

Toronto implements new environmental reporting and disclosure by-law

By James Ayres

In one of the most sweeping environmental reforms in the Municipality's history, thousands of enterprises in the City of Toronto have been mandated to report on their use of toxic chemicals in business operations, or face fines of up to \$100,000.

The City's "Environmental Reporting and Disclosure By-Law" was passed by City Council on December 4, 2008, and came into force on a four-year phased-in basis, beginning January 1, 2010. This "community right to know" initiative requires businesses and facilities (including City operations) located in the City of Toronto to annually report their use, manufacture, process and release of 25 toxic chemicals of priority health concern (priority toxic substances), which are above prescribed thresholds or levels.

The threshold is 100kg/year for most



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toxic chemicals, but even lower for certain chemicals deemed "highly toxic".

It is anticipated that this disclosure initiative will impact 5,000 to 7,000 industrial, commercial and institutional facilities, once the reporting period has been phased in over the four years.

The reporting program is intended to complement programs at the federal and provincial levels, by filling in the gaps stemming from the National Pollutant Release Inventory (NPRI), under the *Canadian Environmental Protection Act* and Ontario's Toxic Reduction Strategy Program (TRSP) under the *Toxics Reduction Act*, which came into force on January 1, 2010.

Unlike NPRI and TRSP, which apply to large facilities, the City's initiative will apply to large, medium and small sized facilities operating within the City of Toronto. Businesses which use, manufacture, process and release one or more of the 25 priority toxic substances, including volatile organic compounds, nitrogen oxides (NOx), vinyl chloride, polycyclic aromatic hydrocarbons (PAHs), perchloroethylene, chromium, benzene, formaldehyde, lead, mercury

and nickel, among others, will be required to report to the City's Department of Public Health (TPH).

Phase I sector industries, namely, food and beverage manufacturing, printing and publishing, chemical manufacturing, wood industries, power generation, and waste and water facilities, will be required to begin tracking their 2010 chemical use and emissions, with the data to be reported to TPH by June 30, 2011.

Phase II sector industries, namely, chemical wholesale, waste management and remediation services, medical and diagnostic laboratories, dry cleaning and laundry services, auto body repair, and funeral services establishments, will begin tracking 2011 data, with reporting (along with Phase I sector industry 2011 data) by June 30, 2012.

"Other manufacturing" sector industries not exempt under the By-Law, or Phase III industries, comprised of paper manufacturing, primary metal manufacturing, machinery manufacturing, among others, will begin tracking 2012 data, with reporting (along with Phase I and II sector industry 2012 data) on June 30, 2013.

Facilities which are exempted include: those engaged solely in retail sales, medical or dental offices, construction and building maintenance sites, food accommodation services, facilities that distribute, store or sell fuels, and facilities that maintain and repair vehicles (except for painting or stripping of vehicles, and rebuilding or remanufacturing vehicle components, which are not exempt).

Once reported, individuals will have access to the information, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, on the basis that community members have the right to know the location, source and health effects of toxic chemicals in their community. It is anticipated that this information may be accessed electronically (web based) by either facility name, chemical name, or by neighbourhood.

The By-Law imposes a significant mandatory reporting obligation on all facilities that use or emit the toxic chemicals which TPH has labelled as being a priority health concern.

The By-Law provides that every person who contravenes it, and every direc-

tor or officer of a corporation who knowingly concurs in its contravention by the corporation, is guilty of an offence and liable to a fine of \$5,000.00 for a first offence, \$25,000.00 for a second offence, and \$100,000.00 for a third or subsequent offence.

The By-Law aims to lessen or eliminate chemical use and the release of chemicals into the natural environment. The obligations imposed by the By-law will require facilities to carefully track chemicals and will give rise to public scrutiny achieved through the reporting and disclosure obligations.

Further information regarding the City's initiative and what impact, if any, it will have on your business, or facility, may be obtained at www.toronto.ca/chemtrac.



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