



Notice: Legislative and Regulatory Changes Affecting Permitting (Effective April 1, 2024)

On February 16, 2024, a new Minister's regulation ([Ontario Regulation 41/24: Prohibited Activities, Exemptions and Permits](#)) under subsection 28(1) of the [Conservation Authorities Act](#) was approved by the Province. This regulation will replace the existing O.Reg.156/06 Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. Beginning on April 1, 2024 O. Reg. 41/24 will be used by all conservation authorities.

Permission continues to be required prior to undertaking otherwise prohibited development, interference and alteration activities in regulated areas as defined under the *Conservation Authorities Act* and in O. Reg. 41/24.

For permit applications submitted prior to April 1, 2024, the permitting process will be follow Ontario Regulation 156/06. Permit applications submitted on or after April 1, 2024 will follow the processes outlined in the updated Section 28 of the *Conservation Authorities Act* and O. Reg. 41/24.

The attached interim measures were adopted on March 20, 2024 by resolution 2024-27. These allow staff to continue to work on a transition plan including policy and procedures. The transition to the new regulation should not impact approvals processes for development and permit applications. Staff are available to help answer questions applicants may have on these changes and how they may affect the permitting of a proposed project.

Part A

Interim Policy Guidelines for the Administration and Implementation of Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits)

Summary

On April 1, 2024, Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits) and Part VI of the *Conservation Authorities Act* came into effect. This regulation replaces the Nickel District Conservation Authority's (the Authority) previous "Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses" regulation. The proclamation of the new legislative and regulatory framework necessitates updates to existing Authority policies and procedures.

Interim Policy Guidance

As of April 1, 2024, the Authority will review and make decisions on applications for permits in accordance with Part VI of the *Conservation Authorities Act* and Ontario Regulation 41/24. Amendments to the Authority's policies will be forthcoming to reflect this new framework. Per section 12 of O. Reg. 41/24, the Authority will consult with stakeholders and the public during the review and update process as the authority considers advisable. Where discrepancies exist between the text of the legislation or regulation and the information provided within any existing policies and/or guidelines and these Interim Policy Guidelines, the text of the legislation and regulation will prevail.

Key variances from the processes in the existing policies include, but are not limited to:

- 1) Assessing permit applications made under Section 28.1 of the *Conservation Authorities Act* to determine if the proposed works will affect the control of flooding, erosion, dynamic beaches, and unstable soil or bedrock.
- 2) Assessing applications to determine whether the proposed activity would 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.
- 3) Attaching conditions to a permit only if the conditions (1) assist in preventing or mitigating any effects on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock or (2) assist in preventing or mitigating any effects on human health or safety or any damage or destruction of property in the event of a natural hazard.
- 4) Reducing the regulated area surrounding provincially significant wetlands or wetlands greater than 2 hectares in size from 120 m to 30 m. The other areas where development activities are prohibited are within 30 m of all wetlands in the Authority's area of jurisdiction.

- 5) Exceptions from permits for specific activities outlined in section 5 of O. Reg. 41/24, when carried out in accordance with the regulation.
- 6) Updated complete application requirements (as outlined in section 7 of O. Reg. 41/24), including requirements for landowner authorization and payment of applicable fee.
- 7) A new process for applicants to request an administrative review of an application (circumstances outlined in section 8 of O. Reg. 41/24).
- 8) Updated definition of *watercourse* to a “defined channel, having a bed and banks or sides, in which a flow of water regularly or continuously occurs”.
- 9) New requirement (as outlined in subsection 7(2) O. Reg. 41/24) to notify the applicant of whether an application is complete within 21 days and provide the applicant notice of a decision within 90 days following confirmation of a complete application (as outlined in 28.1(22) of the *Conservation Authorities Act*).
- 10) A new process for pre-submission consultation as outlined in section 6 of O. Reg. 41/24.
- 11) Enforcement procedures, appeals and hearing processes described in Parts VI and VII of the *Conservation Authorities Act*.

Part B

Transition from O. Reg. 156/06 to O. Reg. 41/24

Background

The Authority's existing Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (O. Reg. 156/06) provided the Authority with the power to regulate development and activities in or adjacent to river or stream valleys, shorelines of inland lakes, watercourses, hazardous lands (e.g., unstable soil, bedrock, and slopes), wetlands and other areas around wetlands. Development taking place on these lands may require permission from the Authority to confirm that the control of flooding, erosion, dynamic beaches, pollution or the conservation of land are not affected.

On February 16, 2024 the [Prohibited Activities, Exemptions and Permits under Conservation Authorities Act](#) Regulation (Ontario Regulation 41/24) was approved by the Province under subsection 28(1) of the *Conservation Authorities Act*. The administration of O. Reg. 41/24 is a Mandatory Program and Service of the Conservation Authorities as per Section 21.1.1 of the [Conservation Authorities Act](#) and as stipulated in [O. Reg. 686/21: Mandatory Programs and Services](#). Under section 8 of O. Reg. 686/21, conservation authorities shall provide programs and services to ensure that the Authority carries out its duties, functions and responsibilities to administer and enforce the provisions of Parts VI and VII of the Act and any regulations made under those Parts.

The transitional policies and procedures are important in the implementation of the new regulations that take effect on April 1, 2024.

Purpose

The purpose of this document is to guide Authority staff through the transition from the O. Reg. 156/06 Development, Interference with Wetlands and Alterations to Shorelines and Watercourses to the implementation of the new O. Reg. 41/24: Prohibited Activities, Exemptions and Permits Regulation.

PERMIT APPLICATIONS

Applications Submitted Before April 1, 2024

Applications for permission to develop in a regulated area or interfere with a wetland or watercourse received prior to April 1, 2024, will be subject to the provisions of the applicable Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation in effect at the time the application was received. If the subject application for the proposed works is not within an area or an activity regulated under the new regulation (O. Reg. 41/24), then the applicant will be advised in writing that a permit is not required for the proposed works.

Applications Submitted After April 1, 2024

All applications received on or after April 1, 2024, will be subject to the provisions of O. Reg. 41/24.

Extension of Permissions Issued under O.Reg 156/06 Regulation

Permits issued prior to April 1, 2024, and have expiry dates beyond April 1, 2024, will remain valid for the duration identified on the permission. Inspections and conditions enforced under the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation will continue until the permission expires. A request for extension of a permit issued before April 1, 2024, that is received prior to April 1, 2024, will be considered in accordance with the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation. A request for extension of a permit issued before April 1, 2024, that is received after April 1, 2024, will be considered in accordance with O. Reg. 41/24. An applicant requesting an extension will be notified in writing that an extension is not required if the permit is for a development activity or interference/alteration not within a regulated area established under O. Reg. 41/24 or is otherwise subject to an exception under the same. Requests for an extension of the existing permit must be received by the Authority prior to the date of expiry shown on the permission.

REVIEW OF PLANNING APPLICATIONS

Planning Applications Submitted Before April 1, 2024

All plan review will be conducted in accordance with the O. Reg. 686/21: Mandatory Programs and Services, [O. Reg. 596/22: Prescribed Acts – Subsections 21.1.1 \(1.1\) and 21.1.2 \(1.1\) of the Act](#), as well as based on the provisions of the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation. Plan input activities will note that O. Reg. 41/24 will be in effect April 1, 2024.

Planning Applications Submitted After April 1, 2024

All plan input and review will be conducted in accordance with the O. Reg. 686/21: Mandatory Programs and Services, [O. Reg. 596/22: Prescribed Acts – Subsections 21.1.1 \(1.1\) and 21.1.2 \(1.1\) of the Act](#), as well as based on the provisions of O. Reg. 21/24: Prohibited Activities, Exemptions and Permits Regulation.

VIOLATION NOTICES & LEGAL ACTIONS

Violation Notices issued prior to April 1, 2024 will be addressed and remedied by CA Provincial Offences Officers in accordance with the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation.

Violation Notices issued prior to April 1, 2024, for works in an area or activity no longer regulated under the new O. Reg. 41/24, upon satisfactory resolution of the matter, the proponent will be issued a letter advising that the works occurring in violation of the

Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation have remedied/ rectified and the violation notice is revoked.

Violation notices issued and prosecutions commenced on or after April 1, 2024, will confirm with Parts VI and VII of the Act and O. Reg. 41/24.

Legal actions that commenced prior to April 1, 2024, may proceed where appropriate under consultation with legal counsel.

Part C

Delegation of Powers related to Permit Issuance, Cancellation and Hearings

Overview

On April 1, 2024, the *Conservation Authorities Act* will be amended, including the proclamation of Part VI (*Regulation of Areas Over Which Authorities Have Jurisdiction*). Included in this proclamation is the enactment of section 28.4 (*Delegation of Power*). Through this subsection, an Authority may delegate any of its powers related to the **issuance or cancellation of permits** under the Act or the regulations, **or to the holding of hearings in relation to the permits**, to the **Authority's executive committee or to any other person or body**, subject to any limitations or requirements that may be prescribed by regulation. Prior to April 1, 2024, subsection 28(2) of the Act (to be repealed) provided that a Conservation Authority regulation could delegate any of the Authority's powers or duties under the regulation to the Authority's executive committee or any other person or body, subject to regulatory limitations and requirements.

While many Conservation Authorities have delegated powers to the executive committee and/or staff related to the granting of permissions, the new section 28.4 of the Act provides additional delegation authority for consideration.

The ability to delegate powers related to the issuance and cancellation of permits, as well as holding of hearings and complete application reviews, presents an opportunity to streamline administrative components of the permit review and decision-making process. The Authority's delegation of powers to the Hearing Board and/or staff need to be updated further to the enactment of Part VI of the Act. It is recommended that appropriate delegations should be in place before the April 1, 2024 proclamation.

Conservation Ontario provided the following recommendations and rationale for delegation of powers related to permit issuance, cancellation, and holding of hearings. The Members of the Authority have inherent ability to make decisions on these matters and are responsible for doing so unless they are otherwise delegated.

Activity	Delegated to:	Rationale
Issuance & Extension of Permits (up to the maximum period)	Senior Staff / Staff (<i>Issuance and Extension</i>)	<ul style="list-style-type: none">Delegation of powers to staff for affirmative permitting decisions is currently in place
	Regulation Review	<ul style="list-style-type: none">Expediency to review and issue permits within legislated and

	Committee (<i>Hearing Board</i>)	<p>regulated timeframes (new requirement)</p> <ul style="list-style-type: none"> Hearings further to an Authority's notice of intent to refuse an extension request would be subject to the <i>Statutory Powers and Procedure Act</i>
Cancellation of Permits	<p>General Manager (<i>Notice of Intent to Cancel</i>)</p> <p>Regulation Review Committee (<i>Hearing Board</i>)</p>	<ul style="list-style-type: none"> Cancellation of permits involves opportunity for a hearing before the Authority or its delegate Hearings would be subject to the <i>Statutory Powers Procedure Act</i> Decisions from the hearing process are subject to appeal to the Ontario Land Tribunal
<p>Hearings</p> <p>i. 28.1 (Permits)</p> <p>ii. 28.1.2 (Mandatory permits, zoning orders)*</p> <p>iii. 30.4 (Stop Order)</p>	Regulation Review Committee (<i>Hearing Board</i>)	<ul style="list-style-type: none"> Hearings prior to April 1, 2024 were held before the Board or Executive Committee (process is understood and practiced) Hearings would be subject to the <i>Statutory Powers Procedure Act</i> Decisions are subject to appeal via a request for Minister's review or to the Ontario Land Tribunal
Administrative Reviews (Requests for	General Manager	<ul style="list-style-type: none"> Limited timeframe (30-days) to complete a review

Review)		<ul style="list-style-type: none"> • Reviewer should have knowledge of CA application process and familiarity with CA development policies/guidelines • Decision is related to confirmation of complete application /administrative processes <u>only</u> and not a decision about whether the permit should be issued • The review process is not subject to the <i>Statutory Powers Procedure Act</i> • No mechanism within the <i>CA Act</i> for appeal • Delegation is consistent with provincial direction
Client Service / Streamlining Recommendation		
Customer Service Concerns	General Manager	<ul style="list-style-type: none"> • Addressing concerns, not decision making (lower risk) • Existing client service facilitators at high-growth CAs (per the CO Client Service and Streamlining Initiative)

*Hearing purpose is to consider inclusion of permit conditions only