

Law Note - Business and Developers Brace for New Municipal Environmental Requirements

June 30, 2008

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

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 would 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 would be triggered if the company's use or release of the listed chemical exceeded the substance reporting threshold set by the City.

Certain types of businesses and sources of chemicals would 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 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.

Needless to say, if successfully implemented in a municipality like Toronto, similar bylaws in other major Canadian cities would likely follow.

This law note was prepared by Annie M Thuan.

Law Notes: This section offers a brief note or comment on an area or point of law that may be of interest.

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