

Table of Proposed OWA Class EA Amendments (December, 2019)

Amendment #	Section	Current Text <i>(current text - e.g., screening process or current project category/schedule)</i>	Proposed Amendment <i>(proposed new text -e.g., screening process or category/schedule shift)</i>	Rationale <i>(provide rationale based on factors for low-risk projects – known and minor environmental effects standard mitigation; duplication of regulatory mechanisms – where the duplication is addressed in other regulatory mechanisms; comments from any pre-consultation that was completed prior to submission)</i>
1.	3.0,	The section provides a general overview of the Class EA process requirements. The proposed amendment would replace the following text: The categorization of projects within this Class EA does not define or differentiate the rigor of environmental evaluation required. All projects are required to evaluate and assess the potential impacts of the project and produce an Environmental Report.	The amendment introduces the concept of the application of a screening process for low-risk projects to be exempt from the EA process. Please see page 1 of attached redline for revised section 3.0.	The OWA's Class EA Framework is entirely premised on the relationship between the environmental context within which a project is undertaken and the complexity of the planning and permitting process. Projects utilizing existing infrastructure are by definition of lower risk than Greenfield projects. The incorporation of a screening mechanism to further differentiate lowest risk projects is consistent with the Class EA Framework and (new) Section 15.3 of the Environmental Assessment Act.
2.	3.1	The section describes the categorization of projects subject to the Class EA. The proposed amendment would replace the following text: <ul style="list-style-type: none"> • Projects 500 kW and under in nameplate capacity and associated with existing infrastructure or increases in efficiency; • New projects on managed river systems; and • New projects on unmanaged river systems. 	The amendment clarifies certain projects that are eligible to complete a screening process to be exempt from EA requirements, including, projects associated with existing infrastructure or increases in efficiency. Please see page 1 of the attached redline for revised section 3.1.	The incorporation of a screening mechanism to further differentiate lowest risk projects is consistent with the Class EA Framework and Section 15.3 of the Environmental Assessment Act.
3.	3.1.1 Title	This section is currently titled: “Projects 500 kW and Under in Nameplate Capacity and Associated with Existing Infrastructure or Increases in Efficiency” and details the Class EA process for those projects.	The amendment details the process for Projects Associated with Existing Infrastructure or Increases in Efficiency on Managed Waterways. The title of section 3.1.1 has been amended to reflect this. Please see page 1 of the attached redline for revised section 3.1.1.	The application of a 500kW benchmark was related to the province’s procurement mechanism at the time (i.e. Feed in Tariff Program). The addition of a robust screening mechanism to the “Existing Infrastructure” project category will ensure that only the lowest risk projects are screened out, while all other projects will be subject to the full Class EA process.

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4.	3.1.1	<p>The section outlines the process of the review of regulatory agencies of eligibility for the categorization of a project as well as the public notice provisions (Notice of project, Notice of Completion). Current text reads as follows:</p> <p>In terms of process, the projects meeting either set of criteria above will include a proponent-agency coordination meeting and the publication of a Notice of Project to regulatory agencies for confirmation that the proposed project is consistent with the criteria outlined above. If the project is not consistent with either set of criteria above, the project will be otherwise classified under the Class EA. The Notice of Project will also be provided to other agencies that may have a regulatory interest in the project (e.g. conservation authorities), any interested persons who may be directly affected by the project, the local municipality and Aboriginal communities that may be potentially affected by the project.</p> <p>There will also be a second public notice (Notice of Completion) to parties who have requested to be informed and engaged and/or who have participated in the consultation.</p>	<p>The amendment requires that, in terms of process, the proponents of projects meeting either set of criteria will qualify to complete a screening to confirm that there are no significant negative environmental effects anticipated from the project.</p> <p>Please see page 3 and 4 of the attached redline.</p>	<p>The application of the screening criteria requires that a proponent assess upfront the scope of the project as relevant to key considerations and determine whether or how to apply of Best Management Practices and mitigation strategies in advance of proceeding.</p>

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5.	3.1.1	<p>The section outlines that the category applies to small waterpower projects that are associated with existing generation facilities or water management infrastructure or those projects that only involve increases in efficiency of the existing waterpower facility subject to the defined criteria listed below. Current text reads as follows:</p> <p>This category applies to small waterpower projects that are associated with existing generation facilities or water management infrastructure (as defined in Appendix A), with a resultant nameplate capacity of 500 kW or under, and subject to the criteria listed below. This category also includes projects that only involve increases in efficiency of the existing waterpower facility, regardless of nameplate capacity (as defined in Appendix A). In general, this schedule of projects is anticipated to involve very minimal, short term and localized effects. The scope of change will be restricted to the infrastructure itself or a minor footprint (25% or less) beyond the existing infrastructure. For these projects, water management regimes will already be in place and it is expected that these projects may not result in adverse environmental effects in this regard.</p>	<p>The amendment notes that this schedule of projects is anticipated to include projects that involve very minimal, short term and localized effects that can be addressed through other legislative mechanisms (e.g., Lakes and Rivers Improvement Act, Fisheries Act, etc.) and details the screening process that has been developed to enable those project to be screened and, subject to that the screening outcomes, exempt from the Ontario Environmental Assessment Act, and therefore the Class EA. Please see pages 2-3 of the attached redline.</p> <p>The amendment also builds on the criteria applied to define the category (i.e. Limit any increase in the footprint of the water management infrastructure to 25% or less; maintain the existing water management regime; and does not have any significant new inundation area) by adding additional screening criteria, per the table on page 5 of the attached redline.</p>	<p>The specific reference to other potentially applicable legislation clarifies that, notwithstanding the potential for a low risk project to be exempt from the Ontario Environmental Assessment Act, and therefore the Class EA as a result of the application of the screening criteria, projects will still be subject to the requirements of other environmental legislation.</p> <p>The expansion of screening criteria, as detailed in the Table (and outlined in Amendment #8) ensures that that key considerations are assessed both individually and collectively upfront, resulting in only the lowest risk projects being screened out and facilitating the development appropriate mitigation strategies.</p>

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		<p>Projects 500 kW and under and associated with existing infrastructure must meet the following criteria:</p> <ul style="list-style-type: none"> • Have a resultant installed nameplate capacity of 500 kW or less; • Are associated with existing water management infrastructure, such as a dam, a weir, or a lock. The existing water management infrastructure may be retrofitted, or redeveloped or refurbished/upgraded (as defined in Appendix A); • Limit any increase in the footprint of the water management infrastructure to 25% or less; • Maintain the existing water management regime (as defined in Appendix A); and, • Do not have any significant new inundation area (as defined in Appendix A). <p>Projects that only involve efficiency increases must meet the following criteria:</p> <ul style="list-style-type: none"> • Increase the efficiency of existing equipment at the facility (as defined in Appendix A), where: <ul style="list-style-type: none"> The resultant capacity is under 200 MW; or The increase is less than 25% of existing capacity and the resultant capacity is 200 MW or greater; • Limit any increase in the footprint of the water management infrastructure to 25% or less; • Maintain the existing water management regime (as defined in Appendix A); and 		

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		<ul style="list-style-type: none"> • Do not have any significant new inundation area (as defined in Appendix A); 		

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6.	3.1.1	No current provision	<p>The amendment adds a screening checklist that must be completed by the proponent for each project following issuance of the notice. Further, it stipulates that: “If concerns are raised by an Aboriginal community regarding a potential infringement on an established or asserted Aboriginal or treaty right, it may trigger the Crown’s duty to consult. In such instances, the proponent will seek guidance from the Ministry of the Environment, Conservation and Parks. It is the expectation of the ministry that the proponent will work with the ministry and Aboriginal communities to address prior to the completion of the completion of the screening process.”</p> <p>Please see page 3 of the attached redline.</p>	<p>The incorporation of specific reference to “If concerns are raised by an Aboriginal community regarding a potential infringement on an established or asserted Aboriginal or treaty right” ensures that upfront in the screening process a means to address these concerns are identified.</p>
7.	3.1.1	No current provision	<p>The amendment requires that the proponent document supporting analysis and conclusions, including any mitigation or impact management measures to prevent or reduce the effects the project may have on the surrounding environment. If the response to any of the screening questions is “yes” the proponent must complete the full Class EA process for the project.</p> <p>The section also stipulates that Projects that are screened out of the Class EA remain subject to applicable provincial and federal legislation as outlined in Table 1.</p> <p>Please see page 3 and 4 of the attached redline.</p>	<p>The requirement that a project proponent (and/or the proponent’s environmental practitioner(s)) assessed the project against the series of criteria and respond “No” to all of them ensures that the criteria are assessed both individually and collectively, resulting in only the lowest risk projects being screened out.</p> <p>The reference to Table 1 reinforces that, notwithstanding the potential for a low risk project to be exempt from the Class EA, projects will still be subject to the requirements of other environmental legislation.</p>

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8.	3.1.1	No current provision	<p>The amendment requires that the following screening be applied to eligible projects (Projects Associated with Existing Infrastructure or Increases in Efficiency on Managed Waterways)</p> <p>After application of appropriate Best Management Practices and mitigation strategies, is the project expected to:</p> <ul style="list-style-type: none"> a) Change the water management regime, including (but not limited to) significant change to water flow, inundated area or, historical mean monthly maximum water level? b) Release contaminants into the immediate environment that exceed regulatory thresholds? c) Cause negative effects on species or their habitat for species listed under the Ontario Endangered Species Act? d) Cause negative effects on protected areas, such as areas of natural and scientific interest (ANSIs), environmentally sensitive areas (ESAs) or provincially significant wetlands? e) Cause considerable sedimentation or erosion on or off-site? f) Have negative effects on designated heritage buildings, structures, sites, or archaeological resources? <p>Please see page 5 of the attached redline.</p>	<ul style="list-style-type: none"> a) Water levels and flows are a primary determinant of ecological function. Maintaining the existing flow regime ensures that the system continues to support the ecosystem already in place and the interests related to it. Eliminating any project which would result in any new inundation that is detectable beyond the historical mean monthly high water level ensures a conservative, science-based approach to restricting the potential impacts of flooding b) Provides for the upfront identification of potential water quality considerations and mitigation approaches, as appropriate c) Provides for the upfront identification of potential legislative considerations and mitigation approaches, as appropriate d) Provides for the upfront identification of potential key ecological considerations and mitigation approaches, as appropriate e) Provides for the upfront inclusion of erosion and sediment control best management practices f) Provides for the upfront identification of potential key cultural considerations and mitigation approaches, as appropriate

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9.	3.1.2	<p>This section outlines the process for projects at existing infrastructure not meeting the requirements of Section 3.1.1. Current text reads:</p> <p>3.1.2 Projects Over 500 kW in Nameplate Capacity and Associated with Existing Infrastructure</p> <p>This category includes waterpower projects that result in additional nameplate capacity of over 500 kW and that are expansions, modifications or redevelopments and are proposed at, near or around existing facilities or water management infrastructure. As an example, this could include the retrofit of an existing dam to incorporate a waterpower facility.</p> <p>Although the Electricity Projects Regulation does not define “retrofitting” or “redevelopment”, these terms, as they are commonly applied to waterpower projects, have been defined in this Class EA (see Appendix A) for additional clarity in the categorization of projects.</p> <p>Projects associated with existing infrastructure are less likely to involve new significant effects and are anticipated to have localized interests. In general, this category of projects will involve relatively localized direct effects to the environment and, while project size may vary, the scope of change will often be restricted to</p>	<p>The amendment incorporates the appropriate components of this section into Section 3.1.1</p> <p>Please see attached document for revised section 3.1.1</p>	<p>The revision simplifies the categorization of projects streams (existing infrastructure, managed waterway, unmanaged waterway), as was the case with the initial Class EA.</p>

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		<p>the infrastructure itself and the zone of impact resulting from modification. However, these types of facilities may have been in existence for many years and may have built cultural heritage value or interest. These projects, therefore, have the most likelihood to affect buildings or structures of cultural heritage value or interest (“built heritage”). However, the possibility of affecting built heritage is potentially relevant to all categories. In addition to the limitations imposed by changes to existing infrastructure, it is reasonable to expect that water management regimes are already established, either as expressed through a formal water management plan or through the identification of relevant social and environmental values and interests. Projects within the category that involve significant changes in water management regimes are likely to be more complex than those that do not. In terms of process, the projects will include a proponent-agency coordination meeting, a mandatory public notice at the beginning of the project (Notice of Commencement) and a second public notice (Notice of Completion) to parties who have requested to be informed and engaged and/or who have participated in the consultation. Applying the framework of the Electricity Projects Regulation, these projects include:</p> <ul style="list-style-type: none"> • Expansion or change to an existing generation facility that has a 		

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		<p>resultant nameplate capacity of over 500 kW and less than 200 MW*;</p> <ul style="list-style-type: none"> Expansion or change to an existing generation facility by less than 25% with an initial nameplate capacity of less than 200 MW and resultant nameplate capacity of 200 MW or more; Expansion or change to an existing generation facility by less than 25% with an initial nameplate capacity of greater than 200 MW; Retrofitting of existing infrastructure with a resultant nameplate capacity of over 500 kW and less than 200 MW. Note that if the project is an efficiency increase as per section 3.1.1, it may proceed under the process set out for projects under section 3.1.1. Note the transition and grandparenting exemptions of the Electricity Projects Regulation 		
10.	Table 2 – Distinctions between project types	The table has two separate columns for projects at existing infrastructure. Please see page 8 of the redline for the current text.	<p>Consistent with the incorporation of Section 3.1.2 into 3.1.1, the amendment has one column for projects at existing infrastructure</p> <p>Please see page 8 of the attached redline</p>	The revised Table simplifies the categorization of projects streams (existing infrastructure, managed waterway, unmanaged waterway), as was the case with the initial Class EA.
11.	Figure 5	The figure outlines the process for projects in Section 3.1.1. Please see page 12 of the redline for the current figure.	The amendment removes the figure. Figure 6 outlines the process for all projects subject to the Class EA and the new figure added outlines the screening process (see below)	The revised Figure simplifies the categorization of projects streams (existing infrastructure, managed waterway, unmanaged waterway), as was the case with the initial Class EA.
12.	4.1	This section outlines the Project Concept elements of the former section 3.1.1, as follows	<p>The amendment removes this paragraph as it is no longer relevant</p> <p>Please see page 14 of the attached redline</p>	The revision establishes internal consistency within the document.

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		<p>For projects under section 3.1.1, key aspects of this phase include:</p> <ul style="list-style-type: none"> • Describing the project and the characteristics of the environment within which the project is proposed; • Establishing a project coordination approach with key provincial and federal agencies; and • Determining which members of the public and Aboriginal communities may be potentially affected by the project. 		
13.	4.2.1	<p>This Section includes a description of the “Notice of Project” requirements of projects included in the former section 3.1.1:</p> <p>Proponents undertaking a project with 500 kW or less capacity that is associated with existing infrastructure and projects that are only efficiency increases at an existing facility are not required to issue a Notice of Commencement. Instead proponents must issue a Notice of Project to regulatory agencies, other agencies that are potentially interested in the project, anyone potentially directly affected by the project, and potentially affected Aboriginal communities. The Notice of Project initiates formal project coordination of the EA, and must be issued prior to</p>	<p>The amendment removes this paragraph as it is no longer relevant</p> <p>Please see pages 16 and 17 of the attached redline</p>	<p>The revision establishes internal consistency within the document.</p>

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		<p>developing the ER. This notice allows regulatory agencies to ensure the classification of the project is correct, and guide the development of the ER. The Notice of Project will be published on the OWA website and, if available, the proponent's website. Notices will be provided to anyone directly affected by the project by direct mail outs.</p> <p>The Notice of Project must include:</p> <ul style="list-style-type: none"> • The project title; • The name of the proponent; • A brief description of the project and tentative schedule; • A map showing project location and anticipated zone of influence; • The project type (retrofit, redevelopment or refurbishment/upgrade; or efficiency increase); • Watercourse identification; • Current installed capacity and proposed installed capacity; • Anticipated % expansion of infrastructure, if any; • A statement that the project meets the criteria in section 3.1.1 subject to confirmation with regulatory agencies; • A statement that: "This project is being evaluated as a [small hydro project associated with existing infrastructure/project that only involves an increase in efficiency of the existing facility] per section 3.1.1 of the Class Environmental Assessment for Waterpower Projects; and • An explicit statement that subsequent direct notices will be provided 		

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		to those who express an interest in the project. If it is determined that the proponent incorrectly classified the project at any point during the Class EA process, the proponent will issue a Notice of Commencement in accordance with Section 4.2.1. Regulatory agencies may request the proponent consult with particular Aboriginal communities or directly affected parties as part of developing the ER. Ideally these communities and/or parties will be identified at the proponent-agency coordination meeting, but may also be identified later in the EA process as new information may be made available.		
14.	6.1.1, para 1	This Section includes reference to “Notice of Project”: This section discusses the mandatory notification requirements for the project categorizations discussed in Section 3. The mandatory points of contact for a project associated with existing infrastructure include: • Notice of Project or Notice of Commencement; • Notice of Completion (to those who either responded to the Notice of Project or Notice of Commencement or have otherwise expressed an interest in the project to the proponent); and • Statement of Completion.	The amendment adds the term “Project Screening”, consistent with the amendment to Section 3.1.1 Please see page 27 of the attached redline	The revision establishes internal consistency within the document.

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15.	Appendix A	N/A	The amendment adds a definition of Project Footprint – “for projects at existing infrastructure, the relative topographic increase of the existing Water Management Infrastructure” Please see page 49 of the attached redline.	The addition of the definition of “project footprint” is linked to the restriction in the subset of low risk projects that may apply the screening criteria.
16.	Appendix A - Redevelopment	The definition includes the description “Uses existing water management infrastructure that previously did produce electricity to produce electricity again....”	The amendment removes reference to “Uses existing water management infrastructure that previously did produce electricity to produce electricity again” and adds it to the definition of “Retrofit” Retrofit – The conversion of existing infrastructure (e.g. dam, canal, conduit, or similar) that previously did or did not produce electricity so that it does produce electricity (e.g. a Generating Station/Facility).	The revision restricts the subset of low risk projects eligible for screening to exclude “redevelopment”.
17.	Appendix A – Retrofit	The current definition is “The conversion of existing infrastructure (e.g. dam, canal, conduit, or similar) that previously did not produce electricity so that it does produce electricity (e.g. a Generating Station/Facility).”	The amendment incorporates the change to “Redevelopment”, as follows: The conversion of existing infrastructure (e.g. dam, canal, conduit, or similar) that either previously did or did not produce electricity so that it does produce electricity (e.g. a Generating Station/Facility).”	The revision clarifies that a retrofit to existing infrastructure includes those structures which previously produced power.
18.	Appendix D – Notice of Project	The current Notice template is designed for the “Notice of Project” concept included in the original Section 3.1.1, which has now been replaced.	The amendment updates the template as follows: Notice of Project Screening under the Class EA for Waterpower Projects _____ Waterpower Project Date: _____ Proponent_____ is planning to undertake a project screening for a proposed waterpower project (name of project) located _____. The project is subject to the provisions of the Ontario Waterpower Association “Class Environmental Assessment for	The revision aligns the Notice Template with the revised Section 3.1.1

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			<p>Waterpower Projects” for Projects Associated with Existing Infrastructure or Increases in Efficiency.</p> <ul style="list-style-type: none"> • Project title and Map; • Brief description of the project and tentative schedule; • Project type (retrofit, or refurbishment/upgrade; or efficiency increase); • Watercourse; • Current installed capacity and proposed installed capacity; • Anticipated % expansion of infrastructure, if any. <p>Pursuant to the Class EA, this project is being screened in accordance with the process outlined in section 3.1.1 of the Class EA for Waterpower Projects. For further information about the proposal, please contact _____</p> <p>The Class EA process requires _Proponent____ to complete a screening to confirm that there are no significant negative environmental effects anticipated from the project. As a first step in the screening process, this Notice of Project Screening is being publically posted and sent directly to: key provincial Ministries; anyone potentially directly affected by the project; and potentially affected Aboriginal communities. Projects that are screened out of the Class EA remain subject to applicable provincial and federal legislation as outlined in Table 1 of the Class EA.</p> <p>You are invited to provide comments on the key considerations to be addressed. For information on the project proposal, contact:_____.</p> <p>Please see page 52 of the attached redline</p>	
19.	Section 8.6	A description of Part II Order provisions.	<p>8.6 Part II Orders</p> <p>MECP to provide standardized wording for this section.</p>	MECP is proposing an amendment to standardize language for Part II Orders across all Class EAs.

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20.	Section 8.2	Section 8.2 includes a description of amending procedures for this Class EA.	<p>8.2 Amending Class Environmental Assessment Documents</p> <p>MECP to provide standardized wording for this section.</p>	MECP is proposing an amendment to standardize language for Part II Orders across all Class EAs.
21.	Section 6.0	N/A	<p>Notification</p> <p><i>Notification sections should be updated to advise proponents that they must submit any required notices to the following email addresses:</i></p> <ol style="list-style-type: none"> 1. Generic Class EA email address ClassEAnotices@ontario.ca and 2. The Regional Class EA email address <ul style="list-style-type: none"> Central Region – eanotification.cregion@ontario.ca Eastern Region – eanotification.eregion@ontario.ca Northern Region – eanotification.nregion@ontario.ca South West Region – eanotification.swregion@ontario.ca West Central Region – eanotification.wcregion@ontario.ca 	MECP proposed amendment to standardize language across all Class EAs.

Figure X: Class Environmental Screening Process for Projects Associated with Existing Infrastructure or Increases in Efficiency on Managed Waterways

