

Interim Guidance

HOW TO COMPLETE THE NOTIFICATION OF DRAIN MAINTENANCE OR REPAIR FORM

Introduction

The joint Drain Maintenance or Repair Notification Form may be used to apply for permissions from Conservation Authorities (CAs) under Section 28 of the *Conservation Authorities Act*, the Ministry of Natural Resources and Forestry (MNRF) under the *Endangered Species Act* and Fisheries and Oceans Canada (DFO) under the *Fisheries Act and Species at Risk Act*. This form should be used for streamlined permissions following the Drainage Act and Conservation Authorities Act Protocol – Protocol for Municipalities and Conservation Authorities in Drain Maintenance and Repair Activities.

Section 1: Contact Information, Location and Dates for Proposed Works

- Complete the contact information, location of the work, and start/finish dates. Either latitude/longitude or UTM coordinates may be used.
- Please attach a location map with the drain classification and highlight the area for the proposed work, including distinguishing between spot and continuous cleanout locations, staging etc.

Section 2: Drain Classification

- Indicate the drain class for the work zone (area where the work is being completed) and the impact zone (the impact zone extends 1 km downstream from the bottom end of the work zone).
- If the drain contains federal Species at Risk (fish and mussels), it is a SAR class drain. For these drains, please attach a Species at Risk map to show the location of the work in relation to Species at Risk: <http://www.conservation-ontario.on.ca/what-we-do/watershed-stewardship/aquatic-species-at-risk>

Section 3: Drainage Activities Proposed

Indicate the drain type:

- Channel
- Tile
- Channel & Tile Combination

Note: Any open ditch or drain is considered a channel.

Select the Drainage Act Section:

- Section 74 – Maintenance/Repair

This option should be selected when drain repair/maintenance work is proposed by a municipal drainage superintendent, without a new report, under the authority of an older engineer's report adopted by by-law. Section 74 requires a municipality to keep municipal drainage systems maintained and repaired. The Drainage Act defines "maintenance" as the preservation of a drainage system (e.g. brushing, spraying, etc.) and "repair" as the restoration of a drainage system to its original condition (e.g. sediment removal, blockage removal, replacement of a crossing).

- Section 77 - Deepen/Widen/Extend (Not applicable under DART protocol – regular permit process for CAs applies for this type of activity)

This option should be selected when minor improvements to the drain are proposed by the drainage superintendent without a new engineer's report. Section 77 of the Drainage Act allows a municipality to make minor improvements to a drain by deepening, widening or extending the drain to an outlet, but the value of the work is limited to \$4,500. This section is infrequently used to perform activities such as removing an obstruction downstream from the end of a drain or stabilizing a bank that goes beyond the definition of repair.

- Section 78 – Maintenance/Repair Only

This option should be selected only when drain repair/maintenance work (as defined earlier) is proposed under the authority of a new report and by-law passed under Section 78 of the Drainage Act. Section 78 allows a municipality to perform projects to improve a drainage system. The Act defines "improvement" as any modification/addition to a drainage system intended to increase the effectiveness of the system. Most Section 78 projects involve modifications or additions to an existing drainage system and in those situations, the notification form should not be used. However, occasionally Section 78 is used to update the assessment schedules and/or profiles and other drawings, and the physical work being performed falls within the definitions of "maintenance" or "repair". The Notification Form can be used for those situations.

- Other

Provide specific details on the proposed activities.

Indicate the type of Maintenance or Repair Activities

For CAs and MNRF

Select all of the activities that apply in the drop down list in the form. CAs and MNRF will need to be notified about all activities listed in the Notification Form.

For DFO

DFO only needs to be notified for the following activities:

- Bank repair and stabilization and pipe outlet repair
- Bottom cleanout plus one bank slope
- Bottom only cleanout
- Bottom only cleanout (within regulated wetland limits)
- Bottom cleanout plus one bank slope (within regulated wetland limits)
- Full cleanout
- Full cleanout (within regulated wetland limits)
- Spot cleanout

For the other activities listed in the drop down list, notification is not required unless the conditions and measures to avoid and mitigate harm to fish and fish habitat cannot be followed (<http://www.dfo-mpo.gc.ca/pnw-ppe/measures-mesures/offset-harm-dommage-comp-eng.html>). Additional information can also be found in DFO's Do Not Send List.

Other (please specify):

- Note any additional activities to be performed at the site

Specify disposal of material, if applicable (e.g. location, method):

- Note the proposed location of the disposed material, method of relocation and any access considerations, if not already specified in the Engineer's Report

Section 4: Species at Risk Information

- This section is only for use by MNRF to support the provincial *Endangered Species Act, 2007* (ESA). It is not used by DFO for the *Species at Risk Act*.
- On July 1, 2013 the Ministry of Natural Resources and Forestry (MNRF) made changes to the implementation of the ESA, including new Regulations pertaining to municipal drainage activities. As a result of these changes, the existing agreements made with the MNRF under O.Reg. 242/08 s. 23 will expire as of July 1, 2015. If municipal drainage activities are proposed to take place after this date, and will impact species listed as endangered or threatened on the Species at Risk in Ontario (SARO) list (O.Reg. 230/08), municipalities have the option to register those activities, as outlined at <https://www.ontario.ca/environment-and-energy/ditch-and-drainage-work-and-endangered-or-threatened-species>.
- For work proposed to be undertaken before July 1, 2015 please identify on the notification form as to whether or not the drain is covered under an ESA Exemption Agreement (s. 23 of O.Reg. 242/08).
- Please indicate which Species at Risk are present (e.g. amphibians, fish, etc.). An up to date list of species protected under the ESA can be found on the Species at Risk in Ontario (SARO) list (O.Reg. 230/08) http://www.e-laws.gov.on.ca/html/reg/english/elaws_regs_080230_e.htm

Section 5: Other

- Provide any other relevant information that could affect the project (e.g. access considerations, buried utilities, date of last cleanout, drain condition) to assist with the review by the agencies.
- It may be helpful to attach photos (<500 kb per image) of the work site and/or for identifying any particular issues at the site.

Section 6 (a – c): Sediment and Erosion Control Measures to be Used (Avoidance, Mitigation and Offsetting Measures - *Fisheries Act*)

This section is used by all agencies. Appropriate sediment and erosion control measures are a requirement under Section 28 of the *Conservation Authorities Act*. For DFO's purposes, the applicant must demonstrate consideration of avoidance measures, mitigation, and offsetting measures for each Class Authorization.

In the Notes section, please provide details related to the type of product that you are going to use and/or the approximate dimensions for its installation.

6a) Avoidance Measures:

Identify any avoidance measures that are to be used.

- Spot cleanout
Cleanout of isolated sediment build-up that is significant enough to cause erosion or flow blockage/flooding concerns in the channel. This may include a sediment trap (dug below design grade) cleanout. Spot cleanouts are not continuous along the drain.
- Staged cleanout
A drain cleanout conducted in stages by dividing it into sections along its length, with maintenance occurring one section at a time. Refuge areas may be left in between sections and are subsequently maintained after a period of time. Depending on the length or sensitivity of habitat or species maintenance could be staged over a period of years. Staging could also be looked at geographically, whereby maintenance activities would alternate between reaches to provide intermediate refugia around the activity.
- Work in low or no flow

6b) Mitigation - Sediment and Erosion Control Measures:

Indicate all of the measures that will be used to minimize sediment and erosion.

Section 6c: Offsetting: Permanent Measures

For DFO's purposes, the applicant must indicate which offsetting measure(s) will be implemented. The Notification form will be considered to be incomplete by DFO if offsetting measures are not identified and quantified. The objective of offsetting is to counterbalance unavoidable serious harm to fish.

Offsetting should balance project impacts such that the habitat destroyed or permanently altered is replaced by the same quantity or quality habitat. With the completion of this section of the form, the dimensions and quantity of the offsetting measure will be documented.

DFO Class Authorization Process

- This section only needs to be completed if you are working in a Class A, B or C Drain.
- Select the appropriate offsetting options that can be successfully implemented.
- The number and size of the offsetting measures used should reflect the scale and extent of the disturbance. For example, one pool created per 2 km of drain clean out would not be appropriate or sufficient.
- Class D, E and SAR Drains require a site specific review by DFO and a biologist will work with you to determine appropriate mitigation and offsetting.
- This section does not need to be completed for Class F Drains.