

Federal Requirements for Waterpower Development Environmental Assessment Processes in Ontario

- PRACTITIONER'S GUIDE -

Version 1.0
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Wells Generating Station on the Mississagi River at Wharncliffe, Ontario. Photo Courtesy of Brascan Power Corporation.



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**Federal Requirements for Waterpower Development Environmental
Assessment Processes in Ontario
- Practitioner's Guide -**

EXECUTIVE SUMMARY

Background and Purpose

As the demand for power in Ontario continues to increase, it is expected that there will be initiatives to expand or modify existing waterpower facilities and to build new facilities. In Ontario, waterpower projects are required to comply with the provisions of Ontario Regulation 116/01 (*Electricity Projects Regulation*), established under the Ontario *Environmental Assessment Act* (EA Act). Many of these projects must also be assessed in accordance with the requirements of the *Canadian Environmental Assessment Act* (CEAA). Given the potential need for proponents to address the provisions of both the *Electricity Projects Regulation* and CEAA, an understanding of how these two processes can work together and of federal information requirements for the environmental assessment (EA) of waterpower projects is critical.

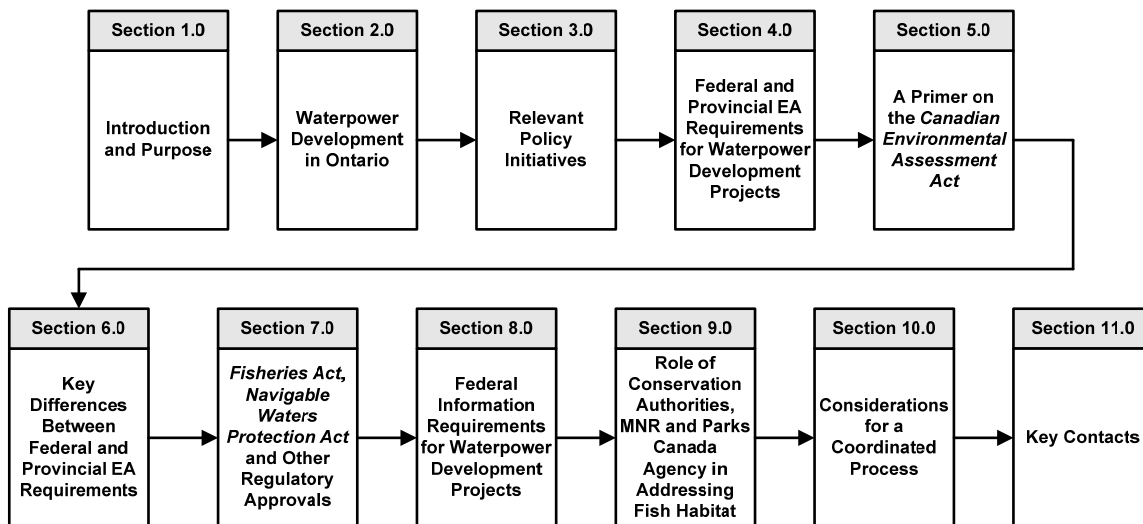
The Ontario Waterpower Association (OWA), which was formed to provide a collective voice for the waterpower industry in Ontario, represents more than 95 % of the waterpower producers and generating capacity in Ontario. In order to facilitate the efficient EA of waterpower development projects in Ontario, the OWA, in collaboration with Fisheries and Oceans Canada (DFO), has developed this Practitioner's Guide for addressing *Federal Requirements for Waterpower Development Environmental Assessment Processes in Ontario*. Advice and input to the development of this Practitioner's Guide was provided by the Canadian Environmental Assessment Agency (the Agency), Environment Canada, Transport Canada, the Ontario Ministry of Natural Resources (MNR), the Ontario Ministry of the Environment (MOE) and OWA members.

This Practitioner's Guide provides advice on federal information requirements for waterpower projects and on opportunities to coordinate CEAA and *Electricity Projects Regulation* requirements. With a better understanding of federal information requirements, it is expected that more efficient and better coordinated projects will result, with the inherent benefits of promoting environmental sustainability.

This Practitioner's Guide is intended to provide users with a knowledge and understanding of the key components of CEAA and information requirements of key federal agencies and how these relate to waterpower projects under the *Electricity Projects Regulation* process. The Practitioner's Guide is also intended to assist proponents in the coordination of federal and provincial EA requirements for waterpower projects. Coordination of assessments will assist in avoiding duplication, result in time and cost savings and achieve more effective and environmentally sound decision-making.

The focus of this Guide is on federal EA requirements for projects subject to the provisions of the provincial *Electricity Projects Regulation*. While it is recognized that some waterpower projects may have other provincial EA requirements (e.g. *Class EA for MNR Resource Stewardship and Facility Development Projects*), these requirements are not addressed in this document.

The intent of this Practitioner’s Guide is to build upon recent initiatives, such as the *Canada – Ontario Agreement on Environmental Assessment Cooperation*, to assist in coordinating the assessment of waterpower projects that have both federal and provincial EA requirements. In addition to being a valuable tool for project proponents, the Practitioner’s Guide is also intended to be useful for government departments who are providing input to the review of waterpower projects. The Practitioner’s Guide contains the following sections:



Federal and Provincial EA Requirements for Waterpower Projects

Ontario EA Act Requirements

Under the *Electricity Projects Regulation*, MOE has classified electricity projects based on their nature and magnitude. There are three project categories, each with different EA requirements, as follows:

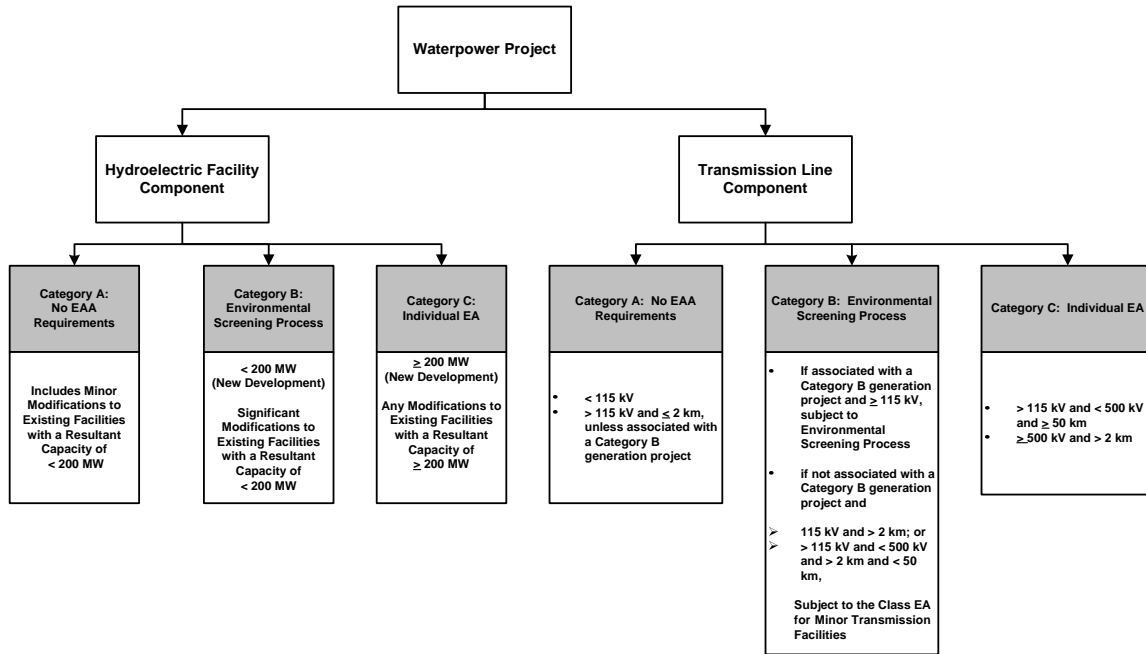
Category A projects are those that are expected to have minimal environmental effects. These projects are not designated as being subject to the EA Act under the *Electricity Projects Regulation* and, therefore, do not require EA Act approval.

Category B projects are projects that have potential environmental effects that can likely be mitigated. These projects are subject to the EA Act, but proponents of these projects

are not required to prepare an Individual EA as long as they complete the **Environmental Screening Process**, as defined in MOE's *Guide to Environmental Assessment Requirements for Electricity Projects*.

Category C projects are major projects with known significant environmental effects. These projects require an **Individual EA**.

The following illustrates these project categories and associated EA requirements*.



* This chart is a generalization. Additional information is provided in Section 4.1 and Appendix B. Proponents are encouraged to directly review the *Electricity Projects Regulation* and supporting Guide.

Canadian Environmental Assessment Act (CEAA) Requirements

CEAA is a federal law that applies to the federal government where it is the proponent, providing financial assistance, own or administer federal lands or is issuing a permit or approval in order to enable a project to proceed. The purpose of the legislation is to ensure that the environmental effects of projects are considered before irrevocable decisions are made by federal authorities. CEAA requires federal decision-makers or Responsible Authorities (RAs) to consider the environmental effects of proposed projects prior to their taking an action that would enable a project to proceed.

In order for CEAA to apply, there must be: (1) a federal authority; (2) a subsection 5(1) trigger¹ (i.e., a federal power, duty or function in respect of the project); and (3) a project that is not excluded.

¹ In addition, an environmental assessment of a project is required before the Governor in Council (GIC), as per subsection 5(2) of CEAA, under a provision prescribed in the *Law List*

The vast majority of EAs undertaken in accordance with CEAA are screenings. In these instances, screening reports are prepared. However, some projects on the *Comprehensive Study List Regulations* must be assessed as a comprehensive study, in accordance with CEAA. Comprehensive study reports are prepared for these projects. Generally, these are large-scale projects that may have the potential for significant adverse environmental effects. Details on what is required for a screening and a comprehensive study are included in Section 5.5. The following waterpower projects are on the *Comprehensive Study List Regulations*:

- the proposed construction, decommissioning or abandonment of a hydroelectric generating station with a production capacity of 200 MW or more;
- the proposed expansion of a hydroelectric generating station that would result in an increase in production capacity of 50 per cent or more and 200 MW or more;
- the proposed construction of an electrical transmission line with a voltage of 345 kV or more that is 75 km or more in length on a new right of way;
- the proposed construction, decommissioning or abandonment of a dam or dyke that would result in the creation of a reservoir with a surface area that would exceed the annual mean surface area of a natural water body by 1500 hectares or more, or an expansion of a dam or dyke that would result in an increase in surface area of a reservoir of more than 35 per cent;
- the proposed construction, decommissioning or abandonment of a structure for the diversion of 10 000 000 m³/a or more of water from a natural water body into another natural water body or an expansion of such a structure that would result in an increase in diversion capacity of more than 35 per cent.

It is expected that CEAA will apply to the majority of waterpower projects due to the need for *Fisheries Act* authorizations or approvals under the *Navigable Waters Protection Act* (NWPA) (see Section 7.0). Therefore, many waterpower projects will need to be assessed in accordance with the requirements of both the *Electricity Projects Regulation* and CEAA.

One of the main differences between CEAA and the *Electricity Projects Regulation* in regard to hydroelectric power facility construction is that CEAA applies to projects subject to funding, land or regulatory permits provided by the federal government while the *Electricity Projects Regulation* applies to projects that are being planned and implemented by proponents. Other key differences are outlined in Section 6.0 of the Practitioner's Guide.

Regulations, issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part.

Despite a few key differences between these requirements, there are opportunities to coordinate federal and provincial EA processes. Considerations for a coordinated process are included in Section 10.0 of the Practitioner's Guide.

Determining Whether CEAA Applies

As noted above, it is expected that CEAA will apply to the majority of waterpower projects due to the need for *Fisheries Act* authorizations or approvals under the NWPA. The flow chart on the following page is intended to assist in determining whether CEAA may apply. The Responsible Authority (RA) is, however, responsible for determining if CEAA applies to a project.

Preparing a Project Description

One of the first steps in the CEAA process is the preparation of a project description. A project description provides an overview of the project components, general information on the project setting and relevant background information on the project.

The project description allows a federal authority to determine if it will be an RA under CEAA or if it may be able to provide technical expertise and knowledge as an expert department. The project description should be submitted either to the Agency or to the federal authority that the proponent believes may have a federal interest (e.g. DFO for projects that may impact fish and fish habitat or Transport Canada for projects that may impact on navigation).

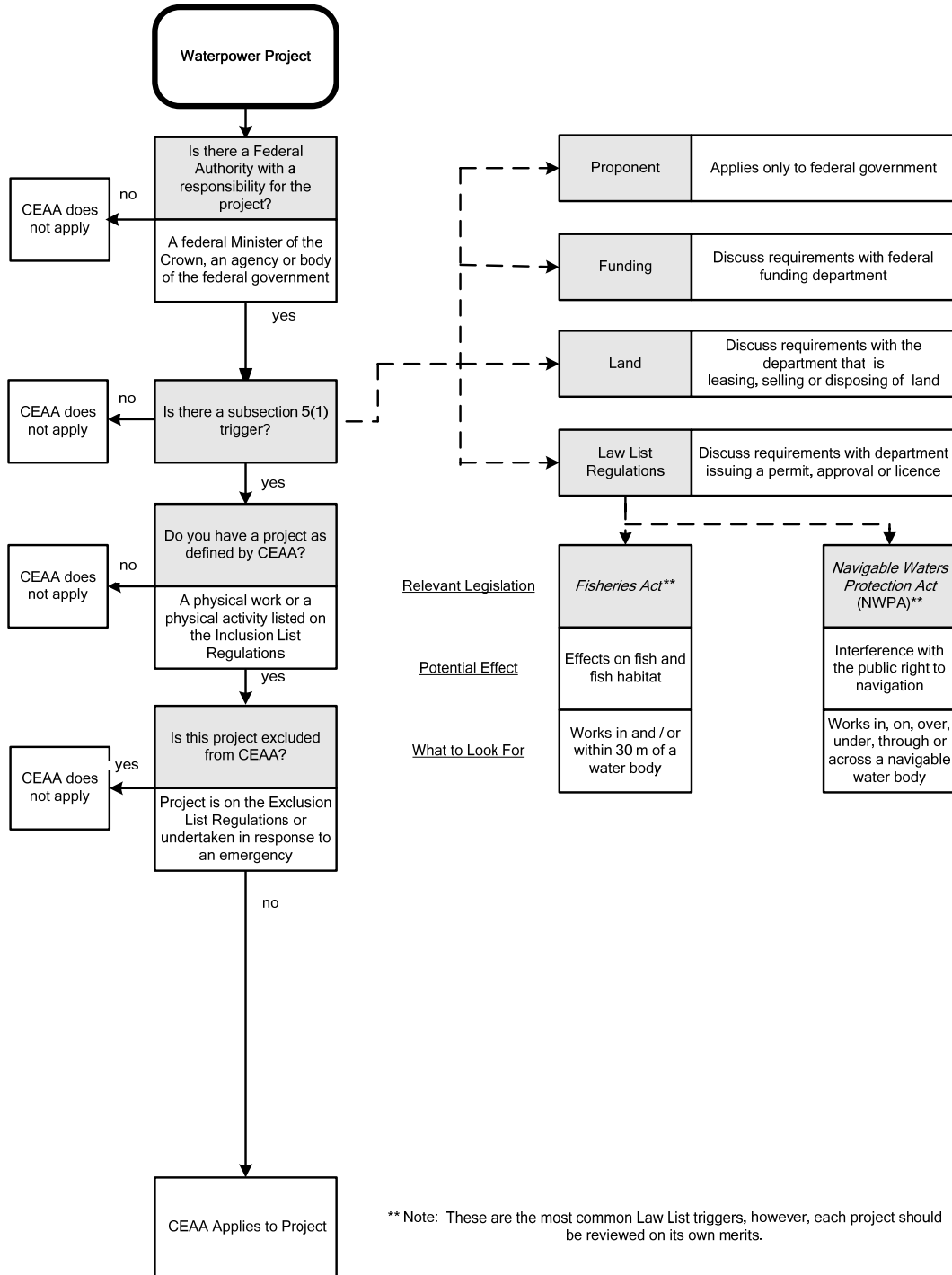
Further details on preparing a project description and its content are provided in Section 8.0 and Table F1 in Appendix F.

How to Determine Federal Information Requirements

Guidance on federal information requirements is provided in Section 8.0 and Appendix F, Table F2. Table F2 outlines potential information required for a CEAA assessment as well as potential information required for a regulatory approval under the *Fisheries Act* or *Navigable Waters Protection Act*.

In addition to the information noted in Appendix F, the proponent should provide any other information that may assist with the project review. Federal departments may have additional project specific information requirements. The amount and level of detail of information required will vary depending on the environmental setting, magnitude and duration of the project. The information noted in Appendix F is intended to be a general guide.

Does CEEA Apply?



Important Things to Consider When Using this Document

- ⇒ A waterpower project may have both federal and provincial EA requirements.
- ⇒ Ideally, assessments under CEAA and the *Electricity Projects Regulation* should be coordinated. Coordination of assessments will assist in avoiding duplication, result in time and cost savings and achieve more effective and environmentally sound decision-making.
- ⇒ Proponents should also consider the information requirements for regulatory approvals (e.g. under the *Fisheries Act* and the NWPA) in order to coordinate information gathering.
- ⇒ In most cases, Conservation Authorities are the first point of contact for projects in and within 30 m of a waterbody. Where DFO has agreements with Conservation Authorities, the Conservation Authority will undertake the initial *Fisheries Act* review on behalf of DFO. Provincial agencies are **not** Responsible Authorities (RAs) under CEAA. Conservation Authorities do not have the authority to carry out or make decisions related to EAs under CEAA.
- ⇒ In cases where there is no Conservation Authority, the local MNR office is the first point of contact for the review of projects in and around water that may affect fish and fish habitat.

Federal Requirements for Waterpower Development Environmental Assessment (EA) Processes in Ontario

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1.0 Introduction and Purpose

1.1 Background

The demand for power in Ontario continues to increase. The Independent Electricity System Operator (IESO) has predicted that annual peak demand for power will rise from just over 24,000 MW in 2004 to almost 27,000 MW in 2013. Considering an IMO projected supply shortfall of between 5,000 and 7,000 MW by 2007, the Electricity and Conservation Supply Task Force noted that:

“If no new capacity or demand reduction measures are taken, the Province will be critically dependent on external sources of electricity, energy costs will be higher and more volatile and reliability could be reduced” (from: Tough Choices: Assessing Ontario’s Power Needs. Final Report to the Minister. January 2004).

There have been a number of recent provincial government policy initiatives to increase installed capacity and energy production in Ontario. In addition, the province has established clear targets for the addition of new, renewable energy, including waterpower. As a result, there is explicit rationale to expand or modify existing waterpower facilities and to build new facilities.

In response to these developments, the Ontario Waterpower Association (OWA) is interested in providing guidance to proponents in order to facilitate the efficient environmental assessment of waterpower development projects in Ontario. Consequently, the OWA, in collaboration with Fisheries and Oceans Canada (DFO), has developed this Practitioner’s Guide for addressing *Federal Requirements for Waterpower Development Environmental Assessment Processes*.

1.2 The Ontario Waterpower Association

The OWA was formed to provide a collective voice for the waterpower industry in Ontario. OWA’s founding members represent more than 95 % of the waterpower producers and generating capacity in Ontario.

The mission of the OWA is to encourage the responsible growth of the waterpower industry in Ontario. OWA’s strategic objectives are to:

- represent the common interests of Ontario’s waterpower industry in a corporate relationship with government;
- provide an effective forum for coordinating and promoting the common interests of the waterpower industry in Ontario;
- enhance the competitiveness of the Ontario waterpower industry; and
- identify common interests and cooperate with various organizations to promote a positive image for waterpower.

In Ontario, waterpower projects are required to comply with the provisions of Ontario Regulation 116/01 (*Electricity Projects Regulation*). Many of these projects must also be

assessed in accordance with the requirements of the *Canadian Environmental Assessment Act* (CEAA). Given the potential need for proponents to address the provisions of both the *Electricity Projects Regulation* and CEAA, an understanding of how these two processes can work together and of federal information requirements for the environmental assessment of waterpower projects is critical.

This Practitioner's Guide provides advice on federal information requirements for waterpower projects and on opportunities to coordinate CEAA and *Electricity Projects Regulation* requirements. With a better understanding of federal information requirements, it is expected that more efficient and better coordinated projects will result, with the inherent benefit of promoting environmental sustainability.

This Practitioner's Guide has been developed by the OWA, in collaboration with Fisheries and Oceans Canada (DFO), and with the advice and input of the Canadian Environmental Assessment Agency, Environment Canada, Transport Canada, the Ontario Ministry of the Environment (MOE), the Ontario Ministry of Natural Resources (MNR) and OWA members.

1.3 Purpose of the Practitioner's Guide

This Practitioner's Guide is intended to provide users with a knowledge and understanding of the key components of CEAA and information requirements of key federal agencies and how these relate to waterpower projects under the *Electricity Projects Regulation* process. The Practitioner's Guide is also intended to assist proponents in the coordination of federal and provincial environmental assessment requirements for waterpower projects. Coordination of assessments will assist in avoiding duplication, result in time and cost savings and achieve more effective and environmentally sound decision-making.

This Practitioner's Guide provides an overview of CEAA and its requirements. Since the requirement to address CEAA for waterpower projects is frequently related to regulatory approvals under the *Fisheries Act* and *Navigable Waters Protection Act* (NWPA), the more detailed information requirements related to these Acts have also been provided.

The focus of this Guide is on federal environmental assessment (EA) requirements for projects subject to the provisions of the provincial *Electricity Projects Regulation*. While it is recognized that some waterpower projects may have other provincial EA requirements, these requirements are not addressed in this document.

The intent of this Guide is to build upon recent initiatives, such as the *Canada – Ontario Agreement on Environmental Assessment Cooperation*, to assist in coordinating the assessment of waterpower projects that have both federal and provincial EA requirements. In addition to being a valuable tool for project proponents, the Practitioner's Guide is also intended to be useful for government departments who are providing input to the review of waterpower projects.

Specifically, this Practitioner's Guide provides information and direction on:

- key CEAA components;

- the federal *Fisheries Act*;
- the federal *Navigable Waters Protection Act* (NWPA);
- the key differences between the federal and provincial EA processes;
- the types and level of detail of information required by key federal departments for assessing waterpower projects;
- considerations for a coordinated process (i.e. CEAA and *Electricity Projects Regulation* requirements); and
- key federal contacts.

This Practitioner's Guide is not intended to be all encompassing but rather to provide sound and practical advice to proponents.. The information contained in this document is intended to provide guidance only. For specific legislative and regulatory wording or provisions, the user should refer to the relevant statutes and regulations.

1.4 Format of the Practitioner's Guide

The Practitioner's Guide consists of the following sections:

- Section 1.0 - Introduction and Purpose;
- Section 2.0 - Waterpower Development in Ontario;
- Section 3.0 - Relevant Policy Initiatives;
- Section 4.0 - Environmental Assessment Requirements for Waterpower Development Projects;
- Section 5.0 - A Primer on the *Canadian Environmental Assessment Act* (CEAA);
- Section 6.0 - Key Differences Between Federal and Provincial EA Requirements;
- Section 7.0 - *Fisheries Act, Navigable Waters Protection Act* and Other Approvals;
- Section 8.0 - Federal Information Requirements for Waterpower Development Projects;
- Section 9.0 - Role of Conservation Authorities and the Ontario Ministry of Natural Resources;
- Section 10.0 - Considerations for a Coordinated Process; and
- Section 11.0 - Key Contacts.

The following appendices have also been included:

Appendix A *Canada – Ontario Agreement on Environmental Assessment Cooperation*

Appendix B Overview of Electricity Projects Environmental Screening and Individual EA Processes (Provincial)

Appendix C Identifying Expert Federal Authorities Under CEAA

Appendix D Potential CEAA Triggers for Waterpower Development Projects

Appendix E Environmental Assessment Components: Key Differences

Appendix F Potential Federal Information Requirements

Appendix G List of Acronyms

2.0 Waterpower Development in Ontario

2.1 Current and Potential Development ²

Waterpower has been produced in Ontario for more than 150 years and until approximately fifty years ago was the only source of electricity in the province. Today, approximately 26 % of Ontario's energy is produced by falling water. Waterpower comprises over 95 % of Ontario's renewable power assets. With a total of 8,150 MW of installed capacity, waterpower represents a major component of the province's energy mix. In northern Ontario, waterpower still accounts for the majority of electricity production. Forestry, mining, manufacturing companies, and the people and economies they support, have located based on proximity to waterpower as a renewable and reliable source of energy. Importantly, waterpower's storage capability provides the flexibility to respond quickly to changes in demand for electricity. This attribute will increase in importance as the province moves to phase out coal-fired generation.

There are almost 200 operating waterpower facilities in Ontario, two-thirds of which are located south of the French and Mattawa Rivers. More than one half of these facilities were constructed prior to 1951, when the province first began to generate electricity from fossil fuel sources. Approximately two-thirds of these waterpower facilities were constructed prior to the enactment of the Ontario *Environmental Assessment Act* (EA Act).

Ontario's waterpower facilities range widely in capacity and energy production. A typical waterpower generating facility has a long life cycle of between 75 and 100 years. Waterpower resources play an important role in voltage stabilization for large industrial loads and the provincial transmission system, and most operations are also managed to balance recreational benefits such as cottaging, fishing or canoeing.

Improvements to or re-development of existing waterpower facilities are conservatively estimated to have the potential to add another 1,350 MW of waterpower in Ontario. That is equivalent to the amount of energy required to provide electricity to almost 200,000 homes. Advances in geographic information systems and hydraulic modeling will assist in better quantifying Ontario's remaining waterpower resource potential. Previous inventories have suggested that almost 3,000 MW could be realized. In addition, there is the potential for at least 700 MW of new development on sites that have been more fully evaluated. It is also noteworthy that many sites developed over the last twenty years did not appear in the existing inventories, but rather were prospected.

An inventory of waterpower potential in Ontario has identified 2,000 sites with basic hydraulic conditions (regularly flowing water and change in elevation) to produce waterpower energy – only 200 sites have been developed in the last century. Public policy (e.g. permitted land uses, interconnection) and the economics of site development will play

² This section is based on information taken directly from the OWA web site.

important roles in determining how much of this hydraulic energy potential is developable in the future.

There have been a number of recent energy policy initiatives in Ontario. In January 2004, the Minister of Energy announced the first renewable energy "Request for Proposals" in order to help meet the target of an additional 5 % (1,350 MW) of renewable energy by 2007 and 10% by 2010. In November 2004, the Ministry of Natural Resources (MNR) finalized the Site Release and Development Policy for Waterpower Development on Crown Land. In December 2004, the province passed the *Electricity Restructuring Act* (Bill 100) to address issues of energy supply and demand in Ontario, recognizing the need to secure new energy supply to meet growing demand. With these and other initiatives, there is an imperative for expanded and new waterpower projects in Ontario to help meet growing energy needs and contribute to environmental objectives.

2.2 Types of Waterpower Projects Addressed in the Practitioner's Guide

The Practitioner's Guide addresses new facilities (greenfield) and replacements, expansions and modifications to existing waterpower facilities and associated works (e.g. transmission lines).

Maintenance projects, operational changes (e.g. changes in flows or water levels) and emergency repairs will not be specifically addressed in this Guide.

It is expected that the majority of waterpower projects in Ontario will be < 200 MW. However, this Practitioner's Guide also addresses projects \geq 200 MW.

3.0 Relevant Policy Initiatives

3.1 Ontario Waterpower Association Class EA for Waterpower Development Projects

The Ontario Waterpower Association (OWA), on behalf of the waterpower industry, has initiated the development of a *Class Environmental Assessment (Class EA) for Waterpower Projects*. A *Proposed Terms of Reference for a Class EA for Waterpower Development Projects* was submitted to the Ministry of the Environment (MOE) in October 2002, for review under the Ontario *Environmental Assessment Act (EA Act)*. The OWA resubmitted the Terms of Reference in November 2004, with modifications to reflect key regulatory and policy changes since 2002.

If pursued and approved, the Class EA will define a process for the planning, designing, establishing, constructing, operating, expanding and retiring of new and existing waterpower facilities that are subject to the Environmental Screening Process (i.e. Category B) requirements of the *Electricity Projects Regulation*. The Class EA will also address proposals to increase the capacity of existing facilities resulting in an installed capacity of less than 200 MW. If approved, the Class EA would apply to all waterpower projects in Ontario, regardless of their affiliation with the OWA. In addition, the planning process outlined in the Class EA would be followed instead of the Environmental Screening Process outlined in the *Guide to Environmental Assessment Requirements for Electricity Projects*.

OWA believes that the Class EA would result in the following benefits:

- increased potential for coordination with federal and other provincial processes;
- development of sector-specific environmental considerations and mitigation measures;
- greater consistency of process requirements and outcomes; and
- improved proponent and stakeholder understanding of process requirements.

If approved, the Terms of Reference will provide the framework for preparing the Class EA. The draft Terms of Reference note that the Class EA will include a description of:

- the class of undertakings covered by the approval;
- reasons for covering these undertakings under the Class EA provisions of the EA Act;
- similarities and differences expected among the undertakings in the class;
- expected range of environmental effects that may result from proceeding with undertakings in the class;
- measures that could be taken to mitigate against adverse effects that may result from proceeding with undertakings in the class;
- processes to be used to consult with the public, government agencies and affected stakeholders;
- processes to evaluate a proposed undertaking; and
- processes to determine the final design and mitigation requirements of a proposed undertaking based on the evaluation (Ontario Waterpower Association, 2002).

This Practitioner's Guide will not be supplanted by the OWA Class EA, if approved, but rather would provide a useful benchmark with respect to the effective incorporation of federal requirements into provincial EA processes for waterpower.

3.2 Canada - Ontario Agreement on Environmental Assessment Cooperation

On November 1, 2004, Canada's Minister of the Environment and Ontario's Minister of the Environment signed an agreement on environmental assessment (EA) cooperation. The Agreement requires that the federal and provincial governments "*will coordinate the environmental assessment processes whenever projects are subject to review by both jurisdictions ... The agreement maintains the current level of environmental standards and the legislative and decision-making responsibilities of both governments. While projects requiring both provincial and federal environmental assessment approvals will still require separate approvals, decisions will be based on the same body of information and there will be an ability to make decisions concurrently*" (Canadian Environmental Assessment Agency, 2004).

The scope of the Agreement is as follows:

"For Canada, this Agreement applies to any person or body that is required to ensure an environmental assessment is conducted under the Canadian Environmental Assessment Act and for Ontario this Agreement applies to any person or body having authority under the Ontario Environmental Assessment Act" (Government of Canada and Province of Ontario, 2004, p. 4).

For purposes of this Practitioner's Guide, this Agreement applies primarily to projects that require a CEAA assessment and an Individual EA. Although the Agreement also addresses projects subject to the *Electricity Projects Regulation*, the main provisions do not apply to these projects.

In relation to the coordination of the federal EA process with a provincial Individual EA, the Agreement details the following main provisions:

- coordination responsibilities of designated offices (i.e. the Canadian Environmental Assessment Agency (the Agency) and MOE);
- cooperative EA coordination responsibilities;
- pre-notification and early coordination;
- notification and determination of EA responsibilities;
- cooperative EAs;
- determining lead party;
- single contacts (i.e. within each of the Agency and MOE);
- Joint Assessment Committee;
- establishment of a work plan for the assessment;
- public participation;
- finalization of the Terms of Reference;
- determination of completeness of the EA document;

- coordination of decisions and announcements;
- mitigation and follow-up;
- mediation;
- transboundary considerations; and
- consideration of aboriginal interests.

In addition, a *Coordination Framework for Projects Subject to Provincial Class Environmental Assessments or Ontario Regulation 116/01 (Environmental Screening Process)* is included in the Agreement. The procedures outlined in this section would apply to Category B projects under Ontario Regulation 116/01 that are also subject to CEAA.

This section of the Agreement notes that:

“For a proponent(s) seeking to concurrently satisfy the requirements of ... Ontario Regulation 116/01 (Environmental Screening Process), and the requirements under the Canadian Environmental Assessment Act for a project ...the proponent(s) is to notify and consult the Agency’s [Canadian Environmental Assessment Agency] office early in the planning process when the details of the project are known, and provide a project description in a timely manner” (Government of Canada and Province of Ontario, 2004, p. 17).

This section of the Agreement also indicates that:

“The proponent(s) of the project will follow the class environmental assessment process or Ontario Regulation 116/01 approved under the Ontario Environmental Assessment Act, and incorporate additional information necessary to satisfy the requirements of the Canadian Environmental Assessment Act.

The proponent(s) will present its findings on the predicted environmental effects of the project in a single body of documentation.

All Parties’ participation will be consistent with and mindful of timelines set out in ... Ontario Regulation 116/01 and legislation” (Government of Canada and Province of Ontario, 2004, p. 17).

The *Canada – Ontario Agreement on Environmental Assessment Cooperation* should be consulted for specific details. The document is included in Appendix A and is posted on the web sites of the Agency (<http://www.ceaa-acee.gc.ca>) and MOE (<http://www.ene.gov.on.ca>).

Practical advice on coordinating studies and assessments, documentation and public consultation for projects requiring approvals under both CEAA and the *Electricity Projects Regulation* is provided in Section 10.0 of this Practitioner’s Guide.

3.3 Memorandum of Understanding Between the Canadian Electricity Association and Fisheries and Oceans Canada

The Canadian Electricity Association (CEA) and Fisheries and Oceans Canada (DFO) have signed a Memorandum of Understanding (MOU), establishing a cooperative working

relationship. The MOU outlines initiatives “to better conserve and protect fish and fish habitat resources associated with electricity generation in Canada in a manner consistent with the requirements of the Fisheries Act and related regulatory and policy documents” (Fisheries and Oceans Canada and the Canadian Electricity Association, 2002).

Specifically, the CEA and DFO “agree to establish a cooperative working relationship ... in order to facilitate regular national and regional consultation, collaborate in the development of standard fish and fish habitat conservation and protection requirements consistent with the objectives of the Fisheries Act, the Habitat Policy [a DFO policy], and related regulatory and policy documents, undertake joint stewardship initiatives, develop joint education and training materials, and establish joint research programs, all with the intent of better protecting the fish and fish habitat resources associated with electricity generation in Canada” (Fisheries and Oceans Canada and the Canadian Electricity Association, 2002).

The MOU Between the CEA and Fisheries and Oceans Canada, which is posted on the CEA web site (http://www.canelect.ca/en/Pdfs/CEA-DFO_MOU.pdf) and the DFO web site (http://www.dfo-mpo.gc.ca/canwaters-eauxcan/habitat/partners-partenaires/cea/dfo-cea-mou_e.asp), should be consulted for specific details.

3.4 Ministry of Natural Resources Site Release and Development Review Policy

In November 2004, the Ontario Ministry of Natural Resources issued the Waterpower Site Release and Development Review Policy and the first of regular calls for “Expressions of Interest” for new waterpower development on provincial Crown land. As indicated in the policy directive, MNR supports the development of new waterpower energy through the disposition of:

- 1) Existing Crown owned water control structure opportunities (MNR will make Crown water control infrastructure available through existing processes for the devolvement of MNR facilities); and
- 2) Greenfield opportunities on Crown land.

With respect to the relationship of the site release process and EA requirements, it is important to note that “site release” is not a disposition; it is the completion of a process to confirm or select an Applicant of Record for potential waterpower development. The Applicant of Record will be awarded the opportunity to apply for the necessary approvals to construct and operate a waterpower facility. There are no “rights” or tenure associated with this opportunity.

The policy further stipulates that the Applicant of Record is required to complete the *Environmental Assessment Act* requirements for the proposal prior to any MNR authorizations or approvals being issued. Once an applicant has been awarded Applicant of Record status, they will be required to issue a *Notice of Commencement* under the Ontario *Environmental Assessment Act* within twelve (12) months. Failure to issue a *Notice of Commencement* under the

Ontario *Environmental Assessment Act* within twelve (12) months will result in the opportunity being withdrawn.

3.5 Ministry of Natural Resources Water Management Planning Guidelines for Waterpower

In December of 2000, the *Lakes and Rivers Improvement Act* was amended to allow the Minister of Natural Resources to order the owner of a dam to prepare a management plan in accordance with guidelines approved by the Minister. The *Lakes and Rivers Improvement Act* was further amended in June 2002 to, among other things, give the Minister explicit approval powers and require dam owners to comply with approved plans. Water management plans (WMPs) are required wherever at least one waterpower facility exists on a river system. These plans are proponent-driven, but are carried out cooperatively with the Ministry of Natural Resources (MNR). As documents of legal effect, they are approved by MNR.

The *Water Management Planning Guidelines for Waterpower* (Ministry of Natural Resources, 2002), which govern the preparation of WMPs, have a goal of sustainable development of Ontario's waterpower resources, along with the management of these resources in an ecologically sustainable manner. The *Guidelines* contain a number of guiding principles, including seeking to maximize the net benefits to society and riverine ecosystem sustainability. Each WMP also strives to meet a range of economic, environmental and social objectives that are unique to each river's setting and characteristics.

The *Guidelines* indicate that the general scope of WMPs includes:

- i) "baseline conditions (environmental, social and economic) present at the time of planning,
- ii) a focus principally on the management of water levels and flows,
- iii) operating regimes required at the waterpower facilities and associated water control structures,
- iv) the relative scale of effects of waterpower operations and their related issues, and
- v) other water resource users and the public interest in water" (Ministry of Natural Resources, 2002, p. 6).

MNR's *Waterpower Site Release and Development Review Policy*³ (MNR, 2004) notes that:

"All owners of waterpower facilities under provincial jurisdiction are required to prepare a Water Management Plan (WMP) in accordance with the approved Water Management Planning Guidelines for Waterpower. In cases of new Greenfield development on systems where there is no existing WMP it has been determined that the planning

³ This policy outlines site release guidelines for new waterpower projects and should be consulted for further details.

process for the Ontario Environmental Assessment Act can meet the intent of the Water Management Planning Guidelines" (emphasis added) (MNR, 2004, p. 12).

Further details on water management planning can be found in the *Guidelines* which are available at the MNR web site at:

<http://www.mnr.gov.on.ca/mnr/water/waterpower.html>.

4.0 Federal and Provincial Environmental Assessment Requirements for Waterpower Development Projects

4.1 Ontario Environmental Assessment Act Requirements for Waterpower (Hydroelectric) Development Projects

Under Ontario Regulation 116/01 (the *Electricity Projects Regulation*) of the Ontario *Environmental Assessment Act* (EA Act), the Ministry of the Environment (MOE) has classified electricity projects based on their nature and magnitude. There are three project categories, each with different environmental assessment (EA) requirements⁴, as follows:

Category A projects are those that are expected to have minimal environmental effects. These projects are not designated as being subject to the EA Act under the *Electricity Projects Regulation* and, therefore, do not require EA Act approval.

Category B projects are projects that have potential environmental effects that can likely be mitigated. These projects are subject to the EA Act, but proponents of these projects are not required to prepare an Individual EA as long as they complete the **Environmental Screening Process**, as defined in MOE's *Guide to Environmental Assessment Requirements for Electricity Projects*.

Category C projects are major projects with known significant environmental effects. These projects require an **Individual EA**.

Appendix B provides an overview of the Electricity Projects Environmental Screening and Individual EA processes (provincial).

Relative to these three project categories, Chart 1 in the *Guide to Environmental Assessment Requirements for Electricity Projects* (Ministry of the Environment, 2001, p. 9) classifies electricity projects, as provided in Table 4.1.

Under the *Electricity Projects Regulation*, many modifications and expansions to hydroelectric and related facilities are subject to EA Act requirements.

A change or expansion to a facility that was planned as a Category B project that is not a "significant modification", as set out in the *Electricity Projects Regulation*, is considered a "minor modification". Minor modifications to Category B projects are generally subject to less rigorous requirements or are exempt (i.e. Category A), as set out in the Addendum provisions in Section B.5.2 of the Environmental Screening Process. However, any change in a facility that results in a new capacity of ≥ 200 MW is subject to an Individual EA. Minor

⁴ The following refers to the provisions of the *Electricity Projects Regulation* only. While some waterpower projects may also be subject to other provincial EA requirements (e.g. *Class EA for MNR Resource Stewardship and Facility Development Projects*), these are not addressed in this guide.

modifications to a facility that was planned as a Category C project are subject to the Environmental Screening Process.

Table 4.1: Electricity Project Classification

Electricity Project Type	Category A: No EAA Requirements	Category B: Environmental Screening Process	Category C: Individual EA
New Hydroelectric facilities	–	< 200 MW	≥ 200 MW
Modifications to existing facilities	Modifications to facilities that did not require EAA approval to construct and the total change, since construction, is less than 25% of the name-plate capacity	Modifications resulting in an increase in name-plate capacity of 25% or more if still under 200 MW after the modification Modification of < 25% increase of a facility with a capacity of 200 MW or more before the modification	Any modification of existing facilities if over 200 MW after the modification Modification of 25% or greater increase to facilities with a capacity of 200 MW or greater before the modification
Transmission lines	<ul style="list-style-type: none"> • < 115 kV • ≥ 115 kV and ≤ 2 km, unless associated with a Category B generation project 	<ul style="list-style-type: none"> • if associated with a Category B generation project and ≥ 115 kV, subject to Environmental Screening Process • if not associated with a Category B generation project and <ul style="list-style-type: none"> ⇒ 115 kV and > 2 km; or ⇒ >115 kV and < 500 kV and > 2 km and < 50 km, <p>subject to the Class EA for Minor Transmission Facilities</p>	<ul style="list-style-type: none"> • >115 kV and < 500 kV and ≥ 50 km • ≥ 500 kV and > 2 km
Transformer Stations	• < 115 kV	<ul style="list-style-type: none"> • if associated with a Category B generation project and > 115 kV, subject to Environmental Screening Process • if not associated with a Category B generation project and <ul style="list-style-type: none"> ⇒ 115 kV and ≤ 500 kV, 	• > 500 kV

Electricity Project Type	Category A: No EAA Requirements	Category B: Environmental Screening Process	Category C: Individual EA
		subject to the Class EA for Minor Transmission Facilities	

The *Guide to Environmental Assessment Requirements for Electricity Projects* should be consulted for further details.

4.2 Canadian Environmental Assessment Act Requirements for Waterpower Development Projects

The *Canadian Environmental Assessment Act (CEAA)* is a federal law that applies to projects where the federal government is the proponent, provides financial assistance, owns or administers federal lands or issues a permit or approval (as identified on the *Law List Regulations*) in order to enable a project to proceed. The purpose of the legislation is to ensure that the environmental effects of projects are considered before irrevocable decisions are made by federal authorities. CEAA requires federal decision-makers or Responsible Authorities (RAs) to consider the environmental effects of proposed projects prior to their taking an action that would enable a project to proceed.

In order for CEAA to apply, there must be: (1) a federal authority; (2) a subsection 5(1) CEAA trigger (i.e. a federal power, duty or function in respect of the project); and (3) a project that is not excluded. Without all three of these elements, CEAA does not apply, in most cases⁵. Section 5.0 provides a Primer on CEAA which outlines in detail its purpose, when it applies, key definitions, types of assessments, roles and decision-making. Section 5.0 should be consulted for further details on CEAA. The purpose of the following section is simply to outline the types of CEAA assessments required for waterpower development projects. It is expected that CEAA will apply to the majority of waterpower projects due to the need for *Fisheries Act* authorizations or approvals under the *Navigable Waters Protection Act (NWPA)* (see Section 7.0).

The vast majority of environmental assessments undertaken in accordance with CEAA are screenings. In these instances, screening reports are prepared. However, some projects on the *Comprehensive Study List Regulations* must be assessed as a comprehensive study, in accordance with CEAA. Comprehensive study reports are prepared for these projects. Generally, these are large-scale projects that may have the potential for significant adverse environmental effects. Details on what is required for a screening and a comprehensive study are included in Section 5.5.

The following waterpower projects are on the *Comprehensive Study List Regulations*:

⁵ There may be infrequent circumstances when the transboundary provisions of CEAA may apply. For more information on these provisions, contact the Canadian Environmental Assessment Agency.

- the proposed construction, decommissioning or abandonment of a hydroelectric generating station with a production capacity of 200 MW or more;
- the proposed expansion of a hydroelectric generating station that would result in an increase in production capacity of 50 per cent or more and 200 MW or more;
- the proposed construction of an electrical transmission line with a voltage of 345 kV or more that is 75 km or more in length on a new right of way;
- the proposed construction, decommissioning or abandonment of a dam or dyke that would result in the creation of a reservoir with a surface area that would exceed the annual mean surface area of a natural water body by 1500 hectares or more, or an expansion of a dam or dyke that would result in an increase in surface area of a reservoir of more than 35 per cent;
- the proposed construction, decommissioning or abandonment of a structure for the diversion of 10 000 000 m³/a or more of water from a natural water body into another natural water body or an expansion of such a structure that would result in an increase in diversion capacity of more than 35 per cent.

Details on what is required for a comprehensive study are provided in Section 5.5.

5.0 A Primer on the *Canadian Environmental Assessment Act* (CEAA)

The *Canadian Environmental Assessment Act* (CEAA) is a federal law that applies to projects where the federal government is the proponent, provides funding, owns or administers federal lands or issues certain types of permits or approvals in order to enable a project to proceed in whole or in part. The purpose of the legislation is to ensure that the environmental effects of projects are considered before irrevocable decisions are made by federal authorities. CEAA requires each federal decision-maker or Responsible Authority (RA) to consider the environmental effects of a proposed project prior to taking an action that would enable the project to proceed. If a project “triggers” CEAA, an environmental assessment (EA) of the project is required (unless it is excluded – see Section 5.2) and an RA must ensure that an EA is undertaken. An RA will circulate the project to other federal authorities to obtain specialist information and knowledge for the project assessment and to determine whether they also have responsibilities as an RA.

Under CEAA, community knowledge and aboriginal traditional knowledge may be considered in conducting an EA. In addition, the definition of environmental effects includes a consideration of “*the current use of lands and resources for traditional purposes by aboriginal persons*”. Therefore, an RA may contact Aboriginals as part of the environmental assessment.

There are a number of key regulations that pertain to CEAA, including: the *Law List Regulations*; the *Inclusion List Regulations*; the *Exclusion List Regulations*; and the *Comprehensive Study List Regulations*. The following sections provide an overview of the key components of CEAA, with reference to these regulations, as appropriate.

The web site address for the Canadian Environmental Assessment Agency (the Agency), as well as selected references, are provided at the back of this Practitioner’s Guide.

5.1 Purpose of CEAA

The purpose of CEAA is to:

- ensure environmental effects of projects are considered;
- promote sustainable development;
- ensure environmental assessments are carried out in a coordinated manner;
- promote cooperation and coordination between federal and provincial governments with respect to environmental assessment processes;
- promote communication and cooperation with Aboriginal peoples with respect to environmental assessment;
- ensure that projects within Canada or on federal lands do not cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out; and
- ensure timely and meaningful public participation in the environmental assessment process (CEAA Section 4).

5.2 When Does CEAA Apply?

CEAA is different from the requirements of the Ontario *Environmental Assessment Act* (EA Act) in that it applies to a federal authority when it has certain decisions to make in relation to a project.

In order for CEAA to apply, there must be: (1) a federal authority; (2) a subsection 5(1) CEAA trigger (i.e. a federal power, duty or function in respect of the project); and (3) a project that is not excluded. Without all three of these elements, CEAA does not apply.

Figure 5.1: When Does CEAA Apply?

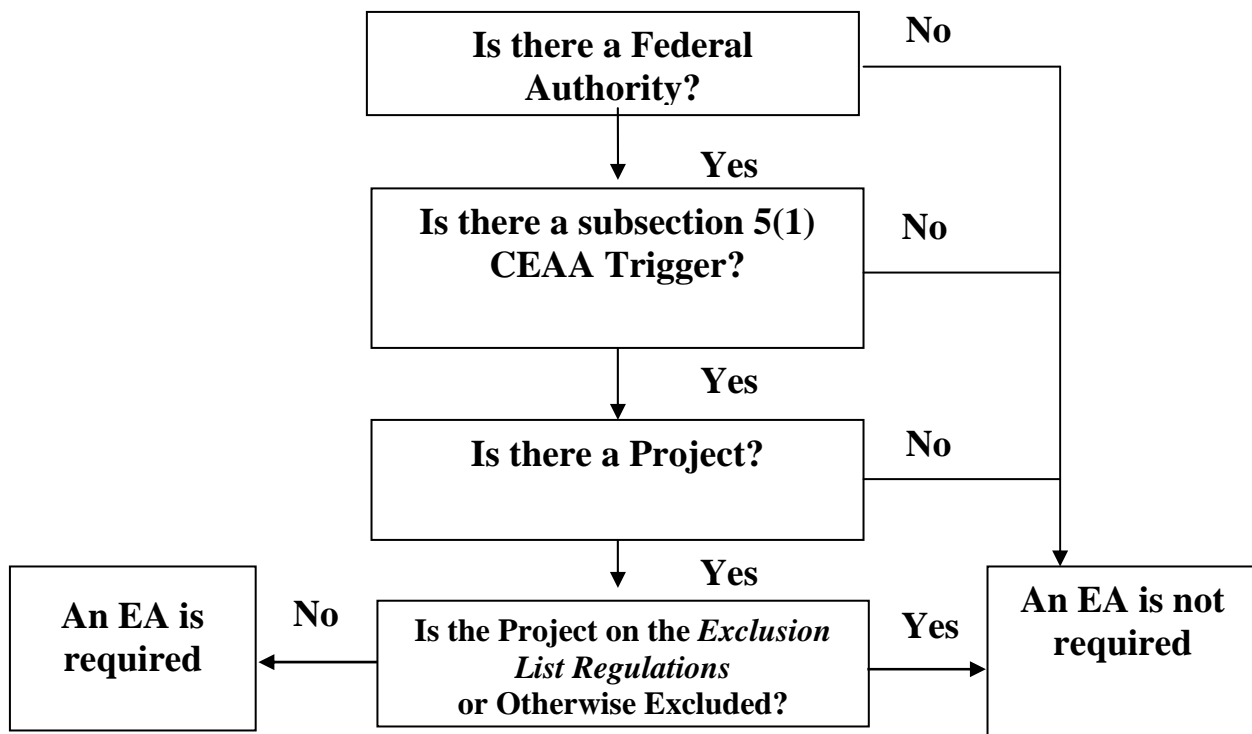


Figure 5.1 provides a flowchart that outlines how to determine if CEAA applies. An explanation of the flowchart is provided below.

Is there a Federal Authority (FA)?

Under CEAA, a federal authority includes the following:

- a federal Minister of the Crown;
- an agency or body of the federal government;
- any department or departmental corporation set out in Schedule I or II to the *Financial Administration Act*, and
- any other body that is prescribed pursuant to regulations under CEAA.

Example of federal authorities frequently involved in environmental assessments include:

- Fisheries and Oceans Canada (DFO)
- Environment Canada (EC)
- Natural Resource Canada (NRCan)
- Indian and Northern Affairs Canada (INAC)
- Public Works and Government Services Canada (PWGSC)
- Transport Canada (TC)
- Parks Canada Agency (PC)
- National Energy Board (NEB)
- Health Canada
- Industry Canada

Other bodies may be subject to CEAA, such as Port Authorities, however, they are not FAs. Port Authorities conduct EAs as per the *Port Authority Environmental Assessment Regulations*.

Appendix C provides information on identifying federal authorities.

Is there a subsection 5 CEAA trigger?

Subsection 5(1) of CEAA outlines the circumstances under which the federal government is required to undertake an environmental assessment of a project⁶. CEAA applies in instances where a federal authority performs one or more of the following functions in relation to a project:

- is the proponent of the project
- provides financial assistance (such as funding, goods or services) to a project
- leases, sells or disposes of land to enable a project to be carried out: and/or
- exercises a regulatory duty (i.e. issues a permit, authorization, approval or licence) under a piece of legislation that is included in the *Law List Regulations* in relation to a project.

These actions are generally known as “triggers”. The federal authority that “triggers” CEAA is known as the Responsible Authority (RA). There may be instances where there is more than one RA for a project (e.g., Industry Canada is funding a project which will require a *Fisheries Act* authorization).

The *Law List Regulations* identify federal statutory or regulatory approvals that trigger a CEAA assessment.

⁶ In addition, an environmental assessment of a project is required before the Governor in Council (GIC), as per subsection 5(2) of CEAA, under a provision prescribed in the *Law List Regulations*, issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part.

The timing for triggering CEAA is a decision of the RA. Ideally, CEAA would be triggered by the RA as soon as practical in the overall planning process. Past practice has been to wait until there is sufficient information available on the project to determine if a federal power will be exercised or a federal duty or function will be performed. However, the timing for triggering CEAA is generally reviewed for each project and there may be circumstances, such as the availability of information, that affect the timing of the trigger. Note that the review of a project is an iterative process

The DFO *Policy change on early triggering for major projects under CEAA* came into effect June 1, 2004. The objective of this Policy is to allow the triggering of CEAA on major projects requiring authorizations under the *Fisheries Act*, earlier for a more harmonized process when provincial EA legislation applies. Contact information for Fisheries and Oceans Canada is provided in Table 11.1.

Examples of RAs include:

- Fisheries and Oceans Canada (*Fisheries Act* authorization);
- Transport Canada (*Navigable Waters Protection Act* approval, funding, land).
- National Energy Board (permit for pipeline relocation);
- Canada Transportation Agency (permit for rail crossing or re-alignment);
- Natural Resources Canada (permit for storage of explosives);
- Industry Canada (funding);
- Indian and Northern Affairs Canada (lease on projects on reserve land);
- Environment Canada (funding); and
- Public Works and Government Services Canada (funding).

Appendix D provides information on potential CEAA triggers for waterpower projects.

Is there a Project?

Under CEAA, a project is defined as:

- a proposed undertaking in relation to a **physical work**, such as any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work
- or
- any proposed **physical activity** not relating to a physical work that is identified on the *Inclusion List Regulations* (CEAA subsection 2(1)).

Projects listed in the *Exclusion List Regulations* or otherwise excluded (see below) do not require a federal EA.

A **physical work** is generally considered to be a structure that is fixed in place, has been constructed by humans and has an element of permanence (i.e., not temporary in nature). Examples of a physical work are a road, a bridge, a culvert, a pier or a dock.

The *Inclusion List Regulations* list those physical activities that are defined as projects under CEAA. Examples of physical activities listed in the *Inclusion List Regulations* include: the remediation of contaminated land in Canada; the destruction of fish by any means other than fishing, where the destruction requires the authorization of the Minister of Fisheries and Oceans under section 32 of the *Fisheries Act*; the dumping of any substance for which a permit is required under Part VI of the *Canadian Environmental Protection Act*; and physical activities that are carried out in Canada relating to the establishment or relocation of a temporary road for use in winter.

The following provides some examples of how to determine whether there is a project under CEAA.

Potential Projects	In relation to a physical work?	On the Inclusion List?	Project?
Construction of a Dam	Yes	NA	Yes
Remediation of Contaminated Lands	No	Yes	Yes
Dredging Lake to: a) Build a pier b) Enable navigation	Yes	NA	Yes
	No	Yes	Yes
Transport of Dangerous Goods	No	No	No
Construction of a Transmission Line	Yes	NA	Yes

NA = not applicable since it is a physical work

Is the Project Excluded from CEAA?

Once it is determined that there is a project, as defined by CEAA, before it can be confirmed that CEAA applies, it must be determined if the project is excluded from the requirement of an EA.

The *Exclusion List Regulations* list those projects which are not subject to the requirements CEAA and, therefore, do not require an environmental assessment under the Act. In addition, projects undertaken in response to an emergency (e.g. a flood) in the interest of preventing damage to property, the environment or to public health and safety, or in response to a national emergency as per the *Emergencies Act*, are exempt from CEAA.

An example of a project in the *Exclusion List Regulations* is the proposed maintenance and repair of an existing physical work. Table 5.1 outlines transmission projects that are identified in the *Exclusion List Regulations*.

Further details on the *Exclusion List Regulations* can be found in the document entitled *Consolidated Regulations Under the Canadian Environmental Assessment Act* (Canadian Environmental Assessment Agency, 1999).

It is important to note that even though a project may be excluded from CEAA, a project may still require, for example, a *Fisheries Act* authorization (e.g., for maintenance of existing works that are not covered by a DFO Operational Statement⁷ and result in the harmful alteration, disruption or destruction (HADD) of fish habitat) or the Ontario *Environmental Assessment Act*.

Table 5.1: Transmission Projects on Exclusion List Regulations *

Exclusion List Reference No.	Excluded Project
21	<ul style="list-style-type: none"> • the proposed construction or installation of an electrical transmission line, other than an international electrical transmission line, with a voltage of not more than 130 kV, where the construction or installation would not <ul style="list-style-type: none"> a) be carried out beyond an existing right of way; b) involve the likely release of a polluting substance into a water body; and c) involve the placement in or on a water body of the supporting structures for the electrical transmission line.
22	<ul style="list-style-type: none"> • the proposed expansion or modification of an existing electrical transmission line, other than an international electrical transmission line, that would not <ul style="list-style-type: none"> a) lengthen the line by more than 10 per cent; b) be carried out beyond an existing right of way; c) involve the likely release of a polluting substance into a water body; and d) involve the placement in or on a water body of the supporting structures for the electrical transmission line.
23	<ul style="list-style-type: none"> • the proposed construction or installation of a switching station associated with an electrical transmission line with a voltage of not more than 130 kV, other than an international transmission line, where the construction or installation would not <ul style="list-style-type: none"> a) be carried out beyond an existing right of way; b) be carried out in or on or within 30 m of a water body; and c) involve the likely release of a polluting substance into a water body.
24	<ul style="list-style-type: none"> • the proposed expansion or modification of an existing switching station associated with an electrical transmission line, where the expansion or modification would not <ul style="list-style-type: none"> a) be carried out beyond the existing right of way; b) be carried out in or on or within 30 m of a water body; and c) involve the likely release of a polluting substance into a water body.
25	<ul style="list-style-type: none"> • the proposed construction, installation, expansion or modification of an international electrical transmission line with a voltage of not more than 50 kV that would not <ul style="list-style-type: none"> a) be carried out beyond an existing right of way; b) extend more than 4 km outside Canada;

⁷ Each Operational Statement provides the public and industry with guidance on how to carry out a work or undertaking in order to avoid negative effects to fish habitat and therefore, meet the requirements of the *Fisheries Act*. See Section 7.1.1 for more information.

Exclusion List Reference No.	Excluded Project
	<ul style="list-style-type: none"> c) involve the likely release of a polluting substance into a water body; and d) involve the placement of the supporting structures for the line in or on or within 30 m of a water body.

* from Part III, Electrical and Nuclear Energy, *Exclusion List Regulations*, pp. 7-8.

5.3 Key CEAA Definitions

The following are definitions for some key CEAA terms (from CEAA subsection 2(1)):

Environment	<p>“environment” means the components of the Earth, and includes</p> <ul style="list-style-type: none"> (a) land, water and air, including all layers of the atmosphere, (b) all organic and inorganic matter and living organisms, and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b).
Environmental Effect	<p>“environmental effect” means, in respect of a project,</p> <ul style="list-style-type: none"> (a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the <i>Species at Risk Act</i>; (b) any effect of any such change referred to in paragraph (a) on <ul style="list-style-type: none"> (i) health and socio-economic conditions, (ii) physical and cultural heritage, (iii) the current use of lands and resources for traditional purposes by aboriginal persons, or (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or (c) any change to the project that may be caused by the environment, <p>whether any such change or effect occurs within or outside Canada.</p> <p>CEAA subsection 16(1)(a) notes that the environmental effects of a project include the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out.</p>
Federal Authority	<p>“federal authority” means</p> <ul style="list-style-type: none"> (a) a Minister of the Crown in right of Canada, (b) an agency of the Government of Canada or other body established by or pursuant to an Act of Parliament that is ultimately accountable

	<p>through a Minister of the Crown in the right of Canada to Parliament for the conduct of its affairs,</p> <p>(c) any department or departmental corporation set out in Schedule I or II to the <i>Financial Administration Act</i>, and</p> <p>(d) any other body that is prescribed pursuant to regulations made under 59(e).</p>
Responsible Authority	<p>“responsible authority”, in relation to a project, means a federal authority that is required pursuant to subsection 11(1) to ensure that an environmental assessment of the project is conducted.</p>
Proponent	<p>“proponent”, in respect of a project, means the person, body, federal authority or government that proposes the project.</p>
Follow-up Program	<p>“follow-up program” means a program for</p> <p>(e) verifying the accuracy of the environmental assessment of a project, and</p> <p>(f) determining the effectiveness of any measures taken to mitigate the adverse environmental effects of the project.</p>

5.4 Types of Assessments

Under CEAA, an EA is carried out by the RA, or under the direction of the RA, in order to be able to determine the environmental effects before making a decision on taking action in support of a project (i.e. is a proponent, provides financial assistance, provides land, issues certain types of permits or authorizations).

There are four main types of EAs or “tracks”: **screenings**; **comprehensive studies**; **review panels**; and **mediation**. The vast majority of CEAA assessments are **screenings**. Details on what is required for a screening are provided in Section 5.5.

All projects are subject to screenings unless they are identified on the *Comprehensive Study List Regulations*. Projects on the *Comprehensive Study List Regulations* must be assessed as a **comprehensive study**, in accordance with CEAA. Generally, these are large-scale projects that may have the potential for significant adverse environmental effects. The waterpower projects that are on the *Comprehensive Study List Regulations* are provided in Section 4.2.

For comprehensive studies, the RA reports to the Minister of the Environment on: the scope of the project; the factors to be considered in the assessment and the scope of those factors; public concerns related to the project; and the ability of the comprehensive study to address issues relating to the project. The RA also provides a recommendation to the Minister of the Environment regarding whether a comprehensive study should be prepared for the project or whether the project should be referred to a mediator or review panel. The Minister of the Environment then decides on this matter. If the Minister decides that the comprehensive study should be continued, the project cannot be further referred to a mediator or review

panel at a later date. Details on what is required for a comprehensive study are provided in Section 5.5.

A project screening may be referred by an RA to the Minister of the Environment to conduct a **review panel** if: *“it is uncertain whether the project is likely to cause significant adverse environmental effects; the project is likely to cause significant adverse environmental effects and a determination must be made whether these effects are justified in the circumstances; or public concerns about the project and its possible environmental effects warrant further investigation of the project”* (Canadian Environmental Assessment Agency, 1994b, p. 108). Under exceptional conditions, a project subject to a Screening may be referred to a Review panel by an RA as per Section 25 of the CEAA, or at the request of the Minister of the Environment himself as per s. 28 . The review panel is an independent body appointed by the Minister of Environment to review the project. The review panel prepares a report to the Minister of Environment that outlines conclusions and recommendations relative to the project.

A project screening may also be referred to mediation by the Minister of the Environment . **Mediation** is another federal environmental assessment “track” in which a mediator that has been appointed by the Minister of Environment works with affected parties to attempt to resolve their issues associated with a project.

5.5 What Needs to be Considered in a CEAA Screening and in a Comprehensive Study?

Subsection 16(1) of CEAA indicates that the following factors shall be considered for every screening or comprehensive study:

- (a) *“the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;*
- (b) *the significance of the effects referred to in paragraph (a);*
- (c) *comments from the public that are received in accordance with this Act and the regulations;*
- (d) *measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project; and*
- (e) *any other matter relevant to the screening ... such as the need for the project and alternatives to the project, that the responsible authority ... may require to be considered”.*

Subsection 16(2) of CEAA outlines the following additional factors that shall be considered for a comprehensive study:

- a) *“the purpose of the project;*

- b) *alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means;*
- c) *the need for, and the requirements of, any follow-up program in respect of the project; and*
- d) *the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future”.*

A CEAA assessment must consider “any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out” (CEAA subsection 16(1)). Further guidance on cumulative environmental effects is provided in the *Operational Policy Statement Addressing Cumulative Environmental Effects under CEAA* and the *Cumulative Effects Assessment Practitioner’s Guide* prepared by the Agency (see Selected References that includes the web site address for the Agency).

The CEAA assessment must also consider the environmental effects of malfunctions or accidents that may occur in connection with the project. For example, this would include a consideration of accidental spills during construction or operational phases. Examples of accidents and malfunctions during the construction phase include fuel spills from equipment or slope failure caused by heavy rainfall.

5.6 What are the Roles and Responsibilities of the Responsible Authority (RA)?

Once a federal authority determines that it has a power, duty or function in relation to a proposed project, it becomes an RA. An RA has a number of roles and responsibilities, including:

- determining if an EA is required and, if yes, what type;
- consulting with the appropriate federal departments in accordance with the *Federal Coordination Regulations*;
- determining if there is other jurisdictional interest (i.e. provincial);
- defining the project and scope of assessment (scope of assessment involves determining the factors and scope of factors) (see Section 5.9);
- ensuring that the EA is conducted in accordance with CEAA requirements;
- under ss.79(1) of SARA, without delay, notifying, in writing, the competent minister(s) if the project is likely to affect a listed wildlife species or its critical habitat.
- under ss.79(2) of SARA,
 - identifying the adverse effects on the listed wildlife species and its critical habitat; and
 - if the project is carried out:
 - ensuring that measures are taken to avoid or lessen the adverse effects on the listed wildlife species and its critical habitat and to monitor them, and
 - ensuring that such measures are taken in a way that is consistent with any applicable recovery strategy and action plans.
- determining whether public participation is appropriate;
- undertaking public consultation, as required;

- entering and updating project information on the Canadian Environmental Assessment Registry (CEAR) to facilitate convenient public access to records relating to the EA;
- determining whether a follow-up program is appropriate;
- making a determination on the likelihood of significant adverse environmental effects; and
- providing public notice on the course of action for the project.

An RA acts as the Federal Environmental Assessment Coordinator (FEAC) for screenings when the project is not subject to the EA process of another jurisdiction, unless otherwise agreed (see Section 5.8)

The *Federal Coordination Regulations* are used by federal authorities to identify and give notice to other federal authorities that may have an interest in a project as either an RA or as an expert department. These regulations are intended to ensure that only one assessment is undertaken for each project and that it is undertaken in a coordinated manner.

5.7 What is the Role of Expert Departments?

Federal authorities that are not RAs may still be involved as expert departments for projects that trigger CEAA. An RA will circulate the project to other federal authorities or expert departments. The role of expert departments is to provide specialist information and knowledge for the project assessment, at the request of the RA or a mediator or a review panel. Expert Federal Authorities (FAs) may be able to provide available information on environmental conditions or scientific studies, expertise on environmental effects and their significance, or advise on other regulatory requirements or policy considerations applicable to the project.

Federal authorities may also act as a review agency, providing advice (e.g. advice on the *Species at Risk Act*) to a proponent regardless of whether CEAA is triggered or in advance of CEAA being triggered.

5.8 What is the Role of the Canadian Environmental Assessment Agency?

The Agency was established in 1994 as an independent body that administers the federal environmental assessment process. The Agency promotes environmental assessment as a tool to protect and sustain a healthy environment, promotes high quality environmental assessments and creates an awareness of CEAA and how it applies.

The Agency provides procedural advice on CEAA. In addition, the Agency acts as the

FEAC⁸ for comprehensive studies and multi-jurisdictional assessments (e.g. CEAA assessments and assessments undertaken in accordance with Ontario Regulation 116/01) or by mutual agreement for federal screenings.

The Canadian Environmental Assessment Agency notes that the role of the FEAC involves:

- *“bringing together all federal authorities that may need to be involved in the assessment;*
- *consolidating information requirements for the assessment;*
- *coordinating the actions of federal authorities with those of provincial governments in the case of joint assessments ... to prevent overlap and duplication;*
- *coordinating federal authorities’ obligations for the Canadian Environmental Assessment Registry;*
- *establishing and chairing project committees that include representatives of all potential responsible authorities and interested federal authorities;*
- *establishing timelines for environmental assessments, after consulting with potential responsible authorities and federal authorities;*
- *determining, in consultation with responsible authorities, the timing of any public participation required by the Act [CEAA] or proposed by a responsible authority”* (Canadian Environmental Assessment Agency, 2003).

In addition, the FEAC is responsible for ensuring that federal authorities fulfill their obligations under CEAA in a timely manner.

5.9 Scope of Environmental Assessment

Scoping is a legal requirement under CEAA and is a key initial step in undertaking a CEAA assessment. This involves defining the scope of project and, the factors to be considered and the scope of those factors in the EA, in accordance with sections 15 and 16 of CEAA. The RA is responsible for defining the scope of the project and the scope of the EA for screenings and comprehensive studies. In cases where there is more than one RA, the RAs will work together in defining the scope of project and factors and scope of factors for the EA.

The Minister of the Environment, after consulting with the responsible authority(ies) establishes the scope of the project to be assessed and the scope of the factors where a project is referred to a mediator or a review panel.

Scoping involves the determination of:

- the undertakings and activities that must be assessed as part of the project; and

⁸ An RA acts as the FEAC for federal-only screenings, unless otherwise agreed.

- the factors and scope of factors (i.e. scope of assessment) that need to be considered in the EA.

5.9.1 Scope of Project

The scope of project refers to those components of the proposed project that are to be considered as part of the project for the purposes of conducting an EA. Where appropriate, the scope of project may include specific mitigation or compensation measures. The following are considerations used by RAs in determining the scope of project:

- what is the project that is triggering CEAA (the “principal project”)?
- are there other physical works or activities that are inevitable or linked, in a physical sense, to the principal project and which could be included in the scope of the project ?

The scope of project may vary depending on the CEAA trigger (see Section 5.2). RAs may scope projects differently, depending on their involvement.

5.9.2 Scope of Assessment

The scope of assessment refers to the consideration of factors, including environmental effects, under section 16 of CEAA to be considered for the purposes of conducting an EA of the project.

The RA must initially consider all environmental effects, per the CEAA definition. Through scoping, the RA can then identify those that require further detailed assessment based on the potential for significant adverse environmental effects.

In defining the scope of assessment, consideration must also be given to effects on species at risk, as per the *Species at Risk Act* (SARA).

5.10 Decision of RA Following a Screening

Section 20 of CEAA describes the decisions available to the RA following a screening. The RA must take one of the following courses of action after considering the results of the screening, taking into account any appropriate mitigation measures:

- (a) if the RA determines that the project is not likely to cause significant adverse environmental effects, the RA may exercise its power, or perform any duty or function that would permit the project to be carried out;
- (b) if the RA determines that the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, the RA will not exercise any power or perform any duty or function that would permit the project to be carried out;

- (c) if there is uncertainty about the likelihood of significant adverse environmental effects, if the project is likely to cause significant adverse environmental effects and a determination must be made whether these effects are justified in the circumstances or if public concerns warrant, the RA will refer the project to the Minister of Environment for a referral to a mediator or a review panel.

5.11 Decision Following a Comprehensive Study

For comprehensive studies, the Minister of the Environment makes the decision on the project. Section 23(1) of CEAA indicates that the Minister shall issue an environmental assessment decision statement that:

- a) *“sets out the Minister’s opinion as to whether, taking into account the implementation of any mitigation measures that the Minister considers appropriate, the project is or is not likely to cause significant adverse environmental effects; and*
- b) *sets out any mitigation measures or follow-up program that the Minister considers appropriate, after having taken into account the views of the responsible authorities and other federal authorities concerning the measures and program”.*

~ CEEA Notes of Interest ~

- CEEA applies if the federal government has certain decision-making roles in relation to the undertaking of a project.
- In order for CEEA to apply, there must be a federal authority, a CEEA triggers and a project (that is not excluded).
- In accordance with CEEA, the likelihood of significant adverse environmental effects is determined after the consideration of mitigation measures.
- Approximately 99% of federal environmental assessments are screenings.
- The two most common *Law List Regulations* triggers are the requirement for an authorization under the *Fisheries Act* from DFO or an approval under the *Navigable Waters Protection Act* from Transport Canada.
- A RA cannot decide to provide the relevant land, financial assistance or approval of certain permits, licences or approvals in relation to a project until a CEEA decision has been reached.
- The scope of project and scope of assessment for a federal environmental assessment under CEEA may be different from the scope of the project subject to Ontario Regulation 116/01.
- Federal lands include First Nations Reserves.
- The determination of whether the environmental assessment subject to CEEA will be a screening or a comprehensive study must be made by the RA(s) but is not a choice. If a project is listed in the *Comprehensive Study List Regulations*, a comprehensive study must be completed.
- Cumulative environmental effects must be addressed in a CEEA environmental assessment.

6.0 Key Differences Between Federal and Provincial Environmental Assessment Requirements

6.1 Overview of Key Differences

The *Canadian Environmental Assessment Act* (CEAA) applies to federal government decision makers who are required to undertake funding, land transfer, proponentcy or certain regulatory decisions in support of a project. CEAA identifies the elements of the assessment that must be considered before the federal authorities can make their decision⁹. The *Ontario Environmental Assessment Act* (EA Act), applies to undertakings of public bodies as defined in *Ontario Regulation 334*. Private sector projects are subject only if specifically designated. The *Electricity Projects Regulation* extends EA provisions to all projects defined in the regulation, regardless of proponentcy¹⁰. Like CEAA, the EA Act and the *Electricity Projects Regulation* identify the elements of the assessment that must be considered and the process that must be followed.

There are a number of key differences between the legislative requirements of the federal and provincial processes. These key differences are summarized in Table 6.1. While these differences are evident in the legislation, environmental assessment (EA) practitioners are required to address the stated requirements of CEAA or the EA Act when undertaking an assessment. Incorporating these requirements in the design of a single project plan is key to an efficient EA process.

In addition to these legislative differences, there are a number of differences in key terms and how these two processes are applied. These differences are presented in Appendix E.

6.2 Requirements Unique to CEAA

CEAA has a number of requirements that are not specifically required in the EA Act, including the consideration of:

- cumulative environmental effects;
- any change to the project that may be caused by the environment; and
- the environmental effects of malfunctions or accidents

A CEAA environmental assessment must consider “*any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out*” (CEAA subsection 16(1)). Further guidance on cumulative effects is provided in the *Operational Policy Statement Addressing Cumulative Environmental Effects under CEAA* and the *Cumulative Effects Assessment Practitioner’s Guide* prepared by the Canadian

⁹ CEAA explicitly gives discretion to consider any other matter relevant to a screening or comprehensive study.

¹⁰ The *Electricity Projects Regulation* applies to both public and private proponents of waterpower projects.

Environmental Assessment Agency (see Selected References which includes the web site address for the Agency).

CEAA also requires the consideration of the **effects of the environment on the project**. For example, ice build up, flooding or drought conditions may affect the proposed project. In certain circumstances, future scenarios resulting from predicted climate change may need to be considered.

The CEAA assessment must also consider the **environmental effects of malfunctions and accidents** that may occur in connection with the project. For example, this could include a consideration of everything from accidental spills to dam failure during construction or operational phases.

Table 6.1: Overview of Key Differences in Requirements

Key EA Component	Federal		Provincial	
	CEAA Screenings	CEAA Comprehensive Study	<i>Electricity Projects Regulation - Environmental Screening Process</i>	EA Act – Individual EA
Purpose of the Undertaking / Project	■	✓	✓	✓
Rationale / Need for the project	■	■		✓
Alternatives to (solutions)	■	■		✓
Alternative means (methods)	■	✓		✓
Description of the Environment Expected to be Affected	✓	✓	✓	✓
Description of Environmental Effects	✓	✓	✓	✓
Consideration of Cumulative Environmental Effects	✓	✓		
Description of Actions Needed to Prevent, Change, Mitigate and Remedy Effects	✓	✓	✓	✓
Significance of Adverse Environmental Effects	✓*	✓	✓	*
Public Participation/Consultation	■	✓	✓	✓
Follow-up Programs	■	✓	✓	✓

Note: The Environmental Screening Process noted in the third column refers to the process outlined in the Ministry of the Environment’s Guide to Environmental Assessment Requirements for Electricity Projects (MOE, 2001).

✓ Required

■ Noted in CEAA as discretionary

* The determination of significance is an explicit CEAA requirement. The EA Act indirectly requires consideration of this, however, it is distinct from the determination under CEAA.

Note: Although some of the EA elements are not “required”, proponents and RAs often include these elements in their assessments.

7.0 *Fisheries Act, Navigable Waters Protection Act (NWPA) and Other Regulatory Approvals*

Fisheries and Oceans Canada (DFO) is responsible for issuing authorizations under the *Fisheries Act*. As of March 29, 2004, Transport Canada (TC) became responsible for the issuance of approvals under the *Navigable Waters Protection Act* (NWPA). Generally, these are the two most common *Law List Regulations* triggers. These regulatory approvals trigger the *Canadian Environmental Assessment Act* (CEAA) and, as such, DFO and TC become RAs. As RAs, DFO and TC are each responsible for considering the environmental effects of a project and for making a determination of the likelihood of significant adverse environmental effects before making a decision on whether their regulatory approvals can be given.

The following sections provide an overview of the *Fisheries Act* and the NWPA, as well as other approvals that may be required for a waterpower project.

7.1 *Fisheries Act*

The federal *Fisheries Act* provides for the protection of fish habitat, which is defined as: “*spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes*”. Under the *Fisheries Act*, no one may carry out any work or undertaking that results in the harmful alteration, disruption or destruction (HADD) of fish habitat, unless this HADD has been authorized by the Minister of Fisheries and Oceans Canada. Where adverse effects to fish habitat cannot be avoided through project relocation, redesign or mitigation, habitat compensation options may be required and a subsection 35(2) *Fisheries Act* authorization issued. Where the HADD is not acceptable, the authorization may be refused.

An authorization under subsection 35(2) of the *Fisheries Act* protects an individual from prosecution under the *Fisheries Act*, provided the conditions of the authorization are met. Violations of section 35 can result in substantial fines, the risk of imprisonment and a requirement to cover the costs of returning the project site to its original state or other court ordered remedies.

A subsection 35(2) *Fisheries Act* authorization is a regulatory trigger for an environmental assessment (EA) under CEAA (see Table 7.1 for other *Fisheries Act* triggers). CEAA requirements must be completed prior to making a decision on whether to issue a subsection 35(2) *Fisheries Act* authorization.

Table 7.1 outlines the fish habitat provisions of the *Fisheries Act* and highlights the other *Law List Regulations* triggers.

DFO and/or its partners review projects to evaluate the impact on fish and fish habitat (see Section 9.0 for information on the role of Conservation Authorities and the Ministry of Natural Resources (MNR))¹¹. A proponent is not obligated to submit a project for review,

¹¹ Subsection 91(12) of the *Constitution Act* (1867) sets out that the federal government has responsibility for the conservation and protection of the sea coast and inland fisheries of Canada. The Province of Ontario, through the Ministry of Natural Resources (MNR), has been delegated the

however, should the project result in a HADD, the proponent would be liable under the *Fisheries Act*. DFO and/or its partners review project information to determine if there is fish habitat affected by the project. The following may result from the review:

Determination of Fish Habitat and/or HADD	Action by DFO/Partner
<ul style="list-style-type: none"> No fish habitat 	<ul style="list-style-type: none"> DFO/Partner will advise that there are no habitat concerns with respect to the <i>Fisheries Act</i>
<ul style="list-style-type: none"> Fish habitat but HADD can be avoided: Operational Statement applies 	<ul style="list-style-type: none"> DFO has issued Operational Statements that provide guidance on how to carry out a work or undertaking in order to avoid negative effects to fish habitat and, therefore, meet the requirements of the <i>Fisheries Act</i> (see section 7.1.1 for more information). By following the conditions and measures in an Operational Statement, you will be in compliance with subsection 35(1) of the <i>Fisheries Act</i> and may proceed with your project without a DFO review.
<ul style="list-style-type: none"> Fish habitat but HADD can be avoided: Operational Statement <i>does not</i> apply 	<ul style="list-style-type: none"> DFO/Partner issue letter of advice (a letter of advice, that is sent to the proponent, states that the project is unlikely to cause a HADD; recommended mitigation measures are listed in the letter) DFO/Partner may be able to advise of ways to avoid the HADD by either changing location or design or other mitigation measures
<ul style="list-style-type: none"> Fish habitat with a HADD that is unavoidable 	<ul style="list-style-type: none"> DFO/Partner may determine that there is a HADD and that it is impractical to change the design or location or take other measures to avoid it DFO/Partner may determine that the HADD is unacceptable and no authorization will be granted In other cases, DFO/Partner will consider the HADD acceptable. DFO will issue an authorization that will include a requirement for a plan to compensate for the loss of fish habitat

responsibility under the *Fisheries Act* for the administration of certain aspects of fisheries management (e.g. setting commercial fishing quotas and recreational catch limits). DFO has a long-standing formal agreement with MNR to manage the fisheries resources and administer certain aspects of the *Fisheries Act*. Under subsection 92(13) of the *Constitution Act*, the provinces are vested with a proprietary interest in natural resources. The province has enacted the *Lakes and Rivers Improvement Act* that, among other things, provides for the management, perpetuation and use of fish, wildlife and other natural resources on its lakes and rivers. Therefore, fisheries management is a matter of shared jurisdiction. Decision making by DFO under the habitat provisions of the *Fisheries Act* is done in consultation with the provincial fisheries resource manager.

Determination of Fish Habitat and/or HADD	Action by DFO/Partner
	<ul style="list-style-type: none"> • Before DFO makes a decision to issue an authorization, an environmental assessment must be undertaken in accordance with CEAA

DFO, Ontario - Great Lakes Area, Fish Habitat Management Program has the mandate for administering the habitat provisions of the *Fisheries Act* in Ontario. The *Fisheries Act* sets out some general habitat and pollution protection provisions, that are binding on all levels of government and the public, in areas such as:

- Section 35: The prohibition against the harmful alteration, disruption or destruction (HADD) of fish habitat unless authorized by DFO;
- Section 20: Passage of fish around migration barriers;
- Section 22: Provision of sufficient water flows;
- Section 30: Screening of water intakes;
- Section 32: Prohibition against the destruction of fish by means other than fishing unless authorized by DFO; and
- Section 36: Prohibition to deposit deleterious substances unless by regulation (administered by Environment Canada, with the exception of subsection 36(3) with respect to sediment).

The DFO *Policy for the Management of Fish Habitat* guides DFO in the implementation of the *Fisheries Act* throughout Canada. The objective of that Policy is a Net Gain of Productive capacity of fisheries resources which is achieved through the goals of fish habitat conservation, restoration and development (enhancement). These goals are supported by eight implementation strategies, including Integrated Resource Planning and Cooperative Action.

Additional information on the *Fisheries Act* and Fisheries and Oceans Canada's *Policy for the Management of Fish Habitat* is available on the internet at:

<http://www.dfo-mpo.gc.ca/canwaters-eauxcan/>.

7.1.1 Operational Statements

DFO has released Operational Statements for a number of common development activities that occur within or adjacent to areas of fish habitat. Each Operational Statement provides the public and industry with guidance on how to carry out a work or undertaking in order to avoid negative effects to fish habitat and, therefore, meet the requirements of the *Fisheries Act*. Operational Statements provide proponents with 'bottom line' advice such that, when followed, DFO review is not required.

The Operational Statements released in Ontario relate to the following areas:

- Beach Creation
- Bridge Maintenance
- Beaver Dam Removal
- Clear Span Bridges
- Culvert Maintenance
- Dock Construction
- High-Pressure Directional Drilling
- Ice Bridges
- Isolated Ponds
- Overhead Line Construction
- Underwater Cables

Note that additional Operational Statements may be released. For the most recent Ontario Operational Statements, refer to the Central and Arctic Region website, located at:

www.dfo-mpo.gc.ca/regions/central/habitat/index_e.htm (English)

www.dfo-mpo.gc.ca/regions/central/habitat/index_f.htm (French)

Table 7.1: Fish Habitat Provisions of the *Fisheries Act*

Issue Addressed	Intent	<i>Fisheries Act</i> Section	Description of <i>Fisheries Act</i> Section *
The Need for Safe Fish Passage	The Minister may require fish-ways to be constructed.	20(1)	Every obstruction across or in any stream where the Minister determines it to be necessary for the public interest that a fish-pass should exist shall be provided by the owner or occupier with a durable and efficient fish-way or canal around the obstruction, which shall be maintained in good and effective condition by the owner or occupier, in such place and of such form and capacity as will, in the opinion of the Minister, satisfactorily permit the free passage of fish through it.
		20(3)	The place, form and capacity of the fish-way or canal to be provided pursuant to subsection (1) must be approved by the Minister before construction thereof is begun and, immediately after the fish-way is completed and in operation, the owner or occupier of any obstruction shall make such changes and adjustments at his own cost as will in the opinion of the Minister be necessary for its efficient operation under actual working conditions.
		20(4)	The owner or occupier of every fish-way or canal shall keep it open and unobstructed and shall keep it supplied with such sufficient quantity of water as the Minister considers necessary to enable the fish frequenting the waters in which the fish-way or canal is placed to pass through it during such times as are specified by any fishery officer and, where leaks in a dam cause a fish-way therein to be inefficient, the Minister may require the owner or occupier of the dam to prevent the leaks therein.
Minimum Flow Requirements	The Minister may require sufficient flows of water for the safety of fish and flooding of spawning grounds as well as free passage of fish during construction.	22(1) (CEAA Law List trigger)	At every obstruction, where the Minister determines it to be necessary, the owner or occupier thereof shall, when required by the Minister, provide a sufficient flow of water over the spill-way or crest, with connecting sluices into the river below, to permit the safe and unimpeded descent of fish.
		22(2) (CEAA Law List trigger)	The owner or occupier of any obstruction shall make such provision as the Minister determines to be necessary for the free passage of both ascending and descending migratory fish during the period of construction thereof.
		22(3) (CEAA Law List trigger)	The owner or occupier of any obstruction shall permit the escape into the river-bed below the obstruction of such quantity of water, at all times, as will, in the opinion of the Minister, be sufficient for the safety of fish and for the flooding of the spawning grounds to such depth as will, in the opinion of the Minister, be necessary for the safety of the ova deposited thereon.

Table 7.1: Fish Habitat Provisions of the *Fisheries Act*

Issue Addressed	Intent	<i>Fisheries Act</i> Section	Description of Fisheries Act Section *
Fish Guards and Screens	The Minister may require fish guards or screens to prevent the entrainment of fish at any water diversion or intake.	30(1)	Every water intake, ditch, channel or canal in Canada constructed or adapted for conducting water from any Canadian fisheries waters for irrigating, manufacturing, power generation, domestic or other purposes shall, if the Minister deems it necessary in the public interest, be provided at its entrance or intake with a fish guard or a screen, covering or netting so fixed as to prevent the passage of fish from any Canadian fisheries waters into the water intake, ditch, channel or canal.
		30(2)	The fish guard, screen, covering or netting referred to in subsection (1) shall a) have meshes or holes of such dimensions as the Minister may prescribe; and b) be built and maintained by the owner or occupier of the water intake, ditch, channel or canal referred to in subsection (1), subject to the approval of the Minister or of such officer as the Minister may appoint to examine it.
		30(3)	The owner or occupier of the water intake, ditch, channel or canal referred to in subsection (1) shall maintain the fish guard, screen, covering or netting referred to in that subsection in a good and efficient state of repair and shall not permit its removal except for renewal or repair.
		30(4)	During the time in which a renewal or repair referred to in subsection (1) is being effected, the sluice or gate at the intake or entrance of the water intake, ditch, channel or canal shall be closed in order to prevent the passage of fish into the water intake, ditch, channel or canal.
Destruction of Fish	Prohibits the destruction of fish by any means other than fishing.	32 (CEAA Law List trigger)	No person shall destroy fish by any means other than fishing except as authorized by the Minister or under regulations made by the Governor in Council under this Act.

Table 7.1: Fish Habitat Provisions of the *Fisheries Act*

Issue Addressed	Intent	<i>Fisheries Act</i> Section	Description of <i>Fisheries Act</i> Section *
Destruction of Fish Habitat	Prohibits works or undertakings that may result in harmful alteration, disruption or destruction of fish habitat, unless authorized by the Minister or under regulations.	35(1)	No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat.
		35(2) (CEAA Law List trigger)	No person contravenes subsection (1) by causing the alteration, disruption or destruction of fish habitat by any means or under any conditions authorized by the Minister or under regulations made by the Governor in Council under this Act.
Pollution of Fish Habitat (administered by Environment Canada)	Prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulations.	36(3)	Subject to subsection 36(4), no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water. Note: DFO in Ontario administers subsection 36(3) with respect to sediment.
		36(4)	No person contravenes subsection 36(3) by depositing or permitting the deposit of any water or place of a) waste or pollutant of a type, in a quantity and under conditions authorized by regulations applicable to that water or place made by the Governor in Council under any Act other than this Act; or b) a deleterious substance of a class, in a quantity or concentration and under conditions authorized by or pursuant to regulations applicable to that water or place or to any work or undertaking or class thereof, made by the Governor in Council under subsection 36(5).

Minister = Minister of Fisheries and Oceans Canada

* Taken directly from:

Fisheries and Oceans Canada. 2002. *Canada's Fisheries Act*. The Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act*.

~ **Information Note on Mitigation and Compensation for Fish Habitat** ~

It is important to note that under DFO's Policy for the Management of Fish Habitat, mitigation and compensation have different meanings from the meanings under CEAA. Under CEAA, mitigation includes compensation (this does not refer to financial compensation). However, DFO policy distinguishes between mitigation and compensation as follows:

Mitigation is the action taken during the planning, design, construction and operation of works and undertakings to alleviate potential adverse effects on the productive capacity of fish habitats. Mitigation can include a variety of activities (e.g. relocation or redesign of a project, timing of works, methods of construction) to avoid or minimize changes to habitat.

Compensation is the replacement of natural habitat, increase in the productivity of existing habitat, or maintenance of fish production in circumstances where mitigation techniques and other measures are not adequate to maintain fish habitat.

For further information on these definitions, please refer to DFO's *Policy for the Management of Fish Habitat* (1986).

7.2 *Navigable Waters Protection Act*

The NWPA provides for the protection of the public's rights of navigation and helps to ensure the safety of navigators. The NWPA is intended to protect navigable waters by regulating the construction of works on those waters and by providing the Minister of Transport with the power to remove obstructions to navigation.

The NWPA applies to all navigable waters in Canada and includes a canal and any other body of water created or altered as a result of the construction of any work. The authority to determine the navigability of a waterway as it relates to the administration and enforcement of the NWPA is the responsibility of the Minister of Transport or his or her designated representative. A work is defined under the NWPA as:

- (a) any bridge, boom, dam, wharf, dock, pier, tunnel or pipe and the approaches or other works necessary or appurtenant thereto,*
- (b) any dumping of fill or excavation of materials from the bed of a navigable water,*
- (c) any telegraph or power cable or wire, or*
- (d) any structure, device or thing, whether similar in character to anything referred to in this definition or not, that may interfere with navigation.*

Under the NWPA, no work is to be built or placed in, on, over, under, through or across any navigable water unless:

- the work, the site and the plans have been approved by the Minister of Transport prior to commencement of construction;
- the construction of the work is commenced within six months and completed within three years after the approval is provided; and
- the work is built, placed and maintained in accordance with the plans, regulations and terms and conditions of the approval.

With the exception of bridges, booms, dams or causeways, approvals for works are not required if, in the opinion of the Minister of Transport, they do not interfere substantially with navigation.

The need for approval under section 5(1)(a) of the NWPA triggers the requirement for an EA in accordance with CEAA. Section 6(4) of the NWPA provides for the Minister of Transport to approve work where construction has already commenced. This provision also triggers the requirement for an EA in accordance with CEAA.

Table 7.2 outlines the provisions of the NWPA and the *Navigable Waters Works Regulations* related to the construction or modification of dams and power plants.

Additional information on the NWPA can be found at www.tc.gc.ca/acts-regulations/menu.htm. Contact information for Transport Canada is provided in Table 11.1.

Table 7.2: Provisions of the *Navigable Waters Protection Act* Specific to Dams and Power Plants

Issue Addressed	Intent	<i>Navigable Waters Protection Act</i> Section	Description of <i>Navigable Waters Protection Act</i> Section
Approval for the building or placing of works	Approval of works (including dams and power plants) in a manner that protects navigation or mitigates impacts.	5(1)(a) (CEAA Law List trigger)	Approval by the Minister of Transport of the plans and site for any work to be built or placed in, on, over, under, through or across a navigable waterway.
Approval for works already commenced	To provide approval for works already commenced.	6(4) (CEAA Law List trigger)	Ministerial approval for such a work where construction has already commenced.
Permit transport of logs	The Minister may require log chutes to be constructed through or over dam or power plants in a navigable water.	<i>Navigable Waters Works Regulations</i> 7(2) a	The owner of a dam or power plant in a navigable water shall, when required by the Minister, install, maintain and operate log chutes to permit the transport of logs through or over the work.
Permit passage around a dam	The Minister may require the provision of roads or paths to allow passage between upper and lower reaches of the river.	<i>Navigable Waters Works Regulations</i> 7(2) b	The owner of a dam or power plant in a navigable water shall, when required by the Minister provide and maintain roads or foot-ways for the free passage of the public by vehicle or foot around the work between the upper and lower reaches of the river.

Table 7.2: Provisions of the *Navigable Waters Protection Act* Specific to Dams and Power Plants

Issue Addressed	Intent	<i>Navigable Waters Protection Act</i> Section	Description of <i>Navigable Waters Protection Act</i> Section
Flow requirements	The Minister may require the owner of the dam to maintain limits of flow and elevation of water for navigation purposes.	<i>Navigable Waters Works Regulations</i> 7(4)	The owner of a dam or power plant in a navigable water shall maintain the limits of flow and elevation of water for navigation purposes as required by the Minister.

Source: *Navigable Waters Protection Act* and *Navigable Waters Works Regulations*.

7.3 Species at Risk Act (SARA)

The overall goal of SARA “is to prevent wildlife species from becoming extinct or lost from the wild, and to help in the recovery of species that are at risk as a result of human activities ... SARA also provides the flexibility required to meet the needs of a wide variety of species at risk, including birds, fish, animals and plants” (source: Species at Risk web site – <http://www.speciesatrisk.gc.ca/>).

The document entitled *Species at Risk: A Guide* (Environment Canada, 2003) notes that under SARA:

“The federal government has responsibility for:

- federal lands;
- aquatic species; and
- migratory birds covered by the Migratory Birds Convention Act, 1994.

Federal lands are lands owned by the federal government, such as national parks, lands used by the Department of National Defence, reserve lands and most of the land in the three territories (Environment Canada, 2003, p. 6)”.

Two federal Ministers are responsible for the administration of SARA. The Minister of Fisheries and Oceans is responsible for aquatic species at risk except for those located in national parks, national historic sites or other protected heritage areas. The Minister of the Environment (through the Parks Canada Agency) is responsible for individuals of species at risk found in national parks, national historic sites or other protected heritage areas. The Minister of the Environment is also responsible for all other species at risk and for the overall administration of SARA.

For complete wording of the Act, refer to - www.SARAreistry.gc.ca

Table 7.3: Provisions of the *Species at Risk Act*

Issue Addressed	<i>Species at Risk</i> Section	Description of <i>Species at Risk Act</i> Section
Killing, harming, etc., listed wildlife species	32(1)	No person shall kill, harm, harass, capture or take an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species.
Damage or destruction of residence	33	No person shall damage or destroy the residence of one or more individuals of a wildlife species that is listed as an endangered species or a threatened species or that is listed as an extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada.
Destruction of critical habitat	58(1)	Subject to this section, no person shall destroy any part of the critical habitat of any listed endangered species or of any listed threatened species, or of any listed extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada – if (a) the critical habitat is on Federal land, in the exclusive economic zone of Canada or on the continental shelf of Canada; (b) the listed species is an aquatic species; or (c) the listed species is a species of migratory birds protected by the <i>Migratory Birds Convention Act, 1994</i> .
Notification of Minister	79(1)	Every person who is required by or under an Act of Parliament to ensure that an assessment of the environmental effects of a project is conducted must, without delay, notify the competent minister or ministers in writing of the project if it is likely to affect a listed wildlife species or its critical habitat.
Required Action	79(2)	The person must identify the adverse effects of the project on the listed wildlife species and its critical habitat and, if the project is carried out, must ensure that measures are taken to avoid or lessen those effects and to monitor them. The measures must be taken in a way that is consistent with any applicable recovery strategy and action plans.

7.4 Examples of Other Potential “Environmental” Regulatory Approvals

Waterpower Development in Ontario is subject to myriad federal, provincial and local legislative, regulatory and policy requirements that have environmental objectives but may not be directly linked to Environmental Assessment. The coordination approach espoused in this document is a useful template to consider when preparing an overall strategy to permitting and approvals. Additional information on these and other requirements may be obtained from the Ontario Waterpower Association.

Table 7.4: Examples of Other Potential Regulatory Approvals

Potential Approval	Description	Permitting Agency
Entrance Permit – <i>Public Highway and Transportation Improvement Act</i>	<ul style="list-style-type: none"> for accessing site from provincial highway 	MTO
Aggregate Permit – <i>Aggregate Resources Act</i>	<ul style="list-style-type: none"> required for obtaining borrow material on Crown land 	MNR
Work Permit – <i>Public Lands Act</i>	<ul style="list-style-type: none"> required for road construction and borrow activities on Crown land 	MNR
Location Approval – <i>Lakes and Rivers Improvement Act</i>	<ul style="list-style-type: none"> acknowledgement that facility can be built in intended location; not issued until federal and provincial environmental assessment requirements are satisfied 	MNR
Plans and Specifications Approval – <i>Lakes and Rivers Improvement Act</i>	<ul style="list-style-type: none"> engineering review and approval of design specifications required 	MNR
Water Management Plan – <i>Lakes and Rivers Improvement Act</i>	<ul style="list-style-type: none"> required for all waterpower facilities for the operation of water flows and levels 	MNR
Certificate of Approval for Industrial Sewage Works – <i>Environmental Protection Act</i>	<ul style="list-style-type: none"> required for any settling basin used during construction 	MOE
Land Use Permit, Licence of Occupation – <i>Public Lands Act</i>	<ul style="list-style-type: none"> where it is deemed appropriate, a land use permit is required to authorize the occupation of a waterpower facility on Crown land where it has an installed capacity of up to 75 kW land use permits are typically used to authorize transmission corridors and access roads licence of occupation is typically used to authorize the occupation of Crown land for the purposes of acquiring a right to flood 	MNR

Potential Approval	Description	Permitting Agency
Water Power Lease Agreement – <i>Public Lands Act</i>	<ul style="list-style-type: none"> required to authorize the occupation of a waterpower facility on Crown land where it has an installed capacity of 75 kW or more 	MNR
Licence to Harvest Crown Timber – <i>Crown Forest Sustainability Act</i>	<ul style="list-style-type: none"> required whenever Crown timber is being harvested by a private company 	MNR
<i>International Boundary Waters Treaty Act</i> (IBWTA) Licence	<ul style="list-style-type: none"> a licence from the federal Minister of Foreign Affairs is required for any project that would affect the level of flow of boundary waters on the U.S. side for waterpower projects, any developments/expansions on an inter-connecting channel for the Great Lakes (St. Mary’s River, St. Clair River, Detroit River, Niagara River and St. Lawrence River) or other boundary water (such as Rainy River) will likely be subject to regulations under the IBWTA as there could be a potential for impacts on water levels and flows at the U.S. border 	Department of Foreign Affairs
<i>Species at Risk Act</i> Permit	<ul style="list-style-type: none"> a SARA permit is required if a project is likely to kill, harm or harass a species at risk, damage or destroy residence or critical habitat (Sections 32, 33 and 58). Requirements for the issuance of a SARA permit are further described in Section 73 of SARA. Please note that a permit will only be issued if these requirements are met. For more information visit www.sararegistry.gc.ca 	Competent Minister DFO Environment Canada (see Section 7.3)

MTO = Ontario Ministry of Transportation
MNR = Ontario Ministry of Natural Resources

MOE = Ontario Ministry of the Environment

8.0 Federal Information Requirements for Waterpower Development Projects

8.1 Preparing a Project Description

One of the key steps in the *Canadian Environmental Assessment Act* (CEAA) process is the development of a project description. A project description provides an overview of the project components, general information on the project setting and relevant background information on the project. The project description allows a federal authority to determine if it will be a Responsible Authority (RA) under CEAA or if it may be able to provide technical expertise and knowledge as an expert department.

In the initial stages of the environmental assessment (EA) process, the proponent may have limited project information. Further details on the project are developed as the proponent proceeds through the planning process. As a result, the initial project description may change as further project details are developed ¹².

Table F1 in Appendix F provides a list of potential information to be included in the project description. The level of detail of the project description will vary with the complexity of the project and the sensitivity of its location, with greater detail required for larger, complex projects. This table reflects the level of detail more often associated with larger projects.

The project description should be submitted either to the Canadian Environmental Assessment Agency (the Agency) or to the federal authority that the proponent believes may have a federal interest (e.g. DFO for projects that may impact fish and fish habitat or Transport Canada for projects that may impact navigation). Federal authorities will review the project description in accordance with the *Federal Coordination Regulations*.

Depending on the nature of the project and its environmental setting, federal authorities may request additional information in order to assist them in making determinations of their interest in the project and potential CEAA requirements.

- For More Information on Preparing a Project Description Refer to -

Operational Policy Statement. August 2000 – OPS – EPO/5 – 2000. Preparing Project Descriptions under the *Canadian Environmental Assessment Act*. (<http://www.ceaa-acee.gc.ca>)

¹² Before finalizing design plan, the proponent should consult with DFO for preferred design options, as well as what DFO will require for their assessment.

8.2 Potential Project Information Requirements

In order to assist federal authorities in addressing their CEAA requirements and other approval requirements, site-specific project information is required. The amount and level of detail of information will vary with the project stage. For example, in some cases, during the CEAA assessment, the information is based on concept plans whereas at the regulatory approval stage, more detailed information is provided.

The amount and level of detail of information will also vary depending on the environmental setting, magnitude and duration of the project.

Table F2 in Appendix F outlines information that may be required for waterpower projects. The table is organized by project stage (CEAA assessment and regulatory approval) and type of information.

The types of information identified in the table include:

- Project Information;
- Terrestrial Habitat;
- Fisheries and Fish Habitat;
- Land Use;
- Navigation;
- Soils and Sediments;
- Surface Water;
- Ground Water;
- Species at Risk;
- Migratory Birds and Their Habitat;
- Wetlands;
- Biodiversity;
- Air Quality;
- Climate Change; and
- Transboundary Water Management.

Table F2 reflects the mandate and interests of DFO (Habitat Management Program) in Ontario and Transport Canada (Navigable Waters Protection Program) when they are RAs and of Environment Canada when they are providing expert advice to DFO and Transport Canada for a project that is assessed in accordance with CEAA. As noted in Section 5.7, federal authorities may function as expert departments, providing the RA with specialist advice to assist them in undertaking the project screening. Environment Canada frequently functions as an expert department and, in reviewing a project EA, may identify issues associated with projects, information gaps, assess environmental effects and may provide recommendations for mitigation and follow-up measures (e.g. monitoring). Environment Canada also has regulatory interests under several pieces of federal legislation that may be applicable to a waterpower project, including the pollution prevention provisions of the

Fisheries Act, the Canadian Environmental Protection Act, the Migratory Birds Convention Act and the Species at Risk Act.

In addition to the information noted in Appendix F, Table F2, the proponent should provide any other information that they believe may assist with the project review. Federal departments may have further project-specific information requirements that will be conveyed to the proponent. Information requirements should be discussed with the relevant federal department.

The information contained in Tables F1 and F2 is intended to be a guide and is not necessarily all encompassing for each project.

8.3 Environmental Assessment Checklist

As noted in Section 5.5, there are specific requirements that the federal government must address in undertaking EAs in accordance with CEAA. Table 8.1 presents an EA checklist. This checklist is intended as a guide for waterpower proponents to assist them in undertaking assessments that contain the information that federal authorities will be required to consider in meeting their obligations under CEAA.

Table 8.1: Environmental Assessment Checklist

- Has sufficient information been provided so that the RA can define the scope of project (i.e. have all project components and associated activities been identified)?
- Has sufficient information been provided so that the RA can define the scope of assessment (i.e. factors and scope of factors)?
- Is there sufficient information to identify potential environmental effects of all proposed project phases (construction, operation, modification, decommissioning and abandonment or other undertaking in relation to that physical work)?
- Were all potential environmental effects, including species at risk and cumulative effects, identified and reasonably considered, and are they likely to occur?
- If computer models were used to predict environmental effects, were the models credible, accessible for review and verification, appropriate and correctly applied?
- Have effects of the environment on the project been considered?
- Have environmental effects of accidents and malfunctions been considered?
- Have existing projects and projects that are reasonably expected to occur been included in the assessment of cumulative environmental effects?
- Are proposed mitigation measures sufficient?
- If determinations of non-significant adverse environmental effects were made, are they reasonable?
- Are the conclusions compatible with the evidence?
- Is there sufficient detail of effects and mitigation?
- What criteria or thresholds were used to assist in the assessment of the significance of adverse environmental effects (e.g. guidelines such as the Canadian Water Quality Guidelines)?
- Is a follow-up program appropriate?
- Have comments received from the public been considered in the EA?

9.0 The Role of Conservation Authorities, the Ministry of Natural Resources and Parks Canada Agency in Addressing Fish Habitat

9.1 Role of Conservation Authorities

Fisheries and Oceans Canada (DFO) has signed agreements with the majority of the 36 Conservation Authorities in Ontario to review proposed projects under section 35 of the *Fisheries Act*. Section 35 of the *Fisheries Act* deals with the management and protection of fish habitat. There are three different levels of agreement that have been signed between these parties, as defined in Table 9.1.

Table 9.1: Definition of Levels of Agreement with Conservation Authorities in Ontario

Level of Agreement	Definition
Level I	The local Conservation Authority conducts the initial review of the project to identify any impacts to fish and fish habitat. If there are potential impacts to fish and fish habitat, the project is forwarded to the local DFO office for further review.
Level II	In addition to the above, the Conservation Authority determines how the proponent can mitigate any potential impacts to fish and fish habitat. If impacts to fish and fish habitat can be mitigated, then the Conservation Authority issues a letter of advice. If impacts to fish and fish habitat cannot be fully mitigated, the project is forwarded to the local DFO office for further review.
Level III	In addition to all of the above, the Conservation Authority works with the proponent and DFO to prepare a fish habitat compensation plan. The project is then forwarded to the local DFO office for authorization under the <i>Fisheries Act</i> .

These agreements were developed to streamline day-to-day referrals in Ontario for projects that may have a shared regulatory interest between DFO and the Conservation Authorities. These agreements were put in place to improve client service with a one window approach.

Where there are agreements with the Conservation Authorities in place, initial requests for the review of projects in or around water that may affect fish and fish habitat are referred to the local Conservation Authority. Therefore, Conservation Authorities are the first point of contact for the majority of projects in and around water in Ontario. Depending on the level of agreement, Conservation Authorities will undertake an initial review of the project, provide mitigation advice and/or review habitat compensation plans. Projects requiring review, *Fisheries Act* authorization and/or assessment under CEAA are forwarded to DFO.

Table 9.2 outlines the agreements that are currently in place with Conservation Authorities in Ontario.

Table 9.2: Agreements with Conservation Authorities in Ontario

Conservation Authorities with Level 1 Agreements	
Crowe Valley Conservation Authority Mattagami Region Conservation Authority	Nickel District Conservation Authority
Conservation Authorities with Level 2 Agreements	
Ausable Bayfield Conservation Authority Catawaqui Region Conservation Authority Catfish Creek Conservation Authority Conservation Halton Grey Sauble Conservation Authority Hamilton Region Conservation Authority Kettle Creek Conservation Authority Lake Simcoe Region Conservation Authority Lakehead Region Conservation Authority Long Point Region Conservation Authority Lower Thames Valley Conservation Authority Lower Trent Region Conservation Authority	Maitland Valley Conservation Authority Mississippi Valley Conservation Authority Niagara Peninsula Conservation Authority North Bay - Mattawa Conservation Authority Nottawasaga Valley Conservation Authority Otonabee Region Conservation Authority Quinte Conservation Authority Raisin Region Conservation Authority Rideau Valley Conservation Authority Saugeen Valley Conservation Authority South Nation Conservation Authority St. Clair Region Conservation Authority Upper Thames River Conservation Authority
Conservation Authorities with Level 3 Agreements	
Central Lake Ontario Conservation Authority Credit Valley Conservation Essex Region Conservation Authority Ganaraska Region Conservation Authority	Grand River Conservation Authority Kawartha Region Conservation Authority Toronto Region Conservation Authority

Note: These levels of agreement are as of the time of writing of this guidance document and may be subject to change.

Further details on the reviews undertaken for each of the three levels of agreement, along with decision-making responsibilities, are found in *A Protocol for Detailing the Fish Habitat Referral Process in Ontario* (August 2000 – see Selected References).

9.2 Ministry of Natural Resources

In cases where there is no Conservation Authority, the local Ministry of Natural Resources (MNR) office is the first point of contact for the review of projects in and around water that may affect fish and fish habitat.

DFO also has an agreement with the Ontario Ministry of Natural Resources (MNR) to review certain projects relative to fish and fish habitat. MNR acts as a Level 3 reviewer for Ministry

of Transportation projects, Community Fisheries and Wildlife Involvement Projects (CFWIP) and projects that are subject to the *Crown Forest Sustainability Act*.

Some approvals issued by MNR, such as work permits and land use permits, have the potential to impact fish and fish habitat. In such cases, MNR conducts the initial review and the project is forwarded to the appropriate DFO Office/CA for further review before a decision is made by MNR on the issuance of their approval.

9.3 Parks Canada Agency

DFO also has an agreement in place with the Parks Canada Agency, similar to that described in Section 9.2. Parks Canada Agency is responsible for the initial review, mitigation requirements and some compensation planning of fish habitat for projects in National Parks, National Marine Conservation Areas, National Historic Canals and National Historic Sites. Projects requiring a *Fisheries Act* authorization are referred to DFO for review and approval.

10.0 Considerations for a Coordinated Process

Waterpower projects will frequently be subject to the requirements of both federal and provincial environmental assessment (EA) processes. While there are differences in the requirements of the *Canadian Environmental Assessment Act* (CEAA) and the *Ontario Environmental Assessment Act* (EA Act), it is beneficial to all parties to undertake a coordinated process (also called a cooperative EA) in order to maximize the efficiency and effectiveness of assessments and to reduce delays.

The *Canada-Ontario Agreement on Environmental Assessment Cooperation* (see Appendix A) defines a cooperative EA as “*the environmental assessment of a proposed project where Canada and Ontario have an environmental assessment responsibility, and they cooperate to meet the legal environmental assessment requirements of both Parties through a single environmental assessment process*” (Government of Canada and Province of Ontario, 2004, p. 1). The Agreement outlines specific provisions for cooperative EAs, including provisions for work plans, notification, contacts, EA documentation and decisions and announcements. These provisions apply primarily to projects that are subject to an Individual EA under the EA Act.

The Canadian Environmental Assessment Agency (the Agency) in *Advice to Proponents at the Terms of Reference Stage for a Coordinated Federal/Provincial Environmental Assessment Process* (Canadian Environmental Assessment Agency, 2004a) identifies the following four key coordination goals:

- *To identify how the proposal affects the interest of all relevant federal and provincial agencies and to ensure those are addressed;*
- *To identify, early in the planning process, all the tasks the proponent might be required to carry out in order to provide agencies with what they need to meet their requirements;*
- *To enable federal and provincial agencies to reach their EA conclusions within roughly the same time frame; and*
- *To aim toward information on environmental effects being contained within a single body of documentation.*

The Agency and Ministry of the Environment (MOE) have developed informal coordination procedures for projects that require approvals under both CEAA (screenings) and the EA Act (Individual EAs). These procedures outline the general process steps required in undertaking a coordinated assessment and are intended to address the information requirements of both CEAA and the EA Act. These coordination procedures are provided as Figure 10.1. New operational procedures are being developed to implement the *Canada – Ontario Agreement on*

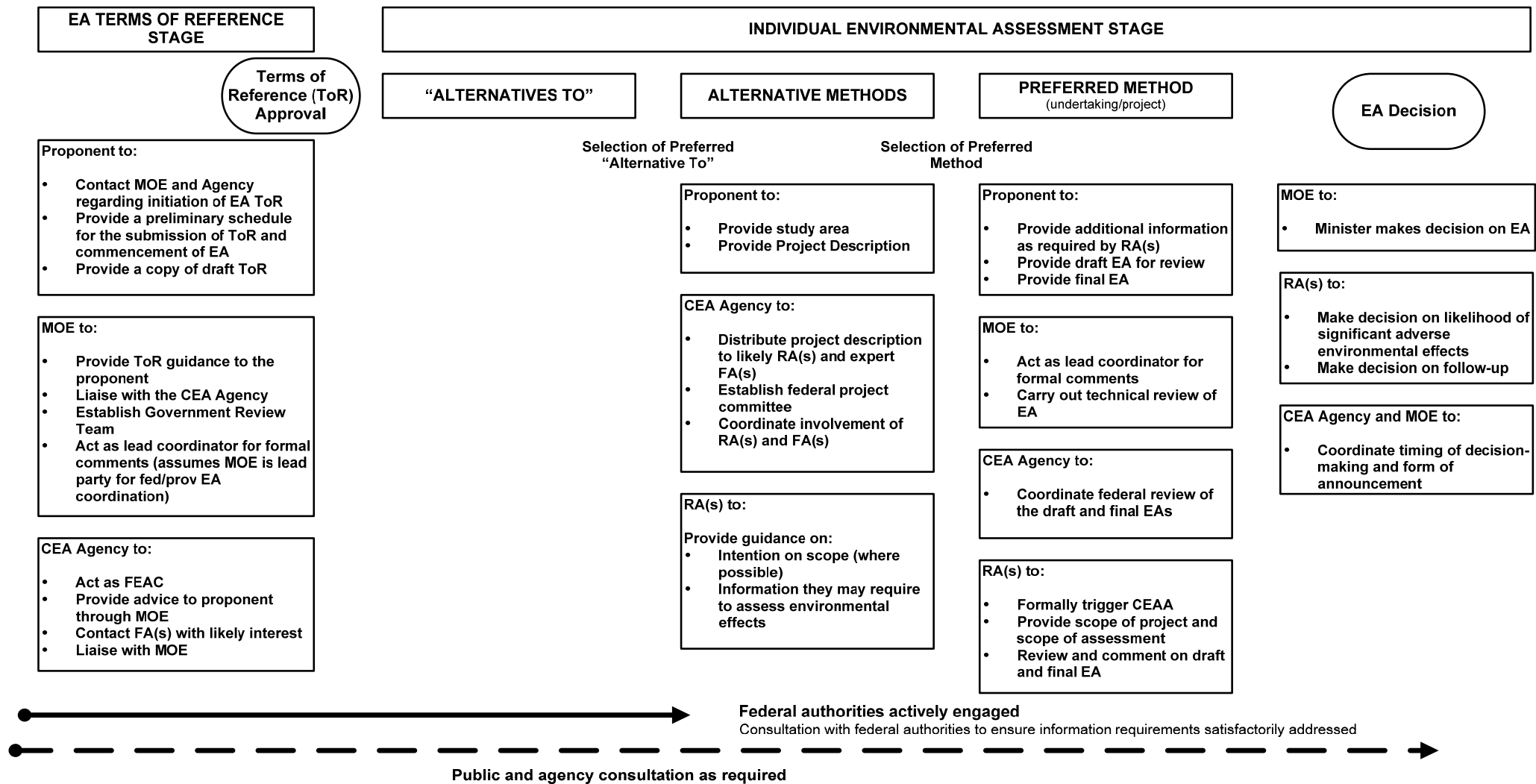


Figure 10.1: Proposed Federal / Provincial Coordination Process for Individual EAs / Screenings - Key Steps

Environmental Assessment Cooperation. Proponents should contact the Agency or MOE for further details on these procedures.

In order to help facilitate co-ordination of EAs subject to both federal and provincial legislative requirements, the Agency carries out the role of Federal Environmental Assessment Coordinator (FEAC). The role of the FEAC is to facilitate the communication, cooperation and coordination amongst participants including federal departments, provincial government and other jurisdictions, the proponent and the public. The FEAC will also provide guidance to proponents undertaking a coordinated EA process. Section 5.8 provides further information on the role of the FEAC.

Within the context of these coordination procedures and initiatives, the following sections provide guidance on practical considerations for coordinating federal and provincial EA processes for waterpower projects.

10.1 Considerations for Coordinated Studies and Assessments

Coordination initiatives by the proponent and participating federal departments and provincial ministries can help ensure that a single assessment is undertaken that meets the needs of both federal and provincial EA legislation. There are a number of areas within the EA process where coordination can help avoid duplicate efforts, including:

- Preparation of Project Descriptions;
- Scoping;
- Technical Studies and Assessments;
- EA Documentation; and
- Public Participation/Consultation.

Communication between federal and provincial participants on the key areas in the assessment process can also assist in promoting coordination. Guidance on communication is provided in Section 10.7. Guidance on issues associated with coordinating comprehensive studies is provided in Section 10.8.

10.2 Preparation of Project Descriptions

One of the first steps under both the *Electricity Projects Regulation* screening process and CEAA is the preparation of a project description.

For Category B projects, a project description is prepared in support of the Notice of Commencement (provincial environmental screening process). At the time of the Notice of Commencement, the project description can also be submitted to the Agency to facilitate the initiation of the Federal Coordination Process under CEAA (a process by which federal authorities determine if they will have an interest in the project as an RA or as an expert federal department). Details on information requirements for project descriptions for waterpower projects are found in Table F.1, Appendix F.

For Individual EAs (i.e. Category C projects) and comprehensive studies, the preferred alternative (i.e. the project that will be undertaken) is not known early in the EA process due to the requirement to consider alternatives. Therefore, for Category C projects, there will not be a final project description available until a preferred alternative has been identified. It is likely, however, that at the EA Terms of Reference stage (provincial requirement), the proponent will be able to provide, at a conceptual level, the nature of the project and potential locations. Due to the nature of waterpower projects (i.e. likely potential requirement for *Fisheries Act* authorization and/or *Navigable Waters Protection Act* approval), it is likely that key federal authorities will be able to make an early determination of whether they have a CEAA trigger for the proposed project, even before very specific details on the project are known. Federal authorities recognize the importance of identifying information needs to the proponent as early in the EA process as possible and, therefore, will likely agree to participate as if they are an RA (see Section 5.6), in accordance with the “in until you’re out” principle. To assist in coordination at this stage, it is recommended that the Agency be included in the circulation of the “pre-draft” Terms of Reference.

10.3 Scoping

One of the initial steps in the federal EA process is the determination of the scope of project and the scope of assessment. The responsibility for determining the scope of project (i.e. what components are to be considered to be part of the project for the purpose of the assessment) and the scope of assessment (i.e. what are the factors and scope of factors to be considered in the EA) rests with the RA(s). For projects subject to a Comprehensive Study type of EA, a scoping document may be prepared to document the scope of project and scope of assessment. Scoping documents can be prepared either by the proponent or, in some instances by the RA(s). While not a legislated federal requirement, scoping documents are an efficient way to ensure that all parties participating in the EA process have the same understanding of the scope of project and scope of assessment. It is also being used to ensure public consultation in the context of a Comprehensive study. The scoping document is then used as a basis for the preparation of the EA document. Up-front scoping ensures that the assessment focuses on the most relevant issues and results in more efficient EA processes.

The scope of project may differ between the federal and provincial processes, as noted in Appendix E. However, for practical reasons it would be advantageous to consider that the studies undertaken (i.e. the assessment) will be carried out on the broadest scope of project.

For Category B projects, the federal scope of assessment may be based on the results of the application of the screening criteria in Appendix C of the *Guide to Environmental Assessment Requirements for Electricity Projects*. The purpose of the criteria is to identify the potential for any negative effects on the environment. However, the scope of the federal assessment may also encompass other factors not addressed by the screening criteria.

Similarly, for Category C projects, the scope of assessment will be based on the information that is developed for the Terms of Reference.

10.4 Technical Studies and Assessments

Successful coordination of technical studies and assessments is facilitated by early discussions with provincial ministries and federal departments to determine their information requirements. Guidance on this matter is provided in Section 8.0 and Appendix F. However, direct contact with the relevant federal authorities, potentially through the FEAC, is also encouraged.

Specifically, a proponent should hold discussions with relevant federal departments to determine the nature and extent of technical information that will be required to undertake the CEAA assessment. This would allow the proponent to augment studies or undertake studies at an appropriate level of detail. Ideally, the technical studies and investigations that are undertaken will be sufficient to meet the needs of both CEAA and the *Electricity Projects Regulation* or the EA Act.

From a coordination perspective, some of the potential information requirements identified in Appendix F may not be required until the regulatory approval stage. However, they have been identified in these tables in order to facilitate coordinated and efficient information gathering as proponents are undertaking their environmental assessments.

10.5 EA Documentation

Information on existing conditions, the assessment of effects and mitigation measures should be documented to address both federal and provincial EA processes. While the CEAA component of the assessment must be prepared in a manner that allows the RAs to delineate the basis for their decision, the *Canada – Ontario Agreement on Environmental Assessment Cooperation* (see Appendix A – *Framework for Projects Subject to Provincial Class EAs or Ontario Regulation 116/01*), indicates that “proponent(s) will present its findings on predicted environmental effects of the project in a single body of documentation” (Government of Canada and Province of Ontario, 2004, p. 17).

In order to achieve this, in some instances it may be practical and reasonable to prepare a single body of documentation that meets the needs of both CEAA and the EA Act or the *Electricity Projects Regulation*. For example, the documentation prepared for an Environmental Screening Process (i.e. Category B) or Individual EA, in accordance with the *Electricity Sector Regulation*, could explicitly address and document federal issues and areas of federal interest.

A single body of documentation can also be achieved by incorporating technical information pertaining to specific federal issues into the overall assessment, but documenting elements specific to CEAA (e.g. effect of the environment on the project, accidents and malfunctions) in a separate screening document that would serve as an appendix to the provincial EA documentation. Discussions should be held with federal and provincial authorities to determine their documentation needs. The most appropriate approach will be determined on a project-by-project basis. It is recommended that before the proponent proceeds with the

preparation of the EA document, that a Table of Contents be prepared and reviewed with the FEAC, federal RAs, expert departments and participating provincial ministries.

In addition, it is recommended that any draft EA document(s) (e.g. Screening Report) be submitted for review prior to finalizing the document.

It is important to note that, while the *Electricity Projects Regulation* does not require any documentation for category A projects (e.g. minor modifications to existing facilities <200 MW), these projects may trigger CEEA and, in that event, will still have federal assessment requirements. Similarly, there may be instances wherein a project requires an Individual EA to meet provincial requirements, but does not create a requirement for a Comprehensive Study through the federal process. Hence the importance of appropriate scoping, as discussed in Section 10.3.

10.6 Public Participation/Consultation

The determination of whether public participation for federal screenings is appropriate is made by the RA. However, if public participation is being undertaken for a federal screening, there may be opportunities to coordinate this with the consultation being undertaken by the proponent in meeting provincial EA requirements. There may also be other opportunities to coordinate consultation undertaken for other legislation (e.g. approvals under the *Navigable Waters Protection Act*).

If an RA(s) determines that public participation is appropriate, there may be requirements for notifications or EA documentation to be made available in both official languages. This should be discussed with the RA(s) in sufficient time to allow for translation to occur, if required.

In addition, paragraph 18(3)(b) of CEEA provides an opportunity for the consideration of public comments on a federal screening report. If public comments are to be requested in accordance with paragraph 18(3)(b), there may be an opportunity to coordinate this with the public consultation undertaken for the provincial process. If this coordination were to occur, comments from the public could be received within the same time frame and the RA and proponent could meet to discuss the resolution of the comments, as appropriate.

Since public participation is determined by the RA, an RA may choose to consider the results of the proponent's provincial consultation initiatives in undertaking the federal screening and when making their CEEA decision.

Public consultation is mandatory for projects requiring comprehensive studies under CEEA. As with the reference to screenings noted above, there may be opportunities to coordinate CEEA and provincial consultation requirements. In addition, under CEEA, the public is provided with notification and the opportunity to comment on the comprehensive study report. The Agency publishes a notice indicating:

- when the comprehensive study report will be available;
- where copies of the report may be obtained; and

- the deadline for provision of comments on the conclusions and recommendations of the report.

There may be opportunities to coordinate this process with the provincial review process. Given that those “publics” with an interest in the project are likely to be the same regardless of the notification and consultation requirements, it is incumbent on the proponent to engage and educate those individuals and groups about the coordination of processes and the avenues through which their interests can be expressed.

10.7 Communication

As noted above, coordination is facilitated by effective communication. Where there are projects subject to both CEAA and the EA Act, the FEAC will typically arrange for a start-up meeting. The purpose of this meeting would be to discuss matters such as:

- project overview;
- environmental assessment schedule;
- project issues;
- roles and responsibilities of the proponent, consultant, FEAC, RAs, expert departments and provincial ministries;
- scope of project, factors and scope of factors to be assessed;
- expectations for future communication (e.g. when, who);
- proposed public participation/consultation activities; and
- other coordination matters.

Ongoing dialogue with the FEAC, RA(s) and MOE is encouraged in order to help facilitate the completion of good quality EAs that meet federal and provincial legislative requirements.

10.8 Additional Considerations for Coordinating Comprehensive Studies

While the vast majority of CEAA assessments are screenings, some waterpower projects are on the *Comprehensive Study List Regulations* and, therefore, require a comprehensive study. Comprehensive studies are subject to a different decision-making process than screenings and the timing and nature of coordination for comprehensive studies is different than that for screenings.

Waterpower and transmission projects that are subject to a comprehensive study under CEAA may also be subject to an Individual EA under the EA Act. The Agency and MOE will be developing coordination processes for comprehensive studies and Individual EAs as the need arises.

If a proponent is undertaking a project that requires a comprehensive study, it is recommended that they contact the Agency to discuss appropriate coordination procedures (or MOE if a project requires an Individual EA).

11.0 Key Federal Contacts

It is important to contact the relevant departments early in the process. Key federal contacts include:

Area of Interest	Federal Contact
Fish and Fish Habitat	<p>Where there is an agreement with a Conservation Authority, the Conservation Authority is the first point of contact in southern Ontario. In Northern Ontario, the MNR Regional Office is the first point of contact.</p> <p>For more complex and controversial EAs, it may also be advisable to contact Fisheries and Oceans Canada (DFO) (in addition to the Conservation Authority or MNR) early in the planning process to advise them of the project.</p>
Navigable Waters Protection	Transport Canada
Federal Funding	Relevant funding department
Federal Lands	Federal department responsible for the affected lands
First Nation Reserve Lands	Indian and Northern Affairs Canada
Species Protected Under the <i>Species at Risk Act</i>	Fisheries and Oceans Canada and / or Environment Canada and / or Parks Canada Agency
Migratory Birds	Environment Canada
Effects on Flows and Levels of International Boundary Waters	Department of Foreign Affairs
EA Coordination	Canadian Environmental Assessment Agency

In addition to these general contacts, Table 11.1 provides specific federal department contact information, along with the web site address for each department. Table 11.2 provides contact information for the DFO Districts. Figure 11.1 outlines the general boundaries for these offices.

Table 11.1: Key Federal Contacts

Federal Department	Regional Office	Web Site Address
Canadian Environmental Assessment Agency	55 St. Clair Avenue East 9 th Floor, Room 907 Toronto, Ontario M4T 1M2 Phone: 416-952-1576	http://www.ceaa-acee.gc.ca
Fisheries and Oceans Canada	Contact the nearest DFO Office - see Table 11.2 for DFO Districts	http://www.dfo-mpo.gc.ca/canwaters-eauxcan/
Environment Canada	867 Lakeshore Road P.O. Box 5050 Burlington, Ontario L7R 4A6 Phone: 905-336-4953 E-mail: ea-ee@ec.gc.ca	http://www.ec.gc.ca
Industry Canada	151 Yonge Street 4 th Floor Toronto, Ontario M5C 2W7 Phone: 416-973-5000	http://www.ic.gc.ca
Canadian Transportation Agency	15 Eddy Street Hull, Quebec K1A 0N9 Phone: 1-888-222-2592	http://www.cta-otc.gc.ca
Public Works and Government Services Canada	4900 Yonge Street Toronto, Ontario M2N 6A6 Phone: 416-512-5500	http://www.pwgsc.gc.ca
Indian and Northern Affairs Canada	25 St. Clair Avenue East 8 th Floor Toronto, Ontario M4T 1M2 Phone: 416-973-6234	http://www.ainc-inac.gc.ca

Table 11.1: Key Federal Contacts

Federal Department	Regional Office	Web Site Address
Transport Canada	4900 Yonge Street Suite 300 Toronto, Ontario M2N 6A5 Phone: 416-952-0485	http://www.tc.gc.ca
Natural Resources Canada	580 Booth Street Ottawa, Ontario K1A 0E4 Phone: 613-995-0947	http://www.nrcan-rncan.gc.ca
National Defence	101 Colonel By Drive Ottawa, Ontario K1A 0K2 Phone: 613-995-2391	http://www.forces.gc.ca
Canadian Heritage / Parks Canada Agency	111 Water Street East Cornwall, Ontario K6H 6S3 Phone: 613-938-5937	http://www.parkscanada.gc.ca
National Energy Board	(Based in Calgary, Alberta) 444 Seventh Avenue SW Calgary, Alberta T2P 0X8 Phone: 403-292-4800	http://www.neb-one.gc.ca
Department of Foreign Affairs	125 Sussex Drive Ottawa, Ontario K1A 0G2 Phone: 613-944-6912	http://www.dfait-maeci.gc.ca

Table 11.2: DFO Districts

Office	Contact Information
<p>Southern Ontario District</p> <p>Burlington Office</p> <p>Sarnia Office</p>	<p>304-3027 Harvester Road P.O. Box 85060 Burlington, Ontario L7R 4K3 Phone: 905-639-0188 Fax: 905-639-3549 E-mail: referralsburlington@dfo-mpo.gc.ca</p> <p>703-201 Front Street North Sarnia, Ontario N7T 8B1 Phone: 519-383-1821 Fax: 519-383-0699 E-mail: referralsarnia@dfo-mpo.gc.ca</p>
<p>Eastern Ontario District</p> <p>Peterborough Office</p> <p>Prescott Office</p>	<p>501 Towerhill Road Unit 102 Peterborough, Ontario K9H 7S3 Phone: 705-750-0269 Fax: 705-750-4016 E-mail: referralspeterborough@dfo-mpo.gc.ca</p> <p>401 King Street West Prescott, Ontario K0E 1T0 Phone: 613-925-2865 x 120 Fax: 613-925-2245 E-mail: referralsprescott@dfo-mpo.gc.ca</p>
<p>Northern Ontario District</p> <p>Parry Sound Office</p> <p>Sault Ste. Marie Office</p>	<p>28 Waubeek Street Parry Sound, Ontario P2A 1B9 Phone: 705-746-2196 x 246 Fax: 705-746-4820 E-mail: referralsparrysound@dfo-mpo.gc.ca</p> <p>1219 Queen Street East Sault Ste. Marie, Ontario P6A 2E5 Phone: 705-941-2039</p>

Office	Contact Information
Sudbury Office	Fax: 705-941-2013 E-mail: referralssaultstemarie@dfo-mpo.gc.ca 1500 Paris Street Unit 11 Sudbury, Ontario P3E 3B8 Phone: 705-522-2816 Fax 705-522-6421 E-mail: referralssudbury@dfo-mpo.gc.ca
Thunder Bay and Kenora Office	425-100 Main Street Thunder Bay, Ontario P7B 6R9 Phone: 807-346-8118 Fax: 807-346-8545 E-mail: referralsthunderbay@dfo-mpo.gc.ca

Figure 11.1: DFO Offices - General Boundaries



Table 11.3 - Ontario Ministry of the Environment Contacts

Office	Contact Information
Environmental Assessment and Approvals Branch	Floor 12A 2 St. Clair Avenue West Toronto, Ontario M4V 1L5 Phone: 416-314-8001 Fax: 416-314-8452
Central Region	8 th Floor, 5775 Yonge St North York, Ontario M2M 4J1 Phone: 905-521-7660 Fax: 905-521-7181
Eastern Region	133 Dalton Avenue P.O. Box 820 Kingston, Ontario K7L 4X6 Phone: 613-549-4000 Fax: 613-548-6908
Northern Region	3 rd Floor, Suite 331 435 James St. S. Thunder Bay, ON P7E 6S7 Phone: 807-475-1205 Fax: 807-475-1754
Southwestern Region	733 Exeter Road London, Ontario N6E 1L3 Phone: 519-873-5000 Fax: 519-873-5020
West Central Region	12 th Floor 119 King St W. Hamilton, Ontario L8P 4Y7 Phone: 905-521-7640 Fax: 905-521-7820

Selected References¹³

Canadian Environmental Assessment Act

Web Site Address for the Canadian Environmental Assessment Agency:
<http://www.ceaa-acee.gc.ca>

Canadian Environmental Assessment Agency, Ontario Region. 2004a. DRAFT. Advice to Proponents at the Terms of Reference Stage for a Coordinated Federal / Provincial Environmental Assessment Process. October 2004.

Canadian Environmental Assessment Agency. 2003. Improving Coordination Among Participants. Information Sheet. June 2003.

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The Cumulative Effects Assessment Working Group. 1999. Cumulative Effects Assessment Practitioner's Guide. Prepared for the Canadian Environmental Assessment Agency.

Canadian Environmental Assessment Agency. 1997. Reference Guide on the Federal Coordination Regulations. July 1997.

Canadian Environmental Assessment Agency. 1997. Guide to the Preparation of a Comprehensive Study for Proponents and Responsible Authorities. May 1997.

Canadian Environmental Assessment Agency. 1996. Reference Guide on Physical and Cultural Heritage Resources. April 1996.

¹³ Note that some earlier documents referenced here will not reflect the amendments to CEAA in 2003.

Operational Policy Statements

Canadian Environmental Assessment Agency. 2000. Operational Policy Statement. Preparing Project Descriptions under the *Canadian Environmental Assessment Act*. August 2000.

Canadian Environmental Assessment Agency. 1999. Operational Policy Statement. Addressing Cumulative Environmental Effects under the *Canadian Environmental Assessment Act*. March 1999.

Canadian Environmental Assessment Agency. 1998. Operational Policy Statement. Addressing "Need for", "Purpose of", "Alternatives to" and "Alternative Means" under the *Canadian Environmental Assessment Act*. October 1998.

Canadian Environmental Assessment Agency. 1998. Operational Policy Statement on the Scope of Environmental Assessment. September 1998.

Fisheries and Oceans Canada

Web Site Address for the Fisheries and Oceans Canada:
<http://www.dfo-mpo.gc.ca/canwaters-eauxcan/>

SARA Web Site:

http://www.dfo-mpo.gc.ca/species-especes/home_e.asp (English site)

http://www.dfo-mpo.gc.ca/species-especes/home_f.asp (French site)

SARA Registry:

http://www.sararegistry.gc.ca/default_e.cfm

Fisheries and Oceans Canada. 2005. Ontario Operational Statements.

Beach Creation
Beaver Dam Removal
Bridge Maintenance
Clear Span Bridges
Culvert Maintenance
Dock Construction
High Pressure Directional Drilling
Ice Bridges
Isolated Ponds
Overhead Line Construction
Underwater Cables

www.dfo-mpo.gc.ca/regions/central/habitat/index_e.htm (English)

www.dfo-mpo.gc.ca/regions/central/habitat/index_f.htm. (French)

Fisheries and Oceans Canada. 2004. Ontario Compliance Protocol. Fish Habitat Compliance Protocol. 2004 Interim Measures.

Fisheries and Oceans Canada. 2003. Working Around Water?

What you Should Know about Fish Habitat

Fish Habitat and Docks, Boathouses and Boat Launches (C1)

Fish Habitat and Building a Beach (C2)

Fish Habitat and Building Materials (C3)

Fish Habitat and Shoreline Stabilization (C4)

Fish Habitat and Constructing Ponds (C5)

Fish Habitat and Dredging (I1)

Fish Habitat and Sunken Log Retrieval (I3)

Fish Habitat and Stream Clean-up (I4)

Fish Habitat and Obtaining a Section 35 *Fisheries Act* Authorization (L1)

Fish Habitat and The Effects of Silt and Sediment (T1)

Fish Habitat and Fluctuating Water Levels on the Great Lakes (T2)

Fisheries and Oceans Canada. 1998a. Decision Framework for the Determination and Authorization of Harmful Alteration, Disruption or Destruction of Fish Habitat.

Fisheries and Oceans Canada. 1998b. Guideline for the Use of Explosives In or Near Canadian Fisheries Waters.

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Stoneman, C.L., C.B. Portt and S. Metikosh. 1997. Road Maintenance Activities and the Fisheries Act: A Guidance Document to Avoiding Conflicts. Canadian Manuscript Report of Fisheries and Aquatic Sciences. (available on Fisheries and Oceans Canada's web site - <http://www.dfo-mpo.gc.ca/Library/210807.pdf>)

Fisheries and Oceans Canada. 2002. Canada's *Fisheries Act*. The Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act*.

Fisheries and Oceans Canada. 1986. The Policy for the Management of Fish Habitat.

Environment Canada

Web Site Address for the Environment Canada:
<http://www.ec.gc.ca>

Environment Canada. 2003. Species at Risk Act: A Guide. June 2003.

Environment Canada. Canadian Wildlife Service. 1998. Environmental Assessment Guideline for Forest Habitat of Migratory Birds. Biodiversity Protection Branch.

Environment Canada. Canadian Wildlife Service. 1998. Migratory Birds Environmental Assessment Guide. Biodiversity Protection Branch.

Environment Canada. Canadian Wildlife Service. 1998. Wetlands Environmental Assessment Guideline. Biodiversity Protection Branch.

Environment Canada. 1991. The Federal Policy on Wetland Conservation.

Ontario Ministry of the Environment

Ministry of the Environment. 2000. A Guide to Preparing Terms of Reference for Environmental Assessments. Draft. December 15, 2000.

Ministry of the Environment, Environmental Assessment and Approvals Branch. 2001. Guide to Environmental Assessment Requirements for Electricity Projects.

Web Site Address for the Ministry of the Environment:
<http://www.ene.gov.on.ca>

Relevant Policy Initiatives and Other References

Canadian Environmental Assessment Agency. 2004b. News Release. Canada and Ontario Sign Agreement to Conduct Cooperative Environmental Assessments. November 1, 2004.

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Ontario Waterpower Association. 2004. Proposed Terms of Reference. Class Environmental Assessment for Waterpower Development Projects. November 2004.

Ontario Waterpower Association. 2002. Proposed Terms of Reference. Class Environmental Assessment for Waterpower Development Projects. October 2002.

Web Site Address for the Ontario Waterpower Association: http://www.owa.ca

Environmental Quality Guidelines for Ecosystem Components

National Guidelines and Standards Office (NGSO) -
<http://www.ec.gc.ca/ceqg-rcqe/English/default.cfm>

Canadian Environmental Quality Guidelines -
<http://www.ec.gc.ca/ceqg-rcqe/English/ceqg/>

Canadian Council of Ministers of the Environment (CCME) Guidelines (water and soil primarily) - <http://www.ccme.ca/publications/catalogue.html> (publication catalogue and ordering)

CCME Canada-Wide Standards (Benzene, Dioxins and Furans, Mercury, Particulate Matter and Ground-level Ozone, Petroleum Hydrocarbons) -
<http://www.ccme.ca/initiatives/standards.html>

Ontario Ministry of the Environment Guidelines -
<http://www.ene.gov.on.ca/envision/gp/index.htm>

APPENDICES

- Appendix A *Canada – Ontario Agreement on Environmental Assessment Cooperation*
- Appendix B Overview of Electricity Projects Environmental Screening and Individual EA Processes (Provincial)
- Appendix C Identifying Expert Federal Authorities Under CEAA
- Appendix D Potential CEAA Triggers for Waterpower Development Projects
- Appendix E Environmental Assessment Components: Key Differences
- Appendix F Potential Federal Information Requirements
- Appendix G List of Acronyms

Appendix A – Canada – Ontario Agreement on Environmental Assessment Cooperation

PREAMBLE

WHEREAS Canada and Ontario respect each other's constitutional responsibilities; **WHEREAS** certain projects in Ontario require an environmental assessment by Canada pursuant to the *Canadian Environmental Assessment Act* and by Ontario pursuant to the *Ontario Environmental Assessment Act*,

WHEREAS the *Canadian Environmental Assessment Act* and the *Ontario Environmental Assessment Act* allow for inter-jurisdictional cooperation and coordination in environmental assessment;

WHEREAS Canada and Ontario have subscribed to those principles of cooperation embodied in the *Sub-agreement on environmental assessment* (Sub-agreement) established under the *Canada-wide Accord on Environmental Harmonization* (Accord);

WHEREAS Canada and Ontario agree that a cooperative environmental assessment will be conducted for each project covered by this agreement according to the requirements of their respective authorizing statutes and regulations while avoiding unnecessary duplication, delays and uncertainty that could arise from separate environmental assessments; and

THEREFORE Canada and Ontario agree to implement the provisions in the Sub-agreement through this Agreement on environmental assessment cooperation.

DEFINITIONS

In this Agreement:

“Class environmental assessment document” means a class environmental assessment document prepared under section 14 of the *Ontario Environmental Assessment Act*.

“Class screening report” means a class screening report as declared under section 19 of the *Canadian Environmental Assessment Act*.

“Cooperative environmental assessment” means the environmental assessment of a proposed project where Canada and Ontario have an environmental assessment responsibility, and they cooperate to meet the legal environmental assessment requirements of both Parties through a single environmental assessment process.

“Environmental assessment document” means:

- (a) for Canada, the documentation provided by the proponent in response to the scope of the project, the factors to be considered under section 16 of the *Canadian Environmental Assessment Act*, and the scope of those factors; and
- (b) for Ontario, the document that is submitted by a proponent seeking approval for an undertaking to the Ontario Minister of the Environment for review under the Ontario *Environmental Assessment Act*. The environmental assessment document is the result of the proponent’s entire planning process, including pre-submission consultation.

“Environmental assessment” means the assessment of the environmental effects of a proposed project conducted in accordance with the *Canadian Environmental Assessment Act* or in accordance with the Ontario *Environmental Assessment Act* and their regulations.

“Environmental assessment responsibility” means:

- (a) for Canada, a power, duty or function that is exercised by any person or body under the *Canadian Environmental Assessment Act* that requires a screening, comprehensive study, mediation or review panel under the *Canadian Environmental Assessment Act*, and
- (b) for Ontario, a ministerial decision pursuant to the Ontario *Environmental Assessment Act* that is approved by the Ontario Cabinet.

“Interest” means the environmental management responsibilities of a Party, the exercise of which does not require an environmental assessment responsibility by that Party.

“Joint panel/tribunal” means a public hearing body established by Canada pursuant to the *Canadian Environmental Assessment Act*, and by Ontario under the Ontario *Environmental Assessment Act* and the *Consolidated Hearings Act*, the members of which are appointed by Canada and Ontario.

“Lead Party” means the Party as determined under clause 9 of this Agreement.

“Party” means either Canada or Ontario.

“Project” means a project as defined in subsections 2(1) and 2(3) of the *Canadian Environmental Assessment Act* or an undertaking as defined in subsection 1(1) of the Ontario *Environmental Assessment Act*.

“**Responsible authority**” has the same meaning as set out in section 2(1) of the *Canadian Environmental Assessment Act*.

“**Terms of reference**” means:

- (a) for Canada, the scope of the project, the factors to be considered and the scope of the factors as determined under sections 15 and 16 of the *Canadian Environmental Assessment Act* by a responsible authority in the case of a screening or a comprehensive study and by the Minister of the Environment (and in appropriate circumstances by a review panel) in the case of a panel review; and
- (b) for Ontario, the formal document submitted for the Minister's approval early in the environmental assessment process which sets out the workplan to be followed during the production of the environmental assessment document.
Once approved, the terms of reference form the framework for the preparation and review of the environmental assessment document. Under subsection 6.1(1) of the Ontario *Environmental Assessment Act*, the environmental assessment must be prepared in accordance with the approved terms of reference.

INTERPRETATION

1. (1) This Agreement:

- (a) creates an administrative framework within which the Parties can cooperatively exercise their respective powers and duties established by the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act*;
- (b) is a public document that is to be read and interpreted in a manner consistent with the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act*, and all other federal and provincial legal requirements, including, but not limited, to legislative requirements; and
- (c) does not create any new legal powers or duties nor does it alter the powers and duties established by the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act* and is not legally binding on the Parties.

(2) This Agreement recognizes the right of either Party to carry out its legal obligations and confirms the commitment of the Parties to work together in conducting cooperative environmental assessments.

(3) Neither Canada nor Ontario gives up any jurisdiction, right, power, privilege, prerogative or immunity by virtue of this Agreement or any subsidiary agreements resulting therefrom.

SCOPE

2. For Canada, this Agreement applies to any person or body that is required to ensure an environmental assessment is conducted under the *Canadian Environmental Assessment Act* and for Ontario this Agreement applies to any person or body having authority under the Ontario *Environmental Assessment Act*.

OBJECTIVES

3. The objectives of this Agreement are to:

- (a) achieve greater efficiency and the most effective use of public and private resources where environmental assessment processes involving both Parties are or may be required by law;
- (b) foster cooperation between the Parties concerning the environmental assessment of proposed projects; and
- (c) describe the roles and responsibilities for the Parties in implementing a cooperative environmental assessment.

COORDINATION OF RESPONSIBILITIES OF DESIGNATED OFFICES

Designated Offices

4. (1) Each Party will maintain an office that will serve as the main source of general information on that Party's environmental assessment process, procedures and policies.

(2) Canada's designated office will be the Canadian Environmental Assessment Agency's office (Agency office) located in Toronto.

(3) Ontario's designated office will be the Environmental Assessment and Approvals Branch of the Ministry of the Environment located in Toronto (Ontario office).

(4) Each Party's designated office will be responsible for:

- (a) coordinating, as needed, administrative matters pertaining to this Agreement and any potential cooperative environmental assessment;
- (b) facilitating consultation and cooperation between the Parties in relation to projects proceeding under a cooperative environmental assessment, where appropriate;
- (c) providing information about their respective environmental assessment processes, policies and procedures;

- (d) coordinating and facilitating federal and provincial contact and communication on environmental assessment matters with potential proponents, other government departments, ministries, agencies, Aboriginal communities, and the public;
 - (e) reviewing periodically the implementation of this Agreement and the effectiveness of the cooperative environmental assessments undertaken;
 - (f) developing operational procedures, as needed, for matters pertaining to this Agreement; and
 - (g) keeping a directory of the names of those who have been assigned by each Party to assist in the administration or review of each cooperative environmental assessment and making this information available to each other on request.
- (5) The designated offices will meet as required to monitor the efficiency and effectiveness of the Agreement and to review comments from the public on the operation of the Agreement that may be received.

COOPERATIVE ENVIRONMENTAL ASSESSMENT COORDINATION RESPONSIBILITIES

(Clauses 5 through 23 of this Agreement do not apply to the development or review of federal class screening reports or provincial class environmental assessment documents, or Ontario Regulation 116/01 (Electricity Projects); nor do they apply to projects being assessed under these instruments. See clauses 24 and 25 for coordination procedures of class environmental assessments.)

5. (1) Normally, for projects subject to a cooperative environmental assessment, the following will apply:

- (a) the Agency office will act as the federal environmental assessment coordinator, as described under the *Canadian Environmental Assessment Act*, throughout all stages of the cooperative environmental assessment unless confirmed otherwise by the Agency office to the Ontario office; and
- (b) the Ontario office will coordinate the input and involvement of provincial ministries and agencies from the early stages of pre-notification through all stages of the cooperative environmental assessment.

(2) For projects or parts of projects referred to a joint panel/tribunal, the following will apply:

- (a) the joint panel/tribunal secretariat will become the point of contact for Canada and Ontario once a project has been referred by both Ministers of the Environment to the joint panel/tribunal for hearing; and
- (b) the Agency office will resume its role as point of contact for Canada and the Ontario office will resume its role as point of contact for Ontario, following the submission of the joint panel/tribunal report and recommendations/decisions to the Ministers of the Environment.

PRE-NOTIFICATION AND EARLY COORDINATION

6. (1) The Parties will advise each other as early as possible, through their designated offices, of projects potentially subject to both the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act*.

(2) The designated offices will provide timely disclosure and access to relevant information about the proposed projects.

(3) The Parties will consult and work with each other and proponents, as early as possible, to ensure that the information needed to identify the Parties' environmental assessment responsibilities is included in any project description under the *Canadian Environmental Assessment Act* or an application under the Ontario *Environmental Assessment Act*. Guidance will be provided to the proponent in a consolidated fashion where appropriate.

(4) The designated offices will advise proponents at the earliest opportunity when they are aware of the potential for a cooperative environmental assessment of a proposed project.

NOTIFICATION AND DETERMINATION OF ENVIRONMENTAL ASSESSMENT RESPONSIBILITIES

7. (1) Following submission of a project description, the designated offices will confirm, in writing, to each other as soon as practicable so that each Party's legislated timelines can be met, when an environmental assessment responsibility or an interest exists in relation to the proposed project.

(2) If either Party believes that it may have an environmental assessment responsibility but the project proposal or description documentation is insufficient to make such a final determination, that Party will:

- (a) document its responsibilities that may require an environmental assessment and request the proponent to provide the additional information required; and

(b) provide the documentation referred to in (a) above to the other Party including the proponent's response to the other Party.

(3) Where one Party has an environmental assessment responsibility and the other Party believes that it may have an environmental assessment responsibility but has not yet made such a determination, the Party that has yet to make a determination will participate in the environmental assessment until it has made a determination. Such participation will be mindful of the need to make a timely determination of environmental assessment responsibilities. The information required to make a determination may be obtained as provided for in clause 7(2).

COOPERATIVE ENVIRONMENTAL ASSESSMENTS

8. (1) Where each Party has determined that it has an environmental assessment responsibility for a proposed project, a cooperative environmental assessment will be undertaken.

(2) The cooperative environmental assessment will be administered by a Lead Party in a manner that enables both Parties to meet their legal requirements and ensures that the cooperative environmental assessment:

(a) generates the type and quality of information required to satisfy both the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act*, and

(b) provides findings on the environmental effects of the proposed project required for decision making by the respective Parties.

(3) A Party's participation in a cooperative environmental assessment will be consistent with and mindful of legislated timelines.

DETERMINING LEAD PARTY

9. (1) The Lead Party for the purposes of administering the cooperative environmental assessment will, in accordance with section 5.6.0 of the Sub-agreement to the Accord, generally be determined as follows:

(a) Canada will be the Lead Party for proposed projects on federal lands where federal approval(s) apply.

(b) Ontario will be the Lead Party for proposed projects on lands within its provincial boundary not covered under clause (a) above where *Environmental Assessment Act* approval(s) may apply.

(c) If a project is located on lands under both federal and provincial jurisdiction, the Lead Party will be determined by mutual agreement of the Parties.

(2) If a Party believes that it would be in the best interest of a cooperative environmental assessment to vary the Lead Party under clause 9(1)(a) or 9(1)(b) above, that Party will notify the other Party's designated office within 25 working days of receiving an adequate project description and provide a rationale for the variance. While the issue of varying the Lead Party is being discussed, the Party assuming the lead based on clauses 9(1)(a) and 9(1)(b) of this Agreement will continue to act as the Lead Party for the purposes of the cooperative environmental assessment.

(3) The Party requesting a variance shall provide its rationale for suggesting a variance based on an evaluation of the following criteria:

- (a) scale, scope and nature of the environmental assessment;
- (b) capacity to administer the assessment including available resources;
- (c) physical proximity of government's infrastructure;
- (d) effectiveness and efficiency;
- (e) access to scientific and technical expertise;
- (f) ability to address proponent or local needs;
- (g) inter-provincial, inter-territorial or international considerations; or
- (h) existing regulatory regime including the legal requirements of quasi-judicial tribunals.

(4) If the Parties agree to vary the Lead Party, the proponent will be notified by the new Lead Party, through its designated office, as soon as possible.

SINGLE CONTACTS

10. (1) For each cooperative environmental assessment, the Parties, through their designated offices, will identify a single contact and provide the name and contact information promptly to the other Party in writing.

(2) Canada's contact will be the assigned Agency officer who acts as the federal environmental assessment coordinator unless confirmed otherwise by the Agency office to the Ontario office.

(3) Ontario's contact will be the project officer to whom the project is assigned.

(4) Each Party's contact will:

- (a) coordinate its Party's participation in the cooperative environmental assessment;
- (b) confirm the environmental assessment responsibility(ies) or the interest that applies to the proposed project;
- (c) contact relevant departments, ministries and agencies in their respective governments to confirm the Lead Party as determined by clause 9;
- (d) work with the other Party's contact to resolve process and content issues that may arise during the cooperative environmental assessment;
- (e) coordinate the Party's consultation with the other Party and the proponent on matters pertaining to the cooperative environmental assessment; and
- (f) work to ensure that the timelines established for the cooperative environmental assessment are met.

JOINT ASSESSMENT COMMITTEE

11. (1) For each cooperative environmental assessment other than a joint panel/tribunal, there will be a Joint Assessment Committee made up of one representative from the Agency and one from each of the federal responsible authorities for the environmental assessment, and a representative from the Ontario office and any additional representative(s) the Ontario office considers appropriate.

(2) The Joint Assessment Committee members are responsible for:

- (a) establishing a mutually agreeable workplan for completion of each stage of assessment consistent with legislated timelines;
- (b) identifying the information requirements needed by the Parties to satisfy their legal environmental assessment requirements through the review of the terms of reference; determining the completeness and adequacy of the environmental assessment information and report;
- (c) analyzing and reporting on the findings of the environmental assessment document;
- (d) coordinating, to the extent possible, the timing of environmental assessment decisions and the announcement of such decisions; and

(e) other related functions as determined by the Joint Assessment Committee.

(3) Members of the Joint Assessment Committee may seek input from federal expert authorities, provincial ministries and other advisors as required to meet their responsibilities. These experts and advisors may be invited to participate on the Joint Assessment Committee.

ESTABLISHMENT OF A WORKPLAN FOR THE ASSESSMENT

12. (1) Where a cooperative environmental assessment is undertaken, the Joint Assessment Committee will establish a project-specific workplan for the completion of each stage of the assessment consistent with legislated timelines.

(2) The Lead Party, through its designated office, will communicate the workplan to the project proponent.

(3) The Parties will fulfill their cooperative environmental assessment responsibilities within the workplan that they have agreed upon provided that the necessary information is in their possession. A workplan may be updated and amended throughout the cooperative environmental assessment with the mutual agreement of both Parties.

PUBLIC PARTICIPATION

13. (1) The Parties agree to cooperate in meeting their respective public consultation requirements under the *Canadian Environmental Assessment Act* and the *Ontario Environmental Assessment Act*. Public records, containing a complete set of materials, will be maintained by both Parties in accordance with the requirements of their respective legislation.

(2) To facilitate public participation, the Parties will ensure that the public is able to:

(a) have access to information concerning the environmental assessment of a project pursuant to applicable legislative provisions; and

(b) participate in the environmental assessment of the project, to the extent provided for by the *Canadian Environmental Assessment Act* and the *Ontario Environmental Assessment Act*, and any regulations or policies made pursuant to those Acts or any operational procedures developed under this Agreement.

(3) Project-specific workplans are to reflect any public participation requirements to the extent provided for by the *Canadian Environmental Assessment Act* and the *Ontario Environmental Assessment Act*, and any regulations or policies made pursuant to those Acts or any operational procedures developed under this Agreement.

FINALIZATION OF THE TERMS OF REFERENCE

14. (1) The Joint Assessment Committee will work together to consolidate the information requirements of both Parties at the terms of reference stage to guide the proponent in preparing an environmental assessment document for the cooperative environmental assessment.

(2) For the purposes of developing the terms of reference, the definitions of "environment" and "environmental effects" in the *Canadian Environmental Assessment Act*, and "environment" in the Ontario *Environmental Assessment Act* will be adopted to incorporate the legal requirements of both Parties.

(3) The Joint Assessment Committee with their advisors, as referred to in clause 11, will review the terms of reference document submitted by the proponent to determine its completeness and adequacy.

(4) If deficiencies in the information provided are identified, or additional information is needed, the Lead Party's designated office will inform the proponent of these deficiencies or the additional information required. The Lead Party's designated office will issue to the proponent a consolidated list of deficiencies and/or additional information sought by each Party to meet each Party's specific requirements.

(5) The Parties will confirm to each other and the proponent when the terms of reference document meets their respective requirements. The Lead Party's designated office will notify the proponent when the terms of reference is approved.

(6) The Parties will provide guidance to the proponent, upon request, during the preparation of the environmental assessment document to ensure the document meets their legislative and policy requirements.

DETERMINATION OF COMPLETENESS OF THE ENVIRONMENTAL ASSESSMENT DOCUMENT

15. (1) The Joint Assessment Committee and its advisors will review the environmental assessment document submitted by the proponent to determine the completeness and adequacy of the information.

(2) If deficiencies in the information provided are identified, or additional information is needed, a consolidated deficiency document will be prepared by the Joint Assessment Committee. The Lead Party's designated office will issue the agreed upon deficiency document to the proponent.

(3) The designated offices will confirm, in writing, to each other and the proponent when their Party's requirements for information, including those requirements outlined in the deficiency document referred to in clause 15(2), have been met in accordance with the terms of reference.

(4) Where a Party determines that the information it requires to fulfill its legal obligations will not be provided by the cooperative environmental assessment, that Party, while continuing to participate in the cooperative environmental assessment, will document its information needs in relation to its legal responsibilities, provide this to the Lead Party's designated office, and identify its intention to request information from the proponent so that implications for the workplan determined in clause 12(1) can be considered.

(5) If the Party conducting additional steps or seeking additional information completes its task prior to the conclusion of the cooperative environmental assessment, the additional information will be integrated into the cooperative environmental assessment in accordance with the workplan for the cooperative environmental assessment. Otherwise, the additional information will be used solely for the decision making required of the Party that conducted the additional steps or sought the additional information.

COORDINATION OF DECISIONS AND ANNOUNCEMENTS

16. (1) Each Party, having an environmental assessment responsibility, will use the information generated by the cooperative environmental assessment for the purposes of its respective decision making provided that each Party is of the opinion that the information generated in the process meets the requirements of its environmental assessment legislation.

(2) The Parties agree to coordinate the timing of decisions, to the extent possible, throughout the conduct of the cooperative environmental assessment.

(3) Upon completion of a cooperative environmental assessment, each Party will notify the other of project decisions, the proposed timing of public announcements concerning these decisions, and provide an opportunity to coordinate the announcement of such decisions.

(4) To the extent possible, neither Party will communicate its decision directly to the proponent or the public without prior notification of the other Party.

(5) The designated offices of both Parties will provide assistance in achieving coordination.

MITIGATION AND FOLLOW-UP

17. Where a cooperative environmental assessment leads to the approval of a proposed project by Ontario and where Canada exercises a power, or performs a function, or a duty in relation to the proposed project, subject to identified mitigation measures, monitoring and follow-up requirements or any other terms and conditions, the Parties will communicate and may coordinate their respective requirements if any, where it is possible and mutually advantageous to do so. A project-specific agreement may be developed between the Parties to confirm the cooperative arrangements in this regard.

JOINT PANEL/TRIBUNAL

18. (1) Where either Party intends to refer an environmental assessment matter to a review panel under the *Canadian Environmental Assessment Act* or the Environmental Review Tribunal for a hearing under the Ontario *Environmental Assessment Act*, and if applicable the *Consolidated Hearings Act*, the Party's designated office will provide immediate notice to the other Party's designated office and consult on the possibility of establishing a joint panel/tribunal for the project.

(2) If the Parties agree that a joint panel/tribunal can be established in a manner that satisfies the requirements of both the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act* or the *Consolidated Hearings Act*, they will enter into a project-specific agreement respecting the establishment of a joint panel/tribunal, its membership, and the manner in which the cooperative environmental assessment is to be conducted including the scope of the assessment.

(3) The joint panel/tribunal shall have the powers and duties of a panel provided for in the *Canadian Environmental Assessment Act* and of the Environmental Review Tribunal under the Ontario *Environmental Assessment Act* or the *Consolidated Hearings Act*.

(4) The agreement referred to in 18(2) is to contain the provisions necessary to satisfy the requirements of the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act* or the *Consolidated Hearings Act*, and may contain additional provisions respecting the operation of the joint panel/tribunal, the establishment of a panel secretariat to provide administrative and procedural support to the joint panel/tribunal, cost sharing, assistance provided to participants in the hearing process in accordance with the Parties' legislation and policies, the expected time frame for completion of the work by the joint panel/tribunal and any other matter that the Parties agree is necessary for the proper conduct of the work by the joint panel/tribunal.

(5) All documents produced by the joint panel/tribunal including its final report, will take account of and reflect the views of each member of the joint panel/tribunal.

(6) The joint panel/tribunal's final report shall be put forth as recommendations to Canada and as decisions to Ontario subject to Ministerial review. Prior to making a decision on the proposed project, the Parties shall discuss the joint panel/tribunal findings and seek to issue their decisions within a time frame agreed to by the Parties.

ACCOMMODATING INTERESTS

19. (1) Where one Party has an environmental assessment responsibility respecting a proposed project and the other Party has an interest, the Party with the environmental assessment responsibility will invite early in the environmental assessment the Party with an interest to review the environmental assessment information and provide comments related to its mandated responsibilities.

(2) Nothing in this Agreement is intended to limit the opportunities of either Party to access information or provide input to an environmental assessment of a proposed project afforded by the participatory nature of the processes administered under both the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act*.

MEDIATION UNDER THE ONTARIO *ENVIRONMENTAL ASSESSMENT ACT*

20. (1) To help resolve disputes that may arise during the course of an environmental assessment in Ontario, the Ontario Minister of the Environment may under subsections 6(5), 8(1), and 16(6) of the Ontario *Environmental Assessment Act* refer a matter to mediation.

(2) Where a project is subject to a cooperative environmental assessment and Ontario is considering the referral of the project to mediation as described in clause 20(1), the Ontario office will notify the Agency office to determine whether Canada wishes to participate in the mediation.

MEDIATION UNDER THE *CANADIAN ENVIRONMENTAL ASSESSMENT ACT*

21. Where Canada is considering the referral of a project to a mediator pursuant to subsection 29(1) of the *Canadian Environmental Assessment Act*, the Agency office will notify the Ontario office to determine whether Ontario wishes to participate in the mediation.

TRANSBOUNDARY CONSIDERATIONS

22. (1) Where a proposed project in Ontario is subject to a cooperative environmental assessment, and has the potential to cause adverse environmental effects in another province or territory in Canada, the Lead Party's designated office will advise the proponent to inform the potentially

affected province or territory and consult the potentially affected province or territory during the conduct of the cooperative environmental assessment.

(2) The Parties may invite any potentially affected province/territory to input into the cooperative environmental assessment.

(3) For a project outside Ontario subject to the *Canadian Environmental Assessment Act* and which has the potential to cause adverse environmental effects in Ontario, Ontario will be invited by Canada to input into the assessment of that project.

(4) The requirement in clause 22(3) does not apply where Ontario has been notified by another province or territory pursuant to an agreement and has been given an opportunity to participate.

(5) Where Canada has obligations pursuant to an international agreement with respect to the environmental assessment of certain proposed projects that are subject to a cooperative environmental assessment, Canada will notify and discuss its obligations with Ontario to ensure compliance of the cooperative environmental assessment with the international commitments.

(6) Where Canada becomes aware of potential transboundary concerns relating to a project within the meaning of sections 46, 47 or 48 of the *Canadian Environmental Assessment Act*, whether the project is situated in Ontario or in another jurisdiction with potential transboundary effects in Ontario:

- (a) the Agency office will promptly notify the Ontario office of the potential transboundary concerns;
- (b) upon notification, as referred to in clause 22(6)(a), the Parties agree to exchange information relating to the project, the transboundary concerns, and any assessment of the environmental effects of the project; and
- (c) for projects in Ontario, Canada will consider any available information generated by an assessment of the environmental effects of the project conducted under the Ontario *Environmental Assessment Act* required by Ontario before taking final action under sections 46, 47 or 48 of the *Canadian Environmental Assessment Act*.

CONSIDERATION OF ABORIGINAL INTERESTS

23. (1) Where a project subject to a cooperative environmental assessment has the potential to have environmental effects on an Aboriginal community, the Parties will ensure that the potentially affected Aboriginal community is notified so that it may participate in the cooperative environmental assessment. Notification and participation of a potentially affected Aboriginal community will be

conducted in accordance with any requirements that may be set out in the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act*, and any regulations or policies made pursuant to those Acts or any operational procedures developed under this Agreement.

(2) This Agreement does not apply to environmental assessment processes pursuant to a land claim or Aboriginal self-government agreement.

(3) This Agreement may be revised to reflect land claim agreements or Aboriginal self-government agreements that are given effect by legislation.

(4) The Parties agree to share the principles of the Accord, the Sub-agreement, and the provisions of this Agreement with Aboriginal communities when negotiating environmental assessment regimes pursuant to land claim or self-government agreements.

(5) Nothing in this Agreement affects or alters constitutionally-protected Aboriginal rights or Treaty rights.

CLASS ENVIRONMENTAL ASSESSMENT, CLASS SCREENINGS AND ELECTRICITY PROJECTS

Development or Review of a Federal Class Screening Report, a Provincial Class Environmental Assessment Document or Ontario Regulation 116/01

24. (1) For the development or review of a federal class screening report or a provincial class environmental assessment document or Ontario Regulation 116/01, the following will apply:

- (a) the Parties will notify and invite each other through their designated office as early as possible to participate;
- (b) the Agency office will coordinate the input and involvement of federal departments and agencies in the development or review of provincial class environmental assessment documents and Ontario Regulation 116/01;
- (c) the Ontario office will coordinate the input and involvement of provincial ministries and agencies into the development or review of federal class screening reports;
- (d) the extent of this participation will be determined as early as possible on a case-by-case basis; and
- (e) where Parties agree to participate, they will do so in a manner consistent with legislated timelines.

(2) At the time of development or review, the Parties agree to include provisions in federal class screening reports, provincial class environmental assessment documents, and Ontario Regulation 116/01, to facilitate cooperation for project environmental assessments prepared under these instruments.

Coordination Framework for Projects Subject to Provincial Class Environmental Assessments or Ontario Regulation 116/01 (Environmental Screening Process)

25. (1) For a proponent(s) seeking to concurrently satisfy the requirements of a provincial class environmental assessment document, or Ontario Regulation 116/01 (Environmental Screening Process), and the requirements under the *Canadian Environmental Assessment Act* for a project, the following coordination procedures apply:

- (a) the proponent(s) is to notify and consult the Agency's office early in the planning process when the details of the project are known, and provide a project description in a timely manner;
- (b) where it is determined based on the project description that an environmental assessment responsibility of the project is required, or is likely to be required, under the *Canadian Environmental Assessment Act*, the Agency office or the federal authority will convene a discussion with the proponent(s) and potential or actual responsible authorities to discuss the coordinated process, including its workplan;
- (c) the Agency office or a federal authority will notify the proponent(s) of federal requirements and the commencement of the federal assessment; and
- (d) the proponent(s) and the Agency office or the federal authority will work together to address federal concerns and information requirements.

(2) The proponent(s) of the project will follow the class environmental assessment process or Ontario Regulation 116/01 approved under the Ontario *Environmental Assessment Act*, and incorporate additional information necessary to satisfy the requirements of the *Canadian Environmental Assessment Act*.

(3) The proponent(s) will present its findings on the predicted environmental effects of the project in a single body of documentation.

(4) All Parties' participation will be consistent with and mindful of timelines set out in the class environmental assessment document or Ontario Regulation 116/01 and legislation.

ISSUES MANAGEMENT BETWEEN THE PARTIES

26. (1) The Parties will make every reasonable effort to agree on the interpretation and application of this Agreement, including but not limited to, the scope of the project and the scope of the assessment, the completeness and adequacy of the information submitted by the proponent, the significance of environmental effects, process related questions, or any issue that is related to a cooperative environmental assessment.

(2) Should a dispute on any of these issues arise, the Parties will, to the extent possible, seek to resolve the dispute at the operational level.

(3) Where all reasonable efforts to resolve a dispute at the operational level have been exhausted and where either Party believes a dispute requires resolution at a more senior level, the Party seeking to resolve the dispute will notify in writing the other Party through its designated office and provide a justification for raising the dispute at a more senior level.

(4) Where both designated offices agree to the consideration of the dispute at a more senior level, the following procedures will apply:

- (a) The designated offices, in consultation, will convene a meeting of the Parties at a senior operational level within ten working days of the dispute being brought to the attention of the two offices to seek a resolution of the dispute or to agree on a process for resolving the dispute.
- (b) The Agency office will facilitate the participation in the process of relevant senior regional officials, including the office of the senior regional officer of the department or agency or the representative of that office. The Ontario office will facilitate the participation of relevant senior provincial officials.
- (c) If after a period of time agreed to by the senior officials at the onset of the dispute resolution procedures outlined in clause 26(4)(a), the dispute has not been resolved, and where the designated offices agree, the matter will be referred to the President of the Canadian Environmental Assessment Agency and the Deputy Minister for the Ontario Ministry of the Environment, to facilitate resolution of the issues by the Parties, including federal responsible authorities and specialist federal authorities, within a specified time frame.

(5) The Parties recognize that this dispute resolution process does not fetter the authority of a federal responsible authority under the *Canadian Environmental Assessment Act* or the authority of the Minister of the Environment under the Ontario *Environmental Assessment Act*.

OPERATIONAL PROCEDURES

27. The Parties, through their designated offices, agree to develop and maintain operational procedures that will facilitate the implementation of this Agreement. The operational procedures will be developed within one year of the execution of this Agreement and will be reviewed by the Parties on mutual consent to determine whether revisions are necessary.

REVISION AND DURATION OF AGREEMENT

28. This Agreement comes into force upon its execution by both Parties.

29. (1) This Agreement may be revised at any time by mutual consent by the Parties.

(2) This Agreement shall be reviewed by the Parties through their designated offices three years following its coming into force. Through this review, the Parties will determine the timing of the next review of the Agreement.

30. (1) Where the environmental assessment of a project has been completed by a Party prior to the coming into force of this Agreement and upon coming into force of this Agreement the other Party has yet to complete its environmental assessment for the same project, the other Party will take into consideration the information generated by the completed environmental assessment.

(2) If an environmental assessment was initiated by one or both Parties prior to the coming into force of this Agreement and it is still under way upon the coming into force of this Agreement, the Parties may agree to apply this Agreement, or any portion thereof, to the environmental assessment.

31. Following consultations between the Parties, this Agreement may be terminated by either Party, forty-five days after written notice is provided to the other Party. In the event of termination, the Parties will provide transitional arrangements for proposed projects already involved in a cooperative environmental assessment.

SIGNATURES

In witness thereof the Honourable Stéphane Dion has hereunto set his hand and seal on behalf of Canada, and the Honourable Leona Dombrowsky has hereunto set her hand and seal on behalf of Ontario, to this Agreement, this _____ day of _____, 2004. (Original signed on November 1st, 2004)

Signed on behalf of Canada by
the Honourable Stéphane Dion,
Minister of the Environment.

Original signed by:

The Honourable Stéphane Dion
Minister of the Environment

Signed on behalf of Ontario by
the Honourable Leona Dombrowsky,
Minister of the Environment.

Original signed by:

The Honourable Leona Dombrowsky
Minister of the Environment

Appendix B - Overview of Electricity Projects Environmental Screening and Individual EA Processes (Provincial)

Environmental Screening Process (Category B Projects)

The Environmental Screening Process involves an assessment of the potential for the project to cause environmental effects and, where further assessment is required, the nature of the effects. It has explicit notification requirements at the commencement of the screening and the completion of the screening.

The proponent begins the screening stage by publishing a Notice of Commencement and preparing a description of the project. The proponent then applies the screening criteria found in Appendix C of the *Guide to Environmental Assessment Requirements for Electricity Projects* (Ministry of the Environment, 2001) to the project. This involves answering a series of questions to identify the potential for negative environmental effects of the project. If the answer to any of the screening questions is “yes”, the project has the potential to cause negative effects. Therefore, the proponent must provide additional information in the Screening Report to explain: the potential effects and methods to address or mitigate the effects; and whether any residual effects are anticipated and, if so, the significance of any negative net effects.

Either during or at the conclusion of the screening the proponent can make the determination that there are potential environmental effects or public concerns that require further assessment and resolution. If the conclusion is that there is a need for further assessment or resolution of public concern, the proponent proceeds to the Environmental Review stage of the Environmental Screening Process.

If a project proceeds to the Environmental Review stage, additional studies and consultations are required to assess the environmental effects and address unresolved concerns and issues. The Environmental Review focuses on those matters that have been carried forward from the Environmental Screening stage.

During the Environmental Review stage, the proponent conducts the necessary studies and assessment in greater detail than those completed at the Environmental Screening stage. Once the proponent has determined it has undertaken a satisfactory assessment and addressed all of the negative environmental effects, concerns or issues, it prepares an Environmental Review Report.

After the preparation of the Screening Report and/or the Environmental Review Report, the documents are made available for public review and a Notice of Completion is published. Interested parties that have outstanding concerns that can not be resolved with the proponent have the opportunity to request that the project be elevated to further study (i.e. from the

Screening stage to the Environmental Review stage or Individual EA or from the Environmental Review stage to an Individual EA).

The *Guide to Environmental Assessment Requirements for Electricity Projects* (Ministry of the Environment, 2001) should be consulted for further details on the Environmental Screening Process.

Individual EAs (Category C Projects)

The preparation and approval of an Individual EA, is a generally more rigorous assessment than the *Electricity Projects Regulation* Environmental Screening Process.

Prior to undertaking the actual EA preparation, the proponent must first prepare a Terms of Reference (ToR). A ToR defines what will be included in the environmental assessment including: what “alternatives to” will be considered; what aspects of the environment and what potential environmental effects will be assessed; what methods will be used to evaluate the environmental effects of the proposed undertaking and any prescribed alternatives; who will be consulted during the preparation of the EA; and how will concerns raised by interested parties be considered and/or addressed (Ministry of the Environment, 2000).

The ToR is submitted to MOE for review and approval by the Minister of the Environment. A public notice is required at the time of submission to MOE. This approval process takes approximately 12 weeks, including time for the receipt of public comments.

Once the ToR is approved, the proponent prepares the EA and conducts public consultation, consistent with the approved ToR and the requirements of the Ontario *Environmental Assessment Act* (EA Act). Section 6.1(1) of the EA Act outlines what must be included in the environmental assessment, as follows:

- a) *“a description of the purpose of the undertaking;*
- b) *a description of and a statement of the rationale for,*
 - i) *the undertaking,*
 - ii) *the alternative methods of carrying out the undertaking, and*
 - iii) *the alternatives to the undertaking;*
- c) *a description of,*
 - i) *the environment that will be affected or that might reasonably be expected to be affected, directly or indirectly,*
 - ii) *the effects that will be caused or that might reasonably be expected to be caused to the environment, and*
 - iii) *the actions necessary or that may be reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects upon or the effects that might reasonably be expected upon the environment, by the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking;*

- d) *an evaluation of the advantages and disadvantages to the environment of the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking; and*
- e) *a description of any consultation about the undertaking by the proponent and the results of the consultation”.*

When the EA is submitted to MOE for review and approval, another public notice is issued. The EA document is then subject to public and government review. The time allowed for this review is 7 weeks. After this period, the MOE then consolidates the comments and prepares a government review of the EA within 5 weeks. This review is made available for a final 5 week public comment period.

The MOE then has 13 weeks to evaluate any submissions, negotiate the conditions of approval with the proponent and obtain the Minister’s decision on the undertaking. The Minister may then decide to:

- give approval to proceed with the undertaking; give approval to proceed with the undertaking subject to conditions;
- refuse to give approval to proceed with the undertaking; refer all or part of the EA application to the Environmental Review Tribunal for a decision; or,
- refer all or part of the EA application to mediation if there are outstanding issues that need to be resolved.

The Minister’s decision is also subject to the approval of the Lieutenant-Governor in Council.

If your project requires an Individual EA, contact the Environmental Assessment and Approvals Branch of MOE for further guidance and advice.

Appendix C – Identifying Expert Federal Authorities Under CEEA

ENVIRONMENTAL ISSUES	EXPERT FEDERAL AUTHORITY
Environmental Effects	
(from definition of “environment” in the Canadian Environmental Assessment Act)	
Changes in the environment:	
• general	Environment Canada
• air	Environment Canada
• land	Environment Canada Natural Resources Canada
• fish and fish habitat	Fisheries and Oceans Canada
• soil	Agriculture Canada
• forest resources	Natural Resources Canada
• humans	Health Canada
• water	Environment Canada Fisheries and Oceans Canada Natural Resources Canada
• Species at Risk	Environment Canada Fisheries and Oceans Canada
• migratory birds	Environment Canada
• wetlands	Environment Canada
• wildlife / biodiversity	Environment Canada
Changes in:	
• navigation	Transport Canada
Related changes in:	
• sustainable use	Environment Canada
• human health conditions	Health Canada
• socio-economic conditions	Agriculture Canada Health Canada Indian and Northern Affairs Canada Industry, Science and Technology Canada

ENVIRONMENTAL ISSUES	EXPERT FEDERAL AUTHORITY
	Natural Resources Canada
<ul style="list-style-type: none"> • cultural resources 	Canadian Heritage Indian and Northern Affairs Canada
<ul style="list-style-type: none"> • Aboriginal resource use 	Indian and Northern Affairs Canada
<ul style="list-style-type: none"> • Aboriginal land use 	Health Canada
<ul style="list-style-type: none"> • historical, archaeological, paleontological and architectural resources 	Canadian Heritage Natural Resources Canada Public Works Canada
<ul style="list-style-type: none"> • management of protected areas - national parks, national historic sites, historic rivers and heritage canals 	Canadian Heritage Parks Canada Agency
CEAA Process and Procedures	Canadian Environmental Assessment Agency
International Environmental Issues	Foreign Affairs Canada and International Trade Canada Canadian International Development Agency

Appendix D - Potential CEAA Triggers for Waterpower Development Projects

Potential Project Trigger	Provisions of Legislation	Responsible Authority	Comments
A CEAA Screening is triggered if the Project:			
<ul style="list-style-type: none"> is being funded with federal money 	CEAA s.s. 5(1)b	The funding department	<ul style="list-style-type: none"> Act is triggered where federal money is being provided (e.g. Infrastructure Program projects)
<ul style="list-style-type: none"> involves the sale, lease or transfer of federal land 	CEAA s.s.5(1)c	Federal department responsible for the implicated lands	<ul style="list-style-type: none"> this would affect projects on federal lands such as national parks (Heritage Canada), First Nations reserves (Indian and Northern Affairs Canada) or national defence bases (Department of National Defence)
<ul style="list-style-type: none"> is likely to affect a pipeline or property, regulated by the NEB, that is used for the transmission of oil or gas 	National Energy Board Act	National Energy Board	<ul style="list-style-type: none"> may apply to projects requiring the re-location of a pipeline that is regulated by the NEB
<ul style="list-style-type: none"> is likely to affect the operation of a railway company or property 	Canadian Transportation Act, Heritage Railway Station Protection Act	Transport Canada, Canadian Transportation Agency, Canadian Heritage	<ul style="list-style-type: none"> generally will apply to projects where a rail line crossing is contemplated
<ul style="list-style-type: none"> involves the temporary storage of explosives on-site 	Explosives Act, par. 7(1)a	Natural Resources Canada	<ul style="list-style-type: none"> projects that involve blasting and on-site storage of explosives require a permit under the Explosives Act
<ul style="list-style-type: none"> is likely to harmfully affect fish or fish habitat 	Fisheries Act, s.s. 22(1), 22(2), 22(3), 32, 35(2) and 37(2)	Fisheries and Oceans Canada	<ul style="list-style-type: none"> applies to works in or near water provision of sufficient water flow passage of fish around barriers screening of water intakes destruction of fish by means other than fishing (e.g. blasting) authorization is required to harmfully alter, disrupt or destroy fish habitat

Potential Project Trigger	Provisions of Legislation	Responsible Authority	Comments
<ul style="list-style-type: none"> is likely to substantially interfere with the public right to navigation 	Navigable Waters Protection Act, s.s. 5(1)a, 6(4) 16 and 20	Transport Canada	<ul style="list-style-type: none"> applies to any work in, on, over, under, through or across a navigable water approval is required for a bridge, boom, dam or causeway other works that cause changes to flows, water levels or navigation clearances may require approval
<ul style="list-style-type: none"> is likely to take place in, involve dredge and fill operations, draw water from or discharge to a historic canal operated by Parks Canada Agency 	Indian and Northern Affairs Canada Canal Land Regulations Public Lands Licensing Order, Heritage Canal Regulations	Canadian Heritage	<ul style="list-style-type: none"> potentially triggered by projects crossing the Trent Severn Waterway and Rideau Canal. The Canal Land Regulations and Public Lands Licensing Order address drainage into a canal (e.g. stormwater drains) and the Heritage Canal Regulations address dredge and fill activities (e.g. construction of bridge piers)
<ul style="list-style-type: none"> is likely to affect First Nations reserve lands 	Indian Act, s.s. 28(2), 35(1), 35(2) and 39	Department of Indian Affairs and Northern Development	<ul style="list-style-type: none"> would only apply to projects that are located on, or require access through, First Nations reserves

Appendix E - Environmental Assessment Components: Key Differences

Environmental Assessment Component	CEAA	EA Act and <i>Electricity Projects Regulation</i>
Application	<p>Subsection 5(1) notes that projects require an assessment where a federal authority:</p> <ul style="list-style-type: none"> • is the proponent of the project • makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent • has the administration of federal lands and sells, leases or otherwise disposes of those lands or any interests in those lands, or transfers the administration and control of those lands or interests • issues a permit or licence, grants an approval identified on the <i>Law List Regulations</i> <p>for the purpose of enabling the project to be carried out.</p>	<p>Applies to electricity projects as defined in the <i>Electricity Projects Regulation</i>. Projects are classified as Category A, B or C. A detailed description of these categories and the environmental assessment requirements are included in Ontario Regulation 116/01 and the <i>Guide to Environmental Assessment Requirements for Electricity Projects</i>.</p>

Environmental Assessment Component	CEAA	EA Act and <i>Electricity Projects Regulation</i>
Definition of the Environment	<p>Section 2(1) provides the following definition of the environment:</p> <p>“environment” means the components of the Earth, and includes</p> <ul style="list-style-type: none"> (a) land, water and air, including all layers of the atmosphere, (b) all organic and inorganic matter and living organisms, and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b). 	<p>Section 1(1) of the Ontario <i>EA Act</i> provides the following definition of the environment:</p> <p>“environment” means,</p> <ul style="list-style-type: none"> (a) air, land or water, (b) plant and animal life, including human life, (c) the social, economic and cultural conditions that influence the life of humans or a community, (d) any building, structure, machine or other device or thing made by humans, (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities, or (f) any part or combination of the foregoing and the interrelationships between any two or more of them, <p>in or of Ontario.</p>
Definition of Environmental Effect	<p>Section 2(1) provides the following definition:</p> <p><i>“environmental effect” means, in respect of a project,</i></p> <ul style="list-style-type: none"> (a) <i>any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of</i> 	<p>No definition provided in the Ontario <i>EA Act</i>. However, in the glossary of the <i>Environmental Assessment Requirements for Electricity Projects</i> negative environmental effects are defined as:</p> <p><i>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.</i></p>

Environmental Assessment Component	CEAA	EA Act and <i>Electricity Projects Regulation</i>
	<p><i>that species, as those terms are defined in subsection 2(1) of the Species at Risk Act;</i></p> <p><i>(b) any effect of any such change referred to in paragraph (a) on</i></p> <ul style="list-style-type: none"> <i>(i) health and socio-economic conditions,</i> <i>(ii) physical and cultural heritage,</i> <i>(iii) the current use of lands and resources for traditional purposes by aboriginal persons, or</i> <i>(iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or</i> <p><i>(c) any change to the project that may be caused by the environment,</i></p> <p><i>whether any such change or effect occurs within or outside Canada.</i></p> <p>Section 16(1)(a) notes that the environmental effects of a project include the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result.</p>	<p><i>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.</i></p>
Scope of project	Under CEAA, the RA is required to make scoping decisions. The scope of project identifies the elements of the project that will be assessed. The scope of project includes construction, operation, modification,	<p><i>The Guide to EA Requirements for Electricity Projects notes that:</i></p> <p><i>In describing a project, proponents must include all phases and components of the project,</i></p>

Environmental Assessment Component	CEAA	EA Act and <i>Electricity Projects Regulation</i>
	<p>decommissioning and abandonment. The scope of project identified by a RA may differ from the scope of project identified by the proponent under the <i>Electricity Projects Regulation</i>. For example, for a new dam that involves the construction of a new access road (with no stream crossings), a RA that has only regulatory interests may choose to scope the project simply as the new dam and not include the road in the CEAA assessment.</p>	<p><i>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.</i></p>
Mitigation	<p>CEAA requires the identification of <i>"measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project"</i>.</p>	<p>Actions needed to prevent, change, mitigate and remedy effects are expected to be identified in order that the net or residual effects can be identified.</p> <p>For Category B projects, when the proponent initially applies the screening criteria, in order to identify the potential for any negative effects on the environment, mitigation measures are not to be considered in concluding that there is "no" potential negative environmental effect. When a Screening Report is prepared to explain the potential effects of a project, the methods to mitigate or address the effects are noted, as well as the resultant net effects.</p> <p>For Category C projects (Individual EA) these measures are to be identified for the undertaking as well as alternative methods and alternatives to.</p>

Environmental Assessment Component	CEAA	EA Act and <i>Electricity Projects Regulation</i>
Significance of Environmental Effects	Section 16(1)(b) requires that the significance of the environmental effects of the project be considered. The following criteria are typically used to determine significance: magnitude; geographic extent; duration; frequency; and permanence of the predicted adverse environmental effect.	Significance must be assessed for projects subject to the Screening Process (Category B projects). The <i>Guide to EA Requirements for Electricity Projects</i> identifies criteria for assessing significance including: value of 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. Assessment of significance is not an explicit requirement for Individual EAs (Category C projects). The EA Act indirectly requires consideration of this, however, it is distinct from the determination under CEAA.
Consideration of "Alternatives to" (solutions)	The examination of "alternatives to" is discretionary for project screenings.	Consideration of alternatives is not required for projects subject to the Screening Process (Category B projects). Consideration of alternatives is required for Individual EAs (Category C projects). ToR can establish a reasonable range of alternatives.
Consideration of "Alternative means / methods"	The examination of "alternative means" is discretionary for project screenings.	Consideration of alternatives to is not required for projects subject to the Screening Process (Category B projects). Proponents should examine different ways of carrying out the project (e.g. siting, design). Consideration of alternatives is required for Individual EAs (Category C projects).

Environmental Assessment Component	CEAA	EA Act and <i>Electricity Projects Regulation</i>
Cumulative Effects Assessment	Section 16 (1)(a) includes a requirement to consider “ <i>any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out</i> ” .	No specific reference to requirement to consider cumulative effects.
Public Participation/Consultation	<p>Requirements for public consultation vary depending on the type of EA. For project screenings, whether public participation is appropriate is determined by the RA.</p> <p>Under subsection 18(3) of CEAA, it is noted that if an RA is of the opinion that public participation in the screening of a project is appropriate, the RA shall give the public the opportunity to examine and comment on the screening report before making a decision.</p> <p>Public consultation is mandatory for comprehensive studies. The RA is required to consult with the public on the proposed scope of the project, the scope of the assessment and the ability of the comprehensive study to address issues relating to the project.</p> <p>If the Minister of the Environment refers the project back to the RA to continue with the comprehensive study, the RA is required to provide the public with a further opportunity to participate in the comprehensive study.</p> <p>In addition, in order to facilitate public access to records related to the environmental</p>	<p>The <i>Environmental Assessment Requirements for Electricity Projects</i> outlines points of mandatory contact with the public for the Environmental Screening Process (Category B projects).</p> <p>These points are intended to be the minimal requirements. The proponent may undertake additional public consultation, depending on the nature of the project, the potential environmental effects and the extent of public interest.</p> <p>Category C projects (Individual EAs) have public consultation requirements at the Terms of Reference stage, during the preparation of the EA and following the completion of the EA.</p>

Environmental Assessment Component	CEAA	EA Act and <i>Electricity Projects Regulation</i>
	assessment, CEAA provides for the establishment of the Canadian Environmental Assessment Registry that consists of an internet site and project specific files.	
Public Review	<p>Whether public participation is appropriate is determined by the RA. Once determined appropriate, the RA must provide the public an opportunity to examine and comment on the screening report as per paragraph 18(3)(b) of CEAA.</p> <p>For comprehensive studies, the Canadian Environmental Assessment Agency publishes a public notice outlining when the comprehensive study report will be available to the public, where the report may be obtained and the deadline and address for filing comments on the conclusions and recommendations of the report. The Canadian Environmental Assessment Agency coordinates the review of a comprehensive study.</p>	<p>For Category B projects, prepared under the Environmental Screening Process, the report is made available for a minimum 30 day public and agency review period.</p> <p>Category C projects are subject to the public and agency consultation requirements associated with Individual EAs.</p>
Decision Maker - Lead for Assessment	<p>A federal department is identified as the RA – the RA must ensure that an EA of the project is conducted, in accordance with CEAA.</p> <p>The RA may delegate the preparation of the EA, however, the RA remains responsible for ensuring that the assessment is undertaken in accordance with CEAA. For project screenings, the RA must also decide on a</p>	<p>The proponent is responsible for addressing the requirements of the <i>Electricity Projects Regulation</i> and for ensuring that it is completed in accordance with those requirements.</p> <p>For Category B projects, the proponent determines whether or not the project should proceed, although this could be subject to an</p>

Environmental Assessment Component	CEAA	EA Act and <i>Electricity Projects Regulation</i>
	<p>course of action in respect of a project.</p> <p>The RA may or may not be the proponent for the project.</p> <p>For comprehensive studies, the Minister of the Environment issues an environmental assessment decision statement.</p>	<p>elevation request. The decision on whether to elevate a project to further study or mediation is made by the Director of the Environmental Assessment and Approvals Branch (MOE), following a request for an elevation. The Minister of Environment makes a decision on the elevation of a project to an Individual EA.</p> <p>Category C projects require Minister and Cabinet approval.</p>
Follow-up	<p>If a RA considers a follow-up program to be appropriate, the RA is required to design the follow-up program and ensure its implementation. For comprehensive studies, RAs are required to design a follow-up program and ensure its implementation. For both a screening and a comprehensive study, a RA can delegate any part of the design and implementation of a follow-up program.</p>	<p>For Category B projects, during the implementation of the project the proponent must undertake any monitoring identified during the Environmental Screening Process or Environmental Review Process. The results are expected to be communicated to the public and review agencies if required or requested. In addition, MOE will monitor for compliance.</p> <p>For Category C projects, the Individual EA will define the monitoring required for the project.</p>

Appendix F – Potential Federal Information Requirements

Table F1: Federal Project Description Information Requirements

Type of Information	Description of Information Requirement
General Information	
General	<ul style="list-style-type: none"> • Name of the project. • Location of the project, including a legal description of the property and geographical coordinates (latitude/longitude or UTM). • Chart or topographic map. • Description of the project. • Overview of any project alternatives (if any).
Contact Information	<ul style="list-style-type: none"> • Proponent’s name and contact information (mailing and e-mail addressees, telephone and facsimile numbers). • Consultant’s name and contact information (mailing and e-mail addresses, telephone and facsimile numbers).
Other Contacts/ Involvement	<ul style="list-style-type: none"> • Federal government departments or agencies that will, or may be, providing financial support to the project. • Ownership of the land to be used or required by the project, and in particular, whether any federal land is involved. • Information relating to federal permits and authorizations that the proponent believes must be obtained for the project to proceed. • Identification of other EA regimes to which the project has been or may be subject to. • Information on applicable provincial and municipal permits. • First Nations contacted to date.
Project Information	
Project Components	<ul style="list-style-type: none"> • Description of project components and associated activities (i.e. what are all the things that will need to be undertaken in order to allow the project to be constructed and operated?) including both permanent and temporary structures. • Identification of project components or activities that will require working in, on, over, under, through or across water bodies. • Construction access including any temporary water crossings or other staging works in and around water. • Identification of the types of equipment to be used. • Identification of the need for explosives (potential CEAA trigger). • Engineering design details/conceptual plans with preliminary drawings for any works in or within 30 m of a waterbody. • Production capacity of the waterpower facility and the size of the main components of the project. • Identification of requirements for off-site land use. • Resource/material requirements. • Excavation and/or filling requirements. • Identification of any toxic/hazardous materials to be used or by-products of the project. • Waste disposal plans including deposal procedures for any toxic/hazardous materials to be used or by-products of the project.

Type of Information	Description of Information Requirement
Timing	<ul style="list-style-type: none"> • Timing and scheduling of the construction, operation and decommissioning phases. • Schedule for construction of project components and implementation of associated activities (time of year, frequency, duration, magnitude and extent).
Project Site Information	
Project Setting	<ul style="list-style-type: none"> • Extent of natural area to be cleared, including both temporary and permanent clearing. • Qualitative and quantitative information on fish and fish habitat (fish presence and species). • Information on whether the project may affect fish and fish habitat and any unique or special resources not already identified. • Characteristics of the waterway (i.e. length, width, depth, bathymetry, seasonal flow and fluctuations). • Description of any existing shoreline protection works or in-water structures (e.g. rip rap, cribs, piers, groynes, docks). • Current and past land uses at the project site and on adjacent lands. • Potential contamination of site (including contaminated sediment). • Proximity of the project to First Nations reserves and lands that are currently used or have been traditionally used by aboriginal people. • Proximity to important or designated environmental or cultural sites such as national parks and/or waterways, heritage sites, historic canals or other protected areas. • Proximity to residential and other urban areas. • Photos/video of site. • Existing use of the waterway (e.g. kind, size and frequency of vessels, description of existing obstructions in the waterway). • Information on whether project components are likely to interfere with navigation. • Information on commercial, recreational or Aboriginal subsistence fisheries in the area. • Summary of characteristics of other physical and biological components in the area likely to be affected by the project (e.g. terrain, wetlands, wildlife, including migratory birds).
Other Contacts/Involvement	<ul style="list-style-type: none"> • Federal authorities providing land, funds or federal approvals. • Any other known federal involvement.
Other Approvals	<ul style="list-style-type: none"> • Other approvals that will be required (federal, provincial and municipal).

Table F2 reflects the mandates and interests of DFO and Transport Canada (Navigable Waters Protection Program) when they are RAs and of Environment Canada when they are providing expert advice to DFO and/or Transport Canada for a project that is being assessed in accordance with CEAA. The information requirements identified in Table F1 for the project description will also be used in completing the CEAA assessment. Generally, a blank cell indicates that no additional information is required. However, this will depend on the specific project under consideration.

Repair or maintenance of existing physical works is excluded from CEAA, in accordance with the *Exclusion List Regulations*. However, a *Fisheries Act* authorization may still be required for these activities that are not covered by a DFO Operational Statement and result in the HADD of fish habitat.

In addition to the information noted in this table, the proponent should provide any other information that may assist with the project review. Federal departments may have additional project-specific information requirements. The amount and level of detail of information will vary depending on the environmental setting, magnitude and duration of the project. The information noted in this table is intended to be a general guide. Information requirements should be discussed with the relevant federal department.

Table F2: Potential Federal Information Requirements

Type of Information	Potential Information Required for a CEAA Assessment	Potential Information Required for a Regulatory Approval under the <i>Fisheries Act</i> or <i>Navigable Waters Protection Act</i>
Project Information	<ul style="list-style-type: none"> • Conceptual plans. • Complete description of the project (all proposed works, construction, operational and decommissioning procedures, timing and location). • Description of access roads and whether they are temporary or permanent. • If there will be access roads or transmission line crossings, identify type of crossing: (1) dry crossing – dam and flume, dam and pump, directional drill, coffer dam; (2) wet crossing/open trench; (3) aerial crossings. • Proposed dam dimensions and area to be filled. • Dam operating plan (e.g. expected flow rates, ramping rates, peak and base flow, maximum operating level, provision to bypass extreme flood flows). • Plan indicating the water level, high water mark and extent of backwater and downstream effects. • Plan showing the proposed operating regime of the reservoir including daily, 	<ul style="list-style-type: none"> • Dimensional construction drawings including front, side, and plan views with cross-sectional elevations, where appropriate. • Final dimensions (length, width, depth, longitudinal and cross sectional profiles of the channel before and after realignment), including gradient and in-stream structure(s). • Final sediment and erosion control plan. • Detailed site stabilization plan including revegetation.

Type of Information	Potential Information Required for a CEAA Assessment	Potential Information Required for a Regulatory Approval under the <i>Fisheries Act</i> or <i>Navigable Waters Protection Act</i>
	<p>weekly and seasonal fluctuations.</p> <ul style="list-style-type: none"> • Description of coffer damming, dewatering and/or temporary watercourse diversions. • Changes to existing streamflow and water level regimes, including reservoir creation. • Proposed dimensions (length, width, depth, longitudinal and cross sectional profiles) of the channel before and after realignment, including gradient and in-stream structure(s). • Size and retention time of headpond. • Changes in flow including minimum flow and flow curves. • Peaking plant, intermediate peaking, run of the river or pump storage facility. • Preliminary sediment and erosion control plan, with particular attention to areas where contaminated soils or sediments are identified. • Demolition plans for any existing structures. • If modifying an existing dam or weir, quantity and characteristics of any sediment accumulation behind the structure. • Contingency plans (e.g. alternative method of installation or mitigation in case of flooding, wave damage or collapse) including appropriate measures, to minimize impacts of accidental spills during construction, operation and maintenance. • Conceptual site stabilization plan including revegetation. • Channel restoration plan and/or final plan for abandoned channels. • Environmental monitoring plan that will be in place for the project. • Photographs taken of the site from the same reference point before construction, during construction and after construction. Photographs should be indexed to a map of the project. • Preliminary fish habitat compensation plan (note that a net gain in the productivity of fish habitat should be achieved). • Identification of the need for explosives 	<ul style="list-style-type: none"> • Fish habitat compensation plan. • Indications of timing restrictions for in-water work • Detailed project description with construction schedule. • Detail of any temporary works and method of construction activities. • Property ownership status (if you are not the owner, attach a letter of permission from the owner). • Map or chart to show location of project (6 copies). • Drawing of project, including side and top view and showing dimensions of the project (6 copies). • Survey plan with dimensions indicating the location of existing buildings, shoreline structures, property lines, high and low water marks and adjacent properties. • Current photographs of the proposed work site (photos of open water period where possible). • A list of any equipment that may be used for the project. • Detailed engineering plans for water crossings. • Plan indicating any changes to water level, high water mark and extent of backwater effects.

Type of Information	Potential Information Required for a CEEA Assessment	Potential Information Required for a Regulatory Approval under the <i>Fisheries Act</i> or <i>Navigable Waters Protection Act</i>
Terrestrial Habitat	<ul style="list-style-type: none"> • Type and area of terrestrial habitat that will be affected by the proposed project including dimensions and inventory of existing species on lands to be flooded by headpond creation. • Description of existing substrate and aquatic vegetation in area proposed to be infilled and/or impacted by backwater effects (flooded). • Identify any sensitive or ecologically significant areas and areas designated as Environmentally Significant Areas, Provincially Significant Wetlands, Areas of Natural and Scientific Interest, Carolinian Canada Sites, Important Bird Areas. • Impacts on breeding, staging or wintering habitat, impacts on forested areas and their ecological functions (e.g. interior bird habitat or other specialized habitat, wildlife corridors). 	<ul style="list-style-type: none"> • Site map with photos (including air photos if available) of work site and adjacent area.
Fisheries and Fish Habitat	<ul style="list-style-type: none"> • Characteristics of fish habitat within and adjacent to the project area. • Quantitative and qualitative information on fish community (species/common name) at and near the site. • Impacts to fish community as a result of flows (e.g. minimum flows, peak flows) • Type and area of aquatic habitats that will be affected by the proposed project. • Effects of fish community changes. • Impingement/entrainment of fish in intakes. • Use of fish screens at intakes. • Use of fishways/ladders or other mitigation measures for migration barrier. • Method of fish exclusion and/or transfer around the construction site. 	<ul style="list-style-type: none"> • Depth profile of waterbody at project site. • Identify use of impacted area as fish spawning, nursery, rearing, food supply or migration route. • Description of shoreline (e.g. soil type, riparian vegetation, slope) - Note: enclose photographs of proposed project site and adjacent shoreline. • Description of substrate (i.e. clay, silt, mud, sand, gravel, cobble, boulder, bedrock). • Description of aquatic vegetation (i.e. respective aerial extent of submergent plants, emergent plants and woody cover). • Fish habitat compensation plan • Monitoring plan for oxygen levels, turbidity and temperature.

Type of Information	Potential Information Required for a CEAA Assessment	Potential Information Required for a Regulatory Approval under the <i>Fisheries Act</i> or <i>Navigable Waters Protection Act</i>
Land Use	<ul style="list-style-type: none"> • Describe current land use. • Describe historical land use activities (if project carried out on previously developed site – in particular, industrial site or landfill). 	
Navigation	<ul style="list-style-type: none"> • Navigational implications of changes in flow including minimum flow. • Extent of impact of project on navigation. • Alternative navigation options for users of waterbody. 	<ul style="list-style-type: none"> • Summary of potential impacts to navigation and how these will be avoided and/or mitigated.
Soils and Sediments	<ul style="list-style-type: none"> • Presence and characterization of contaminated soils to be exposed or disturbed. Include any Phase 2 site assessment or risk assessment conducted. • Identification of any risk of contaminants entering the watercourse. • Proposed plans for monitoring environmental effects of suspension of contaminated sediments or soils on aquatic organisms, if any, and related monitoring actions. • Type and proposed management of any contaminated soils and sediments. • Monitoring plans to determine the presence, concentration and mobility of any residual contaminants. 	

Type of Information	Potential Information Required for a CEAA Assessment	Potential Information Required for a Regulatory Approval under the <i>Fisheries Act</i> or <i>Navigable Waters Protection Act</i>
Surface Water	<ul style="list-style-type: none"> • Presence of sulphide bearing rock if project involves blasting, cutting or excavating rock. • Pollution prevention, including spills contingency measures, to adequately control the discharge of debris, sediment and toxic pollutants into a waterbody. • Mitigation measures for vegetation clearing to avoid methylmercury contamination. • Nature of any substances to be discharged into a waterbody. • Anticipated project induced alterations to flows and levels (may require hydrological and hydraulic modeling and baseline data). • Effect on flows and levels of international boundary waters. • Identification of any risk of contaminants entering the watercourse. • Evaluation of potential water quality effects due to suspended sediment, contaminated soils and materials, stormwater runoff, snow clearing, application of de-icing chemicals and anti-fouling chemicals (to control build up of zebra mussels, algae, etc. on water conduits, intakes and outfalls) and accidental spills during construction and operation of project. Develop appropriate mitigation and monitoring measures. • Operational management of trash rack / screen debris and miscellaneous wastes, including liquid effluents. • Backwater impacts on upstream watercourses and wetlands. 	
Ground Water	<ul style="list-style-type: none"> • Potential for groundwater contamination. • Expected changes to aquatic thermal regime. • If the project involves excavation, depth of water table and description of any necessary dewatering procedures. • Anticipated alteration of normal groundwater regime such as changes in ground water levels, hydraulic head and direction of groundwater flow. 	

Type of Information	Potential Information Required for a CEEA Assessment	Potential Information Required for a Regulatory Approval under the <i>Fisheries Act</i> or <i>Navigable Waters Protection Act</i>
Species at Risk	<ul style="list-style-type: none"> • Likely occurrence of all SARA listed species (aquatic or terrestrial, flora or fauna), including their residences and critical habitat, in or adjacent to project area. • Measures to avoid or otherwise protect species at risk, their residences and critical habitat. • Existing background information collected to determine whether any species of concern are known or expected to use the study area or adjacent lands (including habitats identified as sensitive or ecologically significant). • A thorough inventory conducted by a qualified biologist of all areas of natural habitat that may be affected by the project and are expected to support Species at Risk or have been identified as significant / important. • Species lists should be compared against the Committee on the Status of Endangered Species in Canada (COSEWIC) and provincial lists of species at risk as well as regional lists of species of conservation concern. 	
Migratory Birds and Their Habitat	<ul style="list-style-type: none"> • Information on use of the project study area by all bird species, including for breeding, feeding, migration, staging and wintering. If project has the potential to affect migratory birds or their habitats, specific surveys may be required. • Description of habitat to be fragmented or otherwise affected by the project. Identify proximity of any sites known to be ecologically important (e.g. Environmentally Sensitive Areas, Important Bird Areas, Areas of Natural and Scientific Interest, Migratory Bird Sanctuaries). • Measures to protect migratory birds and their nests. • Project construction activities, operation or maintenance activities such as vegetation clearing, site grubbing, construction of structures, reservoir creation and flooding, and removal / modification of any existing structures. • Information on habitats to be altered / removed and birds using the project site. • Specific surveys for breeding birds should be conducted as part of the EA in order to identify species and breeding sites. 	

Type of Information	Potential Information Required for a CEAA Assessment	Potential Information Required for a Regulatory Approval under the <i>Fisheries Act</i> or <i>Navigable Waters Protection Act</i>
Wetlands	<ul style="list-style-type: none"> • Area and type of wetland affected, if project involves work within or adjacent to, or withdrawals from or discharges to a wetland. Identify any Provincially Significant Wetlands and any other wetlands known for ecological importance (e.g. Ramsar Convention on Wetlands sites, Ducks Unlimited sites). • Consideration of effects on wetland functions, including measures to avoid or reduce such effects. • Identify functions of all wetlands that may be affected by the project through site access, staging, construction, decommissioning and maintenance and provide mitigation or compensation measures to ensure no net loss of function. 	
Biodiversity	<ul style="list-style-type: none"> • Ecological restoration efforts in areas adversely impacted by the project construction (including access routes, temporary storage areas, staging areas) with particular attention to important habitat areas. 	
Air Quality	<ul style="list-style-type: none"> • Potential air quality impacts of the project during construction due to fugitive dust and other air emissions. 	
Climate Change	<ul style="list-style-type: none"> • Assessment of hydrologic potential should consider the potential impacts of climate change upon water supply and streamflow, especially for projects anticipated to have moderate to long operational life spans. • Demonstrate that the heavy precipitation and flood design criteria, used for the design of dams, spillways and reservoir volume are robust enough to withstand the potential flood increase anticipated due to climate change over the lifetime of the project. 	
Transboundary Water Management	<ul style="list-style-type: none"> • Impacts on water levels and flows in rivers that flow along international boundaries or from Canada across the U.S. border. 	

APPENDIX "G"

List of Acronyms

CEAA	Canadian Environmental Assessment Act	MOE	Ministry of the Environment (Ontario)
CEAR	Canadian Environmental Assessment Registry	MOU	Memorandum of Understanding
DFO	Fisheries and Oceans Canada	MTO	Ministry of Transportation (Ontario)
EA Act	Ontario Environmental Assessment Act	MW	megawatts
EA	Environmental Assessment	NEB	National Energy Board
EC	Environment Canada	NRCan	Natural Resources Canada
FA	Federal Authority	NWPA	Navigable Waters Protection Act
FEAC	Federal Environmental Assessment Coordinator	OWA	Ontario Waterpower Association
HADD	harmful alteration, disruption or destruction	PC	Parks Canada Agency
HC	Health Canada	PWGSC	Public Works and Government Services
IC	Industry Canada	RA	Responsible Authority
IESO	Independent Electricity System Operator	SARA	Species at Risk Act
INAC	Indian and Northern Affairs Canada	TC	Transport Canada
IBWTA	International Boundary Waters Treaty Act	the Agency	Canadian Environmental Assessment Agency
kV	kilovolts	TOR	Terms of Reference
MNR	Ministry of Natural Resources (Ontario)	WMPs	Water Management Plans