



## **Ontario Ministry of Natural Resources**

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### **Wind and Waterpower Site Release Review: Summary of Phase One Proposed Revisions**

December 22, 2009

## **1. Context**

The Ministry of Natural Resources has developed this document to support the review of the proposed phase one revisions to the wind and waterpower site release policies and procedures. This document is intended to provide a general overview of the revisions being proposed to assist the public, Aboriginal communities, stakeholders, municipalities and agencies in undertaking their review. There are numerous other additional clarification and clerical revisions made throughout the documents that are not explicitly referenced in this document.

Ontario has placed a priority on expanding the use of clean and renewable sources of energy such as wind, water, solar, biomass, biogas and biofuels. Developing these substantial resources is a cornerstone of this province's future prosperity and its commitment to protecting the environment.

Renewable energy projects provide environmental and economic benefits at the local, provincial and global level. They reduce threats to biodiversity from the impacts of climate change. They also create new opportunities for manufacturing and resource development activities. Finally, renewable energy generation boosts the long-term reliability and adequacy of Ontario's electricity system, by putting in place sustainable sources of energy.

The Government of Ontario has established a new framework to support renewable energy development through the recently proclaimed Green Energy Act (GEA), and related amendments to other legislation. The landmark GEA will boost investment in renewable energy projects and increase conservation, creating green jobs and economic growth to Ontario through a number of changes, including:

- providing certainty and clarity in the approvals process for renewable energy projects, including a new integrated approval process for wind, solar and bio-energy projects;
- creating a Feed-in Tariff that guarantees specific rates for energy generated from renewable sources; and
- establishing the right to connect to the electricity grid for renewable energy projects that meet technical, economic and other regulatory requirements.

The GEA builds on the Ontario government's earlier initiatives, including plans to eliminate coal from the power supply. Coal-fired generation is the single largest source of air pollution in Ontario and eliminating it from the supply mix, will be the largest climate change initiative in Canada.

## **2. Role of the Ministry of Natural Resources**

MNR's mandated activities include the management of fisheries, wildlife, petroleum and mineral aggregate resources, Ontario's provincial parks, and the Crown lands and waters that together make up approximately 87 per cent of the total area of the province.

MNR's primary roles in renewable energy are to:

- Review projects and make decisions regarding the approval of a renewable energy project where MNR has a legislative responsibility as per approval and permitting requirements, and
- Make Crown land available for renewable development.

## **3. Site Release**

The site release policies and procedures for water and windpower projects in Ontario were established in 2004, to support an orderly approach to making Crown land available for renewable energy development.

One of the key drivers behind the establishment of the original site release policies and procedures was the increased interest in Crown land for renewable energy caused by the de-regulation of the electricity market in Ontario and the increased focus on windpower as a viable alternative to fossil-fuel based generation projects.

The changing landscape for renewable energy development in Ontario, including the new Green Energy Act and related legislative changes, necessitates a more fulsome review to ensure that these policies and procedures align with the Government's overall Green Energy initiative.

## **4. Site Release Policy Review**

On September 24, 2009 MNR posted the policy intent to review the site release policies and procedures for water and windpower projects on Ontario's Environmental Registry. The posting identified that the site release review would occur in two phases.

Phase one will focus primarily on procedural elements including ensuring clarity between site release and other provincial approval processes.

Phase two will focus on the long-term application of site release, and the policy direction for renewable energy developments on Crown land in the context of the Green Energy initiative.

The phased approach to site release enables the government to address both the current renewable energy Applicants who are working through the site release process, and are transitioning to the new Feed-in Tariff program for procurement, and to provide adequate

time during phase two for discussion on key policy elements and the method for making Crown land available in the future.

The final phase two documents will represent a comprehensive review of the policies and procedures, and will ensure the appropriate use of Crown land to support renewable energy development now and into the future.

#### **4.1 Phase One - Overview**

Phase one of the site release review will provide direction to renewable energy Applicants who are currently proceeding through MNR’s site release process, including:

- *Procedural clarity* – administrative revisions to establish clarity on the steps of site release, and also to address procedural elements of site release related to Crown land management that are not currently contained within the documents, but that are supported by existing policies, procedures, or practice (transferability, survey requirements in water).
- *Alignment with GEA Direction* – align process and content of site release with new programs and direction provided by the GEA including the Feed-in Tariff program and the new approval process.
- *Elimination of duplication* – address overlap in information requirements of site release with information requirements related to permits and approvals and procurement planning.

| <b>Windpower Policy and Procedure</b>  |   |
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| Sections   | Proposed Revisions  |
| Policy S.3.0<br>Procedure S.1.0<br>Various   | Revisions to the general structure and language of the policy and procedure to ensure clarity of process and distinct stages of development.  |
| Policy S.2.2   | Revisions to the Application section of the policy to clarify when site release applies, areas where a site may not be available (known prohibited or constrained areas), and areas where there may be additional considerations or constraints (i.e., Far North, off-shore, and areas of existing protocols between Ontario and Aboriginal communities). |
| Windpower Site Strategy information removed (formerly prior to award of Applicant of Record) | Revisions to remove overlap with environmental and resource information requirements in the Class EA, permits, approvals and other agencies and federal requirements, and financial and technical requirements in the new Feed-in Tariff procurement processes established through the Ontario Power Authority.   |
| Policy S.2.2.1<br>S.2.2.2  | Revisions to the site release process establishing the non-competitive process as the means for Crown land site release to align with generation planning through the Feed-in Tariff.<br><br>Competitive bid process would only be used where MNR proactively identifies a site for potential development.  |

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| Policy S.3.4<br>Procedure S.2.8           | Revision to move the awarding of Applicant of Record status up in the process (before windpower testing) to separate site release and development stages.<br><br>Clarification that once Applicant of Record status has been issued, the formal site release process is finished. |
| Policy S.3.4<br>Procedure S.2.8           | Revision to remove "conditional" Applicant of Record Status to align with removal of the Windpower Site Strategy as these requirements were generally the basis of conditions.  |
| Procedure<br>S.3.0, S.3.1, S.3.2<br>S.3.3 | Establishing timelines for undertaking testing and/or development of Crown land projects to align with procurement and ensure that projects on Crown land are progressing.  |
| Policy S.5.0<br>Procedure S.5.4           | Clarification that an application for site release is not transferable, and that Applicant of Record Status is not transferable except to an affiliate.   |
| Policy S.2.1                              | Clarification that revisions to the policy and procedure apply to all existing site release Applicants.   |
| Policy S.3.5<br>Procedure S.4.0           | Revisions to language in the approval process to reference the new renewable energy approval process and other revisions from the Green Energy Act.   |
| Procedure S.5.5                           | Clarification regarding when reconfiguration of applications are permitted.   |

| <b>Waterpower Policy and Procedure</b>  |   |
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| <b>Sections</b>   | <b>Proposed Revisions</b>   |
| Policy S.3.0<br>Various   | Revisions to the general structure and language of the policy and procedure to ensure clarity of process and distinct stages of development.  |
| Policy S.2.1  | Revisions to the Application section of the policy to clarify when site release applies, areas where a site may not be available (known prohibited or constrained areas), and areas subject to site specific land use direction, or requirements (i.e., Moose River Basin North of Highway 11, Far North and areas of existing protocols between Ontario and Aboriginal communities). |
| Waterpower Site Strategy<br>Information Removed<br><br>(formerly prior to award of Applicant of Record) | Revisions to remove overlap with environmental and resource information requirements in the Class EA, permits, approvals and other agencies and federal requirements and financial and technical requirements in the new Feed-in Tariff procurement processes established through the Ontario Power Authority.  |
| Procedure<br>S.2.1.1<br>S.2.2.1<br>S.2.4.1  | Revision to remove requirement for agreements with private landowners that may potentially have property inundated as part of the initial Application, and identify that these agreements will be required later in the development process for MNR approvals.  |
| Policy<br>S.5.0<br>Procedure S.6.0  | Clarification that an application for site release is not transferable, and that Applicant of Record status is not transferable except to an affiliate.   |
| Policy<br>S.1.0   | Clarification that revisions to the policy and procedure apply to all existing site release Applicants.   |
| Policy<br>S.2.1.1<br>Procedure S.5.1  | Clarification that this site release process does not apply to small-scale waterpower development. Small scale is 75 kW or less.  |
| Policy<br>S.3.1   | Clarification that projects for off-grid community use can apply even while the window of opportunity for submitting applications is closed.  |
| Procedure S.4.0   | Removal of site development and coordination section of procedure. Replaced by reference to the Class Environmental Assessment for Waterpower Projects  |
| Procedure S.7.0<br>S.8.0<br>S.9.0<br>S.9.1<br>S.9.2   | Additional administrative sections not currently in waterpower procedure but in windpower procedure. <ul style="list-style-type: none"> <li>- Survey Requirements</li> <li>- Requisitions</li> <li>- Taxes, Charges on Gross Revenue and Land Rents</li> </ul>  |

## **4.2 Phase Two – Overview**

Phase two of the site release review will establish direction for future Applicants to site release and address key policy elements. Some of the initial areas of interest will include, but will not be limited to:

- *Method of site release* – approach that the government of Ontario takes to making Crown land available for renewable energy development, including where, when and how it will take place, and alignment with generation and transmission planning
- *Aboriginal involvement* – role of site release in providing for Aboriginal economic development opportunities
- *Site release for other renewables* – approach the Government takes to making Crown land available for other types of renewable energy projects (e.g. solar and bio-energy)
- *Public notification* – process and requirements related to the public notification approach to renewable energy development on Crown land
- *Aboriginal consultation* – process and requirements by which the Crown will ensure it has fulfilled its constitutional duty to consult with Aboriginal peoples
- *Pricing and fees* – review of existing fees and charges associated with renewable energy development, to ensure a balanced approach to supporting renewable energy projects, while maintaining a fair rate of return for the use of public resources
- *Geographic specific direction* – application of the policy and any specific requirements in geographic specific locations, including the Moose River Basin, the basins of the northern rivers (Attawapiskat, Albany, Winisk (Weenusk) and Severn), and other locations identified through the review