

Subject <b>Stop Work Orders</b>		Policy <b>PL 9.03.01</b>	
Compiled by - Branch <b>Lands and Waters</b>	Section <b>Land Management Section</b>	Date Issued <b>May 14, 2007</b>	
Replaces Directive Title <b>Same</b>	Number <b>Same</b>	Dated <b>July 15, 2001</b>	Page <b>1 of 4</b>

## 1.0 Definitions

In this policy and accompanying procedure,

“designated area” means an area without municipal organization, that has been designated by the Minister under subsection 13 (1) of the Public Lands Act (PLA) as a restricted area;

“offending party” is the person or persons who have contravened the PLA or caused the PLA to be contravened;

“officer” means an officer appointed under subsections 5 (1) of the Public Lands Act and one who has been authorized by their supervisor to issue a stop work order as outlined in this policy and in procedure directive PL 9.03 01 and section 4.3 of procedure PL 9.02.01;

“permit” means a work permit issued under subsection 13(2) of the PLA;

“PLA” means the Public Lands Act, Chapter P.43, R.S.O. 1990;

“Regulation 975” means Ontario Regulation 975, R.R.O. 1990, as amended;

“stop work order” means an order to cease work under subsections 13 (4) or 14 (5) of the PLA, and a form of written notice under subsection 4(9) of O. Reg. 975, as amended; and

“work permit” means a work permit authorizing the activities identified in subsection 2(1) of O. Reg. 453/96, as amended.

## 2.0 Introduction

A stop work order is a written or verbal instruction to an individual or contractor to immediately stop an activity that contravenes Section 13(2) or Section 2(1) of Regulation 453/96 of the Public Lands Act. Stop work orders are very useful tools for ensuring that the illegal activity and potential harm that work causes, does not continue. All stop work orders must be applied in good faith keeping in mind the hardship (e.g. monetary, time) that the order may cause for the recipient.

Subsection 13 (4) of the Public Lands Act, refers to restricted areas designated under this section by the Minister and states that "an officer who finds a building or structure being erected or an improvement being made without the authority of a permit, may order that work to cease."

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Subsection 14 (5) of the PLA states that "an officer who finds that an activity is being carried on in contravention of the regulations(i.e., no work permit or not complying with the conditions of the work permit issued) may order that the activity cease until the work permit has been obtained".

A stop work order may only be applied to the activity that constitutes the contravention. For instance, in cases of contravening a condition of a work permit, much of the work may be continued while only the violating activity can be ordered to cease.

In addition, Subsection 4(9) of Ontario Regulation 975, as amended, states that “an officer may cancel a work permit without affording the holder an opportunity to be heard, if the continuation of the work under the permit is, in his or her opinion, an immediate threat to the public interest and the officer gives written notice, with reasons, to the holder”. A stop work order should be issued in such cases.

### **3.0 Program Direction**

#### **3.1 Goal**

To provide clear and consistent policy direction to the consideration, use and application of Public Lands Act stop work orders.

#### **3.2 Application**

With the exception of areas regulated under the *Provincial Parks and Conservation Reserves Act*, this policy applies provincially to any situation where:

- an officer finds a building or structure being erected or an improvement being made without the authority of a permit within a restricted area designated by the Minister (i.e. contrary to subsections 13 (1) and (2) of the PLA);
- where an officer finds someone carrying out the work prescribed in subsection 2 (1) of the Ontario Regulation 453/96 made under the PLA but not in accordance with the issued work permit; or
- where an officer finds someone carrying out an activity prescribed in subsection 2 (1) of Ontario Regulation 453/96 made under the PLA without a work permit.

To determine if a work permit is required, refer to policies PL 2.09.01 Restricted Area Orders – Section 13 Public Lands Act and PL 3.03.04 Work Permits – Section 14, Public Lands Act.

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## **4.0 Principles**

The following provides a description of principles that apply to the issuance, review and removal of stop work orders.

### **4.1 Issuance of a Stop Work Order**

Stop work orders are issued where an officer finds an activity occurring that is not in accordance with the conditions of an issued permit or where an activity is taking place without a permit under sections 13(1), (2) of the PLA.

A stop work order can also be issued where an officer finds an activity that is not in accordance with the conditions of an issued work permit under Ontario Regulation 453 /96 of the PLA or where an activity prescribed under section 2(1) of Ontario Regulation 453/96 has occurred without a work permit.

An officer can issue a stop work order for an activity or part of an activity that has not been authorized under a work permit (e.g. dredging has been authorized under a work permit but the placement of fill has not).

Prior to the issuance of a stop work order, whether verbal or in writing, the officer must know whether there is a violation. For activities occurring within restricted areas designated by the Minister under Section 13 of the Public Lands Act, the officer should refer to policy PL 2.09.01 Restricted Area Orders – Section 13 PLA and Procedure PL 9.03.01 Stop Work Orders.

With regards to Section 14, the officer should also refer to procedure PL 9.03.01 Stop Work Orders and ensure that the works are not exempt under subsection 2(2) and 2(3) of O. Reg. 453/96 – Work Permit – Construction.

### **4.2 Removing the Stop Work Order**

The officer should ensure an expeditious review of all work permit applications that are submitted for the purpose of alleviating the violation(s) that caused the stop work order to be issued. Keeping in mind that the work has been already initiated and the person ordered may be experiencing high costs, the officer should afford as much priority to the review and issuance of a permit as is reasonable.

The stop work order issued pursuant to subsection 13(4) and 14(5) should be removed as soon as the violation ceases. In cases where a permit or work permit authorizing the activity is subsequently issued, the stop work order must be removed and the person subject to the order should be advised immediately.

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In some instances, there will not be a permit or work permit issued, but the would be recipient may have already taken action to rectify the violation to the satisfaction of the officer. Similarly, that person should be advised immediately that the stop work order has been removed. If the person has been verbally advised that the stop work order was removed, the officer should follow up with written documentation, stating when the stop work order was removed and how the violation was mitigated.

### **4.3 Compliance with a Stop Work Order**

The officer should take appropriate action against any person(s) who disobeys the stop work order. Failure to comply with a stop work order leaves the recipient liable to a fine of not less than \$200.00 per day for each day that the order is contravened. The amount of the fine sought should be adequate to provide a deterrent against potential repeat offences, should reflect the severity of the offence/damage and should also eliminate any profits realized by the operator as a result of the contravention.

## **5.0 References**

### **5.1 Legal References**

- Public Lands Act, Chapter P. 43, R.S.O. 1990, as amended - sections 13 and 14.
  - Ontario Regulation 453/96 as amended, issued pursuant to the Public Lands Act.
  - Ontario Regulation 975 as amended, issued pursuant to the Public Lands Act.
- Provincial Parks and Conservation Reserves Act, Chapter 12, S.O. 2006

### **5.2 Directive Cross References**

- PL 2.09.01 Restricted Area Orders Policy
- PL 3.03.01 Work Permits – Section 14 Public Lands Act Procedure
- PL 9.02.01 Appointment of Public Lands Officers Procedure
- PL 9.03.01 Stop Work Orders Procedure