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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

ONTARIO REGULATION

to be made under the

ENVIRONMENTAL ASSESSMENT ACT

GENERAL AND TRANSITIONAL MATTERS

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Definitions

1. In this Regulation,

“Municipal Class Environmental Assessment” means the Municipal Class Environmental Assessment approved by the Lieutenant Governor in Counsel on October 4, 2000 under Order in Council 1923/2000, as it may be amended or renamed from time to time; (“French”)

“Part II.3 transition date” means the day section 29 of Schedule 6 to the *COVID-19 Economic Recovery Act, 2020* comes into force. (“French”)

“private sector developer” means a developer of land other than land belonging to Her Majesty in right of Ontario, a public body or a municipality; (“French”)

“public body” has the same meaning as in subsection 1 (2) of Ontario Regulation [**insert O. Reg. # **] (Exemptions from the Act and from Part II.1 of the Act). (“French”)

APPLICATION OF SPECIFIED CLASS ENVIRONMENTAL ASSESSMENTS

Municipalities and private developers

2. (1) The Municipal Class Environmental Assessment applies in respect of,

(a) all municipalities; and

(b) private sector developers in respect of an undertaking designated under subsection (2).

(2) An enterprise or activity by a private sector developer is defined as a major commercial or business enterprise or activity and is designated as an undertaking to which the Act applies if it is,

(a) of a type listed in Schedule C to the Municipal Class Environmental Assessment; and

(b) in respect of roads, water or wastewater provided for residents of a municipality.

Government property, infrastructure

3. (1) The Ministry of Infrastructure Class Environmental Assessment applies to undertakings in respect of Government property carried out by the Minister of Heritage, Sport, Tourism and Culture Industries.

(2) 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»”)

GENERAL

Preparation of environmental assessment, contents

4. (1) An environmental assessment prepared for a Part II.3 project must consist of, in addition to the information required under subsection 17.6 (2) of the Act,

- (a) a brief summary of the environmental assessment organized in accordance with the matters set out in subsection 17.6 (2) of the Act;
- (b) a list of studies and reports which are under the control of the proponent and which were done in connection with the Part II.3 project or matters related to the project;
- (c) a list of studies and reports done in connection with the Part II.3 project or matters related to the project of which the proponent is aware and that are not under the control of the proponent; and
- (d) where the environmental assessment is for a Part II.3 project with a fixed location, at least two well marked, legible and reproducible maps showing the location of the project and the area to be affected by it.

(2) Of the maps referred to in clause (1) (d), one shall be a simplified base map suitable for reproduction in any notices that may be published and the other may include more detail such as a 1:10,000 scale Ontario Base Map.

(3) The maps referred to in clause (1) (d) may show alternative proposals.

TRANSITION

Pending applications

5. (1) If, as part of an application under subsection 5 (1) of the Act, a proponent has given terms of reference to the Ministry under subsection 6 (1) of the Act, and no decision has been made in respect of the application under subsection 7 (6), section 9 or 9.1 of the Act before the Part II.3 transition date, the following rules apply:

1. The application submitted under subsection 5 (1) of the Act is deemed to have been submitted under subsection 17.2 (1) of the Act.
2. The proposed terms of reference given to the Ministry under subsection 6 (1) of the Act are deemed to have been given to the Ministry under subsection 17.4 (1) of the Act.
3. If a proponent has given public notice under subsection 6 (3.1) of the Act, the public notice is deemed to have been given under subsection 17.4 (4) of the Act.
4. If terms of reference have been approved under subsection 6 (4) of the Act, the terms of reference are deemed to have been approved under subsection 17.4 (10) of the Act.
5. If an environmental assessment has been submitted under subsection 6.2 (1) of the Act, the environmental assessment is deemed to have been submitted under subsection 17.7 (1) of the Act.
6. If a proponent has given public notice under subsection 6.3 (1) of the Act, the public notice is deemed to have been given under subsection 17.8 (1) of the Act.
7. If the Director issued any requirements in respect of a proponent under section 6.3 of the Act, the same requirements are deemed to have been issued in respect of the proponent under section 17.8 of the Act.
8. If a statement describing deficiencies of an environmental assessment has been given under subsection 7 (4) of the Act, the statement is deemed to have been given under subsection 17.11 (4) of the Act.
9. If the Director has given public notice under subsection 7.1 (2) of the Act, the public notice is deemed to have been given under subsection 17.12 (2) of the Act.

(2) An undertaking that is the subject of an application mentioned in subsection (1) is deemed to be a Part II.3 project.

(3) Subsection (2) applies to an undertaking even if the terms of reference was withdrawn during the period beginning on [**the date that the consultation draft of this proposed

Regulation is posted on the ERO for consultation**] and ending on the day before the Part II.3 transition date.

(4) If a class environmental assessment applies to an undertaking referred to in subsection (2), Part II.1 of the Act does not apply to the undertaking and instead Part II.3 applies to the project.

Deadlines

6. (1) For the purposes of determining deadlines set out in the Act and in Ontario Regulation 616/98 (Deadlines), the following rules apply:

1. Terms of reference mentioned in paragraph 2 of subsection 5 (1) are deemed to have been received by the Ministry on the day the terms of reference that were given under subsection 6 (1) of the Act were received by the Ministry.
2. An environmental assessment mentioned in paragraph 5 of subsection 5 (1) is deemed to be received by the Ministry on the day the environmental assessment that was submitted under subsection 6.2 (1) of the Act was received by the Ministry.
3. Public notice mentioned in paragraph 6 of subsection 5 (1) is deemed to have been given on the day it was given under subsection 6.3 (1) of the Act.
4. A requirement mentioned in paragraph 7 of subsection 5 (1) is deemed to have been issued on the day it was issued under section 6.3 of the Act.
5. A statement mentioned in paragraph 8 of subsection 5 (1) is deemed to have been given on the day it was given under subsection 7 (4) of the Act.
6. Public notice mentioned in paragraph 9 of subsection 5 (1) is deemed to have been given on the day it was given under subsection 7.1 (2) of the Act.
7. If the deadline for comments under subsection 7.2 (2) of the Act is less than 13 weeks before the Part II.3 transition date,

- i. the deadline determined under subsection 17.19 (1) of the Act is deemed to be the last business day of the thirteenth week after the deadline for comments under subsection 7.2 (2) of the Act, and
- ii. the deadline determined under subsection 17.19 (2) of the Act is deemed to be the last business day of,
 - A. the thirteenth week after the deadline for comments under subsection 7.2 (2) of the Act, if there is no reference to mediation under section 8 or 17.4 of the Act or to the Board under section 9.2 or 17.7 of the Act,
 - B. the seventh week after the Minister receives the mediator's report, if there is a reference to mediation under section 8 or 17.14 of the Act, or
 - C. the seventh week after the Minister receives the decision of the Board, if there is a reference to the Board under section 9.2 or 17.17 of the Act.

Landfilling site, municipal support required

7. For the purposes of subsection 17.5 (4) of the Act, public notice mentioned in paragraph 3 of subsection 5 (1) of this Regulation is deemed to have been given on the day it was given under subsection 6 (3.1) of the Act.

Pending application, landfilling site

8. (1) For greater certainty, if, immediately before its repeal, section 6.0.1 of the Act applied to a proponent in respect of establishing a waste disposal site that is a landfilling site, section 17.5 of the Act applies to the proponent in respect of the activity.

(2) Written confirmation given by the Director under subsection 6.0.1 (10) of the Act after July 21, 2020 and before the Part II.3 transition date is deemed to have been given under subsection 17.5 (8) of the Act.

Notice of commencement re transit project assessment process

9. If, before the Part II.3 transition date, a proponent prepared and distributed a notice of commencement of the transit project assessment process under section 7 of Ontario Regulation

231/08 as it read immediately before subsection 5 (1) of Ontario Regulation [**insert O. Reg. #] came into force,

- (a) the transit project that is the subject of the notice of commencement is deemed to be a Part II.3 project and the exemptions in sections 15 and 16 of Ontario Regulation [**insert O. Reg. #**] (Part II.3 Projects - Designations and Exemptions) apply with necessary modifications; and
- (b) section 11 of Ontario Regulation 231/08, as it read immediately before it was revoked, continues to apply in respect of the proponent.

Environmental screening processes

10. For greater certainty, if, before the Part II.3 transition date, a proponent has commenced one of the following processes, any step taken in the process may be relied on for the purposes of the exemptions set out in sections 11, 19, 20 and 26 of Ontario Regulation [**insert reg # for reg2021.0058**] (Part II.3 - Designations and Exemptions), as applicable:

- 1. The “Environmental Screening Process” as that term was defined in subsection 1 (1) of Ontario Regulation 116/01 (Electricity Projects) immediately before that Regulation was revoked.
- 2. The “transit project assessment process” as that term was defined in subsection 1 (1) of Ontario Regulation 231/08 (Transit Projects and Metrolinx Undertakings) immediately before that Regulation was revoked.
- 3. The “Environmental Screening Process for Waste Management Projects” as that term was defined in subsection 1 (1) of Ontario Regulation 101/07 (Waste Management Projects) immediately before that Regulation was revoked.

Private sector developer projects

11. (1) Section 2 of this Regulation applies in respect of an enterprise or activity by a private sector developer that, before the Part II.3 transition date, was designated under subsection 2 (1) of Ontario Regulation 345/93 (Designation and Exemption — Private Sector Developers) as an undertaking to which the Act applies.

(2) Any step taken under the Municipal Class Environmental Assessment by a private sector developer before the Part II.3 transition date in respect of an undertaking referred to in subsection (1) is deemed to be a step taken under Part II.1 of the Act.

Order to comply with Part II of the Act

12. An order issued under subsection 16 (1) of the Act before the Part II.3 transition date is deemed to include a declaration that the proposed undertaking is a Part II.3 project.

Major commercial or business enterprise or activity

13. If, before the Part II.3 transition date, a class of enterprises or activities was designated under the regulations for the purposes of clause (b) of the definition of “undertaking” in subsection 1 (1) of the Act, the class continues to be designated.

Records re Part II.1, retention etc.

14. (1) On request, the Director shall make the following records available for inspection unless the record has been disposed of in accordance with the *Archives and Recordkeeping Act, 2006*:

1. Any record that the Director was required to maintain under section 30 of the Act, as it read on July 20, 2020, in respect of an application submitted under Part II.1 of the Act.
2. Any record that the Director was required to maintain under section 30 of the Act, as it read immediately before the Part II.3 transition date, in respect of an undertaking for which an application was submitted under Part II of the Act.

Amendment

15. Section 1 of the Regulation is amended by adding the following definition:

“undertaking” has the same meaning as in the Act immediately before the definition was repealed.

Revocation

16. Ontario Regulation 345/93 is revoked.

Commencement

17. [Commencement]