



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

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Ministry of the Environment
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Sent by fax: (416) 314-2979

Dear Mr. Bell:

RE: CELA Comments to EBR Registry Number: RA05E0019 Posting to Harmonize Ontario and Federal Air Emissions Reporting Systems

Please consider the following submission by the Canadian Environmental Law Association (CELA) in response to the recent posting by the Ministry of Environment under the Environmental Registry (EBR Registry Number ***RA05E0019***) ***to Harmonize Ontario and Federal Air Emissions Reporting Systems***. You will note that the comments below reflect CELA's recommendation that Ministry of Environment should consider making modifications to Ontario Reg. 127/01 that would not only promote efficiency in reporting but also enhance the federal and provincial programs in the process. In fact, CELA urges the MOE to expand and enhance the Air Emission Reporting System.

CELA (www.cela.ca), established in 1970, is a not for profit legal clinic specializing in environmental matters and advocating for effective policy reform for environmental protection. CELA provides legal services to low income individuals, families and organizations. CELA's objectives include:

- Advocating for comprehensive laws, standards and policies that will protect and enhance public health and environmental quality in Ontario and throughout Canada;
- Increasing public participation in environmental decision-making;
- Working with the public and public interest groups to foster long-term sustainable solutions to environmental concerns and resource use;
- Preventing harm to human and ecosystem health through application of precautionary measures.

To achieve the above objectives, CELA recognizes the importance of improving public access to information and environmental decision making process. Over the years, CELA has been very

supportive of the efforts made by the federal government's to expand Canada's National Pollutant Release Inventory program on releases and transfer of over 300 substances. The presence and requirements of O.Reg. 127/01 provides additional impetus for the federal government to continue to review and assess how the federal program can be expanded. CELA would like to highlight several comments that support the need for a strong O.Reg. 127/01 and the benefits this brings to the federal program.

- Access to information is the critical step towards effective decision making process. We continue to support efforts that provide the public with a broader understanding of the type and level of pollution being emitted from local facilities. Without this information, the public will continue to be at a disadvantage when it comes to providing comments on environmental protection initiatives. In addition, there is a broad recognition that there continues to be limited toxicity data available for the over 80,000 chemicals being used in our society. The absence of such data has made it extremely problematic for developing elimination and reduction strategies on toxic substances in Canada. There is a need for shifting the onus onto industry to provide relevant toxicity and loading data. The reporting requirement gathered through the O.Reg. 127/01 provides additional measure of accountability by facilities operating in Ontario that are not available in other reporting mechanisms in Canada. The information gathered through this regulation may be used to highlight the need for further investigation on pollution prevention strategies for specific industrial sectors or specific substances.
- **CELA supports the addition of the 15 substances identified under the EBR posting to the NPRI list of substances for the 2006 reporting year. MOE and Environment Canada provided background information to demonstrate that Ontario facilities releasing these substances will effectively be captured under the NPRI reporting requirements.** To ensure that emission data on these substances continue to be submitted by facilities while Environment Canada considers the addition of these substances to the NPRI program, **no changes to O.Reg. 127/01 should be undertaken until the Canada Gazette notices are released to confirm the addition of these substances to the NPRI program.** In recent years, the expansion of the NPRI list of substances have been slow and CELA wants to ensure that facilities continue to report their releases on these substances for 2005 and 2006. The NPRI Working Group should identify the addition of these 15 substances as a priority in their workplan and ensure that appropriate notices to the Canada Gazette are released soon after the report of the Working Group is completed.
- **CELA supports the need to promote a one window reporting program on pollutants to improve reporting efficiencies by facilities so long as changes do not threaten the effectiveness of federal or provincial programs.** As part of the harmonization effort, MOE should commit to the continual improvements for reporting on pollutants under O.Reg. 127/01. The effectiveness of this Ontario program will dramatically improve if the following changes are considered:
 - **Require MOE to prepare an annual report on pollution data submitted by facilities.** Such a report should include emissions from all facilities in Ontario reporting under NPRI and Ontario Regulations, present the overall pollution loadings from facilities,

review trends overtime and highlight sectors or facilities making significant reductions in pollution levels, and document pollution prevention activities, to name a few.

- **Expand the program to include reporting of pollutants releases and transfers to all media - air, water, land.** Reporting under this program SHOULD NOT be restricted to air emissions as it is currently required under the regulations. Reporting to all media contributes to the public's understanding of pollution levels in Ontario.
 - **Lower reporting thresholds for all substances and facilities.**
 - **Expand the types of sectors required to report under the regulation.**
 - **Improve mechanisms to validate data submitted under NPRI and O.Reg. 127/01 to eliminate and reduce inconsistencies in reporting.** Adequate follow-up by NPRI and MOE is needed to ensure that facility information and pollution data submitted are accurate. The quality of NPRI and O.Reg. 127/01 program significantly declines if no resources are directed to data quality.
- The Ontario Reg. 127/01 acts as a central repository for data on air releases from Ontario facilities despite being required by other programs such as the NPRI, the Independent Electricity System Operator or Ontario Emission Trading regulation (O.Reg. 397/01). Having air emission information available in one central system as oppose to needing to review the various other programs for information provides an improved picture of the contributions of facilities to air pollution. In fact, this data is valuable to stakeholders and decision makers responsible for developing programs aimed at elimination and reduction of pollution. **CELA supports the use of the NPRI web site to distribute the data collected through the Ontario regulations. The OnAir web site has very limited use and it difficult to search for information. Furthermore, the Ontario specific data should be made more accessible on NPRI web site with additional resources directed by MOE. This new search function should be accompanied by the production of an annual report proposed earlier in this submission.**
- **The value of an annual report prepared by MOE is significant.** Such a report can be an effective tool to:
 - demonstrate progress on reducing air pollutants in Ontario overall;
 - identify opportunities for facilities to review its practices and processes and consider alternatives;
 - highlight facilities or sectors that have made largest reductions to air pollution in Ontario; and
 - assess if the current regulatory regime is adequately protecting the Ontario environment and human health.
 - No documentation has been presented that demonstrate facilities have significant constraints of time and resources to comply with the reporting required under O.Reg. 127/01 and that of other programs. **Without sufficient documentation, CELA rejects the proposal to remove the provisions requiring:**
 - smog season reporting; [O. Reg.127/01, subsection 6(3)5.iv]
 - quarterly reporting; [O. Reg.127/01, section 7]

- special rules applying to a facility that is a university or college of applied arts and technology, or an office building, hotel, shopping centre or similar commercial building; [O.Reg.127/01, subsection 3(3)]
- special reporting concerning type of energy source and amount of electricity generated by electricity generation facilities . [O.Reg.127/01, section 8].

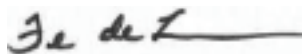
Additional investigation and reporting by MOE should be undertaken to assess the impacts to the number of facilities reporting and the overall release data from these proposed revisions.

We hope that the above comments are taken into consideration. If you have any questions on this submission, please do not hesitate to contact Fe de Leon at 416-960-2284 ext. 223.

Yours truly,



Paul Muldoon
Executive Director



Fe de Leon
Researcher

c.c. John Jackson, Great Lakes United; Anna Tilman, STORM Coalition; Canadian Environmental Network