

CanREA Submission in Response to MNR ERO Policy Proposal 025-1146
Natural Resources Regulatory and Permit Reform Initiative: Updates to Natural Heritage
Technical Guidance for Renewable Energy Projects

The Canadian Renewable Energy Association (CanREA) is the leading national industry association advocating for wind energy, solar energy, energy storage and behind-the-meter solar and storage solutions in support of a reliable, affordable, and non-emitting electricity system.

CanREA's network of about 350 companies represent all parts of the value chain to develop and operate wind, solar and energy storage technologies across Canada.

General Comments

CanREA members have been very active over the past two years developing project proposals in support of various procurement programs of Ontario's Independent Electricity System Operator (IESO).

Many of these proposed projects will require approval under the *Renewable Energy Approval (REA) Regulation* and for this reason, CanREA welcomes this Ministry proposal to update natural heritage guidance for O.Reg 359/09 prescribed renewable energy projects.

The preparation and consideration of natural heritage assessments and bird/bat environmental effects monitoring plans represents a significant part of the renewable energy approval process.

CanREA is however not able to provide informed advice or assurances to the Government that the amended *REA Natural Heritage Guide (Guide)* will have a "neutral to positive impact on business" or "the real costs or cost savings associated with these proposed changes" per the ERO 025-1146 Regulatory Impact Analysis unless CanREA is provided an opportunity to review the draft *Guide* before its approval and release.

The ERO policy proposal – while promising – is too vague, high level and does not provide sufficient details of the proposed amendments, especially as it relates to birds, bats and wind power guidance.

Related to this MNR regulatory reform proposal, CanREA has prepared a separate submission for MECP for its consideration per its concurrent ERO policy proposal posting 025-1367 *Amending the Renewable Energy Approval Regulation to Remove Certain Project Types from the Process and Streamline the Review of Natural Heritage Assessments*.

Recommendations on Ministry Proposals

As a sector committed to supporting responsible environmental stewardship and working with local communities, CanREA welcomes the opportunity for its members to take greater accountability for the consideration of natural heritage values and the consideration of wind power related environmental effects monitoring plans (EEMPs) for bird and bats.

Specific to the proposed amendments to the *Guide*, CanREA provides the following initial feedback to the Ministry and welcomes the opportunity to discuss each of these matters further with Ministry staff before the *Guide* is amended and released.

Qualified Practitioner

CanREA supports the proposed amendments to the *Guide* to outline the training, skills or experience required for an individual to be considered qualified to prepare natural heritage assessments and reports.

CanREA is pleased that the definition of a “qualified person” will apparently be defined in the amended *Guide* versus defining such qualifications in O.Reg 359/09. By incorporating the definition in the *Guide*, there is an opportunity to more readily revise the definition in the future as required, without needing to amend O.Reg 359/09.

We note that the range of studies and EEMPs referenced in the current *Guide* (MNR 2009) are broad and often multi disciplinary (e.g. flora and fauna, water quality assessment, hydrogeology, habitat assessment, etc.). As such, it is likely that multiple qualified persons will be needed to complete the required studies and reviews, so the definition of the qualified person will need to accommodate this reality either through a broader approach or use of multiple qualifications.

Given the significance of this definition(s) to the proposed new regulatory regime for natural heritage assessments and EEMPs, CanREA requests that it be pre-engaged by MNR and MECP before:

- these definitions are finalized and established in the amended *Guide* and
- prior to O.Reg 359/09 being amended to add a general provision requiring that any individual conducting or preparing natural heritage related assessments or reports meet the qualifications outlined in the amended *Guide*.

Wetlands

CanREA generally supports the Ministry proposal to amend Appendix C (Wetland Characteristics and Ecological Functions Assessment for Renewable Energy Projects) of the *Guide* to provide clarity on the consideration of certain wetlands (e.g. northern wetlands) where a full wetland evaluation is not required.

While it is unlikely that renewable energy facilities will be proposed for wetland areas due to geotechnical constraints and the sector’s overall commitment to environmental stewardship, the updated direction regarding wetlands in northern Ontario is important, given that the IESO LT2 procurement decision making criteria has encouraged the sector to look to project development opportunities in northern Ontario.

While we assume that these amendments will likely mirror the amendments made to *Planning Act* related land use policy direction and updated *Ontario’s Wetland Evaluation Systems* methodologies (e.g. re-evaluations, MNR role, complexing), CanREA nonetheless requests the opportunity to review an amended Appendix C prior to its approval and release, given the significant implications of the *Guide* to project siting and development.

Natural Features Evaluation Criteria

CanREA generally supports the Ministry proposal to amend criteria related to the evaluation of significance of some natural features including procedures for evaluating significant wetlands and technical criteria for evaluating significant woodlands.

CanREA however requests the opportunity to review the amended criteria prior to the approval and release of the *Guide*, given the significant implications of the *Guide* to project siting and development.

CanREA wishes to note in advance that compared to previous provincial energy programs which resulted in significant renewable energy development in the settled and agricultural landscapes of southern Ontario, it is anticipated that many LT2 RFP awarded projects will be situated in central and northern Ontario, in areas dominated by treed and non agricultural landscapes.

For this reason, CanREA is signalling its concern in advance that the Significant Wildlife Habitat and potentially the Significant Woodland evaluation methodologies may be unintended barriers to some project development in central and northern Ontario that will require partial to full tree clearing, access development and landscape alteration.

For this reason, CanREA encourages the Ministry to review these evaluation methodologies to ensure they are not unintended barriers to the achievement of provincial energy needs in central and northern Ontario and to ensure that Environmental Impact Statement (EIS) technical direction in the amended *Guide* provides sufficient and varied examples of how project development in areas evaluated as significant may be readily mitigated, such that responsible project development may proceed.

CanREA also notes that the monitoring and evaluation standards that have been traditionally applied to renewable energy development approvals, as it relates to Significant Wildlife Habitat, are typically (and often significantly) greater than what would be required of other development applications. Renewable energy developments have been required to meticulously identify and evaluate all possible Significant Wildlife Habitat, while most other development applications are permitted to use professional judgement in the types of wildlife and wildlife habitat that have a reasonable potential to be negatively affected.

Bird and Bat Guides for Wind Power

CanREA understands that the Ministry is proposing to incorporate certain content from the current *MNR Bird and Bird Habitat and Bat and Bat Habitat Guidelines for Wind Power* into the amended *Guide*, rescind the bird and bat guidelines and makes changes that would result in:

- a simplified protocol with no monitoring requirements for applicants who avoid key habitats and implement known effective mitigation strategies to reduce mortality risks and potential displacement impacts to birds and bats;
- updated specific requirements (e.g. setbacks, monitoring protocols) to reflect new information; and

- a description of *Fish and Wildlife Conservation Act*, 1997 requirements that may apply to persons carrying out activities pursuant to a renewable energy approval.

Regulatory guidance for birds, bats and wind power is of significant interest to the sector, both in terms of limiting unnecessary and expensive studies, monitoring and reporting and also in terms of minimizing impacts to energy production.

Much has been learned in Ontario and across Canada since MNR first developed the bird and bat technical guidance and regulatory direction for O.Reg 359/09 in 2010. For example, since that time:

- It has been demonstrated that wind power is not a significant risk factor for bird species, populations and migratory activity in Ontario including the full range of raptor species.
- Evidence has shown that raptor mortality has most often been associated with Turkey Vultures, a species whose range and population continues to grow in Ontario despite wind power development and whose mortality associated with wind power is not predictable or mitigatable – thereby suggesting that Turkey Vultures should not be considered in any amended bird/raptor mortality threshold.
- Long term cause and effect monitoring can be expensive and inconclusive for relatively low levels of bird mortality and that consideration should be given to a broader range of alternative mitigation and adaptive management strategies beyond the limited turbine curtailment provisions prescribed in the *Bird Guide for Wind Power* (MNR 2011).
- Most bat species have now been listed under *Ontario's Species Conservation Act* and regulatory authority has largely been assumed by MECP through the SCA.
- While the sector has invested millions of dollars in post construction and cause and effect monitoring and reporting to both MNR and MECP for birds and bats, the sector has rarely received advice from either ministry as to the effectiveness and/or need for this monitoring and reporting.

As such and while CanREA is generally supportive of the proposal to update direction in the *Guide* regarding birds, bats and wind power, the ERO policy proposal is too vague for CanREA to provide any endorsement of the proposed changes at this time, or to advise government that that the proposed changes will either increase investor confidence or lead to real cost savings for the sector.

CanREA would be pleased to meet with the Ministry to better understand and to provide informed advice on which specific references to bird and bat guidance and EEMPs should be incorporated into the amended *Guide*, prior to the *Guide* being amended and released.

MNR Roles and Responsibilities/Miscellaneous Updates

On the general basis that regulatory clarity is important, CanREA is supportive of the proposal to: amend the *Guide* to clarify MNR's roles and responsibilities, update references to geospatial and other information sources, remove content related to provincial parks and conservation reserves, update MNR's role in REA applications to align with proposed regulatory changes to O. Reg. 359/09 and make certain housekeeping changes.

Specific to these types of amendments, CanREA recommends that the amended *Guide*:

- Maintain an MNR commitment to make its natural heritage databases available to project proponents and their consultants.
- Continue to provide for proponent access to MNR staff and advice regarding up front scoping of natural heritage field studies and advice on MNR data sets.
- Provide clarity as to how natural heritage studies for species and habitat listed under the *Species Conservation Act* administered by MECP can be aligned and coordinated with studies for non SCA listed species and habitat – including a commitment that MNR and MECP will jointly collaborate with project proponents and their consultants.

Given the importance of these issues, CanREA would be pleased to meet with the Ministry to better understand the proposed amendments and provide informed advice, prior to the *Guide* being amended and released.

CanREA members have had previous experience whereby Ministry staff either make reference to the *Guide* standards or sought to apply the *Guide* to certain pre-development or energy testing activities.

CanREA strongly recommends that the *Guide* be amended to provide clarity that the *Guide* does not apply to pre-development or energy testing activities and that the *Guide* only applies to those actual projects prescribed in O.Reg 359/09.

Finally, while project proponents and their expert consultants will be expected to support their projects for any natural heritage related matters that may arise at an Environmental Review Tribunal (ERT) hearing for a proposed project subject to O.Reg 359/09, it is CanREA's expectation that MNR as the ministry responsible for the *Guide* and its prescribed standards, guidance and information sources will also be a party to the ERT hearing upon request, to provide evidence as to the *Guide* and how project compliance with the *Guide* addresses the natural heritage requirements of O.Reg 359/09.

It would be ideal if the above role for MNR is described in the amended *Guide*, to provide clarity to the sector, communities, other stakeholders and the public.

Summary

CanREA is in general support of this proposal to update natural heritage guidance for O.Reg 359/09 prescribed renewable energy projects.

CanREA however is not able to provide informed advice or assurances to the Government that the amended *REA Natural Heritage Guide (Guide)* will have a “*neutral to positive impact on business*” or “*the real costs or cost savings associated with these proposed changes*” per the ERO 025-1146 Regulatory Impact Analysis unless CanREA is provided an opportunity to review to the draft *Guide* before its approval and release.

The ERO policy proposal – while promising – is too vague, high level and does not provide sufficient details of the proposed amendments, especially as it relates to birds, bats and wind power guidance.

While CanREA is supportive of the Ministry updating and releasing the *Guide* at the earliest opportunity, especially in light of the pending spring and summer 2026 field season to complete field surveys in support of expected April 2026 IESO approval of a substantial number of projects through its LT2 RFP procurement program, it is equally important the *Guide* be amended in an informed manner that reflects the best information and advice the sector can provide the Ministry.

We look forward to direct engagement soon with the Ministry in support of this proposal.