

A&WMA-OS Newsletter

December 2011

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Chairman's Message

Recent initiatives by the Ontario Section of the Air & Waste Management Association (A&WMA-OA) illustrates the important contribution the organization plays in the provision of a neutral forum for technology exchange, professional development, networking opportunities, public education, and outreach. The A&WMA-OS had input in the new Ontario Approvals regime that is now in place; the Ontario Air Practitioners recently completed a full day of interfacing with Ontario Ministry of the Environment (MOE) representatives to discuss current and future approvals and Standard Setting, and plans are well underway for an Environmental Noise Seminar in early 2012.

The continued strength of the A&WMA-OS is dependent on the volunteers who form the Executive, the Board, event planners, and committees. If you are interested in volunteering within the organization, please contact to Tracy Hodges (Tracy.Hodges@golder.com), our current President, or me (pcomplin@ortech.ca).

Environmental Compliance Approvals & Environmental Activity and Sector Registry

The MOE has recently transformed its environmental approvals program, creating Environmental Compliance Approvals (ECAs) and a new Environmental Activity and Sector Registry (EASR).

To mirror this transformation, MOE has reorganized Environmental Assessment and Approvals Branch to match – it has been divided into a new Environmental Approvals Services and Information Branch, and the EAAB is renamed as Environmental Approvals Branch (EAB).

ECAs replace Certificates of Approval (Cs of A) and are intended for complex activities. The ECA application process uses a single electronic form for EPA s.9, s.27, and OWRA s.53 applications. Separate approvals for air, noise, and waste are no longer required. Existing Certificates of Approval become ECAs with no action required, and all C of A applications approved after October 31, 2011 will receive ECAs.

The EASR allows online self-registration of certain insignificant activities such as space heating systems, standby power generators, and automotive refinishing activities that meet the applicability requirements of O. Reg. 245/11. EAB will require registrable activities to be done on the registry unless there is a Director's order under s 20.18 of the *Environmental Protection Act*.

Call for Elections and Volunteers

Volunteers are needed to serve on the A&WMA-OS Board of Directors. If you are looking for exciting new challenges and would like to support our growing profession, now is your opportunity. The Board is comprised of environmental professionals from government, industry, academia and consulting. The Board is responsible for managing the direction, operations and events of the A&WMA-OS.

Due to routine term expirations, there are currently openings on the Board for up to 5 members, as well as the President and the Vice-President. Terms are two years and require a commitment to attend about eight meetings per year and the willingness assist with A&WMA functions (i.e., helping organize events). If you are interested OR if you want to suggest someone that might be interested; please contact Tracy Hodges (tracy_hodges@golder.com) or Sarah McQuaig (smcquaig@suncor.com). An official call for nominations will go out early in the 2012 via e-mail. Elections will occur in the Spring with the new board taking office in June 2012.

A&WMA-OS Student Scholarships

The A&WMA-OS will be awarding 3 scholarships of \$5,000 each to full-time students at Ontario's post-secondary institutions who are pursuing programs related to engineering or sciences. Applicants must demonstrate the relationship between their field of study and the environment or must be pursuing environmentally related post-secondary studies. The deadline for applications is January 15, 2012. For more information please review the [application](#) or email your inquiries to AWMA_OS@golder.com. The top five finalists will be invited to present at the February 2012 Board Meeting. The winners will be contacted by March 31, 2012.

National Update: Air Quality Management System

At the fall 2010 CCME Council of Ministers meeting, environment ministers agreed to move forward with the development of the national Air Quality Management System (AQMS). At the spring 2011 meeting, ministers agreed to aim to endorse the final elements of the AQMS in 2012 and to initiate implementation in 2013. The AQMS is meant to be a comprehensive collaborative approach to addressing air pollution sources including industry, transportation and transboundary. The major components of the AQMS include Canadian Ambient Air Quality Standards (CAAQS); local and regional air quality management through air zones and airsheds;

and, Base Level Industrial Emissions Requirements (BLIERs). The CAAQS are expected to be set as objectives within the *Canadian Environmental Protection Act* and values for PM2.5 and ozone will come into effect in 2015. Industry, governments and stakeholders are currently contributing to the drafting of BLIERs for 18 sectors or emission sources. For more information: <http://www.ccme.ca/about/communiques/index.html>

Current Developments in Case Law

Currie v. Director (Ministry of the Environment)

A decision was released in July of this year by the Ontario Environmental Review Tribunal (ERT) which may give pause to corporate directors across the province. In *Currie v. Director*, the ERT confirmed that the Director under the Ontario *Environmental Protection Act (EPA)* has the authority to issue a Director's Order against several corporate directors, even when apparently extenuating circumstances exist.

The case involved a neglected site historically operated as a resin production facility. On-site waste was noted by MOE inspectors and numerous clean-up orders were issued and ignored. The ERT confirmed a Director's Order issued under the *EPA* against both previous and current directors in connection with the property. The decision acts as a caution for corporate directors. A former director of a former owner of a potential site may be held responsible for waste and contamination left on-site and not remediated by subsequent owners or operators.

Wind Farm Development in Ontario

A pair of recent decisions brings good tidings to proponents of wind farm development in the province of Ontario. In January of this year the Ontario Superior Court of Justice heard argument in *Hanna v. Ontario (Attorney General)*. Hanna applied for judicial review of the decision to make regulations under the *EPA* which prescribed the minimum setback distances for wind turbines. The application was dismissed by the court, which noted that potential health impacts of people living near wind turbines cannot trump all other considerations. Furthermore, the court acknowledged that aggrieved residents had the option of applying to the ERT for relief if they felt that adverse health impacts could occur.

In July of this year the ERT released a decision informative of its own view on the alleged human health impacts of wind farms in the province. In *Erickson v. Director, Ministry of Environment*, Suncor had applied for and was granted a Renewable Energy Approval (REA) for the Kent Breeze Wind Farm. Local residents, led by Erickson, appealed the decision to the ERT on the basis that the wind farm would have negative impacts on human health and the natural environment. Numerous experts testified on both alleged direct and indirect effects on human health. Ultimately, the science to date proved insufficient for the purposes of proving that the approved activity "will" cause serious harm to human health or the environment. The ERT acknowledged, however, that "the science in this area is evolving and it is hoped that future studies will shed additional light as to possible impacts on human health".

Recently, another gauntlet was thrown at the wind farm industry in Ontario. Unlike prior proceedings which were commenced to halt new wind farm development, this challenge comes in the form of a suit directed at a wind farm currently in operation. In *Michaud v. Suncorp.*,

commenced in the Ontario Superior Court, the Michaud family has sued for damages and an injunction against the continued operation of the Kent Breeze Wind Farm. The Michauds claim their business and health have been adversely impacted by the noise and vibrations created by the wind farm.

In the contaminated lands area, there are several decisions stating that regulatory standards are not necessarily determinative of common law standards. As a result, the evidence available in the scientific community that is able to prove or disprove direct and/or indirect human health impacts of wind farms will likely be determinative of the outcome. Under common law claims, the plaintiff has the onus of proof. This will be the opportunity for the plaintiffs to augment the high level and theoretical approach taken in Erickson with evidence of their personal experiences

Noise Notes

Noise Conference Planning

The A&WMA-OS will be hosting a one-day noise conference in 2012. The planning committee for the event would like to know what topics will be of greatest interest to members. Please complete a quick on-line survey in order to assist to planning committee in putting together topics and speakers. The survey can be accessed at <http://www.surveymonkey.com/s/KJ3XV6J> through mid-January 2012. Expect an announcement on the date and location for the noise conference in the New Year.

NPC 300

There is no news as to when the MOE will release the updated noise guideline, NPC-300. The stakeholder sessions were completed in 2011 and a number of minor revisions to the draft were circulated, prior to the Provincial elections. Since then, it seems that the changes associated with Modernization of Approvals, including the introduction of the Environmental Activity and Sector Registry (“EASR”) have bumped NPC-300 to the back burner.

Shale Gas and the Environment

Canada holds large reserves of shale gas locked in shale deposits. “Fracking” is a hydraulic fracturing technique used to recover natural gas from shale. In many jurisdictions fracking has become highly politicized. Nuisance issues, property value impacts, and contamination and depletion of ground and surface water resources are major concerns. Federal and provincial regulators are playing catch-up with respect to regulating shale gas development and produced a patchwork of regulations and policies to govern the industry. This promises to be a hot issue in the years to come.

Particulate Matter Workshop

The A&WMA-OS, in concert with Environment Canada and the MOE, ran a Particulate Matter 2.5 workshop in Toronto earlier this month. The 127 attendees included professionals from the all levels of government, manufacturing, consulting firms, equipment vendors, construction firms and the regulated industry. The presentations provided a lot of insight into both the history of air monitoring in North America as well as the future of air monitoring in general. If you would like

to view the presentations, please visit <https://www.awma.on.ca>. Based on the success of this workshop and feedback from participants, a follow-up event is being considered.

Deadline Dates under the Toxics Reduction Act

The phase-in of requirements under the *Toxics Reduction Act (TRA)* and its regulation continues. For Phase 1 facilities (those required to report for Table A contaminants, as determined by their NPRI reporting) the first toxic reduction plans for reportable Table A contaminants are due December 31, 2012.

The *TRA* was amended on June 1, 2011 to include the education and experience requirements for Toxic Substance Reduction Planners. In addition to having the relevant education and experience, planner applicants must also take a training course and pass an exam to become licensed. Specifics on the scheduling of the training and exam components have yet to be announced by the MOE; further details are anticipated early in 2012.

Waste Management - Is Your Site Ready for winter?

With winter fast approaching there are some housekeeping matters that should be addressed at your facility.

First, determine if there is any waste which should be disposed of or brought to a central waste storage location. Drums containing liquid waste that are stored outdoors should be properly disposed of prior to the onset of winters. Alternatively, they should be stored indoors. Drums and totes that are stored outside during the winter may leak and also become a hazard for snow removal.

Second, an updated inventory of all hazardous waste should be prepared. Once the inventory is completed a determination should be made to confirm which waste is “subject waste” as defined in Ontario Regulation 347. New waste classes may need to be added and other inactivated under the Hazardous Waste Information Network (HWIN). The deadline for Renewal Registration of subject was under HWIN is February 15, 2012.

Finally, a determination should be made if any “subject waste” is being stored longer than 90 days. If so, the MOE Regional Director must be notified in accordance with Reg. 347. The notification form can be found on the MOE publications website.

The A&WMA Ontario Section Newsletter is published quarterly and contains information of interest to members. If you have interesting news stories or company announcements, please contact the editor, John Nicholson at john.nicholson@ebccanada.com

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