

Federal Authority Advice Record (FAAR)

Date of Submission: February 27, 2026

Baptiste Nickel Project – FPX Nickel Corp. (Proponent).

Registry File: 90051

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1. Will your department or agency exercise a power, perform a duty or function, or provide financial assistance, related to the project to enable it to be carried out in whole or in part?

As relevant,

- a) Specify the power, duty or function, or financial assistance, and the likelihood that it will be required to construct the project, based on the Initial Project Description, as either Required, Potential, Likely, Unlikely or Not Required**

Species at Risk Act (SARA) permits

Based on the information found in the Initial Project Description, a SARA permit is potentially required given the potential for Schedule-1 SARA listed migratory birds to occur in the project area including (but not limited to): Barn Swallow, Bank Swallow, and Black Swift. SARA applies to migratory bird Species at Risk on all land tenures.

Please see the attached Annex 1: “SARA Permitting 101” for further details on SARA and how/when it applies.

Migratory Birds Regulations (MBR) permits

Based on the information found in the Initial Project Description, a MBR permit is potentially required given the migratory birds identified as having the potential to occur in the project area, including, but not limited to, Pileated Woodpecker.

ECCC notes that there is no mechanism available to provide a permit for activities that do not directly target but may harm protected migratory birds, their nests, and/or eggs (e.g., vegetation clearing) under the MBCA and its regulations (known as Incidental Take).

The *Migratory Birds Convention Act* (MBCA) and its MBRs (revised July 2022) protect migratory birds and their eggs and prohibit the disturbance, damage, destruction or removal of migratory bird nests that contain a live bird or a viable egg. Migratory birds are protected at all times; all migratory bird nests are protected when they contain a live bird or viable egg; and the nests of 18 species listed in Schedule 1 of the MBR 2022 are protected year-round. These general prohibitions apply to all lands and waters in Canada, regardless of ownership.

Please see Annex 2: “MBR Permitting Supplemental Information” for further details on the MBR and how/when it applies.

Authorization to use a water body frequented by fish as a Tailings Impoundment Area under subsection 5(1) of the [Metal and Diamond Mining Effluent Regulations](#) (MDMER) of the *Fisheries Act*

Based on the information found in Table 5.2-2 of the Initial Project Description, an authorization under the MDMER is potentially required.

The attached Annex 3 “MDMER Amendment 101”, includes relevant details on the MDMER and Schedule 2 amendment process for tailings impoundment areas. ECCC recommends this Annex be shared with the Proponent for their information.

b) Describe any associated Indigenous or public consultation, including timelines

Species at Risk Act (SARA) permits

In the event that a SARA permit is required, once ECCC reviews the Proponent’s permit application, issues Information Requests, and the Proponent responds to the Information Requests, Indigenous consultations under SARA s.73(4) and (5) may occur.

Public engagement opportunities are not associated with this permit.

Migratory Birds Regulations permits

Indigenous consultation and public engagement opportunities are not associated with this permit.

Authorization to use a water body frequented by fish as a Tailings Impoundment Area under subsection 5(1) of the [Metal and Diamond Mining Effluent Regulations](#) (MDMER) of the *Fisheries Act*

Where Proponents or mine owners are seeking to comply with the *Fisheries Act* by pursuing an amendment to Schedule 2 of the MDMER, ECCC will consult with impacted Indigenous communities and the general public once the information requirements are complete for both the Proponent’s alternatives assessment and a Fish Habitat Compensation Plan. Proponents can support consultations by early and effective engagement with Indigenous communities prior to starting the regulatory process.

Where possible, consultations on amendments to Schedule 2 of the MDMER will be coordinated with the consultations undertaken during the impact assessment.

c) Describe any associated information requirements (e.g., alternative means assessment, habitat offsetting), and specify those that may be coordinated with the impact assessment process, if an impact assessment is required¹

Species at Risk Act permits

ECCC will require detailed information on the potential effects of the project, including locations and/or occurrences of species at risk, their use of habitat and critical habitat within the project area, and specific effects on federal land (if applicable), before ECCC can determine whether a SARA permit is required.

The Detailed Project Description and Summary of Issues should describe any anticipated need for species at risk permits during all phases of the Project. The Proponent is encouraged to collect and submit the information necessary to determine if a SARA permit is required during the impact assessment process, and to submit their application well in advance of the proposed activities to avoid delays.

¹ The Government of Canada has set a target of five years or less to complete federal impact assessments and related permitting processes for federally designated projects and a three-year target for nuclear project reviews.

Further information regarding species at risk permits will be provided in the Permitting Plan.

Please see Annex 1: "SARA Permitting 101" for information requirements including when and where SARA applies.

Where offsetting may be required, the Proponent may refer to guidance in ECCC's Operational Framework for the Use of Conservation Allowances.

Link: https://publications.gc.ca/collections/collection_2012/ec/En14-77-2012-eng.pdf .

Migratory Birds Regulations permits

The MBCA and the MBR, 2022 protect migratory birds and their eggs and prohibit the disturbance, damage, destruction or removal of migratory bird nests that contain a live bird or a viable egg.

Migratory birds are protected at all times; all migratory bird nests are protected when they contain a live bird or viable egg; and the nests of 18 species listed in Schedule 1 of the MBR 2022 are protected year-round.

These general prohibitions apply to all lands and waters in Canada, regardless of ownership.

The MBCA also prohibits the deposit of substances that are harmful to migratory birds in waters, or an area frequented by migratory birds or in a place from which the substance may enter such waters or such an area.

Proponents are reminded to develop beneficial management practices, guiding principles, and measures to reduce risk to contravening the MBCA. For more information, please visit: <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds.html>.

ECCC notes that there is no mechanism available to provide a permit for activities that do not directly target but may harm protected migratory birds, their nests, and/or eggs (e.g., vegetation clearing) under the MBCA and its regulations.

The MBR 2022 authorize the issuance of permits for damage or danger, as well as scientific permits, which may apply in certain limited situations and applications are evaluated on a case-by-case basis. For more information, please visit: <https://www.canada.ca/en/environment-climatechange/services/avoiding-harm-migratory-birds.html>

For information about which species are legally defined as migratory birds under federal legislation, please visit: <https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/convention-act.html>

Authorization to use a water body frequented by fish as a Tailings Impoundment Area under subsection 5(1) of the [*Metal and Diamond Mining Effluent Regulations*](#) (MDMER) of the *Fisheries Act*

Where Proponents or mine owners are seeking to comply with the *Fisheries Act* by pursuing an amendment to Schedule 2 of the MDMER, the following information requirements can be coordinated with the impact assessment process:

- The development and implementation of a fish habitat compensation plan (FHCP) to offset the loss of fish habitat that would occur as a result of the use of a fish-frequented water body for mine waste disposal.
- Demonstrate that the disposal of mine waste (including tailings and waste rock) in these water bodies is the best approach from an environmental, technical, economic and socio-economic perspective in according with Environment and Climate Change Canada's "Guidelines for the Assessment of Alternatives for Mine Waste Disposal"

(<https://www.canada.ca/en/environment-climate-change/services/managing-pollution/publications/guidelines-alternatives-mine-waste-disposal.html>).

The attached Annex 3 “MDMER Amendment 101”, includes relevant details on the MDMER and Schedule 2 amendment process for tailings impoundment areas. ECCC recommends this Annex be shared with the Proponent for their information.

Identify any associated project-specific guidance or issues of which the Proponent should be aware, or information the Proponent should provide.

Authorization to use a water body frequented by fish as a Tailings Impoundment Area under subsection 5(1) of the Metal and Diamond Mining Effluent Regulations (MDMER) of the *Fisheries Act*

Where Proponents or mine owners are seeking to comply with the *Fisheries Act* by pursuing an amendment to Schedule 2 of the MDMER, those proposals must meet various requirements before the Minister of the Environment can recommend the amendment to the Governor in Council. It is the Proponent’s responsibility to:

1) Submit the baseline fish studies report. In this report, the Proponent must:

- Identify all water bodies affected by the storage of mine waste;
- Confirm the presence or absence of fish in these water bodies;
- Provide the methodology used to document the presence or absence of fish; and
- Provide information on the connectivity of these water bodies with other water bodies frequented by fish.

2) Submit a detailed figure (including legends) showing the water bodies frequented by fish and that will be overprinted or connected to these water bodies.

3) Determine, based on steps 1) and 2), whether each water body affected by the disposal of mine waste is considered a water frequented by fish.

Note: ECCC will confirm whether a water body is considered a water frequented by fish based on the information provided by the Proponent and in consultation with Fisheries and Oceans Canada (DFO).

Steps 1) – 3) above apply only if a Proponent proposes to overprint a water body with mine waste. If no waterbodies are to be overprinted, no determination is necessary.

Open Science Data Platform (OSDP)

The Open Science Data Platform (OSDP) provides information relevant to cumulative effects and development activities across Canada and is publicly available at the following website:

<https://osdp-psdo.canada.ca/dp/en>. More specifically, the platform provides a single window to access data and scientific knowledge relevant to understanding cumulative effects from existing federal, provincial, and territorial on-line databases and registries, including publications from the federal government and its scientists. It provides an interactive geospatial mapping tool to enable mapping of multiple datasets from multiple sources. It offers various features, including keyword-based searching, interactive data visualization on maps, and educational resources covering key topics such as cumulative effects, water, air, climate, biodiversity, land, economy and industry, health, and society and culture.

OSDP information may be of value to persons preparing and reviewing projects assessments, including cumulative effects assessments. The following are some examples of ECCC information available on the OSDP.

Water – quality and quantity

- [National long-term water quality monitoring data](#)

- [Real-time hydrometric data](#)
- [Canadian Aquatic Biomonitoring Network \(CABIN\)](#)
- National Pollutant Release Inventory (NPRI)
 - [Facilities that reported releases to water](#)
- Find [additional water-related resources \(including publications, datasets and monitoring stations\)](#) from ECCC on the OSDP [here](#).

Biodiversity (e.g., birds, species at risk, wetlands)

- [Critical habitat for species at risk \(terrestrial\)](#)
- [Range map extents – Species at risk](#)
- [Canadian wetlands](#)
- [Canadian Protected and Conserved Areas Database \(CPCAD\)](#)
- [Canadian Breeding Bird Census plots](#)
- [Priority places for species at risk](#)
- Find [additional biodiversity-related resources \(including publications, datasets and monitoring stations\)](#) from ECCC on the OSDP [here](#).
- [Guidelines to avoid harm to migratory birds - Canada.ca](#)
- [General nesting periods of migratory birds - Canada.ca](#)
- [Frequently asked questions: Migratory Birds Regulations, 2022 - Canada.ca](#)
- [Guidelines for permitting under Section 73 of Species at Risk Act - Canada.ca](#)

Air Quality

- National Pollutant Release Inventory (NPRI), including:
 - [Facilities that reported release of criteria air contaminants](#)
- Canadian Environmental Sustainability Indicators (CESI), including
 - [Average ambient fine particulate matter concentrations](#)
 - [Peak ambient ozone concentrations](#)
 - [Ambient volatile organic compound concentrations](#)
 - [Average ambient sulphur dioxide concentrations](#)
 - [Peak ambient nitrogen dioxide concentrations](#)
- Find [additional air-related resources \(including publications, datasets and monitoring stations\)](#) from ECCC on the OSDP [here](#).

Climate, including climate change

- [Hourly and daily climate observations](#)
- [Monthly climate observation summaries](#)
- [Climate normals, averages and extremes 1981-2020](#)
- [Homogenized surface air temperature](#)
- [Canadian homogenized monthly precipitation](#)
- Find [additional climate-related resources \(including publications, datasets and monitoring stations\)](#) from ECCC on the OSDP [here](#).

Beyond ECCC's mandate, the OSDP also contains resources on topics led by departments and other levels of government (e.g., human health, economy and industry). The OSDP also provides access to regulatory registries that list government authorizations of other developments (e.g., *Fisheries Act* Registry), which can be useful in understanding the cumulative pressures on an area.

- d) **Indicate if your department or agency has identified any responsibilities that it will not perform or may not be able to perform to enable the project to be completed, in whole or in part.**

N/A

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2. **Using Table 1, identify project- and context- specific key issues, based on the expertise within your mandate and the information in your possession, including the Initial Project Description; any exchanges with the Proponent, other jurisdiction or any party in relation to the project; and means to address the effects of the project:**

- a) Specify the key issue (e.g., specific species and location)
- b) Specify the project component or activity linked to the key issue
- c) Explain why it's a key issue based on:
 - i. biophysical effect pathway(s) from the specific project component or activity
 - ii. concern unique to the project or a priority within your mandate
 - iii. the issue being material² to decision making under the *Impact Assessment Act*
- d) Identify how the issue could be resolved, including through means other than an impact assessment
- e) Identify additional information the Proponent could provide including to give confidence on how the issue can be addressed through other means.

Kenneth Law
Environment Assessment
Officer (ECCC)

Name and title of Departmental /
Agency Responder

February 27, 2025

Date

² An issue is material to decision making if its analysis is anticipated to affect the conclusions and the advice to the federal decision-maker, notably conclusions on whether adverse federal effects are likely not significant, or of low, medium or high significance or conclusions on justification in the public interest.

Table 1: Key Issues to inform the impact assessment process

This table should outline key issues to inform the impact assessment process, including whether an impact assessment is required and, if so, the scope of the assessment and tailoring of the Tailored Impact Statement Guidelines.

Key issues are the major concerns directly related to a project component or activity, the analysis of which is anticipated to be material to decision-making under the *Impact Assessment Act*.

Federal authorities' advice should be guided by the identification and resolution of key issues. If an impact assessment is required, it will be focused on key issues.

Comment ID	a) Key issue	b) Project component or activity	c)(i) Biophysical effect pathway(s)	c)(ii) Concern unique to the project or a priority within your mandate	c)(iii) Material to federal decision-making	d) Means for issue resolution	e) Additional information from the Proponent
ECCC-1	Migratory birds, including those listed on MBR Schedule 1. Migratory Birds: killing, harming or harassing migratory birds, including Disturbing or destroying active nests.	The activities and components, linked to the Project's construction, operation, and decommissioning could impact migratory birds and result in individual mortality and the destruction of their habitat (including wetlands), nests and eggs.	Vegetation clearing, wetland drainage, noise, vibrations, artificial lighting and disturbances from construction, operation and decommissioning activities may result in injury, mortality, sensory disturbance and change in habitat use. Attraction to lights at night or in poor visibility conditions may cause birds to collide with lit structures or their vertical support structures, resulting in injury or death. Collision with Project related vehicles or infrastructure (e.g. transmission lines) may also cause injury or mortality. Accumulation or accidental release of harmful substances to natural and artificially created ponds could also have adverse effects on migratory birds that frequent the water bodies. There is a higher risk that these effects would be more severe for migratory birds that are also species at risk and species where habitat is sensitive to disturbance (e.g., wetlands) or where there is already a high degree of cumulative effects to habitat or individuals.	Migratory birds are within the mandate of Environment and Climate Change Canada pursuant to the MBCA and its regulations (i.e., MBR 2022).	Migratory birds are a key issue as potential impacts to migratory birds would be an adverse effect within federal jurisdiction.	Well-understood mitigation measures would typically be required to resolve the issue. To aid in the planning of activities to reduce the risk of effects to migratory birds, their nest and eggs, Proponents are encouraged to consider the Guidelines to Avoid Harm to Migratory Birds, found here: https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html. In accordance with these guidelines, typical mitigation measures recommended by ECCC include but are not limited to: • undertaking vegetation and habitat clearing activities outside of the migratory bird nesting period (Nesting Zone A4) to prevent the destruction of migratory birds and their eggs and nests in order to be compliant with the MBCA and MBR; • management of lighting required for the construction, operation and decommissioning of the Project to minimize attraction of birds to reduce collision risk; • mitigation to prevent deleterious substances entering water bodies frequented by migratory birds, including water quality management, and, if required, deterrents to prevent migratory birds from entering water bodies containing harmful substances.	ECCC recommends that the following be included in the Proponent's Impact Statement to assess potential impacts to migratory birds: • Characterization of baseline conditions for migratory birds that is informed by desktop surveys as well as project-specific baseline surveys. • Assessment of Project impacts on migratory birds in the Project area, local assessment area and regional assessment area. • Description of all potential effects, including direct, indirect and cumulative effects, of the Project on migratory birds. • Application of the mitigation hierarchy: avoid, reduce, and finally offset for the unavoidable loss of habitats the support migratory birds, including a description of how effects will be avoided. • Design of mitigation measures and monitoring based on the best available standards, guidelines, best management practices, and scientific literature.

			Destruction and/or disturbance of habitat can have increased impacts on migratory bird species at risk individuals, residences and their critical habitat, which can lead to changes in prey and predator dynamics, loss of food resources, loss of breeding areas, and changes in migration or movement. In some cases, construction can create features that are attractive for species and increase their mortality risk. For example, certain migratory bird species at risk (e.g. Bank Swallow, Common Nighthawk) may nest in large piles of soil or open gravelled areas left unattended/unvegetated during the most critical period of the breeding season, making them vulnerable to construction activities.				
ECCC-2	Species at risk and their habitat, including killing, harming or harassing species, habitat disturbance or destruction, disturbing or destroying residences Terrestrial Species at Risk that are likely to occur in the project area include, but may not be limited to: • Crumpled Tarpaper • Cryptic Paw	The activities linked to the construction, operation, and decommissioning of the Project and associated infrastructure could adversely affect species at risk (e.g. amphibians, birds, lichens, terrestrial mammals, and vascular plants) listed on the SARA, and their habitat (e.g. wetlands) and critical habitat (including Southern Mountain Caribou and Whitebark Pine critical habitat).	The nature of the Project's impacts on species at risk and their habitat can vary based on several factors, including: • Project location, duration, scale, and configuration; • Ancillary project activities (e.g., land clearing); • Existing cumulative effects; • The type of habitat that may be disturbed; and • Sensitivity of species found in the Project area. Impacts of the project on Species at Risk may include: killing, harming	Species at Risk and their Habitat, are within the mandate of Environment and Climate Change Canada under the SARA.	Adverse effects within federal jurisdiction include: • Impacts to terrestrial species at risk which are also migratory birds; and • Impacts to terrestrial species at risk which may result in a non-negligible adverse impacts on the physical and cultural heritage or the current use of lands and resources for traditional purposes (e.g., hunting, trapping, gathering, etc.). Additionally, the entity responsible for the impact assessment (IAAC in this case) has obligations under s.79 of SARA to ensure that measures are taken to lessen or avoid impacts and monitor effects	Mitigation measures would typically be required to resolve the issue, which would be determined based on the specifics of both the identified species at risk and project activities. Relevant mitigation measures would vary depending on project specifics. The following non-exhaustive list of standard mitigation measures that may be applicable include • Applying activity restriction guidelines for sensitive wildlife • Limiting and orienting lighting to minimize light pollution • Giving wildlife the right of way and adjusting speed limits • Applying exclusion techniques to prevent access to project	The Proponent should identify all species at risk listed on Schedule 1 of SARA and any critical habitat that may interact with the Project and describe how they may be adversely affected by the Project. They should describe what measures will be taken to avoid or lessen the effects of each project activity and stage, and how these measures will be implemented, and effects be monitored to ensure they are avoided, minimized or whether adaptive management may be required. Additionally, there is always the possibility that species assessed by COSEWIC may be added to Schedule 1 of SARA with potential critical habitat identified. As best practice it is recommended to also consider species assessed by COSEWIC to implement measures to lessen or avoid impacts and to monitor them. ECCC recommends that the Impact Assessment Agency considers requiring the Proponent to include the following in the Proponent Impact Statement to assess potential impacts to terrestrial species at risk and their habitat:

	• Northwest Waterfan • Whitebark Pine • Bank Swallow • Barn Swallow • Common Nighthawk • Evening Grosbeak • Long-billed Curlew • Red-necked Phalarope • Rusty Blackbird • Short-eared Owl • Olive-sided Flycatcher • Peregrine Falcon • Band-tailed Pigeon • Black Swift • Western Grebe • Grizzly Bear • Little Brown Myotis • Northern Myotis • Wolverine • Woodland Caribou • Western Toad		or harassing individuals, the loss, fragmentation, and/or alteration of habitat, disturbance or destruction of residences, and may impact patterns and behaviours of species at risk, such as reproduction, foraging, staging, migration, and overwintering. Linear disturbance features of the Project may facilitate the movement of predators in the area, thereby increasing predator abundance, distribution and hunting efficiency, decrease habitat connectivity, or increase wildlife injury and mortality due to increased vehicle traffic. The construction of the Project may also increase public access to the region for activities such as hunting or recreation. In addition, species at risk could be affected by sensory disturbances during the construction, operation, and decommissioning of the Project. Some examples of potential sources of sensory disturbance include noise from various Project activities, lights, vibrations from grading and compaction, the operation of machinery, and the presence of workers. (including accommodation facilities). The duration,		to listed species at risk in a manner that is consistent with existing recovery strategies or action plans.	infrastructure SARA permits are discussed in Question 1 of the FAAR and are considered potentially required for the Project.	• Characterization of baseline conditions for species at risk that is informed by desktop surveys as well as project-specific baseline surveys and habitat suitability mapping. Surveys should be designed to identify seasonal and annual variation, distribution, and habitat use (requires adequate scope, survey effort, and consideration of locations, etc.) and be in alignment with the best available standards and scientific literature, including, but not limited to those developed by BC's Resource Inventory Standards Committee (RISC) and ECCC. • Assessment of impacts to terrestrial species at risk and their habitat, including critical habitat and wetlands, in the Project area, local assessment area and regional assessment area. • Description of all potential effects, including direct, indirect and cumulative effects, of the Project on terrestrial species at risk, including their habitat. • Application of the mitigation hierarchy: avoid, reduce, and finally offset for the unavoidable loss of habitats that support species at risk, including a description of how effects will be avoided. • Design of mitigation measures and monitoring that are based on the best available standards, guidelines, best management practices, and scientific literature.
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			frequency, and timing of noise are important to understand potential effects. Sensory disturbance may make adjacent habitats unsuitable for use by species at risk and cause avoidance effects in many species. The pathway through which potential effects are conveyed will depend on the land, air, and water constituents associated with the site along with the behavioural adaptability, presence and interaction with the species' limiting factors (e.g. habitat supporting staging, nesting, roosting or foraging) and population resilience.				
ECCC-3	Greenhouse Gas Emissions Assessment	The construction, operation, and decommissioning of the proposed Project will result in GHG emissions and/or impacts to carbon sinks.	N/A	The assessment of GHG emissions and carbon sinks from this project would inform the extent to which the effects of the designated project hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change (IAA s.22(i) factor to be considered). While the Proponent states that the existing vegetation will be cleared (in section 23.2 of the Initial Project Description), the GHG emissions from Land-use Change was not eliminated. The Proponent also did not consider the potential impacts on carbon sinks.	Whether a Project is federally or provincially regulated, the IAA requires consideration of the Project's GHG emissions, in terms of the projects' contribution to Canada's climate change objectives, to inform the federal Minister's decision-making. Application of the Strategic Assessment of Climate Change (SACC) would generate the information to support this analysis and may be useful to the Minister's decision making for the project. ECCC recognizes that the Proponent has provided GHG quantification information, including construction, operation and decommissioning emissions, as well as emission sources and factors used. The Proponent did not provide GHG emission estimates relating to Land-use Change, or the consideration of the Project's potential impacts on carbon sinks.	The Strategic Assessment of Climate Change (SACC) was published in 2020 and works in conjunction with the <i>Impact Assessment Act</i> to provide guidance on how to consider climate change throughout federal impact assessments. Proponents may find the technical guidance of the SACC helpful in assessing the impacts to climate change and in ensuring consistent, predictable, efficient and transparent consideration of impacts to climate change. Information typically requested for the project description is outlined in the SACC (including section 4.1) and the draft Technical Guide (including sections 2.4, 3.3, and 4.2). While the Proponent provided information on direct and acquired GHG emissions, the GHG emissions from Land-use change were not estimated. In addition,	ECCC recommends that the Proponent follow section 4 of the SACC and includes an estimate of GHG emissions from Land-use change, as well as the consideration of the project's impacts on carbon sinks. The Proponent may find the technical guidance of the SACC helpful in continuing the assessment of the impacts on climate change. Information typically requested for the Project Description is outlined in the SACC (including section 4.1) and the draft Technical Guide (including sections 2.4, 3.3, and 4.2). Technical guidance on the SACC can be found at: https://www.strategicassessmentclimatechange.ca/24391/widgets/98155/documents/62220

					This information may assist in determining if the project will contribute to Canada’s ability to meet its environmental obligations and its commitments in respect of climate change.	more details on land impacts would assist in understanding the potential impacts on carbon sinks. ECCC recommends that the Proponent follow section 4.1.2 of the SACC, which includes providing a description of the activities that would result in an impact on carbon sinks, and the land areas expected to be impacted by the project, by ecosystem type.	
ECCC-4	Climate Change Resilience	The overall lifetime of the proposed project exceeds 30 years. Climate over the lifetime of the Project is projected to be different from past and current climate in the project area. This should be considered in project design. Project components and activities for which climate change resilience could be important for this Project include those related to site water management plan and infrastructure.	There is potential for climate change to affect the Project which, in turn, may have impacts on the surrounding environment (e.g. through accidents or malfunctions) if not considered in project design.	Climate changes in the project area, such as possible changes in mean and extreme precipitation and temperature and related environmental conditions, may alter baseline conditions, with implications for climate sensitive aspects of project design and thereby potential effects on Valued Components (VCs).	Climate change resilience should be considered in project design to mitigate potential adverse effects on the environment including those within federal jurisdiction such as fish and fish habitat. ECCC recognizes that the Proponent has indicated that risks associated with climate change will be assessed in the Impact Statement and that appropriate mitigation will be included in design and management plans (see IPD, section 11.1).	The SACC is available to provide guidance on how to consider climate change throughout federal impact assessments.	Relevant information for considering the project’s resilience to climate change is provided in the “<i>Draft technical guide related to the Strategic Assessment of Climate Change: Assessing climate change resilience</i>” published in March 2022. Links: “Strategic Assessment of Climate Change” https://www.strategicassessmentclimatechange.ca https://www.strategicassessmentclimatechange.ca/28896/widgets/117114/documents/77106
ECCC-5	Air quality	Mining operations, processing, and activities associated with combustion (including transportation by road or rail) can result in the emission of contaminants such as sulphur oxides (SOx), nitrogen oxides (NOx), volatile organic compounds (VOCs), and particulate matter (PM2.5, PM10 and Total Particulate Matter (TPM)). Activities which cause a physical disturbance to land and ore material, such as earth moving, land clearing, blasting, drilling, and transportation, can also introduce particulate matter (e.g., dust and soot) to the surrounding region.	The emission of air contaminants can result in local or regional degradation of ambient air quality or the settling of contaminants out of the air and into the surrounding environment, which may result in potential impacts on the health of Indigenous Peoples.	ECCC provides expertise on the fate of air emissions to help support Health Canada’s assessment of potential impacts on Indigenous health.	The assessment of impacts on Indigenous health falls under the purview of Health Canada.	ECCC recommends that the principles of continuous improvement and the protection of unpolluted regions in the context of airshed and air zone management within the Air Quality Management System are considered within the assessment. Air quality impacts may also be addressed through well-understood or standard mitigation measures, such as fugitive dust management or best practices such as minimizing idling or keeping equipment well maintained.	Should impacts from the Project on air quality be shown to be an effect within federal jurisdiction and material to the Project decision, ECCC recommends the following be included in the Proponent’s Impact Statement to assess potential impacts to air quality: • Baseline and reference ambient air quality, including quantified emission sources for all relevant contaminants, including but not limited to: particulate matter, metals, NOx, SOx, VOCs, any other products of fossil fuel combustion, and other relevant pollutants from mobile, stationary, and fugitive sources. • Consideration of the impact of wildfires on baseline air quality data. If applicable, refer to the British Columbia active wildfire map available at https://wildfiresituation.nrs.gov.bc.ca/map. • Comparison of ambient baseline and reference air quality with applicable provincial and federal standards. • Inventory and description of Project activities and equipment that have the potential to impact air quality. • Quantitative prediction of air pollutants that will be generated during all Project phases. • Comparison of the predicted levels of air pollutants with baseline air quality data, and the strictest federal (CAAQS) or provincial air quality standards; if applicable. • An air quality management plan that includes a dust management plan. This should encompass sources of air pollution, common mitigation measures for air

							contaminants (including a detailed complaint resolution process), the performance effectiveness of air contaminant control devices, best practice programs, as well as monitoring and follow-up.
ECCC-6	Water Quality and Quantity	The activities linked to the construction, operation, and decommissioning of mining projects (e.g., site clearing and grubbing, site levelling, waste rock and tailings management, open pit development, effluent discharges, water management/supply/diversion s, land or streambed disturbance for transmission lines, etc.) can have adverse effects on the quality and quantity of groundwater and surface water through changes to drainage patterns, water availability, erosion and sedimentation patterns of affected water bodies (watercourses and lakes), the release of metals, suspended solids, and other contaminants to surrounding waters through metal leaching and/or acid rock drainage, erosion, sedimentation, seepage, or runoff processes. Furthermore, mining activities may impact water quantity through site re-contouring, drawdown of the water table, surface water management (e.g., diversions, ponds, water treatment facilities), changes in land cover, etc. These adverse effects have the potential to affect the hydrology (e.g., timing and magnitude of flows, range of seasonal and/or inter-annual flow variation), channel morphology and hydraulic conditions (e.g. water depths, velocities).	Adverse impacts to water quality and quantity could, in turn, result in adverse impacts to fish/fish habitat, terrestrial species at risk and migratory birds through direct impacts (e.g., minimum flow requirements, habitat alteration, etc.) or exposure to contaminants in the water or via food web interactions. Indigenous health could also be impacted via dietary exposure, including for bioaccumulative substances such as mercury and selenium.	Impacts to water quality and quantity can often cause effects for complex mining projects. Impacts are project-specific as they are linked to the mine design and mining plan, which are unique to each project.	Water quality and quantity can result in adverse impacts to fish and fish habitat, which are effects within federal jurisdiction.	ECCC is responsible for the administration of subsections 36(3) to (6) of the <i>Fisheries Act</i>, which prohibits the deposit of a deleterious substance in waters frequented by fish unless authorized by regulations (e.g., the Metal and Diamond Mining Effluent Regulations). For more information on the pollution prevention provisions of the Fisheries Act, please visit https://www.canada.ca/en/environment-climate-change/services/managing-pollution/fisheries-act-registry/frequently-asked-questions.html. Water quality impacts of the Project can also be mitigated through proper mine design, including source control, and implementation of measures to manage and treat mine contact water (e.g., tailings storage facilities, water management ponds, active water treatment, etc.). Please refer to the Environmental Code of Practice for Metal Mines for more information. https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/publications/code-practice-metal-mines.html	ECCC recommends that the Impact Statement describe and, whenever possible, quantify all potential effects, including direct and indirect effects, of project components or activities, including changes to water quality and quantity during all Project phases. The Impact Statement should also describe mitigation strategies and assess applicability of these strategies to the Project. Thus, ECCC recommends the following information requirements be captured in the Tailored Impact Statement Guidelines (or provincial equivalent) for the Project: • Baseline Conditions: Characterize and quantify baseline and reference conditions for surface water and groundwater quality and quantity for all impacted water courses within the Project site and the local and regional assessment areas, including groundwater-surface water interactions. • Mine Waste Quantity and Reactivity: Characterize all mine wastes and develop geochemical source terms for water quality predictions, preferably in accordance with The Prediction Manual for Drainage Chemistry from Sulphidic Geologic Materials (Price, 2009) and Guidelines for Metal Leaching and Acid Rock Drainage at Minesites in British Columbia (Price and Errington,1998). • Contaminant Identification: Identify all potential contaminants of concern. • Water Management: Describe surface water and groundwater management strategies, including any applicable water treatment measures and their effectiveness, throughout all Project phases. • Mine Waste Management: Describe management and mitigation strategies for all mine wastes, including their effectiveness during all Project phases. • Closure Plan: Provide a detailed description of closure and post-closure plans. • Water Quantity and Quality Predictions: Provide quantitative predictions of surface water and groundwater quantity and quality for all Project phases, at suitable temporal and spatial resolution to support effect assessment of related valued components including assessment of prediction uncertainties. including assessment of prediction uncertainties. • Hydraulics Predictions: Provide quantitative predictions of changes to hydraulics (water depth and velocity) at sensitive receivers and during sensitive periods for all Project phases to support effect assessment of related valued components including assessment of prediction uncertainties. • Water Monitoring Programs: Describe monitoring plans for surface water and groundwater quantity and quality across all Project phases in both the local and regional areas.

							• Fish and Fish Habitat Impact Assessment: Assess Project-related impacts on fish and fish habitat resulting from changes in surface water and groundwater quantity and quality. This assessment should take into consideration the hydrological impacts caused by climate change, including water management and mitigation measures that can be implemented during extreme events (e.g., flooding, drought, etc.). • Freshwater Supply: Provide quantitative estimation of freshwater supply, including an evaluation of potential effects on affected water bodies at suitable temporal and spatial scales to support effect assessment of related valued components and strategies to mitigate potential adverse effects throughout all Project phases. • Cumulative Effects Assessment: Assess cumulative effects of the Project on fish and fish habitat due to changes in surface water and groundwater quantity and quality.
ECCC-7	Accidents and malfunctions Potential accidental releases of hazardous substances during construction, operation, closure, and post- closure of the Baptiste Nickel Project, resulting in adverse effects on water quality, fish and fish habitat, species at risk and migratory birds and changes to the environment impacting Indigenous peoples of Canada.	Activities linked to the construction, operation, closure, and post-closure management of an open-pit nickel mine and associated on-site and off-site infrastructure have the potential for impacts due to accidents and malfunctions. Major components and activities include: Mine and Ancillary Facilities: • Open-pit mining (drilling, blasting, excavation). • Water management systems and non-contact water diversion ditches. • Mine Services Buildings, truck shop, fuel station, truck wash, laydown areas. • Haul roads and heavy equipment operation. • Explosives storage and handling. Processing and Ancillary Facilities • Primary and secondary crushing, grinding, magnetic separation, flotation, tailings leach circuits. • Tailings pipelines and concentrate handling. • Reagent storage and use (process chemicals).	Accidents and malfunctions could release hazardous materials to air, soil, groundwater, or surface water through: • Spills or leaks of fuels, lubricants, reagents, or contaminated water during storage, transfer, transportation, or equipment operation. • Failures of pipelines (tailings, reclaim water). • Failure of contact and non-contact water management facilities, especially during high-flow events. • Tailings Facility failures, dam instability, seepage system malfunction, or overtopping. • Failure of pumping systems. • Explosives misfires or accidental detonations. • Fires at fuel storage, vehicle shops, reagent storage buildings, or accommodation structures. • Accidental spills during transport of concentrate, chemicals, or fuel on access roads.	Accidents and malfunctions associated with a large open-pit nickel mine introduce risks of unplanned releases of hazardous substances, which fall within ECCC's environmental emergency management mandate. Potential effects of such releases include adverse impacts to air quality, surface water and groundwater quality, fish and fish habitat, migratory birds, species at risk, and changes to the environment that could result in non-negligible adverse effects on Indigenous Peoples of Canada. These considerations align with federal priorities related to pollution prevention, protection of water and wildlife, and the prevention of environmental emergencies. Key concerns for this project include: • Large volumes of fuels and reagents stored and transported onsite. • Considerable tailings generation (≈1.5 billion tonnes) requiring long term dam stability and seepage control. • Extensive surface water and groundwater interaction in a	Accidents and malfunctions could result in potential non-negligible adverse effects within federal jurisdiction associated with: • Spills of fuels, reagents, explosives, tailings, contaminated water, or sediment. • Tailings Facility breaches, overtopping, dam instability, or pipeline failures. • Contamination affecting fish, fish habitat, aquatic species at risk, migratory birds, and wildlife. • Water quality impacts propagating through nearby waterbodies. • Effects on Indigenous rights, land use, and culturally significant resources	Optimized spill prevention, preparedness, and response measures and systems will be important during all activities associated with the various stages of the project, given the risk of release of hazardous substances to the environment. This includes: Containment and storage controls • Secondary containment for all fuel, reagent, and hazardous waste storage. • Spill/leak detection, alarms, and automatic shutdowns for pipelines. • Engineered containment for tailings dams meeting BC and CDA standards. Site controls and best practices • Designated, bermed, and lined refueling and maintenance areas located 30 m away, at minimum, from waterbodies. • Handling procedures for explosives, fuels, and reagents. • Frequent inspection and preventive maintenance of pumps, pipelines, haul trucks, water systems, and dam infrastructure. • Traffic management systems. Plans and programs	ECCC recommends that the Proponent provide the following items as part of the Impact Statement which would provide confidence that potential accident and malfunction scenarios associated with the project have been adequately considered and prepared for, and that the adverse effects within federal jurisdiction are avoided or minimized: • Conducting a risk assessment of plausible accident and malfunction scenarios: ○ that could result from the activities proposed in the project; and, ○ that could result from the impact of natural hazards or environmental conditions at the proposed project site. • Adopting all relevant industry best-practice regarding prevention, mitigation, preparedness, response, and recovery in the context of spills resulting from accidents and malfunctions.

		• Power distribution, laboratories, and utilities. Mine Waste and Water Management • Tailings Facility. • Temporary and permanent ore, overburden, and waste rock stockpiles. • Freshwater pond, process water pond, reclaim pumps and pipelines. • Tailings deposition into the open pit during the final two years of operations. General and Offsite Infrastructure • Access roads (northern or southern routes) and associated upgrades. • 230 kV transmission line. • Accommodation facility, helipads, sewage treatment, incinerator. Given these activities, hazardous substances likely to be present include: • Fuels: diesel, gasoline, propane for heating and equipment. • Explosives: ANFO and emulsions for blasting. • Industrial reagents: flotation chemicals, grinding media additives, leach reagents. • Mine waste streams: tailings, contact water, seepage, pit water, contaminated soils. • Hazardous waste: lubricants, oils, solvents, batteries, laboratory chemicals. Given the reliance on heavy equipment, explosives, reagent-based mineral processing, tailings containment, and large-scale water systems, accidents and malfunctions have the potential to create non-negligible adverse effects to areas under federal jurisdiction.	These pathways could result in non-negligible adverse effects on components of the environment under federal jurisdiction, including fish and fish habitat, species at risk, migratory birds and changes to the environment impacting Indigenous peoples of Canada by: • Contamination of surface water (Baptiste Creek, Sidney Creek, Paula Creek, Middle River, Trembleur Lake) or groundwater, affecting fish, benthic invertebrates, aquatic vegetation, and downstream water users. • Exposure of migratory birds or terrestrial wildlife to contaminants via water, soil, or prey species. • Effects on culturally important species or sites identified by Indigenous Nations.	lake and creek-connected watershed. • Sensitive fish habitat (Middle River white sturgeon critical habitat; salmon populations downstream). • Important migratory bird habitat and caribou critical habitat overlapping the Project Area. • High reliance on heavy machinery and explosives, increasing spill and fire potential. • Long operational and post closure timelines, increasing uncertainty regarding equipment failure, impact of the environment on the Project, long term tailings stability and seepage of hazardous substances. ECCC provides environmental emergency management planning advice and guidance related to potential accidents and malfunctions involving unplanned or uncontrolled releases or spills of conventional hazardous substances into the environment, including scenarios where such releases could result in non-negligible adverse environmental effects within ECCC's mandate. These effects include impacts to air quality, water quality, species at risk, fish and fish habitat, migratory birds, or changes to the environment resulting in non-negligible adverse impacts to Indigenous Peoples of Canada. Additionally, ECCC coordinates expert review of atmospheric transport and dispersion modelling of airborne contaminants, fate and behavior of contaminants, and hydrologic trajectory modelling of contaminants in water.		• Comprehensive Spill Contingency Plan for hazardous substances. • Emergency Response Plan integrating fire protection, fuel management, tailings dam emergency preparedness, and communication protocols with Indigenous Nations and local authorities. • Waste Management Plan for hazardous waste, reagents, sewage, tailings, and contaminated soils. Monitoring and adaptive management • Baseline and ongoing monitoring of groundwater, surface water, and seepage. • Frequent inspection of stockpiles, pipelines, pumps, and dams. • Geotechnical and hydrotechnical monitoring of the Tailings Facility (including triggers for action). • Long-term monitoring into closure and post-closure. • Adaptive management triggers for scenarios with the potential to evolve into accidents or malfunctions Although the Proponent has proposed certain measures in the IPD that may be adequate, the response plans, mitigation strategies, project components, and systems are currently outlined only in broad terms. Part 8 of the <i>Canadian Environmental Protection Act</i>, 1999 on environmental emergencies (sections 193 to 205) addresses the prevention of, preparedness for, response to, and recovery from environmental emergencies caused by uncontrolled, unplanned, or accidental releases. It also addresses the reduction of any foreseeable likelihood of releases of toxic or other hazardous substances listed in Schedule 1 of the Environmental Emergency Regulations, 2019. This act may	
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						apply if Schedule 1 substances onsite meet or exceed the threshold to be regulated under the Canadian Environmental Protection Act, 1999. Technical Guidelines for the Environmental Emergency Regulations, 2019 may be found at: https://www.canada.ca/en/environment-climate-change/services/environmental-emergencies-program/regulations/technical-guidelines.html	
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Annex 1: SARA Permitting 101

Project planning: Applying for a Species at Risk Act (SARA) permit administered by Environment and Climate Change Canada (ECCC)

Context

This Project Planning document provides an overview of [Species at Risk Act \(SARA\) permitting process administered by Environment and Climate Change Canada \(ECCC\)](#) and outlines the key requirements for the permit application, as well as some tips to support applicants in providing a timely and complete permit application.

Section 73 of SARA allows a competent minister, under certain conditions, to issue a permit for an activity affecting a listed wildlife species, any part of its critical habitat or the residences of its individuals. The Minister of Environment and Climate Change is the competent minister with respect to individuals of all species other than aquatic species (as defined under the *Fisheries Act*) and individuals found on lands administered by the Parks Canada Agency.

Do You Need a SARA Permit?

Permits are required by any person engaging in an activity affecting a species listed on Schedule 1 of SARA as Extirpated, Endangered, or Threatened (hereafter, listed species), that would contravene any SARA prohibitions.

Where multiple individuals will engage in activities requiring a permit, on behalf of an entity (e.g., the employees or contractors of a company), the entity may apply for a permit that will cover all the individuals.

Species at Risk Act Prohibitions

General Prohibitions

Under s. 32 and s.33 of SARA, it is prohibited to:

- Kill, harm, harass, capture or take an individual of listed species,
- Possess, collect, buy, sell or trade an individual of a listed species, or
- Damage or destroy the residence of one or more individuals¹ of a listed species.

These general prohibitions automatically apply for terrestrial species upon listing under SARA, except on lands in the provinces that are not [federal lands](#) or lands in the territories that are not

¹ Under SARA, a residence is a dwelling-place, such as a den, nest or other similar area or place, that is occupied or habitually occupied by one or more individuals during all or part of their life cycles.

lands under the authority of the Minister or Parks Canada. For Migratory Birds (identified under the *Migratory Birds Convention Act* [MBCA]), these prohibitions apply everywhere in Canada².

Additional SARA Prohibitions:

Critical Habitat³, identified in recovery strategies or action plan, can be protected through a range of mechanisms. Where a critical habitat prohibition applies, SARA makes it an offence to destroy any part of the critical habitat of a species listed under SARA. For information about specific critical habitat protection on federal and non-federal lands in the province and territories, please visit: [Your responsibilities under the Species at Risk Act.](#)

Additional specific prohibitions may be in force as a result of an Emergency or Protection Order issued under s.34, 61, or 80 of SARA, and regulations made under s. 53, 59, or 71 of SARA – such orders and regulations are published on the [SARA public registry.](#)

SARA Permit Eligibility

If your project requires undertaking an activity that is likely to affect a listed species in a manner that is prohibited under SARA, you may need a SARA permit to proceed. Certain conditions must be met in order for a SARA permit to be issued, notably:

- All reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution, with the conservation of the species in mind, has been adopted;
- All feasible measures will be taken to minimize the unavoidable impacts of the activity on the species, its critical habitat or the residences of its individuals; and
- The residual impacts of the activity, after avoidance and mitigation is applied, must not jeopardize the survival or recovery of the species.

Applying for a SARA Permit

Complete applications for a SARA permit can be submitted via ECCC's [Species at Risk Act E-Permitting System](#). A complete and adequate application contains all of the documentation and information set out in the:

- [Guidelines for permitting under Section 73 of Species at Risk Act](#); and
- [Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations.](#)

² NOTE: Migratory Birds (both SARA-listed species, and non-SARA listed species), their nests, and eggs are protected under the MBCA and its Regulations.

³ Critical habitat is the habitat that is necessary for the survival or recovery of a listed wildlife species and that is identified as the species' critical habitat in the recovery strategy or action plan for the species.

Sufficient detail must be included in the application for the Minister to decide whether or not to issue a SARA permit. The tips will help you submit a complete application, reducing the likelihood of delays.

Applicants are encouraged to proactively engage with the [species at risk permit regional offices](#) with expertise in the SARA regulatory process for additional advice on preparing a complete and adequate application for review.

Time Limits for Processing SARA Permits

The time limit for ECCC to process an application is established in the [Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations](#) (the Regulations).

ECCC has 90 days to either issue or refuse to issue a SARA permit. This timeline starts on the date ECCC sends the applicant a written notice indicating that the application was received. This time limit will be suspended if additional information is needed to assess the proposed activity. The time limit is suspended on the day when ECCC sends the information request to the applicant and resumes once ECCC receives all the missing information.

The Regulations also list the circumstances under which the 90-day time limit does not apply, including when the following is required:

- Indigenous consultation
- A decision under another act of parliament, such as the Impact Assessment Act

Tips for a Successful Application

Tip 1: Plan Activities with Species at Risk in Mind

Common mistake

- Not considering impacts to species at risk during project planning.

Best practices

1. Determine whether any species at risk and/or critical habitat is found in the area of the proposed activity through resources such as:
 - a. [Critical Habitat for Species at Risk National Dataset](#)
 - b. Provincial conservation data centers
 - c. Other publicly available data sets
 - d. Consultation with a qualified professional
 - e. Discussions with ECCC
2. Consult the recovery strategy or action plan of the species in question if available.
 - a. These documents will help identify the most sensitive life cycles of the species affected, as well as how to avoid negatively affecting the recovery objectives of the species or jeopardize the recovery or survival of the species (see Permit Eligibility above).

- b. You will find important information in these documents to better understand the species and their needs, the threats to their survival or recovery, their critical habitat (including examples of activities that are likely to result in its destruction).
 - c. These documents are available on the [Species at risk public registry](#). For listed species at risk that do not yet have a published recovery strategy or action plan, you can also consult the species' [Committee on the Status of Endangered Wildlife in Canada \(COSEWIC\) assessment](#) and other best available information.
3. Verify if best management practices, residence descriptions and other species documents are available for the species.
 4. Integrate considerations related to species at risk into project planning from the start, including the implementation of the mitigation hierarchy (e.g., avoid, minimize, restore, offset) in project planning.

Benefit to applicant

- Demonstrating avoidance and minimization of impacts to species at risk is necessary to meet the mandatory preconditions, particularly that a species' survival or recovery is not jeopardized.

Tip 2: Ensure sufficient detail in permit application

Common mistake

- The permit application contains an insufficient level of information on the potential effects of your activity on species at risk, the residence of its individuals, or their critical habitat.
- The permit application does not consider impacts to individuals and residences outside of areas that have been identified as Critical Habitat.

Best practices

Use the [Guidelines for permitting under Section 73 of Species at Risk Act](#) to build your application,

ensuring the details you provide:

- Reflect the scale and complexity of your project and its activities, as well as timing and schedule of activities.
- Explain the measures taken to avoid, mitigate and offset impacts to species at risk and their habitat.
- Demonstrate how you meet the purpose of SARA and the permitting preconditions in s.73.

Benefit to applicant

- This will reduce the likelihood of delays created by information requests as ECCC reviews your application for completeness and adequacy.

Tip 3: Engage Indigenous Peoples early

Common mistakes

- The permit application does not account for Indigenous concerns.

- Indigenous communities are engaged only after the project design is completed.

Best practices

- Begin communication with Indigenous Peoples early during the project design phase (including offsetting measures). Engage and work with Indigenous Peoples to identify and address concerns throughout the development of project plans.

Benefit to applicant

A project that has the consent (or non-opposition) of Indigenous groups would reduce the time it takes for:

- ECCC to consult with Indigenous Peoples whose Aboriginal and treaty rights may potentially be adversely affected by your project.
- ECCC and the applicant to ensure accommodations are made where necessary.

Contact Information

For further details or assistance, reach out to the [species at risk permit regional offices](#).

Disclaimer

This document is not intended to be a substitute for the SARA or its regulations. In the event of an inconsistency between this document and the SARA or its regulations, the SARA and associated regulations would prevail. For the most up-to-date versions of the SARA, please consult the [Department of Justice website](#).

Annex 2: MBR Permitting Supplemental Information

The *Migratory Birds Convention Act* (MBCA) and its MBRs (revised July 2022) protect migratory birds and their eggs and prohibit the disturbance, damage, destruction or removal of migratory bird nests that contain a live bird or a viable egg. Migratory birds are protected at all times; all migratory bird nests are protected when they contain a live bird or viable egg; and the nests of 18 species listed in Schedule 1 of the MBR 2022 are protected year-round. These general prohibitions apply to all lands and waters in Canada, regardless of ownership.

The nest protection for species on Schedule 1 of the MBR 2022 (such as Pileated Woodpecker) extends from the last activity by *any migratory bird*. For example, if a Pileated Woodpecker *nesting* cavity is used by another migratory bird for nesting, roosting or other purposes, the nesting cavity will be protected under the MBR 2022, as it cannot be considered abandoned. Please note that it is important that verifications occur during a period when a nest could reasonably be expected to be in use including, but not necessarily limited to, the [general nesting period](#). For more information, please visit: [FAQs: MBR, 2022 - Canada.ca](#) and [Fact sheet: Nest Protection MBR, 2022 - Canada.ca](#).

MBR Damage or Danger permits (to scare migratory birds, destroy eggs or nests, relocate birds or their nests, or kill birds in instances where the birds, nests, or eggs are causing damage to property or threaten public health and safety) are available in certain limited situations and applications are evaluated on a case-by-case basis.

The MBCA also prohibits the deposit of substances that are harmful to migratory birds in waters, or an area frequented by migratory birds or in a place from which the substance may enter such waters or such an area.

Proponents are reminded to develop beneficial management practices, guiding principles, and measures to reduce risk to contravening the MBCA. For more information, please visit: [Avoiding harm to migratory birds - Canada.ca](#).

For information about which species are legally defined as migratory birds under federal legislation, please visit: <https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/convention-act.html>. For more information, please visit: <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds.html>.

Annex 3: MDMER Amendment 101

Project planning: Schedule 2 amendment of the *Metal and Diamond Mining Effluent Regulations* (MDMER)

Context

This Project Planning document provides an overview of **Schedule 2 amendments of the [Metal and Diamond Mining Effluent Regulations](#) (MDMER; the Regulations)** in order to **obtain an authorization for the use of water bodies frequented by fish for mine waste disposal** and outlines the key requirements for the authorization as well as some tips and suggestions to support the proponent in meeting the requirements of this process.

Do you need an MDMER Schedule 2 amendment?

An amendment to Schedule 2 of the MDMER is required when a project involves the disposal of mine waste into waters frequented by fish. Contact the ECCC's Mining and Processing Division (mdmer-remmmd@ec.gc.ca) for additional information.

Overview of the Schedule 2 Process¹

Subsection 36(3) of the *Fisheries Act* prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulation. The MDMER include provisions to allow for the disposal of mine waste in waters frequented by fish, under certain conditions. For the proponent to be able to deposit mine waste into waters frequented by fish, the water bodies must first be listed as [Tailings Impoundment Areas](#) (TIAs) in Schedule 2 of the MDMER.

The Governor in Council decides on proposed amendments to Schedule 2 of the MDMER, based on the recommendation of the Minister of the Environment, to designate waters frequented by fish as TIAs.

To inform a Schedule 2 listing decision, proponents are required to conduct an assessment of alternatives for mine waste disposal, in accordance with ECCC's [Guidelines on the assessment of alternatives for mine waste disposal](#) and to develop a fish habitat compensation plan (FHCP) to offset the loss of fish habitat resulting from the disposal of mine waste. The FHCP is assessed by the Department of Fisheries and Oceans (DFO), who provides expert advice to ECCC on the adequacy of the plan based on DFO's offsetting policies and the requirements under section 27.1 of the MDMER.

ECCC consults impacted Indigenous communities and the public on proposed Schedule 2 amendments.

¹ The Schedule 2 process consists of two steps: 1) The amendment to Schedule 2 of the MDMER to list waters frequented by fish as TIAs, which is subject to a Governor in Council decision; and 2) following the listing, the Minister of the Environment, on the recommendation from the Department of Fisheries and Oceans, approves the fish habitat compensation plan, once all regulatory conditions are met. This last step authorizes the disposal of mine waste into the listed TIAs.

For additional information, consult ECCC's [Guide to the regulatory process for listing water bodies frequented by fish in Schedule 2 of the Metal and Diamond Mining Effluent Regulations](#) (the Guide), which contains additional details including requirements, consultations, role of the proponent, and timelines.

ECCC is responsible for the implementation and enforcement of section 36 (3) of the *Fisheries Act* and the MDMER.

Tips and Best Practices

Tip: Proactive provision of information and ensure sufficient information

The Schedule 2 Amendment process may be delayed because complete information is not provided, or additional time is required for the proponent to obtain information. The information provided will be reviewed by ECCC and DFO, as applicable.

Best Practices:

- Providing the Assessment of Alternatives (AA) and FHCP early during the Environmental Assessment, if applicable, and in accordance with ECCC's Guidelines and DFO's policies, can reduce the time required for the Schedule 2 Amendment process.
- Develop the AA and FHCP in consultation with impacted Indigenous communities or as early as possible to avoid delays, which would streamline the Schedule 2 Amendment process.
- Refer to the [Guide](#) in support of the Schedule 2 Amendment
- Connect with federal authorities early to discuss your project and determine if any other considerations are needed to support the Schedule 2 process.

Contact Information

For further details or assistance, reach out to the ECCC's [Mining and Processing Division](#) for information on the *Metal and Diamond Mining Effluent Regulations*

Helpful Links

- [Metal and Diamond Mining Effluent Regulations: amendments to schedule 2](#)
- [Online Reporting for Metal and Diamond Mines](#)
- [Environmental Code of Practice for Metal Mines](#)