

## **SUMMARY OF PROPOSED CONSERVATION AUTHORITIES ACT AMENDMENTS ENDORSED BY CONSERVATION ONTARIO COUNCIL (2001-2012)**

<b>Category</b>	<b>Conservation Authorities Act Section</b>	<b>Type of Change (Repeal, Delete, Amend)</b>	<b>What is being proposed? (Brief explanation and description of the change)</b>	<b>Why is this change being proposed?</b>
GOVERNANCE	Section 14(4) Term: No member of an authority shall be appointed to hold office for more than three years at any one time.	A	Amend the section by striking the word 'three' and substituting the word 'four'	Increase efficiency and compatibility with the election cycle. The amendments will allow for the members term of appointment to be as long as a Municipal Councilor's term, which is four years (for the upcoming election)
S.28 REGULATION	28(1)(a) Subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction, (a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, wetlands and natural or artificially constructed depressions in rivers or streams	A	Amend the section by adding the words "Great Lakes - St. Lawrence River System," after the words "in or from rivers, streams, ".	The amendment will explicitly enable the authority to make regulations along shorelines of the Great Lakes – St. Lawrence River System. The proposed change involves a minor technical change that is housekeeping in nature and will clarify legal ambiguities and update the Act consistent with the wording and intent of the natural hazards component of the Provincial Policy Statement under the Planning Act.

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S.28 REGULATION	Section 28(5)(a) 'adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beach hazards'	A	Amending the section by striking the words "that may be affected by flooding, erosion or dynamic beach hazards" and adding the words "including hazardous lands" at the end of the clause.	The amendment explicitly identifies "hazardous lands" along shorelines of the Great Lakes – St. Lawrence River System. The proposed change involves a minor technical change that is housekeeping in nature and will clarify legal ambiguities and update the Act consistent with the wording and intent of the natural hazards component of the Provincial Policy Statement under the Planning Act.
S.28 REGULATION	28(5)(b) 'river or stream valleys'	A	Amending the section by adding the words "including hazardous lands" at the end of the clause.	The amendment explicitly identifies "hazardous lands" along river and stream valleys. The proposed change involves a minor technical change that is housekeeping in nature and will clarify legal ambiguities and update the Act consistent with the wording and intent of the natural hazards component of the Provincial Policy Statement under the <i>Planning Act</i> .
S.28 REGULATION	Section 28 (7) 'regulation made by an authority under subsection (1) that does not conform with the requirements of a regulation made by the Lieutenant Governor in Council under subsection (6) is not valid'	A	The addition of the phrase "unless it has been approved by the Minister". 'A regulation made by an Authority under subsection (1) that does not conform with the requirements of a regulation made by the Lieutenant Governor in Council under subsection (6) is not valid unless it	Legal ambiguity/housekeeping. The present drafting is a concern. If a section of an individual Conservation Authority's regulation is considered not to be in conformity with the generic regulation then the Conservation Authority's regulation, in its entirety, may be found to be invalid. The proposed amendment will be consistent with Section 29, which reads " <i>A regulation made under subsection (1) that does not conform with the requirements of a regulation made under subsection (1.1) is not valid unless it has been approved by the Minister</i> "

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			has been approved by the Minister'	
COMPLIANCE – S.28 REGULATION	Sections 28(16) to 28(24) relate to regulation enforcement and offences.	A	<p><u>Orders to Comply</u>  An officer who finds a contravention of this Act, Regulation or the terms and conditions of a permission of an authority may issue an order directing compliance with this Act, Regulation or the granted permission and may require the order to be carried out immediately or within such time as is specified in the order.</p> <p><u>Stop Work Order</u>  An officer who finds a contravention of this Act, Regulation or the terms and conditions of a permission of an authority may issue a Stop Work order directing compliance with this Act, Regulation or the granted permission.</p>	<p>The ability to issue stop work orders and orders to comply on violations under Section 28. Orders (Compliance and Stop Work) are required to minimize continuing violations, environmental damage and to gain compliance quickly.</p> <p>Conservation Authorities of Ontario implement programs that support the environmental objectives of the Provincial Government. There are basic regulatory compliance tools common in environmental regulatory legislation which should be inserted into these sections of the CA Act so that Conservation Authorities can effectively do their job.</p>
COMPLIANCE – S.28 REGULATION	<b>Section 28 (16)</b>	A	(16) (a) Every person who contravenes a regulation made under subsection (1),	*significantly increase the fines to reflect monetary penalties in line with other compatible environmental legislation;

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	<p><b>Offence: contravening regulation</b></p> <p>(16) Every person who contravenes a regulation made under subsection (1) or the terms and conditions of a permission of an authority in a regulation made under clause (1) (b) or (c) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to a term of imprisonment of not more than three months. 1998, c. 18, Sched. I, s. 12; 2010, c. 16, Sched. 10, s. 1 (2).</p>		<p>or the terms and conditions of a permission of an authority in a regulation made under clause (1) (b) or (c), “or fails to comply with an Order issued under subsection ___” (proposed new subsection for stop work orders and orders to comply) is guilty of an offence,</p> <p>“(b) A person who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence” or to a term of imprisonment of not more than three months.”</p> <p>“(c) For the purposes of subsection (b), an offence is a subsequent offence if there has been a previous conviction under this Act.”</p> <p>“(d) Every person who fails to comply with an order under subsection ___ (proposed new subsection for stop work</p>	<ul style="list-style-type: none"> <li>•that in addition to any fine imposed by the court, neutralize any monetary benefit from the commission of the offence;</li> <li>•imposing such other penalties and sanctions that may result, in part, with the redirection of monies to CAs as compensation to remedy, avoid or remediate damages done, or to advocate or implement proper environmental management practice in line with CA policies and objectives;</li> <li>•a method of cost recovery similar to other legislation (<i>Ontario Water Resources Act, Municipal Act, Environmental Protection Act</i>) such as through the offender’s tax bill.</li> <li>•Introduce increased fines for subsequent offences to reflect the monetary penalties in other comparable environmental legislation</li> <li>•Introduce an offence for failure to comply with an order and a corresponding monetary penalty</li> </ul>

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			<p>orders and orders to comply) “made by an officer appointed to enforce any regulation made under this section or section 29, is guilty of an offence and on conviction, in addition to the penalties prescribed in (b), is liable to a fine of not more than \$10, 000 per day for every day the offence continues after the time given for complying with the order has expired.”</p> <p>“28 (16) The proceeds of the fines imposed under this section shall be paid to the applicable conservation authority prescribed under section 1 of the regulation and section 4 of the <i>Fines and Forfeitures Act</i> does not apply in respect of the fine.”</p>	

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COMPLIANCE – S.28 REGULATION	28(17)(b) 'rehabilitate any watercourse or wetland in the manner and within the time the court orders'	A	28 (17) In addition to any other remedy or penalty provided by law, the court, upon making a conviction under subsection (16), may order the person convicted to, (a) remove, at that person's expense, any development, within such reasonable time as the court orders; and (b) rehabilitate <del>any watercourse or wetland</del> in the manner and within the time the court orders.	Housekeeping/Legal Ambiguity. The amendment should explicitly recognize all areas regulated under the Act rather than just watercourses and wetlands thus enabling the courts to order remedies for all violations.
COMPLIANCE – S.28 REGULATION	28(18) 'If a person does not comply with an order made under subsection (17), the authority having jurisdiction may, in the case of a development, have it removed and, in the case of a watercourse or wetland, have it rehabilitated'	A	(18) If a person does not comply with an order made under subsection (17), the authority having jurisdiction may, in the case of a development, have it removed and, <del>in the case of a watercourse or wetland</del> , have it rehabilitated	Housekeeping/Legal Ambiguity The amendment should explicitly recognize all areas regulated under the Act, rather than just watercourses and wetlands, enabling the courts to order removal of non-compliant development as well as rehabilitation of the regulated area.

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S.28 REGULATION	28(5)(c ) 'hazardous lands'	A	Amending the section by striking the words "hazardous lands" and substituting "other hazardous lands and hazardous sites"	The amendment explicitly addresses "other hazardous lands" that by their nature are outside of apparent river and stream valleys, as well as, explicitly identifies "hazardous sites" which by definition includes areas affected by unstable soils or unstable bedrock. The proposed change involves a minor technical change that is housekeeping in nature and will clarify legal ambiguities and update the Act consistent with the wording and intent of the natural hazards component of the Provincial Policy Statement under the Planning Act.
S.28 REGULATION	28(25) 'hazardous land means land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock; (terrain dangereux)'	A	Amending the definition of hazardous land in the section by striking out the word "hazardous land" and inserting "hazardous lands", and by adding ", or" after the word erosion, and by striking the words "or unstable soil or bedrock" at the end.	The amendment corrects and explicitly defines "hazardous lands". The proposed change involves a minor technical change that is housekeeping in nature and will clarify legal ambiguities and update the Act consistent with the wording and intent of the natural hazards component of the Provincial Policy Statement under the Planning Act.

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S.28 REGULATION	28(25)	A	Amending the section by adding a definition for hazardous sites by adding the wording ""hazardous sites" means land that could be unsafe for development because of naturally occurring processes associated with unstable soil or unstable bedrock".	Amending the section by adding a definition for hazardous sites by adding the wording ""hazardous sites" means property or lands that could be unsafe for development and site alteration due to naturally occurring hazards. These may include unstable soils or unstable bedrock."
S.28 REGULATION	Section 28 (25) 'wetland means land that, (a) is seasonally or permanently covered by shallow water or has a water table close to or at its surface, (b) directly contributes to the hydrological function of a watershed through connection with a surface watercourse, (c) has hydric soils, the formation of which has been caused by the presence of abundant water, and (d) has vegetation dominated by hydrophytic plants or water tolerant plants, the	A	Amending the definition of wetland by deleting subsection (b) in its entirety, amending the numbering for subsection (c) and (d) to subsection (b) and (c) respectively, and striking the word "and" at the end of subsection (a) and (b) and substituting the word "or" at the end of each subsection.	Clarity in definition. Red Tape 1 added a definition of wetland under the Act. This definition is inconsistent with other more frequently used definitions such as provided in the Planning Act. This amendment will remove this inconsistency.

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	dominance of which has been favoured by the presence of abundant water, but does not include periodically soaked or wet land that is used for agricultural purposes and no longer exhibits a wetland characteristic referred to in clause (c) or (d). (terre marécageuse)'			
GOVERNANCE	Section 37 'All money required by this Act to be raised for the purposes of an authority shall be paid to the authority, and the authority may spend money as it considers proper, except that no salary, expenses or allowances of any kind shall be paid to any of the members of the authority without the approval of the Ontario Municipal Board'.	A	Removing requirement for OMB approval of compensation to members of Authority. Remove "except that no salary, expenses or allowances of any kind shall be paid to any member of the authority without the approval of the Ontario Municipal Board".	Little, if any, provincial money is used to compensate CA members for their expenses. It is municipal or other sources of funds that are used to pay expenses and, therefore, approval of the OMB would seem redundant