

## What happened to one-window?

*Several articles in this newsletter reflect substantial new reporting requirements from federal and municipal governments. Others raise the spectre of federal duplication of provincial regulation of waste water treatment, and encroachment by Ontario on the federal role of toxics assessment, regulation and elimination. The result is an increasing compliance burden. What happened to the move towards "one-window" government?*

*Is this turf-protection or politics? Or is there a positive rationale? We will be watching closely and reporting to you as these matters proceed.*

## Ottawa orders companies to submit extensive info on air emissions

The federal government has imposed significant and complex emissions reporting requirements on large air pollution emitters. Ottawa is gathering much more detailed data on industrial releases of key environmental pollutants emitted in 2006. The stated intention is to gather data for the purpose of drafting clean air regulations. Given the scope of data required, some of the 700-plus large emitters will find it challenging to meet the May 31, 2008 deadline. The reporting forms had not been published by mid-January. CEPA permits the Minister of the

[www.willmsshier.com](http://www.willmsshier.com)

4 King Street West, Suite 900  
Toronto, Ontario, M5H 1B6  
Tel: 416 863-0711 Fax: 416 863-1938

EDITOR: Barry N. Spiegel  
Email: [bspiegel@willmsshier.com](mailto:bspiegel@willmsshier.com)

## In this issue ...

- ◆ Federal Air Pollution Reporting: Industry must complete complex paperwork for federal air regulations.
- ◆ Ontario will be first province to mandate "off-toxics" programs by industry.
- ◆ Toronto Emissions Reporting: Toronto proposes by-law requiring SME to report emissions.
- ◆ Ontario proposes controversial landfill gas collection and control regulation
- ◆ Ottawa publishes next two batches in chemical assessment program.
- ◆ Ottawa proposes national sewage treatment regulations in 2008.

Environment to grant extensions of the filing date: a written extension application is required.

The notice in the *Canada Gazette* Part I, December 8, 2007 requires emissions data for the year 2006. The annual reporting obligation will continue until regulations come into force.

### Who Must Report?

A reporting form and guidance document will help managers assemble and submit the required data.

The requirement applies to industrial and resource extraction facilities in 15 sectors: the cement, lime and chemical production, smelting and refining, iron and steel, pulp and paper, power generation, oil sands, petroleum refining, upstream oil and gas production, and some mining. Other sectors will be added by future notice.

### Which Substances?

Facilities in the designated sectors must supply emissions data, including the emission reduction efficiency of their current abatement efforts, for five families of air pollutants:

1. Smog producing compounds (VOCs, NOx, SOx, TPM, PM10, PM25);
2. GHGs;
3. Key toxics (benzene, mercury, ammonia, inorganic fluorides and various PAHs);
4. ODS (13 ozone-depleting chemicals);
5. Dioxins and furans.

These requirements are more extensive than currently required under either the NPRI or the Greenhouse Gas Emissions Reporting Programs. Complex threshold reporting will be required for each sector. Emitters must differentiate emissions from stationary fuel combustion, industrial processing, venting and flaring operations, and fugitive releases. Emitters must also describe monitoring and methodology, fuel and power use, cogeneration operations, system inputs, production outputs and other process details.

## Ontario to make pollution prevention mandatory in bid to cut toxic releases

Ontario is drafting legislation to require pollution prevention programs in an effort to slash the environmental release of certain high risk compounds and/or to upstage EC efforts under CEPA.

In addition, the government has pledged to introduce legislation in the spring of 2008 to ban the cosmetic use of pesticides.

In announcing the province's new toxics reduction strategy, Premier McGuinty cited the success of Massachusetts's Toxic Use Reduction Act (TURA). TURA may be the model for Ontario's legislation. Companies using large amounts of listed toxics must evaluate pollution prevention opportunities, implement them if practical, and measure and report their results annually. They will also pay annual toxics user fees.

Few details have been released.



(Continued from page 1)

The government plans to appoint an expert medical and scientific panel to identify the toxics for immediate attention. The government intends to work with Cancer Care Ontario and the Ontario Medical Association to identify, target and reduce the number of cancer-causing agents released into the environment.

To support implementation, the government says it will provide up to \$10 million a year in funding and technical assistance to replace and reduce toxic chemicals and to introduce innovative technologies.

Is this a welcome development or unnecessary duplication of EC efforts under CEPA? Will it complement or confound Toronto's proposed toxics reporting program? We await release of more details.

### Feds call for extensive data on next batch of priority toxics

Environment Canada has announced Batch 4, consisting of 18 compounds to be assessed under its Chemicals Management Plan. The notice in the *Canada Gazette Part I* (November 17th), includes such high use chemicals as hexane, dimethyl sulfuric acid, as well as butane or isobutene products containing 1,3-butadiene (used in synthetic rubber).

The same issue of *Gazette* provides advance notice of the 19 substances that will constitute Batch 5, scheduled to be released in February 2008.

Facilities that manufacture, import or use more than a prescribed amount of these compounds have until March 18, 2008 to supply the information needed to determine whether they may be considered "toxic" under s.71(1) of CEPA 1999 and should be listed in Schedule I of the Act. Schedule I substances may be subject to regulatory control measures, up to including their phase-out and elimination.

Data is required on production and usage of the listed compounds (including concentrations and mixtures), plus environmental releases, impacts, and exposures. Information is also required on pollution abatement, environmental control and waste management practices and policies,

and any studies that assess the effectiveness of these practices and policies.

Complicating the issue, a large operation can use hundreds of chemical products and mixtures; it can be difficult to identify those containing targeted substances. Affected companies have expressed concern about the time and expense involved in complying.

### Municipalities concerned about proposed landfill gas regulation

Ontario's MOE conducted consultation in fall of 2007 on a proposal to extend regulatory requirements for landfill gas collection and controls. The current regulation requires collection and control for new or expanding sites exceeding 3M cubic metres in capacity. The proposed regulation lowers the threshold to 1.5M cubic metres. Significantly, the requirement would be expanded to apply to "operating" landfills, not just new or expanding landfills. Municipalities have expressed concerns about the proposed timing and costs, especially where retrofit is required. Many municipalities also prefer a voluntary, rather than regulated approach. Sale of carbon credits should provide revenue to offset the costs. However, carbon credits may not be available for GHG reductions that are required by regulation. MOE is currently considering the stakeholder comments.

### Ottawa promises national sewage treatment standards

Ottawa is planning to stop the dumping of raw sewage into Canadian lakes, rivers and oceans. Ottawa also promises to support treatment plant upgrades through its \$33-billion Building Canada infrastructure plan.

Proposed federal regulations to be published in 2008 will address releases of ammonia, residual chlorine, nutrients, coliforms and heavy metals, as well as toxics of more recent concern, including pharmaceuticals, endocrine disrupters, and brominated flame retardants.

These proposed regulations may overlap with provincial regulations. However, EC

has stated its intention to work with the provinces and territories through CCME.

Although CEPA restricts the discharge of various toxic chemicals and the *Fisheries Act* prohibits the deposit of deleterious substances into fish habitat, no federal legislation specifically addresses the release of publicly operated WWTP effluent. The proposed national standards will apply to more than 4,600 wastewater treatment systems in communities across Canada.

EC, in conjunction with CCME, released the Proposed Regulatory Framework for Wastewater in September, 2007.

### Toronto proposing mandatory reporting of chemical emissions

Jumping on the federal and provincial bandwagons, Toronto Public Health is consulting the public on a proposal to require businesses to report annually on their emissions of 25 "priority" chemicals. The chemicals include benzene, cadmium, chloroform, ethylene, formaldehyde, lead, mercury, TCE, vinyl chloride, VOCs and particulate matter (PM) 2.5.

The by-law will require reporting by small, medium and large businesses, only 200 of which are already reporting to the federal National Pollutant Release Inventory (NPRI). The preliminary list of businesses includes food and beverage, chemical, clothing and other manufacturing, printing and publishing, waste management, auto repair and maintenance, laundry, dry cleaning and funeral services.

Toronto would make the information available to the public.

Toronto is relying on powers in the *City of Toronto Act, 2006* to protect health, safety and environmental well-being. The Supreme Court of Canada's decision on cosmetic pesticide by-laws supports liberal interpretation of municipal by-laws to protect the environment.

Download the consultation document entitled Environmental Reporting and Disclosure from Toronto Health at [www.toronto.ca/health/hphe/pdf/enviro\\_disclosure.pdf](http://www.toronto.ca/health/hphe/pdf/enviro_disclosure.pdf). The comment period ends February 6, 2007.

### To Subscribe

If you would like to receive Willms & Shier's Environmental Law Report, email your name, title, and organization to [bspiegel@willmsshier.com](mailto:bspiegel@willmsshier.com).

