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## Ontario looking for guidance on source protection plans

Sometime this fall, the Ontario Ministry of the Environment (MOE) is expected to release draft regulations detailing the requirements for source protection plans under the *Clean Water Act, 2006*. In the meantime, the Ministry is soliciting information on what the plans should contain and how they should be prepared. MOE posted a discussion paper on the Environmental Registry on June 25, with a deadline for comments by September 23, 2008. MOE also intends to post draft guidance material on its website, and will be organizing focus groups and workshops during the summer and fall. Source Protection Plans are to be submitted to the Minister in 2012.

The discussion paper addresses the following topics:

- ◆ the minimum content requirements for source protection plans
- ◆ the approaches available to policy developers to reduce the risks posed by drinking water threats
- ◆ additional requirements for drinking water threat policies that may be included in the forthcoming regulations



- ◆ other policies that may be included in the source protection plans, namely monitoring policies and policies related to the Great Lakes
- ◆ a summary and overview of the consultation requirements
- ◆ the Act's administrative requirements regarding annual progress reports and source protection plan amendments.

The preparation of source protection plans will comprise the second phase of the implementation of the *Clean Water Act*. During the first phase, local multi-stakeholder source protection committees are overseeing the preparation of science-based assessment reports for each of the 40 designated watershed areas in the province. These reports are intended to identify and assess threats to drinking water sources as listed in each committee's terms of reference. The information assembled will be used to frame the source protection plans that will, in turn, detail the actions required to address the identified threats to drinking water sources. The Conservation Ontario website (<http://conservation-ontario.on.ca/index.html>) provides links to the individual terms of reference, as well as the local drinking water source protection region or area. W+SEL Partner, Juli Abouchar is a member of the CTC Source Protection Committee.

## Ontario drafting regulations to implement Canada's first toxic chemical reduction law

Ontario's new *Toxics Reduction Act, 2009*, which received Royal Assent on June 5, will require designated facilities to track the manufacture and use of designated "toxic substances" and "substances of concern". Companies will also have to develop toxics reduction plans and make summaries of those plans available to the public. Implementation of the plans will be at the discretion of the company.

Over the summer, the Ministry of the Environment is consulting with stakeholders on the regulations needed to implement the Act. These regulations will spell out the lists of substances, the facilities that will be subject to the Act, and the timelines for planning and reporting. Confidentiality safeguards could also be addressed. Once the regulations are in place, companies would have to complete their first toxic reduction plans as early as the end of 2011.

According to a background paper posted on the Environmental Registry, the Act will apply to manufacturers and mineral processing companies. Facilities with more than 10 employees and that make or use more than a threshold amount (in most cases, 10,000 kg) of a listed substance in a year must prepare a toxics reduction plan for that substance. The reporting thresholds in the regulation would be the same as those set under the National Pollution Reporting Inventory (NPRI) system.

The preliminary list of "toxic substances", compiled on the advice of the Minister's Toxics Reduction Scientific Expert Panel, is split into two groups. Phase I consists of 31 priority toxics, as well as 14 known or probable carcinogens. Phase II includes the rest of the substances on the NPRI list, as well as acetone. The "substances of concern" list would contain chemicals not currently included under NPRI. Companies using more than a minimal threshold amount (perhaps as low as 100 kg) of these materials would be subject to a "one-time" reporting requirement.

### Toxic reduction plans would have to include the following components:

- ◆ an analysis of current and planned processes that use, produce or release any of the substances on the designated list of toxics
- ◆ methods to reduce the use, production and emission of toxic substances, tailored to each facility's unique situation (e.g., input substitution, product reformulation, process/technology changes, etc.)
- ◆ options for implementing the methods
- ◆ proposed timelines for implementation



The Ministry is proposing that prescribed companies track Phase I substances from January 1, 2010 through December 31, 2010, submit their first usage report by June 1, 2011, and provide a summary of their first toxics reduction plan by December 31, 2011. While implementation of the plans is voluntary, the province says it will establish an electronic reporting system and website to let the public monitor the progress that facilities make in reducing their use of toxics.

The contents of the Act are enforcement and prosecution-heavy – more than half of the statute is devoted to detailed entry and inspection powers, the issuance of provincial officer orders, reviews and appeal procedures, director and officer liability, offences, fines, administrative penalties and innovative sentencing provisions. The Act sets fines of up to \$25,000 for individuals and \$50,000 for corporations – double that amount for repeat offenders – for every day on which an offence occurs or continues. In addition, administrative penalties (up to a maximum of \$60,000) may be assessed if a person contravenes a provision of the Act, its regulations, an order issued under section 26, or a compliance agreement under subsection 29(9). Further details on the application of administrative penalties will also be contained in the regulations.

There will also be fiscal carrots to supplement those heavy enforcement sticks. The province has earmarked \$24 million, spread over three years, to help industry “meet its requirements and transform their processes, find green chemistry alternatives and reduce the use of toxics in their operations.” Grants will permit small businesses to offset at least some of the costs associated with the first round of toxics accounting and planning, as well as support early off-toxics action by regulated facilities. The province will underwrite the training and accreditation of “Toxics Reduction Planners” who will assist facilities in preparing their plans and meeting the certification requirements of the Act.

In addition to the requirements for reporting and planning, the Act gives the Ministry the authority to prohibit or regulate the manufacture, sale or distribution of a toxic substance. These new powers mirror those in federal legislation and would allow the province to take action on specific toxics if Ottawa proves recalcitrant to do so. The Ministry says that additional consultation with stakeholders and the public would be undertaken before it develops any regulation to implement these new powers.

## **Ontario proposes new or amended air pollution standards to reduce emissions of nine contaminants**

The Ministry of the Environment is amending the O. Reg. 419/05 (Air Pollution – Local Air Quality) standards and ambient air quality objectives (AAQOs) for nine high priority contaminants. Some AAQOs will have an annual average concentration. Two novel situations arise. For some contaminants, the new URT (upper risk threshold) is lower than the current standard. The metals, except Cr II-III, will have different standards for PM10 and TSP.

The proposals include new standards for benzene, 1,3-butadiene, chromium and uranium and significant reductions for four others. Only the revised standard for acrolein is less stringent than the one currently on the books. The standards (except for

**Introduced for first reading back on April 7, 2009, the *Toxics Reduction Act* moved quickly through the Legislature. Prior to third reading, the standing committee reviewing the proposed legislation made only minor changes to the bill:**

- ♦ **toxic reduction plans can be made available to the public through a posting on the Internet**
- ♦ **summaries of more than one toxic substance reduction plan may be contained in a single document**
- ♦ **the Minister of the Environment must prepare an annual report describing the progress made in implementing the Act**
- ♦ **every five years, the Minister must “consult with experts and the public” about the substances prescribed as “toxic” or “of concern” under the Act, as well as the criteria used to determine whether a facility is subject to the Act.**



the acrolein standard) would take effect five years after they are adopted, although companies would have to comply with the proposed URTs in the interim.

The proposed AAQOs are to be the same as the regulatory standards, with the addition of average annual concentrations for some contaminants. The table that follows this article compares the current standards in O. Reg. 419/05 with the proposed additions and amendments, as well as listing the new AAQOs.

The Ministry has undertaken extensive pre-consultation discussions with stakeholders and completed a review of the toxicological literature and the air guidelines set by leading agencies. Based on this research, the Ministry has compiled detailed rationale documents for each of the proposed standards. These were posted to the Environmental Registry on July 31, 2009, together with a consolidated document that contains the draft URT standards. The deadline for public comment on all 10 postings is September 29, 2009.

In addition, technical amendments are being proposed to clarify concentration calculations for certain contaminants, and several housekeeping changes are proposed. For example, the existing standard for MMT would be dropped in favour of the new standard for manganese and Mn compounds.

The 24-hour point of impingement standards (and the one-hour standards where applicable) would be incorporated into Schedule 3 (for use with U.S. E.P.A. models); the corresponding half-hour standards would be incorporated into Schedule 2 (for use with the venerable O. Reg. 346 model); and the URTs would be incorporated into Schedule 6. In a new approach to standard setting in Ontario, the Ministry is proposing separate standards for specific size fractions for hexavalent chromium, manganese, nickel and uranium. The Director may issue written notice that only one of these standards must be met in specific circumstances as long as no adverse effect may occur.

If the stricter health-based standards for benzene, 1,3-butadiene, chromium, dioxins and furans, manganese, nickel, PAHs and uranium (in Schedules 2 and 3) are adopted, they would take effect five years after being incorporated into O. Reg. 419/05. The new standard for acrolein would take effect February 1, 2010. There is no phase-in period associated with URTs, although a Director may consider other factors, such as workplace health and safety limits, on a case-by-case basis. Where a proposed URT is lower than the existing standard for a contaminant, facilities will be expected to operate below that URT until such time as the new Schedule 2 standard takes effect.

This is the penultimate set of revised air standards generated by the Ministry as part of a 13-year updating process; it covers seven of the outstanding 16 contaminants, plus uranium (which was not on the 1999 list) and acrolein (which was already revised once before, in 2005). The Ministry has already introduced new or updated standards for 54 of the 70 high priority air contaminants identified in *Setting Environmental Quality Standards in Ontario*, first released in 1996 and revised in 1999.

In addition, new regional air quality standards and objectives for sulphur dioxide and nitrogen oxides are being developed through a federal/provincial process under the

**Previous revisions to the air standards posted by the Ministry have been based almost exclusively on the equivalent U.S. E.P.A. air standards. This new batch, however, has a more 'made-in-Ontario' feel. They also reflect the growing scientific understanding of the toxic impacts of many of these contaminants. For example, the existing AAQO for nickel and nickel compounds, set back in the 1970s, was designed to prevent damage to vegetation. The new 24-hour standard—reducing the existing standard by 95% for the PM10 inhalable fraction—is based on nickel's known carcinogenic potential and other health effects. Similarly, the 24-hour air standard for 29 dioxin and furan species would be reduced 50-fold, based on the adverse developmental effects of exposure to the compounds.**



CCME. The Ministry is currently working to develop new standards for the seven remaining air contaminants: arsenic, copper & Cu compounds, ethylene, mercury & Hg compounds, toluene, vanadium & V compounds, and zinc & Zn compounds.

| Parameter                                 | Proposed Amendments & Additions to O. Reg 419/05  |   |  | Proposed AAQO   |
|---|---|---|--|---|
|   | Current 419/05 Standard   | Proposed 419/05 Standard  | Proposed URT   |   |
| Acrolein                                  | None currently in effect; 0.08 µg/m <sup>3</sup> (24 hr) and 0.24 µg/m <sup>3</sup> (1/2 hr) were to take effect Feb. 1, 2010 | 0.4 µg/m <sup>3</sup> (24 hr)<br>4.5 µg/m <sup>3</sup> (1 hr)<br>1.2 µg/m <sup>3</sup> (1/2 hr)   | 4 µg/m <sup>3</sup> (24 hr)<br>12 µg/m <sup>3</sup> (1/2 hr)   | 0.4 µg/m <sup>3</sup> (24 hr)<br>4.5 µg/m <sup>3</sup> (1 hr)   |
| Benzene                                   | None  | 2.3 µg/m <sup>3</sup> (24 hr)<br>7.0 µg/m <sup>3</sup> (1/2 hr)   | 100 µg/m <sup>3</sup> (24 hr)<br>300 µg/m <sup>3</sup> (1/2 hr)  | 0.44 µg/m <sup>3</sup> (annual)<br>2.3 µg/m <sup>3</sup> (24 hr)  |
| 1,3 – Butadiene                           | None  | 10.0 µg/m <sup>3</sup> (24 hr)<br>30.0 µg/m <sup>3</sup> (1/2 hr)   | 300 µg/m <sup>3</sup> (24 hr)<br>900 µg/m <sup>3</sup> (1/2 hr)  | 2.0 µg/m <sup>3</sup> (annual)<br>10.0 µg/m <sup>3</sup> (24 hr)  |
| Hexavalent chromium (Cr VI)               | None  | 0.00035 µg/m <sup>3</sup> (24 hr), PM10<br>0.0007 µg/m <sup>3</sup> (24 hr), TSP<br>0.0011 µg/m <sup>3</sup> (1/2 hr), PM10<br>0.0022 µg/m <sup>3</sup> (1/2 hr), TSP   | 0.035 µg/m <sup>3</sup> (24 hr), PM10<br>0.07 µg/m <sup>3</sup> (24 hr), TSP<br>0.11 µg/m <sup>3</sup> (1/2 hr), PM10<br>0.21 µg/m <sup>3</sup> (1/2 hr), TSP  | 0.00007 µg/m <sup>3</sup> (annual), PM10<br>0.00014 µg/m <sup>3</sup> (annual), TSP<br>0.00035 µg/m <sup>3</sup> (24 hr), PM10<br>0.0007 µg/m <sup>3</sup> (24 hr), TSP |
| Chromium & Cr compounds (di- & trivalent) | None  | 0.5 µg/m <sup>3</sup> (24 hr), Cr II-III<br>1.5 µg/m <sup>3</sup> (1/2 hr), Cr II-III   | 5 µg/m <sup>3</sup> (24 hr), Cr II-III<br>15 µg/m <sup>3</sup> (1/2 hr), Cr II-III   | 0.5 µg/m <sup>3</sup> (24 hr), Cr II-III  |
| Dioxins, furans & dioxin-like PCBs        | 0.000005 TEQ µg/m <sup>3</sup> (24 hr)<br>0.000015 TEQ µg/m <sup>3</sup> (1/2 hr)   | 0.0000001 TEQ µg/m <sup>3</sup> (24 hr)<br>0.0000003 TEQ µg/m <sup>3</sup> (1/2 hr)   | 0.000001 TEQ µg/m <sup>3</sup> (24 hr)<br>0.000003 TEQ µg/m <sup>3</sup> (1/2 hr)  | 0.0000001 TEQ µg/m <sup>3</sup> (24 hr)   |
| Manganese & Mn compounds                  | 2.5 µg/m <sup>3</sup> (24 hr)<br>7.5 µg/m <sup>3</sup> (1/2 hr)   | 0.1 µg/m <sup>3</sup> (24 hr), PM2.5<br>0.2 µg/m <sup>3</sup> (24 hr), PM10<br>0.4 µg/m <sup>3</sup> (24 hr), TSP<br>0.3 µg/m <sup>3</sup> (1/2 hr), PM2.5<br>0.6 µg/m <sup>3</sup> (1/2 hr), PM10<br>1.2 µg/m <sup>3</sup> (1/2 hr), TSP | 1 µg/m <sup>3</sup> (24 hr), PM2.5<br>2 µg/m <sup>3</sup> (24 hr), PM10<br>4 µg/m <sup>3</sup> (24 hr), TSP<br>3 µg/m <sup>3</sup> (1/2 hr), PM2.5<br>6 µg/m <sup>3</sup> (1/2 hr), PM10<br>12 µg/m <sup>3</sup> (1/2 hr), TSP | 0.1 µg/m <sup>3</sup> (24 hr), PM2.5<br>0.2 µg/m <sup>3</sup> (24 hr), PM10<br>0.4 µg/m <sup>3</sup> (24 hr), TSP   |
| Nickel & Ni compounds                     | 2 µg/m <sup>3</sup> (24 hr)<br>5 µg/m <sup>3</sup> (1/2 hr)   | 0.1 µg/m <sup>3</sup> (24 hr), PM10<br>0.2 µg/m <sup>3</sup> (24 hr), TSP<br>0.3 µg/m <sup>3</sup> (1/2 hr), PM10<br>0.6 µg/m <sup>3</sup> (1/2 hr), TSP  | 1 µg/m <sup>3</sup> (24 hr), PM<br>2 µg/m <sup>3</sup> (24 hr), TSP<br>3 µg/m <sup>3</sup> (1/2 hr), PM10<br>6 µg/m <sup>3</sup> (1/2 hr), TSP   | 0.02 µg/m <sup>3</sup> (annual), PM10<br>0.04 µg/m <sup>3</sup> (annual), TSP<br>0.1 µg/m <sup>3</sup> (24 hr), PM10<br>0.2 µg/m <sup>3</sup> (24 hr), TSP              |
| Polycyclic aromatic hydrocarbons (PAHs)   | 0.0011 µg/m <sup>3</sup> (24 hr), B[a]P<br>0.0033 µg/m <sup>3</sup> (1/2 hr), B[a]P   | 0.00005 µg/m <sup>3</sup> (24 hr), B[a]P<br>0.00015 µg/m <sup>3</sup> (1/2 hr), B[a]P   | 0.005 µg/m <sup>3</sup> (24 hr)<br>0.015 µg/m <sup>3</sup> (1/2 hr)  | 0.00001 µg/m <sup>3</sup> (annual), B[a]P<br>0.00005 µg/m <sup>3</sup> (24 hr), B[a]P   |
| Uranium & U compounds                     | None  | 0.03 µg/m <sup>3</sup> (24 hr), PM10<br>0.06 µg/m <sup>3</sup> (24 hr), TSP<br>0.09 µg/m <sup>3</sup> (1/2 hr), PM10<br>0.18 µg/m <sup>3</sup> (1/2 hr), TSP  | 0.3 µg/m <sup>3</sup> (24 hr), PM10 & TSP<br>0.9 µg/m <sup>3</sup> (1/2 hr), PM10 & TSP  | 0.03 µg/m <sup>3</sup> (24 hr), PM10<br>0.06 µg/m <sup>3</sup> (24 hr), TSP   |

#### Notations & Acronyms:

**AAQO** – Ambient Air Quality Objective; **B[a]P** – benzo(a)pyrene (B[a]P serves as a marker for PAHs); **PM2.5** – particulate matter 2.5 microns or less in size; **PM10** – particulate matter 10 microns or less in size; **TCDD** – tetrachlorodibenzo-para-dioxin; **TEQs** – TCDD equivalents; **TSP** – total suspended particulate; **µg/m<sup>3</sup>** – micrograms per cubic metre



## Greenhouse gas emissions continue to creep upwards

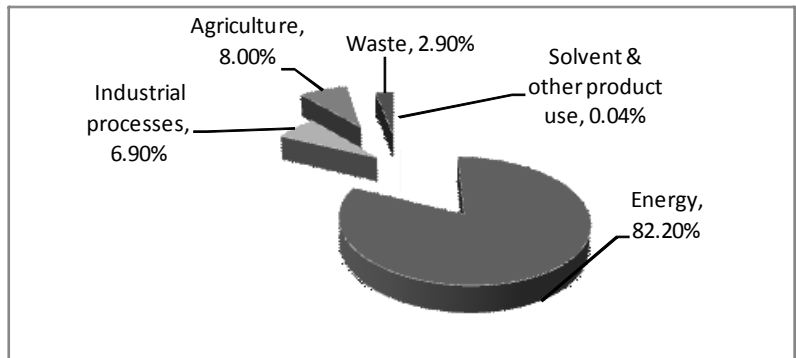
While fluctuating from year to year, Canada's greenhouse gas (GHG) emissions continue to maintain their upward trend. According to the latest National Greenhouse Gas Inventory, total GHG emissions in Canada in 2007 were about 747 megatonnes CO<sub>2</sub> equivalent, an increase of 4% from 2006's 718 Mt. Energy production is responsible for the lion's share of that total. However, emissions are expected to level off or decline slightly in 2008 and 2009 due to a number of factors, such as weather patterns and the economic downturn.

According to the federal government's most recent *Climate Change Plan for the Purposes of the Kyoto Protocol Implementation Act*, Canada's current approach to climate change must be amended to accommodate two major developments - the global economic downturn and the election of a new Administration in the United States that is committed to taking action on climate change.

As a result, the Government is adjusting its approach to regulating GHG emissions in the industrial sector and will announce the details of this approach later this year. "The Government has a long-term vision, one that sees Canada mastering clean technologies, such as carbon capture and storage and successfully developing a range of clean energy alternatives," the Plan states. One billion dollars of the federal Economic Action Plan will be devoted to such research and demonstration projects.

Ottawa has also renewed its commitment to develop and implement a North America-wide cap and trade system for GHGs, together with the provincial and territorial governments and other partners. Domestic action will be aimed at reducing "carbon emissions at their sources, which will involve improving the orderly transformation of capital energy stock to less carbon-intensive alternatives such as natural gas and non-emitting sources such as nuclear and hydro." The government intends to boost the contribution of such "non-emitting" energy sources from the current 73% to 90%.

According to the Plan's authors, the Clean Energy Dialogue, launched by Prime Minister Harper and President Obama in February 2009, is "the most significant development in continental, environmental and energy policy since the North American Free Trade Agreement." The Clean Energy Dialogue will focus on expanding clean energy R&D, developing and deploying clean energy technology and building a more efficient electricity grid based on clean and renewable generation.



**Ottawa moves to gather more data on petroleum compounds and GHGs, ban polychlorinated naphthalenes, update its mining code, and limit the use of phthalates**

| Federal Initiative  | Reference  | Description of Requirements   |
|---|--|---|
| <p><b>Ottawa seeks more data on high priority petroleum substances:</b> The Minister of Environment requires the submission of additional usage and transport information for certain petroleum substances in order to assess whether they are toxic (or are capable of becoming toxic) and to determine the appropriate control measures (if any).</p> | <p>The Notice, issued under ss.71(1)(b) of <i>CEPA 1999</i>, was published in the <i>Canada Gazette, Part I</i> (Vol. 143, No. 30) on July 25, 2009, with a deadline of September 23, 2009, to submit the required information. A written request for an extension may be submitted.</p> | <p>The Government has conducted an initial analysis of the information submitted under a previous Notice (published in the <i>Canada Gazette, Part I</i> on March 8, 2008). The persons listed in that Notice must now prepare and submit the following additional information for petroleum refining and upgrading facilities:</p> <ul style="list-style-type: none"> <li>◆ the quantities of some 52 “high propriety” substances (including those naphthas, condensates, oils, distillates residues, gases, and other petroleum substances listed in Schedule 1 of the notice) that were transported to other industrial facilities (but not to the public) in the 2006 calendar year</li> <li>◆ the mode(s) of transport (as a percentage of the total)</li> <li>◆ those recipients that received greater than 100 kg of the substance(s)</li> </ul> |
| <p><b>New regs would reduce phthalates in children’s toys:</b> Health Canada has proposed the Phthalates Regulations under the <i>Hazardous Products Act</i> (HPA) to limit the use of six phthalates in soft vinyl children's toys and child-care articles.</p>  | <p>The draft regulations, as well as an associated restriction under Part II of Schedule I to the HPA, were published in the <i>Canada Gazette, Part I</i> (Vol. 143, No. 25) on June 20, 2009, with a deadline for public comments of 75 days from the date of publication.</p>         | <p>According to the proposed regulations, the vinyl in a toy or child care article must not contain more than 1000 mg/kg (or 0.1% by weight) of di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP) or benzyl butyl phthalate (BBP). In addition, vinyl in any part of a toy or child care article that can be placed in the mouth of a child under four years of age must not contain more than 1 000 mg/kg of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP) or di-n-octyl phthalate (DNOP).</p>   |
| <p><b>Large emitters must report 2009 greenhouse gases (GHG) emissions:</b> The Minister of Environment has extended the mandatory GHGs reporting requirements for the 2009 operating year. This is the 6<sup>th</sup> in a series of federal GHG reporting requirements that was initiated in March 2004.</p>  | <p>The GHG Reporting Notice, issued under ss.46(1) of <i>CEPA 1999</i>, was published in the <i>Canada Gazette, Part I</i> (Vol. 143, No. 28) on July 11, 2009, with a deadline of June 1, 2010, to submit the required information.</p>   | <p>Any facility that emits 50 kilotonnes or more of CO<sub>2</sub> equivalent of the listed GHGs in the 2009 calendar year is subject to the reporting requirements. (Note, emissions from the combustion or decomposition of biomass are not to be included in the calculation of the reporting threshold.) The notice sets forth the types and categories of emissions data and other information that must be submitted. A copy of the data, together with any calculations, measurements and other data on which the information is based, must be kept on file for at least three years. Failure to report is subject to the offence provisions under ss.272(1) of the Act.</p>  |



| Federal Initiative   | Reference   | Description of Requirements  |
|--|---|--|
| <p><b>Updated Code of Practice for metal mines released:</b><br/>The Minister of Environment has released a new <i>Environmental Code of Practice for Metal Mines</i> (PRS, 1/MM/17 E) to support the Metal Mining Effluent Regulations (MMER) under the <i>Fisheries Act</i>.</p>   | <p>Notice, pursuant to ss.54(4) of <i>CEPA 1999</i>, was published in the <i>Canada Gazette, Part I</i> (Vol. 143, No. 26) on June 27, 2009. While the Code of Practice does not carry regulatory status, it will be adopted by Environment Canada and others as a guidance document that recommends environmental protection practices for metal mines.</p>                      | <p>The Code of Practice describes operational activities and associated environmental concerns of metal mines (but will provide useful guidance for all sectors of the mining industry). It applies to the complete life cycle of mining, from exploration to mine closure, and environmental management practices are recommended to mitigate environmental concerns. The recommended practices in the Code include the development and implementation of environmental management tools, the management of wastewater and mining wastes, and the prevention and control of environmental releases to air, water and land. The Code is available on-line at: <a href="http://www.ec.gc.ca/CEPARegistry/default.cfm">www.ec.gc.ca/CEPARegistry/default.cfm</a></p>   |
| <p><b>Polychlorinated naphthalenes deemed ‘toxic’ under CEPA:</b> The Ministers of Environment and Health intend to add polychlorinated naphthalenes (CAS No. 70776-03-3) to Schedule 1 of <i>CEPA 1999</i>, and the Minister of the Environment proposes the virtual elimination of those substances under ss.65(3) of the Act.</p> | <p>Notice was published in the <i>Canada Gazette, Part I</i> (Vol. 143, No. 29) on July 18, 2009, with a deadline for public comments of 60 days from the date of publication. The draft Screening Assessment Report and the proposed risk management scope document are available on-line at: <a href="http://www.chemicalsubstances.gc.ca">www.chemicalsubstances.gc.ca</a></p> | <p>Based on the findings of the draft Screening Assessment Report, chlorinated naphthalenes (CNs) containing two to eight chlorine atoms are highly persistent and bioaccumulative, and have the potential to cause harm at low exposure values. Therefore, they meet the criteria set out in ss.77(4) of the Act and are deemed “toxic”. Although CNs have not been in commercial use in Canada for more than two decades, they could be produced unintentionally as a by-product of industrial processes involving chlorine, especially in the presence of heat, such as waste incineration, cement and magnesium production, metal refining, drinking water chlorination, and pulp and paper production (chlor-alkali process). They may also be present in landfill sites and industrial properties where CNs were used.</p> |
| <p><b>Climate Change Plan updates measures to implement Kyoto Protocol:</b><br/>The Minister of the Environment has published the annual Climate Change Plan that sets forth the measures to be taken to ensure that Canada meets its obligations under Article 3, paragraph 1, of the Kyoto Protocol.</p>                           | <p>Notice, issued under ss.5(3) (b) of the <i>Kyoto Protocol Implementation Act 2007 (KPIA)</i>, was published in the <i>Canada Gazette, Part I</i> (Vol. 143, No. 23) on June 6, 2009. This is the third annual Climate Change Plan to be released since the <i>KPIA</i> received Royal Assent on June 22, 2007.</p>   | <p>The Plan sets forth: Canada's Kyoto Protocol targets and obligations; a summary of recent trends in domestic greenhouse gas (GHG) emissions; the measures to be taken to address climate change, including the date each will come into effect, the anticipated GHG emission reductions for each year up to and including 2012; provincial and territorial collaboration and action; and Canada's projected emissions from 2008 to 2012. The <i>KPIA</i> requires that the National Round Table on the Environment and Economy (NRTEE) review each annual Climate Change Plan within 60 days after it is published. The 2009 Plan is available on-line at: <a href="http://www.ec.gc.ca/cc/default.asp?lang=En&amp;n=E653A4ED-1">www.ec.gc.ca/cc/default.asp?lang=En&amp;n=E653A4ED-1</a></p>                                 |



## Bill providing new federal enforcement powers, sentencing provisions and higher fines receives Royal Assent

Ottawa has quickly passed, with minor amendments, its package of updated enforcement measures and higher fines for nine federal environmental statutes. The federal *Environmental Enforcement Act* (Bill C-16) passed in the House of Commons on May 13, 2009, and received Royal Assent on June 18. The Act sets new minimum fines, raises maximum fines to as high as \$12 million for repeat offenders and provides enforcement staff with new investigative powers. In addition, 106 new enforcement officers have been hired by Environment Canada and will complete their training by August. A review of the legislation, prepared by W+SEL, is available on our website.

The final version of the Bill is little changed from the package given first reading back on March 4, 2009. The Standing Committee on Environment and Sustainable Development amended several of the sentencing options. Judges can order offenders to fund scholarships for environmental studies, conservation and environmental protection research, or environment groups in the affected community. In addition, the courts will not be permitted to award compensation to parties that are otherwise eligible to make a claim for costs under the *Marine Liability Act* or the *Arctic Waters Pollution Prevention Act*. There were also several technical amendments related to liability in the shipping industry.

The standing committee also learned why two other federal environment acts – the *Species at Risk Act (SARA)* and the *Fisheries Act* – were not included in the omnibus package. When Bill C-16 was introduced, the committee had already been asked to conduct the statutory five-year review of *SARA* and is expected to make recommendations regarding possible changes to that Act. According to an Environment Canada official who appeared during the hearings on Bill C-16, it was decided to exclude amendments to *SARA* out of deference to the work of the standing committee. The *Fisheries Act* was not amended, the representative said, because the “bill is just dealing with statutes under the power of the Minister of the Environment and Parks [Canada].” However, W+SEL notes that Environment Canada is responsible for the enforcement of the pollution control provisions of the *Fisheries Act*.

The Parliamentary Information and Research Service of the Library of Parliament has prepared an extensive and detailed summary and commentary on the Bill, which was updated to include the (relatively minor) revisions introduced by the Standing Committee. Readers in search of additional insight into the rationale of the legislation are referred to [www.parl.gc.ca/common/library/prb.asp?Language=E](http://www.parl.gc.ca/common/library/prb.asp?Language=E)

