

Generic Regulation Approval Process Document

Feedback Table

February 2, 2004

Ref #	Comments Provided	Committee Comments	Action Taken:
1	<p>General Comments</p> <p>I think that the document is comprehensive and improves upon the process used in the past from the viewpoint of public consultation and accountability. While it speaks well for CAs that have existing regulations that are going to be modified, what about a CA that has no regulation and is proposing a completely new one? Or our case where the new regulation would include the lakeshore where historically it has not been regulated and at the time of doing our SMP, the public was against us having a regulation? Will there need to be a different consultation process?</p> <p>I remember when we first did our regulation, we needed specific resolutions from all our municipalities and as long as more than 50% were in agreement the regulation could go forward.</p> <p>Along these lines, what is the process where public reaction is completely negative? Can the CA still go ahead?</p> <p>One other comment about time lines. I think there should be some indication given as to what kind of time lines there might be for:</p> <ul style="list-style-type: none"> - the Peer Review Committee review and approval - for MNR approval 	<p>The Approval Process document is intended to serve both the updating of existing regulations and the regulation of previously unregulated hazard areas.</p> <p>Section 2.3 indicates that Board of Directors voting would be on a non-weighted basis, carried by majority.</p> <p>If the reaction to the regulation is negative, the Board of Directors of the Authority will need to decide whether to proceed with a regulation program.</p> <p>With regard to time lines, the position of the committee is that it is too early to identify timelines at this point and time lines have not been included in the document.</p>	No changes made
2	<p>I have reviewed the draft approval process document and have no specific comments. I find it concise and well presented. On a related matter I was wondering if there is still a plan to hold a training session on the guidelines for developing schedules? If so when might this be?</p>	<p>Training sessions are anticipated in the March – May period</p>	No changes made to document

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3	I don't have any concerns with the document as provided. The described for the public consultation process are quite reasonable. I would like to ask what you think the chances are of getting full MNR funding for the preparation of the new mapping might be? As you are probably aware, some C.A.'s are under financial pressure and would require full funding for this update process.	The committee is not able to comment on the possibility of obtaining funding support	No changes made to document
4	Key messages are good and will be very helpful.	No comment	No action needed
5	A flow chart illustrating the approval process would be beneficial (to provide to Board members and municipalities).	Committee agrees.	Table to be prepared and provided
6	Consider CA's revising current Regulation policies to reflect changes (ie shoreline). Our feeling is this would provide some comfort level to municipalities; particularly for "new" regulated areas. Municipalities will want to see policies and know they have input via Board. We recognize the document deals only with minimum requirements, but should there be a suggestion section?	Committee agrees that local policies will be needed to guide implementation of the new regulation and that it would be beneficial to have the new local policies prepared at the time of consultation on the new regulation. This is local matter and the committee has not attempted to address this issue.	No action taken.
7	Recommend workshops to go over the approval and mapping guidelines documents for CA staff.	Committee concurs	Will be pursued at appropriate time or as opportunities arise
8	The document makes it clear that local conditions will result in differences for individual Authorities, although the overall objectives remain the same. But, perhaps it needs to be added that beyond just the mapping and text part of the regulation each Authority might apply the regulation in slightly different ways (i.e. their own local policies). For example, one Authority might exempt a small quantity of fill from needing approval while another might not; one might allow additions under a certain size while another might not. These types of differences become more apparent where more than one Authority is in the same municipality. I'm not suggesting that each Authority local policy be put under scrutiny, only that there may be differences between Authorities and that this is acceptable.	Again, the Committee concurs that local policies will be needed.	
9	There was a general consensus among our staff that there should be specific timelines outlined within the document in order to ensure that each of the approval components are being completed within the allowable timeframe	Again, the committee feels that it is premature to identify timelines at this point and time lines have not been included in the	No changes

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	for the entire process to be completed.	document.	
10	Not able to review/comment at this time – satisfied with the approach selected by the Committee	No comment	No changes
11	<p>Although we generally support the reasoning behind the New Generic Regulations we have several outstanding issues. The matter of human resources required and funding support from the Provincial Government for a Provincial initiative have not been quantified or committed. The Peer Review Process is basically flawed in that the responsible party namely MNR, is absent. This process also begs the question of “who pays”? not to mention a group of people telling our elected Board Members that their Regulation are inappropriate!</p> <p>We expect with the fullness of time that the entire process will evolve into a reasonable outcome.</p>	<p>Committee not charged with reviewing concerns with human resources or funding from MNR.</p> <p>MNR is now clearly identified as being part of the peer review process</p> <p>Peer review committee will review and advise on the compliance of the proposed regulation.</p>	<p>No change made</p> <p>Revised Section 3.2</p> <p>No change made</p>
12	<p>Section 1, paragraph 1</p> <p>The regulation by Conservation Authorities of filling, grading and watercourse alteration activities <u>construction and alteration to watercourses</u> was reviewed as part of the Ontario Government’s Red Tape Reduction initiative.</p>	Concur	Revised
13	The last sentence in the first paragraph on page 1 (introduction) states that the new regulation will be referred to as the "Development, Interference of Wetlands and Alteration to Watercourses Regulation". We believe that the reference to fill should remain within the regulation name as exists currently unless filling can be included within the definition of "development".	Fill is covered by the definition of development (see Section 28 (25) of the Conservation Authorities Act). The title was selected by MNR and we are being consistent with the selected title.	No change made
14	<p>Section 2.1, first paragraph, second sentence</p> <p>* comment that this section assumes that the regulation will be accompanied by mapping. Recommend slight reword.</p>	Concur that section places too much emphasis on map based regulation approach.	Revisions made to clarify that it could be text only or maps and text.
15	Page 2 section 2.1	Concur	Revised as recommended

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	<p>Middle paragraph may be improved by the following additions:</p> <ul style="list-style-type: none"> - 2nd line ...implemented and 'available' resources. - 3rd last line ... cannot be completed 'within the required time frame' or is not... 		
16	<p>Section 2.1, second paragraph, last sentence</p> <p>Informal Conservation Authority contact with municipal staff, especially in the planning and building departments, is encouraged.</p>	Concur	Revised as recommended
17	<p>Section 2.1, third paragraph, first sentence</p> <p>Upon determining a work plan <u>and a detailed terms of reference for the project</u>, Conservation Authorities should begin preparing the mapping and/or description schedules for their regulation.</p> <p>* Terms of reference will be a key component in assessing compliance in the peer review</p>	Concur with general concept – committee chose alternative wording	Revised
18	<p>There is no reference in the document to an appeals process if someone in the public doesn't agree with the proposed regulation or schedules. I'm not suggesting that the appeals process be complicated or onerous for the Authority. But, it is inevitable that someone will ask where they can appeal. So, we should all have a consistent appeal process to cite. It should be made clear, though, that the appeal is not to the OMB (since the rest of the process tends to duplicate the Planning Act steps which might mislead the public into thinking the appeal route is the same).</p> <p>As a suggestion, perhaps a stepped approach might be sufficient, such as: the specific concern is presented to Authority staff for a response back to the individual; if it remains unresolved a written concern from the individual must be sent to the Authority's Board or Executive Committee for consideration; if it remains unresolved, the concern is documented and along with the Authority's stated position in response it is provided to the Peer</p>	Committee agrees that some direction on appeal process is needed but notes that there is not technically an appeal process and therefore, the local process must anticipate and respond to objections. Text revisions to indicate this identified.	Text added first and second paragraphs of Section 2.2.

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	Review Committee. The Committee will then consider it as part of its duties. Presumably, if the individual is still not happy they have the right to write to the Minister, as they can for any other matter. But, there would be no formal appeals process to the Minister.		
19	Section 2.2, first paragraph, last sentence The approach outlined here differs in that it accounts for the fact that <u>generic</u> regulations are already in place, and that this process is necessary to adopt <u>legislative</u> amendments approved by the provincial government through its Red Tape Reduction program.	Concur	Revised
20	Section 2.2, second paragraph, point a) to ensure the public understands that changes are a result of the Red Tape Reduction <u>legislative</u> amendments of the provincial government;	Concur	Revised
21	Section 2.2, second paragraph, point b) b) to educate the public regarding watershed concepts and the efficiency and effectiveness of planning on a watershed basis; * suggest that we remove this point and renumber the remaining two points – keep the focus simple	Concur	Revised
22	Section 2.2.1 Minimum Standards for Consultation Suggestion that the minimum standard be moved to 21 days from 30 days – 30 days may be too much in advance of a meeting. Note that this is the <i>minimum</i> standard	Concur with general concern and agreed on slightly alternative revisions	Revised
23	Section 2.2.1 Minimum Standards for Consultation Suggest that MMAH be added to the list that “Notice must be sent to” – due to their involvement in the approval of SPA’s	Concur – add MMA	Revised

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	Suggest that MTO be added to the list of “Where applicable, notice must also be sent to:”		
24	It would be appropriate to include cottage associations within the list of local interest groups with which communications should occur under Section 2.2.2 entitled "Additional Consultation".	Concur	Added “cottage associations to Section 2.2.2
25	<p>Section 2.2.2 Additional Consultation</p> <p>Communications should occur with these interests that include:</p> <ul style="list-style-type: none"> ○ municipal staff, ○ development industry, ○ real estate, ○ agricultural community, ○ environmental advocacy <u>advocates</u>, ○ MPs, ○ MPPs, ○ federal departments, ○ provincial ministries, ○ ratepayer organizations, ○ canals, harbours and port authorities 	Committee does not like using advocates because it may suggest each individual person. Option of using the phrase “environmental advocacy groups” was considered but it was agreed that present wording is okay because the introductory sentence speaks about “interests such as”	No change
26	<p>Page 5 section 2.2.3</p> <p>A list 'including context' of all submissions...</p>	Concur	Accept
27	<p>Section 2.4, <i>Following Watershed Principles</i></p> <p><i>Following Watershed Principles</i></p> <p>The primary boundary for an ecosystem approach to land use planning is the watershed. When ecosystem considerations are integrated into the planning process, it is more likely that land use decisions will not jeopardize ecosystems and human health in the future. An ecosystem approach also results in economic savings by avoiding the need for costly and difficult</p>	Concur	Accept

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	<p>remedial actions. The environment and resources contained within a watershed can be managed to preserve the natural values important to our communities and to ensure that our continued use of them is sustainable.</p> <p>* remove as this is planning vs. regulation - regulation can only capture a portion of the natural system and is not able to “manage on a watershed basis” or “ecosystem basis”</p>		
28	<p>Section 2.4, <i>Preventative Approach</i></p> <p>This regulation is a key tool in fulfilling this mandate because it prevents or restricts development in areas that are susceptible to flooding, erosion, pollution or environmental damage.</p> <p>* comment that environmental damage does not include all environmentally significant areas – conservation of land.</p>	Concur	Section revised with wording from the CA Act
29	<p>Section 2.3, first sentence of recommended resolution</p> <p>Whereas a local regulation to conserve the integrity of watercourses, shorelines, valleys and wetlands <u>manage development, interference with wetlands and watercourses</u> has been prepared in conformity with the provisions outlined in Section 28 of the Conservation Authorities Act, and standards for mapping and public consultation have been followed;</p> <p>* suggest this change to standardize wording – should be consistent with the Act</p>	Concur	Revised to be consistent with the Act
30	<p>Section 3.0, first paragraph, last sentence</p> <p>To achieve these responsibilities, a Peer Review Committee will be formed on an as needed basis and will report to Conservation Ontario.</p>	Concur	Revised
31	<p>Page 8 first bullet</p> <p>- ... followed the agreed upon (or Ministry sanctioned) approval process...</p>	Committee felt that “Ministry sanctioned” is a given.	No change made

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32	The “approval” process for regulation really resides with the Minister. To keep the wording distinctive between the Peer Review Process and the MNR process, I would recommend the Peer Review process use some other wording (for example endorsement, support, compliance etc.) rather than approval	Committee concurs.	Changes made throughout the document – mainly in Section 3
33	Section 3.0, Conservation Authority Peer Review Component * Suggest that we go through this section and replace all references to approval with endorsement	Committee concurs	Changes made throughout the document – mainly in Section 3
34	Section 3.1, last paragraph/sentence As part of the review role, the Peer Review Committee should also provide pre-consultation advice with Conservation Authorities prior to submission of the regulation and schedules, and on going technical advice throughout the preparation of the regulation and schedules. * Comment that this would mean that the peer review committee needs to be established asap	Committee concurs.	No change necessary
35	Section 3.2, second paragraph, second sentence In addition to Conservation Authority representation, the Peer Review Committee could <u>should</u> also include participant(s) from the Ministry of Natural Resources.	Committee concurs and agrees that should be replaced with will	“could” replaced with “will”
36	Page 9 - last part of section 3.3 - should a bullet be included which talks about a submission which is only using a text based approach?	Committee satisfied that introductory sentence addresses this.	No change made
37	Section 3.3, If pursuing map based regulation: o 10 – 15 samples of detailed mapping sheets which will allow the committee to review how the hazard lines were interpreted across the watershed. The mapping sheets selected should depict varying <u>the full extent of</u> conditions and types of base	Committee concurs with general idea but selected to refer to the “range of” conditions	Revision made

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	mapping and should be accompanied by a key map showing the location of the specific sample maps within the CA jurisdiction		
38	<p>Section 3.3, If pursuing map based regulation:</p> <p>Recommend that the following bullet be added:</p> <ul style="list-style-type: none"> o Terms of Reference for the mapping project that details the methods and materials used to produce the map schedules 	Committee concurs with general idea but selected alternative wording	Revision made
39	<p>Section 4.0 MNR Approval Process</p> <p>* Suggest that we go through this section and replace all references to approval with endorsement</p>	Committee agrees that approval is the correct term when referring to the MNR role – revisions made where approval is used in reference to the Peer Review Committee role	Revisions made
40	<p>It is inevitable for numerous reasons that an Authority will have regulations and schedules ready to go for most of its watershed, but some area or areas of the watershed will lag behind (might be technical difficulties, politics, whatever). The Authority will then have to decide to hold up the whole thing until the issue is resolved or proceed on with the rest of the area. I suspect most Authorities will choose to move on and leave the problem area for another day. Does this scenario need to be described in the document as to how the deferred area will be handled by the process? Would the situation be treated the same as described in the "Maintenance" section (5.3)?</p>	Committee concurs with overall concern. Revisions made to section 5.3.	Revisions made
41	<p>Section 5.3 Maintenance</p> <p>* comment that would have to be at least filed with Peer Review Committee and MNR</p> <p>* comment – it is my understanding that the regulatory changes require the Ministers approval – I’m not sure what is contemplated by Section 5.3. It seems to open the door to ongoing local changes to the regulation without any scrutiny.</p>	Committee concurs with overall concern. Revisions made to section 5.3.	Revision made

