

# ATTACHMENT 1

## Focusing conservation authority development permits on the protection of people and property (ERO#013-4992)

Proposed Changes	Response	Potential Details for the Regulation
<p>Consolidating and harmonizing the existing 36 individual conservation authority-approved regulations into 1 Minister of Natural Resources and Forestry approved regulation</p>	<p>Conservation Ontario is supportive of the proposal to consolidate and harmonize the existing 36 individual conservation authority regulations into one Minister of Natural Resources and Forestry approved regulation.</p>	<p>The updated regulation should include schedules which outline the appropriate flood event standards for all 36 watersheds and the ability to incorporate shoreline management plans where they have been established. These flood event standards should be updated based on the best available science.</p>
<p>Update definitions for key regulatory terms to better align with other provincial policy, including:</p> <ol style="list-style-type: none"> <li>1. "Wetland"</li> <li>2. "Watercourse"</li> <li>3. "Pollution"</li> </ol>	<p>Conservation Ontario supports the proposal to update definitions for wetlands, watercourse and pollution.</p> <p>In order to achieve a consistent interpretation of these terms and to assist in future legal matters, the MNRF should also provide implementation support materials, including updating the natural hazard technical guidelines to include wetlands, as part of this regulatory update.</p>	<p><b>Wetland:</b> Conservation Ontario Council previously endorsed a request to have the definition of "wetland" align with that found in the Provincial Policy Statement, 2014.</p> <p><b>Watercourse:</b> Conservation Ontario recommends that the existing definition of watercourse be maintained. It is recommended that the Province, with input from Conservation Ontario and other stakeholders, including the agricultural and development community, could develop</p>

Proposed Changes	Response	Potential Details for the Regulation
		<p>criteria/technical guidelines to help determine when a feature is a watercourse that should be regulated and where the feature is simply a local drainage feature. This document could be incorporated by reference into the regulation. Criteria could include that the maintenance of the watercourse feature on the landscape contributes to watershed resilience, by preventing or reducing flooding and erosion, and therefore should be regulated to ensure that there are no impacts to natural hazards or public health or safety.</p> <p>As appropriate, exemptions within CA policy documents could be used to further clarify any other exceptions, such as storm water management ponds or farm swales outside of other hazard areas. These exemptions should be developed in consultation with the affected stakeholders.</p> <p><b>Pollution:</b> Conservation Ontario recommends that the existing definition of pollution be maintained.</p> <p>Through provincial implementation support material, it should be</p>

Proposed Changes	Response	Potential Details for the Regulation
		<p>clarified that this definition is intended to control erosion and sedimentation (i.e. hydro geomorphology) resulting from development activities and directing uses associated with hazardous substances outside of hazard areas. This implementation support material should clarify the role that CAs have in controlling pollution related to a proposed development activity and avoid duplication with the Ministry of Environment, Conservation and Park's legislated responsibility under the <i>Environmental Protection Act</i>.</p>
	<p>It is noted that the legislation currently empowers MNRF to create definitions for "development activity" and "hazardous land". It is recommended that the Province take the opportunity to update those definitions as well.</p>	<p><b>Development activity:</b> Conservation Ontario recommends that the existing definition of "development" found within the CAA be incorporated as the new definition for "development activity"</p> <p><b>Hazardous Land:</b> Conservation Ontario recommends that the existing definition of hazardous land be maintained however the regulatory limit around hazardous lands should include an allowance to be consistent with the rest of the S.28 regulation and to reflect a factor of safety associated with the</p>

Proposed Changes	Response	Potential Details for the Regulation
		mapping of hazardous land (e.g. leda clay, karst, etc).
<p>Defining undefined terms including: “interference” and “conservation of land” as consistent with the natural hazard management intent of the regulation</p>	<p>Conservation Ontario supports the proposal to define “interference” and “conservation of land” as consistent with the natural hazard management intent of the regulation. The proposal summary notes the important role that CAs play strengthening Ontario’s resiliency to extreme weather events and therefore, these terms should be defined to support this role. For example, the definition of conservation of land should be tied to climate change considerations (e.g. maintaining vegetative cover to assist with reducing erosion and slowing flood water due to the increase in run-off during rain storms). To reduce risks associated with natural hazards, there is a general need to protect wetlands, valleylands and watercourses from hydrologic impairment from development activities, alteration or interference at a site-specific scale, as well as at a subwatershed and watershed scale.</p> <p>In order to achieve a consistent interpretation of these terms and to assist in future legal matters, the MNRF should also provide implementation support materials as part of this regulatory update.</p>	<p><b>Interference:</b> Any anthropogenic act or instance which hinders, disrupts, degrades or impedes in any way the hydrologic function of a wetland or watercourse.</p> <p><b>Conservation of Land:</b> the protection, management, or restoration of lands within the watershed for the purpose of maintaining or enhancing the vegetative cover and hydrologic functions within the watershed for natural hazard management.</p>
	<p>The province has indicated that it is proposing to proclaim sections of the CAA following the approval of the proposed regulation. This includes: “S28.1 (1) An authority may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by section 28, if, in the opinion of the authority, ... (b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property.”</p>	<p>Health or safety of persons should include:</p> <ul style="list-style-type: none"> <li>○ health and safety of all persons, including emergency responders entering natural hazard areas</li> <li>○ damage to structures on or off the site</li> <li>○ future costs to protect property or manage risk to people and property due to existing natural hazards, and including</li> </ul>

Proposed Changes	Response	Potential Details for the Regulation
	<p>Conservation Ontario requests that the province also provide guidance on the interpretation and implementation of this clause to assist in the review of permit applications where this test may apply. This guidance should be complimentary to the CA provincially-delegated responsibility for representing the provincial interest for S. 3.1 of the Provincial Policy Statement.</p>	<p>new standards related to climate change</p> <ul style="list-style-type: none"> <li>○ safe ingress and egress of people and vehicles during a flood event</li> <li>○ risks associated with flooding of well water and septic systems</li> <li>○ directing new development outside of natural hazards</li> </ul>
<p>Reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed</p>	<p>Conservation Ontario is supportive in principle of the reduction of regulatory restrictions between 30 m and 120 m from wetlands <i>for low risk activities outside of other hazards that would not impact the hydrologic function of the wetland or public safety</i>. It is understood that “where a hydrological connection has been severed” refers to areas where the potential hydrologic function has already been assessed, e.g. areas included in recent plans of subdivision.</p> <p>There are certain large-scale, high risk activities taking place beyond 30 m from a wetland that have the capacity to impact the hydrology of that wetland. These activities must continue to be regulated by conservation authorities to control flooding. These activities include:</p> <ul style="list-style-type: none"> <li>○ site grading, involving areas cumulatively equal to or greater than 1 hectare;</li> <li>○ the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere, involving areas cumulatively equal to or greater than 1 hectare;</li> <li>○ municipal servicing;</li> <li>○ utility corridors;</li> <li>○ public roads;</li> <li>○ infrastructure associated with Permits to Take Water; and</li> </ul>	<p>Inclusion of a clause that allows a reduction of the extent of the regulated area around a wetland where the potential hydrologic impact to a wetland has been assessed and it has been demonstrated that hydrological connection has been severed.</p>

Proposed Changes	Response	Potential Details for the Regulation
	<ul style="list-style-type: none"> <li>○ Development, such as greenhouses, cumulatively ½ hectare or greater in size.</li> </ul>	
<p>Exempt low-risk development activities from requiring a permit including certain alterations and repairs to existing municipal drains subject to the <i>Drainage Act</i> provided they are undertaken in accordance with the <i>Drainage Act</i> and <i>Conservation Authorities Act</i> Protocol</p>	<p>Conservation Ontario is supportive in principle of the proposal to exempt some low-risk development activities from requiring a permit, including certain alterations and repairs to municipal drains subject to the <i>Drainage Act</i> provided they are undertaken in accordance with the <i>Drainage Act</i> and <i>Conservation Authorities Act</i> (DART) Protocol. It is recognized that this proposed exemption would require an update to the DART protocol and it is recommended that the DART Committee be re-convened for this purpose. When considering exemptions for the DART protocol, the Province should contemplate the full range of tools embedded in the new S. 28 regulation including opportunities for permit-by-rule, adopting a document by reference and registration. For example, as drainage works have the potential to impact flood control (especially where they involve wetlands), it is essential that CAs be notified of the proposed work in advance such that the CA could assist the Municipality in ensuring the works do not increase the risks associated with flooding or other hazards.</p> <p>Conservation Ontario requests involvement in any additional conversations related to potential exemptions for low-risk activities.</p>	<ul style="list-style-type: none"> <li>○ Need to differentiate between Standard Compliance Requirements within regulated wetlands limits and Standard Compliance Requirements outside of regulated wetland limits</li> <li>○ Require notification of the CA prior to undertaking works consistent with the DART protocol</li> </ul>
<p>Allow conservation authorities to further exempt low-risk development activities from requiring a permit provided in accordance with conservation authority policies</p>	<p>Conservation Ontario is supportive of the proposal to allow conservation authorities to further exempt low-risk development activities from requiring a permit provided in accordance with conservation authority policies. Many CAs already exempt low-risk development activities consistent with their Board-approved policies and are supportive of working with the Province to identify more streamlining opportunities.</p>	<p>Include a section in the regulation that would allow CAs to further exempt low-risk development activities from requiring a permit provided in accordance with CA policies.</p>

Proposed Changes	Response	Potential Details for the Regulation
	<p>This proposal would allow a conservation authority to develop possible exemption policies based on the hazards and development pressures found within their watershed where there is current technical information and mapping. A CA permit is a technical review/assessment and the regulation covers a range of natural hazards. The natural hazards in a CA's jurisdiction and the extent of the activities (i.e. scale and scope) contribute to the assessment of risk and the ability to be flexible.</p> <p>The MNRF should consider the requirements that will need to be in place for the implementation of this provision such as regulation maps that are current and regularly maintained. Provincial investment in updating components of the natural hazard maps may be necessary e.g. floodplain and wetland mapping. Current and reliable maps are a key part of the successful implementation of this option so that municipalities, other agency partners and the public can use the conservation authority regulation maps to identify where an exemption may or may not be applicable and avoid enforcement issues.</p> <p>It is recommended that the MNRF should also provide implementation support materials to provide the policy framework for exempting low-risk development activities</p>	
<p>Require conservation authorities to develop, consult on, make publicly available and periodically review internal policies that</p>	<p>Conservation Ontario strongly supports this requirement as it contributes to the overall transparency and accountability of the S. 28 regulatory program.</p> <p>To ensure greater consistency across the province, it is recommended that the MNRF</p>	<p>MNRF should provide a template policy to guide permitting decisions. This document should be incorporated by reference into the S. 28 regulation.</p>

<b>Proposed Changes</b>	<b>Response</b>	<b>Potential Details for the Regulation</b>
guide permitting decisions	should update the natural hazard technical guidelines (including wetlands) and should develop model implementation support guidance for CAs to base their internal policies upon. Conservation Ontario is prepared to assist in both endeavours.	Include a two year transition period to update CA policies to be consistent with the Provincial implementation support materials.
Require conservation authorities to notify the public of changes to mapped regulated areas such as floodplains or wetland boundaries	<p>Conservation Ontario supports this recommendation. In April, 2018 Conservation Ontario Council endorsed the “Procedure for Updating Section 28 Mapping: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulations” which could form the basis for these notification requirements. The April, 2018 document includes notification requirements which expand beyond solely public notification.</p> <p>Currently the regulations are what is referred to as a “text based” regulation and not a “mapped based” regulation. While it is acknowledged and supported that CAs should notify the public of changes to mapped regulated areas it should be equally acknowledged that the text of the regulation prevails. Maintaining text based regulations is critical for the protection of people and property from natural hazards and reflects the dynamic nature of these hazards.</p> <p>Furthermore, the requirement for public notification should differentiate between notifying the public of changes already made (e.g. MNR has updated the provincially significant wetland boundary) and of proposed changes (e.g. the CA is undertaking a flood plain mapping project). The requirement for public notification should also relate the scale and scope of changes, alternative public notification opportunities to avoid duplication as well as the size of the watershed for comprehensive update.</p>	Recommend that the requirements are consistent with the CO “Procedure for Updating Section 28 Mapping: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulations”.



Proposed Changes	Response	Potential Details for the Regulation
	<p>Finally, it is recommended that the Province develop a consistent public notification process for updates to provincial wetland mapping.</p>	
<p>Require conservation authorities to establish, monitor and report on service delivery standards including requirements and timelines for determination of complete applications and timelines for permit decisions</p>	<p>Conservation Ontario is supportive of this proposed requirement for CAs to establish, monitor and report on service delivery. When developing the parameters of this requirement, it is recommended that the MNRF consider the proposed Conservation Ontario “Client Service Standards for Conservation Authority Plan and Permit Review” that is currently under review.</p> <p>Although most CAs are currently able to achieve success in meeting the provincial timelines, as described in the “Policies and Procedures for Conservation Authority Plan Review and Permitting Activities” there are opportunities to improve the complete application process and improve the quality of technical submissions to achieve faster approvals. Technical guidelines and checklists are important for this purpose and are outlined as a best practice in CO’s Client Service and Streamlining Initiative.</p> <p>To further streamline application requirements, Conservation Ontario strongly supports the Made-In-Ontario Environment Plan commitment to “update technical guidance to protect people and property from flooding and water-related hazards” and recommends that these updates include new provincial direction on how to incorporate climate change. Conservation Ontario is prepared to assist with this update. Finally, it is recommended that the Province consider targeted investment to support the completion of comprehensive natural hazard studies.</p>	<p>Recommend that the requirements are consistent with the CO Client Service and Streamlining Initiative.</p>

## General Comments

Proposed Changes	Response	Potential Details for the Regulation
<p>Will also provide the business sector with a clear and consistent regulatory environment in which to operate and will help to make approval processes faster, more predictable and less costly.</p>	<p>Conservation Ontario recognizes the need to provide the business (and other) sectors with a clear and consistent regulatory environment in which to operate and the need to make approval processes faster, more predictable and less costly. Further to this, Conservation Ontario Council recently endorsed the Client Service and Streamlining Initiative with the goals of 1) improving client service and accountability; 2) increasing the speed of approvals and 3) reducing red tape and regulatory burden, while <b>not jeopardizing public health and safety or the environment in the process</b>. Many of the activities associated with this initiative are well under-way.</p> <p>It is recommended that approval processes can be made faster, more predictable and less costly through adequate policy support from the Province, more efficient review processes, and better quality submissions by the applicants. Conservation Ontario is currently working on this on a variety of fronts, including looking at opportunities to improve pre-consultation, establishing template CA-municipal MOUs, and undertaking a multi-stakeholder process flow review workshop to identify opportunities to gain further efficiencies in the planning and permitting process. As previously mentioned, Conservation Ontario strongly supports the Province’s commitment to update technical guidance as an important first step.</p>	<p>The consolidated regulation should include schedules which outline the appropriate flood event standards for all 36 watersheds and the ability to incorporate shoreline management plans.</p>

Proposed Changes	Response	Potential Details for the Regulation
<p>As more extreme weather events occur that threaten our homes, businesses and infrastructure, it's important to ensure conservation authorities deliver on their core mandate for protecting people and property from flooding and other natural hazards. Improving the efficiency and effectiveness of these regulations is critical component of this government's strategy for strengthening Ontario's resiliency to extreme weather events.</p>	<p>Conservation Ontario strongly supports utilizing S. 28 as one tool to address adapting to a changing climate. As part of the update to the S. 28 regulation, it is recommended that the Province include specific elements to address extreme weather events, including:</p> <ul style="list-style-type: none"> <li>○ Updating the technical guidelines to provide provincial direction on how to include climate change considerations. These guidelines should support CA decision-making for both planning and permitting functions;</li> <li>○ Standards and requirements to mitigate the impacts of climate change and provide for adaptation to a changing climate, including through increasing resiliency;</li> <li>○ Ensuring that the definition of "conservation of land" ties to the CA role in mitigating and adapting to climate change impacts.</li> <li>○ Updating, as appropriate, the flood event standards for a watershed</li> </ul> <p>While it is acknowledged that the Section 28 regulation can be utilized as an effective tool to adapt to a changing climate for new development proposals this regulation does not address the protection of existing development within floodplains that has occurred historically. Further to this, the Province is encouraged to continue its funding for the maintenance of existing flood (dams, dykes and channels) and erosion control structures.</p>	<ul style="list-style-type: none"> <li>○ Include standards and requirements to mitigate the impacts of climate change and provide for adaptation to a changing climate, including through increasing resiliency;</li> <li>○ Update definition of "conservation of land" to be complementary to mitigating and adapting to climate change impacts</li> <li>○ Updating, as appropriate, the flood event standards for a watershed and Great Lakes/large inland lake shorelines</li> </ul>

Proposed Changes	Response	Potential Details for the Regulation
<p>Once established, the Province is also proposing to bring into force un-proclaimed sections of the <i>Conservation Authorities Act</i> associated with conservation authority permitting decisions and regulatory enforcement.</p>	<p>Conservation Ontario strongly supports the proposed enactment of “Part VII – Enforcement and Offences” section of the <i>Conservation Authorities Act</i>.</p> <p>While the proclamation of the section associated with regulatory enforcement is welcomed, it must also be acknowledged that enforcement of the regulation through the court system is a costly endeavour and typically, there is no Provincial funding to assist. The Province should consider assisting CAs in their enforcement of this provincial regulation in the following ways:</p> <ul style="list-style-type: none"> <li>○ Work with Conservation Ontario to develop and deliver a timely and effective communications strategy for the public, development community, municipal and other agency partners to ensure transparency and awareness regarding the new standards;</li> <li>○ Providing access to Crown Prosecutors for high risk offences;</li> <li>○ Consider joint training opportunities for CA and Ministry employees;</li> <li>○ Provide enforcement policy implementation support; and</li> <li>○ Expedite Conservation Ontario Council’s June, 2016 request for short-form wording for more minor S.28 offences.</li> </ul>	