

## Tough New Air Standards to be Phased in Over Five Years

*For the first time in 25 years, Ontario has dramatically tightened air quality standards for a number of key pollutants and odiferous chemicals. This is one more stage in the rewriting of the province's air pollution regulations, to include a revised list air dispersion models, updated opacity standards, and administrative amendments designed to improve clarity and aid enforcement.*

New point-of-impingement (POI) standards and ambient air quality criteria (AAQC) for 14 air pollutants or groups of pollutants were posted by MOE on August 31, 2007.

Now O. Reg. 419/05 (Air Pollution -- Local Air Quality) has been updated to cover three previously unregulated pollutants: chloroethane, propylene and several TMB isomers.

POI Guidelines for five compounds were upgraded from Guidelines to legally enforceable standards,

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while POI standards for the remaining six were made considerably more stringent.

All but one of the new standards will be phased in starting in 2013. However, more stringent standard for lead will apply starting in 2010.

These new standards will control especially odiferous compounds, including hydrogen sulphide, n-butanol isobutanol and mercaptans. The amended O. Reg. 419/05 makes it an offence to exceed an odour-based standard at a place "where human activities regularly occur," based on monitoring results alone.

View our comparative chart for the 14 air toxics with new or updated standards: [www.willmsshier.com](http://www.willmsshier.com), Documents & Downloads, Air.

## First Nations Spiritual Values May Defeat Mine Expansion Plan

### Joint EA Panel Recommends Refusal

A Joint EA Review Panel Report recommended refusing approval of the proposed Kemess North Copper-Gold Mine Project in north-western B.C. The project proposed dumping about 500 million tonnes of waste rock and tailings into Duncan (Amazay) Lake. This would virtually destroy the 269 hectare lake, found by the Panel to hold spiritual value for local First Nations. The project will require long term management for genera-

tions after the mine closed.

The Joint BC/Federal Panel considered a number of sustainability factors, but ultimately, it was persuaded by First Nations spiritual concerns for the lake "Both the Gitxsan and the Tse Keh Nay have stated that water is sacred to them and that the destruction of a natural lake goes against their values as Aboriginal people." The Panel noted that although the proponent was prepared to offer \$1 million as a starting point for an impact benefit agreement "the Panel was told repeatedly that there was no price that Aboriginal people would agree to place on the loss of Duncan (Amazay) Lake and its spiritual values, and that, in order to embrace this Project, they would have to make an unacceptable trade-off which cannot be readily costed in dollar terms."

The Panel accepted the sincerity of the First Nations, particularly in light of the fact that some of them had entered into an impact benefit agreement for the Kemess South mine, about six kilometers away.

The Panel does not make the final decision. The government may choose to approve the mine. The Panel made more than 30 recommendations for approval conditions in the event the government decides to approve the project.

Download the Panel Report at [www.willmsshier.com](http://www.willmsshier.com), from the "Cases" section of the Documents & Downloads menu.



## OPA Files 20-Year, \$60 billion Power Plan for the Province

On August 29, the Ontario Power Authority (OPA) filed its long awaited Integrated Power Supply Plan (IPSP) with the Ontario Energy Board. Although supported by the Association of Power Producers of Ontario, the 20-year plan was attacked by ENGOs for its reliance on nuclear generation and relatively small investments in conservation and alternative energy. Two years in the making, highlights of the plan include:

- ◆ Maintaining nuclear’s current share by refurbishing existing plants or building new ones. Adding 14,000 MW of nuclear power by 2025 will cost an estimated \$26.5 billion, almost half the Plan’s total budget.
- ◆ Phasing out coal-fired generation plants by the end of 2014

but keeping some plants operational for “insurance purposes” to cover unanticipated shortfalls in supply.

- ◆ Adding 15,700 MW of power generated by renewable sources by 2025 at a cost of \$15.4 billion.
- ◆ Reducing demand by 6300 MW by 2025 by promoting conservation efforts at a cost of \$10.2 billion.
- ◆ Increasing gas generated power by 2025 at a cost of \$3.6 billion.
- ◆ Upgrading the transmission system at a cost of \$4 billion.

The Board has the power to either accept the plan, in accordance with the Ministry of Energy’s 2006 directive, or refer it back the OPA with comments for further consideration and resubmission. The timeline for the review has not yet been announced.

## Mark Your Calendars!

**Donna Shier** will Chair the Law Society of Upper Canada Advanced Roundtable in Environmental Law October 24, 2007

**Doug Petrie** will Chair and speak, along with **Vivienne Ball** and **John Willms** at the Envirogate Air Emissions Course Nov. 13, 2007

**Paul Manning** will speak at the Envirogate Green House Gas Course Nov. 13, 2007

**John Willms** will speak at the AWMA Vapour Intrusion Conference in Calgary Nov. 13, 2007

**Juli Abouchar** will Co-chair and **Paul Manning** will speak at Canadian Institutes Renewable Energy Project Development Conference Nov.19 and 20, 2007

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### Regulatory Update, Ontario: Brownfield Regs, Water Use Charges and Coal Plant Closures

Bill 187, <i>The Budget Measures and Interim Appropriation Act</i> , 2007, received Royal Assent June 17, 2007, with an updated decision loaded to the EBR Registry Sept. 4, 2007.	Brownfields regulatory liability protection amendments took effect in June, 2007. Off-site migration amendments and a new RSC review process won't come into force until changes are made to O. Reg. 153/04. MOE intends to implement changes by end of 2008. MOE continues to consult on regulations defining Qualified Persons. The current definition sunsets in April 2008.
Charges for Industrial and Commercial Water Users (O. Reg. 450/07) under the <i>Ontario Water Resources Act</i> , was filed and took effect August 10, 2007.	Fees for highly consumptive commercial and industrial water users (\$3.71 per million litres) commence January 2009. The regulation lists those facilities subject to the charge and how it is to be administered. By June 30, 2008 designated users must submit required info on water use to MOE. Municipalities must make annual reports on commercial and industrial water users beginning March 31, 2008. Grandfathered users will have to obtain a Permit to Take Water (PTTW) and pay the charge.
Coal Closure Regulation (O. Reg 496/07) under the <i>Environmental Protection Act</i> was filed and came into force Aug. 24, 2007.	The Government failed to shut down coal-fired generating plants by its self-imposed deadline of 2007. This regulation would ensure that coal is not used to generate electricity at the Atikokan, Lambton, Nanticoke and Thunder Bay generating stations after Dec. 31, 2014. Meanwhile, the Government is considering other regulatory steps, including tighter emission caps, to support its clean air and climate change goals.
Proposed amendments to O. Reg. 334 (General) under the <i>Environmental Assessment Act</i> were posted for comment on the EBR Registry on Sept. 7, 2007.	A Minister’s Zoning Order, issued under the <i>Planning Act</i> , could be used to permit specific land uses. The amendment would allow such orders to be issued prior to a project’s approval under the <i>EA Act</i> . Permits and approvals issued under the <i>EPA</i> and similar authorizations must still await a project’s <i>EA Act</i> approval.
Proposed Landfill Gas Collection and Control Regulation under the <i>Environmental Protection Act</i> were posted on the EBR Registry on Aug. 9, 2007 for 90 days public review.	Controversial amendments proposed to O. Reg. 232/98 would require mandatory landfill gas collection and utilization or flaring for all landfills with total capacities larger than 1.5 million cubic metres. Operating landfills would have to submit plans by January 1, 2009. Operators, particularly small municipalities, are concerned about the prohibitive cost to retrofit existing landfills.

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

