

# ENVIRONMENTAL LAW AND COMPLIANCE IN ONTARIO

April 2 - 3, 2012 | St. Andrew's Club and Conference Centre | Toronto



Learn about changing environmental requirements and opportunities due to new statutes and regulations, recent court decisions and evolving practices of the Ontario Ministry of the Environment.

**The topics to be discussed include:**

- The legal and practical implications of the recent brownfield changes, including amendments to O. Reg. 153/04 and the revised ground water and soil standards
- Managing waste and environmentally regulated substances
- The transition issues related to the implementation of Ontario's new environmental approvals regime
- Due diligence and duties of directors and officers
- The enforceability of environmental regulatory obligations in insolvency
- Public company's continuous disclosure obligations relating to environmental risks & liabilities
- Financial assurance obligations
- The Court of Appeal's overturning Ontario's largest environmental class-action award in *Inco v. Smith* - where do we go from there?

**PROGRAM Co-Chairs**

**Mario Faieta**

*Ministry of the Environment*

**Michael Fortier**

*Torys LLP*

**Presentations from**

*Beament Green LLP*

*Blake, Cassels & Graydon LLP*

*Borden Ladner Gervais LLP*

*Canadian Environmental Law Association*

*Davies Ward Phillips & Vineberg LLP*

*Fogler Rubinoff LLP*

*Lake Ontario Waterkeeper*

*McCarthy Tétrault LLP*

*Miller Thomson LLP*

*Ministry of the Environment*

*Torys LLP*

*Willms & Shier Environmental Lawyers LLP*

*City of Toronto Legal Services*

*Ontario Securities Commission*

**CLE Accreditation:**

This program qualifies for 10.25 substantive hours and can be applied towards the 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada.

Please note that these CPD hours are not accredited for the New Member Requirement.

Dear Colleague,

I am pleased to invite you to Insight Information's Environmental Law and Compliance Conference on April 2-3, 2012.

Over the past couple of years, a number of important developments have occurred in environmental law in Ontario. These developments resulted from the culmination of several powerful forces, including the local and global economic downturn and the response by the Government of Ontario. As a consequence, facilities and other operations in Ontario face changing environmental requirements due to new statutes and regulations, recent court decisions and evolving practices by the Ontario Ministry of the Environment.

This conference provides a unique opportunity to hear leading lawyers and other professionals from the public and private sectors discuss these important developments, provide insight into what may lay ahead and offer practical approaches for consideration. More specifically, the conference's speakers will cover significant regulatory changes affecting land, air, water, wastes and other environmentally regulated substances in Ontario. The speakers will also discuss issues relevant to proposed and existing facilities and operations -- such as, Ontario's environmental approval modernization, renewable energy approvals and aboriginal consultation. The conference will also include panels exploring how financial assurance obligations are determined by the Ministry, what the "polluter pays" principle means in these challenging economic circumstances and the enforceability of environmental regulatory obligations in an insolvency. Conference sessions will provide updates on other key developments, including prosecutions, civil actions (including the Court of Appeal's dismissal of the \$36 million damage award in *Inco v. Smith*) and continuous environmental disclosure for publicly traded corporations.

This conference provides a unique opportunity to hear leaders from the Ministry, the private bar and non-governmental organizations discuss a broad range of key environmental developments affecting facilities and operations in Ontario. I look forward to your attendance and participation.

Yours truly,

**Michael J. Fortier**  
*Partner*  
*Torys LLP*

**Mario Faieta**  
*Counsel*  
*Ministry of the Environment*

## WHO SHOULD ATTEND

- In-house Counsel
- Environmental Consultants and Lawyers
- Environmental Managers
- Environmental Audit, Control, Compliance and Enforcement Officials
- Business Executives
- Operation Managers
- Provincial and Municipal Officials
- Lenders
- Environmental Insurers
- First Nations Representatives
- Representatives of Non-Governmental Organizations Interested in the Environment, Resources and Economic Development

8:15 **Registration and Continental Breakfast**

9:00

**Welcoming Remarks from the Conference Co-Chair**

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**Mario Faieta**

*Counsel  
Ministry of the Environment*

9:15

**Reg. 153/04, Records of Site Condition and Brownfields Development**

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**Rick F. Coburn**

*Partner  
Borden Ladner Gervais LLP*

- Amendments to O. Reg. 153/04 in overview
- RSC requirements, submission and process
- The 2011 soil, ground water and sediment standards
- Risk assessment under the new regime

10:00

**Climate Change and Flexibility in Meeting Air Emission Requirements**

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**Tyson Dyck**

*Associate  
Torys LLP*

**John Willms**

*Partner  
Willms & Shier Environmental Lawyers LLP*

- Amendments to O. Reg. 419/05 - Air Pollution - Local Air Quality
- Cap-and-trade: greenhouse gas reporting and trading
- Climate change post-Kyoto: the future of greenhouse gas regulations

10:45 **Networking Coffee Break**

11:00

**Water Opportunities and Challenges**

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**Jamie Flagal**

*Counsel  
Ministry of the Environment*

**Mark Mattson**

*President & Waterkeeper  
Lake Ontario Waterkeeper*

- Amendments to *Fisheries Act*
- Municipal sewer discharge
- Updates regarding the implementation of *Clean Water Act, 2006*
- *Water Opportunities Act, 2010*

11:45

**Managing Waste and Environmentally Regulated Substances**

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**Graham J. Rempe**

*Solicitor  
City of Toronto Legal Services*

**John R. Tidball**

*Partner  
Miller Thomson LLP*

- Amendments to Ontario's waste regime

- Ontario's toxics reduction regime
- Toronto's reporting and disclosure by-law

12:30 **Networking Luncheon**

1:45

**Modernization of the Environmental Approvals**

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**Doris Dumais**

*Director, Environmental Approvals Access & Service Integration  
Ministry of the Environment*

**Sarah V. Powell**

*Partner  
Davies Ward Phillips & Vineberg LLP*

- Amendments to Ontario's approvals regime
- Multi-media and multi-facility approvals
- Transition issues

2:30

**Recent Developments Regarding Renewable Energy Approvals**

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**Laurence Borg**

*Counsel  
Ministry of the Environment*

**Doris Dumais**

*Director, Environmental Approvals Access & Service Integration  
Ministry of the Environment*

**Dennis E. Mahony**

*Partner  
Torys LLP*

- Renewable energy approvals issued for wind, solar & biomass projects
- Recent court decision - *Hanna*
- Recent ERT decisions - *Erickson, etc.*

3:30 **Networking Refreshment Break**

3:45

**Duty to Consult Aboriginal Peoples - What it Means?**

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**John Terry**

*Partner  
Torys LLP*

- Draft *Aboriginal Consultation Guide* for preparing a renewable energy approval (August 2011)
- Consultation and Accommodation vs. Business Partners

4:30

**Due Diligence and Duties of Directors and Officers**

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**Charles J. Birchall**

*Partner  
Fogler Rubinoff LLP*

**Donna Shier**

*Partner  
Willms & Shier Environmental Lawyers LLP*

- What is "due diligence" in a regulatory context and why is it important?
- The importance of an environmental management system
- Reverse onus under *Environmental Protection Act* and certain other laws
- Indemnification and insurance of directors and officers

5:15 **Conference Adjourns**

**8:30 Continental Breakfast**

9:00

**Welcoming Remarks from the Conference Co-Chair****Michael Fortier***Partner  
Torys LLP*

9:15

**An Update on "The Polluter (and others) Pays Principle"****Robert M. Fishlock***Partner  
Blake, Cassels & Graydon LLP***Nadine Harris***Counsel  
Ministry of the Environment*

- Use of orders by the Ministry of the Environment
- Recent decisions - *Currie, Kawartha Lakes & Marathon Pulp Inc.*
- Who can you hold responsible and how far can you go

10:00

**The Enforceability of Environmental Regulatory Obligations in Insolvency****Mario Faieta***Counsel  
Ministry of the Environment***Alexandria J. Pike***Partner  
Davies Ward Phillips & Vineberg LLP*

- Recent developments regarding orders in the context of insolvencies
- Recent cases - *General Chemical, Nortel & AbitibiBowater*

**10:45 Networking Coffee Break**

11:00

**Financial Assurance Obligations****Frederika Rotter***Counsel  
Ministry of the Environment*

- When does the MOE expect such assurances?
- Implications of uncertain economic times
- ERT decision - *Detox*

11:45

**Developments Regarding Administrative Monetary Penalties****Jamie Flagal***Counsel  
Ministry of the Environment*

- Developments in provincial environmental enforcement (including the experience with environmental penalties) and in the responses by regulated parties
- Developments in federal environment environmental enforcement, including *Canadian Environmental Violations Administrative Monetary Penalties Act* and amendments to federal environmental penal provisions

**12:30 Networking Luncheon**

1:45

**The Latest on Environmental Prosecutions****Danielle Meuleman***Counsel  
Ministry of the Environment***Douglas R. Thomson***Partner  
McCarthy Tétrault LLP*

- Inspections versus investigations
- *R v. Branch*
- Other developments

**2:30 Networking Refreshment Break**

2:45

**Disclosure of Environmental Risks and Liabilities by Public Companies****Aaron Atcheson***Partner  
Miller Thomson LLP***Jo-Anne Matear***Manager, Corporate Finance  
Ontario Securities Commission*

- Canadian securities administrators staff notice 51-333 environmental reporting guidance.
- OSC staff notice 51-716 environmental reporting
- Current trends and practices

3:00

*ROUND TABLE***The Latest on Inco and Other Environmental Civil Actions****Michael S. Hebert***Partner  
Beament Green LLP***Richard Lindgren***Counsel  
Canadian Environmental Law Association***Gabrielle K. Kramer***Partner  
Borden Ladner Gervais LLP*

- *Inco v. Smith* (Ont. C.A. - October 2011)
- *Berendsen v. Ontario* (S.C.C. discontinuance January 2011)
- *ING v. Miracle* (Ont. C.A. - April 2011)

**4:15 Closing Remarks**

3rd Edition

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Conference Code: ENC12775      Priority Code:      12775PDF

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Please ask for the Insight Information corporate rate # N9920015 (subject to availability).

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