



CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY

L'INSTITUT CANADIEN DU DROIT ET DE LA POLITIQUE DE L'ENVIRONNEMENT

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Comments on the Guidelines Respecting the Use of
the Minister of the Environment's Information

RN 27347

Anik Genier
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Environment Canada
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Hull, Quebec
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Dear Ms. Genier,

We are writing to you in response to your invitation for comments on the *Guidelines Respecting the Use of the Minister of the Environment's Information Gathering Powers under CEPA '99*. The Institute's comments are as follows:

SECTION 1: Notices Requesting Information other than for the National Pollutant Release Inventory (NPRI)

The Institute supports the general direction of these guidelines. However, efforts to gather information from existing sources, both inside and outside of Environment Canada need to be qualified by what is a reasonable effort in the circumstances, and consideration of the speed with which information that may be available from other sources can actually be obtained in a useable form by Environment Canada. Consideration must also be given to the completeness of information available from other sources, its quality and reliability, and how up to date it may be. Where information available from other sources does not meet these criteria, the use of information gathering powers under CEPA to provide a complete, reliable and up-to-date dataset is appropriate.

SECTION 2: Notices Requesting Information Related to NPRI

Environment Canada's proposal regarding requests for information related to NPRI are reflective of discussions within the Ad Hoc Working Group on the NPRI. The overall approach proposed by the Department for general additions to the NPRI is supported. Limiting the involvement of other government departments/agencies to those who may have an interest in the information being collected is supported, as opposed to the

general inclusion of agencies, such as industry Canada, who have no role in decision-making regarding NPRI and are not users to the information.

However, a different approach should be taken with respect to the addition of substances to the NPRI which are: found to be "toxic" for the purposes of CEPA; identified as being persistent, bioaccumulative and inherent toxic to human beings or other organisms through the screening of the Domestic Substances List under section 73 of the Act; under review by the Minister as a result of a decision by another jurisdiction to specifically prohibit or substantially restrict a substance under section 75 of the Act; or placed on the Priority Substances List (PSL) under section 76 of the Act.

In particular, Environment Canada should adopt a policy that a substance be automatically added to the NPRI, with a reporting threshold appropriate to capture not less than 90% of facility releases or transfers of the substance when:

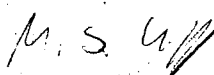
- * a statement is made by the Ministers under section 77(6)(b) indicating that they intend to recommend that a substance be added to the List of Toxic Substances under Schedule 1;
- * a substance is identified as being persistent, bioaccumulative and inherently toxic to human beings or other organisms through the screening of the Domestic Substances List under section 73 of the Act;
- * a substance is under review by the Minister as a result of a decision by another jurisdiction to specifically prohibit or substantially restrict a substance under section 75 of the Act; or
- * a substance is placed on the Priority Substances List under section 76 of the Act

In the case of substances which are proposed for Virtual Elimination under section 77(4), the reporting threshold should be "any release or transfer" from sectors identified as being significant potential sources of releases or transfers of the substance.

These steps would significantly strengthen the role of NPRI in the management of toxic substances. NPRI listing would identify substances to industry and the public as being priorities for reductions in their use, generation, release and transfer, provide a basis for the prioritization of the implementation of preventative and control measures, and provide a foundation for the evaluation of the effectiveness of those measures.

The Institute would be please to answer any questions which you might have regarding our comments on these matters.

Yours sincerely,


Mark S. Winfield, Ph.D.
Director of Research


Anne Mitchell
Executive Director.

cc: Cynthia Wright, Director-General, Strategic Priorities Directorate, Environment Canada.
Vic Shantora, Director-General, Pollution Prevention and Toxics Directorate, Environment Canada.
Steve McCauley, NPRI.
Francois Lavellee, NPRI.