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This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

This consultation draft regulation was prepared to support consultation on the proposal [Moving to a Project List Approach under the Environmental Assessment Act](#) that was originally published to the Environmental Registry of Ontario on November 26, 2021.

This consultation draft regulation has not been updated to reflect the revised proposal of March 10, 2023 which can be found in the updated posting.

Cette publication hautement spécialisée “Moving to a Project List Approach under the Environmental Assessment Act” n’est disponible qu’en anglais conformément au Règlement 671/92, selon lequel il n’est pas obligatoire de la traduire en vertu de la Loi sur les services en français. Pour obtenir des renseignements en français, veuillez communiquer avec le ministère de l’Environnement, de la Protection de la nature et des Parcs au eamodernization.mecp@ontario.ca.

CONSULTATION DRAFT

[Bilingual]

ONTARIO REGULATION

To be made under the

ENVIRONMENTAL ASSESSMENT ACT

EXEMPTIONS FROM THE ACT AND FROM PART II.1 OF THE ACT

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INTERPRETATION

Definitions

1. (1) In this regulation,

“generation facility” has the same meaning as in Ontario Regulation [**insert O. Reg. #] (Part II.3 Projects — Designations and Exemptions) made under the Act; (“installation de production”)

“Government property” has the same meaning as in the *Ministry of Infrastructure Act, 2011*; (“biens du gouvernement”)

“renewable energy generation facility” has the same meaning as in the *Electricity Act, 1998*; (“installation de production d’énergie renouvelable”)

“renewable energy testing facility” has the same meaning as in the *Electricity Act, 1998*. (“installation d’évaluation du potentiel en énergie renouvelable”)

(2) The following bodies are defined as public bodies:

1. Authorities within the meaning of the *Conservation Authorities Act*.
2. Colleges, universities and other bodies, except The Royal Ontario Museum and municipalities, to which the *Ontario Universities Capital Aid Corporation Act* would have applied if it had not been repealed.
3. Corporations under the *Development Corporations Act*.
4. Ontario Clean Water Agency.
5. Ontario Energy Board.
6. Ontario Infrastructure and Lands Corporation.
7. Ontario Northland Transportation Commission.

EXEMPTIONS FROM THE ACT

Research

2. An undertaking or designated project that is carried out for the purpose of, or that consists of, research, such as measuring, monitoring and testing, is exempt from the Act.

Renewable energy

3. (1) An undertaking or designated project by or on behalf of Her Majesty in right of Ontario that is being carried out only for the purposes of implementing a renewable energy project or renewable energy testing project is exempt from the Act.

(2) In this section,

“renewable energy project” and “renewable energy testing project” have the same meaning as in the *Electricity Act, 1998*. (“projet d’énergie renouvelable”)

Providing access to renewable energy

4. (1) An undertaking or designated project by the Minister of Northern Development, Mines, Natural Resources and Forestry that is being carried out in respect of a road that provides access to a renewable energy generation facility or a renewable energy testing facility is exempt from the Act.

(2) Subsection (1) does not apply to an undertaking or designated project if,

- (a) the renewable energy generation facility uses water power as its primary power source; or
- (b) before July 1, 2012, the Ministry of Natural Resources issued a public notice in respect of the undertaking under the Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects approved by the Lieutenant Governor in Council on December 11, 2002 under Order in Council 2211/2002, as amended or renamed from time to time.

(3) In this section,

“road” has the same meaning as in section 48 of the *Public Lands Act*.

Municipal waste pilot projects

5. (1) An undertaking or designated project in respect of the processing or disposing of municipal waste on a municipal waste pilot project site is exempt from the Act if section 5.0.1 of Regulation 347 of the Revised Regulations of Ontario, 1990 applies to an application for an environmental compliance approval under section 20.2 of the *Environmental Protection Act* in respect of the use, operation, establishment, alteration, extension or enlargement of the site.

(2) In this section,

“municipal waste pilot project site” has the same meaning as in section 5.0.1 of Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the *Environmental Protection Act*.

(3) For greater certainty, subsection (1) applies in respect of a generation facility that generates power from the processing or disposing of municipal waste on a municipal waste pilot project site.

Municipal zoning orders

6. The following provisions of the Act do not apply to the Minister of Municipal Affairs and Housing with respect to any order that they may make under section 47 of the *Planning Act*:

1. Subsections 15.1.2 (2) and (6).
2. Subsections 17.27 (2) and (6).

EXEMPTIONS FROM PART II.1 OF THE ACT — CLASS ENVIRONMENTAL ASSESSMENTS

Operation and retirement

7. The operation and retirement of a thing is exempt from Part II.1 of the Act if, at the time the thing started or the construction of the thing commenced,

- (a) no class environmental assessment applied to the start or construction of the thing; and
- (b) approval of the Minister under the Act was not required to proceed with the start or construction of the thing.

Municipal undertakings

8. (1) The following undertakings are exempt from Part II.1 of the Act if the undertaking is carried out by a municipality:

1. An undertaking by a board within the meaning of the *Education Act*.
2. A drainage work regulated under the *Drainage Act*.
3. A road or a water crossing that is required to provide access to a renewable energy generation facility or renewable energy testing facility.
4. A work other than a work of a type described in the Municipal Class Environmental Assessment, approved by the Lieutenant Governor in Council on October 4, 2000 under Order in Council 1923/2000, as it may be amended or renamed from time to time, that is provided for in a subdivision agreement between the municipality and a subdivider for the management of storm water that originates only from the subdivision or other adjacent land of the subdivider.

(2) Subsection (1) does not apply in respect of an undertaking carried out by a public body that may be found to be a local board as defined in the *Municipal Affairs Act* or to be a board, commission or other local authority exercising power in respect of municipal affairs.

Crown undertakings

9. (1) An undertaking by or on behalf of Her Majesty in right of Ontario is exempt from Part II.1 of the Act if the undertaking is carried out by,

- (a) the Minister of Agriculture, Food and Rural Affairs;
- (b) the Attorney General;
- (c) the Minister of Children, Community and Social Services;
- (d) the Minister of Colleges and Universities;
- (e) the Minister of Education;
- (f) the Minister of Finance;

- (g) the Minister of Government and Consumer Services;
- (h) the Minister of Health;
- (i) the Minister of Labour, Training and Skills Development;
- (j) the Minister of Long-Term Care;
- (k) the Minister of Municipal Affairs and Housing;
- (l) the Solicitor General; or
- (m) an agent of Her Majesty in right of Ontario who is not,
 - (i) a Minister of the Crown;
 - (ii) acting on behalf of a Minister of the Crown; or
 - (iii) defined as a public body.

(2) Subsection (1) does not apply in respect of an undertaking that is in respect of Government property carried out by the Minister whose responsibilities under the *Ministry of Infrastructure Act, 2011* related to Government property either on his or her own behalf or on behalf of or at the request of,

- (a) a Minister of the Crown referred to in subsection (1); or
- (b) an agent of the Crown referred to in clause (1) (m).

Ontario Infrastructure and Lands Corporation

10. An undertaking by or on behalf of the Ontario Infrastructure and Lands Corporation is exempt from Part II.1 of the Act if the undertaking is not in respect of Government property.

Disposition or severance of land

11. (1) An undertaking in respect of Government property that is a disposition of any interest in land or the severance of land is exempt from Part II.1 of the Act if the undertaking is carried out by or on behalf of,

- (a) the Ontario Infrastructure and Lands Corporation; or
- (b) the Minister whose responsibilities under the *Ministry of Infrastructure Act, 2011* relate to Government property.

(2) Despite subsection (1), an undertaking is not exempt from Part II.1 of the Act if, before July 1, 2019, a public notice about the undertaking had been issued or any affected party had been notified of the undertaking in accordance with the Ministry of Infrastructure Class Environmental Assessment.

(3) In this section,

“Ministry of Infrastructure Class Environmental Assessment” means the Class Environmental Assessment Process for Management Board Secretariat and Ontario Realty Corporation approved by the Lieutenant Governor in Council on April 28, 2004 under Order in Council 913/2004, as it may be amended or renamed from time to time. (“document intitulé «Ministry of Infrastructure Class Environmental Assessment»”)

Forfeited corporate property

12. An undertaking in respect of forfeited corporate property to which the *Forfeited Corporate Property Act, 2015* applies is exempt from Part II.1 of the Act if the undertaking is carried out by or on behalf of,

- (a) the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015*; or
- (b) the Ontario Infrastructure and Lands Corporation.

Agreements with Indigenous communities

13. (1) Subject to subsection (3), the following undertakings by or on behalf of the Crown in right of Ontario are exempt from Part II.1 of the Act:

1. All undertakings that relate to a settlement agreement involving the Crown in right of Ontario and an Indigenous community with respect to a land claim, including, for greater certainty, an interim agreement.
2. The undertakings listed in subsection (2) that implement an agreement, other than an agreement mentioned in paragraph 1, about land or any interests in land and that include as parties,
 - i. the Crown in right of Ontario as represented by the Minister of Indigenous Affairs, and
 - ii. an Indigenous community or a person authorized to hold any interests in land on behalf of an Indigenous community.

(2) The undertakings listed for the purposes of paragraph 2 of subsection (1) are,

- (a) the disposition or release of,

- (i) any interests in land,
 - (ii) reservations or conditions respecting land that benefit the Crown, whether in letters patent, in an agreement or pursuant to an Act, and
 - (iii) interests in Crown resources other than land that are related to a disposition or release of any interests in land;
- (b) the transfer or acceptance of administration and control of land;
- (c) the acquisition of any interests in land;
- (d) establishing, amending or rescinding boundaries of provincial parks and conservation reserves; and
- (e) activities carried out in advance of a disposition of any interests in land or transfer of administration and control of land or to prepare lands for disposition or transfer of administration and control, including authorizing interim uses of lands or related Crown resources by an Indigenous community or by a person with the consent of an Indigenous community.
- (3) Subsection (1) does not apply to the following undertakings:
1. An undertaking in respect of which one or more of the following notices have been issued under the Algonquin Land Claim declaration order before the day this section comes into force:
 - i. A Public Notice issued under Step 2 of Section 2.3 (Evaluation and Consultation Process for Category B Projects and Activities) of Schedule “A” to the Algonquin Land Claim declaration order.
 - ii. A Notice of Opportunity to Inspect the Draft Environmental Evaluation Report issued under Step 3 of Section 2.4 (Evaluation and Consultation Process for Category C Projects and Activities) of Schedule “A” to the Algonquin Land Claim declaration order.
 2. An undertaking respecting which a process of public consultation pursuant to a class environmental assessment or order made under the Act, other than the Algonquin Land Claim declaration order was commenced before July 1, 2021.

(4) In this section,

“Algonquin Land Claim declaration order” means the order made under subsection 3.2 (1) of the Act entitled “Declaration – Projects and Activities being considered for inclusion in the Algonquin Land Claim Settlement”, dated July 23, 2007 and approved by Order in Council 1900/2007, as it may be amended from time to time;

“land claim” means,

- (a) a claim to an outstanding entitlement with respect to reserve land or the improper use of reserve land by others,
- (b) a claim respecting unsold surrendered land, or
- (c) an aboriginal rights and title claim.

Amendment

14. (1) Paragraph 1 of section 6 of this Regulation is revoked.

(2) Section 6 of this Regulation is amended by adding the following paragraph:

- 3. Subsections 17.30 (2) and (6).

Revocation

14. Regulation 334 of the Revised Regulations of Ontario, 1990 (General) made under the Act is revoked.

Commencement

15. [Commencement]