

Conservation Authorities Act **Phase 1 Regulations**

Guidance to Support Implementation of Phase 1 Regulations

Fall 2021

Ministry of the Environment, Conservation and Parks

Purpose

Provide information to support implementation of the Phase 1 regulations made under the *Conservation Authorities Act*

Outline

- **Context**
 - Legislative changes
 - Expected outcomes
 - Phase 1 Regulatory Proposals
- **Part A: Mandatory Programs and Services**
- **Part B: Transition Plans and Agreements for Programs and Services under Section 21.1.2 of the Act**
- **Part C: Rules of Conduct in Conservation Areas**
- **Part D: Effective Dates and Timelines**
- **Next Steps**
- **Questions and Support**

Context

Legislative Changes

- In November 2018, the government made a commitment in the Made-in-Ontario Environment Plan to work in collaboration with municipalities and stakeholders to ensure conservation authorities (CAs) focus and deliver on their core mandate of protecting people and property from flooding and other natural hazards and conserving natural resources
- In June 2019, the *More Homes, More Choice Act, 2019* (Bill 108) amended the *Conservation Authorities Act* to allow the Province to further define the core mandate of CAs
- The Province conducted a review of all relevant legislation/regulations that govern CAs, including extensive consultations with stakeholders with an aim to focus CAs on their core mandate and improve overall governance, oversight and accountability
- On December 8, 2020, the Legislature passed Bill 229, the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020*, which contained further changes to the *Conservation Authorities Act*

Legislative changes (cont'd)

- Un-proclaimed provisions in the *Conservation Authorities Act* are being proclaimed in stages, aligned with a phased regulatory and policy rollout
 - A first proclamation for sections of Bill 108 and Bill 229 not related to any regulatory authority occurred in early February 2021
- New regulations and policies are needed to implement changes to the *Conservation Authorities Act*. These are being rolled out in phases
- To support the government in developing the regulations and ensure CAs and other stakeholder groups have a stronger voice at the table, the Minister of the Ministry of the Environment, Conservation and Parks (MECP) formed the CA Working Group

Expected Outcomes of Legislative and Regulatory Changes

- Focus CAs on their core mandate including helping protect people and property from the risk of natural hazards, the conservation and management of CA-owned lands, and their roles in drinking water source protection
- Increase CA accountability, consistency and transparency while respecting taxpayer dollars by giving municipalities more say over the programs and services for which they will pay
- Municipalities have new abilities to make funding decisions about programs and services that a CA proposes to offer. They can continue to work with their local CAs to develop and deliver natural resource management programs and services to respond to local needs and priorities
- In addition to prescribed mandatory programs and services, other programs and services can continue as long as municipalities agree to fund them, or there is funding through other means (e.g., provincial or federal funding, or CA self-generated revenue)
- Changes to the CA funding framework are being implemented in time to be included in the CA 2024 budgets

Phase 1 Regulatory Proposals

- From May 13, 2021 through June 27, 2021, MECP consulted on the proposed regulations including through an ERO Posting
- MECP also held webinars and individual stakeholders meetings with CAs, municipalities, Indigenous communities and organizations and other stakeholders
- All the feedback received during the consultation period was considered, and the final regulations were modified based on this feedback
- The ministry finalized the regulations and posted a decision notice on the ER on October 7, 2021 - [notice number 019-2986](#)
- The three final regulations are:
 1. O. Reg. 686/21: Mandatory Programs and Services
 2. O. Reg. 687/21: Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Act
 3. O. Reg. 688/21: Rules of Conduct in Conservation Areas

Part A:

O. Reg. 686/21: Mandatory Programs and Services

Mandatory Programs and Services Regulation

Conservation authorities must provide the following mandatory programs and services:

- Preparing and managing for risk of natural hazards
- Conserving and managing lands owned or controlled by a CA, including any interests in land registered on title
- Continuing to implement Provincial stream and groundwater monitoring
- Developing a core watershed-based resource management strategy
- CA duties, functions and responsibilities as a source protection authority under the *Clean Water Act, 2006*
- CA duties, functions and responsibilities under other legislation prescribed by regulation:
 - On-site sewage system approvals by North Bay-Mattawa CA
- Lake Simcoe Region CA duties, functions and responsibilities under the *Lake Simcoe Protection Act, 2008*

These are referred to as **category 1 programs and services**.

Mandatory Programs and Services Regulation

Risk of Natural Hazards

CAs are required to implement a program or service related to:

- 1. Managing the risk posed by the natural hazards within their jurisdiction, including: flooding, erosion, dynamic beaches, hazardous sites, hazardous lands, low water or drought conditions**
- This program or service shall be designed to:
 - Develop an awareness of areas important for the management of natural hazards (e.g. wetlands, rivers or streams, shoreline areas, unstable soils, etc.)
 - Understand risks associated with natural hazards and how they may be impacted by climate change
 - Manage risks associated with natural hazards
 - Promote public awareness of natural hazards
 - Programs and services shall include the collection, provision, and management of information to the extent the CA considers appropriate to:
 - Delineate and map natural hazards
 - Study surface water hydrology and hydraulics (e.g. surface flows and levels, surface/groundwater interactions)
 - Study stream morphology, the potential impact of climate change on natural hazards, and the management of natural hazards
 - Additional components include the development of plans and policies to support program and service delivery, education and outreach, and consultation on the development and provision of the programs and services.

Mandatory Programs and Services Regulation

Risk of Natural Hazards (cont'd)

2. Flood forecasting and warning:

- Maintain information on surface water hydrology
- Develop operating procedures for flood forecasting and warning
- Maintain a streamflow monitoring network that at a minimum include stream flow gauges (i.e., provincial-federal hydrometric network)
- Monitor weather and climate information, snow surveys and water levels
- Analyze local surface water hydrologic conditions and initiating communications and provision of information/advice related to flood potential and flood events

3. Drought or low water response:

- Maintain information on surface water hydrology
- Maintain a streamflow monitoring network that at a minimum include stream flow gauges (hydrometric network)
- Monitor weather and climate information, snow surveys and water levels
- Analyze local surface water hydrologic conditions related to risk of drought and low water events
- Initiating response and communications in accordance with Ontario Low Water Response guidelines and provision of information/advice during drought or low water event.

Mandatory Programs and Services Regulation

Risk of Natural Hazards (cont'd)

4. Ice management services (preventative or remedial) as appropriate and as supported by a CA-approved ice management plan, including:

- Development and updating of plans on or before December 31, 2024 ★
- Control of ice, including potential standby equipment (e.g. icebreaker)
- Addressing ice-related erosion

5. Infrastructure:

- Operation, maintenance, repair and decommissioning of:
 - Any water control infrastructure owned or controlled by the CA (i.e. by agreement) that mitigates risk to life and property damage or to assist in flow augmentation
 - Any erosion control infrastructure owned or controlled by the CA
- The completion of operational and asset management plans on or before December 31, 2024 ★
- Infrastructure operations, maintenance, rehabilitation/repair and the undertaking of any associated necessary technical or engineering studies, including dam safety studies and emergency plans

6. Review proposals for the purposes of commenting on the risks related to natural hazards made under the following Acts:

- *Aggregates Resources Act*
- *Drainage Act*
- *Environmental Assessment Act*
- *Niagara Escarpment Planning and Development Act*

Mandatory Programs and Services Regulation

Risk of Natural Hazards (cont'd)

7. Land use planning input on behalf of the Ministry of Northern development, Mines, Natural Resources and Forestry (MNDMNRF), or in a CAs capacity as a public body, related to natural hazards policies of the Provincial Policy Statement (PPS) 2020 and provincial plans under the *Planning Act*

Functions and responsibilities include:

- Review applications under the *Planning Act*, providing comments, technical support or information to the planning authority under that Act
- Provide comments directly to the Ministry of Municipal Affairs and Housing (MMAH) when requested
- Inform MMAH of any applications that CAs are of the opinion should be brought to the attention of the Government of Ontario
- Provide advice, technical support, etc., to municipalities or planning boards when requested
- Provide technical input into and participate in province reviews of applications for approval of a “Special Policy Area” within the meaning of the PPS 2020
- Provide support to MMAH in appeals on the applications or other matters under the *Planning Act* on behalf of the Province at the Ontario Land Tribunal (OLT)
- Undertake an appeal to the OLT of a decision under the *Planning Act* as a public body if it relates to natural hazards policies

8. Administration of permits issued under section 28 and 28.0.1 of the *Conservation Authorities Act*, including associated enforcement activities

Mandatory Programs and Services Regulation

Conservation and Management of CA Lands

CAs must implement programs and services for the management and maintenance of CA-owned or controlled lands, where the CA determines advisable, for:

- Securing a CA's interests in its lands, including monitoring and enforcement to maintain property integrity, reduce liability and risk associated with use and protect the resources on the properties
- Offering passive recreation on CA owned lands (i.e., trails, facilities and amenities that support public access and recreational activities in conservation areas that can be provided without direct support or supervision of CA staff)
- In its capacity as an owner of land, to make applications or comment on matters under the *Planning Act*
- Protecting, conserving, rehabilitating and managing natural heritage, including the planting of trees (excluding commercial logging)
- Development of policies regarding acquisition and dispositions of CA owned land

Mandatory Programs and Services Regulation

Conservation and Management of CA Lands (cont'd)

Conservation Area Strategy:

CAs must develop a conservation area strategy, prepared on or before December 31, 2024,★ that includes:

- Objectives established by the CA that will inform the CA's decision-making related to the lands it owns and controls
- List of mandatory and category 2 and 3 CA programs and services, including sources of financing for these programs and services
- Where the CA considers it advisable, an assessment of how the CA lands may:
 - Augment natural heritage located in its jurisdiction
 - Integrate with provincial or municipal lands, trails etc.
- Establish land use categories to classify lands in a land inventory based on the types of activities that take place on the parcel, or other matters of significance related to the parcel
- Ensure stakeholders/public are consulted during the preparation of the strategy in a manner the CA considers advisable
- A process for the period review and update, including consultation
- Strategies are to be made public on the CA's website

Mandatory Programs and Services Regulation

Conservation and Management of CA Lands (cont'd)

Land Inventory of CA Owned Land

CAs must prepare a land inventory, prepared on or before December 31, 2024,★ that includes the following:

- Location of parcel
- Identification of information the CA has on the parcel, including surveys, site plan or other maps
- When the CA acquired the parcel
- Whether acquired by a grant under s. 39 of the *Conservation Authorities Act*
- Whether the parcel was acquired through an expropriation
- Whether the CA owns the parcel or has a registered legal interest in the parcel (e.g., easement)
- Identification of the land use categories that apply to the parcel
- Identify if the parcel contains recreational activities requiring direct CA staff support or if commercial logging is carried out on the parcel
- A process for the periodic review and updating of the inventory by the CA

Mandatory Programs and Services Regulation

Other Mandatory Programs and Services

Provincial Groundwater Monitoring Program:

- Collect and submit groundwater samples from wells that are part of the monitoring program along with site information to a lab approved by MECP for analysis
- Collect in-field groundwater data and weather data for submission to MECP
- Assess and maintain monitoring program sites and wells for safety and access
- Comply with MECP procedures if samples exceed drinking water quality standard set out in O. Reg 169/03 (*Safe Drinking Water Act, 2002*)
- Deploy, remove, operate, calibrate and maintain equipment provided
- Carry out administrative support for procuring program equipment, well and equipment repair, well construction and decommissioning services
- Cost share the construction/decommissioning of wells that are part of the program
- Establish and maintain an agreement with the owners of properties with wells in the program
- Participate in meetings or training scheduled by the MECP related to the groundwater monitoring program

Mandatory Programs and Services Regulation

Other Mandatory Programs and Services (cont'd)

Provincial Stream Monitoring Program:

- Collect and submit stream water samples and associated site information to MECP for water chemistry analysis
- Collect in-field stream water quality data for submission to MECP
- Assess and maintain stream monitoring sites for safety and access
- Deploy, remove, operate, calibrate and maintain equipment provided by MECP
- Participation in meetings or training sessions scheduled by MECP

Mandatory Programs and Services Regulation

Other Mandatory Programs and Services (cont'd)

Core Watershed-based Resource Management Strategy

- **Development and implementation of a watershed-based resource management strategy, made publicly available (e.g. on a CA website), on or before December 31, 2024. ★**
- The strategy shall include:
 - Guiding principles and objectives to inform the delivery of the mandatory programs and services
 - Summary of existing technical studies, monitoring programs and other information on natural resources (e.g., surface water level and flows) that directly supports the delivery of the CA's mandatory programs and services
 - Review of the CA's mandatory programs and services for:
 - determining compliance with the mandatory programs and services regulation
 - identifying and analysing issues and risks that limit the effectiveness of the mandatory program or service delivery
 - actions to mitigate identified issues and risks, and estimated costs to implement the actions
 - Provisions for periodic review and updating of the strategy including procedures to ensure stakeholders and the public are consulted
- Other CA programs and services under a memorandum of understanding (MOU) or cost apportioning agreements may be included in the strategy if provisions for this are agreed to by the participating municipalities and are included in the MOUs and agreements

Mandatory Programs and Services Regulation

Source Protection Authority Responsibilities under the *Clean Water Act, 2006*

- **Under the *Clean Water Act, 2006*, CAs are required to exercise and perform the powers and duties of a drinking water source protection authority*:**
 - Operation of the source protection committee, including administrative support
 - Preparing amendments to assessment reports and source protection plans
 - Assisting in the review and update of source protection plans
 - Implementing source protection plan policies assigned to the source protection authority, including monitoring policies
 - Tracking and reporting on the progress of source protection plan implementation
 - Programs and services to support the CA's ability to carry out its duties, functions and responsibilities:
 - Responding to inquiries
 - Assessing whether a source protection plan is up to date
 - Assisting in the co-ordination and implementation of the source protection plan
 - Reviewing and commenting as needed on proposals made under other acts to determine whether they relate to significant drinking water threats, or potential impacts on drinking water sources

*note: The mandatory programs and services exclude Part IV of the Act (i.e., risk management official)

Mandatory Programs and Services Regulation

Other Mandatory Programs and Services

- **Programs and services related to a CA's duties, functions and responsibilities under another Act:**
 - On-site sewage systems (septic systems) approvals by North Bay-Mattawa CA as prescribed under the *Building Code Act, 1992*

Mandatory Programs and Services Regulation

Lake Simcoe Region CA Responsibilities under the *Lake Simcoe Protection Act, 2008*

- The *Lake Simcoe Protection Act, 2008* (LSPA) is delivered through the Lake Simcoe Protection Plan (LSPP) to address long term environmental issues in Lake Simcoe and its watershed
- Lake Simcoe Region CA is a key public body that works in collaboration with provincial ministry leads, including the MECP, NDMNRF, Ministry of Agriculture, Food and Rural Affairs, as well as municipalities, Indigenous communities and others to support the delivery of many LSPP policies
- Mandatory programs and services for the Lake Simcoe Region CA duties, under the LSPA, include the LSPP monitoring policies and strategic action where the policy names the Lake Simcoe Region CA as the lead or collaborating body with other public bodies
- Many Lake Simcoe Region CA required policies are implemented through the s. 28 regulation under the *Conservation Authorities Act* which is a prescribed instrument under the LSPA

Part B:

O. Reg. 687/21: Transition Plans and Agreements for Programs and Services under Section 21.1.2 of the Act

Transition Plans and Agreements

Additional Programs and Services

- Government understands that other programs and services many CAs provide through MOUs or agreements with municipalities are valuable and important to local communities (e.g., education or active recreation)
- CAs can continue to provide these programs and services:
 - At the request of and on behalf of a municipality through a MOU or other agreementor
 - Where the CA determines certain programs and services are advisable to implement in the CA's jurisdiction

Category 2

Category 3

Transition Plans and Agreements

Additional Programs and Services, Transition Plans

- If a municipal levy (in whole or in part) is required for a category 3 program and service, the CA is required to enter into a cost apportioning agreement with the participating municipalities to allow the program and service to be financed by the municipal levy **after January 1, 2024**
- CAs can also provide CA determined programs and services without municipal agreement if these programs and services are funded by revenue that is not municipal levy, including:
 - CA self-generated revenue (e.g. access or user fees)
 - Contracts or funding from other sources (e.g. grants)

Transition Plans

- CAs are required to develop a transition plan that includes:
 - Outlining how and when the CA will meet the first and then second phase of requirements of the transition period
 - Providing the transition plan to each participating municipality, the public and MECP **on or before December 31, 2021** ★

Transition Plans and Agreements

First Phase of Transition Period, Inventory of Programs and Services

First phase: CAs must develop and circulate to the participating municipalities and MECP an inventory of all the programs and services they are providing and intend to provide no later than **February 28, 2022** ★

For each program and service, CAs must:

- Estimate the total annual actual cost of providing the program or service:
 - A. Programs and services provided 5 or more years: average cost for the last 5 years
 - B. Shorter duration: average cost for the period it was offered
 - C. New program: average cost based on best assessment and an explanation of the assessment

Where average annual cost for A and B above will not reflect future costs, adjust the average and include an explanation
- Indicate the source of funding to cover the total estimated annual actual cost (e.g., municipal levy, provincial or federal funding, non-government funding)
- Provide an estimate of the percentage of the total cost each funding source is expected to cover

Transition Plans and Agreements

Inventory of Programs and Services (cont'd)

Each CA program and service is to be classified into one of the 3 categories and include the following information in the inventory:

- Category 1: Mandatory Programs and Services
 - Type of mandatory program or service provided and justification for the classification
- Category 2: Municipal programs and services provided on behalf of a municipality through a MOU or other agreement
 - Municipality for which a program or service is provided and the date the CA and municipality entered into an MOU or other agreement for the program or service
- Category 3: CA determined programs and services where the CA determines the programs and services are advisable to implement in the CA's jurisdiction
 - If the program or service was funded in whole or in part by municipal levy and the CA intends to continue the program or service using the municipal levy, each participating municipality needs to decide about their funding and those willing to do so need to enter into a cost apportioning agreement with the CA to ensure the CA can levy them for these CA determined programs and service after the end of the prescribed transition date (January 1, 2024)

Transition Plans and Agreements

Second Phase of the Transition Period

- During the second phase of the transition period (**following submission of inventory by Feb 28, 2022 to January 1, 2024**), ★ CAs are to:
 - Consult with municipalities on the inventory of programs and services and consider any feedback
 - Take necessary steps to enter into cost apportioning agreements
 - Prepare and submit to the MECP six quarterly progress reports

Transition Plans and Agreements

Cost Apportioning Agreements

- CAs may enter into cost apportioning agreements with one or more participating municipalities for category 3 'CA determined' programs and services
- These agreements must include the following provisions:
 - Early termination, including when notice of termination is to be provided (at least 30 days or as specified in the agreement)
 - When the agreement will be reviewed (i.e. at least six months or such longer period as may be specified in the agreement before the termination date if the agreement is for less than five years, or at least every five years if the agreement is for longer than five years)
 - Alternative dispute resolution mechanisms for the settling of disputes
- These agreements must be approved by the municipal councils of all participating municipalities party to the agreement
- These agreements must be made available to the public (e.g., website or by other means the authority considers advisable)

Transition Plans and Agreements

Quarterly Progress Reports, Final Inventory

- CAs must submit six quarterly reports to the MECP (ca.office@ontario.ca) **beginning July 1, 2022 with the last report due October 1, 2023** ★
- Each progress report must include the following:
 - Comments or feedback provided by municipalities
 - Summary of changes made to the inventory to address comments or feedback, including a copy of the changed inventory and description of changes from previous inventory
 - Update on the progress of negotiations of cost apportioning agreements with participating municipalities
 - Any difficulties experienced that may impact the ability to enter into cost apportioning agreements by the transition date
- CAs must submit to participating municipalities and MECP a final version of the programs and services inventory and confirm that the CA has entered into all necessary cost apportioning agreements within 30 days after the transition date (i.e. on or before **January 31, 2024**)★

Transition Plans and Agreements

Extensions to Transition Period

- MECP may grant of extensions to the transition date for completing municipal agreements where a CA, with the support of one or more participating municipality in the CA, submits a written request for the extension to the Minister of MECP **on or before October 1, 2023** ★
- The request must include the length of the extension and demonstrate that the extension is required for any of the following reasons:
 - Additional time is required to conclude a cost apportioning agreement between a CA and one or more participating municipalities for a particular program or service the CA intends to provide after the transition date
 - Additional time is required to wind down a program or service that the CA will no longer provide after the transition

Transition Plans and Agreements

Municipal Roles and Responsibilities in the Transition Period

Municipalities are to:

1. Receive the Transition Plan from their CAs and prepare for the process outlined in the plan – on or before December 31, 2021
2. Engage their CAs on municipal expectations for the CA inventory of programs and services, CA decisions on categorization of its programs and services, actual costs provided on programs and services, how costs were developed etc.
3. Consider the programs and services the municipality may wish a CA to continue to provide on the municipality's behalf (category 2) through a MOU or other agreement, as well as consider what CA determined programs and services (category 3) the municipality may wish to fund by entering into a cost apportioning agreement, and understand what other municipalities may be considering to fund
4. Enter into negotiations with a CA for agreements related to funding category 2 or 3 programs and services. May include consideration of the benefit derived by the program or service and how costs are to be apportioned, the duration of the program or service, meeting the requirements set out in regulation for the prescribed cost apportioning agreement, etc.

Part C:

O. Reg. 688/21 – Rules of Conduct in Conservation Areas

Rules of Conduct in Conservation Areas Regulation

- One Minister's regulation, once in effect, consolidates all the individual CA 'Conservation Areas' regulations found on e-Laws made under s.29 of the *Conservation Authorities Act*
- The existing CA s. 29 regulations manage activities on all CA owned land, including the use by the public of the lands. These regulations focus on public safety, protecting against property damage, protecting the resources on the land and the public investment made in CA owned land
- The new Minister's s. 29 regulation sets out:
 - Use by the public of the land and services available on CA land
 - Prohibited activities (i.e. damaging property/vegetation, excessive noise)
 - Activities requiring permits (e.g., hunting, camping permits, vehicle use)
 - Requirement to produce permits at an officer's request
 - Locations, time periods for public access and use (e.g., swimming, boating)
 - Management of domestic animals brought by the public
- No significant changes were made to the new Minister's Regulation from the previous CA S.29 regulations which had been approved by the LGIC


Part D:

Effective Dates and Timelines

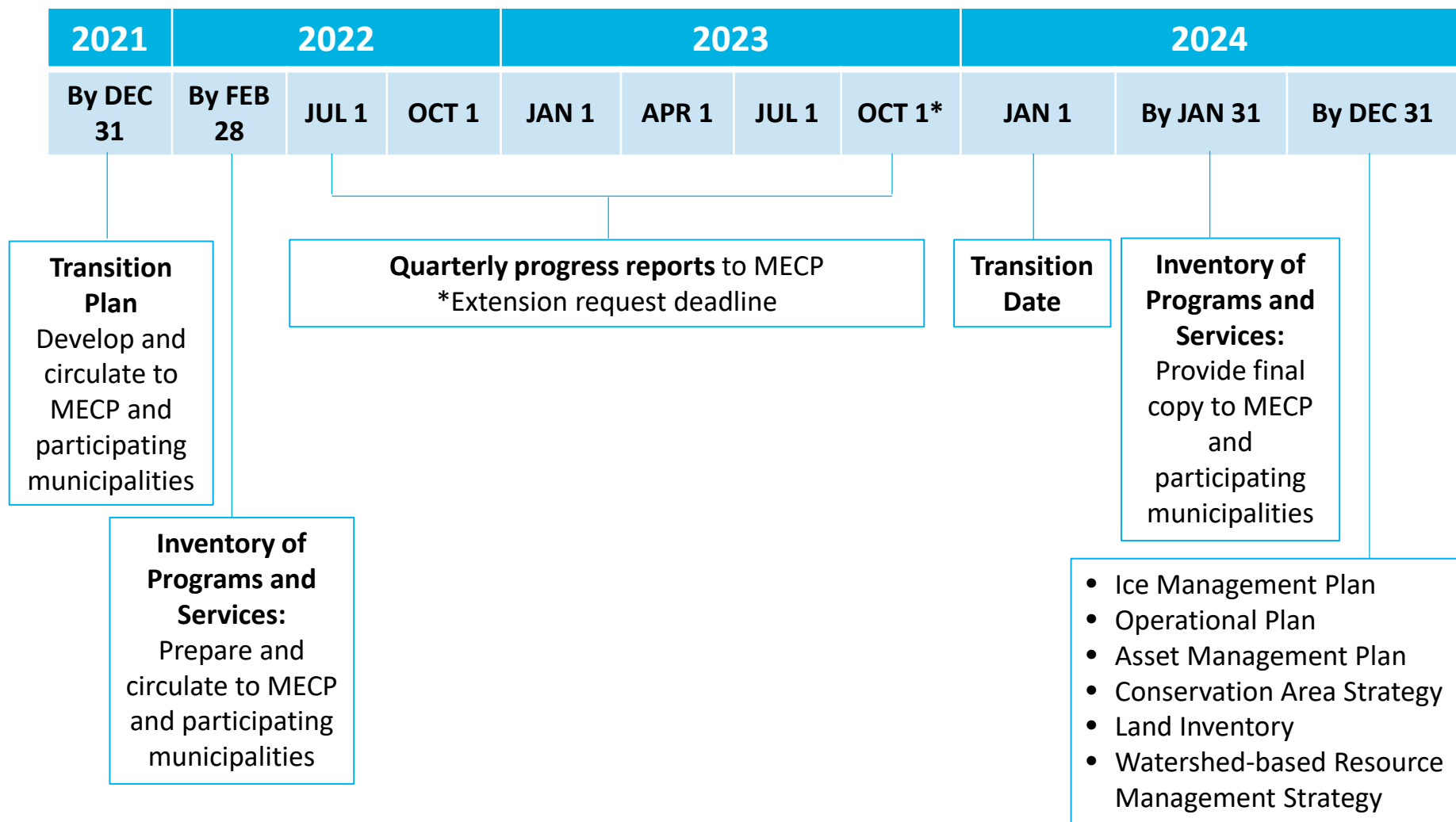
Effective Dates for Phase 1 Regulations

Regulation	Effective Date
O. Reg. 687/21: Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Act	October 1, 2021
O. Reg. 686/21: Mandatory Programs and Services	January 1, 2022
O. Reg. 688/21 – Rules of Conduct in Conservation Areas	The later of January 1, 2022 or upon proclamation of the unproclaimed section 29 of the <i>Conservation Authorities Act</i>

Summary - Timeline for Implementing Phase 1 Regulation Deliverables

Timeline	CA Deliverable
By Dec 31, 2021	Transition Plan: CA develops and circulates to MECP and participating municipalities, publish on website
By Feb 28, 2022	Inventory of Programs and Services: CA prepares and circulates to MECP and participating municipalities
Jul 1, 2022	<div>  CA submits quarterly progress reports to MECP </div>
Oct 1, 2022	
Jan 1, 2023	
Apr 1, 2023	
Jul 1, 2023	
Oct 1, 2023*	
	*Extension request deadline
Jan 1, 2024	Transition Date – date CA required to enter into cost apportioning agreements with participating municipalities if financing by the participating municipality is necessary
By Jan 31, 2024	CA provides final copy of inventory to MECP and participating municipalities
By Dec 31, 2024	<ul style="list-style-type: none"> • Ice Management Plan is developed and being implemented • Operational Plan is developed and being implemented • Asset Management Plan is developed and being implemented • Conservation Area Strategy has been prepared • Land Inventory has been prepared • Watershed-based Resource Management Strategy is developed and being implemented

Timeline for Phase 1 Regulation Deliverables



Next Steps

Next Steps

- Development of the second phase of provincial regulatory and policy proposals made under the *Conservation Authorities Act*, including details on the proposed municipal levies regulation, the CA annual budget process, and the Minister's list of classes of programs and services for which a CA can charge a user fee
 - MECP continuing to work closely with the CA Working Group
 - Consultation planned for later this year
- CAs develop transition plans and begin working on inventories of their programs and services

Questions and Support

- Should you have any questions related to the regulations and/or require support during the transition period, please contact the **Conservation Authority Office** at ca.office@ontario.ca