



PROVISION COALITION

PROCESSING FOOD SUSTAINABLY

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Brief: Proposed Living List Framework under Ontario's Toxics Reduction Program

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Background

The Ontario Ministry of the Environment (MOE) is proposing the [Living List Framework](#) to fulfill the Ministerial obligation under Section 49 of the Ontario Toxics Reduction Act (TRA).

Section 49 requires the Ontario Minister of the Environment to review the list of Toxic Substances in Ontario Regulation 455/09 and specifically:

- At least once every five years, consult with experts and the public about possible changes to the list of substances that are prescribed as toxic substances, and
- Publish, from time to time, lists of substances that are not toxic substances, but that the Minister proposes to investigate and possibly consider for addition to the list of toxic substances.

Under Ontario Regulation 455/09, the lists of prescribed toxic substances are those substances which industry is required to report on under the federal National Pollutant Release Inventory (NPRI) plus acetone, adopted from O.Reg. 127/01 under the Environmental Protection Act. The list of the NPRI substances can be found at: <http://ec.gc.ca/inrp-npri/default.asp?lang=En&n=36BE226E-1>

Draft Living List Framework Summary

Under the Living List Framework, the MOE would develop a list of substances that would be reviewed and evaluated for:

- i. addition to the Ontario List of Prescribed Substances or;
- ii. removal from the List or;
- iii. changes to the threshold for reporting of a substance, or the chemical or physical form of the substance on the List.

The Framework would comprise three steps:

1. **Nomination and screening** of the substance(s)
2. **Review of and public consultation** on nominated substances
3. **A decision** regarding the addition of a substance to the prescribed list, removal of a substance from the list, or other changes regarding the substance.

Key Features of the Framework

- Any two Ontarians (members of the public) or corporations can submit a substance for nomination. A rationale for the nomination must be provided.
- The MOE will provide any data required for an assessment; particularly for nominations submitted by the public.
- Industry may be requested to provide data when data gaps exist. It is uncertain whether the MOE could mandate industry to provide data.
- Decisions regarding a substance will be made using scientific data, as well as **contextual information**. Contextual information would include information such as:
 - i. How is the substance used in Ontario?
 - ii. What sector(s) is using the substance?
 - iii. Is the substance released to the environment?
 - iv. What controls are in place to mitigate environmental release?
- Hazard characterization of a substance(s) will be made on the basis of environmental criteria (persistence, bio-accumulation, aquatic toxicity, wildlife toxicity) and human health criteria (acute toxicity, chronic toxicity).
- “Expert judgment and flexibility” will be applied when making a decision about a substance when there is a lack of scientific and/or contextual information.
- Information provided to the MOE may be accessible through the Freedom of Information and Protection of Privacy Act.

Considerations for Provision Members

The following considerations are offered based on a review of the document, *The Draft Living List Framework Under Ontario's Toxics Reduction Program*, a meeting of Provision staff with Wendy Moss-Newman, Manager of the Toxics Reduction Program at MOE on April 28, 2014, and information from the MOE Living List Framework webinar held on April 29, 2014.

- The MOE appears committed to implementing the draft Living List Framework as the mechanism to fulfill the Ministerial obligation under the Toxic Reductions Act. The focus of the MOE and of this consultation is to “fine tune” the details of this Framework.
- There appears to be considerable overlap or duplication of the Living List Framework with the federal government’s programs to manage chemical substances under the Chemicals Management Plan and the New Substance Notification Regulations. This has occurred despite the MOE stated Guiding Principle to “consider existing controls in other programs with the goal of minimizing duplication”.
- It is reasonable to expect that interest groups will nominate a considerable number of substances under the proposed framework that have been reviewed under the Chemicals Management Plan and found not to meet the federal threshold for toxicity. Industry may be mandated to submit data again to support data gaps for such nominations.
- The MOE appears to favour a conservative and precautionary approach to decisions regarding substances for which there is a lack of data. This may lead to an increase in the number of prescribed substances.
- The administrative burden on industry to respond to the Living List Framework could be substantial.

How to Provide Comments

Deadline for the submission of comments is May 12, 2014. The MOE is seeking stakeholder response to a number of questions that are identified in the [draft Living List Framework under Ontario's Toxics Reduction Program](#) document. Response to the questions and comments can be submitted to the MOE by addressing them to:

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Comments can also be submitted online through the [EBR Registry website](#). Stakeholders are requested to reference **EBR Registry number 012-0764** when submitting comments.