

## Regulation Spells Out Toxics Reduction Act Requirements

December 4, 2009

The regulation under Ontario's [Toxics Reduction Act, 2009](#) sets out the requirements that owners and operators of facilities covered by the act must meet beginning January 1, 2010 to:

- Track and quantify the toxic substances they use, create and release
- Develop plans, including options to reduce their use of toxic substances
- Make summaries of their plans available to the public
- Report to the ministry on their progress in reducing toxic substances and make certain information available to the public.

The [regulation](#) adds a new approach to environmental protection by focusing on reducing the use and creation of toxic substances at the front end of industrial processes. This approach augments Ontario's existing programs and legislation that focus on protecting our environment and human health.

The act applies to facilities in the manufacturing and mineral processing sectors (excluding physical extraction, crushing or grinding) that are required to report to the National Pollutant Release Inventory (NPRI) and to the ministry under O.Reg. 127/01 for acetone.

The act and its regulation are designed to encourage approximately 2,000 regulated facilities to find greener alternatives to toxic substances used and created in the manufacturing process; and new technologies that are less dependent on toxics. This is a major step towards the province meeting its commitment to reducing toxic substances in our air, land and water.

### **TOXIC SUBSTANCE ACCOUNTING, REPORTING & PLANNING**

The first report on the priority toxic substances from regulated facilities will be due by June 1, 2011 for the calendar year 2010. Once the first reports are prepared, facilities would develop their toxic substance reduction plans by December 31, 2011. The act requires the plan to be certified by the highest ranking employee at the facility with management responsibilities relating to the facility. Summaries of the plans would be made available to the public.

Facilities that use or create a substance listed in the NPRI, but which is not listed as a priority substance in the regulation, would provide their first report to the ministry by June 1, 2013, covering the calendar year 2012. Facilities would complete a plan and provide a summary of their plan to the public and the ministry by December 31, 2013.

Information collected from facilities through the reporting requirements of the act will be made available to the public so that Ontarians can be aware of toxic substances being used and created around them, as well as the actions facilities are taking to reduce them.

While accounting, planning and reporting for prescribed toxic substances is mandatory, implementation of the toxic substance reduction plans is voluntary.

### **ASSISTING INDUSTRY**

To ease the administrative burden on facilities, Ontario is phasing in its requirements and has closely aligned its regulatory requirements with the federal government's 2008 NPRI. This includes the facilities covered by the act, the timelines for reporting and the substances in the list of toxics that are subject to accounting, reporting and planning. The ministry has also committed funding to support industry.

Ontario has gone beyond the NPRI by placing a new focus on reducing the use and creation of toxic substances at the front end of the industrial process. Facilities are encouraged to voluntarily reduce their use and creation of the listed substances and to provide information to the public about their plans to reduce the use and creation of the substances and progress made on an annual basis.

## **PRIORITY TOXICS**

The requirements to account, report and plan in the regulation are being rolled out in two phases. The requirements in the first phase apply to facilities using any of the 47 priority substances that are identified in Table A of the regulation. To develop the list, the ministry worked in consultation with the Toxics Reduction Scientific Expert Panel to rank substances in the NPRI based on emissions and hazard.

From the ranking exercise 34 substances, including 11 known or probable carcinogens, were prioritized. The ministry also reviewed carcinogens in consultation with Cancer Care Ontario and identified an additional 13 known or probable carcinogens for inclusion in the priority list. It is anticipated that the regulatory requirements would broaden to include facilities using any of the balance of NPRI substances in two years time in the second phase.

The act requires that the lists of substances be reviewed at least once every five years.

## **REGULATED FACILITIES**

The regulation applies to facilities at which manufacturing and mineral processing activities (except physical extraction, crushing and grinding) take place that meet prescribed toxic substance and employee thresholds set out in the NPRI.

Regulated facilities will be required to:

- Track, account and report on the use, creation and release of toxic substances during the manufacturing process on an annual basis
- Plan for the reduction of each toxic substance
- Prepare and submit a summary of the plan
- Submit annual reports on progress they make on their reduction plans
- Update these plans at least every five years.

The plan summaries and information from the annual reports will be made available to the public. Annual reporting from facilities is proposed to enable Ontario to develop a detailed picture of how toxics are used, and what happens to them when they leave the industrial processes.

The regulation also includes provisions for exempting a facility from undertaking toxic substance accounting and planning, if a facility consistently falls below the thresholds.

## **NEXT STEPS**

Additional draft regulations are being planned. They would define substances of concern for the purposes of the act, the requirements for certified planners, administrative penalties and related requirements. The substances that have been proposed as substances of concern are not

tracked through the NPRI and there is little information regarding their use, release or environmental presence in Ontario.

The additional draft regulations are expected to propose that facilities using these substances of concern be subject to a one-time reporting requirement. These substances could at a future date be added to the list of prescribed substances and become subject to reporting and reduction planning.

The ministry plans to consult on an enhanced toxics reduction planning process by building on the expertise and resources found in the workplace.

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