




Technical Standards

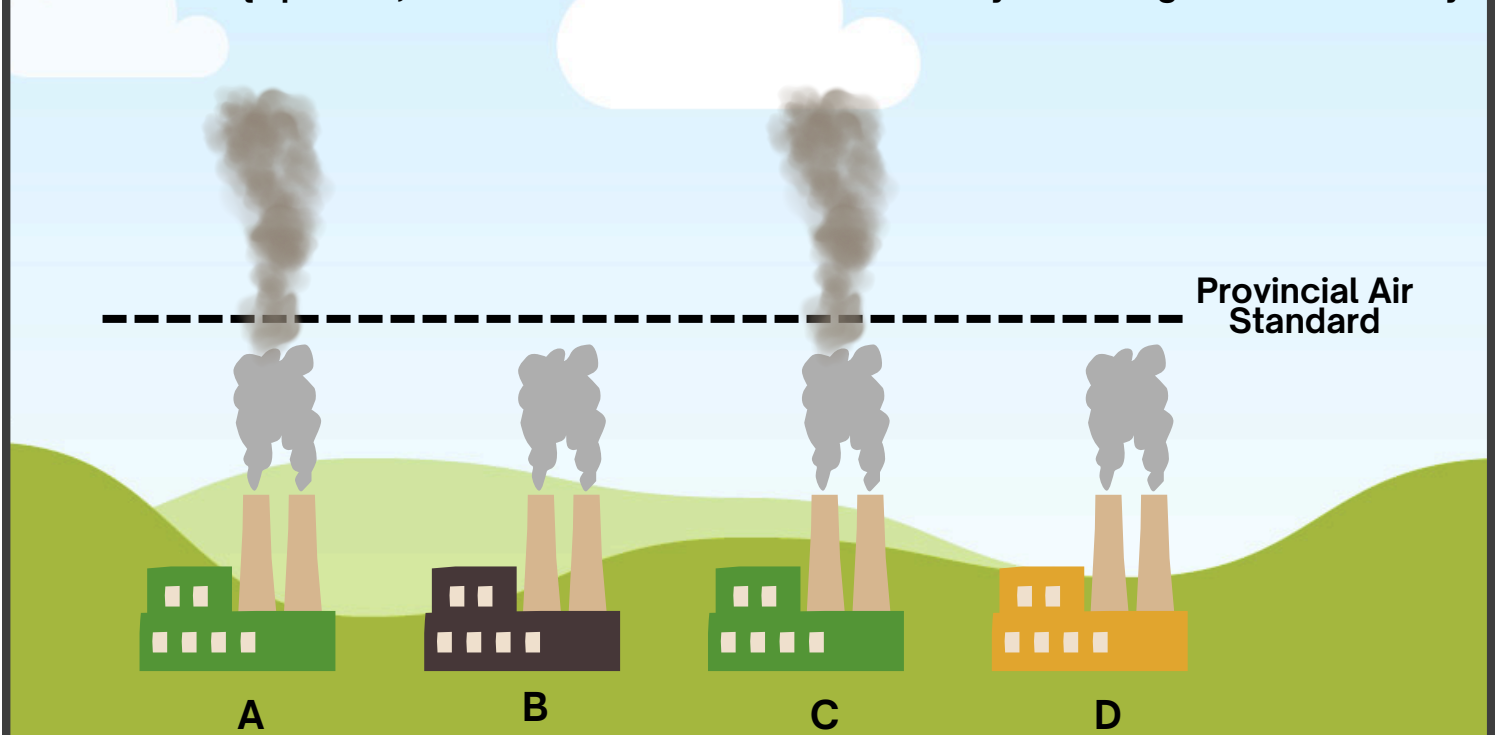
The regulation of air pollution in Ontario is a patchwork of rules, making it difficult to protect vulnerable groups from the health, social, and economic effects of air pollution. A technical standard is one way Ontario regulates air pollution. To improve and better regulate air quality, Ontario's air pollution rules require reform.



What are Technical Standards?

- Technical standards are outlined in Ontario's main air pollution regulation, O. Reg. 419/05, under sections 38-44.
- Technical standards exempt certain industrial sectors from having to comply with provincial air standards, **allowing the emission of higher concentrations** of a substance than would otherwise be allowed through the provincial standard.
- Technical standards are based on **technical or economic feasibility**. 
- A request can be made for a technical standard if **at least 2 facilities** in a sector cannot meet the provincial air standard.

Facilities A and C are allowed to exceed the provincial air standard for a specific substance because they fall under the same category (like using the same type of authorized equipment), but Facilities B and D cannot as they are categorized differently.





Technical standards “allow for sector-wide management of air pollution issues rather than a facility-by-facility approach”.

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- Technical standards may create **industry standards** for all sources of pollution from a particular industry or create **equipment standards** for one contaminant within one or more sectors.
 - Technical standards **do not expire**. Instead, an update may occur “based on the availability of newer technologies, or updated science on a contaminant that suggests more controls are needed, or at the request of the sector”.
- According to the [Technical Standards Registry for Air Pollution](#), facilities in Ontario with industry standards are **Foundries, Forest Products, Pulp and Paper, Metal Finishers, Petrochemical, Petroleum Refining, and Asphalt Mix**.
 - The approval of a technical standard is posted on the [Environmental Registry of Ontario](#).



The Problem with Technical Standards

- Facilities pollute at much higher levels than the provincial standard, making it **difficult to improve air quality and protect nearby communities** whose health could be impacted.
- Technical standards **apply to some of the most polluting industries** in the province like the petrochemical industry, and **facilities routinely over-emit**.
- **Cumulative effects** from other facilities and pollutants are not properly considered in the decision to issue a technical standard.
- 2 companies can apply for a technical standard **even if the rest of the industry is able to meet the provincial standards**.
- There is **significant Ministerial discretion** to issue a technical standard and **no right to seek leave to appeal to the Ontario Land Tribunal**, so the public cannot easily challenge a decision.





Example: Sarnia

According to the [Technical Standards Registry – Air Pollution](#), there are 5 facilities located in the city of Sarnia registered to a technical standard, exceeding the provincial air standard.

These 5 facilities have an industry standard for Petrochemical or Petroleum Refining, some of the most polluting industries in Ontario, allowing the release of harmful substances into the air at higher concentrations than the provincial standards.

The majority of facilities in the entire province of Ontario with Petrochemical or Petroleum Refining industry standards are close to the city of Sarnia and nearby city of Corunna. Residents in and around these areas like the Aamjiwnaang First Nation experience these elevated levels of air pollution and the health impacts.



Technical standards currently do not properly incorporate the cumulative impacts of air pollution from each of these facilities.





What Needs to be Done About Technical Standards?

To protect those living near facilities that emit harmful substances in Ontario,
CELA recommends:

- A **systemic review** of the current air pollution regime and its impact on technical standards in Ontario by the Ministry of the Environment, Conservation and Parks 
- The Ministry require a **cumulative impact assessment** of air quality in the area of all facilities that a technical standard would apply to before approval
- Technical standards should include enforceable phase-in periods to **ensure progress towards meeting provincial standards**
- Require **additional public notice and engagement** on new proposals to address and prevent health impacts 
- **Allow the public to appeal** Ministry decisions to the Ontario Land Tribunal
- **Consider whether other similar industrial facilities can meet provincial requirements**, including similar facilities in other jurisdictions, before any technical standard is issued
- Technical standards should only be **valid for 2-3 years**

