

City of Toronto Proposes New Environmental Reporting and Disclosure Program

January 25, 2008

The City of Toronto is considering a new bylaw to introduce an Environmental Reporting and Disclosure Program that will require certain businesses to report the use or release of certain prescribed chemicals to the City, on an annual basis. The information reported to the City will be made publicly available.

Businesses That Could Be Affected by the Program

Businesses with facilities that use or release any of 25 listed chemicals in amounts above specified thresholds would be affected by the proposed program.

The 25 substances listed in the consultation document are substances that the City has identified as being of concern to human health. These substances include: carbon tetrachloride, lead, nickel, polycyclic aromatic hydrocarbons, tetrachloroethylene, trichloroethylene, vinyl chloride and volatile organic compounds.

Under the proposed program, companies will be required to conduct annual reviews of their operations to determine whether the business used or released any of the 25 listed chemicals into the environment. The reporting requirement is triggered if the company's use or release of the listed chemical exceeds the substance reporting threshold set by the City.

Certain types of businesses and sources of chemicals will be exempted from the program. Sector exemptions include residential homes, small medical facilities and accommodation and food services. Source exemptions include chemicals that exist as part of a manufactured item and are not released by using that item, chemicals that exist in the distribution, storage or retail sale of fuels and road dust.

More Details Needed to Fully Understand the Implications of the Program on Businesses

More details about the proposed bylaw and program are needed to fully understand the implications for businesses in Toronto. For example, the consultation document does not specify whether and how the City intends to integrate the new bylaw with existing federal, provincial and municipal reporting requirements. This new program could have the effect of unduly increasing the reporting obligations of businesses, simply because of the inability of the various levels of government to coordinate and to share data already generated from existing programs.

Secondly, the City has not decided whether the raw data submitted by each business will be made available to the public on a searchable website or, conversely, whether the City will compile the information and present it generally in a report, showing total emissions and trends. Issues relating to trade secrets and proprietary information that may be made publicly available will also need to be addressed.

The consultation document is available at http://www.toronto.ca/health/hphe/enviro_info.htm. The City has invited interested parties to submit their comments to the City by **February 6, 2008**. The Ontario Bar Association is preparing a written submission to the City and will be addressing a number of these and other related concerns. Annie Thuan of our Toronto office is participating in that process. Please contact her at (416) 307-4035 or athuan@langmichener.ca if you wish to obtain a copy of that written submission or have any other questions.

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