

Appendix E: CO Procedure for Updating Section 28 Mapping: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation

## **Procedure for Updating Section 28 Mapping: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulations**

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## Background

The 'Generic Regulation' or Ontario Regulation 97/04 was approved by the Province in 2004. This regulation outlined the required content for each (individual) Conservation Authority (CA) Regulation. Further information on this process can be found in Appendix 1. A document was developed by Conservation Ontario (CO) and Ministry of Natural Resources (and Forestry) (MNR) to provide assistance to CAs on the approval and consultation process and review of mapping associated with this regulation. This document was entitled:

**Generic Regulation - Approval Process Document: A Guideline Document to Assist Conservation Authorities with the Process of Obtaining Approval for their new Conservation Authorities Act, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation, October 2005.**

The majority of this document relates to the initial approval process for CA regulations across the province and it outlines the roles of the CO Peer Review Committee and MNR. The last section of the 2005 guideline relates to the ongoing maintenance of regulation schedules. It states:

### 5.3 Maintenance

Additions or modifications to regulation schedules that maintain the intent and improve the accuracy of the regulated area, such as updated wetland boundaries, will not require an approval process. These will normally be site-specific amendments. The Conservation Authority will consult the affected municipality and keep a listing of these modifications to the regulated area and file a report with the peer review committee and MNR.

Additions or modifications to the regulation schedules resulting from comprehensive or larger scale studies require re-circulation through the Peer Review/MNR process and notification if they substantially change the impact of the regulation. A copy of the mapping highlighting the proposed modification(s) and the rationale for the change(s) as well as a record of any consultation will be provided to the Peer Review Committee in support of the amendment application.

The Peer Review Committee has evolved to become the CO Section 28 Committee (S. 28 Regulations Committee). While the CO Section 28 Committee no longer has a role in reviewing technical updates to Regulation mapping, it has an ongoing role to provide information and advice to CAs.

## Objective

There have been several advances in technology, mapping and modelling as well as how agencies communicate with the public since the release of the 2006 Protocol for Updates to Section 28 Mapping: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulations. Further to queries from CA staff, the CO Section 28 Regulations Committee identified the need to modernize and update the mapping protocol.

The objective of this document is to provide guidance to Conservation Authorities for recording and tracking regulatory mapping produced under the enabling Ontario Regulation 97/04 in the

absence of a replacement of section 5.3 of the *Approval Process Document* (Conservation Ontario & Ministry of Natural Resources, 2005). This guideline will meet the intent of the *Approval Process Document* and will assist CAs in the development of consistent and defensible mapping products, accurate reporting of mapping updates, public consultation, and notification to MNRF.

## Role of the CO Section 28 Regulations Committee

The S. 28 Regulations Committee is comprised of CO staff and representatives from several CAs with planning, regulations and technical expertise. This committee provides advice and information with respect to hazard mapping. In this regard, the committee is available to all CAs to provide technical assistance and advice, as follows:

- **Review of Mapping** –The S. 28 Regulations Committee should be contacted when:
  - new mapping methodologies are proposed that are different from those previously endorsed by the Peer Implementation and Review Committee (*Guidelines for Developing Schedules of Regulated Areas, October 2005* or a CA specific methodology endorsed in 2006),
  - a new methodology is being used that wasn't used in the past, or
  - a significant change to the methodology is proposed.

The S. 28 Regulations Committee will provide advice, recommend consultation with a CA technical discussion group or recommend a CA engage or consult with a technical expert to conduct a peer review. When making a submission, the CA should describe the proposed methodology and indicate how it differs from the previous mapping guidance documents.

The S.28 Regulations Committee will be available to discuss any outcomes from the consultation with technical discussion groups or technical experts however feedback received throughout this process should be considered advisory in nature.

- **Public Consultation** – The S. 28 Regulations Committee is available to provide advice regarding the appropriate nature and extent of public consultation that should be carried out. When making a submission, the Conservation Authority should provide a brief summary of the context and proposed public consultation process.

## Mapping

As per the individual regulations administered by CAs, all mapping (paper or digital) shall be filed at the head office of the authority. For the purposes of this document and the implementation of the regulation, the term “mapping” means the maps produced in support of the regulation and referenced in the text of the regulation. **In cases where there is a discrepancy between the mapping and the text of the regulation, the text prevails.**

The regulation maps are useful tools for CAs in screening applications to determine if a development proposal is within the regulated area. These maps are comprised of different layers of information. The detailed mapping layers used to produce the general regulation maps is used by Conservation Authority staff to review and determine the hazard or feature within the regulated area. In some cases these maps are also used by municipalities as a screening tool for

planning applications or by landowners and other stakeholders to prepare for pre-consultation meetings.

### Minor Mapping Changes

Often the information in the various data layers is refined based on site-specific field investigation by CA staff or other qualified professionals. These are typically minor modifications. Examples might include wetland boundary modifications, confirmation of stable top-of bank obtained through site-specific geotechnical studies, surveyed floodlines, and updates to the location of a watercourse. These modifications generally relate to individual properties (although the regulation limit may impact several properties) and are made as a result of the permit or plan review process.

### Major Mapping Changes

More extensive mapping changes, made at the watershed, subwatershed, watercourse or shoreline reach, or multi-property scale are considered major. Examples of these changes might include: floodplain mapping, geotechnical mapping defining the limit of the erosion hazard, and comprehensive wetland mapping. Changes to modelling standards and availability of higher resolution data may result in a more accurate representation of the hazards. This usually requires large scale changes.

## Mapping Updates

The following outlines the requirements for CA regulation map updates. The subsections below define required tracking, public consultation, and notifications. Updates include (but are not necessarily limited to) the following:

- the maintenance or refinement of mapping that was developed based on the *Approval Process Document* (Conservation Ontario & Ministry of Natural Resources (and Forestry), 2005)
- major updates following the methodologies in the *Guidelines for Developing Schedules of Regulated Areas* (Conservation Ontario & Ministry of Natural Resources (and Forestry), October 2005)
- major updates following an alternative methodology
- completely new mapping
- new base information (e.g., aerial photography, LIDAR)
- new studies (e.g., shoreline study, geotechnical or floodplain study)
- new wetland information, including PSW boundary updates (from MNRF, ELC, or field truthing)
- new floodplain estimations, or
- corrections to the previous Regulation Limit as a result of mapping changes.

### Record of Mapping Changes

It is expected that CAs will track changes/updates to mapping by recording the changes required to each map sheet or include this information in the meta-data associated with the digital mapping product. A CA may indicate updates within the revision block on the map sheets more frequently. Digital map layer archives of the regulation limit and regulated features should be retained for each iteration of changes (i.e. annually or quarterly depending on update schedule).

The following is an example of paper map revision block:

REVISION NUMBER	DATE	CHANGE
3	Sept. 2018	- flood hazard limit added to ABC watercourse based on floodplain estimation which expands the regulation limit
3	Nov. 2018	- wetland boundary removed and area of interference – wetland does not exist based on field truthing – regulation limit is decreased
3	May 2019	- mapping revisions to the regulation limit have been completed as referenced in policy document or separate document. - name of who authorized the change

An example of metadata for digital records is included in Appendix 2. Conservation Authorities with digital records should have metadata for each regulated feature and the Regulation Limit. The metadata provides key information regarding the accuracy of the mapping, sources of information used to create the mapping, recent updates to the mapping etc.

### Public Consultation

Landowner consultation is a best management practice for minor mapping updates. The scope of the consultation process will depend on the extent of the update.

For minor updates (e.g. minor updates that occur soon after consultation with the affected landowner), a notice on the Conservation Authority website that mapping amendments affecting individual landowners may occur on an irregular basis may be sufficient ‘public’ notice. If minor amendments to features and the regulation limit are updated annually, a best management practice may be to post a notice on the conservation authority website and/or provide notice to the CA Board and public through a report.

Public consultation should be completed for major mapping updates. The scope of the consultation process depends on the geographic nature and extent of the mapping changes (e.g., the number of properties or length of reach affected). Each CA should determine an appropriate consultation process for their mapping updates.

Where mapping is done within a municipal planning context and includes a public consultation process under the Planning Act such as the incorporation of hazard mapping into an Official Plan, a Master Environmental Servicing Plan or equivalent, comprehensive Zoning By-Law, an Environmental Assessment, or a planning process under other legislation (e.g., Renewable Energy Act) the requirements for public consultation are considered to have been met. Where possible, it is a best practice to indicate in the communication material for external processes that mapping changes agreed to by the CA will be incorporated into CA maps.

Where the Conservation Authority has made major mapping changes which are not part of a municipal process or project, a public consultation process should be carried out by the CA.

For public consultation, each CA should document the following:

- ❑ Itemization of changes made to the regulation mapping (this may be an electronic record through GIS metadata)

- ❑ A Detailed Consultation Record, including:
  - ❑ Contact list/summary of the list of groups contacted
  - ❑ Notice of Public Meeting, web based or Social Media, notifications
  - ❑ Sign in sheets from Public Meeting, and
  - ❑ A summary of all submissions received and responses provided by the Conservation Authority (outline of the volume and context should be available if requested)
- ❑ A copy of the Conservation Authority Board of Directors report and Resolution, and
- ❑ An Executive Summary of Mapping, (if not included in the Conservation Authority Board of Directors report), including:
  - ❑ Nature and extent of mapping changes (e.g., on a reach or watershed/subwatershed basis)
  - ❑ Sample maps should highlight the updates, new mapping, or mapping revisions/corrections
  - ❑ A summary of the methodologies used to prepare the mapping updates if there is any variation from the *Guidelines for Developing Schedules of Regulated Areas* or with methodologies which were previously approved through the Technical Review process.

## Consultation Process and Notice

Consultation best practices noted below are guided by Planning Act consultation requirements. Each Conservation Authority must determine for itself whether and how to use or expand these requirements.

### Consultation for major mapping changes should include:

- At least one public meeting to provide information and receive comments.
- Notice of the meeting to inform the public of the mapping updates should be given at least 20 days in advance by a news release, publication in a newspaper or newspapers of generally sufficient circulation in the area to provide the public with reasonable notice of the meeting and website or social media notice.
- Notice of the public meeting may be sent to the following stakeholders affected by the change in mapping:
  - ❑ Municipal Clerk(s);
  - ❑ The Manager, Program Services Section, Integration Branch Ministry of Natural Resources and Forestry.
  - ❑ The secretary of municipal or other corporation operating an electric utility;
  - ❑ The secretary of a company operating a natural gas utility;
  - ❑ The Executive Vice-President, Law and Development, of Ontario Power Generation Inc.;
  - ❑ The secretary of Hydro One Inc.;
  - ❑ The secretary of a company operating an oil or natural gas pipeline;
  - ❑ The secretary of a school board;
  - ❑ The Chief of every First Nation Council within the watershed boundary;
  - ❑ Fisheries and Oceans Canada;
  - ❑ The applicable District Office(s) of the Ministry of Natural Resources and Forestry.
  - ❑ The Manager, Community Planning and Development, Ministry of Municipal Affairs, and the Director, Provincial Planning Policy Branch, Ministry of Municipal Affairs

- UDI/Ontario or local Home Builder Associations
- Where applicable, notice should also be sent to:
  - Parks Commissions (e.g. St Clair, Niagara, St Lawrence)
  - Parks Canada
  - The Niagara Escarpment Commission
  - The Manager, Planning and Environmental Office, Ministry of Transportation (St. Catharines, Ontario)
  - The General Manager or CAO of adjacent conservation authorities.

### **Notification to MNRF**

A summary of major mapping changes, public consultation and notification should be provided to the Manager, Program Services Section, Integration Branch MNRF.

## Appendix 1

### History and Background

Ontario Regulation 97/04 “Content of Conservation Authority Regulations under Subsection 28 (1) of the Act: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses” (i.e. Generic Regulation) was approved in May 2004 following a prescribed public consultation process. This Regulation established the content requirements to be met in a Regulation made by a CA under Subsection 28(1) of the Conservation Authorities Act. The Regulation pertains to areas that are river or stream valleys, watercourses, wetlands and other areas where development could interfere with the hydrologic function of a wetland, adjacent or close to the shoreline of a Great Lake and inland lakes that may be affected by flooding, erosion or dynamic beach hazards, and hazardous lands. The Regulated Area represents the greatest extent of the combined hazards plus an allowance as set out in the Regulation.

In 2006, the Minister of Natural Resources and Forestry approved the Development, Interference and Alteration Regulations (individual CA Regulations) for all CAs consistent with Ontario Regulation 97/04 of the Conservation Authorities Act. These individual CA Regulations are Ontario Regulations numbered 42/06 and 146/06 to 182/06. Areas regulated under individual CA Regulations have been mapped according to the criteria and standards outlined in the *Guidelines for Developing Schedules of Regulated Areas (2005)* as approved by the Ontario Ministry of Natural Resources and Forestry and Conservation Ontario.

The *Approval Process Document (CO/MNR, 2005)* jointly undertaken by Conservation Ontario and the Ministry of Natural Resource and Forestry was to guide the mapping of regulated areas. It directed CAs to keep a listing of modifications to the regulated area, consult the affected municipality (ies), and file a report with the Peer Review Committee and MNRF. As well, it indicated that additions or modifications to the regulation mapping from comprehensive studies require re-circulation through the Peer Review/MNRF process and notification if they substantially change the impact of the regulation. A draft protocol was prepared by the Peer Review and Implementation Committee to provide direction with regard to these requirements. This protocol was approved by the Conservation Ontario Council on December 11, 2006. This 2018 Procedure is an update to that protocol.



## Appendix 2

### Example of Digital Metadata

Name: **Regulation Limit Ontario Regulation 150/06 Production**

#### General Description

Full Name	REGULATION_LIMIT
Abstract	This layer defines the limit for areas regulated under <i>Ontario Regulation 150/06 - Grand River Conservation Authority: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses</i> , which came into effect May 8, 2006. The Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation affects what and where a Conservation Authority can regulate. Specifically, this regulation allows Conservation Authorities to: 1) Prohibit, regulate or provide permission for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream, watercourse or changing or interfering with a wetland. 2) Prohibit, regulate or provide permission for development if the control of flooding, erosion, dynamic beaches, pollution or the conservation of land may be affected by the development. IMPORTANT NOTE: The text of Ontario Regulation 150/06 supercedes the mapping as represented by this data layer. In the event of a conflict a site specific determination may be made by GRCA staff.
Feature Type	Polygon
Location	SDE_GRCA
Geographic Extent	GRCA Watershed
Maintenance Status	Quarterly

#### Georeferencing and Accuracy

Horizontal Datum	North American Datum 1983 (EPSG: 6269)
Vertical Datum	Not Applicable (EPSG: 0)
Spatial Projection	NAD83 UTM Zone 17N (EPSG: 26917)

#### Data Sources and Restrictions

Access Constraint	GRCA Open Data Licence v1
Use Constraint	None - in accordance with licence agreement
Citation	Produced using information under License with the Grand River Conservation Authority © Grand River Conservation Authority, 20** [** insert year of publication of IP].
Agency Originator	Grand River Conservation Authority (GRCA)
Agency Distributor	Grand River Conservation Authority (GRCA)
Online Link	<a href="https://data.grandriver.ca/downloads-geospatial.html">https://data.grandriver.ca/downloads-geospatial.html</a>
Related	<a href="#">Regulatory Floodplain</a>

Entities	<a href="#">Dynamic Beach - Lake Erie</a> <a href="#">Shoreline Erosion Hazard - Lake Erie</a> <a href="#">Flood Hazard - Lake Erie</a> <a href="#">Regulation Limit Modifier - Wetland</a> <a href="#">River Slopes and Erosion Allowances</a> <a href="#">River Valley Slopes</a> <a href="#">Surface Hydrology - Waterbody</a> <a href="#">Surface Hydrology - Watercourse</a> <a href="#">Wetlands</a>
	<p>Under Ontario Regulation 150/06 of the Conservation Authorities Act, the Grand River Conservation Authority regulates development in areas define in Section 2 subsection 1, as summarized below:</p> <p>15m adjacent to Watercourse*</p> <p>5m adjacent to Floodplain, Engineered</p> <p>15m adjacent to Floodplain, Non-Engineered</p> <p>120m adjacent to Wetlands, Provincially Significant (PSW)**</p> <p>30m adjacent to Wetlands, Non-PSW less than 2 ha**</p> <p>120m adjacent to Wetlands, Non-PSW greater than or equal to 2 ha**</p>
Methodology	<p>15m adjacent to Slope Erosion</p> <p>15m adjacent to Slope Valley</p> <p>15m adjacent to Lake Erie Flood</p> <p>15m adjacent to Lake Erie Erosion</p> <p>15m adjacent to Lake Erie Dynamic Beach</p>
	<p>*Only Regulated Watercourse features are used. This is a subset of the Watercourse layers.</p> <p>**The Regulation Limit has been truncated to the nearest road and operational rail-road where wetlands are the regulated feature.</p> <p>Note: Features have been divided into smaller pieces for performance purposes (Code: Dice=15000)</p> <p>IMPORTANT NOTE:</p>
Supplemental Info	<p>The text of Ontario Regulation 150/06 supercedes the mapping as represented by this data layer. In the event of a conflict a site specific determination may be made by GRCA staff.</p>
Related Documents	<p><a href="#">Ontario Regulation 150/06</a></p>

### Attributes

Full Name (Type)	Alias name	Description and Values
MU_LTIER (Text)	Lower Tier Municipality	Name of lower tier municipality
SHAPE (ST Geometry)	Shape	Feature Geometry
OBJECTID (Long Integer)	Object ID	System-managed unique identifier
GR_FEATURE (Text)	Feature Type	Description of feature
REG_NUMBER (Text)	Regulation Number	Regulation number for the GRCA
CREATION_DATE (Date)	Creation Date	Date the regulation limit was created
LAST_REVISION_DATE	Last Revision Date	Date that the regulation limit was

(Date)		last revised
MU_UTIER (Text)	Upper Tier Municipality	Name of upper tier municipality

### Update History (last 5)

Jan 12, 2018	System Update - Data: Minor updates based on inputs
Oct 04, 2017	System Update - Data: Minor updates addendum
Sep 29, 2017	System Update - Data: Minor updates based on inputs
Jul 17, 2017	System Update - Data: Updated to clean-up slivers of data that may occur during processing. Processing algorithm has also been updated.
Jun 30, 2017	System Update - Data: Minor updates based on inputs

### Contact Information

Contact	Supervisor of Resource Planning
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