modifications to Hydroelectric Facilities so that OPG would be subject to the Environmental Screening Process for such projects.

### **A.5 PROVISIONS FOR TRANSMISSION FACILITIES**

#### **A.5.1 Transmission Associated with Generation**

Transmission lines that are 115 kV or greater, and are associated with a generation facility that falls in Category B are to be reviewed through the Environmental Screening Process so that the entire project can be reviewed under one process, as a single project. Proponents of such

transmission lines are encouraged to examine and evaluate different routes as part of their review under the Environmental Screening Process. Evaluation of alternative routes will assist the proponent in meeting other approvals that may be required for transmission lines (see below). Proponents of projects that include substantial associated transmission lines may wish to apply the screening criteria in Appendix C of this Guide separately to the transmission and generation components of the project (further information on application of the screening criteria is found in section B.2.2).

Transformer or distribution stations that are 115 kV or greater and are associated with a generation facility that falls in Category B are also to be reviewed through the Environmental Screening Process.

### **A.5.2 Transmission not Associated with Generation**

Transmission lines that are not associated with a generation facility that falls in Category B and that are:

- 115 kV and greater than 2 km in length; or
- greater than 115 kV and less than 500 kV and greater than 2 km in length and less than 50 km;

are required to follow the process under Ontario Hydro's (now Hydro One) Class Environmental Assessment for Minor Transmission Facilities. This Class EA was approved by Order-in-Council No. 1173/92 dated April 23, 1992.

Transformer stations that are not associated with a generation facility that falls in Category B and that are between 115 kV and 500 kV are also required to follow the process under Hydro One's Class EA.

The Class EA for Minor Transmission Facilities will be revised to reflect the roles and responsibilities of participants in the restructured electricity market.

### **A.5.3 Other Approvals for Transmission Projects**

Further to the requirements of the Class EA for Minor Transmission Facilities or Environmental Screening Process, proponents are responsible for obtaining all other approvals which may be required for transmission lines. Where a connection or modification to a connection to the Independent Electricity Market Operator (IMO) administered grid is proposed, the IMO's Connection Assessment and Approval process applies. The IMO should be contacted for further information on this process. Under section 92 of the *Ontario Energy Board Act* (OEB Act) proponents must also obtain Leave-to-Construct approval from the Ontario Energy Board (OEB) for some transmission lines. Regulation 365/00 under the OEB Act sets out what sizes of

transmission lines require OEB Leave-to-Construct. Proponents are advised that Leave-to-Construct approvals are route-specific. Some of the information compiled under the Class EA for Minor Transmission Facilities or Environmental Screening Process may be used as part of the information required by the OEB for a Leave-to-Construct application. The OEB should be contacted for additional information on their approval requirements. If the transmission lines are proposed to occupy Crown land, the local MNR office will require documentation confirming the completion of requirements under the *Environmental Assessment Act* prior to issuing a land use permit. As part of fulfilling the Class EA or Environmental Screening Process requirements, proponents are encouraged to contact the local MNR office to ensure that data and information on natural heritage and other values in the vicinity of the proposed lines are considered in the planning process.

## A.6 OVERVIEW OF THE ENVIRONMENTAL SCREENING PROCESS

### A.6.1 General Information

The *Environmental Assessment Act* provides for the protection, conservation and wise management of Ontario's environment by establishing a responsible and accountable process for decision-making before a project is undertaken. The three processes that have been developed to ensure that the purpose of the *Environmental Assessment Act* is met are individual EAs, Class EAs, and the Environmental Screening Process for electricity projects. The Ministry of the Environment developed the Environmental Screening Process to ensure that the purpose of the *Environmental Assessment Act* is maintained in the review of specified electricity projects, while promoting a fair, timely, consistent and predictable process that can be conducted in parallel with other legislative requirements. For proponents, the Environmental Screening Process describes the required review process, and sets out requirements for public and agency consultation and for documenting the results of the screening process. The Environmental Screening Process also sets out opportunities for public and agency review of reports prepared under the Environmental Screening Process, and opportunities to request that projects be elevated. **For flowcharts outlining the steps in the Environmental Screening Process, see Figures 1 and 2 on pages 20 and 21.**

The Environmental Screening Process applies to all projects listed in section 4 of the Electricity Projects Regulation. For the purpose of this Guide, these projects are referred to as Category B projects (see Chart 1). The Environmental Screening Process also applies to some modifications to electricity projects.

This section of the Guide provides an overview of the Environmental Screening Process and some guidance to proponents in meeting its requirements. The Environmental Screening Process itself is found in Part B of the Guide. Proponents who wish to pursue the screening exemption provided for in section 4 of the Electricity Projects Regulation are legally required to comply

with the provisions of the Environmental Screening Process. Proponents can contact the EA Coordinator at the appropriate Regional Office of the MOE for guidance and advice on the requirements of the Environmental Screening Process (see Appendix B for contact information for MOE's Regional Offices).

In the Environmental Screening Process, the definition of "environment" is the same as that in the *Environmental Assessment Act*. "Environment" in the EAA is broadly defined to include air, land and water as well as natural, cultural, social and economic components. The screening criteria which must be applied to all projects that are subject to the Environmental Screening Process (found in Appendix C to this Guide) reflect this broad definition of "environment".

The Environmental Screening Process is a proponent driven, self-assessment process. The proponent is responsible for determining if the process applies to its project and for determining when to formally commence the process. Depending on the scale and nature of the project, proponents may wish to undertake preliminary consultation and issue scoping prior to formally commencing the screening process. The proponent also determines the time required to adequately conduct the screening process with sufficient agency and public consultation and when it is in a position to issue a Screening or Environmental Review Report for public and agency review.

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**Projects that are subject to the Environmental Screening Process cannot receive approvals under the EPA or OWRA or commence construction until the Environmental Screening Process requirements have been met.**

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It is recommended that a proponent commence the screening process before project planning, site layout and facility design have progressed too far and before irreversible decisions or commitments are made. A proponent is not prohibited from making other public announcements or statements about the project, undertaking economic feasibility studies, initiating private discussions or negotiations, public/agency consultations, environmental studies or commencing work to obtain other approvals prior to commencing the Environmental Screening Process. **However, the project may not receive approvals under the *Environmental Protection Act* or *Ontario Water Resources Act* or commence construction until it has met the Environmental Screening Process requirements under the *Environmental Assessment Act*.**

The Environmental Screening Process can be conducted in conjunction with and/or coordinated with other approval requirements, studies and activities. For example, it may be possible to coordinate public consultation under the Environmental Screening Process with requirements under other legislation. If an environmental effect or issue identified in the screening process can be more appropriately addressed under another environmental approval (e.g., an approval under the *Environmental Protection Act*), it need not be subjected to detailed analysis and resolution under the screening process. However, it is the proponent's responsibility to provide sufficient

information in the screening process, including a description of how the issue will be addressed through another approval, and what opportunities for public consultation will be provided on that subsequent approval decision.

There are two possible stages of review required under the Environmental Screening Process, depending on the environmental effects of a project: a Screening stage and an Environmental Review stage. All projects that are subject to the process are required to go through the Screening stage, which requires proponents to apply a series of screening criteria to identify the potential environmental effects of the project. A more detailed study (an Environmental Review) is required if potential concerns are raised during the Screening stage that could not be readily addressed. The proponent's report under the Environmental Screening Process (either a Screening Report or an Environmental Review Report) is made available to the public and agencies for a minimum 30-day review period. During the review period, members of the public and agencies with outstanding environmental concerns will have the opportunity to request that the project be elevated. Projects can be elevated either to an Environmental Review within the Environmental Screening Process, or to an individual EA.

Because the Environmental Screening Process is a self-assessment process, reports that proponents prepare under the Environmental Screening Process are not approved by the MOE. However, where other approvals are required from the MOE or other issues generally dealt with by the MOE arise during the course of review under the Environmental Screening Process, the appropriate Regional Office of the MOE will be involved in the consultation process, just as any other affected agency would be. MOE, as an affected agency, may provide comments or advice to proponents to address the Ministry's concerns. MOE's review will be for the purposes of:

- ensuring that proponents have adequately considered the Ministry's mandate based on the *Environmental Protection Act* and *Ontario Water Resources Act*; regulations under those Acts; technical procedures and guidelines; and policy and program areas; and
- ensuring that the proponent meets the requirements of the Environmental Screening Process.

As noted above, proponents are not required to submit their final Screening Reports or Environmental Review Reports to the MOE unless there is a request to elevate the project. In the event of an elevation request, MOE will thoroughly review the proponent's Screening or Environmental Review Report. If no elevation requests are received during the review period, the requirements of the Environmental Screening Process have been met. To complete the process, the proponent prepares a "Statement of Completion", retains a copy, and forwards a copy to the Director of the EAAB. Once the Statement of Completion has been filed, and subject to any other approval requirements, the proponent can proceed to construct the project, subject to any other required approvals. The project must be implemented in the manner described in the Screening Report or Environmental Review Report, and the proponent must fulfill any

conditions that the Director or Minister apply in a decision not to elevate a project.

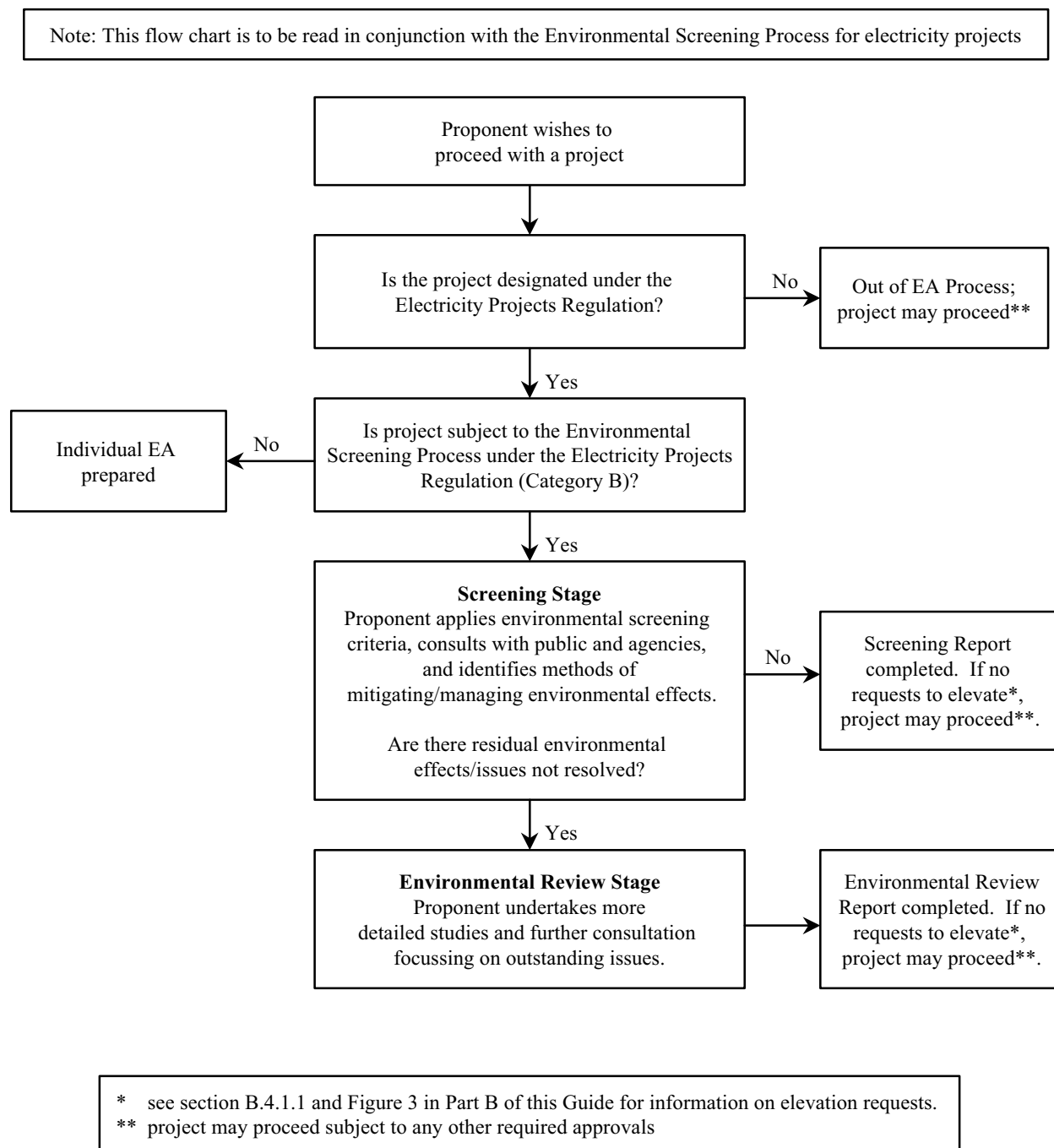
In all situations where review under the Environmental Screening Process is required, it is the responsibility of the proponent to ensure that the planning process as set out in the Environmental Screening Process is undertaken. Failure to follow the process outlined in the Environmental Screening Process places the proponent in contravention of the *Environmental Assessment Act*. Offences and penalties are dealt with in section 38 of the *Environmental Assessment Act*.

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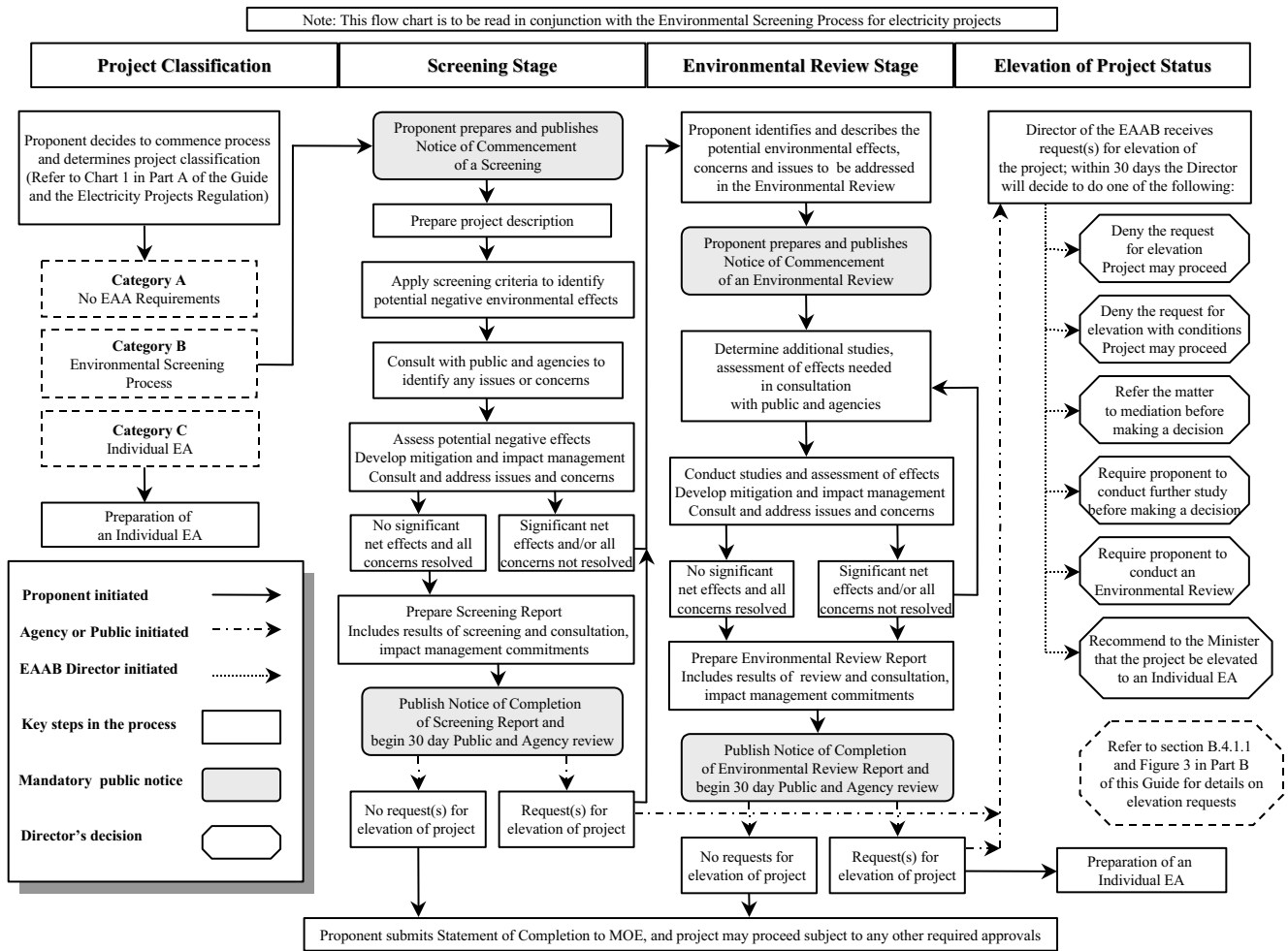
**In all situations where review under the Environmental Screening Process is required, it is the responsibility of the proponent to ensure that the planning process as set out in the Environmental Screening Process is undertaken. Failure to follow the process outlined in the Environmental Screening Process places the proponent in contravention of the *Environmental Assessment Act*.**

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**Figure 1: Key Features of the Environmental Screening Process**



**Figure 2: Details of the Environmental Screening Process**



## A.6.2 Consultation

### A.6.2.1 *Public Consultation*

The purpose of public consultation in the Environmental Screening Process is to allow the proponent to identify and address public concerns and issues and to provide the public with an opportunity to receive information about and make meaningful input into the project review and development.

Public consultation is required for all projects that are subject to the Environmental Screening Process. Consultation is necessary for the proponent to:

- properly notify potentially interested and affected stakeholders;
- identify and assess the range of environmental and socio-economic effects of the project; and
- address the concerns of adjacent property owners, interest groups and members of the public that may be directly affected by some aspect of the project.

It is the proponent's responsibility to design and implement an appropriate consultation program for the project. The consultation program must provide appropriate opportunities and forums for the public to participate in the screening process. **Failure to carry out adequate public consultation or to address public issues or concerns may result in requests to elevate the project.**

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**It is the proponent's responsibility to design and implement an appropriate consultation program for the project. The consultation program must provide appropriate opportunities and forums for the public to participate in the screening process. Failure to carry out adequate public consultation or to address public issues or concerns may result in requests to elevate the project.**

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The applicant's public consultation program should:

- identify potentially affected stakeholders;
- describe how the project may affect the environment;
- provide appropriate notification to identified stakeholders as prescribed in the Environmental Screening Process;
- inform the public where, when and how they can be involved;
- identify public concerns and issues related to the project;
- address public concerns and issues raised during the program; and
- document how public input is taken into account in the screening process and in the project planning and development.

Public consultation should be commenced early in the screening process and continue throughout the process as necessary. The proponent is required to maintain a record and mailing list of all participants in the consultation process, a record of public concerns and issues, and a record of how any concerns and issues have been addressed during the Screening or Environmental Review stages.

While mandatory public notification requirements are specified in the Environmental Screening Process, other methods of public consultation used are at the discretion of the proponent<sup>2</sup>. The proponent's public consultation program, including methods used to obtain public input and efforts to address or resolve public concerns and issues, may be considered by the Director of the EAAB in the event of a request to elevate the project.

Proponents are encouraged to consider the use of conflict resolution techniques, such as facilitation, negotiation, mediation or arbitration to resolve difficult or contentious concerns and issues during the screening process.

#### **A.6.2.2 Agency Consultation**

The purpose of agency consultation is to inform and receive input from all government agencies with jurisdiction or a program interest related to a particular electricity project. This may include federal and provincial ministries and agencies and municipalities. It is the proponent's responsibility to identify and consult with the appropriate agencies. Relevant agencies must be provided with copies of the mandatory notices (see section A.6.2.4 below). For information purposes, a list of agencies that may have jurisdiction or an interest in the review and approval of electricity projects is provided in Appendix D.

To improve efficiency, proponents are encouraged to combine or coordinate agency consultation required for other approvals with their consultation for the Environmental Screening Process. The Environmental Screening Process can compliment and contribute to other agency processes that may apply to an electricity project, such as a review under the Ministry of Natural Resources' Waterpower Program Guidelines, an Official Plan amendment, or a Responsible Authority's review under the *Canadian Environmental Assessment Act*. The appropriate agency technical representatives should be contacted regarding their agency's requirements, concerns and technical input, and be kept apprised of the proponent's public consultation program and other opportunities for their agency to participate in the screening process. Proponents are strongly encouraged to circulate relevant sections of the Screening Report or Environmental Review Report to the appropriate agency contacts for comment prior to the formal review

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<sup>2</sup> For more detailed information about how to design a consultation program, please refer to Ministry publications on consultation, including the Ministry's *Public Consultation Guide* (Publication Number PIBS 2819). Copies of the 1994 guide can be obtained from the Ministry's Public Information Centre, 135 St. Clair Ave. W., Toronto, Ontario; Tel: 1-800-565-4923 or (416) 325-4000. See also the Ministry's *Guideline on Consultation in the Environmental Assessment Process* (draft at time of publication of this Guide).

periods. Technical issues should be suitably resolved prior to release of the Screening Report or Environmental Review Report for formal review. This will help to avoid fundamental concerns or disagreements being raised at a late stage in the screening process.

### **A.6.2.3**      *Consultation with First Nations and Other Aboriginal Communities*

In consulting on their projects, proponents should give particular consideration to the concerns of First Nations and other Aboriginal communities located in the vicinity of, or having a potential interest in, the project. First Nations and other Aboriginal communities are to be identified, notified, consulted, and involved in an appropriate manner. Proponents should identify First Nations and other Aboriginal interests that are relevant to the nature, location and effects of the proposed project. Effects on First Nations and other Aboriginal communities are included as one of the screening criteria in Appendix C.

### **A.6.2.4**      *Mandatory Notification*

Proponents are required to prepare a Notice of Commencement at the beginning of a Screening or an Environmental Review to formally announce the project is subject to the Environmental Screening Process and is commencing a review under the Environmental Screening Process. The notice must provide basic information on the project, its proposed location, the proponent and a contact name, address and phone number (the specific notification requirements are described in the Environmental Screening Process in Part B of this Guide). The notice must be mailed or delivered to households in the immediate vicinity of the project and to affected government agencies (including the EA Coordinator at the appropriate Regional Office of the MOE). The notice should also be mailed or delivered to other potentially interested parties. For a list of MOE's Regional Offices, see Appendix B.

Upon completion of a Screening or Environmental Review, the proponent must prepare and distribute a Notice of Completion. These notices are intended to inform public and agency stakeholders that the proponent has completed a Screening or Environmental Review under the Environmental Screening Process and that the minimum 30-day review period is commencing. The notice must also indicate where copies of the Screening or Environmental Review Reports can be obtained or reviewed. The notice must be placed in a local newspaper with circulation in the vicinity of the project (or an appropriate equivalent means of notifying the public where no such newspaper exists).

The proponent is required to mail or deliver the notice to the EA Coordinator at the appropriate Regional Office of the MOE, and to all who have expressed an interest in the project. For this purpose, the proponent is required to maintain throughout the screening process a mailing list of all persons and agencies that provide comment and input to the process or otherwise express an interest in the project. The proponent should also mail or deliver the notice to other potentially

affected agencies, municipalities, landowners, residents, businesses, and local interest groups, even if they have not previously expressed an interest.

#### **A.6.2.5 Documentation**

The following documentation pertaining to consultation must be included in the proponent's Screening Report or Environmental Review Report:

- a description of the public and agency consultation program and consultation activities/events;
- a list of agencies contacted or consulted;
- a summary of public and agency concerns or issues, and how they have been resolved or addressed.

Technical reports and other supporting information are not required to be included in the Screening Report or Environmental Review Report, but must be referenced in the report. Proponents must make supporting information and copies of all correspondence related to the Environmental Screening Process available for public or agency review if requested.

#### **A.6.3 Other Legislation**

Completion of the Environmental Screening Process under the *Environmental Assessment Act* does not relieve proponents from the responsibility to obtain any necessary approvals or permits required under other legislation. The process can be viewed as an opportunity to identify the appropriate approval requirements early in the process and to coordinate these requirements. Work on other approvals can proceed in parallel and be coordinated/combined with the screening process. Environmental information, analysis and consultation required for the screening process can be used by proponents in obtaining other environmental approvals and permits. In turn, information compiled for other approvals can be used in preparing reports and documentation under the screening process. However, approvals under the *Environmental Protection Act* and Ontario *Water Resources Act* will not be issued until the proponent has successfully completed the Environmental Screening Process.

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**Completion of the Environmental Screening Process under the *Environmental Assessment Act* does not relieve proponents from the responsibility to obtain any necessary approvals or permits required under other legislation.**

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The following statutes contain provisions that may or do relate to the development, operation or retirement of one or more types of electricity facilities:

- *Environmental Protection Act*
- *Ontario Water Resources Act*
- *Planning Act*
- *Lakes and Rivers Improvement Act*
- *Conservation Authorities Act*
- *Canadian Environmental Assessment Act*
- *Fisheries Act*
- *Navigable Waters Protection Act*

A brief description of some of these statutes is provided in Appendix E of this Guide. For additional information on other requirements related to transmission lines, see section A.5.

Table F-1 in Appendix F outlines potential triggers under the *Canadian Environmental Assessment Act* (CEAA) for projects conducted under the Environmental Screening Process, along with an associated listing of potential federal Responsible Authorities.

Some approvals under provincial legislation (such as most applications for air emissions under section 9 of the *Environmental Protection Act*) are “classified instruments” under the *Environmental Bill of Rights* (EBR)<sup>3</sup>. Applications for classified instruments are subject to the public participation requirements of the EBR, including posting of proposals on the Environmental Registry (an internet website). However, even if identified as EBR classified instruments, in certain circumstances some proposals may be exempted from EBR public consultation requirements. Of particular relevance to electricity projects is the exemption found in s.32 of the EBR. Under this section, proposals that are a step toward implementing an undertaking that has been approved under the *Environmental Assessment Act* or exempted from EA requirements are exempted from EBR public participation requirements. Since projects that are reviewed under the Environmental Screening Process are proceeding in accordance with the exemption provided for in the Electricity Projects Regulation made under the *Environmental Assessment Act*, subsequent approvals related to such projects are exempt from the EBR’s public consultation requirements. Approvals related to electricity projects described as Category A (no EA requirements) projects in this Guide do not qualify for the exemption from EBR requirements. The Ministry of the Environment’s guides to applying for approvals under the *Environmental Protection Act* and *Ontario Water Resources Act* contain further information about EBR exemptions.

It is well beyond the scope and purpose of this Guide to outline all the potential legislation and regulatory requirements of electricity projects. It is the responsibility of the proponent to ensure that all requirements are met. The information provided regarding the above legislation is

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<sup>3</sup> Classified instruments are listed in Regulation 68/94, “Classification of Proposals for Instruments”, issued under the *Environmental Bill of Rights*.

provided for information purposes only and to acknowledge other regulatory requirements that may work in conjunction with the Environmental Screening Process.

## **PART B: ENVIRONMENTAL SCREENING PROCESS**

### **B.1 APPLICATION**

Under Ontario Regulation 116/01 (referred to throughout this Guide as the “Electricity Projects Regulation”), made under the *Environmental Assessment Act*, certain electricity projects must be reviewed in accordance with the Environmental Screening Process<sup>4</sup>. These projects are set out in section 4 of the Regulation.

As set out in section 4 of the Regulation, changes or expansions to facilities listed in section 4 of the Electricity Projects Regulation are also subject to the Environmental Screening Process. A change or expansion that is a “significant modification” (as defined in the Regulation) to a project listed in section 4 of the Electricity Projects Regulation is subject to the full review process set out in the Environmental Screening Process (including preparation of a Screening and/or Environmental Review Report). A change or expansion that is below the threshold for a significant modification as set out in the Regulation is considered a “minor modification”. Minor modifications to projects designated in section 4 of the Regulation are subject to the addendum provisions set out in section B.5.2 of this Environmental Screening Process. Note that a “minor modification” to a project that is “grandparented” under section 6 of the Regulation is not subject to EA requirements. However, significant modifications to otherwise “grandparented” facilities are subject to EA requirements as set out in the Regulation.

### **B.2 SCREENING STAGE**

#### **B.2.1 Commencement**

Once a proponent has determined that its project requires review under the Environmental Screening Process and is ready to commence such a review, the proponent shall issue a public “Notice of Commencement of a Screening”. This public notification is mandatory for any project that is subject to the Environmental Screening Process. The notice is to be placed in a local newspaper(s) with circulation in the vicinity of the project. Where no such newspaper exists, the proponent shall be responsible for determining the equivalent local means of providing adequate notice to the general public.

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<sup>4</sup> Projects must be reviewed in accordance with the Environmental Screening Process if the proponent wishes to take advantage of the exemption provided for in the Regulation from the requirement to prepare an individual EA.

The notice (or an equivalent letter or information package) must be mailed or delivered to:

- adjacent landowners and tenants;
- the EA Coordinator at the appropriate Regional Office of the MOE<sup>5</sup>;
- for hydroelectric projects, the local Ministry of Natural Resources office;
- other affected government agencies and municipalities;
- other potentially interested or affected parties (such as local interest groups, businesses, and members of the public that may be directly affected by some aspect of the project).

The notice shall include:

- the name of the proponent;
- a brief description of the project;
- a map showing the project location;
- a statement that the project is subject to the Ministry of the Environment’s Environmental Screening Process for electricity projects; and
- a contact name, address and telephone number.

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***Notice required to be given under the Environmental Screening Process may be combined with other notices required under other statutes, so long as the notice clearly states which notices are being combined and contains all of the information required for each notice.***

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This notice and any other notice required to be given under the Environmental Screening Process may be combined with other notices required under other statutes, so long as the notice clearly states which notices are being combined and contains all of the information required for each notice.

### **B.2.2 Conducting a Screening**

The proponent begins the Screening stage by preparing a description of the project for the purposes of the screening process. In describing the project, proponents must include all phases and components of the project, including construction, operation, and retirement of the project. It is inappropriate for proponents to break up or “piecemeal” a larger project into separate components or phases, with each part addressed as a separate project. Therefore, the construction and operation of related facilities such as an access road or fuel handling facilities, and associated activities such as construction traffic, discharge of cooling water, or waste disposal, are to be included as part of the project description. Furthermore, plans for future expansions of the project that are known at the time the Environmental Screening Process is being applied shall be considered as part of the project.

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<sup>5</sup> See Appendix B for a list of MOE’s Regional Offices

The proponent then applies the screening criteria (found in Appendix C of this Guide) to the project as it has been described in the project description outlined above. This involves answering a series of questions, based on the screening criteria, to identify the potential for any negative effects on the environment. The screening criteria are presented in the form of a checklist with the option of a “Yes” or “No” response.

Negative environmental effects include the negative effects that a project has, or could potentially have, directly or indirectly on the environment at any stage in the project life cycle. Negative environmental effects may include, but are not limited to, the harmful alteration, disruption, destruction, or loss of natural features, flora or fauna and their habitat, ecological functions, natural resources, air or water quality, and cultural or heritage resources. Negative environmental effects may also include the displacement, impairment, conflict or interference with existing land uses, approved land use plans, businesses or economic enterprises, recreational uses or activities, cultural pursuits, social conditions or economic structure.

In the Environmental Screening Process, the definition of “environment” is the same as that in the *Environmental Assessment Act*. “Environment” in the *Environmental Assessment Act* is broadly defined to include air, land and water as well as natural, cultural, social and economic components (the formal definition is included in the glossary to this Guide). The screening criteria reflect this broad definition of “environment”.

Mitigation measures are not to be considered in concluding that there is “No” potential negative environmental effect. That is, if the proponent determines that there is a potential environmental effect, but that the effect could likely be addressed through mitigation, the proponent is required to answer “Yes” to the question. This approach will ensure that the potential environmental effects of a project and the proponent’s proposed plans and methods for mitigating and managing any impacts are open to discussion and review by all interested and affected public and agency stakeholders, and that the proponent has made a binding commitment to implement mitigation measures.

If the answer to any of the screening questions is “Yes”, the project has potential to cause negative effects, the proponent must provide additional information in its Screening Report to explain the potential effect(s), and methods to mitigate or address the effect(s), whether any net effects are anticipated and, if so, the significance of any negative net effects. In some cases the proponent may indicate that no negative environmental effects are anticipated but feel it is necessary to provide additional information in its Screening Report to explain or support the “no negative effects” conclusion.

The additional information and analysis which is required for each of the potential environmental effects identified by the screening criteria includes:

- a description of the potential negative environmental effects or concerns (see the Glossary for a description of what may constitute a “negative” environmental effect);
- a description of any standard environmental mitigation or impact management measures that will be used to avoid, reduce, or minimize the environmental effects, concerns or issues;
- the identification of any remaining “net effects” (net effects are those negative environmental effects caused by the project and related activities that will remain after mitigation and impact management measures have been applied); and
- an assessment of the significance of any net effects or concerns.

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**Net effects are those negative environmental effects caused by the project and related activities that will remain after mitigation and impact management measures have been applied.**

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A Screening can be based primarily on existing or readily obtainable information. It is expected that a proponent will consult with relevant federal and provincial agencies and municipal authorities, appropriately qualified persons, potentially affected and interested individuals and the public when completing the Screening to ensure the identification of potential effects, proposed mitigation and impact management measures, and assessment of net effects are accurate and acceptable.

A proponent could determine during a Screening or while completing the Screening Report that there remain potential environmental effects or public concerns that require further assessment and resolution. The proponent may decide not to issue a Screening Report and instead proceed to the Environmental Review stage of the Environmental Screening Process. In deciding whether to issue a Screening Report, or to proceed directly to the Environmental Review stage, the proponent should consider:

- the success of attempts to minimize effects through the selection of the site, the technology, the facility design, or through the use of reasonable mitigation and impact management;
- how effectively the proponent can, or is prepared to, manage any negative effects or resolve issues and address concerns;
- the significance of any net effects;
- how commitments to future actions are accepted by government agencies, non-government organizations, the community and affected property owners; and
- whether additional studies and analysis are likely to provide tangible results.

If an environmental effect or issue identified in the screening process can be more appropriately addressed under another environmental approval (e.g., an approval under the *Environmental Protection Act*), it need not be subjected to detailed analysis and resolution under the screening process. However, it is the proponent's responsibility to provide sufficient information in the Screening Report, including a description of how the issue will be addressed through another approval, and what opportunities for public consultation will be provided on that subsequent approval decision.

At the completion of the Screening stage, the proponent should be in a position to assess the overall environmental advantages and disadvantages of the project. If the proponent determines that there are no likely significant negative effects, no unresolved concerns or issues, and that the project advantages outweigh any disadvantages, it prepares a Screening Report to document the results of the Screening.

### **B.2.3 Screening Report**

A Screening Report shall include the following information:

- background information including a description of the project, the purpose of the project and an outline of the basic technologies to be used;
- a map of the project location;
- a description of the local environment and conditions;
- a description of any other required approvals and permits;
- a completed screening criteria checklist;
- information, analysis and discussion of mitigation and impact management measures for any potential negative effects identified through application of the screening criteria, including an assessment of the significance of any net effects;
- commitments to mitigation, impact management, monitoring and/or further consultation and the mechanisms for their implementation and reporting;
- information on public and agency consultation, including:
  - ▶ a description of the public and agency consultation program and consultation activities/events;
  - ▶ a list of agencies contacted or consulted;
  - ▶ a summary of public and agency concerns or issues, and how they have been resolved or addressed;
  - ▶ copies of key public and agency comments;
- a description of how environmental effects or issues may be addressed through other required approvals;
- a review of the overall environmental advantages and disadvantages of the project, to include discussion of any benefits that may offset negative environmental effects; and
- a summary of all mitigation, impact management and monitoring commitments (to be used by MOE for compliance purposes).

Technical reports and other supporting information are not required to be included in the Screening Report, but must be referenced in the report. Proponents must make supporting information and copies of all correspondence related to the Environmental Screening Process available for public or agency review if requested.

Proponents are encouraged to circulate a draft of the Screening Report, or relevant sections of the report, to the appropriate agencies and key stakeholders for comment prior to the formal review periods.

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**Proponents are encouraged to circulate a draft of the Screening Report, or relevant sections of the report, to the appropriate agencies and key stakeholders for comment prior to the formal review periods.**

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#### **B.2.4 Notice of Completion of Screening Report and Public Review**

The Screening Report must be made available for public and agency review for a period of at least 30 calendar days in a convenient location(s) in the project area, such as a public library, municipal office or community centre. In addition, the proponent should consider making the report available on the Internet. The proponent must prepare a public “Notice of Completion of a Screening Report” and publish it in a local newspaper(s) with circulation in the vicinity of the project. Where no such newspaper exists, the proponent shall be responsible for determining the equivalent local means of providing adequate notice to the general public.

The notice shall include:

- the information required for the Notice of Commencement of a Screening (description of the project, proponent, location, project is being reviewed under the Ministry of the Environment’s Environmental Screening Process for electricity projects, and contact information);
- the results of the Screening (e.g., there are no significant negative effects, the proponent intends to proceed with the project subject to mitigation, other commitments and other approvals);
- the location(s) where the Screening Report may be reviewed;
- notification that:
  - ▶ if a concerned party has outstanding environmental concerns about the project, it should raise these concerns with the proponent;
  - ▶ if the proponent and the concerned party are unable to resolve the matter, the concerned party can make a written request to the Director of the Environmental Assessment and Approvals Branch, Ministry of the Environment to elevate the project to either an Environmental Review or to an individual EA. A copy of the elevation request must be sent to the proponent;

- ▶ elevation requests must be made in accordance with the provisions set out in the Ministry of the Environment’s Environmental Screening Process for electricity projects;
- the address of the Director of the Environmental Assessment and Approvals Branch, Ministry of the Environment;
- the last date when requests for elevation will be received.

The proponent is required to mail or deliver the notice to the EA Coordinator at the appropriate Regional Office of the MOE, to adjacent landowners and tenants, and to all who have expressed an interest in the project. For this purpose, the proponent shall maintain throughout the screening process a mailing list of all persons and agencies that provide comment and input to the process or otherwise express an interest in the project. The proponent should also mail or deliver the notice to other potentially affected and interested agencies, municipalities, landowners, residents, businesses, and local interest groups, even if they have not previously expressed an interest. The proponent may also choose to provide copies of the Screening Report directly to participating agencies and affected individuals. Proponents of hydroelectric projects are required to mail or deliver a copy of their completed Screening Report to the local Ministry of Natural Resources office.

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**Proponent shall maintain throughout the screening process a mailing list of all persons and agencies that provide comment and input to the process or otherwise express an interest in the project.**

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If no requests for elevation of the project have been received at the end of the 30-day review period, the proponent submits a “Statement of Completion” to the MOE and retains a copy on site (or in an alternate location where it will be readily available) for the life of the project. For more information on the Statement of Completion requirements, see section B.4.2. At this point, the proponent has completed the Environmental Screening Process under the *Environmental Assessment Act*, and the project may proceed subject to any other required approvals. The project must be implemented in the manner described in the Screening Report.

If one or more requests for elevation of the project are received within the 30-day review period by the Director of the EAAB, the project cannot proceed until the Director makes a decision on the request(s) for elevation. Approvals under the *Environmental Protection Act* and *Ontario Water Resources Act* will not be issued and construction of the project cannot commence until the Environmental Screening Process has been successfully completed.

See section B.4.1 of the Environmental Screening Process for more information on elevation requests.

## **B.3 ENVIRONMENTAL REVIEW STAGE**

### **B.3.1 Commencement**

A project would proceed to the Environmental Review stage of the Environmental Screening Process for one of three reasons:

- (1) The proponent may determine, while conducting the Screening stage, that there are potentially significant negative environmental effects or public issues that warrant more detailed study and assessment. Rather than complete a Screening Report the proponent may choose to proceed directly to the Environmental Review stage and begin more comprehensive studies on those issues; or
- (2) During the 30-day period for public review of the Screening Report, the proponent receives substantive public or agency comments/concerns about the conclusions contained in the Screening Report or how certain issues have been addressed and determines that further environmental studies and analysis are necessary to address these concerns before the project can proceed; or
- (3) During the 30-day review period, the Director of the EAAB receives substantive elevation requests from the public or government agencies requesting that the proponent conduct a further Environmental Review of specific environmental effects or concerns associated with the project. The Director of the EAAB makes a decision requiring the proponent to proceed to the Environmental Review stage of the Environmental Screening Process.

Upon commencing an Environmental Review, the proponent must issue a public notice. The “Notice of Commencement of an Environmental Review” must be placed in a local newspaper(s) with circulation in the vicinity of the project. Where no such newspaper exists, the proponent shall be responsible for determining the equivalent local means of providing adequate notice to the general public. The proponent is required to mail or deliver the notice (or an equivalent letter or information package) to the EA Coordinator at the appropriate Regional Office of the MOE, to adjacent landowners and tenants, and to all who have expressed an interest in the project. For this purpose, the proponent shall maintain throughout the screening process a mailing list of all persons and agencies that provide comment and input to the process or otherwise express an interest in the project. The proponent should also mail or deliver the notice to other potentially affected and interested agencies, municipalities, landowners, residents, businesses, and local interest groups, even if they have not previously expressed an interest. Proponents of hydroelectric projects are also required to mail or deliver a copy of the Notice of Commencement, and all other notices required in the Environmental Screening Process, to the local Ministry of Natural Resources office.

The notice shall include:

- the name of the proponent;
- a brief description of the project;
- a map showing the project location;
- a statement that the project is entering the Environmental Review stage of the Ministry of the Environment's Environmental Screening Process for electricity projects;
- a brief description of the issues/concerns that will be subject to more detailed study during the Environmental Review stage;
- where additional information can be obtained; and
- a contact name, address and telephone number.

### **B.3.2 Conducting an Environmental Review**

The proponent determines the additional work programs, studies and consultation required to assess environmental effects and address unresolved concerns and issues. The Environmental Review would be focussed to address those matters that have been carried forward from the Screening stage. The proponent's approach to conducting the Environmental Review should be reviewed with key agencies, parties and the affected public, to ensure it will meet the objectives and requirements of the key stakeholders and the proponent. Particular attention should be given to parties that successfully requested an elevation of the project from a Screening to an Environmental Review. If during the Environmental Review stage one or more new issues or potential effects are raised or identified by the public or agencies, the proponent should take appropriate actions or measures to assess and address the issues or effects.

During the Environmental Review stage, the proponent conducts the necessary studies, analysis and assessment of environmental effects. The basic process to identify net effects and assess their significance during the Environmental Review stage is similar to the Screening stage; however, the assessment(s), evaluations and impact management measures may be more complex and the concerns and issues more difficult to resolve. The process at the Environmental Review Stage is:

- describe the potential environmental effects related to specific environmental concerns;
- conduct necessary data collection, studies and analysis to understand the basis, extent, duration, inter-relationships and magnitude of the potential effects;
- identify, develop and describe environmental mitigation or impact management measures, facility design or layout modifications or other special measures to reduce or minimize the potential effects or concerns;
- determine net effects or concerns that remain once standard and customized mitigation, impact management and issue resolution measures have been applied;
- evaluate the significance of any remaining net effects or concerns;

- consult further with agencies, the public, First Nations and other Aboriginal communities, non-government organizations etc. to confirm analysis and assessments, commitments to mitigation and resolution of issues; and
- conduct an overall assessment of the environmental advantages and disadvantages of the project.

In determining the significance of any negative net effects of the project, the proponent should consider the value or importance of the resource being affected, the magnitude of the effect and its duration, the extent or distribution of the effect, whether the effect can be reversed over time, and the ecological and social context of the effect. In concluding the

Environmental Review, the proponent should assess the overall advantages and disadvantages of the project. Advantages may include positive environmental effects such as community benefits resulting from jobs created by the project, or the use of a renewable and/or non-polluting energy source to generate power. Where a negative environmental effect may be offset by other benefits, this should be evaluated. The Report should provide an overall conclusion as to whether the negative environmental effects of the project are acceptable, based on a balanced assessment against all of the screening criteria and the results and conclusions of the Environmental Review.

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#### **CRITERIA FOR ASSESSING SIGNIFICANCE**

- **Value of the resource affected;**
  - **Magnitude of the effect;**
  - **Geographic extent of the effect;**
  - **Duration and frequency of the effect;**
  - **Irreversibility of the effect; and**
  - **Ecological/social context.**
- 

### **B.3.3 Environmental Review Report**

Once the proponent determines that it has satisfactorily assessed and addressed all of the negative environmental effects, concerns or issues, it prepares an Environmental Review Report.

If the proponent has previously prepared a Screening Report and made it available for a 30-day public and agency review period, the Environmental Review Report will focus on the activities and results of the Environmental Review stage. It need not contain the completed screening checklist and the related information from the Screening stage. However, the Environmental Review Report shall include background information on the project, including the project description, an outline of the basic technologies to be used, a map of the project location, and a description of the local environment and conditions.

The Environmental Review Report shall also contain:

- the results of the analysis, evaluation, and assessment conducted for the subject effects, concerns or issues, including an assessment of the significance of any negative net effects;
- commitments to mitigation, impact management, monitoring and/or further consultation and the mechanisms for their implementation and reporting;
- details of any changes to commitments made in the Screening Report;
- a summary of public and agency consultation during the Environmental Review, including:
  - ▶ a description of the public and agency consultation program and consultation activities/events;
  - ▶ a list of agencies contacted or consulted;
  - ▶ a summary of public and agency concerns or issues, and how they have been resolved or addressed;
  - ▶ copies of key public and agency comments;
- a description of how environmental effects or issues may be addressed by other required approvals;
- summaries or, where appropriate, complete technical reports supporting the Environmental Review findings;
- an overall assessment of the advantages and disadvantages of the project, to include discussion of any benefits that may offset negative environmental effects; and
- a summary of all mitigation, impact management and monitoring commitments made during the Environmental Review Stage (to be used by MOE for compliance purposes).

If a proponent proceeded to the Environmental Review stage without preparing a Screening Report, the Environmental Review Report must contain, in addition to the information listed above, the following information and results pertaining to the Screening stage:

- any other required approvals and permits;
- a completed screening criteria checklist;
- information, analysis and discussion of mitigation and impact management measures for any potential environmental effects addressed during the Screening stage;
- commitments to mitigation, impact management, monitoring or further consultation and mechanisms to ensure their implementation, as determined during the Screening stage;
- information on public and agency consultation during the Screening stage, including a summary of public and agency concerns or issues that were addressed or resolved during the Screening stage; and
- a summary of all mitigation, impact management and monitoring commitments made at the Screening stage (to be used by MOE for compliance purposes).

Technical reports and other supporting information are not required to be included in the Environmental Review Report, but must be referenced in the report. Proponents must make supporting information and copies of all correspondence related to the Environmental Screening Process available for public or agency review if requested.

Proponents are encouraged to circulate a draft of the Environmental Review Report, or relevant sections of the report, to the appropriate agencies and key stakeholders for comment prior to the formal review periods.

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**Technical reports and other supporting information are not required to be included in the Environmental Review Report, but must be referenced in the report. Proponents must make supporting information and copies of all correspondence related to the Environmental Screening Process available for public or agency review if requested.**

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### **B.3.4 Notice of Completion of Environmental Review Report and Public Review**

The Environmental Review Report must be made available for public and agency review for a period of at least 30 calendar days in a convenient location(s) in the project area, such as a public library, municipal office or community centre. In addition, the proponent should consider making the report available on the Internet. The proponent must prepare a public “Notice of Completion of an Environmental Review Report” and publish it in a local newspaper(s) with circulation in the vicinity of the project. Where no such newspaper exists, the proponent shall be responsible for determining the equivalent local means of providing adequate notice to the general public.

The notice shall include:

- the information required for the Notice of Commencement of an Environmental Review (description of the project, proponent, location, project is being reviewed under the Ministry of the Environment’s Environmental Screening Process for electricity projects and contact information);
- the results of the Environmental Review (e.g., there are no significant environmental effects, the proponent intends to proceed with the project subject to mitigation, impact management measures, other commitments and other approvals);
- if any commitments made in the Screening Report (if one was prepared) have been deleted or altered, notice of that fact, and notice that details are contained in the Environmental Review Report;
- the location(s) where the Environmental Review Report may be reviewed;
- notification that:
  - ▶ if a concerned party has outstanding environmental concerns about the project, it should raise these concerns with the proponent;

- ▶ if the proponent and the concerned party are unable to resolve the matter, the concerned party can make a written request to the Director of the Environmental Assessment and Approvals Branch, Ministry of the Environment to elevate the project to an individual EA. A copy of the elevation request must be sent to the proponent;
- ▶ elevation requests must be made in accordance with the provisions set out in the Ministry of the Environment’s Environmental Screening Process for electricity projects;
- the address of the Director of the Environmental Assessment and Approvals Branch, Ministry of the Environment; and
- the last date when requests for elevation will be received.

The proponent is required to mail or deliver the notice to the EA Coordinator at the appropriate Regional Office of the MOE, to adjacent landowners and tenants, and to all who have expressed an interest in the project. For this purpose, the proponent shall maintain throughout the screening process a mailing list of all persons and agencies that provide comment and input to the process or otherwise express an interest in the project. The proponent should also mail or deliver the notice to other potentially affected and interested agencies, municipalities, landowners, residents, businesses, and local interest groups, even if they have not previously expressed an interest. The proponent may also choose to provide copies of the Environmental Review Report directly to participating agencies and interested individuals. Proponents of hydroelectric projects are required to mail or deliver a copy of their completed Environmental Review Report to the local Ministry of Natural Resources office.

If no requests for elevation of the project have been received at the end of the 30-day review period, the proponent submits a “Statement of Completion” to the MOE and retains a copy on site (or in an alternate location where it will be readily available) for the life of the project. For more information on the Statement of Completion requirements, see section B.4.2.

At this point, the proponent has completed the Environmental Screening Process under the *Environmental Assessment Act*, and the project may proceed subject to any other required approvals. The project must be implemented in the manner described in the Environmental Review Report.

If one or more requests for elevation of the project are received within the 30-day review period by the Director of the EAAB, the project cannot proceed until the Director makes a decision on the request(s) for elevation. Approvals under the *Environmental Protection Act* and the *Ontario Water Resources Act* will not be issued and construction of the project cannot commence until the Environmental Screening Process has been successfully completed.

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**If one or more requests for elevation of the project are received within the 30-day review period by the Director of the EAAB, the project cannot proceed until the Director makes a decision on the request(s) for elevation.**

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See section B.4.1 of the Environmental Screening Process for more information on elevation requests.

## **B.4 CHANGING THE PROJECT STATUS AND PROCESS COMPLETION**

### **B.4.1 Changing the Project Status**

#### **B.4.1.1 *Elevation Requests***

Members of the public or agencies with an outstanding environmental concerns regarding a project undergoing the screening process should bring their concerns to the attention of the proponent as early in the process as possible. If concerns are not resolved, the concerned party can ask the proponent to voluntarily elevate the project, either before or during the 30-day review period.

If the proponent declines to voluntarily elevate the project during the 30-day review period, the party may write to the Director of the EAAB to request that the project be elevated. A project at the Screening stage, or a project for which an Addendum (see section B.5.2) has been prepared, can be elevated to either an Environmental Review within the Environmental Screening Process, or to an individual EA. Projects that have undergone an Environmental Review, or for which an Equivalent Review Process Report (see section B.5.1.1) has been prepared can be elevated to an individual EA. A request to elevate a project must be submitted to the Director of the EAAB and a copy sent to the proponent within the 30-day review period after the Notice of Completion of a Screening Report or Environmental Review Report has been issued. Requests received after the 30-day review period will not

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**Elevation Requests must be submitted within the 30-day review period after the Notice of Completion has been issued.**

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normally be considered. However, requests received after the 30-day review period may be considered if the proponent has failed to ensure proper notification to the public of their right to request that the project be elevated, or may be considered in conjunction with requests received during the 30-day review period. In most circumstances, requests for the Director to elevate a project made before the 30-day review period will be considered by the Director to be premature.

The resolution of concerns directly between the proponent and the party raising the concern is always preferable to involving the Director of the EAAB in the matter. When outstanding environmental concerns are raised during the 30-day review period, the proponent should be prepared to attempt to resolve the concerns. Where a commitment is made by a proponent to address concerns raised during the review period, the commitment must be documented by the proponent and filed with the proponent's copy of the Screening Report or Environmental Review Report (either on site or in an alternate location where it will be readily available). The proponent is required to fulfill any such commitments in the implementation of the project.

If additional time is needed to try to resolve issues, the proponent and the concerned party may agree to continue discussions for a mutually acceptable specified time period beyond the 30-day review period. The proponent shall notify the Director of the EAAB that it and the concerned party have agreed to continue discussions, and what the specified time period is. Following the specified time period, if the issues remain unresolved, an elevation request can be made to the Director of the EAAB within a further seven calendar days.

A party requesting that a project be elevated to either an Environmental Review or to an individual EA must include the following information in a written request to have a project elevated:

- the name of the project and proponent;
- the basis of their request;
- whether they are requesting that the project be elevated to an Environmental Review or to an individual EA (Projects at the Screening stage, or for which an Addendum has been prepared, can be elevated to either an Environmental Review or to an individual EA. Projects that have undergone an Environmental Review, or for which an Equivalent Review Process Report has been prepared can be elevated to an individual EA);
- the specific nature of the environmental concerns on which the request is based;
- the benefits of requiring the proponent to undertake an Environmental Review or an individual EA;
- information about any efforts to discuss/resolve these concerns/environmental effects with the proponent;
- details of any correspondence between the party and the proponent; and
- any other matters considered relevant by the requesting party.

The request shall be sent to the Director of the EAAB, and a copy sent to the proponent. Upon receipt of an elevation request, the proponent shall forward a copy of the Screening Report and/or Environmental Review Report, and any other relevant project documentation, to the Director of the EAAB. The proponent may make a submission to the Director addressing the issues raised in the elevation request. The Director's review period will commence upon receipt of the necessary information from the proponent. See Figure 3 for a flowchart outlining the MOE's decision-making process on elevation requests.

Requests which are clearly made with the intent of delaying a project, are frivolous or vexatious or which contain insufficient information may be denied by the Director of the EAAB.

When, following a request having been made, the requester's concerns have been addressed by the proponent, the requester is responsible for withdrawing the elevation request. Written notice of withdrawals must be made in writing to the Director of the EAAB, and must be copied to the proponent. Where commitments are made by a proponent to address a requester's concern, the commitment must be documented by the proponent and filed with the proponent's copy of the Screening Report or Environmental Review Report (either on site or in an alternate location where it will be readily available). A copy of the documented commitment must also be sent to the Director of the EAAB. The proponent is required to fulfill any such commitments in the implementation of the project.

If an elevation request is received by the Director of EAAB, the Director will consider the views of the proponent and the requester(s) and may consult other government agencies before making a decision. In making a decision, the Director shall consider the following issues:

- the basis of the request;
- the views of other government agencies that have been consulted by the proponent;
- the extent and nature of public concern;
- the potential for significant negative environmental effects;
- the proponent's Screening Report and/or Environmental Review Report and any related project documentation;
- the proponent's public consultation program and attempts at dispute resolution;
- the public benefits of subjecting the project to an Environmental Review within the screening process or to an individual EA; and
- any other matter considered relevant by the Director.

Within 30 calendar days of receiving the necessary information from the proponent, the Director of the EAAB will decide to do one of the following things:

- A) deny the request for elevation;
- B) deny the request for elevation with conditions;
- C) refer the matter to mediation before making a decision;

- D) require the proponent to conduct further study before making a decision;
- E) require the proponent to conduct an Environmental Review; or
- F) recommend to the Minister of the Environment that the project be elevated to an individual EA.

### **Where Director of the EAAB Decides to Deny Request (Decision A or B) or Require the Proponent to Conduct an Environmental Review (Decision E)**

Where the Director of the EAAB has made decision A, B or E, the Director will notify the proponent and the requester in writing, stating reasons for the decision. This notification will indicate that the Director's decision will become final within 15 calendar days of the notice being received, unless a request is made to have the Minister of the Environment review the Director's decision (details on requesting the Minister to review the Director's decision are provided in section B.4.1.2 below). For the purposes of the Environmental Screening Process, a notice of Director's decision on an elevation request is deemed to be received on the fifth day after the day of mailing.

### **Where Director of the EAAB Refers the Matter to Mediation (Decision C)**

Where the Director of the EAAB decides to refer the matter to mediation, the Director will notify the proponent and the requester in writing, stating reasons for the decision. A request cannot be made to have the Director's decision reviewed by the Minister of the Environment. The Director's determination of how mediation is to be carried out will be made in accordance with the principles outlined in section 8 of the *Environmental Assessment Act*. Within 30 calendar days of receiving a report on the mediation, the Director of the EAAB will, based on the results of that report, decide to:

- deny the request, with or without conditions (Decision A or B above); or
- require that an Environmental Review Report be prepared (Decision E above); or
- recommend to the Minister that an individual EA be required (Decision F above).

### **Where Director of the EAAB Requires Further Study (Decision D)**

Where the Director of the EAAB decides to require further study by the proponent, the Director will notify the proponent and the requester in writing, stating reasons for the decision. A request cannot be made to have the decision reviewed by the Minister of the Environment. Following the submission of the additional information required satisfactory to the Director, the Director will within 30 calendar days decide to:

- deny the request, with or without conditions (Decision A or B above); or
- require that an Environmental Review be conducted (Decision E above); or
- recommend to the Minister that an individual EA be required (Decision F above).

As noted above, a request can be made to have the Minister review the Director's decision to deny an elevation request or require an Environmental Review. If no such request is made, the Director's decision becomes final in 15 calendar days.

### **Where Director of the EAAB Recommends an Individual EA (Decision F)**

In cases where the Director of the EAAB has recommended to the Minister of the Environment that an individual EA be required (Decision F above), the Minister will make a decision on the Director's recommendation within 45 calendar days. The Minister may:

- require the proponent to satisfy the requirements of Part II of the *Environmental Assessment Act* by preparing a Terms of Reference and an individual EA; or
- deny the elevation request, with or without conditions.

The Minister will notify the requester and the proponent in writing, stating reasons for the decision.

Where the Minister requires the proponent to satisfy the requirements of Part II of the *Environmental Assessment Act*, the documentation, analysis and consultation conducted through the Environmental Screening Process can be used by the proponent in preparing the Terms of Reference and an individual EA.

There may be instances where the Minister is not able to make a decision within 45 calendar days of receiving the Director's recommendation. Where this is the case, the Minister's decision will not be considered invalid on the ground that the decision was made after the 45-day period.

#### **B.4.1.2 *Requesting the Minister to Review a Decision by the Director***

A party requesting that the Minister review the Director's decision on an elevation request must address the following issues in a written request to the Minister:

- the basis of the request;
- the specific nature of the environmental concerns on which the request is based;
- how the Director's decision fails to address the requester's environmental concern(s);
- a description of any additional information that the Director did not consider in making his/her decision; and
- any other matters considered relevant by the requesting party.

The request shall be sent to the Minister, and a copy sent to the proponent. Requesters must send such requests within 15 days of receiving the notice of the Director's decision. For the purposes of the Environmental Screening Process, a notice of the Director's decision on an elevation

request is deemed to be received on the fifth day after the day of mailing. Requests which are clearly made with the intent of delaying a project, are frivolous or vexatious or which contain insufficient information may be denied by the Minister.

The Minister will make a decision on a request within 45 calendar days of receiving the request. The Minister may decide to:

- confirm the Director's decision; or
- vary the Director's decision.

The Minister will notify the proponent and the requester of his/her decision, stating reasons for the decision; the Minister's decision is final.

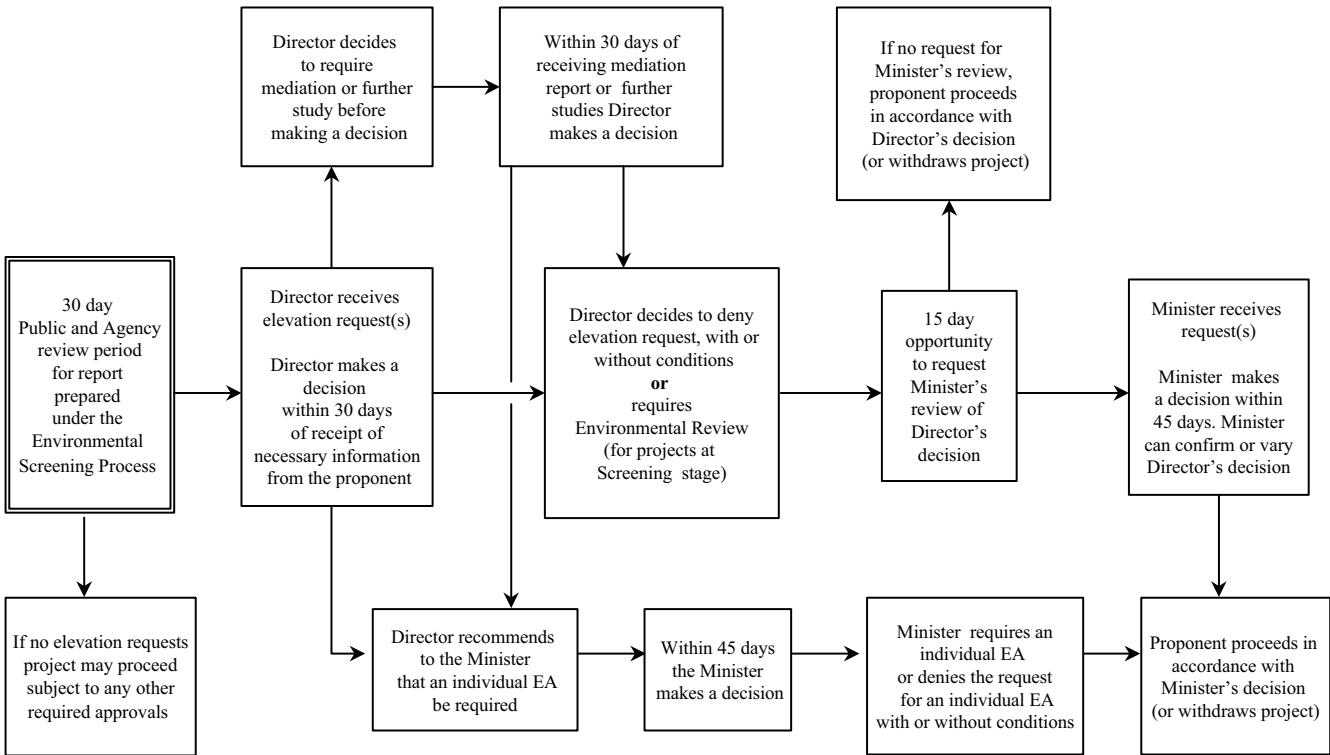
There may be instances where the Minister is not able to make a decision within 45 calendar days of receiving the request. Where this is the case, the Minister's decision will not be considered invalid on the ground that the decision was made after the 45-day period.

#### **B.4.1.3**      *Minister's Elevation*

At any point in the Environmental Screening Process, if it is determined that a project is likely to have significant negative environmental effects, and that the scope and scale of these effects are such that an individual EA is warranted, the Minister of the Environment may of his or her own initiative require that a project be made subject to Part II of the *Environmental Assessment Act* (an individual EA). If the Minister requires an individual EA, the proponent will be informed in writing, stating reasons for the decision.

**Figure 3: MOE Decision-making Process on Elevation Requests**

Note: This flow chart is to be read in conjunction with the Environmental Screening Process for electricity projects



## **B.4.2 Statement of Completion**

At the end of the Environmental Screening Process, the proponent issues a “Statement of Completion”. A Statement of Completion is issued to formalize the completion of the Environmental Screening Process when:

- a Screening Report and/or Environmental Review Report, or an Equivalent Review Process Report (see section B.5.1.1) was prepared, and no requests for elevation were submitted during the 30-day review period; or
- a final decision was made not to elevate the project.

Proponents shall complete the Statement of Completion form found in Appendix G, submit a copy to the Director of the EAAB of the Ministry of the Environment, and retain a copy on site (or in an alternate location where it will be readily available) for the life of the project.

## **B.4.3 Implementation**

Once the Statement of Completion has been filed, and subject to any other approval requirements, the proponent can proceed to construct the project. The project must be implemented in the manner described in the Screening Report, Environmental Review Report or Equivalent Review Process Report. Any further commitments the proponent made to address concerns after one of the above-noted reports was prepared must also be fulfilled as the project is implemented. The proponent must also comply with any conditions that the Director or Minister apply in a decision not to elevate a project. Construction of projects that are subject to the Environmental Screening Process cannot begin until the requirements of the Environmental Screening Process have been met.

During implementation of the project, the proponent must undertake any monitoring outlined in the Screening Report, Environmental Review Report or Equivalent Review Process Report. Monitoring is necessary to ensure that the mitigation measures identified in the Screening Report, Environmental Review Report or Equivalent Review Process Report are fulfilled and are effective. The results of monitoring shall be communicated to the public and review agencies if required or requested.

## **B.5 ADMINISTRATIVE PROVISIONS**

### **B.5.1 Transition Provisions**

The following provisions apply to projects that are in the process of being planned at the time the Electricity Projects Regulation comes into force.

### **B.5.1.1**      *Projects that are Planned*

Where a proponent has reached the stage where its project planning has been completed, it will be subject to the requirements outlined below. A project should be considered “planned” if:

- the proponent is in the process of obtaining permits and approvals for construction; and
- the proponent has completed consultation with the public and agencies on the project (however, consultation with agencies on technical issues related to other approvals need not be complete for a project to be considered having “planned”).

The proponent must demonstrate it has reviewed the project under a process that is consistent with the Environmental Screening Process requirements. How the project review process is consistent with the requirements of the Environmental Screening Process must be documented in an Equivalent Review Process Report. This report must describe how the project has been reviewed and environmental concerns have been taken into account in a process that is consistent with the Environmental Screening Process requirements, including requirements to evaluate and address environmental impacts and to consult with agencies and members of the public. The report must also clearly indicate what commitments the proponent is making to mitigate environmental effects. The proponent must fulfill these commitments during project implementation.

The Equivalent Review Process Report must be made available for public review in a convenient location(s) in the project area, such as a public library, municipal office or community centre for at least 30 calendar days. In addition, the proponent should consider making the report available on the Internet. The proponent is required to publish a “Notice of Completion of Equivalent Review Process” in a local newspaper(s) with circulation in the vicinity of the project. Where no such newspaper exists, the proponent shall be responsible for determining the equivalent local means of providing adequate notice to the general public. The proponent is required to mail or deliver the notice to the EA Coordinator at the appropriate Regional Office of the MOE, to adjacent landowners and tenants, and to all those who have expressed an interest in the project.

The notice shall include:

- a description of the project, name of the proponent, location, and contact information;
- indication that:
  - ▶ the proponent intends to proceed under the Transition Provisions in the Ministry of the Environment’s Environmental Screening Process for electricity projects; and
  - ▶ the project has been reviewed in a process consistent with the Environmental Screening Process;

- the results of the Equivalent Review Process (e.g., there are no significant environmental effects, the proponent intends to proceed with the project, subject to mitigation, impact management measures, other commitments, and other approvals);
- the location(s) where the Equivalent Review Process Report and other documentation related to the project may be reviewed;
- notification that:
  - ▶ if a concerned party has outstanding environmental concerns about the project, it should raise these concerns with the proponent;
  - ▶ if the proponent and the concerned party are unable to resolve the matter, the concerned party can make a written request to the Director of the Environmental Assessment and Approvals Branch, Ministry of the Environment to elevate the project to an individual EA. A copy of the elevation request must be sent to the proponent;
  - ▶ elevation requests must be made in accordance with the provisions set out in the Ministry of the Environment’s Environmental Screening Process for electricity projects;
- the address of the Director of the Environmental Assessment and Approvals Branch, Ministry of the Environment; and
- the last date when requests for elevation will be received.

If no requests for elevation of the project have been received at the end of the 30-day review period, the proponent submits a “Statement of Completion” to the Ministry of the Environment, and retains a copy on site (or in an alternate location where it will be readily available) for the life of the project. For more information on the Statement of Completion requirements, see section B.4.2. At this point, the proponent has completed the Environmental Screening Process under the *Environmental Assessment Act*, and the project may proceed subject to any other required approvals. The project must be implemented in the manner described in the Equivalent Review Process Report.

See section B.4.1 of the Environmental Screening Process for more information on elevation requests.

If the proponent cannot demonstrate that the project has been reviewed and environmental concerns have been taken into account in a process that is consistent with the requirements of the Environmental Screening Process, the provisions for “Projects that are Partially Planned” (below) should be applied. This allows a proponent to use the analysis and consultation that it has already completed to fulfill some of the requirements of the Environmental Screening Process, but requires it to do additional analysis and/or consultation to satisfy the remaining Environmental Screening Process requirements.

### **B.5.1.2**      *Projects that are Partially Planned*

For those projects which are in progress and partially planned, the requirements set out below apply. A project should be considered “partially planned” if:

- the proponent is in the process of consulting with agencies and the public on the project; and
- the proponent is not yet obtaining approvals needed to construct the facility,

Proponents in this situation are advised to enter the Environmental Screening Process at a point that reflects where they are in the decision-making process. For example, if the proponent has already issued a notice that is similar to the “Notice of Commencement” required for a Screening or Environmental Review Report, another notice need not be issued under the Environmental Screening Process. Proponents with projects that are “partially planned” are required to prepare a Screening Report or Environmental Review Report, or a similar report that contains the information required in such reports as described in the Environmental Screening Process. The Notice of Completion and Statement of Completion requirements as set out in the Environmental Screening Process for Screening Reports or Environmental Review Reports apply, with necessary modifications, to projects that are “planned”.

If proponents are uncertain whether their projects should be considered “planned” or “partially planned”, or are otherwise uncertain about how the transition provisions in the Environmental Screening Process apply to their projects, they can contact the EA Coordinator at the appropriate Regional Office of the MOE.

### **B.5.2 Addendum Provisions**

The purpose of the addendum provisions is to require proponents to consider the environmental significance of minor modifications to projects, and to require consultation on changes that are environmentally significant. A “minor” modification is a modification that is below the threshold for a “significant modification” under the Electricity Projects Regulation. For example, a modification that increases the capacity of a gas-fired generating station by less than 5 megawatts, or that does not increase capacity, would be considered a minor modification. There are a number of circumstances under which proponents must apply the addendum provisions outlined in this section:

- where a project has been planned in accordance with the Environmental Screening Process, but where a proponent decides prior to or during construction that it is not feasible or desirable to implement the project in the manner described in the completed Screening or Environmental Review Report.

- where a project has been constructed/implemented as described in a completed Screening or Environmental Review report under the Environmental Screening Process, and where the proponent wishes to make a minor modification to the project.
- where a project was approved under an individual EA, and the proponent wishes to make a minor modification to the project that is not covered by the original approval.

Note that a minor modification to a facility that was not subject to approval under the *Environmental Assessment Act* when it was constructed (e.g., a private sector facility constructed prior to the Electricity Projects Regulation coming into force) is grandparented from the new EA requirements, and therefore is not subject to these addendum provisions.

Proponents shall determine, through technical review and/or consultation with interested and affected parties and by applying the screening criteria set in Appendix C, whether the proposed modification to the project may have negative environmental effects. Where it is determined that there will be no negative environmental effects, the proponent shall document that determination. Where it is determined that there may be negative environmental effects, the proponent shall prepare an Addendum. The Addendum shall reference the original report or EA approval and describe the modification being considered, the circumstances necessitating the modification, the environmental implications of the modification, and what will be done to mitigate any negative environmental effects.

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**Proponents shall determine, through technical review and/or consultation with interested and affected parties where it is determined that there may be negative environmental effects, the proponent shall prepare an Addendum.**

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A Notice of Filing of Addendum shall be given to adjacent landowners and tenants and to all previously involved members of the public and review agencies, including the EA Coordinator at the appropriate Regional Office of the MOE. In the case of a modification to a project planned through the Environmental Screening Process, notice shall be given to all who were notified at the original Notice of Completion stage. The Notice of Filing of Addendum shall advise the public and agencies of their right to request that the modification to the project be elevated to an Environmental Review or an individual EA, and advise them that such requests must be submitted to the Director of the EAAB in writing, with a copy sent to the proponent, within 30 calendar days. If no request is received by the Director, the proponent can proceed with implementation and construction subject to any other approval requirements. The proponent shall keep a copy of the Addendum with the original Screening Report, Environmental Review Report or individual EA approval on site (or in an alternate location where it will be readily available) for the life of the project. Where an elevation request is submitted to the Director, the provisions outlined in section B.4.1.1, with necessary modifications, apply.

During the 30-day review period, no work shall be undertaken that will adversely affect the matter under review. Furthermore, where implementation of a project has already commenced, those portions of the project which are the subject of the Addendum, or have the potential to be directly affected by the proposed modification, shall cease until the termination of the 30-day review period.

When a proposed modification to a project is in response to an emergency situation during construction or where a delay in the implementation of the modification would result in negative environmental effects, the modifications can be implemented without delay and affected parties must be contacted. An Addendum shall subsequently be prepared for emergency modifications with negative environmental effects. The Addendum must document the modification, the circumstances necessitating the modification, the environmental implications of the modification, and what was done to mitigate any negative environmental effects. A copy of the Addendum shall be kept with the original Screening Report or Environmental Review Report, or individual EA approval. A Notice of Filing of Addendum shall be given to adjacent landowners and tenants and to all previously involved members of the public and review agencies, including the EA Coordinator at the appropriate Regional Office of the MOE. In the case of a modification to a project planned through the Environmental Screening Process, notice shall be given to all who were notified at the original Notice of Completion stage. Requests cannot be made to elevate Addenda that are prepared to address emergency situations.

### **B.5.3 Duration and Renewal of Screening Acceptance**

If a project has met the Environmental Screening Process requirements but has not yet reached the “start of construction” within five years of completing the Environmental Screening Process, the proponent shall review the planning and design process and the current environmental setting to ensure that the project and the mitigation measures are still valid. If the review does not identify important changes, the project can proceed without amendments to the Screening Report or Environmental Review Report. The proponent is required to retain a copy of the review results with the original Screening Report or Environmental Review Report.

If changes have occurred or modifications are required that may result in negative environmental effects, the review shall be recorded in an Addendum to the Screening Report or Environmental Review Report. Proponents are required to follow the requirements for filing a Notice of Filing of Addendum as outlined in section B.5.2, with necessary modifications.

#### B.5.4 Retention of Documents

Proponents are required to retain any Screening Report, Environmental Review Report, Equivalent Review Process Report, or Addendum and related notices and Statements of Completion prepared under the Environmental Screening Process on site (or in an alternate location where they will be readily available) for the life of the project, including decommissioning. Documentation of any commitments the proponent made to address concerns after one of the above noted reports was prepared must also be

documented and kept on site, or in an alternate location, for the life of the project. These documents shall be available for inspection by any agency or interested member of the public. Proponents shall also make supporting documentation and correspondence related to the Environmental Screening Process available for public or agency review if requested.

Upon request, a proponent shall provide the MOE with a copy of any Screening Report, Environmental Review Report, Equivalent Review Process Report, or Addendum prepared under the Environmental Screening Process, or copies of any commitments made by the proponent to address concerns after one of the above-noted reports was prepared. Proponents shall also provide copies of supporting documentation and correspondence related to the Environmental Screening Process to the MOE if requested.

#### B.6 PROCESS FOR AMENDMENTS TO THE ENVIRONMENTAL SCREENING PROCESS

The purpose of an amending procedure is to allow for modifications to the Environmental Screening Process. If a proposal is made to extend the application of the Environmental Screening Process to additional projects that were not previously included, an amendment to the Electricity Projects Regulation would likely be required.

Changes to the Environmental Screening Process may be either in response to a request that a change be made, or because the Director of the EAAB decides of his or her own initiative that such a change is desirable. The following process will be used to make amendments to the Environmental Screening Process:

- If the Director of the EAAB determines that the change being considered is not environmentally significant, he or she may make the change to the Environmental Screening Process, and notify stakeholders of the change. Notice of the change will be

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**Proponents are required to retain any Screening Report, Environmental Review Report, Equivalent Review Process Report, or Addendum and related notices and Statements of Completion prepared under the Environmental Screening Process on site (or in an alternate location where they will be readily available) for the life of the project, including decommissioning.**

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posted on the Environmental Registry maintained under the *Environmental Bill of Rights*, and a copy of the amended Environmental Screening Process will be made available on the Internet.

- If the Director determines that the amendment is environmentally significant, the proposed amendment will be posted on the Environmental Registry as a proposal for a policy for a minimum 30-day comment period.
- The Director will consider any comments received and decide whether or not to approve the amendment.
- A notice of decision will be posted on the Environmental Registry indicating what amendment (if any) was made to the Environmental Screening Process. If the Environmental Screening Process is amended, stakeholders will be notified of the change and a copy of the amended Environmental Screening Process will be made available on the Internet.
- The Director may decide to compile amendments and consider them jointly in a periodic review of the Environmental Screening Process.

## **B.7 MINISTRY MONITORING**

### **B.7.1 Monitoring Implementation**

The Environmental Assessment and Approvals Branch of the Ministry of the Environment will keep a record of information on the types of projects which follow the requirements of the Environmental Screening Process. The EAAB will also keep a record of the elevation requests submitted to the MOE and other comments related to the implementation and administration of the Environmental Screening Process. Monitoring implementation will help the EAAB to identify any modifications or improvements that may need to be made to the Environmental Screening Process.

### **B.7.2 Monitoring Compliance**

The MOE will monitor for compliance with the Environmental Screening Process. The Ministry will monitor both for compliance with the procedural requirements of the Environmental Screening Process (e.g., are proponents providing the required notices, including required information in reports prepared under the Environmental Screening Process, etc.), and for compliance with commitments to mitigation made in proponents' reports prepared under the Environmental Screening Process.

**Note: Appendices C and G which follow are part of the Environmental Screening Process. The other appendices are provided for information purposes only.**

## Appendix A: The Electricity Projects Regulation

Filed as O.Reg. 116/01  
Filed on April 23, 2001  
Ontario Gazette date:  
May 12, 2001

**ONTARIO REGULATION**  
made under the  
**ENVIRONMENTAL ASSESSMENT ACT**

**ELECTRICITY PROJECTS**

1. (1) In this Regulation,

“biogas” means gas collected from the decomposition of organic materials in sewage sludge;

“biomass” means,

- (a) peat,
- (b) wood, other than woodwaste, or
- (c) organic materials that are grown or harvested for the purpose of being burned to generate electricity;

“distributor” has the same meaning as in the *Electricity Act, 1998*;

“Environmental Screening Process” means the screening process described in the Ministry of the Environment publication entitled “Guide to Environmental Assessment Requirements for Electricity Projects” and dated March 2001, as amended from time to time;

“generation facility” has the same meaning as in the *Electricity Act, 1998*, subject to subsection (3);

“generator” has the same meaning as in the *Electricity Act, 1998*;

“hazardous waste” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990;

“IMO-administered markets” has the same meaning as in the *Electricity Act, 1998*;

“IMO-controlled grid” has the same meaning as in the *Electricity Act, 1998*;

“landfill gas” means gas collected from the decomposition of organic materials in a landfilling site;

“liquid industrial waste” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990;

“municipal waste” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990, except that it does not include waste biomass;

“name plate capacity” means, with respect to a generation facility, the total of the design electricity generating capacities of all the generation units in the facility;

“primary power source” means, with respect to a generation facility, the primary power source used by the facility to generate electricity, based on the energy input of the power sources used by the facility to generate electricity;

“significant modification” means,

- (a) with respect to a generation facility that does not use coal, hazardous waste, liquid industrial waste, municipal waste or oil as a power source, any expansion of or change in the facility that would result in the facility using coal, hazardous waste, liquid industrial waste, municipal waste or oil as a power source,
- (b) with respect to a generation facility that uses coal as its primary power source, any expansion of or change in the facility that would increase the name plate capacity of the facility,
- (c) with respect to a generation facility that uses oil as its primary power source, any expansion of or change in the facility that would increase the name plate capacity of the facility by one megawatt or more,

- (d) with respect to a generation facility that uses hazardous waste, liquid industrial waste, municipal waste or wind energy as its primary power source, any expansion of or change in the facility that would increase the name plate capacity of the facility by two megawatts or more,
- (e) with respect to a generation facility that uses biomass or natural gas as its primary power source, any expansion of or change in the facility that would increase the name plate capacity of the facility by five megawatts or more,
- (f) with respect to a generation facility that uses waste biomass as its primary power source, any expansion of or change in the facility that would increase the name plate capacity of the facility by 10 megawatts or more,
- (g) with respect to a generation facility that uses biogas or landfill gas as its primary power source, any expansion of or change in the facility that would increase the name plate capacity of the facility by 25 megawatts or more,
- (h) with respect to a generation facility that uses municipal waste as its primary power source, any expansion of or change in the facility that would increase the name plate capacity of the facility and would increase the capacity of the facility to burn municipal waste by five tonnes or more on any day,
- (i) with respect to a generation facility that uses water power as its primary power source, any expansion of or change in the facility that would increase the name plate capacity of the facility by 25 per cent or more,
- (j) with respect to a transmission line that is designed to operate at a nominal voltage of 115 kilovolts or more, any expansion of or change in the line that would include,
  - (i) the replacement of a pole or tower, or
  - (ii) a change in a right-of-way for the line,if, after the expansion of or change in the line, it would still be designed to operate at a nominal voltage of 115 kilovolts or more, and
- (k) with respect to a transformer or distribution station, any expansion of or change in the station that would include the installation of additional transformer equipment, if,

- (i) the installation of the additional equipment requires an extension of the site where the station is located and, after the installation of the additional equipment, the station would be capable of operating at a nominal voltage of 115 kilovolts or more, or
- (ii) the installation of the additional equipment would increase the nominal voltage at which the station is capable of operating from 230 kilovolts or less to more than 230 kilovolts;

“waste biomass” means agricultural waste, sewage, woodwaste and gases generated from the decomposition of organic materials, but does not include biogas or landfill gas;

“waste disposal site” has the same meaning as in Part V of the *Environmental Protection Act*;

“woodwaste” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990.

(2) Despite the definition of “Environmental Screening Process” in subsection (1), the Environmental Screening Process includes an amendment made to the Guide referred to in that definition only if, in addition to the publication of the notice referred to in subsection 42 (2) of the Act, a copy of the amendment or the amended Guide is made available to the public by the Ministry at no charge on the Internet.

(3) Two or more generation facilities that function together as an integrated system for generating electricity shall be deemed to be a single generation facility for the purpose of this Regulation.

(4) For the purpose of this Regulation, a transmission line is associated with a generation facility if the line is used to transmit electricity at the facility or from the facility to the IMO-controlled grid.

(5) For the purpose of this Regulation, a transformer station or distribution station is associated with a generation facility if the station is used to transform the voltage of electricity at the facility or on a transmission line associated with the facility.

2. This Regulation does not apply to,

- (a) a generation facility that is constructed only for the purpose of providing

electricity to the site where the generation facility is located in the event of a failure of a distributor to deliver electricity to the site;

- (b) a generation facility that uses biogas, biomass, landfill gas, natural gas or waste biomass as its primary power source, if the facility has a name plate capacity of 25 megawatts or less, and
  - (i) the ratio of the facility's output energy to its input energy is more than 0.60, or
  - (ii) none of the electricity generated by the facility is sold by the generator through the IMO-administered markets and none of the electricity generated by the facility is sold by the generator directly to persons who use the electricity at a location other than the site on which the facility is located; or
- (c) a transmission line or transformer station associated with a generation facility described in clause (a) or (b).

3. (1) The planning, designing, establishing, constructing, operating, changing, expanding or retiring of any of the following things is defined as a major commercial or business enterprise or activity and is designated as an undertaking to which the Act applies:

1. A generation facility that uses coal as its primary power source.
2. A generation facility that has a name plate capacity of five megawatts or more and that uses oil as its primary power source.
3. A generation facility that has a name plate capacity of 200 megawatts or more and that uses water power as its primary power source.
4. A transmission line that is more than two kilometres in length, is designed to operate at a nominal voltage of 115 kilovolts or more and is not associated with a generation facility described in paragraphs 1 to 7 of subsection 4 (1).
5. A transformer station or distribution station that is designed to operate at a nominal voltage of 115 kilovolts or more and is not associated with a generation facility described in paragraphs 1 to 7 of subsection 4 (1).

(2) The planning, designing, establishing, constructing, operating, changing, expanding or retiring of a generation facility is defined as a major commercial or business enterprise or activity and is designated as an undertaking to which the Act applies if,

- (a) the generation facility uses liquid industrial waste or hazardous waste as its primary power source and, but for Ontario Regulation 206/97, a hearing would be required under section 30 of the *Environmental Protection Act*; or
- (b) the generation facility uses municipal waste as its primary power source and,
  - (i) the generation facility has the capacity to burn 100 tonnes or more of municipal waste on any day, or
  - (ii) but for Ontario Regulation 206/97, a hearing would be required under section 30 of the *Environmental Protection Act*.

(3) Any expansion of or change in a generation facility, transmission line, transformer station or distribution station that would result in it becoming a thing described in subsection (1) is defined as a major commercial or business enterprise or activity and is designated as an undertaking to which the Act applies.

(4) An undertaking that is designated under this section as an undertaking to which the Act applies is exempt from Part II of the Act if,

- (a) the undertaking is the expansion of or a change in a thing;
- (b) the undertaking is not a significant modification; and
- (c) the undertaking is carried out in accordance with the procedure set out in the Environmental Screening Process.

(5) If the proponent of an undertaking submitted an environmental assessment or proposed terms of reference in respect of the undertaking to the Ministry before this Regulation came into force, subsection (4) does not apply to the undertaking unless, not later than 60 days after this Regulation comes into force, the Director of the Ministry's Environmental Assessment and Approvals Branch has received written notice from the proponent stating that the undertaking will be carried out in accordance with the procedure set out in the Environmental Screening Process.

(6) Subsection (4) ceases to apply to an undertaking if, in accordance with the

Environmental Screening Process, the Minister gives the proponent a notice to prepare an environmental assessment.

4. (1) The planning, designing, establishing, constructing, operating, changing, expanding or retiring of any of the following things is defined as a major commercial or business enterprise or activity and is designated as an undertaking to which the Act applies:

1. A generation facility that has a name plate capacity of one megawatt or more but less than five megawatts and that uses oil as its primary power source.
2. A generation facility that has a name plate capacity of less than 200 megawatts and that uses water power as its primary power source.
3. A generation facility that has a name plate capacity of two megawatts or more and that uses wind energy as its primary power source.
4. A generation facility that has a name plate capacity of five megawatts or more and that uses biomass or natural gas as its primary power source.
5. A generation facility that has a name plate capacity of 10 megawatts or more and that uses waste biomass as its primary power source.
6. A generation facility that has a name plate capacity of 25 megawatts or more and that uses biogas as its primary power source.
7. A generation facility that has a name plate capacity of 25 megawatts or more, uses landfill gas as its primary power source and is located at a waste disposal site the establishment of which does not or did not require approval under section 5 of the Act.
8. A transmission line that is designed to transmit electricity at a nominal voltage of 115 kilovolts or more and is associated with a generation facility described in this subsection.
9. A transformer station or distribution station that is designed to operate at a nominal voltage of 115 kilovolts or more and is associated with a generation facility described in this subsection.

(2) The planning, designing, establishing, constructing, operating, changing,

expanding or retiring of a generation facility is defined as a major commercial or business enterprise or activity and is designated as an undertaking to which the Act applies if,

- (a) the generation facility,
  - (i) uses liquid industrial waste or hazardous waste as its primary power source, or
  - (ii) uses municipal waste as its primary power source and does not have the capacity to burn 100 tonnes of municipal waste on any day; and
- (b) no hearing would be required under section 30 of the *Environmental Protection Act*, even if Ontario Regulation 206/97 did not apply.

(3) Any expansion of or change in a generation facility, transmission line, transformer station or distribution station that would result in it becoming a thing described in subsection (1) is defined as a major commercial or business enterprise or activity and is designated as an undertaking to which the Act applies.

(4) An undertaking that is designated under this section as an undertaking to which the Act applies is exempt from Part II of the Act if the undertaking is carried out in accordance with the procedure set out in the Environmental Screening Process.

(5) If the proponent of an undertaking submitted an environmental assessment or proposed terms of reference in respect of the undertaking to the Ministry before this Regulation came into force, subsection (4) does not apply to the undertaking unless, not later than 60 days after this Regulation comes into force, the Director of the Ministry's Environmental Assessment and Approvals Branch has received written notice from the proponent stating that the undertaking will be carried out in accordance with the procedure set out in the Environmental Screening Process.

(6) Subsection (4) ceases to apply to an undertaking if, in accordance with the Environmental Screening Process, the Minister gives the proponent a notice to prepare an environmental assessment.

5. (1) Despite sections 3 and 4, an undertaking is not defined as a major commercial or business enterprise or activity and is not designated as an undertaking to which the Act applies if,

- (a) the undertaking is the changing or expanding of a generation facility that uses

coal, hazardous waste, liquid industrial waste, municipal waste or oil as its primary power source;

- (b) after completion of the undertaking, the facility will use less coal, hazardous waste, liquid industrial waste, municipal waste or oil and will not use more of any of those power sources; and
- (c) after the completion of the undertaking, the name plate capacity of the facility will be less than the maximum name plate capacity determined in accordance with the following formula:

$$A = B + ((C - D) \times 0.5)$$

where,

A = the maximum name plate capacity of the facility after the completion of the undertaking,

B = the name plate capacity of the facility before the start of the undertaking,

C = the capacity of the facility to generate electricity from coal, hazardous waste, liquid industrial waste, municipal waste and oil before the start of the undertaking,

D = the capacity of the facility to generate electricity from coal, hazardous waste, liquid industrial waste, municipal waste and oil after the completion of the undertaking.

(2) An undertaking that is designated under this Regulation as an undertaking to which the Act applies and that is the operating, changing, expanding or retiring of a generation facility is exempt from Part II of the Act if,

- (a) the facility was changed or expanded and, pursuant to subsection (1), the undertaking to change or expand the facility was not defined as a major commercial or business enterprise or activity and was not designated as an undertaking to which the Act applies; and
- (b) as a result of the undertaking to change or expand the facility, the facility no longer uses coal, hazardous waste, liquid industrial waste, municipal waste or

oil as its primary power source.

6. (1) An undertaking that is designated under this Regulation as an undertaking to which the Act applies and that is the constructing, operating, changing, expanding or retiring of a thing is exempt from Part II of the Act if no approval was required under section 5 of the Act to construct the thing and,

- (a) construction of the thing began before this Regulation came into force; or
- (b) any approvals required to begin construction, and any approvals required under the *Environmental Protection Act* or the *Ontario Water Resources Act* to operate the thing, were obtained before this Regulation came into force.

(2) For the purpose of clause (1) (a), construction shall be deemed to have begun,

- (a) on the date on which the first contract was awarded for carrying out part or all of the construction, if any contracts were awarded for that purpose; and
- (b) on the date on which construction started, if no contracts were awarded for carrying out part or all of the construction.

(3) Subsection (1) ceases to apply to an undertaking on the fifth anniversary of the coming into force of this Regulation, unless construction of the thing is substantially completed before that date.

(4) Subsection (1) does not apply to an undertaking that is the expansion, after January 1, 2001, of the generation facility at Atikokan, if coal is to be used as the primary power source of any part of the facility that is added by the expansion.

7. An undertaking that is designated under this Regulation as an undertaking to which the Act applies and that is the changing or expanding of a thing that was constructed before this Regulation came into force is exempt from Part II of the Act if,

- (a) no approval under section 5 of the Act was required to construct the thing; and
- (b) the change or expansion, together with any other change or expansion of the thing that occurred since the thing was constructed, is not a significant modification.

**8.** (1) Despite subsections 3 (4), 4 (4) and 6 (1), Part II of the Act applies to an undertaking that is designated under this Regulation as an undertaking to which the Act applies if the undertaking is of a type that is subject to a class environmental assessment approved after January 1, 2001 or to the Class Environmental Assessment for Minor Transmission Facilities approved pursuant to Order in Council 1173/92.

(2) If an undertaking that is designated under this Regulation as an undertaking to which the Act applies is of a type that is subject to a class environmental assessment referred to in subsection (1), the proponent shall proceed with the undertaking in accordance with the class environmental assessment, even if the proponent is not the applicant who obtained approval of the class environmental assessment.

(3) Subsections (1) and (2) do not apply to an undertaking of a type that is subject to the Class Environmental Assessment for Minor Transmission Facilities approved pursuant to Order in Council 1173/92 if the undertaking is the planning, designing, establishing, constructing, operating, changing, expanding or retiring of a thing referred to in paragraph 8 or 9 of subsection 4 (1).

**9.** Despite subsections 3 (4), 4 (4) and 6 (1), Part II of the Act applies to an undertaking that is designated under this Regulation as an undertaking to which the Act applies if the proponent applies to the Minister for approval to proceed with the undertaking.

**10.** (1) Despite subsections 3 (4), 4 (4) and 6 (1), Part II of the Act applies to an undertaking that is designated under this Regulation as an undertaking to which the Act applies if, before this Regulation came into force, an approval was issued for the undertaking under the Act.

(2) If Part II of the Act applies to an undertaking under subsection (1), the proponent shall proceed with the undertaking in accordance with the approval.

## Appendix B: Ministry of the Environment Offices

### Environmental Assessment and Approvals Branch

Ministry of the Environment  
2 St. Clair Ave. W., Floor 12A  
Toronto, ON M4V 1L5  
Tel: (416) 314-8001  
Fax: (416) 314-8452

In order to deliver its programs to Ontario residents, the Ministry has divided the Province into five regions - Northern, Central, Eastern, West Central and Southwestern.

### Northern Region

Ministry of the Environment  
Thunder Bay Regional Office  
Suite 331, 435 James St. S.  
3rd Floor  
Thunder Bay, ON P7E 6S7  
Toll free from area codes 705/807: 1-800-875-7772  
Tel: (807) 475-1205  
Fax: (807) 475-1754

### Central Region

Ministry of the Environment  
Central Region Office  
5775 Yonge St., 8th floor  
North York, ON M2M 4J1  
Toll free: 1-800-810-8048  
Tel: (416) 326-6700  
Fax: (416) 325-6345

### Eastern Region

Ministry of the Environment  
Kingston Regional Office  
Box 22032  
1259 Gardiners Rd.  
Kingston, ON K7M 8S5  
Toll free for area codes 613/705/905: 1-800-267-0974  
Tel: (613) 549-4000  
Fax: (613) 548-6908

**West Central Region**

Ministry of the Environment  
Hamilton Regional Office  
12th Floor, 119 King St. W.  
Hamilton, ON L8P 4Y7  
Toll free: 1-800-668-4557  
Tel: (905) 521-7640  
Fax: (905) 521-7820

**Southwestern Region**

Ministry of the Environment  
London Regional Office  
2nd Floor, 733 Exeter Road  
London, ON N6E 1L3  
Toll free number from area code 519: 1-800-265-7672  
Tel: (519) 873-5000  
Fax: (519) 873-5020

## Appendix C: Screening Criteria

The screening criteria below are to be applied to every project being reviewed under the Environmental Screening Process. The proponent must provide responses to each of the following questions, based on current knowledge or preliminary investigations, by placing a checkmark in the appropriate box. If the proponent is uncertain of the response to a question, it is the proponent's responsibility to conduct further studies or consultation to accurately answer the question. This screening must focus on the potential for negative environmental effects resulting from the project (see glossary for a description of negative environmental effects). For the purpose of completing this checklist, mitigation or impact management measures are not to be considered. They are considered at the subsequent step when determining net effects.

Each criterion is based on a question which is prefaced with the phrase: Will the project ...

Criterion	Yes	No	Additional information
<b>1. Surface and Ground Water</b>			
1.1 have negative effects on surface water quality, quantities or flow?			
1.2 have negative effects on ground water quality, quantity or movement?			
1.3 cause significant sedimentation, soil erosion or shoreline or riverbank erosion on or off site?			
1.4 cause potential negative effects on surface or ground water from accidental spills or releases to the environment?			
<b>2. Land</b>			
2.1 have negative effects on residential, commercial or institutional land uses within 500 metres of the site?			
2.2 be inconsistent with the Provincial Policy Statement, provincial land use or resource management plans?			
2.3 be inconsistent with municipal land use policies, plans and zoning by-laws?			
2.4 use hazard lands or unstable lands subject to erosion?			
2.5 have potential negative effects related to the remediation of contaminated land ?			
<b>3. Air and Noise</b>			
3.1 have negative effects on air quality due to emissions of nitrogen dioxide, sulphur dioxide, suspended particulates, or other pollutants?			
3.2 cause negative effects from the emission of greenhouse gases (CO <sub>2</sub> , methane)?			

Criterion	Yes	No	Additional information
3.3 cause negative effects from the emission of dust or odour?			
3.4 cause negative effects from the emission of noise?			
<b>4. Natural Environment</b>			
4.1 cause negative effects on rare, threatened or endangered species of flora or fauna or their habitat?			
4.2 cause negative effects on protected natural areas such as ANSIs, ESAs or other significant natural areas?			
4.3 cause negative effects on wetlands?			
4.4 have negative effects on wildlife habitat, populations, corridors or movement?			
4.5 have negative effects on fish or their habitat, spawning, movement or environmental conditions (e.g., water temperature, turbidity, etc.)?			
4.6 have negative effects on migratory birds, including effects on their habitat or staging areas?			
4.7 have negative effects on locally important or valued ecosystems or vegetation?			
<b>5. Resources</b>			
5.1 result in inefficient (below 40%) use of a non-renewable resource (efficiency is defined as the ratio of output energy to input energy, where output energy includes electricity produced plus useful heat captured)?			
5.2 have negative effects on the use of Canada Land Inventory Class 1-3, specialty crop or locally significant agricultural lands?			
5.3 have negative effects on existing agricultural production?			
5.4 have negative effects on the availability of mineral, aggregate or petroleum resources?			
5.5 have negative effects on the availability of forest resources?			
5.6 have negative effects on game and fishery resources, including negative effects caused by creating access to previously inaccessible areas?			
<b>6. Socio-economic</b>			
6.1 have negative effects on neighbourhood or community character?			
6.2 have negative effects on local businesses, institutions or public facilities?			
6.3 have negative effects on recreation, cottaging or tourism?			
6.4 have negative effects related to increases in the demands on community services and infrastructure?			

Criterion	Yes	No	Additional information
6.5 have negative effects on the economic base of a municipality or community?			
6.6 have negative effects on local employment and labour supply?			
6.7 have negative effects related to traffic?			
6.8 cause public concerns related to public health and safety?			
<b>7. Heritage and Culture</b>			
7.1 have negative effects on heritage buildings, structures or sites, archaeological resources, or cultural heritage landscapes?			
7.2 have negative effects on scenic or aesthetically pleasing landscapes or views?			
<b>8. Aboriginal</b>			
8.1 cause negative effects on First Nations or other Aboriginal communities?			
<b>9. Other</b>			
9.1 result in the creation of waste materials requiring disposal?			
9.2 cause any other negative environmental effects not covered by the criteria outlined above?			

If a response to a question indicates “Yes”, there is potential for negative environmental effects, the proponent must provide additional information and analysis in the Screening Report to describe those effects, identify mitigation or impact management measures to prevent or reduce the effects, and assess the significance of any remaining net effects.

## **Appendix D: Provincial and Federal Agencies**

### **Provincial Agencies**

Ministry of Agriculture, Food and Rural Affairs (OMAFRA)  
Ministry of Citizenship, Culture and Recreation (MCzCR)  
Ministry of Energy, Science and Technology (MEST)  
Ministry of the Environment (MOE)  
Ministry of Municipal Affairs and Housing (MMAH)  
Ministry of Natural Resources (MNR)  
Ministry of Northern Development and Mines (MNDM)  
Ministry of Transportation (MTO)  
Ministry of Community and Social Services (MCSS)  
Ontario Energy Board (OEB)  
Ontario Native Affairs Secretariat (ONAS)  
Conservation Authorities

### **Federal Agencies**

Canadian Environmental Assessment Agency (CEAA)  
Fisheries and Oceans Canada  
Environment Canada  
Indian and Northern Affairs Canada  
National Energy Board

## Appendix E: Other Environmental Legislation

### *Environmental Protection Act*

The *Environmental Protection Act* (EPA) prohibits the discharge of contaminants into the natural environment that will or are likely to have an adverse effect. Any specified undertaking which involves discharging a contaminant into the air (including noise and vibration) or waste management/disposal will require a certificate of approval from the Ministry of the Environment under the EPA.

### *Ontario Water Resources Act*

The *Ontario Water Resources Act* (OWRA) regulates the taking of water from ground or surface water sources as well as the treatment and disposal of sewage, and requires proponents to obtain approval from the Ministry of the Environment. Approval may consist of a certificate of approval and/or a permit-to-take-water, depending on the proposed undertaking.

### *Planning Act*

The *Planning Act* regulates land use planning in the Province of Ontario and is administered by the Ministry of Municipal Affairs and Housing and municipal governments. Projects which are subject to the Environmental Screening Process may also required approval under the *Planning Act*, such as an amendment to a municipal official plan, a change in zoning, and/or a minor variance to a zoning by-law. The *Planning Act* generally requires some public consultation for these land use applications. Proponents should contact the local municipal government to enquire if any land use approvals are required for their proposed undertaking.

### *Lakes and Rivers Improvement Act*

The *Lakes and Rivers Improvement Act* regulates the construction, repair and use of a dam on any lake or river, or diversions of streams and is administered by the Ministry of Natural Resources. Construction of a dam requires approval from the Minister of Natural Resources.

### *Canadian Environmental Assessment Act*

Electricity projects may also be subject to the requirements of the *Canadian Environmental Assessment Act* (CEAA). The following information on CEAA is not all inclusive and is













