

Rationale for requested amendments to A Class Environmental Assessment for Ministry of Natural Resources (MNR) Resource Stewardship and Facility Development Projects (Class EA-RSFD)

Background:

MNR is requesting amendments to the Class EA-RSFD. The amendments are intended to ensure that the document continues to comply with legislative requirements, reflects current planning practices, and continues to satisfy the purposes of the *Environmental Assessment Act* (EA Act). The amendments are a result of a required five-year review cycle for the Class EA-RSFD and reflect 15 years of experience using the Class EA-RSFD. They also reflect streamlining efforts in 2015 (stage 1) and contribute to the government's goals of modernizing Ontario's EA program and legislative amendments to the EAA in 2019 (stage 2). This rationale table is intended to explain the nature of the amendments MNR is requesting and provide the associated rationale for the changes. This table is intended to be reviewed in conjunction with the proposed amended text of the Class EA-RSFD.

The rationale provided below is presented in two tables, consistent with the two stages (2019 and 2015) described above.

February 2020

Section	Amendment Request	Rationale
Throughout	<p>Topic: Administrative Changes</p> <p>Description: Updates and 'housekeeping' changes (reflect new legislation, reflect Ministry name changes, re-ordering, etc.)</p>	<ul style="list-style-type: none"> • Improve readability and provide clarity • Reflect legislative, policy or practice, or Ministry name changes (MOECC to MECP) • Replace "Aboriginal" with "Indigenous" • Update figures, consequential change from amendments to text
Throughout, including: Figure 1	<p>Topic: Exempt projects</p> <p>Description: Add text describing the ways projects can be exempt from the EA Act</p>	<ul style="list-style-type: none"> • Consistent with June 2019 EA Act amendments, certain projects subject to this class EA may be exempt from requirements of the EA Act:

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Section 2.2 Section 3.1		<ul style="list-style-type: none"> - Projects listed as Category A in section 3.1.1 are generally exempt from the EA Act - Projects screened and assigned to Category A are exempt from the EA Act.
Section 2.1	<p>Topic: Area of application</p> <p>Description: Insert “This Class EA applies to projects on lands controlled by MNRF”</p>	<ul style="list-style-type: none"> • To provide clarity on EAA coverage for lands identified for protection but not regulated under the Provincial Parks and Conservation Reserves Act. These lands are typically managed by MNRF
Section 2.2.14	<p>Topic: Dispositions</p> <p>Description: Update heading and text about dispositions</p>	<ul style="list-style-type: none"> • Provide clarity on what a disposition is • Clarify that the disposition is the project subject the Class EAs • Builds on approach for disposition of Crown resources proposed in 2015.
Section 2.4	<p>Topic: Proponency</p> <p>Description: Inserted “The Class EA document is also available for use by the Ministry of the Environment, Conservation and Parks (MECP) as a proponent of projects under the Endangered Species Act, 2007. MECP will proceed with projects subject to this Class EA in accordance with its requirements. Wherever the document refers to MNRF with respect to the Class EA process, the document may be read as also referring to MECP, as appropriate.”</p>	<ul style="list-style-type: none"> • As a result of the transition of Endangered Species Act, 2007 (ESA) responsibilities from MNRF to MECP, for clarity, amend the RSFD Class EA to clearly identify MECP as a proponent of projects that may proceed under the Class EA with respect to ESA authorizations.
Section 3.1.1	<p>Topic: Exempt projects</p> <p>Description:</p>	<ul style="list-style-type: none"> • Additional projects are exempt, consistent with recent EA Act amendments. • Specify items on the list are exempt if they are component of a Class EA project; and would

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	<p>Section 3.1.1. provides a list of all pre-assigned Category A and exempt projects that can proceed to implementation.</p> <p>The following are the projects proposed for exemption in 2020 (numbering corresponds to the proposed amended Class EA):</p>	<p>not be exempt if they are a component of larger project subject to and IEA.</p>
	<p>24) Projects or activities related to land claim settlements and other agreements with Indigenous communities.</p>	<ul style="list-style-type: none"> • The existing land claim negotiations process, led by Indigenous Affairs Ontario, provides the appropriate level of assessment of potential environmental effects, appropriate mechanisms to fulfill Crown duty to consult obligations, while providing opportunities for stakeholder, public and agency consultation.
	<p>25) Authorizations under the <i>Endangered Species Act, 2007</i></p>	<ul style="list-style-type: none"> • <i>Endangered Species Act, 2007</i> (ESA) authorizations have historically been screened to Category A.
	<p>26) Construction, upgrading, or decommissioning (including MNR granting permissions for these purposes) of dams, dykes, and other water control structures</p>	<ul style="list-style-type: none"> • Under the authority of the Lakes and Rivers Improvement Act (LRIA), MNR administers a comprehensive set of rules and requirements for construction, decommissioning, replacement, repair or maintenance of dams and other water control structures, as established in regulation, and in Ministerial approved technical bulletins and best management practices. • LRIA direction addresses approval requirements for determining structure location, design, construction, operation, decommissioning, removal, maintenance and safety of structures. This direction essentially

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		<p>duplicates guidance and process set out in the Class EA-RSFD.</p> <ul style="list-style-type: none"> • Project may be conducted by MNRF and includes MNRF granting permissions for these purposes
	27) Access Points, Canoe Routes, Off -line Ponds or Fishways	<ul style="list-style-type: none"> • Potential impacts of activity to the natural environment are responsive to standard mitigation techniques and activities have low net negative environmental effect. • Project may be conducted by MNRF and includes MNRF granting permissions for these purposes
	28) Roads, transmission corridors or trails under 250 metres in length	<ul style="list-style-type: none"> • Exempting transmission corridors or trails under 250 metres in length builds on a 2015 proposal to exempt roads under this length. • Impacts to natural environment are responsive to standard mitigation techniques. Activity has low net negative environmental effects. • Project may be conducted by MNRF and includes MNRF granting permissions for these purposes

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	29) Disposition of Crown owned aggregates (with exception of Crown-owned aggregate or topsoil to be extracted from the bed of a natural waterbody).	<ul style="list-style-type: none"> • The <i>Aggregate Resources Act</i> (ARA) framework provides for the consideration of potential effects (water, natural environment, cultural heritage) and consultation on new applications. Steps are underway to ensure that this framework can address any additional local or resource user engagement required for permit applications. • Permissions to extract Crown-owned aggregate or topsoil from the bed of a natural waterbody is pursuant to the ARA Section 34 (1)(b).
	30) Minor water-related excavation, dredge and fill, waterfront development and shoreline stabilization (including MNRF granting permissions for these projects)	<ul style="list-style-type: none"> • Minor projects of this type possess a minimal probability of an adverse outcome or event in the absence of mitigation. • Typically, minor water related projects have well understood effects, requiring no mitigation measures excepting regard for possible effects on fish habitat. • Authorization is required for these activities and this includes standard conditions. Additional conditions related to fish habitat and fish movement can be added to the authorization prior to implementation. • Project may be conducted by MNRF and includes MNRF granting permissions for these purposes
	31) Transfers of administration and control to or from the federal government or other provincial Minister	<ul style="list-style-type: none"> • Activities on land transfers to the Federal Government would be subject to Federal legislation.

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		<ul style="list-style-type: none"> • Transfers to other ministries or agencies retain administration and control with the Crown but under a different government ministry.
Section 5.5	<p>Topic: Part II Order Requests</p> <p>Description: Delete existing language. MECP to provide standardized wording for this section.</p>	<ul style="list-style-type: none"> • MECP is proposing an amendment to standardize language for Part II Orders across all Class EAs. • Retain text about early resolution in main text and sample notices, and MECP referral of request, consistent with current processes. Move 2 section 4.
Section 5.7	<p>Topic: Amending Procedure</p> <p>Description: MECP to provide standardized wording for this section.</p>	<ul style="list-style-type: none"> • MECP is proposing an amendment to standardize language for amending procedures across all Class EAs
<p>April 2015: Rationale for requested amendments to A Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects</p>		
All Sections	<p>Topic: Administrative Changes</p> <p>Description: Updates and 'housekeeping' changes (reflect new legislation, re-ordering, Ministry name changes etc.).</p>	<ul style="list-style-type: none"> • Improve readability and provide clarity. • Reflect legislative, policy or practice changes that have occurred since the Class EA was approved. • Ensure consistency with MOECC's Codes of Practice for Class EAs.
Section 2.2	<p>Topic: Class of Undertakings</p> <p>Description: Add a paragraph providing more detail describing dispositions as a subset of resource stewardship undertakings. Update language describing range of projects. Update list of</p>	<ul style="list-style-type: none"> • Provide clarity on class of undertakings. • Better represent current MNR programs, activities and range of projects.

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	examples of dispositions.	
Sections 2.2.14, 2.5, and 3.2	Topic: Approach for Dispositions of Crown Resources Description: Changes to how the Class is applied to dispositions of Crown resources for private projects, to focus MNRF review on the potential effects of the granting of a Crown resource under consideration.	<ul style="list-style-type: none"> • Adjusts the scope of Class EA evaluation to match the scope of the EAA and the Class of undertakings; MNRF's granting of a disposition is the activity subject to the Class EA, not the private project for which the disposition is requested. • MNRF would still consider potential impacts of applicants' projects outside of the Class EA process, such as under the legislation used to grant the disposition.
Section 2.5.1	Topic: Coordination with EAA Processes Used by Other EAA Proponents Description: Add Dispositions in respect of undertakings by another EAA proponent to the list of pre-categorized A projects.	<ul style="list-style-type: none"> • Avoids duplication and is consistent with current approach of not applying the Class EA to dispositions for projects subject to another EAA mechanism. • Effects of granting the disposition are closely linked to the project and are contemplated as part of the EAA proponent's EAA process.
Section 3.1	Topic: Project Categories Description: Update the descriptions of project categories and project examples.	<ul style="list-style-type: none"> • Provide better distinction between range of negative effects and public concern associated with each category. • Project examples for each category better reflect current practice.
Section 3.1.1	Topic: Additions to list of Pre-categorized A Projects from 2015 Description: Expand the list of pre-Categorized A projects.	<ul style="list-style-type: none"> • Projects proposed for addition are consistent with the definition of Category A by having low net negative environmental effects, and/or public or agency concern. The majority have a history of routinely screening to Category A.

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	8) Emergency Activities as described in 2.2.18	<ul style="list-style-type: none"> • Change recommended by MECP to ensure emergency activities have sufficient EA coverage, and can proceed to implementation without delay. Current provision in S. 5.4, states that responding to urgent situations is “not subject to the processes under this Class EA”. • Applies to immediate actions undertaken by MNR in response to emergencies
	9) Granting of permissions to a proponent who has completed and EA process under the EA Act to carry out its undertaking	<ul style="list-style-type: none"> • Replaces provision in 2.6.2 of the approved Class EA
	10) Granting of permissions related to a hydrocarbon pipeline project approved by the National Energy Board or Ontario Energy Board	<ul style="list-style-type: none"> • Replaces the current exemption from screening in Section 2.2.13. The decision-making processes of the National Energy Board or the Ontario Energy Board considers impacts on the environment. •
	11) Depatenting land	<ul style="list-style-type: none"> • The process of declaring patented land held by MNR to be public land (i.e. closing of parcel) is an administrative transaction.
	12) Removing and/or dismantling unauthorized occupations of Crown land	<ul style="list-style-type: none"> • MNR operational activities that ensure structures on Crown land are properly planned, managed, safe, and environmentally sustainable result in overall public interest benefits and positive net environmental impacts.
	13) Restoring Crown resources affected by unauthorized activity	<ul style="list-style-type: none"> • MNR operational activities that ensure structures on Crown land are properly planned, managed, safe, and environmentally

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		sustainable result in overall public interest benefits and positive net environmental impacts.
	14) Release of reservations for trees	<ul style="list-style-type: none"> • The release of a reservation for trees on patented land (i.e. privately owned land) is an administrative transaction. • The Crown has historically reserved trees (either a species such as pine or all trees) in letters patent for grants of land. However, currently, MNRF generally does not reserve trees in letters patent. • Release of other reservations were exempt via 2019 EAA amendments
	15) Prescribed burning	<ul style="list-style-type: none"> • Prescribed burning is the deliberate, planned and knowledgeable use of fire by authorized personnel in accordance with MNRF policy to manage vegetation and habitat. MNRF policy and procedure on use of prescribed fire requires analysis of risk, public notification, and extensive planning.
	16) Issuance of a licence to harvest wild rice on Crown land	<ul style="list-style-type: none"> • Licenses for fishing, hunting and trapping were exempt via recent EAA amendments. • Licence (disposition) has low net negative environmental effects.
	17) Control of invasive species	<ul style="list-style-type: none"> • These projects involve control species (when MNRF considers that they pose a threat to the environment. • Need to provide flexibility to act quickly before invasive species become established. Delay in responsive action may allow an invasive

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		<p>species to establish a self-sustaining population.</p> <ul style="list-style-type: none"> • Other policy/regulatory frameworks are often involved to ensure any potential negative effects from the project are mitigated. These may require public notification or engagement prior to proceeding with the control activities. For example, approval permits from MECP are required for aquatic uses of pesticides to control invasive species in public waters and include conditions for notification as appropriate.
	18) Install signage	<ul style="list-style-type: none"> • Installation of signage has low net negative environmental effects.
	19) Renewal or issuance of subsequent authority to use or occupy Crown land	<ul style="list-style-type: none"> • Renewal and reissuance of existing authorized land use occupational authority is an administrative transaction.
	20) Change in type of tenure to occupy Crown land, excluding sale	<ul style="list-style-type: none"> • The upgrade of tenure is largely an administrative transaction.
	21) Sale of parcels of Crown land under 0.2 hectares to authorize existing uses	<ul style="list-style-type: none"> • Small scale encroachments are often the result of individuals being unaware of their boundaries. Legitimizing occupation through sale of Crown land is preferred method by MNRF of resolving unauthorized occupations of Crown land. These sale authorizations have low net negative environmental effect because there is no change in use.
	22) Sale of Crown shoreline reserves or road allowances under 1.0 hectare to the adjacent private property owner	<ul style="list-style-type: none"> • These files are reviewed by MNRF lands staff prior to approval and if consultation is required through agreement with a First Nation then MNRF would advise the band office. If there are adjacent landowners MNRF would advise

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		<p>via letter of the reserve sale request.(Existing PLA procedure requires notification (survey process addresses the adjacent landowners boundary concerns)). The sale is a disposition</p> <ul style="list-style-type: none"> • The sale has low net negative environmental effect because there is no change in use and land is often used as private already.
	<p>23) Granting a Permission for:</p> <ol style="list-style-type: none"> a. Seasonal work camp e.g., tree planters' camp b. Type B authorization for an outpost camp c. Temporary wood storage area 	<ul style="list-style-type: none"> • MNRF does a desktop review of these applications. <p>Seasonal work e.g., tree planters' camp</p> <ul style="list-style-type: none"> • Camps are typically small (20 to 30 workers) and mobile and are located in areas where access is previously established and disturbance (forestry) has already occurred. • The locations of these temporary camps for forest regeneration or renewal personnel are identified in forest management planning process and have low net negative environmental effects. <p>Type B authorization for an outpost camp</p> <ul style="list-style-type: none"> • Temporary shelter on Crown land to provide accommodation to clients of a commercial outfitter for a non-recurring, short term, single purpose site is an activity that is has low net negative environmental effect. <p>Temporary wood storage areas</p> <ul style="list-style-type: none"> • Wood storage outside an area authorized by location in a forest management plan requires a

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		LUP is an activity that has low net negative environmental effect.
Table 3.1	<p>Topic: Screening Criteria</p> <p>Description: Improvements to screening criteria.</p>	<ul style="list-style-type: none"> • Provide clarity and reduce duplication. • “Mitigation” is added to the heading of the right column to improve documentation during implementation.
Formerly Table 3.2	<p>Topic: Considerations for Assigning Projects to Categories</p> <p>Description: Delete table and move direction to text of section 3.1</p>	<ul style="list-style-type: none"> • Deleted to improve the clarity of level of risk and considerations associated with assigning a category and to consolidate direction to text of section 3.1
Section 4.1	<p>Topic: Aboriginal Consultation – The Legal Duty to Consult</p> <p>Description: Add a subsection providing direction the constitutional duty to consult.</p>	<ul style="list-style-type: none"> • Added to address concerns raised by MOECC • Added to reflect current understanding of the Crown’s duty to consult with Aboriginal communities and MNRF practices
Section 5.4	<p>Topic: Recurring Projects</p> <p>Description: Add recurring projects: where MNRF is the proponent of a project that generally conforms to the same project description and project area, which is implemented periodically over an identified timeframe (e.g. habitat management for a plant species at risk).</p>	<ul style="list-style-type: none"> • Added to allow EA requirements to be fulfilled for a project that is implemented periodically (e.g. habitat management for a plant species at risk) for up to ten years • Added to improve efficiency and maintain a high standard of environmental protection. All potential impacts associated with a recurring project would be identified, assessed and mitigated according to the Class EA
Appendix 7	<p>Topic: Typical Mitigation Measures</p> <p>Description:</p>	<ul style="list-style-type: none"> • Provide more detail on typical environmental effects, and standard mitigation measures of the undertakings included in the Class EA.

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	New appendix that provides generic examples of typical mitigation measures.	