



Ontario Open for Business

Surviving and Thriving in an
evolving regulatory framework

Current Realities

- Regulations are evolving in an attempt to meet the standard of care expectations of the public
 - New regulations are being implemented to enhance safety of workers and the public (i.e. guarding, fall protection, confined space etc)
 - Enhanced expectations of protection of the environment has led to new guidelines and reporting requirements (GHG, toxics reduction act etc)

Current Realities

- Regulators have expanded resources, mandate and broader powers for enforcement
 - Hiring of additional inspectors and officers
 - Broadened powers for levy of fines and charges
 - Legislations with subjective interpretations
 - Legislations implemented with limited consultation with manufacturers

Current Realities

- Discreet and specific issues making Ontario a challenging place to do business
 - NIMBYism (i.e. Oakville co-gen, moratorium on wind turbine farms etc)
 - Encroachment of residential properties into industrial areas
 - Legislation and interpretation of “adverse effect” which has been implemented as “the **possible** loss of enjoyment of normal use of personal property...”
 - Comparatively high utilities with, in many cases, double digit escalation

Ministry of Labour Initiatives

- Supporting implementation of bill 168 (Workplace Violence and Harassment)
 - Many of the occurrences are in the public and broader public sectors
 - One might question the effectiveness of the legislation, and associated burden on employers, relative to the desired outcome in the private sector.
- Selection of firms for targeted proactive inspection based on specific key indicator criteria (WSIB experience, repeat violators, Industry rate group experience, blitzes etc)
- Use of program specific heightened enforcement focus
 - Industrial – guarding, falls, loading docks

Regulatory Environment in Ontario

Summary Observations

- New legislations are being implemented without adequate consultation with industry
 - Where consultation is sought it appears that the input from manufacturers is either discounted or disregarded
- Legislation is not being created to address risk (i.e. risk = hazard + exposure)
 - This dilutes program effectiveness by treating all hazards equally and not necessarily allowing manufacturers to focus on what we believe to be the desired outcome of protecting the health and environment of Ontarians.
- Regulations are being enforced inconsistently with a large degree of subjectivity

Ministry of the Environment

Toxics Reduction Act

- Overview
 - The new legislation requires a description of each process using / creating toxic substances (as opposed to at the facility level)
 - Each toxic substance is to be tracked and quantified for each process
 - Reduction plan(s) are to be developed, though implementation is voluntary
 - Plan(s) must be reviewed by “qualified” individual who is accredited – the MOE does not currently offer accreditation training
 - Reports on progress will be made to the ministry and certain information will be made available to the public

Ministry of the Environment

Toxics Reduction Act

- What is defined as a toxic substance?
 - Aluminum
 - Ammonia
 - Chlorine
 - Copper
 - Ehtylene Glycol
 - Hydrochloric Acid
 - Isopropyl Alcohol
 - Methanol
 - Nickel
 - Total Reduced Sulphur
 - Vinyl Chloride
 - Zinc
 - Complete listing is available at <http://canadagazette.gc.ca/rp-pr/p1/2008/2008-02-16/pdf/g1-14207.pdf>

Ministry of the Environment Toxics Reduction Act

- Concerns and Observations
 - Much of Ontario's industry has been working very hard over the last 20 years to reduce use / creation of toxic substances
 - Current act does not recognize these efforts and allows no equivalency for programs already in place
 - Industry input during the engagement process appears to have been largely discounted
 - Since the process is hazard based, rather than risk based, all hazards are treated equally and resources will not necessarily be focused to mitigate risk
 - New reporting requirements mean that many companies are expending significant resources to complete the mandated reporting requirements.
 - This accounting activity will not result in any improvements and may impede manufacturers from allocation of resource for real benefit

Ministry of the Environment

Reg. 419 – Air Emissions Standards

- Concerns and Observations
 - Some standards may not be achievable even with Maximum Achievable Control Technologies – this is acknowledged by the MOE
 - Inability to meet the new standard triggers a request for Alternate Standard under a Director’s Approval which could be granted for up to 5 years
 - This will be applied to facilities for reasons of Technical and/or Economic achievability and time
 - Approval on Alternate Standard basis clearly creates uncertainty for the facility and potential concern for the local public for what they could see as a “get out of jail free” card for big business.

Challenges & Opportunities

- Globalization of manufacturing means that we compete world-wide not with neighbours
 - Jurisdictions with different standards of care, regulatory environments, subsidization will have a competitive advantage
- Facilities from multi-national publicly held corporations must compete for capital for regulatory, sustainability and growth activities

Challenges & Opportunities

- The respective ministry's role in the process may not be collaborative
- The necessary technical expertise may not exist to appropriately interpret the reg, mitigation or solutions
- The MOE is here to “enforce the reg's” – as they interpret them
- A small number of motivated complainants (as few as a single individual) can justify intervention on the part of the ministry – irrespective of the accuracy or reality of their complaints

How can government help?

- Create forum(s) to proactively solicit the input of manufacturers in the development and implementation of new regulations and policies
- Acknowledge the current operating climate and work with manufacturers to implement reasonable incremental phased solutions to regulatory changes
- Reach out, engage and communicate to manufacturers
 - *“We could spend all our time communicating, at the expense of doing absolutely anything else, and yet according to some have not communicated enough”*

What can I do?

- Leverage your JHSC to make sure your policies and practices are aligned with MOL
- Ask to MOL for their input – you'd be surprised how few people do this
- Do what you can to help those around you appreciate your participation in the community (residents, politicians etc)

Who can I go to for help?

- FMO Sponsor groups (LRMC, LEDC, EMC)
- Local city council members and mayor
- MPPs
- MPs
- WSPS formed from Farm Safety Assoc (FSA), Industrial Accident Prevention Assoc (IAPA) & Ontario Service Safety Alliance (OSSA)