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Ontario

Proposed changes to implement Ontario's new permitting scheme

On April 13, 2011, the Ontario Ministry of Environment (MOE) proposed amendments to regulations under the *Environmental Protection Act* (EPA) and the *Ontario Water Resources Act* that would facilitate the implementation of the new environmental permitting scheme described in [Torlys' November 2010 Bulletin](#). The proposed changes include the following:

- Amendments to Ontario Regulation 681/94 (Classification of Proposals for Instruments) that would generally result in environmental compliance approvals triggering certain public participation requirements under the *Environmental Bill of Rights, 1993*. This proposal has been posted for public review and comment, ending May 13, 2011.

For further information, please see the [Regulation Proposal Notice](#).

- Regulations to allow the following sectors and activities to register on the proposed Environmental Activity and Sector Registry (EASR): automotive body, paint, interior repair and maintenance sector; provision of comfort heating in buildings; and provision of standby power generation equipment in buildings. Following the enactment of the *Open for Business Act, 2010*, the MOE has begun identifying certain low-risk activities that will no longer require certain environmental approvals, provided that the activities meet specific requirements and are registered on the proposed EASR.

For further information, please see [Description of Regulation](#).

- Regulations that would set out minimum application requirements for environmental compliance approvals. The proposed requirements would not apply to renewable energy approvals, permits to take water, drinking water system licensing, nor to certain other licensing and certification programs such as those for pesticides and well drillers. This proposal has been posted for public review and comment, ending May 13, 2011.

For further information, please see the [Environmental Registry](#).

Proposed amendments to Ontario's main air regulation

The MOE has proposed amendments to Ontario Regulation 419/05 (Air Pollution – Local Air Quality) that would, among other things, change the term “altered standard” to “site-specific standard,” for the purposes of site-specific risk assessments under the EPA; allow facilities between five and ten years to obtain the MOE's approval for a site-specific standard (the period of approval of a site-specific standard would begin after the phase-in period of the standard, which is generally five years); and remove the requirement for a public meeting when a facility operator requests the renewal of a

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This bulletin is a general discussion of certain legal and related developments and should not be relied upon as legal advice. If you require legal advice, we would be pleased to discuss the issues in this bulletin with you, in the context of your particular circumstances.

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site-specific standard if there are no significant changes to the information that supported their originally approved request. This proposal has been posted for public review and comment, ending May 13, 2011.

For further information, please see [air regulation amendments](#).

MOE publishes draft guidance for phases one and two environmental site assessments

The MOE has published draft plain language guidance for the completion of phase one and two environmental site assessments (ESAs) that are prepared for the purpose of submitting and filing a record of site condition on the Environmental Site Registry under Ontario Regulation 153/04. According to the MOE, these new ESA requirements are consistent with currently accepted professional engineering and geoscience practices.

This guidance is being developed to assist in the implementation of amendments made to O. Reg. 153/04 on December 29, 2009 that were filed as part of Ontario Regulation 511/09. These amendments were described in [Torys' January 2010 Bulletin](#). Most of the December 29, 2009 regulatory amendments come into effect on July 1, 2011.

This proposal has been posted for a 45-day comment period, ending on May 23, 2011.

For further information, please see the [draft phase one and two ESAs guidance](#).

United States

EPA previews phase II cooling water intake structure rule

On March 28, 2011, the U.S. Environmental Protection Agency (EPA) released its prepublication version of the proposed new phase II cooling water intake structure rule (the CWIS Rule), which will govern cooling water intake structures at approximately 1,260 existing power plants and manufacturing facilities. The purpose of the CWIS Rule is to protect aquatic species from injury and death caused when they are drawn against or sucked into a facility's cooling water intake structures. The CWIS Rule applies to existing facilities that withdraw at least two million gallons of cooling water daily.

For further information, please see the proposed [Phase II rule](#). 