



Environmental Protection Act
Loi sur la protection de l'environnement

ONTARIO REGULATION 359/09

RENEWABLE ENERGY APPROVALS UNDER PART V.0.1 OF THE ACT

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PART I INTERPRETATION

Interpretation

1. (1) In this Regulation,

"alvar" means a naturally open area of thin or no soil over essentially flat limestone, dolostone or marble rock, supporting a sparse vegetation cover of mostly shrubs and herbs;

"anaerobic digestion" has the same meaning as in Ontario Regulation 160/99 (Definitions and Exemptions) made under the *Electricity Act, 1998*;

"anaerobic digestion facility" means a renewable energy generation facility at which biogas made from anaerobic digestion is used to generate electricity;

"applicant" means a person who applies for the issue of a renewable energy approval or for an alteration to the terms and conditions of a renewable energy approval;

"archaeological resource" means, subject to subsection (2), an archaeological site or a marine archaeological site, both within the meaning of Ontario Regulation 170/04 (Definitions) made under the *Ontario Heritage Act*;

"area of natural and scientific interest (earth science)" means an area that has earth science values related to protection, scientific study or education;

"area of natural and scientific interest (life science)" means an area that has life science values related to protection, scientific study or education;

"biofuel" has the same meaning as in Ontario Regulation 160/99 made under the *Electricity Act, 1998*;

"biofuel facility" means a renewable energy generation facility at which biofuel is used to generate electricity;

"biogas" has the same meaning as in Ontario Regulation 160/99 made under the *Electricity Act, 1998*;

"biogas facility" means a renewable energy generation facility at which biogas is used to generate electricity but does not include an anaerobic digestion facility;

"biomass" has the same meaning as in Ontario Regulation 160/99 made under the *Electricity Act, 1998*;

"board area" means, when used in relation to a Local Services Board, the geographical area within which the Local Services Board may exercise its jurisdiction;

"coastal wetland" means a wetland that is located,

(a) on Lake Ontario, Lake Erie, Lake Huron, Lake Superior or Lake St. Clair,

(b) on the St. Mary's, St. Clair, Detroit, Niagara or St. Lawrence River, or

(c) subject to subsection (3), on a tributary to any water body mentioned in clause (a) or (b) and, either in whole or in part, downstream of a line located two kilometres upstream of the 1:100 year floodline of the water body;

- “conservation reserve” means a conservation reserve within the meaning of the *Provincial Parks and Conservation Reserves Act, 2006*;
- “consultant archaeologist” means a consultant archaeologist as defined in subsection 1 (1) of Ontario Regulation 8/06 (Licences under Part VI of the Act — Excluding Marine Archaeological Sites) made under the *Ontario Heritage Act*;
- “dam” means a structure or work forwarding, holding back or diverting water and includes a dam, tailings dam, dike, diversion, channel alteration, artificial channel, culvert or causeway;
- “digestate” means any solid or liquid material that results from anaerobic digestion of biomass, source separated organics or farm material;
- “dwelling” means one or more habitable rooms used or capable of being used as a permanent or seasonal residence by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities;
- “earth science values” means values that relate to the geological, soil and landform features of the environment;
- “farm material” means organic matter, other than biomass, that is derived from a plant or animal and that is available at a farm operation;
- “farm operation” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Act;
- “Financial Assurance Guideline” means the publication of the Ministry of the Environment and Climate Change entitled “Guideline F-15 Financial Assurance” and dated November 2005, as amended from time to time and available from the Ministry;
- “generation facility” has the same meaning as in Ontario Regulation 116/01 (Electricity Projects) made under the *Environmental Assessment Act*;
- “Greenbelt Plan” means the Greenbelt Plan established under subsection 3 (1) of the *Greenbelt Act, 2005* and by the Lieutenant Governor in Council by Order in Council No. 208/2005;
- “heritage resource” means real property that is of cultural heritage value or interest and may include a building, structure, landscape or other feature of real property;
- “IESO-administered markets” has the same meaning as in the *Electricity Act, 1998*;
- “inaccessible vacant lot” means a vacant lot,
- (a) on private land that cannot be accessed, or in respect of which the owner of the land does not have a legal right to access in the future, through the use of a road by a motor vehicle, as defined in the *Highway Traffic Act*, or
 - (b) on private land that cannot be accessed through the use of a navigable waterway by a watercraft;
- “intermittent stream” means a natural or artificial channel, other than a dam, that carries water intermittently and does not have established vegetation within the bed of the channel, except vegetation dominated by plant communities that require or prefer the continuous presence of water or continuously saturated soil for their survival;
- “kettle lake” means a depression formed by glacial action and permanently filled with water;
- “Lake Simcoe watershed” has the same meaning as in the *Lake Simcoe Protection Act, 2008*;
- “lake trout lake” means a lake that has been designated by the Ministry of Natural Resources and Forestry for lake trout management, as set out in records maintained by and available from that Ministry;
- “life science values” means values that relate to the living component of the environment;
- “liquid digestate” means any digestate that is not solid digestate;
- “local roads area” means a local roads area established under the *Local Roads Boards Act*;
- “local roads board” means a board of a local roads area under the *Local Roads Boards Act*;
- “Local Services Board” means a Local Services Board within the meaning of the *Northern Services Boards Act*;
- “municipal planning authority” means a municipal planning authority established under subsection 14.1 (1) of the *Planning Act*;
- “name plate capacity” means, when used in respect of a renewable energy generation facility or a part of a renewable energy generation facility,
- (a) if the facility is a solar facility, the lesser of,

(i) the total of the design electricity generating capacities of all the generation units in or at the facility or the part of the facility, and

(ii) the maximum power output of all of the inverters in or at the facility or the part of the facility, and

(b) if the facility is not a solar facility, the total of the design electricity generating capacities of all the generation units in or at the facility or the part of the facility;

“natural feature” means, subject to subsections 25 (2), 26 (2), 41 (3) and 43 (2), all or part of,

(a) an area of natural and scientific interest (earth science),

(b) an area of natural and scientific interest (life science),

(c) a coastal wetland,

(d) a northern wetland,

(e) a southern wetland,

(f) REVOKED: O. Reg. 333/12, s. 1 (1).

(g) a wildlife habitat, or

(h) a woodland;

“Natural Heritage Assessment Guide” means the document entitled “Natural Heritage Assessment Guide for Renewable Energy Projects”, published by the Ministry of Natural Resources and Forestry and available on the website of that Ministry, as amended from time to time;

“Natural Heritage System” means the Natural Heritage System shown in Schedule 4 to the Greenbelt Plan;

“Niagara Escarpment Commission” means the Niagara Escarpment Commission continued under subsection 5 (1) of the *Niagara Escarpment Planning and Development Act*;

“Niagara Escarpment Plan” means the Plan approved under the *Niagara Escarpment Planning and Development Act*, as amended and revised in accordance with that Act;

“noise receptor” means a location described in subsection (4) at which noise discharged from a renewable energy generation facility is received;

“northern wetland” means a wetland located north of the northern limit of Ecoregions 5E, 6E and 7E as shown in Figure 1 in the Provincial Policy Statement issued under section 3 of the *Planning Act* and approved by the Lieutenant Governor in Council by Order in Council No. 140/2005;

“Oak Ridges Moraine Conservation Plan” means the plan established under section 3 of the *Oak Ridges Moraine Conservation Act, 2001* and by Ontario Regulation 140/02 (Oak Ridges Moraine Conservation Plan) made under that Act;

“Oak Ridges Moraine Conservation Plan Area” means the area shown as the Oak Ridges Moraine Conservation Plan Area on the map entitled “Oak Ridges Moraine Conservation Plan Land Use Designation Map”, numbered 208, dated April 17, 2002 and on file in the offices of the Ministry of Municipal Affairs and Housing at Toronto, as that map is amended from time to time;

“Oak Ridges Moraine settlement area” means an area shown as a Settlement Area on the map entitled “Oak Ridges Moraine Conservation Plan Land Use Designation Map”, numbered 208, dated April 17, 2002 and on file in the offices of the Ministry of Municipal Affairs and Housing at Toronto, as that map is amended from time to time;

“odour receptor” means a location described in subsection (5) at which odour discharged from a renewable energy generation facility is received;

“parcel of land” means a lot or block within a registered plan of subdivision or any land that may be legally conveyed under section 50 of the *Planning Act*;

“permanent stream” means a stream that continually flows in an average year;

“planning board” means a planning board established under section 9 or 10 of the *Planning Act*;

“professional engineer” means a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act*;

“professional geoscientist” means a person who holds a certificate of registration under the *Professional Geoscientists Act, 2000* and is a practising member, temporary member or limited member of the Association of Professional Geoscientists of Ontario;

- “project location” means, when used in relation to a renewable energy project, a part of land and all or part of any building or structure in, on or over which a person is engaging in or proposes to engage in the project and any air space in which a person is engaging in or proposes to engage in the project;
- “Protected Countryside” means the Protected Countryside shown in Schedule 1 to the Greenbelt Plan;
- “Protected Countryside settlement area” means a town, village or hamlet that is located in the Protected Countryside and is shown in Schedule 1 to the Greenbelt Plan;
- “provincial park” means a provincial park within the meaning of the *Provincial Parks and Conservation Reserves Act, 2006*;
- “regulated mixed anaerobic digestion facility” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 made under the Act;
- “renewable energy source” has the same meaning as in the *Electricity Act, 1998*;
- “sand barrens” has the same meaning as in Ontario Regulation 140/02 made under the *Oak Ridges Moraine Conservation Act, 2001*;
- “savannah” has the same meaning as in Ontario Regulation 140/02 made under the *Oak Ridges Moraine Conservation Act, 2001*;
- “seepage area” means a site of emergence of ground water where the water table is present at the ground surface, including a spring;
- “sewage” has the same meaning as in the *Ontario Water Resources Act*;
- “solar facility” means a renewable energy generation facility at which one or more solar photovoltaic collector panels or devices use light to generate electricity;
- “solid digestate” means digestate that has a dry matter content of 18 per cent or more or a slump of 150 millimetres or less using the Test Method for the Determination of Liquid Waste (slump test) set out in Schedule 9 to Regulation 347 of the Revised Regulations of Ontario, 1990 made under the Act;
- “sound power level” means the rating, expressed as an apparent value, that,
- (a) is given to a wind turbine by the manufacturer of the wind turbine calculated in accordance with the applicable standard and rules specified in subsections (6.1) to (6.4), and
 - (b) applies in respect of the wind turbine when the wind turbine is operating at 95 per cent of its name plate capacity;
- “source separated organics” has the same meaning as in Ontario Regulation 160/99 made under the *Electricity Act, 1998*;
- “southern wetland” means a wetland located south of the northern limit of Ecoregions 5E, 6E and 7E as shown in Figure 1 in the Provincial Policy Statement issued under section 3 of the *Planning Act* and approved by the Lieutenant Governor in Council by Order in Council No. 140/2005;
- “storm water” means rainwater runoff, water runoff from roofs, snowmelt and surface runoff;
- “storm water management facility” means a facility for the treatment, retention, infiltration or control of storm water;
- “tallgrass prairie” has the same meaning as in Ontario Regulation 140/02 made under the *Oak Ridges Moraine Conservation Act, 2001*;
- “thermal treatment” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 made under the Act;
- “thermal treatment facility” means a renewable energy generation facility at which the thermal treatment of biomass is used to generate electricity;
- “unorganized territory” has the same meaning as in the *Municipal Act, 2001*;
- “water body” includes a lake, a permanent stream, an intermittent stream and a seepage area but does not include,
- (a) grassed waterways,
 - (b) temporary channels for surface drainage, such as furrows or shallow channels that can be tilled and driven through,
 - (c) rock chutes and spillways,
 - (d) roadside ditches that do not contain a permanent or intermittent stream,

(e) temporarily ponded areas that are normally farmed,

(f) dugout ponds, or

(g) artificial bodies of water intended for the storage, treatment or recirculation of runoff from farm animal yards, manure storage facilities and sites and outdoor confinement areas;

“water power facility” means a renewable energy generation facility at which the movement of water is used to generate electricity;

“wetland” means land such as a swamp, marsh, bog or fen, other than land that is being used for agricultural purposes and no longer exhibits wetland characteristics, that,

(a) is seasonally or permanently covered by shallow water or has the water table close to or at the surface, and

(b) has hydric soils and vegetation dominated by hydrophytic or water-tolerant plants;

“wildlife habitat” means an area where plants, animals and other organisms live or have the potential to live and find adequate amounts of food, water, shelter and space to sustain their population, including an area where a species concentrates at a vulnerable point in its annual or life cycle and an area that is important to a migratory or non-migratory species;

“wind facility” means a renewable energy generation facility at which wind is used to generate electricity through the use of one or more wind turbines;

“wind turbine” means,

(a) the structure that supports an electrical generator used to convert wind energy into electricity,

(b) the electrical and mechanical equipment, including electrical generators, used to convert wind energy into electricity, and

(c) the base and foundation to which the structure mentioned in clause (a) is attached;

“woodland” means a treed area, woodlot or forested area, other than a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees, that is located in Ecoregions 6E and 7E as shown in Figure 1 in the Provincial Policy Statement issued under section 3 of the *Planning Act* and approved by the Lieutenant Governor in Council by Order in Council No. 107/2014, excluding islands in Lake Huron and the St. Mary’s River;

“woodwaste” has the same meaning as in Regulation 347 of the Revised Regulations of Ontario, 1990 made under the Act.

O. Reg. 359/09, s. 1 (1); O. Reg. 521/10, s. 1 (1, 2); O. Reg. 195/12, s. 1; O. Reg. 333/12, s. 1; O. Reg. 131/14, s. 1; O. Reg. 97/16, ss. 1 (1, 2), 13, 14; O. Reg. 122/19, s. 1.

(2) For the purposes of the definition of “archaeological resource” in subsection (1), an archaeological resource is real property but does not include buildings or structures, other than ruins, burial mounds, petroglyphs and earthworks. O. Reg. 359/09, s. 1 (2).

(3) For the purposes of the definition of “coastal wetland” in subsection (1), the 1:100 year floodline includes wave run-up. O. Reg. 359/09, s. 1 (3).

(4) Subject to subsection (6), for the purposes of the definition of “noise receptor” in subsection (1), the following locations are noise receptors:

1. The centre of a building or structure that contains one or more dwellings.

2. The centre of a building used for an institutional purpose, including an educational facility, a child care centre, a health care facility, a community centre or a place of worship.

3. Subject to subsection (4.1), if the construction of a building or structure mentioned in paragraph 1 or 2 has not commenced but an approval under section 41 of the *Planning Act* or a building permit under section 8 of the *Building Code Act, 1992* has been issued in respect of the building or structure, the centre of the proposed building or structure.

4. A location on a vacant lot, other than an inaccessible vacant lot, that has been zoned to permit a building mentioned in paragraph 1 or 2 and in respect of which no approval or building permit to which paragraph 3 applies and at which a building would reasonably be expected to be located, having regard to the existing zoning by-law and the typical building pattern in the area.

5. A portion of property that is used as a campsite or campground at which overnight accommodation is provided by or on behalf of a public agency or as part of a commercial operation. O. Reg. 521/10, s. 1 (3); O. Reg. 97/16, s. 1 (3-5).

(4.1) Paragraph 3 of subsection (4) does not apply if,

- (a) subject to subsection (4.2), the person proposing to engage in the renewable energy project sent a request in respect of each location to which paragraph 3 of subsection (4) would apply for a copy of each approval issued under section 41 of the *Planning Act* and each building permit issued under section 8 of the *Building Code Act, 1992* to the clerk of each municipality responsible for issuing each approval or permit and the requested copy was not provided to the person within 60 days after the day the request was received;
- (b) the person referred to in clause (a) submitted an application for a renewable energy approval or an environmental compliance approval or made a draft site plan available in accordance with subsections 35 (1.4), 54 (1.4) or 55 (2.4) within 60 days after the end of the 60-day period referred to in clause (a); and
- (c) the approval or building permit was not otherwise brought to the attention of the person referred to in clause (a) before an application referred to in clause (b) was submitted or a draft site plan referred to in clause (b) was made available. O. Reg. 97/16, s. 1 (6).

(4.2) The person proposing to engage in the renewable energy project must send the request referred to in clause (4.1) (a),

- (a) in a form and format approved by the Director;
- (b) by registered mail; and
- (c) if there is more than one location mentioned in paragraph 1 or 2 of subsection (4) to which paragraph 3 of that subsection would apply, to all of the applicable municipalities on the same day. O. Reg. 97/16, s. 1 (6).

(5) Subject to subsection (6), for the purposes of the definition of “odour receptor” in subsection (1), the following locations are odour receptors:

1. A building or structure that contains one or more dwellings.
2. A building used for an institutional purpose, including an educational facility, a child care centre, a health care facility, a community centre or a place of worship,
3. A portion of a property used for recreational purposes that is not accessory to a building or structure mentioned in paragraph 1.
4. A portion of a property that is used as a campsite or campground at which overnight accommodation is provided by or on behalf of a public agency or as part of a commercial operation.
5. A portion of a property used for commercial activity. O. Reg. 359/09, s. 1 (5); O. Reg. 521/10, s. 1 (4-6); O. Reg. 97/16, s. 1 (7).

(6) For the purposes of subsections (4) and (5), an odour receptor or noise receptor does not include a location on a parcel of land if any part of the renewable energy generation facility will be located on that parcel of land once the facility is installed, constructed or expanded in accordance with the environmental compliance approval or renewable energy approval. O. Reg. 195/12, s. 1 (4); O. Reg. 97/16, s. 1 (8).

(6.1) For the purposes of clause (a) of the definition of “sound power level” in subsection (1), the following standards and rules are specified:

1. CAN/CSA-C61400-11-07, “Wind Turbine Generator Systems – Part 11: Acoustic Noise Measurement Techniques”, dated October 2007 and available as described in subsection (6.5), is specified as the standard for a wind turbine for which an application for a renewable energy approval, a certificate of approval or an environmental compliance approval was submitted before May 1, 2016 or for which a renewable energy approval, a certificate of approval or an environmental compliance approval was issued before May 1, 2016.
2. Subject to paragraph 3 and subsection (6.2), CAN/CSA-IEC 61400-11:13, “Wind Turbines – Part 11: Acoustic Noise Measurement Techniques”, dated August 2013 and available as described in subsection (6.5), is specified as the standard for a wind turbine for which an application for a renewable energy approval or an environmental compliance approval is submitted on or after May 1, 2016 and, subject to subsections (6.3) and (6.4), must include the positive uncertainty value, consisting of either,

i. the value provided by the manufacturer and calculated in accordance with that standard, or

ii. an additional 2 dB.

3. Subject to subsection (6.2), if CAN/CSA-IEC 61400-11:13, "Wind Turbines – Part 11: Acoustic Noise Measurement Techniques", available as described in subsection (6.5), is amended and the adoption of the amendment comes into effect in accordance with subsection 177 (6) of the Act, the standard in that amended version is specified as the standard for a wind turbine for which an application for a renewable energy approval or an environmental compliance approval is submitted on or after the day the amended version comes into effect and, subject to subsections (6.3) and (6.4), must include the positive uncertainty value, consisting of either,

i. the value provided by the manufacturer and calculated in accordance with that standard, or

ii. an additional 2 dB. O. Reg. 97/16, s. 1 (9).

(6.2) Paragraph 1 of subsection (6.1) continues to apply to a wind turbine described in that paragraph in respect of changes to the wind turbine, unless an application in respect of a change to the wind turbine is submitted on or after May 1, 2016 and the change,

(a) would result in a change to the wind turbine's location; or

(b) would increase the wind turbine's octave-band sound power levels (linear weighted), as calculated in accordance with the standard specified in paragraph 1 of subsection (6.1), unless there would be no resulting increase in the sound level at any noise receptor within 1,500 metres of the turbine. O. Reg. 97/16, s. 1 (9).

(6.3) The requirement in paragraph 2 of subsection (6.1) to include the positive uncertainty value as part of the calculation of the sound power level does not apply in respect of a wind turbine if,

(a) the supply of renewable energy from the wind turbine is provided for in a power purchase agreement with the Independent Electricity System Operator entered into as part of the first phase of the Large Renewable Procurement process; and

(b) as part of the application for a renewable energy approval, the person proposing to engage in the renewable energy project in respect of the wind turbine elects not to include the positive uncertainty value as part of the calculation of the sound power level. O. Reg. 97/16, s. 1 (9).

(6.4) The requirement in paragraph 2 of subsection (6.1) to include the positive uncertainty value as part of the calculation of the sound power level does not apply in respect of a change to a wind turbine described in subsection (6.3) unless an application in respect of a change to the wind turbine is submitted after the renewable energy approval has been issued and the change,

(a) would result in a change to the wind turbine's location; or

(b) would increase the wind turbine's octave-band sound power levels (linear weighted), as calculated in accordance with the standard specified in paragraph 2 of subsection (6.1), unless there would be no resulting increase in the sound level at any noise receptor within 1,500 metres of the turbine. O. Reg. 97/16, s. 1 (9).

(6.5) The standards mentioned in subsection (6.1) shall be available for review on request to the Director at the Ministry's district offices and the Ministry's Public Information Centre. O. Reg. 97/16, s. 1 (9).

(6.6) In the following provisions, a reference to the sound power level of a wind turbine is a reference to the sound power level rounded to the nearest whole number:

1. The Table to section 6.

2. Clause 33 (4) (b).

3. Paragraph 2 of subsection 33 (5).

4. Paragraph 3 of subsection 54 (1).

5. Clauses 54 (4) (a) and (b).

6. Clauses 54 (5) (a) to (e).

- 7. Clauses 55 (1) (a) to (e).
- 8. Paragraph 3 of subsection 55 (1.1).
- 9. Paragraphs 1 and 2 of subsection 55 (2).
- 10. The Table to section 55.
- 11. Paragraph 3 of subsection 55.1 (2). O. Reg. 97/16, s. 1 (9).

(7) In this Regulation, a reference to the Director means,

- (a) the Director appointed under section 5 of the Act in respect of the section of this Regulation in which the reference appears;
or
- (b) if no Director described in clause (a) has been appointed, any Director appointed under section 5 of the Act in respect of section 47.5 of the Act. O. Reg. 195/12, s. 1 (4).

(8) In this Regulation, a reference to a lake includes a kettle lake. O. Reg. 359/09, s. 1 (8).

(9) In this Regulation, a reference to a lake trout lake that is at or above development capacity is a reference to a lake trout lake that has been identified by the Ministry of Natural Resources and Forestry to be at or above development capacity, as set out in records maintained by and available from that Ministry. O. Reg. 359/09, s. 1 (9); O. Reg. 97/16, s. 14.

(10) In this Regulation, unless otherwise specified, a reference to a project location is a reference to any part of the project location. O. Reg. 359/09, s. 1 (10).

(11) In this Regulation, “environment” has the same meaning as in section 47.1 of the Act. O. Reg. 359/09, s. 1 (11).

Negative environmental effect

2. In this Regulation, a reference to a negative environmental effect is a reference to a negative effect that will be caused or that might reasonably be expected to be caused to the environment. O. Reg. 359/09, s. 2.

**PART II
CLASSES OF RENEWABLE ENERGY GENERATION FACILITIES**

Anaerobic digestion facilities

3. (1) An anaerobic digestion facility is an anaerobic digestion facility of a class set out in Column 1 of the Table to this section if,

- (a) the anaerobic digester of the facility is at a location set out opposite the class in Column 2 of the Table; and
- (b) the biogas used to generate electricity at the facility is made from the anaerobic digestion at the facility of the organic matter set out opposite the class in Column 3 of the Table. O. Reg. 359/09, s. 3 (1).

(2) In this Regulation, a reference to a Class 1, 2 or 3 anaerobic digestion facility is a reference to an anaerobic digestion facility of that class. O. Reg. 359/09, s. 3 (2).

TABLE

Item	Column 1 Class of anaerobic digestion facility	Column 2 Location of anaerobic digester	Column 3 Organic matter

1.	Class 1	At a farm operation.	One or more of the following: 1. Biomass that is grown or harvested for the purpose of being used to generate electricity. 2. Biomass that is agricultural waste within the meaning of Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Act. 3. Farm material.
2.	Class 2	At a farm operation.	One or more of the following: 1. Organic matter consisting of any biomass or a combination of biomass and farm material, other than organic matter that consists solely of organic matter described in Column 3 of Item 1. 2. Source separated organics.
3.	Class 3	At any location other than at a farm operation.	One or more of the following: 1. Biomass. 2. Source separated organics.. 3. Farm material.

O. Reg. 359/09, s. 3, Table.

Solar facilities

4. (1) A solar facility is a solar facility of a class set out in Column 1 of the Table to this section if,

- (a) the solar photovoltaic collector panels or devices that form part of the facility are at a location set out opposite the class in Column 2 of the Table; and
- (b) the facility has a name plate capacity that meets the criteria set out opposite the class in Column 3 of the Table. O. Reg. 359/09, s. 4 (1).

(2) In this Regulation, a reference to a Class 1, 2 or 3 solar facility is a reference to a solar facility of that class. O. Reg. 359/09, s. 4 (2).

(3) For the purposes of this Regulation, two or more solar facilities that each meet the criteria set out for the same class of solar facility in subsection (1) shall be deemed to be a single solar facility in accordance with the following rules if the facilities are to function together as an integrated or aggregated system for generating electricity:

- Two or more Class 1 solar facilities that have a combined name plate capacity of less than or equal to 10 kW are deemed to be a single Class 1 solar facility.
- Two or more Class 1 solar facilities that have a combined name plate capacity of greater than 10 kW and whose solar photovoltaic collector panels or devices are not mounted on a roof or wall of a building are deemed to be a single Class 3 solar facility.
- Two or more Class 3 solar facilities are deemed to be a single Class 3 solar facility. O. Reg. 359/09, s. 4 (3); O. Reg. 195/12, s. 2 (1).

TABLE

Item	Column 1 Class of solar facility	Column 2 Location of solar photovoltaic collector panels or devices	Column 3 Name plate capacity of solar facility (expressed in kW)
1.	Class 1	At any location.	≤ 10
2.	Class 2	Mounted on the roof or wall of a building.	> 10

3.	Class 3	At any location other than mounted on the roof or wall of a building.	> 10
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O. Reg. 195/12, s. 2 (2).

Thermal treatment facilities

5. (1) A thermal treatment facility is a thermal treatment facility of a class set out in Column 1 of the Table to this section if,

- (a) the generating unit of the facility is at a location set out opposite the class in Column 2 of the Table; and
- (b) the biomass that is thermally treated to generate electricity at the facility meets the description set out opposite the class in Column 3 of the Table. O. Reg. 359/09, s. 5 (1).

(2) In this Regulation, a reference to a Class 1, 2 or 3 thermal treatment facility is a reference to a thermal treatment facility of that class. O. Reg. 359/09, s. 5 (2).

TABLE

Item	Column 1 Class of thermal treatment facility	Column 2 Location of generating unit	Column 3 Description of biomass
1.	Class 1	At any location.	Biomass consisting solely of woodwaste.
2.	Class 2	At a farm operation.	Any type of biomass, other than biomass consisting solely of woodwaste.
3.	Class 3	At any location other than at a farm operation.	Any type of biomass, other than biomass consisting solely of woodwaste.

O. Reg. 359/09, s. 5, Table.

Wind facilities

6. (1) A wind facility is a wind facility of a class set out in Column 1 of the Table to this section if,

- (a) the wind turbines that form part of the facility are at a location set out opposite the class in Column 2 of the Table;
- (b) the facility has a name plate capacity that meets the criteria set out opposite the class in Column 3 of the Table; and
- (c) the other specifications in Column 4 of the Table are met. O. Reg. 359/09, s. 6 (1); O. Reg. 97/16, s. 2 (1).

(2) In this Regulation, a reference to a Class 1, 2, 3, 4 or 5 wind facility is a reference to a wind facility of that class. O. Reg. 359/09, s. 6 (2).

(3) For the purposes of this Regulation, two or more wind facilities that each meet the criteria set out for the same class of wind facility in subsection (1) shall be deemed to be a single wind facility in accordance with the following rules if the facilities are to function together as an integrated or aggregated system for generating electricity:

1. Two or more Class 1 wind facilities that have a combined name plate capacity of greater than 3 kW are deemed to be,
 - i. a Class 2 wind facility, if the combined name plate capacity is less than 50 kW, or
 - ii. a Class 3 wind facility, if the combined name plate capacity is greater than or equal to 50 kW.
2. Two or more Class 2 wind facilities are deemed to be a single Class 2 wind facility.
3. Two or more Class 3 wind facilities are deemed to be a single Class 3 wind facility.
4. Two or more Class 4 wind facilities are be deemed to be a single Class 4 wind facility.
5. Two or more Class 5 wind facilities are deemed to be a single Class 5 wind facility. O. Reg. 359/09, s. 6 (3).

TABLE

Item	Column 1 Class of wind facility	Column 2 Location of wind turbines	Column 3 Name plate capacity of the facility (expressed in kW)	Column 4 Other specifications
1.	Class 1	At a location where no part of a wind turbine is located in direct contact with surface water other than in a wetland.	≤ 3	None.
2.	Class 2	At a location where no part of a wind turbine is located in direct contact with surface water other than in a wetland.	> 3 and < 50	None.
3.	Class 3	At a location where no part of a wind turbine is located in direct contact with surface water other than in a wetland.	≥ 50	Greatest sound power level (expressed in dBA) is < 102 ; greatest height (expressed in metres) of any wind turbine that forms part of the facility, excluding length of any blades, is < 70 .
4.	Class 4	At a location where no part of a wind turbine is located in direct contact with surface water other than in a wetland.	≥ 50	One of the following: 1. Greatest sound power level (expressed in dBA) is ≥ 102 . 2. Greatest sound power level (expressed in dBA) is < 102 ; greatest height (expressed in metres) of any wind turbine that forms part of the facility, excluding length of any blades, is ≥ 70 .
5.	Class 5	At a location where one or more parts of a wind turbine is located in direct contact with surface water other than in a wetland.	Any.	None.

O. Reg. 97/16, s. 2 (2).

PART III
APPLICATION OF THE ACT TO RENEWABLE ENERGY PROJECTS

Exemption, standby generator

7. (1) Section 9 of the Act does not apply in respect of the construction, alteration, replacement, use or operation of a standby generator that uses a fossil fuel to generate electricity at a renewable energy generation facility, if the standby generator is only operated in any of the following circumstances:

1. The standby generator is only operated for the purposes of testing or maintenance of the standby generator or the start up or shut down of the facility, and,
 - i. the standby generator has not operated for more than 60 hours in the past 12 months for those purposes, and
 - ii. the standby generator is operated only on weekdays between the hours of 7 a.m. and 7 p.m for those purposes.
2. The standby generator is only operated due to,

- i. a serious risk to the health or safety of a person,
- ii. a serious risk of harm to the natural environment, plant life or animal life, or
- iii. a serious risk of injury or damage to property. O. Reg. 359/09, s. 7 (1).

(2) This section does not apply in respect of a standby generator mentioned in subsection (1) if a certificate of approval was issued under section 9 of the Act in respect of the standby generator on a day before the day this section comes into force. O. Reg. 359/09, s. 7 (2).

Exemptions, subs. 47.3 (1) of the Act

8. Subsection 47.3 (1) of the Act does not apply to a person who is engaging in a renewable energy project in respect of,

- (a) a Class 1 or 2 solar facility; or
- (b) a Class 1 wind facility. O. Reg. 359/09, s. 8.

Exemptions, s. 47.3 of the Act

9. (1) Section 47.3 of the Act does not apply to a person who is engaging in a renewable energy project if any of the following circumstances apply:

1. On a day before the day Part V.0.1 of the Act comes into force, all of the approvals, permits and other instruments mentioned in subsection 47.3 (1) of the Act that are required to construct, install, operate or use the renewable energy generation facility have been obtained.
2. No approvals, permits or other instruments mentioned in paragraph 1 were required to construct, install, operate or use a renewable energy generation facility on a day immediately before the day Part V.0.1 of the Act comes into force, and the construction or installation of the facility began on a day before that Part of the Act comes into force.
3. On a day before the day Part V.0.1 of the Act comes into force, a notice of completion in respect of the renewable energy generation facility has been issued or published pursuant to an exempting regulation made under the *Environmental Assessment Act* and the proponent of the facility entered into a power purchase agreement with the Ontario Power Authority in respect of the supply of renewable energy from the facility.
4. The project is in respect of the changing or retirement of a renewable energy generation facility,
 - i. in respect of which all approvals, permits and other instruments referred to in paragraph 1 have been obtained on a day before the day Part V.0.1 of the Act comes into force or in respect of which none were required, or
 - ii. in respect of which, on a day before the day Part V.0.1 of the Act comes into force, a notice of completion referred to in paragraph 3 was issued or published before the changing or retirement occurred.
5. On a day before the day Part V.0.1 of the Act comes into force,
 - i. a power purchase agreement was entered into with the Ontario Power Authority in respect of the supply of renewable energy from the renewable energy generation facility,
 - ii. the use of the land at the project location was not prohibited by a zoning by-law or order under Part V of the *Planning Act*, and
 - iii. the facility was not an undertaking that was designated to be subject to the *Environmental Assessment Act* pursuant to a regulation made under that Act.
6. The project is in respect of a water power facility.
7. The project is in respect of a renewable energy generation facility that,
 - i. is designed to have a name plate capacity of less than or equal to 500 kW and on an annual basis, less than 90 per cent of the electricity generated at the facility is generated from a renewable energy source, or

- ii. is designed to have a name plate capacity of greater than 500 kW and on an annual basis, less than 95 per cent of the electricity generated at the facility is generated from a renewable energy source.
8. The project is in respect of a regulated mixed anaerobic digestion facility.
9. The project is in respect of an anaerobic digestion facility that,
 - i. is located at a farm operation that is subject to an approved nutrient management strategy pursuant to the *Nutrient Management Act, 2002*, and
 - ii. would not have required a certificate of approval or provisional certificate of approval under subsection 27 (1) of the Act on a day before the day Part V.0.1 of the Act comes into force.
10. The construction, installation, use, operation, changing and retiring of the renewable energy generation facility are prescribed activities for the purposes of subsection 20.21 (1) of the Act and no order is in effect under subsection 20.18 (1) of the Act stating that Part II.2 of the Act does not apply in respect of those activities.
11. The project is in respect of a thermal treatment facility that,
 - i. changes or was changed from a generation facility that uses or used coal as its primary power source, and
 - ii. is designed to have a name plate capacity of greater than 500 kW and on an annual basis, generates at least 95 per cent of its electricity from biomass.
12. The project is in respect of a thermal treatment facility where any of the following are wholly utilized as a fuel or fuel supplement in a combustion unit or are subject to incineration or gasification, without being combined with any other solid or liquid fuel that is, or that is derived from, biomass or waste biomass:
 - i. Firewood.
 - ii. Manufactured fire logs.
 - iii. Hogged wood fuel.
 - iv. Wood chips.
 - v. Wood pellets.
 - vi. Wood briquettes.
 - vii. Bark.
 - viii. Sawdust.
 - ix. Woodwaste.
 - x. Pulp and paper biosolids within the meaning of Ontario Regulation 267/03 (General) made under the *Nutrient Management Act, 2002*.
 - xi. Pyrolysis fuel oil derived from wood biomass. O. Reg. 359/09, s. 9 (1); O. Reg. 521/10, s. 3; O. Reg. 195/12, s. 3; O. Reg. 131/14, s. 2; O. Reg. 275/21, s. 1.

(2) For the purposes of paragraph 2 of subsection (1), construction or installation is deemed to begin,

- (a) on the day on which the first contract was awarded for carrying out any part of the construction or installation, if any contracts were awarded; or

(b) on the day on which construction or installation began, if no contracts were awarded for carrying out any part of the construction or installation. O. Reg. 359/09, s. 9 (2).

Exemptions, ss. 47.3 (1) and 186 (3) of the Act

9.1 (1) Subsections 47.3 (1) and 186 (3) of the Act do not apply to a person who meets the following criteria:

1. The person has obtained a renewable energy approval for a renewable energy project.
2. The person proposes to make any of the changes described in subsection (2) to the manner in which the project is engaged and that meet the following criteria:
 - i. The proposed change meets the requirements of the applicable sections in Part V as though that Part applied to the change, without relying on any exemptions set out in those sections.
 - ii. The proposed change would take place on the same parcel or parcels of land on which the project was approved to be engaged in.
 - iii. The proposed change would not take place on a property described in Column 1 of the Table to section 19 unless the person has obtained, with respect to the change, the authorization or confirmation required under subsection 19 (2).
 - iv. The proposed change would take place at a location in respect of which a natural heritage assessment described in subsection 24 (1) was conducted and the confirmations described in subsection 28 (2) were obtained.
3. The person has received one of the following with respect to the proposed change:
 - i. If an archaeological assessment report was required and submitted under subsection 20 (4) or 21 (2), the opinion of a consultant archaeologist that the proposed change would not alter the conclusion set out in the report or would not result in any additional archaeological concerns.
 - ii. If the person referred to in subsection 20 (1) or 21 (1) determined that an archaeological assessment report was not required under subsection 20 (4) or 21 (3), as the case may be, the opinion of that person that the proposed change does not alter that determination.
4. The person has received one of the following with respect to the proposed change:
 - i. If a heritage assessment report was required to be submitted under subsection 23 (2.1), the opinion of the persons who prepared the report that the proposed change would not alter the recommendations set out in the report or would not result in any new or increased impacts to heritage attributes that are subject to evaluation under subsection 23 (1).
 - ii. If the person referred to in subsection 23 (1) determined that a heritage assessment report was not required under subsection 23 (2), the opinion of that person that the proposed change does not alter that determination. O. Reg. 97/16, s. 3.

(2) The changes mentioned in paragraph 2 of subsection (1) are the following:

1. A change to the size or location of an area used for temporary storage of equipment or supplies.
2. A reduction in the size of the project location, as long as there are no changes to the infrastructure or equipment that forms part, or is proposed to form part, of the renewable energy generation facility.
3. A change to the location where the renewable energy generation facility connects, or is proposed to connect, to,
 - i. a transmission system with respect to which, pursuant to agreements, the Independent Electricity System Operator has authority to direct operations, or
 - ii. the distribution system of the distributor in whose distribution service area the renewable energy generation facility is located.

4. A change in respect of a communications tower.
5. A change in the location of fencing.
6. A change to the make, model, arrangement, tracking system, number or name plate capacity of solar photovoltaic collector panels used, or proposed to be used, at the renewable energy generation facility, as long as the change would not result in an increase in the emission of sound from any component in or at the facility.
7. A change in respect of a fibre optic communications line. O. Reg. 97/16, s. 3.

(3) A person who makes any of the changes described in subsection (2) shall do the following:

1. Give written notice of the change to the Director and to the Ministry's district manager in each district in which the project location is situated within 30 days after making the change.
2. If the person has a website, promptly post a copy of the written notice given under paragraph 1 on the person's website and maintain it on the website for at least 60 days. O. Reg. 97/16, s. 3.

Prescribed activities

10. Subject to section 9, the following activities are prescribed for the purposes of paragraph 7 of subsection 47.3 (1) of the Act:

1. The construction, installation, use, operation or changing of a Class 3 solar facility, if the electricity generated at the facility is sold by the owner or operator of the facility.
2. The construction, installation, use, operation or changing of a wind facility, other than a Class 1 wind facility, if the electricity generated at the facility is sold by the owner or operator of the facility.
3. The construction, installation, use, operation or changing of a Class 1 anaerobic digestion facility.
4. The construction, installation, use, operation or changing of a Class 1 thermal treatment facility.
5. The construction, installation, use, operation or changing of a Class 2 thermal treatment facility. O. Reg. 359/09, s. 10; O. Reg. 521/10, s. 4; O. Reg. 195/12, s. 4.

PART IV

RENEWABLE ENERGY APPROVALS — APPLICATION PROCESS BEFORE APPROVAL ISSUED

APPLICATION OF PART

Application of Part

11. This Part applies to a person, other than a person to whom Part IV.1 applies, who proposes to engage in a renewable energy project in respect of which the issue of a renewable energy approval is required. O. Reg. 359/09, s. 11; O. Reg. 195/12, s. 6.

APPLICATION FOR RENEWABLE ENERGY APPROVAL

Eligibility, renewable energy approval

12. (1) In order to be eligible for the issue of a renewable energy approval, a person who proposes to engage in a renewable energy project shall, before submitting an application for the issue of a renewable energy approval to the Director,

- (a) prepare the application in a form or format approved by the Director;
- (b) obtain or prepare, as the case may be, any documents that,
 - (i) are required under this Part to be submitted as part of the application,
 - (ii) are to be submitted as part of the application for the purposes of obtaining an exemption from a provision of Part V,
or
 - (iii) are required under Part VI.1 to be submitted to the Director; and
- (c) comply with all other requirements in this Part. O. Reg. 359/09, s. 12 (1); O. Reg. 521/10, s. 5 (1); O. Reg. 122/19, s. 2 (1).

(1.1) Subject to subsection (1.3), a person who proposes to engage in a renewable energy project but does not comply with the requirements set out in subsection (1) may be eligible for the issue of a renewable energy approval if the Director is of the opinion that failure to comply with those requirements will not compromise an adequate understanding of the negative environmental effects of engaging in the renewable energy project. O. Reg. 521/10, s. 5 (2); O. Reg. 122/19, s. 2 (2).

(1.2) Subject to subsection (1.3), a person who proposes to engage in a renewable energy project but does not comply with the requirements set out in subsection (1) may be eligible for the issue of a renewable energy approval if the Director is of the opinion that failure to comply with those requirements will improve consultation respecting the project with the public, local authorities or any aboriginal communities. O. Reg. 521/10, s. 5 (2); O. Reg. 122/19, s. 2 (3).

(1.3) Subsections (1.1) and (1.2) do not apply in respect of the requirement set out in subclause (1) (b) (iii). O. Reg. 122/19, s. 2 (4).

(2) If there is more than one person applying for the issue of a renewable energy approval in respect of a renewable energy project, those persons shall jointly submit one application for the issue of a renewable energy approval. O. Reg. 359/09, s. 12 (2).

(3) REVOKED: O. Reg. 195/12, s. 7.

Supporting documents

13. (1) A person who proposes to engage in a renewable energy project shall submit a document set out in Column 1 of Table 1 as part of an application for the issue of a renewable energy approval in respect of the project if it is a project described opposite the document in Column 3. O. Reg. 359/09, s. 13 (1).

(2) If a document set out in Column 1 of Table 1 is submitted as part of an application for the issue of a renewable energy approval, the person who is engaging in the renewable energy project shall ensure that the document meets the requirements set out opposite the document in Column 2 of Table 1. O. Reg. 359/09, s. 13 (2).

(3) Any document submitted as part of an application for the issue of a renewable energy approval shall be in writing. O. Reg. 359/09, s. 13 (3).

(4) Any document submitted as part of an application for the issue of a renewable energy approval that is a diagram, map or plan shall be drawn to scale and shall include a scale bar and a north arrow. O. Reg. 359/09, s. 13 (4).

(5) The definition of "sound power level" in section 1 does not apply for the purposes of Table 1. O. Reg. 97/16, s. 4.

CONSULTATION

List of aboriginal communities

14. (1) A person who proposes to engage in a renewable energy project shall,

(a) give the Director a draft of the project description report prepared in accordance with Table 1; and

(b) obtain from the Director a list of aboriginal communities who, in the opinion of the Director,

(i) have or may have constitutionally protected aboriginal or treaty rights that may be adversely impacted by the project,
or

(ii) otherwise may be interested in any negative environmental effects of the project. O. Reg. 359/09, s. 14 (1).

(2) This section does not apply in respect of a proposal to engage in a renewable energy project in respect of a Class 2 wind facility. O. Reg. 359/09, s. 14 (2).

Notices of project and meetings

15. (1) A person who proposes to engage in a renewable energy project shall distribute,

(a) notice of the proposal to engage in the project; and

(b) notices of the location and time of at least two public meetings to be held for the purpose of conducting consultations in respect of the project. O. Reg. 359/09, s. 15 (1).

(2) Clause (1) (b) does not apply in respect of a proposal to engage in a renewable energy project in respect of,

(a) a Class 2 wind facility;

- (b) a Class 1 or 2 anaerobic digestion facility;
 - (c) a Class 1 thermal treatment facility, if the generating unit of the facility is located at a farm operation; or
 - (d) a Class 2 thermal treatment facility. O. Reg. 359/09, s. 15 (2).
- (3) A notice mentioned in subsection (1) shall be in a form approved by the Director and shall be distributed in accordance with all of the rules set out in subsection (6),
- (a) at least 30 days before the first public meeting is held and at least 60 days before the final public meeting is held, if the notices mentioned in clauses (1) (a) and (b) are required to be distributed; or
 - (b) at least 30 days before the application for the issue of a renewable energy approval is submitted to the Director, if only the notice mentioned in clause (1) (a) is required to be distributed. O. Reg. 359/09, s. 15 (3); O. Reg. 521/10, s. 6 (1, 2).
- (4) The notices mentioned in clauses (1) (a) and (b) may be distributed together and in combination with any other notice in respect of the renewable energy project if,
- (a) this section is complied with in combining the notices; and
 - (b) the combined notices include a clear description of all of the notices that are being combined. O. Reg. 359/09, s. 15 (4).
- (5) If the notices mentioned in clauses (1) (a) and (b) are both required to be distributed but are not distributed together, the notice mentioned in clause (1) (a) shall be distributed before any notice mentioned in clause (1) (b) is distributed. O. Reg. 359/09, s. 15 (5).
- (6) A notice mentioned in clause (1) (a) or (b) shall be distributed in accordance with the following rules:
1. The notice must be published on at least two separate days in a newspaper with general circulation in each local municipality in which the project location is situated.
 2. If the project location is in unorganized territory,
 - i. the notice must be published on two separate days in a newspaper with general circulation within 25 kilometres of the project location, or
 - ii. if no newspaper mentioned in subparagraph i exists, the notice must be posted in at least six conspicuous locations within 25 kilometres of the project location.
 3. If it is reasonable to do so, the notice must be published in a newspaper printed by each aboriginal community on the list obtained under section 14, if the list was required to be obtained, and if such a newspaper exists and the publisher of the newspaper permits the publication.
 4. If the person mentioned in subsection (1) has a website, the notice must be posted on the website.
 5. A copy of the notice must be given to,
 - i. every assessed owner of land within 120 metres of the project location, if the project is in respect of a renewable energy generation facility other than a Class 3, 4 or 5 wind facility,
 - i.1 every assessed owner of land within 550 metres of the project location, if the project is in respect of a Class 3, 4 or 5 wind facility,
 - i.2 every assessed owner of land abutting a parcel of land on which the project location is situated, other than an owner described in subparagraph i or i.1,
 - ii. every aboriginal community on the list obtained under section 14, if the list was required to be obtained, and any other aboriginal community that, in the opinion of the person mentioned in subsection (1), has or may have constitutionally protected aboriginal or treaty rights that could be adversely impacted by the renewable energy project or otherwise may be interested in any negative environmental effects of the project,

- iii. the clerk of each local municipality and upper-tier municipality in which the project location is situated,
- iv. the secretary-treasurer of each local roads board of a local roads area in which the project location is situated,
- v. the secretary of each Local Services Board of a board area in which the project location is situated,
- vi. the secretary-treasurer of a planning board that has jurisdiction in an area in which the project location is situated,
- vii. the chair of the Niagara Escarpment Commission, if the project location is in the area of the Niagara Escarpment Plan,
- viii. the Director,
- ix. the Ministry's district manager in each district in which the project location is situated.
- x. the secretary of every company operating an oil or natural gas pipeline, if a pipeline right of way for the pipeline is located within 200 metres of the project location, and
- xi. the NAV Canada Land Use Office and Transport Canada's Regional Office for Ontario, if the project is in respect of a wind facility. O. Reg. 359/09, s. 15 (6); O. Reg. 521/10, s. 6 (3); O. Reg. 195/12, s. 8.

Information on website

15.1 A person who proposes to engage in a renewable energy project shall, within 10 days after a notice of the proposal for a renewable energy approval in respect of the renewable energy project is posted on the environmental registry referred to in section 5 of the *Environmental Bill of Rights, 1993* and until the Director makes a decision under section 47.5 of the Act, make available copies of the documents described in subclauses 12 (1) (b) (i) and (ii) and subsection 57.4 (1) by posting the documents on the person's website, if the person has a website. O. Reg. 521/10, s. 7; O. Reg. 122/19, s. 3.

Newspaper notice

15.2 (1) A person who proposes to engage in a renewable energy project shall, within 10 days after a notice of the proposal for a renewable energy approval in respect of the renewable energy project is posted on the environmental registry referred to in section 5 of the *Environmental Bill of Rights, 1993*, publish a notice that contains the following information:

1. The name of the person proposing to engage in the renewable energy project.
2. A brief description of the renewable energy project.
3. A map identifying the project location.
4. If the person has posted documents under section 15.1, the address of the website on which the documents are posted.
5. A statement that a proposal for a renewable energy approval in respect of the renewable energy project has been posted on the environmental registry referred to in section 5 of the *Environmental Bill of Rights, 1993* and that comments in respect of the proposal may be submitted to the Director. O. Reg. 521/10, s. 7.

(2) The person shall publish the notice required by subsection (1),

- (a) in a newspaper with general circulation in each local municipality in which the project location is situated; or
- (b) if the project location is in unorganized territory,
 - (i) in a newspaper with general circulation within 25 kilometres of the project location, or
 - (ii) if a newspaper described in subclause (i) does not exist, in at least six conspicuous locations within 25 kilometres of the project location. O. Reg. 521/10, s. 7.

Consultation with public

16. (1) A person who proposes to engage in a renewable energy project shall hold at least two public meetings, each on a separate day, in accordance with this section,

- (a) in each local municipality in which the project location is situated; and
 - (b) if the project location is in unorganized territory,
 - (i) within 25 kilometres of the project location, or
 - (ii) in the local municipality that is closest to the project location, if there is no appropriate place to hold a public meeting in the area described in subclause (i). O. Reg. 359/09, s. 16 (1).
- (2) During a period of at least 30 days immediately before the first public meeting is held under this section, a person mentioned in subsection (1) shall make available a draft of the project description report prepared in accordance with Table 1 by,
- (a) posting the drafts on the person's website, if the person has a website;
 - (b) making paper copies of the drafts available to the public in each local municipality and in each part of unorganized territory in which the project location is situated;
 - (c) making paper copies of the drafts available in any aboriginal community on the list obtained under section 14, if the aboriginal community agrees to the making of the drafts available in the community; and
 - (d) distributing the drafts to each aboriginal community mentioned in subparagraph 5 ii of subsection 15 (6). O. Reg. 521/10, s. 8; O. Reg. 195/12, s. 9 (1).
- (3) REVOKED: O. Reg. 521/10, s. 8.
- (4) At the first public meeting that is held under this section, a person mentioned in subsection (1) shall make a draft of the project description report prepared in accordance with Table 1 available for inspection. O. Reg. 359/09, s. 16 (4); O. Reg. 195/12, s. 9 (2).
- (5) During a period of at least 60 days before the final public meeting is held under this section, a person mentioned in subsection (1) shall make available drafts of all documents mentioned in subsection (6) by,
- (a) posting the drafts on the person's website, if the person has a website;
 - (b) making paper copies of the drafts available to the public in each local municipality and in each part of unorganized territory in which the project location is situated;
 - (c) making paper copies of the drafts available in any aboriginal community on the list obtained under section 14, if the aboriginal community agrees to the making of the drafts available in the community; and
 - (d) distributing the drafts to each aboriginal community mentioned in subparagraph 5 ii of subsection 15 (6). O. Reg. 359/09, s. 16 (5); O. Reg. 195/12, s. 9 (3).
- (6) For the purposes of subsection (5), drafts of the following documents shall be made available if they are to be submitted as part of the application for the issue of a renewable energy approval:
1. All documents required under this Part to be submitted as part of the application, other than the consultation report prepared in accordance with Table 1 and the documents described in clauses 22 (a), 23 (3) (a) and 28 (3) (b) and (c).
 2. All documents that are to be submitted as part of the application for the purposes of obtaining an exemption from a provision of Part V, other than the documents described in clauses 37 (2) (b) and (c), 38 (2) (b) and (c), 41 (5) (b) and (c) and 43 (3) (b) and (c). O. Reg. 359/09, s. 16 (6); O. Reg. 195/12, s. 9 (4); O. Reg. 333/12, s. 2.

Proposal to change project, additional notice and consultation

16.0.1 (1) This section applies in respect of a person who is proposing to engage in a renewable energy project and who proposes to engage in the project in a manner that is different from the manner that was presented,

- (a) at the final public meeting held under section 16; or
 - (b) if section 16 does not apply, in the notice published or posted under paragraph 1 or 2 of subsection 15 (6). O. Reg. 195/12, s. 10.
- (2) A person mentioned in subsection (1) shall, as soon as reasonably possible after determining that a change to the project is desired, notify the Director of the proposed change by providing a written description of and a rationale for the proposed change. O. Reg. 195/12, s. 10.

(3) In the circumstances described in subsection (4), the Director may, by written notice to the person mentioned in subsection (1), require the person to do one or more of any of the following:

1. Prepare a notice, in a form approved by the Director, of,
 - i. the proposed change, or
 - ii. the location and time of a public meeting to be held for the purpose of conducting consultations in respect of the proposed change.
2. Distribute a notice mentioned in paragraph 1,
 - i. in accordance with paragraphs 1, 2, 3 and 4 of subsection 15 (6), to the persons mentioned in paragraph 5 of subsection 15 (6), and
 - ii. at least 30 days before the meeting mentioned in subparagraph 1 ii, if a public meeting is required under paragraph 3.
3. Hold one or more public meetings,
 - i. in each local municipality in which the project location is situated, and
 - ii. if the project location is in unorganized territory,
 - A. within 25 kilometres of the project location, or
 - B. in the local municipality that is closest to the project location, if there is no appropriate place to hold a public meeting in the area described in sub-subparagraph A,
4. Update the documents described in paragraphs 1 and 2 of subsection 16 (6) and make the updated documents available in the manner described in clauses 16 (5) (a) to (d) for a period of time specified by the Director. O. Reg. 195/12, s. 10.

(4) The Director may provide written notice under subsection (3) at any point before a decision is made about whether to issue a renewable energy approval in respect of the project if, in the opinion of the Director, failure to require additional public notification or public consultation under this section might result in an inadequate understanding by the public of the negative environmental effects of the proposed changes. O. Reg. 195/12, s. 10.

Exception, ss. 15.1 to 16

16.1 Sections 15.1 to 16 do not apply in respect of a proposal to engage in a renewable energy project in respect of,

- (a) a Class 2 wind facility;
- (b) a Class 1 or 2 anaerobic digestion facility;
- (c) a Class 1 thermal treatment facility, if the generating unit of the facility is located at a farm operation; or
- (d) a Class 2 thermal treatment facility. O. Reg. 521/10, s. 9.

Consultation with aboriginal communities

17. (1) A person who proposes to engage in a renewable energy project shall, in accordance with subsection (1.1), distribute the following to each aboriginal community mentioned in subparagraph 5 ii of subsection 15 (6):

1. A draft of the project description report prepared in accordance with Table 1.
2. Any information the person has regarding any adverse impacts that the project may have on constitutionally protected aboriginal or treaty rights that the community may have identified as being adversely impacted by the project.
3. A summary of each of the following documents in respect of which information is being requested under paragraph 4:

- i. All documents required under this Part to be submitted as part of the application, other than the consultation report prepared in accordance with Table 1 and the documents described in clauses 22 (a), 23 (3) (a) and 28 (3) (b) and (c).
- ii. All documents that are to be submitted as part of the application for the purposes of obtaining an exemption from a provision of Part V, other than the documents described in clauses 37 (2) (b) and (c), 38 (2) (b) and (c), 41 (5) (b) and (c) and 43 (3) (b) and (c).

4. A written request that the aboriginal community provide in writing any information available to the community that, in its opinion, should be considered in preparing a document summarized under paragraph 3, and in particular, any information the community may have about any adverse impacts that the project may have on constitutionally protected aboriginal or treaty rights and any measures for mitigating those adverse impacts. O. Reg. 359/09, s. 17 (1); O. Reg. 521/10, s. 10 (1, 2); O. Reg. 195/12, s. 11; O. Reg. 333/12, s. 3.

(1.1) The drafts, information and documents mentioned in subsection (1) shall be made available,

- (a) if section 16 applies, before drafts of document are made available under subsection 16 (5); or
- (b) if section 16 does not apply, at least 30 days before an application for the issue of a renewable energy approval is made to the Director. O. Reg. 521/10, s. 10 (3).

(2) A person mentioned in subsection (1) shall communicate with each aboriginal community regarding,

- (a) any constitutionally protected aboriginal or treaty rights that the community has identified as being adversely impacted by the renewable energy project; and
- (b) measures for mitigating any adverse impacts referred to in clause (a), including any measures identified by the community. O. Reg. 359/09, s. 17 (2).

(3) Subject to subsection (4), this section does not apply in respect of a proposal to engage in a renewable energy project in respect of a Class 2 wind facility. O. Reg. 359/09, s. 17 (3).

(4) If the Director is of the opinion that any consultation in addition to consultation required under subsection (2) is necessary to assess whether the project may have any adverse impacts on constitutionally protected aboriginal or treaty rights and any measures for mitigating those adverse impacts, the Director may, by written notice to a person mentioned in subsection (1), require the person to conduct consultation with any aboriginal community specified by the Director. O. Reg. 359/09, s. 17 (4).

Consultation with municipalities, local authorities

18. (1) A person who proposes to engage in a renewable energy project shall, in accordance with subsections (3) and (4), distribute drafts of the documents mentioned in subsection (2) to,

- (a) the clerk of each local municipality and upper-tier municipality in which the project location is situated;
- (b) the secretary-treasurer of the local roads board of each local roads area in which the project location is situated; and
- (c) the secretary of the Local Services Board of each board area in which the project location is situated. O. Reg. 521/10, s. 11.

(2) The documents referred to in subsection (1) are:

1. A project description report.
2. A document required to be made available under subsection 16 (6).
3. A consultation form. O. Reg. 521/10, s. 11; O. Reg. 195/12, s. 12 (1).

(3) If section 16 applies,

- (a) the documents referred to in paragraphs 1 and 3 of subsection (2) shall be distributed under subsection (1) at least 30 days before the first public meeting is held for the purposes of subsection 16 (1); and

(b) the documents referred to in paragraph 2 of subsection (2) shall be distributed under subsection (1) at least 90 days before the final public meeting is held for the purposes of subsection 16 (1). O. Reg. 521/10, s. 11.

(4) If section 16 does not apply, the documents referred to in paragraphs 2 and 3 of subsection (2) shall be distributed under subsection (1) at least 30 days before an application for a renewable energy approval is submitted to the Director. O. Reg. 521/10, s. 11; O. Reg. 195/12, s. 12 (2).

(5) The consultation form referred to in paragraph 3 of subsection (2) shall be distributed for the purpose of consulting on matters relating to municipal or local infrastructure and servicing and shall be in a form and format approved by the Director. O. Reg. 521/10, s. 11.

(5.1) If the Director requires a person to prepare updated documents under paragraph 4 of subsection 16.0.1 (3), the person shall, when complying with that requirement, distribute copies of those updated documents to the persons mentioned in clauses (1) (a), (b) and (c). O. Reg. 195/12, s. 12 (3).

(6) This section does not apply to a person who proposes to engage in a renewable energy project in respect of a Class 2 wind facility. O. Reg. 521/10, s. 11.

PROTECTED PROPERTIES, ARCHAEOLOGICAL AND HERITAGE RESOURCES

Protected properties

19. (1) A person who proposes to engage in a renewable energy project shall determine whether the project location is on a property described in Column 1 of the Table to this section. O. Reg. 359/09, s. 19 (1).

(2) If a person mentioned in subsection (1) determines that the project location is on a property described in Column 1 of the Table to this section, the person shall submit, as part of the application for the issue of a renewable energy approval,

(a) a copy of the written authorization,

(i) of the person or body set out opposite the description in Column 2 of the Table, and

(ii) of the type set out opposite the description in Column 3 of the Table; or

(b) written confirmation from the person or body set out in Column 2 of the Table that authorization is not required. O. Reg. 521/10, s. 12 (1); O. Reg. 195/12, s. 13 (1).

(3) REVOKED: O. Reg. 195/12, s. 13 (2).

TABLE

Item	Column 1 Description of property.	Column 2 Person or body whose authorization is required.	Column 3 Type of authorization required to be submitted.
1.	A property that is the subject of an agreement, covenant or easement entered into under clause 10 (1) (b) of the <i>Ontario Heritage Act</i> .	Ontario Heritage Trust.	Authorization to undertake any activities related to the renewable energy project that require the approval of the Ontario Heritage Trust pursuant to the easement or covenant.

2.	A property in respect of which a notice of intention to designate the property to be of cultural heritage value or interest has been given in accordance with section 29 of the <i>Ontario Heritage Act</i> .	Municipality that gave the notice.	If, as part of the renewable energy project, the alteration of the property or the demolition or removal of a building or structure on the property is proposed, consent to alter the property or demolish or remove the building or structure.
3.	A property designated by a municipal by-law made under section 29 of the <i>Ontario Heritage Act</i> as a property of cultural heritage value or interest.	Municipality that made the by-law.	If, as part of the renewable energy project, the alteration of the property or the demolition or removal of a building or structure on the property is proposed, consent to alter the property or demolish or remove the building or structure.
4.	A property designated by order of the Minister of Tourism, Culture and Sport made under section 34.5 of the <i>Ontario Heritage Act</i> as a property of cultural heritage value or interest of provincial significance.	Minister of Tourism, Culture and Sport.	If, as part of the renewable energy project, the alteration of the property or the demolition or removal of a building or structure on the property is proposed, consent to alter the property or demolish or remove the building or structure.
5.	A property in respect of which a notice of intention to designate the property as property of cultural heritage value or interest of provincial significance has been given in accordance with section 34.6 of the <i>Ontario Heritage Act</i> .	Minister of Tourism, Culture and Sport.	If, as part of the renewable energy project, the alteration of the property or the demolition or removal of a building or structure on the property is proposed, consent to alter the property or demolish or remove the building or structure.
6.	A property that is the subject of an easement or a covenant entered into under section 37 of the <i>Ontario Heritage Act</i> .	Municipality that entered into the easement or covenant.	Authorization to undertake any activities related to the renewable energy project that require the approval of the municipality that entered into the easement or covenant.
7.	A property that is part of an area designated by a municipal by-law made under section 41 of the <i>Ontario Heritage Act</i> as a heritage conservation district.	Municipality that made the by-law.	If, as part of the renewable energy project, the alteration of the property or the erection, demolition or removal of a building or structure on the property is proposed, a permit to alter the property or to erect, demolish or remove a building or structure on the property.
8.	A property designated as a historic site under Regulation 880 of the Revised Regulations of Ontario, 1990 (Historic Sites) made under the <i>Ontario Heritage Act</i> .	Minister of Tourism, Culture and Sport.	If, as part of the renewable energy project, the excavation or alteration of the property of historical significance is proposed, a permit to excavate or alter the property.

O. Reg. 359/09, s. 19, Table; O. Reg. 195/12, s. 13 (3).

Archaeological resources, specified projects

20. (1) This section applies to a person who proposes to engage in a renewable energy project in respect of,

(a) a Class 2 wind facility;

- (b) a Class 1 or 2 anaerobic digestion facility;
- (c) a Class 1 thermal treatment facility, if the generating unit of the facility is located at a farm operation; or
- (d) a Class 2 thermal treatment facility. O. Reg. 195/12, s. 14.

(2) A person mentioned in subsection (1) shall contact the Ministry of Tourism, Culture and Sport to determine whether the project location meets one or both of the following descriptions:

1. The project location is within 250 metres of an archaeological resource that is set out by that Ministry in records it maintains.
2. The project location is on property designated as an archaeological site under Regulation 875 of the Revised Regulations of Ontario, 1990 (Archaeological Sites) made under the *Ontario Heritage Act*. O. Reg. 195/12, s. 14.

(3) A person mentioned in subsection (1) shall contact the clerk of each local municipality and upper-tier municipality in which the project location is situated to determine whether the project location is in an area that has been identified on an archaeological management plan. O. Reg. 195/12, s. 14.

(4) If a person mentioned in subsection (1) has determined that the project location meets one of the descriptions set out in subsection (2) or is in an area described in subsection (3), the person shall ensure that,

- (a) an archaeological assessment is conducted by a consultant archaeologist; and
- (b) an archaeological assessment report is prepared by the consultant archaeologist mentioned in clause (a) and submitted to the Ministry of Tourism, Culture and Sport. O. Reg. 195/12, s. 14.

Archaeological resources, other projects

21. (1) Subject to subsection (3), this section applies to a person if the person proposes to engage in a renewable energy project in respect of which section 20 does not apply. O. Reg. 195/12, s. 14.

(2) A person to whom this section applies shall ensure that,

- (a) an archaeological assessment is conducted by a consultant archaeologist; and
- (b) an archaeological assessment report is prepared by the consultant archaeologist mentioned in clause (a) and submitted to the Ministry of Tourism, Culture and Sport. O. Reg. 195/12, s. 14.

(3) Subsection (2) does not apply if the person determines that there is low potential for the presence of an archaeological resource at the project location after considering the potential, which consideration must include completion of the document entitled "REA Checklist: Consideration of Potential for Archaeological Resources", as amended from time to time, available from the Ministry of Tourism, Culture and Sport. O. Reg. 195/12, s. 14.

Archaeological assessment, documents to be included in application

22. As part of an application for the issue of a renewable energy approval, a person subject to subsection 20 (4) or 21 (2) shall submit,

- (a) written comments provided by the Ministry of Tourism, Culture and Sport in respect of the archaeological assessment;
- (b) the archaeological assessment report; and
- (c) if the project location is on property described in paragraph 2 of subsection 20 (2), a copy of the permit issued by the Minister of Tourism, Culture and Sport to excavate or alter the property or to remove an artifact from that property, as the case may be. O. Reg. 195/12, s. 14.

Heritage assessment

23. (1) Subject to subsections (2) and (5), a person who proposes to engage in a renewable energy project shall ensure that a heritage assessment is conducted, consisting of the following steps:

1. Conduct an investigation, including historical research and visual inspection, to determine whether,
 - i. there is potential for the presence of a heritage resource at the project location on any part of the project location that is not on a property described in Column 1 of the Table to section 19, and

ii. any properties described in Column 1 of the Table to section 19 about the parcel of land on which the project location is situated.

2. If the determination under subparagraph 1 i is that there is potential for the presence of a heritage resource, confirm the presence or absence of a heritage resource by applying the criteria set out in Ontario Regulation 9/06 (Criteria for Determining Cultural Heritage Value or Interest) made under the *Ontario Heritage Act*.
3. Evaluate the impact of engaging in the renewable energy project on the heritage attributes of any heritage resources at the project location and on any abutting properties described in subparagraph 1 ii and provide recommendations for measures to avoid, eliminate or mitigate the impact if,
 - i. the determination under subparagraph 1 ii is that there are abutting properties as described in that subparagraph, or
 - ii. the presence of a heritage resource at the project location is confirmed under paragraph 2. O. Reg. 195/12, s. 15 (1).

(2) Subsection (1) does not apply if the person determines that,

- (a) there is low potential for the presence of a heritage resource at the project location after considering the potential, which consideration must include completion of the document entitled, "REA Checklist: Consideration of Potential for Heritage Resources", as amended from time to time, available from the Ministry of Tourism, Culture and Sport; and
- (b) there are no properties described in Column 1 of the Table to section 19 that abut the parcel of land on which the project location is situated. O. Reg. 195/12, s. 15 (1).

(2.1) A person who is subject to subsection (1) shall submit a heritage assessment report to the Ministry of Tourism, Culture and Sport, consisting of,

- (a) a summary of the qualifications and experience of the persons who conducted the assessment and prepared the report;
- (b) a summary of the process followed in each applicable step of the heritage assessment and the conclusions reached at the end of each step;
- (c) a description of any documents used to conduct the assessment;
- (d) a statement of cultural heritage value or interest for each confirmed heritage resource, including a description of the heritage attributes;
- (e) maps or diagrams depicting the project location, the renewable energy generation facility and any heritage resources and protected properties identified as a result of assessment; and
- (f) the recommendations of the persons who conducted the assessment for measures to avoid, eliminate or mitigate the impact on heritage resources. O. Reg. 195/12, s. 15 (1).

(3) As part of an application for the issue of a renewable energy approval, a person to whom this section applies shall submit,

- (a) written comments provided by the the Ministry of Tourism, Culture and Sport in respect of any heritage assessment conducted under this section; and
- (b) any heritage assessment reports prepared under this section. O. Reg. 359/09, s. 23 (3); O. Reg. 195/12, s. 15 (2, 3).

(4) For the purposes of this section, "heritage attributes" has the same meaning as in section 1 of the *Ontario Heritage Act*. O. Reg. 195/12, s. 15 (4).

(5) This section does not apply to a person who proposes to engage in a renewable energy project in respect of,

- (a) a Class 2 wind facility;
- (b) a Class 1 or 2 anaerobic digestion facility;
- (c) a Class 1 thermal treatment facility, if the generating unit of the facility is located at a farm operation; or
- (d) a Class 2 thermal treatment facility. O. Reg. 195/12, s. 15 (4).

NATURAL HERITAGE

Environmental effects monitoring plan

23.1 (1) A person who proposes to engage in a renewable energy project in respect of a Class 3, 4 or 5 wind facility shall prepare an environmental effects monitoring plan in respect of birds and bats. O. Reg. 521/10, s. 14.

(2) For the purposes of subsection (1), the person shall prepare the environmental effects monitoring plan in accordance with the following publications of the Ministry of Natural Resources and Forestry:

1. "Birds and Bird Habitats: Guidelines for Wind Power Projects" dated October 2010, as amended from time to time and available from the Ministry of Natural Resources and Forestry.
2. "Bats and Bat Habitats: Guidelines for Wind Power Projects" dated March 2010, as amended from time to time and available from the Ministry of Natural Resources and Forestry. O. Reg. 521/10, s. 14; O. Reg. 97/16, s. 14.

Natural heritage assessment

24. (1) A person who proposes to engage in a renewable energy project shall conduct a natural heritage assessment, consisting of the following:

1. A records review conducted in accordance with section 25.
2. A site investigation conducted in accordance with section 26.
3. Subject to subsection (3), an evaluation of the significance or provincial significance of each natural feature identified in the course of the records review and site investigation, conducted in accordance with section 27. O. Reg. 359/09, s. 24 (1).

(2) For the purposes of this section and sections 25 and 26, in conducting a records review or a site investigation, identifying natural features and determining the boundaries of any natural features, a person mentioned in subsection (1) shall use applicable evaluation criteria or procedures as set out in the Natural Heritage Assessment Guide. O. Reg. 359/09, s. 24 (2); O. Reg. 333/12, s. 4.

(3) This section and sections 25, 26, 27 and 28 do not apply in respect of a proposal to engage in a renewable energy project in respect of a Class 2 wind facility. O. Reg. 359/09, s. 24 (3).

Natural heritage, records review

25. (1) In conducting a records review mentioned in paragraph 1 of subsection 24 (1), a person who, as part of a renewable energy project, proposes to engage in an activity described in Column 1 of the Table to this section shall ensure that a search for an analysis of the records set out in Column 2 of the Table opposite the description of the activity are conducted in respect of the project location for the purpose of making the determinations set out in Column 3 of the Table opposite the description of the activity. O. Reg. 97/16, s. 5 (1).

(2) For the purposes of this section, "natural feature" includes all or part of,

- (a) a sand barrens, a savannah, a tallgrass prairie and an alvar, if the records review is being conducted in respect of a project location that is in the Natural Heritage System; and
- (b) a sand barrens, a savannah and a tallgrass prairie, if the records review is being conducted in respect of a project location that is in the portion of the Oak Ridges Moraine Conservation Plan Area that is subject to the Oak Ridges Moraine Conservation Plan. O. Reg. 359/09, s. 25 (2); O. Reg. 333/12, s. 5.

(3) The person mentioned in subsection (1) shall prepare a report setting out a summary of the records searched and the results of the analysis conducted under subsection (1). O. Reg. 359/09, s. 25 (3).

TABLE

Item	Column 1 Description of activity	Column 2 Records to be searched and analyzed	Column 3 Determination to be made
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1.	<p>Any of the following activities:</p> <ol style="list-style-type: none"> 1. The construction, installation or expansion of a transmission or distribution line. 2. The expansion of an existing transformer station, distribution station or transportation system. 3. If it is engaged in with respect to a Class 3 solar facility, any construction, installation or expansion in addition to the activities described in paragraphs 1 and 2. 	<p>Records that relate to provincial parks and conservation reserves and that are maintained by the Ministry of Natural Resources and Forestry.</p>	<p>Whether the project location is in a provincial park or conservation reserve or within 50 metres of a provincial park or conservation reserve.</p>
2.	<p>Any of the activities described in Item 1.</p>	<p>Records that relate to natural features and that are maintained by,</p> <ol style="list-style-type: none"> i. the Ministry of Natural Resources and Forestry, ii. the Crown in right of Canada, iii. a conservation authority, if the project location is in the area of jurisdiction of the conservation authority, iv. each local and upper-tier municipality in which the project location is situated, v. the planning board of an area of jurisdiction of a planning board in which the project location is situated, vi. the municipal planning authority of an area of jurisdiction of a municipal planning authority in which the project location is situated, vii. the local roads board of a local roads area in which the project location is situated, viii. the Local Services Board of a board area in which the project location is situated, and ix. the Niagara Escarpment Commission, if the project location is in the area of the Niagara Escarpment Plan. 	<p>Whether the project location is,</p> <ol style="list-style-type: none"> i. in a natural feature, ii. within 50 metres of an area of natural and scientific interest (earth science), or iii. within 50 metres of a natural feature that is not an area of natural and scientific interest (earth science).
3.	<p>Any activity other than the activities described in Item 1.</p>	<p>The records described opposite Item 1.</p>	<p>Whether the project location is in a provincial park or conservation reserve or within 120 metres of a provincial park or conservation reserve.</p>

4.	Any activity other than the activities described in Item 1.	The records described opposite Item 2.	Whether the project location is, i. in a natural feature, ii. within 50 metres of an area of natural and scientific interest (earth science), or iii. within 120 metres of a natural feature that is not an area of natural and scientific interest (earth science).
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O. Reg. 97/16, s. 5 (2).

Natural heritage, site investigation

26. (1) Subject to subsection (1.1), for the purposes of conducting a site investigation mentioned in paragraph 2 of subsection 24 (1), a person who proposes to engage, as part of a renewable energy project, in an activity described in Column 1 of the following Table shall ensure that an investigation set out opposite the description in Column 2 of the Table is conducted, either by visiting the site or by an alternative investigation of the site, for the purpose of making the determinations set out opposite the description in Column 3 of the Table:

TABLE

Item	Column 1 Description of activity	Column 2 Investigation	Column 3 Determinations to be made
1.	Any of the following activities: 1. The construction, installation or expansion of a transmission or distribution line. 2. The expansion of an existing transformer station, distribution station or transportation system. 3. If it is engaged in with respect to a Class 3 solar facility, any construction, installation or expansion in addition to the activities described in paragraphs 1 and 2.	Investigation of the air, land and water within 50 metres of any part of the project location on which the activities described in Item 1 of Column 1 are engaged in.	1. Whether the results of the analysis summarized in the report prepared under subsection 25 (3) are correct or require correction, and identifying any required corrections. 2. Whether any additional natural features exist, other than those that were identified in the report prepared under subsection 25 (3). 3. The boundaries, located within 50 metres of the project location, of any natural feature that was identified in the records review or the site investigation. 4. The distance from the project location to the boundaries determined under paragraph 3.
2.	Any activity other than the activities described in Item 1.	Investigation of the air, land and water within 120 metres of any part of the project location on which the activity described in Item 2 of Column 1 is engaged in.	1. Whether the results of the analysis summarized in the report prepared under subsection 25 (3) are correct or require correction, and identifying any required corrections. 2. Whether any additional natural features exist, other than those that were identified in the report prepared under subsection 25 (3). 3. The boundaries, located within 120 metres of the project location, of any natural feature that was identified in the records review or the site investigation. 4. The distance from the project location to the boundaries determined under paragraph 3.

O. Reg. 333/12, s. 6 (1).

(1.1) The person mentioned in subsection (1) may conduct an alternative investigation of the site only if he or she determines that it is not reasonable to conduct a site investigation by visiting the site. O. Reg. 521/10, s. 15 (2).

(2) For the purposes of this section, "natural feature" includes all or part of,

- (a) a sand barrens, a savannah, a tallgrass prairie and an alvar, if the site investigation is being conducted in respect of a project location that is in the Protected Countryside; and
- (b) a sand barrens, a savannah and a tallgrass prairie, if the site investigation is being conducted in respect of a project location that is in the portion of the Oak Ridges Moraine Conservation Plan Area that is subject to the Oak Ridges Moraine Conservation Plan. O. Reg. 359/09, s. 26 (2).

(3) The person mentioned in subsection (1) shall prepare a report setting out the following with respect to the air, land and water in respect of which any site investigation was conducted:

1. A summary of any corrections to the report prepared under subsection 25 (3) and the determinations made as a result of conducting the site investigation.
2. Information establishing the type of each natural feature identified in the records review and in the site investigation.
3. A map showing,
 - i. all boundaries required to be determined under Column 3 of the Table to subsection (1),
 - ii. the location and type of each natural feature identified in relation to the project location, and
 - iii. all distances required to be determined under Column 3 of the Table to subsection (1).
4. A summary of methods used to make observations for the purposes of the site investigation.
5. The name and qualifications of the person conducting the site investigation.
6. If an investigation was conducted by visiting the site:
 - i. The dates and times of the beginning and completion of the site investigation.
 - ii. The duration of the site investigation.
 - iii. The weather conditions during the site investigation.
 - iv. Field notes kept by the person conducting the site investigation.
7. If an alternative investigation of the site was conducted:
 - i. The dates of the generation of the data used in the site investigation.
 - ii. An explanation of why the person who conducted the alternative investigation determined that it was not reasonable to conduct the site investigation by visiting the site. O. Reg. 521/10, s. 15 (3); O. Reg. 333/12, s. 6 (2).

Natural heritage, evaluation of significance

27. (1) In conducting the evaluation of the significance or provincial significance of a natural feature for the purposes of paragraph 3 of subsection 24 (1), a person who proposes to engage in a renewable energy project shall consider any information available to the person relating to natural features, including,

- (a) all information obtained during the records review conducted in accordance with section 25;
- (b) all information obtained during any site investigation conducted in accordance with section 26; and
- (c) all information received from the public, aboriginal communities, municipalities, local road boards and Local Services Boards until such time as the report mentioned in subsection 27 (4) has been prepared. O. Reg. 521/10, s. 16.

(2) For the purposes of the evaluation under subsection (1), a person shall determine that a natural feature is significant if it is a woodland or a wildlife habitat,

(a) that the Ministry of Natural Resources and Forestry has identified as significant; or

(b) that is considered to be significant when evaluated using evaluation criteria or procedures for significant natural features, as set out in the Natural Heritage Assessment Guide. O. Reg. 359/09, s. 27 (2); O. Reg. 333/12, s. 7 (1, 2); O. Reg. 97/16, s. 14.

(3) For the purposes of the evaluation under subsection (1), a person shall determine that a natural feature is provincially significant if it is a southern wetland, a northern wetland, a coastal wetland, an area of natural and scientific interest (earth science) or an area of natural and scientific interest (life science),

(a) that the Ministry of Natural Resources and Forestry has identified as provincially significant; or

(b) that is considered to be provincially significant when evaluated using evaluation criteria or procedures for provincially significant natural features, as set out in the Natural Heritage Assessment Guide. O. Reg. 359/09, s. 27 (3); O. Reg. 333/12, s. 7 (3); O. Reg. 97/16, s. 14.

(4) The person mentioned in subsection (1) shall prepare a report that sets out the following:

1. For each natural feature shown on the map mentioned in paragraph 3 of subsection 26 (3), a determination of whether the natural feature is provincially significant, significant, not significant or not provincially significant.

2. A summary of the evaluation criteria or procedures used to make the determinations mentioned in paragraph 1.

3. The name and qualifications of any person who applied the evaluation criteria or procedures mentioned in paragraph 2.

4. The dates of the beginning and completion of the evaluation. O. Reg. 359/09, s. 27 (4).

(5) This section does not apply if the project location is,

(a) at least 50 metres outside of all areas of natural and scientific interest (earth science); and

(b) at least 120 metres outside of all natural features that are not areas of natural and scientific interest (earth science). O. Reg. 359/09, s. 27 (5).

(6) If the project location is in the Protected Countryside or in the portion of the Oak Ridges Moraine Conservation Plan Area that is subject to the Oak Ridges Moraine Conservation Plan, this section does not apply in respect of,

(a) a sand barrens, a savannah, a tallgrass prairie or an alvar; or

(b) an area that has been identified by the Ministry of Natural Resources and Forestry, using evaluation procedures set out in the Natural Heritage Assessment Guide, as an area of natural and scientific interest (life science) but that has not been identified by that Ministry as provincially significant. O. Reg. 359/09, s. 27 (6); O. Reg. 333/12, s. 7 (4); O. Reg. 97/16, s. 14.

Confirmation from Ministry of Natural Resources and Forestry

28. (1) A person who proposes to engage in a renewable energy project shall submit to the Ministry of Natural Resources and Forestry each plan the person is required to prepare under section 23.1 and each report the person is required to prepare under subsections 25 (3), 26 (3) and 27 (4). O. Reg. 359/09, s. 28 (1); O. Reg. 521/10, s. 17 (1); O. Reg. 97/16, s. 14.

(2) The person mentioned in subsection (1) shall obtain the following in writing from the Ministry of Natural Resources and Forestry:

1. Confirmation that the determination of the existence of natural features and the boundaries of natural features was made using applicable evaluation criteria or procedures set out in the Natural Heritage Assessment Guide.

2. If no natural features were identified, confirmation that the site investigation and records review were conducted using applicable evaluation criteria or procedures set out in the Natural Heritage Assessment Guide.

3. Confirmation that the evaluation of the significance or provincial significance of the natural features was conducted using applicable evaluation criteria or procedures set out in the Natural Heritage Assessment Guide.

4. If the person has determined that the project location is not in a provincial park or conservation reserve, confirmation that that Ministry agrees with the determination.
 5. If the person has determined that the project location is in a provincial park or conservation reserve, confirmation that engaging in the project is not prohibited by or under the *Provincial Parks and Conservation Reserves Act, 2006*.
 6. If section 23.1 applies, comments received from the Ministry of Natural Resources and Forestry in respect of the environmental effects monitoring plan required under that section. O. Reg. 359/09, s. 28 (2); O. Reg. 521/10, s. 17 (2); O. Reg. 333/12, s. 8; O. Reg. 97/16, s. 14.
- (3) As part of an application for the issue of a renewable energy approval, the person mentioned in subsection (1) shall submit,
- (a) the plan and reports mentioned in subsection (1);
 - (b) a copy of any confirmation or comment required under subsection (2); and
 - (c) any additional written comments provided by the Ministry of Natural Resources and Forestry in respect of the natural heritage assessment. O. Reg. 359/09, s. 28 (3); O. Reg. 521/10, s. 17 (3, 4); O. Reg. 97/16, s. 14.

WATER

Water assessment

29. (1) A person who proposes to engage in a renewable energy project shall conduct a water assessment, consisting of the following:

1. A records review conducted in accordance with section 30.
2. A site investigation conducted in accordance with section 31. O. Reg. 359/09, s. 29 (1).

(2) This section and sections 30 and 31 do not apply in respect of a proposal to engage in a renewable energy project in respect of a Class 2 wind facility. O. Reg. 359/09, s. 29 (2).

Water, records review

30. (1) In conducting a records review mentioned in paragraph 1 of subsection 29 (1), a person who proposes to engage in a renewable energy project shall ensure that a search for and analysis of the records set out in Column 1 of the Table to this section are conducted in respect of the project location for the purpose of making the determinations set out opposite the records in Column 2 of the Table. O. Reg. 359/09, s. 30 (1).

(2) As part of an application for the issue of a renewable energy approval, the person mentioned in subsection (1) shall prepare a report setting out a summary of the records searched and the results of the analysis conducted under subsection (1). O. Reg. 359/09, s. 30 (2).

TABLE

Item	Column 1 Records to be searched and analyzed	Column 2 Determination to be made
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1.	<p>Records that relate to water bodies and that are maintained by,</p> <ul style="list-style-type: none"> i. the Ministry of Natural Resources and Forestry, ii. the Crown in right of Canada, iii. a conservation authority, if the project location is in the area of jurisdiction of the conservation authority, iv. each local and upper-tier municipality in which the project location is situated, v. the planning board of an area of jurisdiction of a planning board in which the project location is situated, vi. the municipal planning authority of an area of jurisdiction of a municipal planning authority in which the project location is situated, vii. the local roads board of a local roads area in which the project location is situated, viii. the Local Services Board of a board area in which the project location is situated, and ix. the Niagara Escarpment Commission, if the project location is in the area of the Niagara Escarpment Plan. 	<p>Whether the project location is,</p> <ul style="list-style-type: none"> i. in a water body, ii. within 120 metres of the average annual high water mark of a lake, other than a lake trout lake that is at or above development capacity, iii. within 300 metres of the average annual high water mark of a lake trout lake that is at or above development capacity, iv. within 120 metres of the average annual high water mark of a permanent or intermittent stream, or v. within 120 metres of a seepage area.
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O. Reg. 359/09, s. 30, Table; O. Reg. 97/16, s. 14.

Water, site investigation

31. (1) Subject to subsection (3), for the purposes of conducting a site investigation mentioned in paragraph 2 of subsection 29 (1), a person who proposes to engage in a renewable energy project shall ensure that an investigation of the land and water within 120 metres of the project location is conducted, either by visiting the site or by an alternative investigation of the site, in order to determine,

- (a) whether the results of the analysis summarized in the report prepared under subsection 30 (2) are correct or require correction, and identifying any required corrections;
- (b) whether any additional water bodies exist, other than those identified in the records review;
- (c) the boundaries, located within 120 metres of the project location, of any water body that was identified in the records review or the site investigation; and
- (d) the distance from the project location to the boundaries determined under clause (c). O. Reg. 359/09, s. 31 (1); O. Reg. 521/10, s. 18 (1).

(2) Subject to subsection (3), if, as a result of the records review conducted in accordance with section 30, the person mentioned in subsection (1) has identified, within 300 metres of the project location, the average annual high water mark of a lake trout lake that is at or above development capacity, the person shall ensure that an investigation of the land and water located between the project location and the lake trout lake is conducted, either by visiting the site or by an alternative investigation of the site, for the purpose of determining,

- (a) the boundaries of any lake trout lake that is at or above development capacity, if,
 - (i) the lake was identified in the records review, and
 - (ii) the boundaries are within 300 metres of the project location; and
- (b) the distance from the project location to the boundaries determined under clause (a). O. Reg. 521/10, s. 18 (2).

(3) The person mentioned in subsection (1) may, for the purposes of subsection (1) or (2), conduct an alternative investigation of the site only if he or she determines that it is not reasonable to conduct a site investigation by visiting the site. O. Reg. 521/10, s. 18 (2).

(4) The person mentioned in subsection (1) shall prepare a report setting out the following with respect to the land and water in respect of which any site investigation was conducted:

1. A summary of any corrections to the report prepared under subsection 30 (2) and the determinations made as a result of conducting the site investigation.
2. Information relating to each water body identified in the records review and in the site investigation, including the type of water body, plant and animal composition and the ecosystem of the land and water investigated.
3. A map showing,
 - i. all boundaries mentioned in clauses (1) (c) and (2) (a),
 - ii. the location and type of each water body identified in relation to the project location, and
 - iii. all distances mentioned in clauses (1) (d) and (2) (b).
4. A summary of methods used to make observations for the purposes of the site investigation.
5. The name and qualifications of any person conducting the site investigation.
6. If an investigation was conducted by visiting the site:
 - i. The dates and times of the beginning and completion of the site investigation.
 - ii. The duration of the site investigation.
 - iii. The weather conditions during the site investigation.
 - iv. Field notes kept by the person conducting the site investigation.
7. If an alternative investigation of the site was conducted:
 - i. The dates of the generation of the data used in the site investigation.
 - ii. An explanation of why the person who conducted the alternative investigation determined that it was not reasonable to conduct the site investigation by visiting the site. O. Reg. 521/10, s. 18 (2).

(5) As part of an application for the issue of a renewable energy approval, the person mentioned in subsection (1) shall submit the report prepared under subsection (4). O. Reg. 521/10, s. 18 (2).

NIAGARA ESCARPMENT

Niagara Escarpment

32. (1) A person who proposes to engage in a renewable energy project in respect of a project location in the area of the Niagara Escarpment Plan shall, in accordance with subsection (1.1), submit drafts of the following reports, prepared in accordance with Table 1, to the chair of the Niagara Escarpment Commission:

1. The project description report.
2. The design and operations report.
3. The construction plan report.
4. The decommissioning plan report. O. Reg. 359/09, s. 32 (1); O. Reg. 521/10, s. 19 (1).

(1.1) The drafts mentioned in subsection (1) shall be distributed,

- (a) if section 16 applies, at least 90 days before the final public meeting is held for the purposes of subsection 16 (1) in respect of a renewable energy project; or
- (b) if section 16 does not apply, at least 30 days before an application for a renewable energy approval is submitted to the Director. O. Reg. 521/10, s. 19 (2); O. Reg. 195/12, s. 16.

(2) As part of an application for the issue of a renewable energy approval, a person who proposes to engage in a renewable energy project mentioned in subsection (1) shall submit,

- (a) evidence that the drafts mentioned in paragraphs 1, 2, 3 and 4 of subsection (1) were submitted to the chair of the Niagara Escarpment Commission; and
- (b) if a development permit is required in respect of engaging in a renewable energy project under the *Niagara Escarpment Planning and Development Act*, a copy of the development permit. O. Reg. 359/09, s. 32 (2); O. Reg. 521/10, s. 19 (3).

PART IV.1
RENEWABLE ENERGY APPROVALS — APPLICATION PROCESS AFTER APPROVAL ISSUED

Application of Part

32.1 (1) This Part applies to a person who,

- (a) has obtained a renewable energy approval to engage in a renewable energy project; and
- (b) proposes to engage in the project in a manner that would not be under the authority of and in accordance with the approval because the proposal,
 - (i) involves making a change in respect of the project, or
 - (ii) would not be consistent with the terms or conditions of the approval. O. Reg. 195/12, s. 17.

(1.1) Despite subsection (1), this Part does not apply in respect of a change to which section 9.1 applies. O. Reg. 97/16, s. 6.

(2) Without limiting subclause (1) (b) (i), the change in respect of the project may be,

- (a) a change to a renewable energy generation facility;
- (b) a change to the manner of engaging in the project; or
- (c) a change to, including an expansion of, the scope of the project. O. Reg. 195/12, s. 17.

Application and report, proposed change

32.2 (1) A person who proposes to engage in a renewable energy project as described in subsection 32.1 (1) may submit an application for one or both of the following:

1. The issue of a renewable energy approval in respect of the proposed change.
2. The alteration of the terms or conditions of a renewable energy approval in respect of the proposed alteration. O. Reg. 195/12, s. 17.

(2) For the purposes of subsection (1), an application shall consist of the following:

1. An application, in a form or format approved by the Director, for the proposed change or alteration.
2. One or more reports that set out a description of and rationale for the proposed change or alteration, including any proposed changes or alterations in respect of the following:
 - i. The name plate capacity of the renewable energy generation facility.
 - ii. The energy sources to be used to generate electricity at the renewable energy generation facility.
 - iii. The project location.
 - iv. The renewable energy generation facility, including any associated or ancillary equipment, systems or technologies.
 - v. The activities that will be engaged in as part of the project.
 - vi. The negative environmental effects that may result from engaging in the project.
 - vii. The measures to mitigate the negative environmental effects that may result from engaging in the project.

3. Any document that is required to be submitted for the purposes of obtaining an exemption from a provision of Part V.

4. If the application relates to a change that would increase the name plate capacity of the renewable energy generation facility and the change would not take place on the same parcel or parcels of land on which the facility is approved to be constructed, installed, operated or used, one or more of the following documents:
- i. A copy of one or more agreements, entered into for a period of at least 10 years between the person who proposes to engage in the renewable energy project and one or more persons, in respect of the supply of the additional electricity to be generated at the facility, identifying the amount of electricity that is to be supplied under the agreement.
 - ii. Documentation that establishes that the person who proposes to engage in the renewable energy project proposes to generate the additional electricity at the facility for their own use.
 - iii. Documentation that establishes that the person who proposes to engage in the renewable energy project has, in respect of the additional electricity to be generated at the facility,
 - A. entered into a net metering agreement with a distributor, in conformity with Ontario Regulation 541/05 (Net Metering) made under the *Ontario Energy Board Act, 1998*, or
 - B. applied to connect the facility for the purposes of entering into a net metering agreement with a distributor or notified the distributor that it wishes to be billed on a net metering basis, in conformity with the regulation mentioned in sub-subparagraph A.
 - iv. A declaration prepared by the person who proposes to engage in the renewable energy project, indicating that the person intends to participate in the IESO-administered markets as a market participant.
 - v. A declaration prepared by the person who proposes to engage in the renewable energy project, indicating that the person intends to participate in a procurement process established by the Independent Electricity System Operator.
5. If the application relates to a change that would not take place on the same parcel or parcels of land on which the facility is approved to be constructed, installed, operated or used, written confirmation from the following bodies that any proposed change that would take place on the parcel or parcels of land on which the facility has not been approved to be constructed, installed, operated or used would not result in a use of the land that is prohibited by a zoning by-law or zoning order under Part V of the *Planning Act*:
- i. Any local municipality in which the project location is situated.
 - ii. Any planning board that has jurisdiction in an area without municipal organization in which the project location is situated.
 - iii. The Ministry of Municipal Affairs and Housing, if the project location is situated in an area without municipal organization and no planning board has jurisdiction in respect of that location. O. Reg. 195/12, s. 17; O. Reg. 122/19, s. 4.

Additional notice and consultation requirements

32.3 (1) In the circumstances described in subsection (2), the Director may, by written notice to a person who submitted an application under section 32.2, require the person to do one or more of the following:

1. Prepare a notice, in a form approved by the Director, of,
 - i. the proposed change or alteration, or
 - ii. the location and time of a public meeting to be held for the purpose of conducting consultations in respect of the proposed change or alteration.
2. Distribute a notice mentioned in paragraph 1,

- i. in accordance with paragraphs 1, 2, 3 and 4 of subsection 15 (6), to the persons mentioned in paragraph 5 of subsection 15 (6), and
- ii. at least 30 days before the meeting mentioned in subparagraph 1 ii, if a public meeting is required under paragraph 3.

3. Hold one or more public meetings,

- i. in each local municipality in which the project location is situated, and
- ii. if the project location is in unorganized territory,

A. within 25 kilometres of the project location, or

B. in the local municipality that is closest to the project location, if there is no appropriate place to hold a public meeting in the area described in sub-subparagraph A.

4. Make the report or reports prepared under paragraph 2 of subsection 32.2 (2) and any of the documents that are mentioned in paragraph 3 of subsection 32.2 (2) or required to be obtained or prepared under section 32.4 available in the manner described in clauses 16 (5) (a) to (d) for a period of time specified by the Director. O. Reg. 195/12, s. 17; O. Reg. 333/12, s. 9.

(2) The Director may provide written notice under subsection (1), if, in the opinion of the Director, failure to require additional public notification or public consultation under this section might result in an inadequate understanding by the public of the negative environmental effects of the proposed changes or alterations. O. Reg. 195/12, s. 17.

Additional information requirements

32.4 The Director may, by written notice to a person who submitted an application under section 32.2, require the person to obtain or prepare, as the case may be, one or more of the documents that are required to be submitted as part of an application under Part IV. O. Reg. 195/12, s. 17.

Application of s. 13 (3) and (4)

32.5 Subsections 13 (3) and (4) apply in respect of this Part. O. Reg. 195/12, s. 17.

PART V

PROHIBITIONS — RENEWABLE ENERGY PROJECTS

APPLICATION AND INTERPRETATION OF PART

Application of Part

33. (1) This Part applies to a person who is engaging in a renewable energy project in respect of which the issue of a renewable energy approval is required, other than a renewable energy project in respect of a Class 2 wind facility. O. Reg. 359/09, s. 33 (1).

(2) Despite subsection (1), sections 53, 54 and 55 apply to a person who is engaging in any renewable energy project in respect of a Class 3, 4 or 5 wind facility. O. Reg. 359/09, s. 33 (2).

(3) Despite subsection (2), sections 53, 54 and 55 do not apply to a person who is constructing, installing or expanding a Class 3, 4 or 5 wind facility if,

- (a) a certificate of approval that was required under section 9 of the Act in respect of the construction, installation or expansion was obtained on a day before the day that Part V.0.1 of the Act came into force; or
- (b) section 47.3 of the Act does not apply to the person pursuant to paragraph 2 of subsection 9 (1). O. Reg. 376/09, s. 1.

(4) Despite clause (3) (a), sections 53, 54 and 55 apply to a person in respect of a change to a wind turbine described in subsection (5) if the person,

- (a) is otherwise eligible for the exemption set out in clause (3) (a) in respect of the wind turbine; and

(b) applies for an amendment to an environmental compliance approval that would have the effect of authorizing the person to change the location of the wind turbine or increase the name plate capacity or sound power level of the wind turbine.

O. Reg. 195/12, s. 18.

(5) For the purposes of subsection (4), the following are changes to a wind turbine:

1. A change in the location of the wind turbine.

2. An increase in the name plate capacity or the sound power level of the wind turbine. O. Reg. 195/12, s. 18.

Reference to application

33.1 In this Part, a reference to an application for the issue of a renewable energy approval includes an application submitted under section 32.2. O. Reg. 195/12, s. 19.

Significant and provincially significant natural features

34. In this Part, a reference to a significant natural feature or a provincially significant natural feature is a reference to a natural feature that,

(a) the Ministry of Natural Resources and Forestry has identified as significant or provincially significant, as the case may be; or

(b) has been confirmed in writing by the Ministry of Natural Resources and Forestry to have been determined to be significant or provincially significant, as the case may be, using applicable evaluation criteria or procedures set out in the Natural Heritage Assessment Guide. O. Reg. 359/09, s. 34; O. Reg. 333/12, s. 10; O. Reg. 97/16, s. 14.

GENERAL PROHIBITIONS

Associated transformers

35. (1) Subject to subsections (1.0.1) to (2), no person shall construct, install or expand a transformer substation that forms part of a renewable energy generation facility and that is capable of operating at a nominal voltage of 50 kV or more unless,

(a) the transformer substation is constructed, installed or expanded with an acoustic barrier with a density of at least 20kg/m² that breaks the line of sight with any noise receptors and is located at a distance of at least 500 metres from any noise receptors; or

(b) the transformer substation is located at a distance of at least 1,000 metres from any noise receptors. O. Reg. 333/12, s. 11 (1).

(1.0.1) Subsection (1) applies in respect of a noise receptor described in paragraph 4 of subsection 1 (4) only if the noise receptor is specified in the renewable energy approval. O. Reg. 333/12, s. 11 (1).

(1.1) If a person proposes to construct, install or expand a transformer substation as part of a renewable energy generation facility, other than as part of a Class 4 or 5 wind facility, subsection (1) does not apply in respect of a noise receptor that did not exist on the day the person proposing to construct, install or expand the facility submitted an application for the issue of a renewable energy approval to the Director. O. Reg. 521/10, s. 20.

(1.2) If the person proposing to construct, install or expand the transformer substation as part of a Class 4 or 5 wind facility issued or published a notice of completion in respect of the renewable energy generation facility pursuant to Ontario Regulation 116/01 (Electricity Projects) made under the *Environmental Assessment Act*, subsection (1) does not apply in respect of a noise receptor that did not exist on the day on which the notice was issued or published. O. Reg. 333/12, s. 11 (2).

(1.3) Subsection (1) does not apply in respect of a noise receptor that did not exist on the day the person proposing to construct, install or expand the transformer substation as part of a Class 4 or 5 wind facility submitted an application for the issue of a renewable energy approval in respect of the renewable energy project. O. Reg. 333/12, s. 11 (2).

(1.4) If the person proposing to construct, install or expand the transformer substation as part of a Class 4 or 5 wind facility has not yet submitted an application for the issue of a renewable energy approval in respect of a renewable energy project, has published or posted notice of a draft site plan in accordance with subclause 54.1 (c) (i) or (ii) and the following conditions are met, subsection (1) does not apply in respect of a noise receptor that did not exist on the day before the person first published or posted the notice of the draft site plan:

1. If the construction, installation or expansion is on private land, the person must have obtained property rights sufficient to permit the construction, installation or expansion of all of the transformer substation that is proposed to form part of the wind facility.
2. The person must submit an application for the issue of a renewable energy approval in respect of the renewable energy project within 18 months after the publication or posting of the notice.
3. The person must meet the requirements set out in section 54.1 in respect of each draft site plan that is made available.
4. If the person proposes to change the location of the transformer substation, the person must, within the 18-month period mentioned in paragraph 2, prepare an updated draft site plan and meet the requirements set out in section 54.1 in respect of each updated draft site plan.
5. If the notice of a draft site plan or updated draft site plan is published or posted after the day Ontario Regulation 333/12 made under the Act came into force, the person must prepare a draft report in accordance with the publication of the Ministry of the Environment and Climate Change entitled "Noise Guidelines for Wind Farms", dated October 2008, as amended from time to time and available from the Ministry and make the draft report available along with the draft site plan in accordance with clauses 54.1 (d) and (e). O. Reg. 333/12, s. 11 (2); O. Reg. 97/16, s. 13.

(1.5) Subsection (1) does not apply in respect of a noise receptor that did not exist on the day before the person proposing to construct, install or expand the transformer substation as part of a Class 4 or 5 wind facility made the location of the proposed wind turbine available to the public by publishing the location in a newspaper or on the person's website, if the person has a website, or by disclosing the location at a public meeting required to be held under section 16, if the following conditions are met:

1. The day the location information was made available to the public must have been a day before subsection 1 (1) of Ontario Regulation 521/10 made under the Act came into force.
2. The person must submit an application for the issue of a renewable energy approval in respect of the renewable energy project within six months after the day subsection 1 (1) of Ontario Regulation 521/10 made under the Act came into force or within a longer period of time as may have been specified by the Director. O. Reg. 333/12, s. 11 (2).

(1.6) REVOKED: O. Reg. 333/12, s. 11 (2).

(2) Subsection (1) does not apply if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy generation facility, the applicant submits,

- (a) if the application is in respect of a wind facility, a report prepared in accordance with the publication of the Ministry of the Environment and Climate Change entitled "Noise Guidelines for Wind farms" dated October 2008, as amended from time to time and available from the Ministry; or
- (b) if the application is in respect of a facility other than a wind facility, a noise study report prepared in accordance with Table 1. O. Reg. 359/09, s. 35 (2); O. Reg. 97/16, s. 13.

Non-renewable energy sources

36. No person shall operate or use a renewable energy generation facility unless, on an annual basis,

- (a) if the facility has a name plate capacity of less than or equal to 500 kW, at least 90 per cent of the electricity generated at the facility is generated from a renewable energy source; and
- (b) if the facility has a name plate capacity of greater than 500 kW, at least 95 per cent of the electricity generated at the facility is generated from a renewable energy source. O. Reg. 359/09, s. 36.

NATURAL FEATURES AND WATER BODIES — GENERAL

Specified wetlands, provincial parks, conservation reserves

37. (1) No person shall construct, install or expand a renewable energy generation facility as part of a renewable energy project at a project location that is in any of the following locations:

1. A provincially significant southern wetland.
2. A provincially significant coastal wetland.
3. A provincial park or a conservation reserve, unless the construction, installation or expansion of the facility is not prohibited by or under the *Provincial Parks and Conservation Reserves Act, 2006*. O. Reg. 359/09, s. 37.

(2) Paragraphs 1 and 2 of subsection (1) do not apply in respect of the construction or installation of a transmission or distribution line that is being constructed or installed as part of the renewable energy generation facility or the expansion of an existing transmission or distribution line, transformer station, distribution station or transportation system that is to form part of the renewable energy generation facility if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits,

- (a) an environmental impact study report prepared in accordance with the Natural Heritage Assessment Guide, that,
 - (i) identifies and assesses any negative environmental effects of the project on a wetland referred to in paragraph 1 or 2 of subsection (1),
 - (ii) identifies mitigation measures in respect of any negative environmental effects mentioned in subclause (i),
 - (iii) describes how the environmental effects monitoring plan set out in paragraph 4 of Item 4 of Table 1 addresses any negative environmental effects mentioned in subclause (i),
 - (iv) describes how the construction plan report prepared in accordance with Table 1 addresses any negative environmental effects mentioned in subclause (i), and
 - (v) explains why it is not reasonable for the project location to be entirely outside the locations mentioned in paragraphs 1 and 2 of subsection (1);
- (b) written confirmation from the Ministry of Natural Resources and Forestry that the report mentioned in clause (a) has been prepared in accordance with the Natural Heritage Assessment Guide; and
- (c) any written comments provided by the Ministry of Natural Resources and Forestry to the applicant in respect of the project. O. Reg. 333/12, s. 12; O. Reg. 97/16, s. 14.

Specified natural features

38. (1) No person shall engage in an activity described in Column 1 of the following Table in respect of a renewable energy generation facility as part of a renewable energy project at a project location that is in any of the locations described opposite the activity in Column 2 of the Table:

TABLE

Item	Column 1 Activity	Column 2 Location in which activity is prohibited
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1.	<p>1. The construction, installation or expansion of a transmission or distribution line.</p> <p>2. The expansion of an existing transformer station, distribution station or transportation system.</p> <p>3. If it is engaged in with respect to a Class 3 solar facility, any construction, installation or expansion in addition to the activities described in paragraphs 1 and 2.</p>	<p>1. A provincially significant northern wetland or within 50 metres of a provincially significant northern wetland.</p> <p>2. Within 50 metres of a provincially significant southern wetland.</p> <p>3. Within 50 metres of a provincially significant coastal wetland.</p> <p>4. A provincially significant area of natural and scientific interest (earth science) or within 50 metres of a provincially significant area of natural and scientific interest (earth science).</p> <p>5. A provincially significant area of natural and scientific interest (life science) or within 50 metres of a provincially significant area of natural and scientific interest (life science).</p> <p>6. A significant woodland or within 50 metres of a significant woodland.</p> <p>7. A significant wildlife habitat or within 50 metres of a significant wildlife habitat.</p> <p>8. Within 50 metres of a provincial park.</p> <p>9. Within 50 metres of a conservation reserve.</p>
2.	<p>Any construction, installation or expansion other than construction, installation or expansion described in Item 1.</p>	<p>1. A provincially significant northern wetland or within 120 metres of a provincially significant northern wetland.</p> <p>2. Within 120 metres of a provincially significant southern wetland.</p> <p>3. Within 120 metres of a provincially significant coastal wetland.</p> <p>4. A provincially significant area of natural and scientific interest (earth science) or within 50 metres of a provincially significant area of natural and scientific interest (earth science).</p> <p>5. A provincially significant area of natural and scientific interest (life science) or within 120 metres of a provincially significant area of natural and scientific interest (life science).</p> <p>6. A significant woodland or within 120 metres of a significant woodland.</p> <p>7. A significant wildlife habitat or within 120 metres of a significant wildlife habitat.</p> <p>8. Within 120 metres of a provincial park.</p> <p>9. Within 120 metres of a conservation reserve.</p>

O. Reg. 333/12, s. 13 (1).

(2) Subsection (1) does not apply if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits,

- (a) an environmental impact study report prepared in accordance with the Natural Heritage Assessment Guide, that,
 - (i) identifies and assesses any negative environmental effects of the project on a natural feature, provincial park or conservation reserve referred to in the Table to subsection (1),
 - (ii) identifies mitigation measures in respect of any negative environmental effects mentioned in subclause (i),
 - (iii) describes how the environmental effects monitoring plan set out in paragraph 4 of item 4 of Table 1 addresses any negative environmental effects mentioned in subclause (i), and
 - (iv) describes how the construction plan report prepared in accordance with Table 1 addresses any negative environmental effects mentioned in subclause (i);
 - (b) written confirmation from the Ministry of Natural Resources and Forestry that the report mentioned in clause (a) has been prepared in accordance with the Natural Heritage Assessment Guide; and
 - (c) any written comments provided by the Ministry of Natural Resources and Forestry to the applicant in respect of the project.
- O. Reg. 359/09, s. 38 (2); O. Reg. 521/10, s. 21; O. Reg. 333/12, s. 13 (2-4); O. Reg. 97/16, s. 14.

Water bodies

39. (1) No person shall construct, install or expand a renewable energy generation facility as part of a renewable energy project in a project location that is in any of the following locations:

1. A lake or within 30 metres of the average annual high water mark of a lake.
2. A permanent or intermittent stream or within 30 metres of the average annual high water mark of a permanent or intermittent stream.
3. A seepage area or within 30 metres of a seepage area. O. Reg. 359/09, s. 39 (1).

(2) Subsection (1) does not apply if the facility is a facility mentioned in subsection (3) and, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits a report that,

- (a) identifies and assesses any negative environmental effects of the project on a water body referred to in paragraphs 1 to 3 of subsection (1) and on land within 30 metres of the water body;
- (b) identifies mitigation measures in respect of any negative environmental effects mentioned in clause (a);
- (c) describes how the environmental effects monitoring plan set out in paragraph 4 of item 4 of Table 1 addresses any negative environmental effects mentioned in clause (a); and
- (d) describes how the construction plan report prepared in accordance with Table 1 addresses any negative environmental effects mentioned in clause (a). O. Reg. 359/09, s. 39 (2).

(3) Subsection (2) applies in respect of the following facilities:

1. A Class 3 or 4 wind facility, if no wind turbine or transformer substation is constructed, installed or expanded in a project location described in subsection (1).
2. A Class 5 wind facility, if no transformer substation is constructed, installed or expanded in a project location described in subsection (1).
3. A Class 3 solar facility, if no solar photovoltaic panel or device and no transformer substation is constructed, installed or expanded in a project location described in subsection (1).
4. An anaerobic digestion facility, if no biomass storage areas, source separated organics storage areas, farm material storage areas, digestate storage tanks, generating units, flares, anaerobic digesters and transformer substations are constructed, installed or expanded in a project location described in subsection (1).
5. A thermal treatment facility, if no biomass storage areas or transformer substations are constructed, installed or expanded in a project location described in subsection (1). O. Reg. 359/09, s. 39 (3); O. Reg. 521/10, s. 22 (1-5).

(4) For the purposes of this section,

“transformer substation” means a transformer substation capable of operating at a nominal voltage of 50 kV or more. O. Reg. 521/10, s. 22 (6).

Water bodies, continued

40. (1) No person shall construct, install or expand a renewable energy generation facility as part of a renewable energy project at a project location that is in any of the following locations:

1. Within 120 metres of the average annual high water mark of a lake, other than a lake trout lake that is at or above development capacity.
2. Within 300 metres of the average annual high water mark of a lake trout lake that is at or above development capacity.
3. Within 120 metres of the average annual high water mark of a permanent or intermittent stream.
4. Within 120 metres of a seepage area. O. Reg. 359/09, s. 40 (1); O. Reg. 521/10, s. 23.

(2) Subsection (1) does not apply if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits a report that,

- (a) identifies and assesses any negative environmental effects of the project on a water body referred to in paragraphs 1 to 4 of subsection (1) and on land within 30 metres of the water body;
- (b) identifies mitigation measures in respect of any negative environmental effects mentioned in clause (a);

- (c) describes how the environmental effects monitoring plan set out in paragraph 4 of item 4 of Table 1 addresses any negative environmental effects mentioned in clause (a); and
- (d) describes how the construction plan report prepared in accordance with Table 1 addresses any negative environmental effects mentioned in clause (a). O. Reg. 359/09, s. 40 (2).

NATURAL FEATURES AND WATER BODIES — GREENBELT

Specified natural features in Natural Heritage System

41. (1) Subject to subsection (2) and in addition to sections 37, 38, 39 and 40, this section applies to a person who is constructing, installing or expanding a renewable energy generation facility as part of a renewable energy project at a project location in the Protected Countryside. O. Reg. 359/09, s. 41 (1).

(2) This section does not apply to a person who is constructing, installing or expanding a renewable energy generation facility as part of a renewable energy project at a project location that is entirely within a Protected Countryside settlement area. O. Reg. 359/09, s. 41 (2); O. Reg. 333/12, s. 14 (1).

(3) In this section, a reference to a natural feature includes all or part of a sand barrens, a savannah, a tallgrass prairie and an alvar in the Protected Countryside. O. Reg. 359/09, s. 41 (3).

(4) No person shall engage in an activity described in Column 1 of the following Table in respect of a renewable energy generation facility as part of a renewable energy project at a project location that is in any of the locations in the Natural Heritage System that are described opposite the activity in Column 2 of the Table:

TABLE

Item	Column 1 Activity	Column 2 Location in Natural Heritage System in which activity is prohibited
1.	1. The construction, installation or expansion of a transmission or distribution line. 2. The expansion of an existing transformer station, distribution station or transportation system. 3. If it is engaged in with respect to a Class 3 solar facility, any construction, installation or expansion in addition to the activities described in paragraphs 1 and 2.	1. A southern wetland that is not a provincially significant southern wetland or within 50 metres of a southern wetland that is not a provincially significant southern wetland. 2. A sand barrens, savannah or tallgrass prairie or within 50 metres of a sand barrens, savannah or tallgrass prairie. 3. An alvar or within 50 metres of an alvar. 4. An area of natural and scientific interest (life science) that is mentioned in clause 27 (6) (b) or within 50 metres of an area of natural and scientific interest (life science) that is mentioned in that clause.
2.	Any construction, installation or expansion other than construction, installation or expansion described in Item 1.	1. A southern wetland that is not a provincially significant southern wetland or within 120 metres of a southern wetland that is not a provincially significant southern wetland. 2. A sand barrens, savannah or tallgrass prairie or within 120 metres of a sand barrens, savannah or tallgrass prairie. 3. An alvar or within 120 metres of an alvar. 4. An area of natural and scientific interest (life science) that is mentioned in clause 27 (6) (b) or within 120 metres of an area of natural and scientific interest (life science) that is mentioned in that clause.

O. Reg. 333/12, s. 14 (2).

(5) Subsection (4) does not apply if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits,

- (a) an environmental impact study report prepared in accordance with the Natural Heritage Assessment Guide, that
 - (i) identifies and assesses any negative environmental effects of the project on a natural feature referred to in the Table to subsection (4),
 - (ii) identifies mitigation measures in respect of any negative environmental effects mentioned in subclause (i),
 - (iii) describes how the environmental effects monitoring plan set out in paragraph 4 of item 4 of Table 1 addresses any negative environmental effects mentioned in subclause (i), and
 - (iv) describes how the construction plan report prepared in accordance with Table 1 addresses any negative environmental effects mentioned in subclause (i);
- (b) written confirmation from the Ministry of Natural Resources and Forestry that the report mentioned in clause (a) has been prepared in accordance with the Natural Heritage Assessment Guide; and
- (c) any written comments provided by the Ministry of Natural Resources and Forestry to the applicant in respect of the project.

O. Reg. 359/09, s. 41 (5); O. Reg. 521/10, s. 24; O. Reg. 333/12, s. 14 (3-5); O. Reg. 97/16, s. 14.

NATURAL FEATURES AND WATER BODIES — OAK RIDGES MORAINE

Oak Ridges Moraine

42. (1) In addition to sections 37 and 38, sections 43, 44, 45 and 46 apply to a person who is constructing, installing or expanding a renewable energy generation facility as part of a renewable energy project at a project location that is in the portion of the Oak Ridges Moraine Conservation Area that is subject to the Oak Ridges Moraine Conservation Plan. O. Reg. 359/09, s. 42 (1); O. Reg. 521/10, s. 25.

(2) Sections 39 and 40 do not apply to a person who is constructing, installing or expanding a renewable energy generation facility as part of a renewable energy project at a project location that is in the portion of the Oak Ridges Moraine Conservation Plan Area that is subject to the Oak Ridges Moraine Conservation Plan. O. Reg. 359/09, s. 42 (2).

Specified natural features

43. (1) No person shall engage in an activity described in Column 1 of the following Table in respect of a renewable energy generation facility as part of a renewable energy project at a project location that is in any of the locations described opposite the activity in Column 2 of the Table:

TABLE

Item	Column 1 Activity	Column 2 Location in which activity is prohibited
1.	1. The construction, installation or expansion of a transmission or distribution line. 2. The expansion of an existing transformer station, distribution station or transportation system. 3. If it is engaged in with respect to a Class 3 solar facility, any construction, installation or expansion in addition to the activities described in paragraphs 1 and 2.	1. A southern wetland that is not a provincially significant southern wetland or within 50 metres of a southern wetland that is not a provincially significant southern wetland. 2. A sand barrens, savannah or tallgrass prairie or within 50 metres of a sand barrens, savannah or tallgrass prairie. 3. An area of natural and scientific interest (life science) that is mentioned in clause 27 (6) (b) or within 50 metres of an area of natural and scientific interest (life science) that is mentioned in that clause.

2.	Any construction, installation or expansion other than construction, installation or expansion described in Item 1.	<p>1. A southern wetland that is not a provincially significant southern wetland or within 120 metres of a southern wetland that is not a provincially significant southern wetland.</p> <p>2. A sand barrens, savannah or tallgrass prairie or within 120 metres of a sand barrens, savannah or tallgrass prairie.</p> <p>3. An area of natural and scientific interest (life science) that is mentioned in clause 27 (6) (b) or within 120 metres of an area of natural and scientific interest (life science) that is mentioned in that clause.</p>
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O. Reg. 333/12, s. 15 (1).

(2) In this section, a reference to a natural feature includes all or part of a sand barrens, a savannah and a tallgrass prairie in the portion of the Oak Ridges Moraine Conservation Plan Area that is subject to the Oak Ridges Moraine Conservation Plan. O. Reg. 359/09, s. 43 (2).

(3) Subsection (1) does not apply if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits,

- (a) an environmental impact study report prepared in accordance with the Natural Heritage Assessment Guide, that,
 - (i) identifies and assesses any negative environmental effects of the project on a natural feature referred to in the Table to subsection (1),
 - (ii) identifies mitigation measures in respect of any negative environmental effects mentioned in subclause (i),
 - (iii) describes how the environmental effects monitoring plan set out in paragraph 4 of item 4 of Table 1 addresses any negative environmental effects mentioned in subclause (i), and
 - (iv) describes how the construction plan report prepared in accordance with Table 1 addresses any negative environmental effects mentioned in subclause (i);
- (b) written confirmation from the Ministry of Natural Resources and Forestry that the report mentioned in clause (a) has been prepared in accordance with the Natural Heritage Assessment Guide; and
- (c) any written comments provided by the Ministry of Natural Resources and Forestry to the applicant in respect of the project. O. Reg. 359/09, s. 43 (3); O. Reg. 333/12, s. 15 (2-4); O. Reg. 97/16, s. 14.

(4) Except in respect of a natural feature mentioned in the Table to subsection (1) that is located in an Oak Ridges Moraine settlement area, subsection (1) does not apply in respect of the construction, installation or expansion of a renewable energy generation facility as part of a renewable energy project at a project location that is entirely within an Oak Ridges Moraine settlement area. O. Reg. 359/09, s. 43 (4); O. Reg. 333/12, s. 15 (5).

Water bodies

44. (1) No person shall construct, install or expand a renewable energy generation facility as part of a renewable energy project at a project location that is in any of the following locations:

- 1. A kettle lake or within 30 metres of the average annual high water mark of a kettle lake.
- 2. A permanent or intermittent stream or within 30 metres of the average annual high water mark of a permanent or intermittent stream.
- 3. A seepage area or within 30 metres of a seepage area. O. Reg. 359/09, s. 44 (1).

(2) Subsection (1) does not apply in respect of the construction or installation of a transmission line that is being constructed or installed as part of the renewable energy generation facility or to the expansion of a transmission line that is part of the renewable energy generation facility if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits a report that,

- (a) identifies and assesses any negative environmental effects of the construction, installation or expansion of the transmission line and of the operation or use of the transmission line on any water body referred to in paragraphs 1 to 3 of subsection (1) and on land within 30 metres of the water body;
- (b) identifies mitigation measures in respect of any negative environmental effects mentioned in clause (a);
- (c) describes how the environmental effects monitoring plan set out in paragraph 4 of item 4 of Table 1 addresses any negative environmental effects mentioned in clause (a); and
- (d) describes how the construction plan report prepared in accordance with Table 1 addresses any negative environmental effects mentioned in clause (a). O. Reg. 359/09, s. 44 (2).

Water bodies, continued

45. (1) No person shall construct, install or expand a renewable energy generation facility as part of a renewable energy project at a project location that is in any of the following locations:

1. Within 120 metres of the average annual high water mark of a kettle lake that is not a lake trout lake that is at or above development capacity.
2. Within 300 metres of the average annual high water mark of a kettle lake that is a lake trout lake that is at or above development capacity.
3. Within 120 metres of the average annual high water mark of a permanent or intermittent stream.
4. Within 120 metres of a seepage area. O. Reg. 359/09, s. 45 (1).

(2) Subsection (1) does not apply if, as part of an application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits a report that,

- (a) identifies and assesses any negative environmental effects of the project on a water body referred to in paragraphs 1 to 4 of subsection (1) and on land within 30 metres of the water body;
- (b) identifies mitigation measures in respect of any negative environmental effects mentioned in clause (a);
- (c) describes how the environmental effects monitoring plan set out in paragraph 4 of item 4 of Table 1 addresses any negative environmental effects mentioned in clause (a); and
- (d) describes how the construction plan report prepared in accordance with Table 1 addresses any negative environmental effects mentioned in clause (a). O. Reg. 359/09, s. 45 (2).

(3) Except in respect of a water body mentioned in paragraph 1, 2, 3 or 4 of subsection (1) that is located, in whole or in part, within an Oak Ridges Moraine settlement area, subsection (1) does not apply in respect of the construction, installation or expansion of a renewable energy generation facility as part of a renewable energy project if the project location is entirely within an Oak Ridges Moraine settlement area. O. Reg. 359/09, s. 45 (3).

Rapid infiltration basin or column

46. (1) No person shall construct, install or expand a part of a renewable energy generation facility that will be used or operated, or is used or operated, as a rapid infiltration basin or a rapid infiltration column. O. Reg. 359/09, s. 46 (1).

(2) For the purposes of subsection (1),

“rapid infiltration basin” and “rapid infiltration column” have the same meanings as in subsection 47 (3) of Ontario Regulation 140/02 (Oak Ridges Moraine Conservation Plan) made under the *Oak Ridges Moraine Conservation Act, 2001*. O. Reg. 359/09, s. 46 (2).

ANAEROBIC DIGESTION FACILITIES

Class 1 and 2 anaerobic digestion facilities, less than or equal to 500 kW

47. (1) This section applies to a person who is constructing, installing or expanding a Class 1 or Class 2 anaerobic digestion facility that has a name plate capacity of less than or equal to 500 kW. O. Reg. 359/09, s. 47 (1).

(2) No person shall construct, install or expand a facility mentioned in subsection (1) unless any biomass storage areas, farm material storage areas, digestate storage tanks, generating units, flares and anaerobic digesters of the facility are,

(a) at least 250 metres from the nearest odour receptor; or

(b) at least 125 metres from the nearest odour receptor, if,

(i) the conditions set out in subsection (3) are met, or

(ii) the facility is designed to minimize the discharge of odour to at least the same extent as if the conditions set out in subsection (3) were met. O. Reg. 359/09, s. 47 (2).

(3) For the purposes of subclause (2) (b) (i), the following conditions must be met:

1. The facility must be designed to be equipped with an anaerobic digester that has a gas storage cover with a design permeability of less than $500 \text{ cm}^3/\text{m}^2/\text{day}/\text{bar}$.

2. If the facility is designed to be equipped with,

i. any digestate storage tanks storing liquid digestate, the tanks storing liquid digestate with a total storage volume set out in Column 1 of Table 2 must be located at a distance from the nearest odour receptor that is equal to or greater than the distance set out opposite the volume in Column 2 of that Table, and

ii. any digestate storage tanks storing solid digestate, the tanks storing solid digestate with a total storage volume set out in Column 1 of Table 3 must be located at a distance from the nearest odour receptor that is equal to or greater than the distance set out opposite the volume in Column 2 of that Table.

3. If the facility is designed to be equipped with flares, they must be located at a distance from the nearest odour receptor that is equal to or greater than the greatest distance at which any digestate storage tank is required to be located from the nearest odour receptor under paragraph 2.

4. The facility must be designed to operate with a minimum average monthly input of five per cent manure. O. Reg. 359/09, s. 47 (3).

(4) Subsection (2) does not apply to a person mentioned in subsection (1) if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits the following reports prepared in accordance with Table 1:

1. The emission summary and dispersion modelling report.

2. The noise study report.

3. The odour study report. O. Reg. 521/10, s. 27.

(5) Subsection (2) does not apply in respect of an odour receptor that did not exist when the person proposing to construct, install or expand a facility mentioned in subsection (1) submitted an application for the issue of a renewable energy approval to the Director. O. Reg. 521/10, s. 27.

Class 1 and 2 anaerobic digestion facilities, greater than 500 kW

48. (1) This section applies to a person who is constructing, installing or expanding a Class 1 or Class 2 anaerobic digestion facility that has a name plate capacity of greater than 500 kW. O. Reg. 359/09, s. 48 (1).

(2) Subject to subsections (3) and (4), no person shall construct, install or expand a facility mentioned in subsection (1) unless the following conditions are met:

1. All biomass storage areas, farm material storage areas, digestate storage tanks, generating units, flares and anaerobic digesters of the facility must be located at a distance of at least 250 metres from the nearest odour receptor.

2. The facility must be designed to be equipped with an anaerobic digester that has a gas storage cover with a design permeability of less than $500 \text{ cm}^3/\text{m}^2/\text{day}/\text{bar}$.

3. Subject to paragraph 1, if the facility is designed to be equipped with,

- i. any digestate storage tanks storing liquid digestate, the tanks storing liquid digestate with a total storage volume set out in Column 1 of Table 2 must be located at a distance from the nearest odour receptor that is equal to or greater than the distance set out opposite the volume in Column 2 of that Table, and
- ii. any digestate storage tanks storing solid digestate, the tanks storing solid digestate with a total storage volume set out in Column 1 of Table 3 must be located at a distance from the nearest odour receptor that is equal to or greater than the distance set out opposite the volume in Column 2 of that Table.

- 4. Subject to paragraph 1, if the facility is designed to be equipped with flares, they must be located at a distance from the nearest odour receptor that is equal to or greater than the greatest distance at which any digestate storage tank is required to be located from the nearest odour receptor under paragraph 3.
- 5. The facility must be designed to operate with a minimum average monthly input of five per cent manure. O. Reg. 359/09, s. 48 (2).

(3) Paragraphs 2, 3, 4 and 5 of subsection (2) do not apply if the facility has been designed to minimize the discharge of odour to at least the same extent as if the conditions set out in those paragraphs were met. O. Reg. 359/09, s. 48 (3).

(4) Subsection (2) does not apply in respect of a project mentioned in subsection (1) if, as part of the application for the issue of a renewable energy approval in respect of the renewable energy project, the applicant submits the following reports prepared in accordance with Table 1:

- 1. Emission summary and dispersion modelling report.
- 2. Noise study report.
- 3. Odour study report. O. Reg. 359/09, s. 48 (4).

(5) Subsection (2) does not apply in respect of an odour receptor that did not exist when the person proposing to construct, install or expand a facility mentioned in subsection (1) submitted an application for the issue of a renewable energy approval to the Director. O. Reg. 521/10, s. 28.

Class 2 anaerobic digestion facilities, financial assurance

49. (1) If, in the absence of subsection 47.3 (2) of the Act, an environmental compliance approval would be required under the Act to engage in an activity mentioned in subsection 27 (1) of the Act at a Class 2 anaerobic digestion facility, the applicant shall submit, as part of the application for the issue of a renewable energy approval, a financial assurance estimate related to the cost of the removal and disposal of waste from the project location. O. Reg. 359/09, s. 49 (1); O. Reg. 231/11, s. 1.

(2) The financial assurance estimate mentioned in subsection (1) shall be prepared in accordance with the methodology in the Financial Assurance Guideline. O. Reg. 359/09, s. 49 (2).

Class 3 anaerobic digestion facilities

50. (1) No person shall construct, install or expand a Class 3 anaerobic digestion facility unless the facility is,

- (a) designed to be equipped with,
 - (i) an anaerobic digester that has a gas storage cover with a design permeability of less than 500 cm³/m²/day/bar, and
 - (ii) a high efficiency flare system; or
- (b) designed to minimize the discharge of odour to at least the same extent as if the facility had the characteristics set out in clause (a). O. Reg. 359/09, s. 50 (1).

(2) If, in the absence of subsection 47.3 (2) of the Act, an environmental compliance approval would be required under the Act to engage in an activity mentioned in subsection 27 (1) of the Act at a Class 3 anaerobic digestion facility, the applicant shall submit, as part of the application for the issue of a renewable energy approval, a financial assurance estimate related to the cost of the removal and disposal of waste from the project location. O. Reg. 359/09, s. 50 (2); O. Reg. 231/11, s. 2.

(3) The financial assurance estimate mentioned in subsection (2) shall be prepared in accordance with the methodology in the Financial Assurance Guideline. O. Reg. 359/09, s. 50 (3).

THERMAL TREATMENT FACILITIES

Class 2 thermal treatment facilities

51. (1) No person shall construct, install or expand a Class 2 thermal treatment facility unless,

- (a) all biomass storage areas of the facility are located at a distance of at least 250 metres from all odour receptors; and
- (b) the generating unit of the facility is located at a distance of at least 250 metres from,
 - (i) the noise receptors described in paragraph 1, 2, 3 or 5 of subsection 1 (4), and
 - (ii) the noise receptors described in paragraph 4 of subsection 1 (4) that are specified by the Director in the renewable energy approval. O. Reg. 359/09, s. 51 (1); O. Reg. 521/10, s. 29 (1, 2).

(2) Clause (1) (a) does not apply if, as part of an application for the issue of a renewable energy approval in respect of a Class 2 thermal treatment facility, the applicant submits an odour study report prepared in accordance with Table 1. O. Reg. 359/09, s. 51 (2).

(3) Clause (1) (b) does not apply if, as part of an application for the issue of a renewable energy approval in respect of a Class 2 thermal treatment facility, the applicant submits the following reports prepared in accordance with Table 1:

1. Emission summary and dispersion modelling report.
2. Noise study report. O. Reg. 359/09, s. 51 (3).

(4) Subsection (1) does not apply in respect of a noise receptor or odour receptor that did not exist when the person proposing to construct, install or expand a facility mentioned in subsection (1) submitted an application for the issue of a renewable energy approval to the Director. O. Reg. 521/10, s. 29 (3).

Class 2 and 3 thermal treatment facilities

52. (1) If, in the absence of subsection 47.3 (2) of the Act, an environmental compliance approval would be required under the Act to engage in an activity mentioned in subsection 27 (1) of the Act at a Class 2 or 3 thermal treatment facility, the applicant shall submit, as part of the application for the issue of a renewable energy approval, a financial assurance estimate related to the cost of the removal and disposal of waste from the project location. O. Reg. 359/09, s. 52 (1); O. Reg. 231/11, s. 3.

(2) The financial assurance estimate mentioned in subsection (1) shall be prepared in accordance with the methodology in the Financial Assurance Guideline. O. Reg. 359/09, s. 52 (2).

WIND FACILITIES

Class 3, 4 and 5 wind facilities

53. (1) No person shall construct, install or expand a wind turbine that is to form part of a Class 3, 4 or 5 wind facility unless,

- (a) the distance between the centre of the base of the wind turbine and any public road rights of way or railway rights of way is equivalent to, at a minimum, the length of any blades of the wind turbine, plus 10 metres; and
- (b) the distance between the centre of the base of the wind turbine and all boundaries of the parcel of land on which the wind turbine is constructed, installed or expanded is equivalent to, at a minimum, the height of the wind turbine, excluding the length of any blades. O. Reg. 359/09, s. 53 (1); O. Reg. 521/10, s. 30 (1, 2).

(2) Clause (1) (b) does not apply in respect of a boundary of the parcel of land on which the wind turbine is constructed, installed or expanded if the abutting parcel of land on that boundary is,

- (a) owned by the person who proposes to engage in the renewable energy project in respect of the wind turbine; or
- (b) owned by a person who has entered into an agreement with the person mentioned in clause (a) to permit the wind turbine to be located closer than the distance specified in clause (1) (b). O. Reg. 359/09, s. 53 (2).

(3) Clause (1) (b) does not apply if,

- (a) the distance between the centre of the base of the wind turbine and all boundaries of the parcel of land on which it is constructed, installed or expanded is equivalent to, at a minimum, the length of any blades plus 10 metres; and
- (b) as part of an application for the issue of a renewable energy approval or an environmental compliance approval in respect of the construction, installation or expansion of the wind turbine, the person who is constructing, installing or expanding the wind turbine submits a written assessment,
 - (i) demonstrating that the proposed location of the wind turbine will not result in adverse impacts on nearby business, infrastructure, properties or land use activities, and
 - (ii) describing any preventative measures that are required to be implemented to address the possibility of any adverse impacts mentioned in subclause (i). O. Reg. 359/09, s. 53 (3); O. Reg. 521/10, s. 30 (3); O. Reg. 231/11, s. 4.

Specified wind turbines, prohibition and requirements

54. (1) Subject to subsections (1.1) to (2.1), no person shall construct, install or expand a wind turbine that meets all of the following criteria unless the centre of the base of the wind turbine is located at a distance of at least 550 metres from all noise receptors:

1. The wind turbine has a name plate capacity of greater than or equal to 50 kW.
2. The wind turbine is not located in direct contact with surface water other than in a wetland.
3. Either one of the following criteria is met:
 - i. The wind turbine has a sound power level that is greater than or equal to 102 dBA.
 - ii. The height of the wind turbine, excluding the length of any blades, is equal to or greater than 70 metres. O. Reg. 333/12, s. 16; O. Reg. 97/16, s. 7 (1, 2).

(1.1) Subsection (1) applies in respect of a noise receptor described in paragraph 4 of subsection 1 (4) only if the noise receptor is specified in the environmental compliance approval or the renewable energy approval. O. Reg. 333/12, s. 16.

(1.2) If the person proposing to construct, install or expand the wind turbine issued or published a notice of completion in respect of the renewable energy generation facility pursuant to Ontario Regulation 116/01 (Electricity Projects) made under the *Environmental Assessment Act*, subsection (1) does not apply in respect of a noise receptor that did not exist on the day on which the notice was issued or published. O. Reg. 333/12, s. 16.

(1.3) Subsection (1) does not apply in respect of a noise receptor that did not exist on the day the person proposing to construct, install or expand the wind turbine submitted an application for the issue of an environmental compliance approval or a renewable energy approval in respect of the renewable energy project. O. Reg. 333/12, s. 16.

(1.4) If the person proposing to construct, install or expand the wind turbine has not yet submitted an application for the issue of an environmental compliance approval or the issue of a renewable energy approval in respect of the renewable energy project, has published or posted notice of a draft site plan in accordance with subclause 54.1 (c) (i) or (ii) and the following conditions are met, subsection (1) does not apply in respect of a noise receptor that did not exist on the day before the person first published or posted the notice of the draft site plan:

1. If the construction, installation or expansion is on private land, the person must have obtained property rights sufficient to permit the construction, installation or expansion of all of the wind turbines that are proposed to form part of the wind facility.
2. The person must submit an application for the issue of an environmental compliance approval or an application for the issue of a renewable energy approval in respect of the renewable energy project within 18 months after the publication or posting of the notice.
3. The person must meet the requirements set out in section 54.1 in respect of each draft site plan that is made available.
4. If the person proposes to change the location of one or more wind turbines, the person must, within the 18-month period mentioned in paragraph 2, prepare an updated draft site plan and meet the requirements set out in section 54.1 in respect of each updated draft site plan.

5. If the notice of a draft site plan or updated draft site plan is published or posted after the day Ontario Regulation 333/12 made under the Act came into force, the person must prepare a draft report in accordance with the publication of the Ministry of the Environment and Climate Change entitled "Noise Guidelines for Wind Farms", dated October 2008, as amended from time to time and available from the Ministry and make the draft report available along with the draft site plan in accordance with clauses 54.1 (d) and (e). O. Reg. 333/12, s. 16; O. Reg. 97/16, s. 13.

(1.5) Subsection (1) does not apply in respect of a noise receptor that did not exist on the day before the person proposing to construct, install or expand the wind turbine made the location of the proposed wind turbine available to the public by publishing the location in a newspaper or on the person's website, if the person has a website, or by disclosing the location at a public meeting required to be held under section 16, if the following conditions are met:

1. The day the location information was made available to the public must have been a day before subsection 1 (1) of Ontario Regulation 521/10 made under the Act came into force.
2. The person must submit an application for the issue of an environmental compliance approval or a renewable energy approval in respect of the renewable energy project within six months after the day subsection 1 (1) of Ontario Regulation 521/10 made under the Act came into force or within a longer period of time as may have been specified by the Director. O. Reg. 333/12, s. 16.

(1.6) REVOKED: O. Reg. 333/12, s. 16.

(2) Subsection (1) does not apply in respect of a wind turbine that is constructed, installed or expanded as part of a Class 4 or 5 wind facility if, as part of an application for the issue of a renewable energy approval or an environmental compliance approval in respect of the facility, the person who proposes to construct, install or expand the wind turbine, submits,

- (a) results of measurements or calculations showing that the lowest hourly ambient sound level at a noise receptor is greater than 40 dBA due to road traffic for wind speeds less than or equal to 4 metres per second, obtained in accordance with the publication of the Ministry of the Environment and Climate Change entitled NPC-206 "Sound Levels due to Road Traffic", dated October 1995, as amended from time to time and available from the Ministry; and
- (b) a report prepared in accordance with the publication of the Ministry of the Environment and Climate Change entitled "Noise Guidelines for Wind farms", dated October 2008, as amended from time to time and available from the Ministry, including a demonstration that the proposed facility will not exceed the lowest hourly ambient sound level measured or calculated under clause (a). O. Reg. 359/09, s. 54 (2); O. Reg. 231/11, s. 5 (1); O. Reg. 97/16, s. 13.

(2.1) Subsection (1) does not apply in respect of,

- (a) a wind turbine that is approved as part of a Class 3 wind facility before May 1, 2016; or
- (b) any changes to a wind turbine mentioned in clause (a) other than a change that would increase the wind turbine's octave-band sound power levels (linear weighted), as calculated in accordance with the standard specified in paragraph 1 of subsection 1 (6.1), unless there would be no resulting increase in the sound level at any noise receptor within 1,500 metres of the turbine. O. Reg. 97/16, s. 7 (3).

(3) If the issue of a renewable energy approval or an environmental compliance approval is required in respect of the construction, installation or expansion of one or more wind turbines mentioned in subsection (1) in a circumstance described in subsection (4), the person who is constructing, installing or expanding the wind turbine shall submit, as part of the application for the issue of the renewable energy approval or environmental compliance approval, a report prepared in accordance with the application of the Ministry of the Environment and Climate Change entitled "Noise Guidelines for Wind farms", dated October 2008, as amended from time to time and available from the Ministry. O. Reg. 231/11, s. 5 (2); O. Reg. 97/16, s. 7 (4).

(4) Subsection (3) applies if,

- (a) one or more of the wind turbines has a sound power level greater than 107 dBA;
- (b) the application is in respect of one or more wind turbines that are to form part of a renewable energy generation facility consisting of 26 or more wind turbines, any of which has,
 - (i) a sound power level greater than or equal to 102 dBA and less than 107 dBA, or

- (ii) a height, excluding the length of any blades, equal to or greater than 70 metres; or
 - (c) the application is in respect of a renewable energy generation facility that would, once constructed, installed or expanded, result in 26 or more wind turbines located within a three kilometre radius of any noise receptor. O. Reg. 359/09, s. 54 (4); O. Reg. 97/16, s. 7 (5).
- (5) For the purposes of clause (4) (c), the number of wind turbines within a three kilometre radius of a noise receptor shall be calculated by determining the sum of,
- (a) the wind turbines with a sound power level equal to or greater than 102 dBA or a height, excluding the length of any blades, equal to or greater than 70 metres that the person proposes to construct, install or expand as part of the facility;
 - (b) any wind turbines with a sound power level equal to or greater than 102 dBA or a height, excluding the length of any blades, equal to or greater than 70 metres that have already been constructed or installed;
 - (c) any wind turbines with a sound power level equal to or greater than 102 dBA or a height, excluding the length of any blades, equal to or greater than 70 metres that have not yet been constructed or installed but in respect of which a renewable energy approval or environmental compliance approval has been issued;
 - (d) any wind turbines with a sound power level equal to or greater than 102 dBA or a height, excluding the length of any blades, equal to or greater than 70 metres that have been proposed to be constructed or installed and,
 - (i) in respect of which notice of the proposal for the issue of a renewable energy approval or environmental compliance approval has been posted on the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*, and
 - (ii) in respect of which the proposal has not been approved or refused under the Act; and
 - (e) any other wind turbines with a sound power level equal to or greater than 102 dBA or a height, excluding the length of any blades, equal to or greater than 70 metres that have been proposed to be constructed or installed and,
 - (i) are identified in an environmental screening report or environmental review report that is made available under the Environmental Screening Process pursuant to Ontario Regulation 116/01 (Electricity Projects) made under the *Environmental Assessment Act*,
 - (ii) are identified in a draft site plan of the project location at which the renewable energy project in respect of a wind facility will be engaged in that is made available or distributed in accordance with section 54.1, unless the person proposing to engage in the project did not apply for the renewable energy approval or environmental compliance approval within the period of time specified in paragraph 2 of subsection (1.4), or
 - (iii) are identified in information made available to the public by publishing the locations of the wind turbines in a newspaper or on the person's website, if the person has a website, or by disclosing the locations at a public meeting required to be held under section 16, if the day the location information was made available to the public was before the day subsection 1 (1) of Ontario Regulation 521/10 made under the Act comes into force, unless the person proposing to engage in the project did not apply for the renewable energy approval or environmental compliance approval within the period of time specified in paragraph 2 of subsection (1.5). O. Reg. 359/09, s. 54 (5); O. Reg. 521/10, s. 31 (3); O. Reg. 231/11, s. 5 (3, 4); O. Reg. 195/12, s. 20 (5, 6); O. Reg. 97/16, s. 7 (6-8).

Wind turbine location publication

54.1 Subsections 35 (1.4), 54 (1.4) and 55 (2.4) apply only if the person proposing to construct, install or expand the wind turbine or transformer substation, as the case may be,

- (a) includes in the draft site plan in respect of the project location one or more maps or diagrams, drawn to a scale of at least 1 cm: 500 m, of the renewable energy generation facility, including,
 - (i) existing roads situated within 300 metres of the renewable energy generation facility,
 - (ii) wind turbines and transformer substations required in respect of the renewable energy generation facility, and
 - (iii) any noise receptors that may be negatively affected by the use or operation of the renewable energy generation facility;
- (a.1) includes in the draft site plan in respect of the project location a description of each of the items diagrammed under clause (a);

- (b) includes in the notice of the draft site plan in respect of the project location the following information:
- (i) the name of the person proposing to engage in the renewable energy project,
 - (ii) a brief description of the renewable energy project,
 - (iii) a map identifying the project location,
 - (iv) if the project location is situated in a local municipality, the date the notice of the site plan was first published in a newspaper with general circulation in the local municipality,
 - (v) if the project location is situated in unorganized territory, the date the notice of the site plan was first,
 - (A) published in a newspaper with general circulation within 25 kilometres of the project location, or
 - (B) if a newspaper described in sub-subclause (A) does not exist, posted in at least six conspicuous locations within 25 metres of the project location,
 - (vi) the locations in each local municipality and in each part of an unorganized territory in which the project location is situated where members of the public can inspect paper copies of the draft site plan,
 - (vii) a description of the legal effect of the posting or publishing of the draft site plan,
 - (viii) if the notice is in respect of an updated draft site plan, a statement to that effect;
- (c) distributes the notice of the draft site plan in respect of the project location in accordance with the following rules:
- (i) if the project location is situated in a local municipality, the notice must be published in a newspaper with general circulation in the local municipality,
 - (ii) if the project location is in unorganized territory,
 - (A) the notice must be published in a newspaper with general circulation within 25 kilometres of the project location, or
 - (B) if no newspaper mentioned in sub-subclause (A) exists, the notice must be posted in at least six conspicuous locations within 25 kilometres of the project location,
 - (iii) if it is reasonable to do so, the notice must be published in a newspaper printed by each aboriginal community,
 - (A) on the list obtained under section 14, if the list was obtained, and if such a newspaper exists and the publisher of the newspaper permits the publication, or
 - (B) with reserve land within or abutting the project location, if the list under section 14 was not obtained, and such a newspaper exists and the publisher of the newspaper permits the publication,
 - (iv) if the person has a website, the notice must be posted on the website,
 - (v) a copy of the notice must be given to,
 - (A) every assessed owner of land within 550 metres of the project location,
 - (B) every assessed owner of land abutting a parcel of land on which the project location is situated, other than an owner described in sub-subclause (A),
 - (C) every aboriginal community,
 - (1) mentioned in subparagraph 5 ii of subsection 15 (6), if the list under section 14 was obtained, or
 - (2) if the list under section 14 was not obtained, any aboriginal community with reserve land within or abutting the project location,
 - (D) the clerk of each local municipality and upper-tier municipality in which the project location is situated,
 - (E) the secretary-treasurer of each local roads board of a local roads area in which the project location is situated,
 - (F) the secretary of each Local Services Board of a board area in which the project location is situated,
 - (G) the secretary-treasurer of a planning board that has jurisdiction in an area in which the project location is situated,
 - (H) the chair of the Niagara Escarpment Commission, if the project location is in the area of the Niagara Escarpment Plan,

- (I) the Director,
 - (J) the Ministry's district manager in each district in which the project location is situated;
 - (K) the secretary of every company operating an oil or natural gas pipeline, if the pipeline right of way is located within 200 metres of the project location if the notice is distributed on a day after the day Ontario Regulation 195/12 made under the Act comes into force, and
 - (L) the NAV Canada Land Use Office and Transport Canada's Regional Office for Ontario, if the project is in respect of a wind facility if the notice is distributed on a day after the day Ontario Regulation 195/12 made under the Act comes into force;
- (d) makes the draft site plan in respect of the project location available, within five days after publishing or posting the notice of the draft site plan under subclause (c) (i) or (ii) and until a decision is made under the Act in respect of the approval or refusal of the environmental compliance approval or the renewable energy approval, by,
- (i) posting the draft site plan on the person's website, if the person has a website,
 - (ii) making paper copies of the draft site plan available to the public in each local municipality and in each part of unorganized territory in which the project location is situated, and
 - (iii) making paper copies of the draft site plan available,
 - (A) in each aboriginal community on the list obtained under section 14, if the list was obtained and the aboriginal community agrees to making of the copies of the draft site plan available in the community, or
 - (B) in each aboriginal community with reserve land within or abutting the project location, if the list was not obtained under section 14 and the aboriginal community agrees to making the draft site plan available in the community; and
- (e) within five days after publishing or posting the notice of the draft site plan under subclause (c) (i) or (ii), distributes the draft site plan in respect of the project location to the Director and,
- (i) to each aboriginal community mentioned in subparagraph 5 ii of subsection 15 (6), or
 - (ii) if the list mentioned in section 14 was not obtained, to any aboriginal community with reserve land within or abutting the project location. O. Reg. 521/10, s. 32; O. Reg. 195/12, s. 21; O. Reg. 333/12, s. 17.

Wind turbines, requirements re location

55. (1) This section applies to a person who applies for the issue of a renewable energy approval or an environmental compliance approval in respect of a wind facility consisting of one or more wind turbines mentioned in subsection (1.1) if, at the time of the application, within a three kilometre radius of a noise receptor,

- (a) the person proposes to construct or install one or more wind turbines with a sound power level equal to or greater than 102 dBA as part of the same renewable energy generation facility;
- (b) a wind turbine with a sound power level equal to or greater than 102 dBA has been constructed or installed;
- (c) the construction or installation of a wind turbine with a sound power level equal to or greater than 102 dBA has not yet been completed but a renewable energy approval or environmental compliance approval has been issued in respect of it;
- (d) a wind turbine with a sound power level equal to or greater than 102 dBA has been proposed to be constructed or installed and,
 - (i) notice of the proposal for the issue of a renewable energy approval or an environmental compliance approval in respect of the facility has been posted on the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*, and
 - (ii) the proposal has not been approved or refused under the Act; and
- (e) a wind turbine with a sound power level equal to or greater than 102 dBA has been proposed to be constructed or installed and,
 - (i) is identified in an environmental screening report or environmental review report that is made available under the Environmental Screening Process pursuant to Ontario Regulation 116/01 (Electricity Projects) made under the *Environmental Assessment Act*,

- (ii) is identified in a draft site plan of the project location at which the renewable energy project in respect of a wind facility will be engaged in that is made available or distributed in accordance with section 54.1, unless the person proposing to engage in the project did not apply for the renewable energy approval or environmental compliance approval within the period of time specified in paragraph 2 of subsection (2.4), or
- (iii) is identified in information made available to the public by publishing the location of the wind turbine in a newspaper or on the person's website, if the person has a website, or by disclosing the location at a public meeting required to be held under section 16, if,
 - (A) the day the location information was made available to the public was before the day subsection 1 (1) of Ontario Regulation 521/10 made under the Act comes into force, and
 - (B) the person proposing to engage in the project did not apply for the renewable energy approval or environmental compliance approval within the period of time specified in paragraph 2 of subsection (2.5). O. Reg. 359/09, s. 55 (1); O. Reg. 521/10, s. 33 (1-3); O. Reg. 231/11, s. 6 (1-3); O. Reg. 195/12, s. 22 (1-4); O. Reg. 333/12, s. 18 (1, 2); O. Reg. 97/16, s. 8 (1).

(1.1) The wind turbines referred to in subsection (1) are wind turbines that meet the following criteria:

1. The wind turbine has a name plate capacity of greater than or equal to 50 kW.
2. The wind turbine is not located in direct contact with surface water other than in a wetland.
3. The wind turbine has a sound power level that is greater than or equal to 102 dBA. O. Reg. 97/16, s. 8 (2).

(2) Subject to subsections (2.1) to (3), no person shall construct, install or expand a wind turbine mentioned in subsection 54 (1) except in accordance with the following rules if, within a three kilometre radius of a noise receptor, the sum of the wind turbines at the proposed facility and the number of wind turbines mentioned in clauses (1) (b), (c), (d) and (e) equals a number set out in Column 1 of the Table to this section:

1. If the sound power level of the wind turbines at the proposed facility corresponds to the sound power level set out in Column 2 of the Table opposite the number of wind turbines, the total distance from the centre of the base of the wind turbine to a noise receptor shall be, at a minimum, the distance set out in Column 3 opposite the sound power level.
2. For the purposes of this section, if the proposed facility is to consist of different models of wind turbines with varying sound power levels, the greatest sound power level of a wind turbine at the proposed facility shall be deemed to be the sound power level of every wind turbine at the facility. O. Reg. 359/09, s. 55 (2); O. Reg. 521/10, s. 33 (4, 5); O. Reg. 333/12, s. 18 (3, 4).

(2.1) Subsection (2) applies in respect of a noise receptor described in paragraph 4 of subsection 1 (4) only if the noise receptor is specified in the environmental compliance approval or the renewable energy approval. O. Reg. 333/12, s. 18 (5); O. Reg. 97/16, s. 8 (3).

(2.2) If the person proposing to construct, install or expand the wind turbine issued or published a notice of completion in respect of the renewable energy generation facility pursuant to Ontario Regulation 116/01 (Electricity Projects) made under the *Environmental Assessment Act*, subsection (2) does not apply in respect of a noise receptor that did not exist on the day on which the notice was issued or published. O. Reg. 333/12, s. 18 (5); O. Reg. 97/16, s. 8 (3).

(2.3) Subsection (2) does not apply in respect of a noise receptor that did not exist on the day the person proposing to construct, install or expand the wind turbine submitted an application for the issue of an environmental compliance approval or a renewable energy approval in respect of the renewable energy project. O. Reg. 333/12, s. 18 (5); O. Reg. 97/16, s. 8 (3).

(2.4) If the person proposing to construct, install or expand the wind turbine has not yet submitted an application for the issue of an environmental compliance approval or an application for the issue of a renewable energy approval in respect of a renewable energy project, has published or posted notice of a draft site plan in accordance with subclause 54.1 (c) (i) or (ii) and the following conditions are met, subsection (2) does not apply in respect of a noise receptor that did not exist on the day before the person first published or posted the notice of the draft site plan:

1. If the construction, installation or expansion is on private land, the person must have obtained property rights sufficient to permit the construction, installation or expansion of all of the wind turbines that are proposed to form part of the wind facility.
2. The person must submit an application for the issue of an environmental compliance approval or an application for the issue of a renewable energy approval in respect of the renewable energy project within 18 months after the publication or posting of the notice.
3. The person must meet the requirements set out in section 54.1 in respect of each draft site plan that is made available.
4. If the person proposes to change the location of one or more wind turbines, the person must, within the 18-month period mentioned in paragraph 2, prepare an updated draft site plan and meet the requirements set out in section 54.1 in respect of each updated draft site plan.
5. If subsection (2) does not apply as a result of subsection (3) and the notice of a draft site plan or updated draft site plan is published or posted after the day Ontario Regulation 333/12 made under the Act came into force, the person must prepare a draft report in accordance with the publication of the Ministry of the Environment and Climate Change entitled "Noise Guidelines for Wind Farms", dated October 2008, as amended from time to time and available from the Ministry and make the draft report available along with the draft site plan in accordance with clauses 54.1 (d) and (e). O. Reg. 333/12, s. 18 (5); O. Reg. 97/16, ss. 8 (3), 13.

(2.5) Subsection (2) does not apply in respect of a noise receptor that did not exist on the day before the person proposing to construct, install or expand the wind turbine made the location of the proposed wind turbine available to the public by publishing the location in a newspaper or on the person's website, if the person has a website, or by disclosing the location at a public meeting required to be held under section 16, if the following conditions are met:

1. The day the location information was made available to the public must have been a day before subsection 1 (1) of Ontario Regulation 521/10 made under the Act came into force.
2. The person must submit an application for the issue of an environmental compliance approval or a renewable energy approval in respect of the renewable energy project within six months after the day subsection 1 (1) of Ontario Regulation 521/10 made under the Act came into force or such other time as may have been specified by the Director. O. Reg. 333/12, s. 18 (5); O. Reg. 97/16, s. 8 (3).

(2.6) REVOKED: O. Reg. 333/12, s. 18 (5).

(3) Subsection (2) does not apply if, as part of an application for the issue of a renewable energy approval or an environmental compliance approval in respect of a wind facility that consists of a wind turbine mentioned in subsection 54 (1), the person who is constructing, installing or expanding the facility submits a report prepared in accordance with the publication of the Ministry of the Environment and Climate Change entitled "Noise Guidelines for Wind farms", dated October 2008, as amended from time to time and available from the Ministry. O. Reg. 359/09, s. 55 (3); O. Reg. 231/11, s. 6 (4); O. Reg. 97/16, s. 13.

TABLE

Item	Column 1 Number of wind turbines calculated in accordance with subsection (2)	Column 2 Sound power level of wind turbine (expressed in dBA)	Column 3 Total distance from the centre of the base of the wind turbine to a noise receptor (expressed in metres)
1.	1-5	102	550
2.	1-5	103 - 104	600
3.	1-5	105	850
4.	1-5	106 - 107	950
5.	6-10	102	650
6.	6-10	103 - 104	700
7.	6-10	105	1000

8.	6-10	106 - 107	1200
9.	11-25	102	750
10.	11-25	103 - 104	850
11.	11-25	105	1250
12.	11-25	106 - 107	1500

O. Reg. 97/16, s. 8 (4).

Certain wind turbines, requirement re report

55.1 (1) If the issue of a renewable energy approval or an environmental compliance approval is required in respect of the construction, installation or expansion of one or more wind turbines mentioned in subsection (2), the person who is constructing, installing or expanding the wind turbine shall submit, as part of the application for the issue of the renewable energy approval or environmental compliance approval, a report prepared in accordance with the publication of the Ministry of the Environment and Climate Change entitled “Noise Guidelines for Wind farms”, dated October 2008, as amended from time to time and available from the Ministry. O. Reg. 97/16, s. 9.

(2) The wind turbines referred to in subsection (1) are wind turbines that meet the following criteria:

1. The wind turbine has a name plate capacity of greater than or equal to 50 kW.
2. The wind turbine is not located in direct contact with surface water other than in a wetland.
3. The wind turbine has a sound power level that is less than 102 dBA.
4. The wind turbine has a height, excluding the length of any blades, equal to or greater than 70 metres. O. Reg. 97/16, s. 9.

**PART VI
POWERS AND DUTIES OF DIRECTOR**

Great Lakes Charter

56. (1) In considering an application for the issue of a renewable energy approval, the Director shall ensure that Ontario’s obligations under the Great Lakes Charter with respect to the application are complied with. O. Reg. 359/09, s. 56 (1).

(2) For the purposes of subsection (1),

“Great Lakes Charter” means the Great Lakes Charter signed by the premiers of Ontario and Quebec and the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin on February 11, 1985 and amended by the Great Lakes Charter Annex, dated June 18, 2001. O. Reg. 359/09, s. 56 (2).

Discretion re reporting requirement

57. Despite the requirement in Column 2 of Item 6 of Table 1 in respect of an emission summary and dispersion modelling report, the Director may relieve an applicant from the obligation to comply with any provision of subsection 26 (1) of Ontario Regulation 419/05 (Air Pollution – Local Air Quality) made under the Act that is specified by the Director, subject to any conditions specified by the Director, if the Director is of the opinion that compliance with the provision is not necessary to understand the impact of discharges of one or more contaminants. O. Reg. 359/09, s. 57.

**PART VI.1
RENEWABLE ENERGY APPROVALS — CIRCUMSTANCES IN WHICH ISSUING PROHIBITED**

Application of Part

57.1 This Part applies to a person, other than a person to whom Part IV.1 applies, who proposes to engage in a renewable energy project in respect of which the issue of a renewable energy approval is required. O. Reg. 122/19, s. 5.

Demonstration of electricity demand

57.2 (1) No renewable energy approval shall be issued in respect of a renewable energy project unless the person who proposes to engage in the renewable energy project submits documentation mentioned in subsection (2) to the Director, demonstrating that there is demand for the electricity that is proposed to be generated at the renewable energy generation facility. O. Reg. 122/19, s. 5.

(2) For the purposes of subsection (1), the demand for the electricity must be demonstrated by submitting one or more of the following types of documentation:

1. A copy of one or more agreements, entered into for a period of at least 10 years between the person who proposes to engage in the renewable energy project and one or more persons, in respect of the supply of the electricity to be generated at the facility, identifying the amount of electricity that is to be supplied under the agreement.
2. Documentation that establishes that the person who proposes to engage in the renewable energy project proposes to generate the electricity at the facility for their own use.
3. Documentation that establishes that the person who proposes to engage in the renewable energy project has, in respect of the electricity to be generated at the facility,
 - i. entered into a net metering agreement with a distributor, in conformity with Ontario Regulation 541/05 (Net Metering) made under the *Ontario Energy Board Act, 1998*, or
 - ii. applied to connect the facility for the purposes of entering into a net metering agreement with a distributor or notified the distributor that it wishes to be billed on a net metering basis, in conformity with the regulation mentioned in subparagraph i.
4. A declaration prepared by the person who proposes to engage in the renewable energy project, indicating that the person intends to participate in the IESO-administered markets as a market participant.
5. A declaration prepared by the person who proposes to engage in the renewable energy project, indicating that the person intends to participate in a procurement process established by the Independent Electricity System Operator. O. Reg. 122/19, s. 5.

(3) The documentation shall be submitted to the Director as part of the application for the issue of a renewable energy approval or, if the application was submitted before this section came into force, when the documentation has been obtained or prepared. O. Reg. 122/19, s. 5.

(4) For greater certainty, this section applies in respect of a decision under subsection 47.5 (1) of the Act to issue a renewable energy approval even if the application for the issue of the renewable energy approval was submitted before this section came into force. O. Reg. 122/19, s. 5.

Class 4 wind facility, LRP process

57.3 (1) No renewable energy approval shall be issued in respect of a renewable energy project if,

- (a) the project is in respect of a class 4 wind facility; and
- (b) the project is or was the subject of a power purchase agreement entered into with the Independent Electricity System Operator as part of the Large Renewable Procurement process and, pursuant to that agreement, the Independent Electricity System Operator has terminated the agreement and issued a stop work notice in respect of the project. O. Reg. 122/19, s. 5.

(2) For greater certainty, subsection (1) applies in respect of a decision under subsection 47.5 (1) of the Act to issue a renewable energy approval even if the application for the issue of the renewable energy approval was submitted before this section came into force. O. Reg. 122/19, s. 5.

No conformity with zoning by-laws, orders

57.4 (1) No renewable energy approval shall be issued in respect of a renewable energy project unless the person who proposes to engage in the renewable energy project submits to the Director written confirmation from the following bodies that the proposed use of land at the project location is not prohibited by a zoning by-law or zoning order under Part V of the *Planning Act*:

1. Any local municipality in which the project location is situated.
2. Any planning board that has jurisdiction in an area without municipal organization in which the project location is situated.
3. The Ministry of Municipal Affairs and Housing, if the project location is situated in an area without municipal organization and no planning board has jurisdiction in respect of that location. O. Reg. 122/19, s. 6.

(2) The written confirmation described in subsection (1) shall be submitted to the Director as part of the application for the issue of a renewable energy approval or, if the application was submitted before this section comes into force, when the documentation has been obtained. O. Reg. 122/19, s. 6.

(3) For greater certainty, this section applies in respect of a decision under subsection 47.5 (1) of the Act to issue a renewable energy approval even if the application for the issue of the renewable energy approval was submitted before this section came into force. O. Reg. 122/19, s. 6.

PART VII HEARINGS

Date to require hearing

58. For the purposes of subsection 142.1 (2) of the Act, the prescribed day is the day on which notice of the decision made by the Director under clause 47.5 (1) (a), subsection 47.5 (2) or (3) of the Act is published in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*. O. Reg. 359/09, s. 58.

Date of deemed confirmation

59. (1) Subject to subsections (2) and (3), the prescribed period of time for the purposes of subsection 145.2.1 (6) of the Act is six months from the day that the notice is served upon the Tribunal under subsection 142.1 (2) of the Act. O. Reg. 359/09, s. 59 (1); O. Reg. 333/12, s. 19 (1).

(2) For the purposes of calculating the time period mentioned in subsection (1), any of the following periods of time shall be excluded from the calculation of time:

1. Any period of time occurring during an adjournment of the proceeding if,
 - i. the adjournment is granted by the Tribunal on the consent of the parties, or
 - ii. the adjournment is,
 - A. on the initiative of the Tribunal or granted by the Tribunal on the motion of one of the parties,
 - B. not being sought for the purpose of adjourning the proceeding pending the resolution of an application for judicial review, and
 - C. necessary, in the opinion of the Tribunal, to secure a fair and just determination of the proceeding on its merits.
2. If an application for judicial review under the *Judicial Review Procedure Act* has been commenced with respect to the proceeding, the period of time from the day that the application is commenced until the day that the application is disposed of, if a stay of the proceeding before the Tribunal is granted by the Divisional Court. O. Reg. 359/09, s. 59 (2); O. Reg. 333/12, s. 19 (2, 3).

(3) For the purposes of calculating the time period mentioned in subsection (1), if an adjournment of the proceeding pending the resolution of an application for judicial review under the *Judicial Review Procedure Act* was granted by the Tribunal before the day Ontario Regulation 333/12 made under the Act comes into force, the following periods of time shall be excluded from the calculation of time:

1. The period of time from the day the application was commenced until the day the application was disposed of, if the application was disposed of before the day Ontario Regulation 333/12 made under the Act comes into force.
2. The period of time from the day the application was commenced until the day Ontario Regulation 333/12 comes into force, if the application has not been disposed of before the day Ontario Regulation 333/12 comes into force. O. Reg. 333/12, s. 19 (4).

Exemption, s. 142.1 of the Act

60. Section 142.1 of the Act does not apply in respect of a renewable energy approval if the conditions set out in subclause 176 (9.1) (b) (i), (ii) or (iii) of the Act are met. O. Reg. 359/09, s. 60.

**PART VIII
TRANSITION**

Definitions

61. In this Part,

“pre-2011 Regulation” means this Regulation as it read on December 31, 2010.

“pre-2012 Regulation” means this Regulation as it read on December 31, 2011.

“pre-2016 Regulation” means this Regulation as it read on December 31, 2015. O. Reg. 521/10, s. 34; O. Reg. 195/12, s. 23; O. Reg. 97/16, s. 10.

Transition, Part IV and Table 1, projects commenced before 2011

62. (1) This section applies in respect of a person who proposes to engage in a renewable energy project who distributed on or before December 31, 2010, in respect of that project,

- (a) a notice mentioned in clause 15 (1) (a); and
- (b) if section 16 applies in respect of the person, a notice mentioned in clause 15 (1) (b) in respect of the first public meeting held under section 16. O. Reg. 195/12, s. 24.

(2) Subject to sections 62.1, 62.2 and 62.3, a person mentioned in subsection (1) is subject to the following rules:

1. Sections 13 to 16 and 17 to 32 of the pre-2011 Regulation and Table 1 of the pre-2011 Regulation continue to apply, and those portions of this Regulation do not apply.
2. References to the following portions of this Regulation in Part I, II, III, V, VI or VII or section 12 or 16.0.1 of this Regulation are deemed to be references to those portions of the pre-2011 Regulation:
 - i. Sections in Part IV, other than sections 12 and 16.0.1.
 - ii. Items in Table 1.
3. Subject to sections 63, 64 and 64.1, references to the following portions of the pre-2011 Regulation in sections 13 to 16 and sections 17 to 32 of the pre-2011 Regulation and in Table 1 of the pre-2011 Regulation are deemed to be references to those portions of this Regulation:
 - i. Sections in Part I, II, III, V, VI or VII.
 - ii. Section 12. O. Reg. 195/12, s. 24.

Election re ss. 23.1 and 28 of pre-2012 Regulation

62.1 (1) A person mentioned in subsection 62 (1) may elect to have sections 23.1 and 28 of the pre-2012 Regulation apply in respect of the renewable energy project by giving notice of the election to the Director as part of the application for the issue of a renewable energy approval. O. Reg. 195/12, s. 24.

(2) If a person makes an election under subsection (1), the person is subject to the following rules:

1. Sections 23.1 and 28 of the pre-2012 Regulation apply and section 28 of the pre-2011 Regulation does not apply.
2. References to sections 23.1 and 28 in Part I, II, III or VII or section 12 of this Regulation are deemed to be references to those sections in the pre-2012 Regulation.
3. References to section 28 in sections 13 to 16, 17 to 27 and 29 to 32 of the pre-2011 Regulation are deemed to be references to section 28 in the pre-2012 Regulation. O. Reg. 195/12, s. 24.

Election re other portions of pre-2012 Regulation

62.2 (1) Subject to subsection (2), a person mentioned in subsection 62 (1) may elect to have one or more portions of Part IV of the pre-2012 Regulation or of Table 1 of the pre-2012 Regulation apply, by giving written notice to the Director of his or her election as part of the application for the issue of a renewable energy approval. O. Reg. 195/12, s. 24.

(2) No election may be made under subsection (1) in respect of section 12, 23.1 or 28 of the pre-2012 Regulation. O. Reg. 195/12, s. 24.

(3) The notice of election under subsection (1) must identify the portions to which the election applies. O. Reg. 195/12, s. 24.

(4) If a person makes an election under subsection (1), the person is subject to the following rules:

1. The portions of Part IV of the pre-2012 Regulation or Table 1 of the pre-2012 Regulation that are identified in the notice apply, and the corresponding portions of the pre-2011 Regulation do not apply.
2. References in Part I, II, III or VII or section 12 of this Regulation to the identified portions in Part IV of the pre-2011 Regulation and Table 1 of the pre-2011 Regulation are deemed to be references to those portions of the pre-2012 Regulation.
3. References to the identified portions in Part IV of the pre-2011 Regulation and Table 1 of the pre-2011 Regulation, other than section 12, are deemed to be references to those portions of the pre-2012 Regulation. O. Reg. 195/12, s. 24.

Election for the application of Part IV

62.3 A person mentioned in subsection 62 (1) may elect to have Part IV and Table 1 apply by giving written notice to the Director of his or her election as part of the application for the issue of a renewable energy approval. O. Reg. 195/12, s. 24.

Transition, Part IV and Table 1, projects commenced after December 31, 2010

62.4 (1) This section applies in respect of a person who proposes to engage in a renewable energy project if,

(a) the person distributed a notice mentioned in clause 15 (1) (a) in respect of the project after December 31, 2010 and on or before the day Ontario Regulation 195/12 made under the Act comes into force; and

(b) one of the following circumstances applies:

- (i) section 16 applies in respect of the person and a notice mentioned in clause 15 (1) (b) in respect of the first public meeting held under section 16 is distributed on or before the day Ontario Regulation 195/12 made under the Act comes into force,
- (ii) section 16 does not apply in respect of the person and drafts of the documents identified in paragraphs 1 and 2 of subsection 18 (2) are distributed to the persons identified in subsection 18 (1) on or before the day Ontario Regulation 195/12 made under the Act comes into force. O. Reg. 195/12, s. 24.

(2) Subject to subsection (3), a person mentioned in subsection (1) is subject to the following rules:

1. Sections 15 and 16 and 17 to 23 of the pre-2012 Regulation and Table 1 of the pre-2012 Regulation continue to apply and those portions of this Regulation do not apply.

2. References to the following portions of the pre-2012 Regulation in Part I, II, III, V, VI or VII or section 16.0.1 of this Regulation are deemed to be references to those portions of the pre-2012 Regulation:
 - i. Sections in Part IV, other than section 16.0.1.
 - ii. Items in Table 1.
3. Subject to section 64.1, references to the following portions of the pre-2012 Regulation in sections 15, 16 and 17 to 23 of the pre-2012 Regulation and Table 1 of the pre-2012 Regulation are deemed to be references to those portions of this Regulation:
 - i. Sections in Part I, II, III, V, VI or VII.
 - ii. Section 16.0.1. O. Reg. 195/12, s. 24.

(3) A person mentioned in subsection (1) may elect to have Part IV and Table 1 apply by giving written notice to the Director of his or her election as part of the application for the issue of a renewable energy approval. O. Reg. 195/12, s. 24.

Transition, definition of “woodland”

63. (1) If a person who proposes to engage in a renewable energy project has distributed a notice mentioned in subsection 15 (1) on or before December 31, 2010, the definition of “woodland” as it read in the pre-2011 Regulation continues to apply to all references to “woodland” in this Regulation. O. Reg. 521/10, s. 34.

(2) Despite subsection (1), a person referred to in that subsection may elect to have the definition of “woodland” in subsection 1 (1) of the pre-2016 Regulation apply to all references to “woodland” in this Regulation by giving notice of his or her election to the Director as part of an application for a renewable energy approval. O. Reg. 521/10, s. 34; O. Reg. 195/12, s. 25; O. Reg. 97/16, s. 11 (1).

(3) If a person other than a person described in subsection (1) has submitted an application for a renewable energy approval on or before April 30, 2016, the definition of “woodland” as it read in the pre-2016 Regulation continues to apply to all references to “woodland” in this Regulation. O. Reg. 97/16, s. 11 (2).

Transition, s. 1 (4)

64. A person who proposes to engage in a renewable energy project and has distributed a notice mentioned in subsection 15 (1) on or before December 31, 2010 may elect to have paragraph 4 of subsection 1 (4) as it read in the pre-2011 Regulation continue to apply to all references to paragraph 4 of subsection 1 (4) of this Regulation by giving notice of his or her election to the Director as part of an application for a renewable energy approval. O. Reg. 521/10, s. 34; O. Reg. 195/12, s. 26.

Transition, s. 1 (6)

64.1 Subsection 1 (6) of the pre-2012 Regulation continues to apply to a person who proposes to engage in a renewable energy project if, on or before the day Ontario Regulation 195/12 made under the Act comes into force, the person,

- (a) distributes a notice mentioned in clause 15 (1) (b) in respect of the final public meeting held under section 16 in respect of the project, if section 16 applies in respect of the person; or
- (b) submits an application for the issue of a renewable energy approval to the Director in respect of the project, if section 16 does not apply in respect of the person. O. Reg. 195/12, s. 27.

ss. 63, 64 and 64.1 cease to apply

64.2 Sections 63, 64 and 64.1 cease to apply in respect of a person once a renewable energy approval has been issued in respect of the renewable energy project and the installation, construction or expansion of the renewable energy generation facility has been completed. O. Reg. 195/12, s. 27.

TABLE 1
(REPORTS (SEE SECTION 13))

Item	Column 1 Name of document	Column 2 Requirements	Column 3 Renewable energy project
1.	Construction plan report	<p>Set out a description of the following in respect of the renewable energy project:</p> <ol style="list-style-type: none"> 1. Details of any construction or installation activities. 2. The location and timing of any construction or installation activities for the duration of the construction or installation. 3. Any negative environmental effects that may result from construction or installation activities. 4. Mitigation measures in respect of any negative environmental effects mentioned in paragraph 3. 	Any renewable energy project, other than a project in respect of a Class 2 wind facility.
2.	Consultation report	<p>Set out information relating to consultations conducted in respect of the renewable energy project, including the following:</p> <ol style="list-style-type: none"> 1. A summary of communication with any members of the public, aboriginal communities, municipalities, local roads boards and Local Services Boards regarding the project. 2. Evidence that the information required to be distributed to aboriginal communities under subsection 17 (1) was distributed. 3. Any information provided by an aboriginal community in response to a request made under paragraph 4 of subsection 17 (1). 4. Evidence that a consultation form was distributed in accordance with subsection 18 (1). 5. The consultation form distributed under subsection 18 (1), if any part of it has been completed by a municipality, local roads board or Local Services Board. 6. A description of whether and how, <ol style="list-style-type: none"> i. comments from members of the public, aboriginal communities, municipalities, local roads boards and Local Services Boards were considered by the person who is engaging in the project, ii. the documents that were made available under subsection 16 (5) were amended after the final public meeting was held, and iii. the proposal to engage in the project was altered in response to comments mentioned in subparagraph i. 7. A description of the manner in which the location of the wind turbines was made available to the public, if a person proposing to engage in a project in respect of a class 4 or 5 wind facility relied on paragraph 4 of subsection 54 (1.2) or paragraph 4 of subsection 55 (2.2). 8. If paragraph 7 applies, proof of the date on which the location of the wind turbines referred to in that paragraph was made available to the public. 	Any renewable energy project, other than a project in respect of a Class 2 wind facility.

3.	Decommissioning plan report	Set out a description of plans for the decommissioning of the renewable energy generation facility, including the following: <ol style="list-style-type: none">1. Procedures for dismantling or demolishing the facility.2. Activities related to the restoration of any land and water negatively affected by the facility.3. Procedures for managing excess materials and waste.	Any renewable energy project, other than a project in respect of a Class 2 wind facility.
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4.	Design and operations report	<p>1. Set out a site plan of the project location at which the renewable energy project will be engaged in, including,</p> <ul style="list-style-type: none"> i. one or more maps or diagrams of, <ul style="list-style-type: none"> A. all buildings, structures, roads, utility corridors, rights of way and easements required in respect of the renewable energy generation facility and situated within 300 metres of the facility, B. any ground water and surface water supplies used at the facility, C. any things from which contaminants are discharged into the air, D. any works for the collection, transmission, treatment and disposal of sewage, E. any areas where waste, biomass, source separated organics and farm material are stored, handled, processed or disposed of, F. the project location in relation to any of the following within 125 metres: the portion of the Oak Ridges Moraine Conservation Plan Area that is subject to the Oak Ridges Moraine Conservation Plan, the area of the Niagara Escarpment Plan, the Protected Countryside, the Lake Simcoe watershed, and G. any noise receptors or odour receptors that may be negatively affected by the use or operation of the facility, ii. a description of each item diagrammed under subparagraph i, iii. one or more maps or diagrams of land contours, surface water drainage and any of the following, if they have been identified in complying with this Regulation: properties described in Column 1 of the Table to section 19, heritage resources, archaeological resources, water bodies, significant or provincially significant natural features and any other natural features identified in the Protected Countryside or in the portion of the Oak Ridges Moraine Conservation Plan Area that is subject to the Oak Ridges Moraine Plan, iv. a description, map or diagram of the distance between the base of any wind turbines and any public road rights of way or railway rights of way that are within a distance equivalent to the length of any blades of the wind turbine, plus 10 metres, v. a description, map or diagram of the distance between the base of any wind turbines and all boundaries of the parcel of land on which the wind turbine is constructed, installed or expanded within a distance equivalent to the height of the wind turbine, excluding the length of any blades, and vi. a description, map or diagram of the distance between the base of each wind turbine and the nearest noise receptor. <p>2. Set out conceptual plans, specifications and descriptions related to the design of the renewable energy generation facility, including a description of,</p>	Any renewable energy project, other than a project in respect of a Class 2 wind facility.
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- i. any works for the collection, transmission, treatment and disposal of sewage, including details of any sediment control features and storm water management facilities,
 - ii. any things from which contaminants are discharged into the air,
 - iii. any systems, facilities and equipment for receiving, handling, storing and processing any waste, biomass, source separated organics, farm material and biogas, and
 - iv. if the facility includes a transformer substation, the works, facilities and equipment for secondary spill containment.
3. Set out conceptual plans, specifications and descriptions related to the operation of the renewable energy generation facility, including,
- i. in respect of any water takings,
 - A. a description of the time period and duration of water takings expected to be associated with the operation of the facility,
 - B. a description of the expected water takings, including rates, amounts and an assessment of the availability of water to meet the expected demand, and
 - C. an assessment of and documentation showing the potential for the facility to interfere with existing uses of the water expected to be taken,
 - ii. a description of the expected quantity of sewage produced and the expected quality of that sewage at the project location and the manner in which it will be disposed of, including details of any sediment control features and storm water management facilities,
 - iii. a description of any expected concentration of air contaminants discharged from the facility,
 - iv. in respect of any biomass, source separated organics and farm material at the facility,
 - A. the maximum daily quantity that will be accepted,
 - B. the estimated annual average quantity that will be accepted,
 - C. the estimated average time that it will remain at the facility, and
 - D. the estimated average rate at which it will be used,
 - v. in respect of any waste generated as a result of processes at the project location, the management and disposal of such waste, including,
 - A. the expected types of waste to be generated,
 - B. the estimated annual average quantity that will be accepted,
 - C. the estimated average time that it will remain at the facility, and
 - D. the estimated average rate at which it will be used,
 - vi. if the facility includes a transformer substation,
 - A. a description of the processes in place to prevent spills,
 - B. a description of the processes to prevent, eliminate or ameliorate any adverse effects in the event of a spill, and

- C. a description of the processes to restore the natural environment in the event of a spill.
4. Include an environmental effects monitoring plan in respect of any negative environmental effects that may result from engaging in the renewable energy project, setting out,
- i. performance objectives in respect of the negative environmental effects,
 - ii. mitigation measures to assist in achieving the performance objectives mentioned in subparagraph i, and
 - iii. a program for monitoring negative environmental effects for the duration of the time that the project is engaged in, including a contingency plan to be implemented if any mitigation measures fail.
5. Include a response plan setting out a description of the actions to be taken while engaging in the renewable energy project to inform the public, aboriginal communities and municipalities, local roads boards and Local Services Boards with respect to the project, including,
- i. measures to provide information regarding the activities occurring at the project location, including emergencies,
 - ii. means by which persons responsible for engaging in the project may be contacted, and
 - iii. means by which correspondence directed to the persons responsible for engaging in the project will be recorded and addressed.
6. If the project location is in the Lake Simcoe watershed, a description of whether the project requires alteration of the shore of Lake Simcoe, the shore of a fresh water estuary of a stream connected to Lake Simcoe or other lakes or any permanent or intermittent stream and,
- i. how the project may impact any shoreline, including the ecological functions of the shoreline, and
 - ii. how the project will be engaged in to,
- A. maintain the natural contour of the shoreline through the implementation of natural shoreline treatments, such as planting of natural vegetation and bioengineering, and
- B. use a vegetative riparian area, unless the project location is used for agricultural purposes and will continue to be used for such purposes.
7. If it is determined that the project location is not on a property described in Column 1 of the Table to section 19, provide a summary of the matters addressed in making the determination.
8. If section 20 applies in respect of the project and it is determined that the project location does not meet one of the descriptions set out in subsection 20 (2) or that the project location is not in an area described in subsection 20 (3), provide a summary of the matters addressed in making the determination.
9. If subsection 21 (3) or 23 (2) applies, provide a summary of the matters addressed in making the determination,

		<p>i. under subsection 21 (3) or clause 23 (2) (a), as the case may be, including a copy of the document completed under the applicable provision, and</p> <p>ii. under clause 23 (3) (b), if applicable.</p>	
5.	Effluent management plan report	<p>Set out a description of the following in respect of the renewable energy project:</p> <ol style="list-style-type: none"> 1. The quality and quantity of all sewage that is expected to be produced by or at the renewable energy generation facility. 2. The manner in which the sewage mentioned in paragraph 1 is proposed to be treated and disposed of, including details of any sediment control features and storm water management facilities. 3. Mitigation measures to ensure that the sewage mentioned in paragraph 1 will not result in negative environmental effects on the quality of any water. 4. If the sewage mentioned in paragraph 1 is proposed to be discharged into surface water, the assimilative capacity of the receiving water body. 	<p>A renewable energy project in respect of one of the following facilities:</p> <ol style="list-style-type: none"> 1. A Class 2 or 3 anaerobic digestion facility. 2. A Class 1, 2 or 3 thermal treatment facility.
6.	Emission summary and dispersion modelling report	<p>Subject to section 57, report to be prepared in accordance with section 26 of Ontario Regulation 419/05 (Air Pollution — Local Air Quality) made under the Act.</p>	<p>A renewable energy project in respect of one of the following facilities:</p> <ol style="list-style-type: none"> 1. A Class 3 anaerobic digestion facility. 2. Class 1 thermal treatment facility, if the generating unit of the facility is located at a location other than a farm operation. 3. A Class 3 thermal treatment facility. 4. A biogas facility. 5. A biofuel facility.

7.	Hydrogeological assessment report	<p>1. Report to be completed by one of the following persons after the person has conducted a hydrogeological assessment in respect of the renewable energy project:</p> <ul style="list-style-type: none"> i. A professional engineer. ii. A professional geoscientist. iii. A person working under the supervision of a person mentioned in subparagraph i or ii. <p>2. Set out the following information in respect of the renewable energy project:</p> <ul style="list-style-type: none"> i. Plans, specifications and descriptions of the geological and hydrogeological conditions of the land within 300 metres of any biomass storage areas, source separated organics storage areas, farm material storage areas, storage tanks and digester tanks. ii. An assessment of the suitability of the project location for the handling, storage and processing of biomass, taking into account, <ul style="list-style-type: none"> A. the design of the facility, including existing features and features that are proposed to be implemented to control the expected production of leachate, B. the ability to identify, through monitoring, any negative environmental effects that may result on ground water from leachate production, and C. the feasibility of contingency plans that could be implemented to control leachate produced in a quantity greater than expected or with a quality worse than expected. 	<p>A renewable energy project in respect of one of the following facilities:</p> <ul style="list-style-type: none"> 1. A Class 2 anaerobic digestion facility if, <ul style="list-style-type: none"> i. the facility is located at a farm operation, and ii. section 10 or 13 of Ontario Regulation 267/03 (General) made under the <i>Nutrient Management Act, 2002</i> does not apply to the farm operation. <ul style="list-style-type: none"> 2. A Class 3 anaerobic digestion facility. 3. A Class 2 thermal treatment facility if section 10 or 13 of Ontario Regulation 267/03 (General) made under the <i>Nutrient Management Act, 2002</i> does not apply to the farm operation where the facility is located. 4. A Class 3 thermal treatment facility.
8.	Noise study report	<p>Report to be prepared in accordance with Appendix A of the publication of the Ministry of the Environment and Climate Change entitled, "Basic Comprehensive Certificates of Approval (Air) – User Guide", dated April 2004, as amended from time to time and available from the Ministry.</p>	<p>A renewable energy project in respect of one of the following facilities:</p> <ul style="list-style-type: none"> 1. A Class 3 anaerobic digestion facility. 2. Class 1 thermal treatment facility, if the generating unit of the facility is located anywhere other than at a farm operation. 3. A Class 3 thermal treatment facility. 4. A biogas facility. 5. A biofuel facility. 6. A Class 3 solar facility.
9.	Odour study report	<p>Set out a description of the following in respect of the renewable energy project:</p> <ul style="list-style-type: none"> 1. The significant process and fugitive sources of odour discharge from the renewable energy generation facility. 2. Any negative environmental effects that may result from the odour discharge mentioned in paragraph 1 at all odour receptors. 3. The technical methods that are expected to be employed to mitigate any negative environmental effects mentioned in paragraph 2 and the negative environmental effects that are expected to result if the technical methods are employed. 	<p>A renewable energy project in respect of one of the following facilities:</p> <ul style="list-style-type: none"> 1. A Class 3 anaerobic digestion facility. 2. A biogas facility. 3. A biofuel facility. 4. A Class 3 Thermal Treatment Facility.

10.	Project description report	<p>Set out a description of the following in respect of the renewable energy project:</p> <ol style="list-style-type: none"> 1. Any energy sources to be used to generate electricity at the renewable energy generation facility. 2. The facilities, equipment or technology that will be used to convert the renewable energy source or any other energy source to electricity. 3. If applicable, the class of the renewable energy generation facility. 4. The activities that will be engaged in as part of the renewable energy project. 5. The name plate capacity of the renewable energy generation facility. <p>5.1 How the requirement set out in section 57.2 is satisfied, including the following:</p> <ol style="list-style-type: none"> i. A description of how the electricity that is proposed to be generated is intended to be used, sold or supplied to other persons. ii. The duration of any agreements in respect of the use, sale or supply of the electricity. iii. Whether the name plate capacity of the facility exceeds the quantity of electricity that is intended to be used, sold or supplied to other persons and, if so, by how much. <p>6. The ownership of the land on which the project location is to be situated.</p> <p>7. If the person proposing to engage in the project does not own the land on which the project location is to be situated, a description of the permissions that are required to access the land and whether they have been obtained.</p> <p>8. Any negative environmental effects that may result from engaging in the project.</p> <p>9. If the project is in respect of a Class 2 wind facility and it is determined that the project location is not on a property described in Column 1 of the Table to section 19, a summary of the matters addressed in making the determination.</p> <p>10. If the project is in respect of a Class 2 wind facility in respect of which section 20 applies and it is determined that the project location does not meet one of the descriptions set out in subsection 20 (2) or that the project location is not in an area described in subsection 20 (3), a summary of the matters addressed in making the determination.</p> <p>11. An unbound, well marked, legible and reproducible map that is an appropriate size to fit on a 215 millimetre by 280 millimetre page, showing the project location and the land within 300 metres of the project location.</p>	Any renewable energy project.
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<p>11.</p>	<p>Surface water assessment report</p>	<p>1. Report to be completed by one of the following persons after the person has carried out a surface water assessment in respect of the renewable energy project:</p> <ul style="list-style-type: none"> i. A professional engineer. ii. A professional geoscientist. iii. A person working under the supervision of a person mentioned in subparagraph i or ii. <p>2. Set out the following information:</p> <ul style="list-style-type: none"> i. Plans, specifications and descriptions of the surface water features at the project location and any surface water features that will receive a direct discharge of sewage as part of engaging in the project. <ul style="list-style-type: none"> ii. An assessment of the suitability of the facility for the handling, storage and processing of biomass, source separated organics or farm material, taking into account, <ul style="list-style-type: none"> A. the design of the facility, including features that will be implemented to control the expected production of leachate, the flow of surface water and erosion and sedimentation resulting from the flow of surface water, B. the surface water features within 300 metres of the location where biomass, source separated organics or farm material will be handled, stored or processed, any surface water features that will receive a direct discharge of sewage from the facility and the surface water features of the project location, C. the ability to identify any negative environmental effects of leachate production on the surface water by monitoring, and D. the feasibility of contingency plans that can be implemented to control the negative environmental effects on surface water resulting from the production of leachate in a quantity greater than expected or with a quality worse than expected. 	<p>A renewable energy project in respect of one of the following facilities:</p> <ul style="list-style-type: none"> 1. A Class 2 anaerobic digestion facility if, i. the facility is located at a farm operation, and ii. section 10 or 13 of Ontario Regulation 267/03 (General) made under the <i>Nutrient Management Act, 2002</i> does not apply to the farm operation. 2. A Class 3 anaerobic digestion facility. 3. A Class 1, 2 or 3 thermal treatment facility.
<p>12.</p>	<p>Off-shore wind facility report</p>	<p>Set out a description of the following:</p> <ul style="list-style-type: none"> 1. The nature of the existing environment in which the renewable energy project will be engaged. 2. Any negative environmental effects that may result from engaging in the renewable energy project. 3. Mitigation measures in respect of any negative environmental effects identified in paragraph 2 and the negative environmental effects that are expected to result if the measures are implemented. 	<p>A renewable energy project in respect of a Class 5 wind facility.</p>

13.	Specifications report, Class 2 wind facility	<p>Provide:</p> <ol style="list-style-type: none"> 1. All of the manufacturer's specifications that are available in respect of the wind turbine. 2. The acoustic emissions in terms of overall sound power level and the corresponding frequency spectrum, in terms of octave-band sound power levels. 3. A site plan, drawn to scale, including the project location, property boundaries, location of all proposed wind turbines and all noise receptors and public roads (within a 1 kilometre radius from the base of each wind turbine). 4. A table listing the distances from the base of each proposed wind turbine relative to each noise receptor diagrammed under paragraph 3 in metres. 	A renewable energy project in respect of a Class 2 wind facility.
14.	Specifications report, wind facility (not class 2)	<p>Provide specifications of each wind turbine, including:</p> <ol style="list-style-type: none"> 1. The make, model, name plate capacity, hub height above grade and rotational speeds. 2. The acoustic emissions data, determined and reported in accordance with the standard specified for the wind turbine in subsection 1 (6.1). The data shall also specify each wind turbine's overall sound power level, measurement uncertainty value, octave-band sound power levels (linear weighted) and tonality and tonal audibility. 	A renewable energy project in respect of a Class 3, 4 or 5 wind facility.

O. Reg. 359/09, Table 1; O. Reg. 521/10, s. 35; O. Reg. 195/12, s. 28; O. Reg. 97/16, ss. 12, 13; O. Reg. 122/19, s. 7.

TABLE 2
(DISTANCE FOR LIQUID DIGESTATE STORAGE (SEE SECTIONS 47 AND 48))

Item	Column 1 Total Liquid Digestate Storage Volume (m ³)	Column 2 Distance (m)
1.	≤1000	125
2.	>1000 and ≤ 1250	129
3.	>1250 and ≤ 1500	134
4.	>1500 and ≤ 1750	139
5.	>1750 and ≤ 2000	144
6.	>2000 and ≤ 2250	151
7.	>2250 and ≤ 2500	156
8.	>2500 and ≤ 2750	162
9.	>2750 and ≤ 3000	167
10.	>3000 and ≤ 3250	171
11.	>3250 and ≤ 3500	176
12.	>3500 and ≤ 3750	180
13.	>3750 and ≤ 4000	184
14.	>4000 and ≤ 4250	188
15.	>4250 and ≤ 4500	192
16.	>4500 and ≤ 4750	196
17.	>4750 and ≤ 5000	199
18.	>5000 and ≤ 5500	206
19.	>5500 and ≤ 6000	212

20.	>6000 and ≤ 6500	218
21.	>6500 and ≤ 7000	224
22.	>7000 and ≤ 7500	229
23.	>7500 and ≤ 8000	235
24.	>8000 and ≤ 8500	240
25.	>8500 and ≤ 9000	245
26.	>9000 and ≤ 9500	249
27.	>9500 and ≤ 10000	254
28.	>10000 and ≤ 11000	262
29.	>11000 and ≤ 12000	271
30.	>12000 and ≤ 13000	278
31.	>13000 and ≤ 14000	286
32.	>14000 and ≤ 15000	292
33.	>15000 and ≤ 16000	299
34.	>16000 and ≤ 17000	306
35.	>17000 and ≤ 18000	312
36.	>18000 and ≤ 19000	318
37.	>19000 and ≤ 20000	323

O. Reg. 521/10, s. 36.

TABLE 3
(DISTANCE FOR SOLID DIGESTATE STORAGE (SEE SECTIONS 47 AND 48))

Item	Column 1 Total Solid Digestate Storage Volume (m ³)	Column 2 Distance (m)
1.	≤ 2000	125
2.	> 2000 and ≤ 2250	132
3.	> 2250 and ≤ 2500	137
4.	> 2500 and ≤ 2750	141
5.	> 2750 and ≤ 3000	146
6.	> 3000 and ≤ 3250	150
7.	> 3250 and ≤ 3500	154
8.	> 3500 and ≤ 3750	158
9.	> 3750 and ≤ 4000	161
10.	> 4000 and ≤ 4250	165
11.	> 4250 and ≤ 4500	168
12.	> 4500 and ≤ 4750	171
13.	> 4750 and ≤ 5000	174
14.	> 5000 and ≤ 5500	180
15.	> 5500 and ≤ 6000	186
16.	> 6000 and ≤ 6500	191
17.	> 6500 and ≤ 7000	196
18.	> 7000 and ≤ 7500	201
19.	> 7500 and ≤ 8000	205

20.	> 8000 and ≤ 8500	210
21.	> 8500 and ≤ 9000	214
22.	> 9000 and ≤ 9500	218
23.	> 9500 and ≤ 10000	222
24.	> 10000 and ≤ 11000	230
25.	> 11000 and ≤ 12000	237
26.	> 12000 and ≤ 13000	243
27.	> 13000 and ≤ 14000	250
28.	> 14000 and ≤ 15000	256
29.	> 15000 and ≤ 16000	262
30.	> 16000 and ≤ 17000	267
31.	> 17000 and ≤ 18000	273
32.	> 18000 and ≤ 19000	278
33.	> 19000 and ≤ 20000	283

O. Reg. 359/09, Table 3.