



**Toxics Reduction Act, 2009**  
**Loi de 2009 sur la réduction des toxiques**

**ONTARIO REGULATION 455/09**

**GENERAL**

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### INTERPRETATION AND APPLICATION

#### **Interpretation, words used in this Regulation**

##### **1. (1) In this Regulation,**

“level of quantification” means, in respect of a toxic substance in a calendar year, the level of quantification for the substance within the meaning of the NPRI Notice for the calendar year;

“licence” means a toxic substance reduction planner’s licence issued under section 27.1;

“NAICS” means the North American Industry Classification System maintained for Canada by Statistics Canada as amended or revised from time to time;

“NPRI compliance date” means, in respect of a calendar year, the date by which the information required under the NPRI Notice for that calendar year must be provided to the minister of the Crown in right of Canada who is responsible for section 46 of the *Canadian Environmental Protection Act, 1999*;

“NPRI Notice” means, in respect of a calendar year, the notice or notices given under subsection 46 (1) of the *Canadian Environmental Protection Act, 1999* that are applicable in that year with respect to substances in the National Pollutant Release Inventory, as published in The Canada Gazette;

“NPRI substance” means a substance that is included in the list of substances captured under a NPRI Notice as set out in the NPRI Notice.

“toxic substance reduction planner” means, with respect to a toxic substance reduction plan, an individual,

(a) who has the required qualifications for the purposes of signing the certification required under subsection 4 (3) of the Act with respect to the plan, and

(b) who holds a valid licence at the time he or she signs the certification. O. Reg. 125/10, s. 1 (1); O. Reg. 214/11, s. 1; O. Reg. 295/18, s. 1.

(2) In this Regulation, a toxic substance is disposed of in a calendar year if it is disposed of within the meaning set out in the NPRI Notice for that year. O. Reg. 125/10, s. 1 (1).

(3) In this Regulation, a reference to a significant process change at a facility is a reference to a change consisting of,

(a) the addition of a process at the facility that uses or creates a toxic substance, other than a process that is described in the current version of the toxic substance reduction plan for the substance at the facility; or

(b) an alteration to a process at the facility that uses or creates a toxic substance and that is described in the current version of the toxic substance reduction plan for the substance at the facility, if the alteration results in an increase in the use or creation of the substance in the process of at least 15 per cent from the quantifications set out in the current version of the plan. O. Reg. 455/09, s. 1 (3).

(4) For the purposes of this Regulation, if there is more than one owner or operator of a facility during a calendar year in which subsection 3 (1) of the Act applies, the owner and the operator of the facility on December 31 in the calendar year are deemed to be the owner and the operator of the facility for the year. O. Reg. 125/10, s. 1 (2).

#### **Interpretation, words used in the Act**

2. (1) In the Act, “employee” and “facility” have the same meaning in a given calendar year as the meaning set out in the NPRI Notice for that year. O. Reg. 125/10, s. 2.

(2) In the Act, a toxic substance is destroyed if, after entering a process at a facility, the substance is changed into one or more substances that are not toxic substances. O. Reg. 455/09, s. 2 (2).

(3) In the Act, a toxic substance is transformed if, after entering a process at a facility, the substance is changed into one or more other toxic substances. O. Reg. 455/09, s. 2 (3).

#### **Toxic substances**

3. (1) The following substances are prescribed as toxic substances for the purposes of the Act:

1. Any substance that is a NPRI substance, if the substance is in the form specified in the NPRI Notice in which the substance is listed.

2. Acetone. O. Reg. 455/09, s. 3 (1); O. Reg. 125/10, s. 3 (1).

(2) For greater certainty, a product that contains a NPRI substance that is intended for human or animal consumption and that is manufactured at a food manufacturing or beverage manufacturing facility identified by a NAICS code commencing with the digits “311” or “3121” is not a toxic substance. O. Reg. 455/09, s. 3 (2); O. Reg. 125/10, s. 3 (2).

### **TOXIC SUBSTANCE REDUCTION PLANS — CRITERIA**

#### **Class of facility**

4. (1) For the purposes of paragraph 1 of subsection 3 (1) of the Act, a facility at which manufacturing takes place is a prescribed class of facilities. O. Reg. 455/09, s. 4 (1).

(2) The class of facilities prescribed under subsection (1) includes,

(a) a facility identified by a NAICS code commencing with the digits “31”, “32” or “33”; and

- (b) a facility identified by a NAICS code commencing with the digits “212” that processes minerals, but only if the mineral processing at the facility involves the use of chemicals to separate, concentrate, smelt or refine metallic or non-metallic minerals from an ore. O. Reg. 455/09, s. 4 (2); O. Reg. 214/11, s. 2.

**Number of persons**

5. For the purposes of paragraph 2 of subsection 3 (1) of the Act, the prescribed number of persons is zero. O. Reg. 455/09, s. 5.

**Amounts of toxic substance used or created**

6. For the purposes of paragraph 3 of subsection 3 (1) of the Act, the amounts of a toxic substance that are used or created at a facility must exceed zero. O. Reg. 455/09, s. 6.

**Other criteria**

7. (1) For the purposes of paragraph 4 of subsection 3 (1) of the Act,

- (a) if the substance is a NPRI substance, the NPRI Notice in which the substance is listed must require the owner and the operator of the facility to provide information in respect of the substance in a year subsequent to the year in which the NPRI Notice applies; or
- (b) if the substance is acetone, section 4 of Ontario Regulation 127/01 (Airborne Contaminant Discharge Monitoring and Reporting) made under the *Environmental Protection Act* must apply. O. Reg. 125/10, s. 4.

(2) For greater certainty,

- (a) a requirement in a NPRI Notice to provide a report stating that there is no information available regarding the quantity of a toxic substance is a requirement to provide information in respect of the substance; and
- (b) a requirement in a NPRI Notice to provide information with respect to total unspeciated poly-cyclic aromatic hydrocarbons is not a requirement to provide information in respect of an individual poly-cyclic aromatic hydrocarbon unless there is a requirement to provide information in respect of the individual substance. O. Reg. 125/10, s. 4.

**Other criteria, same calendar year**

8. For the purposes of paragraph 4 of subsection 3 (1) of the Act, all of the criteria mentioned in sections 4 to 7 of this Regulation must be met in the same calendar year. O. Reg. 125/10, s. 4.

**Exemption, dioxin, furan or hexachlorobenzene**

9. (1) This section applies in respect of a toxic substance that is a dioxin, a furan or hexachlorobenzene if the owner and the operator of a facility have ensured that at least one toxic substance reduction plan has been prepared for the substance under subsection 3 (1) of the Act in a previous calendar year and, but for this section, subsection 3 (1) of the Act applies in the calendar year. O. Reg. 125/10, s. 4.

(2) Despite clause 7 (1) (a), subsection 3 (1) of the Act does not apply in a calendar year in respect of a toxic substance mentioned in subsection (1) if,

- (a) the owner and the operator of the facility have determined through monitoring or source testing that the concentration of the substance released on-site, disposed of or transferred off-site for recycling is less than the estimated level of quantification set out in the NPRI Notice for the year; and
- (b) the owner and the operator create a record and submit it to the Director on or before the NPRI compliance date, subject to subsection 30.1 (1), in the year following the calendar year in which the circumstances described in clause (a) apply,
- (i) identifying and describing the circumstances that led to the determination, and
- (ii) setting out all information and any quantifications relied upon in making the determination. O. Reg. 125/10, s. 4;  
O. Reg. 295/18, s. 2 (1).

(3) Despite clause (2) (b), if the owner and the operator of a facility create and submit a record mentioned in that clause for three consecutive years and the circumstances described in clause 2 (a) continue to apply, they are not required to create and submit further records on an annual basis for the purposes of the exemption in subsection (2). O. Reg. 125/10, s. 4.

(4) If the circumstances described in clause (2) (a) no longer apply in a calendar year immediately after one record or two consecutive records mentioned in clause (2) (b) have been submitted, the owner and the operator of the facility shall,

(a) ensure that a new plan is prepared as if it were the first plan prepared under the Act, if,

(i) the calendar year is a year during which, absent the exemption in subsection (2), a review under section 7 of the Act would have been required to be conducted in respect of the toxic substance reduction plan for the substance, or

(ii) the calendar year is a year immediately following a year mentioned in subclause (i); or

(b) subject to section 11.4, ensure that this Regulation is complied with as if there had been no interruption in the application of subsection 3 (1) of the Act, if the calendar year is not a year described in subclause (a) (i) or (ii). O. Reg. 125/10, s. 4.

(5) If the circumstances described in clause (2) (a) no longer apply in any calendar year after three consecutive records mentioned in clause (2) (b) have been submitted, the owner and the operator of the facility shall ensure that a new toxic substance reduction plan for the substance is prepared as if it were the first plan prepared under the Act. O. Reg. 125/10, s. 4.

(6) Subject to subsection (6.1), a record submitted under this section shall contain a certification signed by the highest ranking employee at the facility who has management responsibilities relating to the facility, stating the following:

As of [insert date], I, [insert name], certify that I have read the record created for the purposes of section 9 of Ontario Regulation 455/09 (General) made under the *Toxics Reduction Act, 2009* in respect of the use and creation of the toxic substance referred to below at [insert name of facility] and am familiar with its contents and to my knowledge it is factually accurate.

[insert toxic substance]

O. Reg. 214/11, s. 3.

(6.1) Records submitted under this section in respect of two or more toxic substance reduction plans for a facility may be contained in a single document and, if that is done, the certifications required by subsection (6) may be combined into a single certification stating the following:

As of [insert date], I, [insert name], certify that I have read the records created for the purposes of section 9 of Ontario Regulation 455/09 (General) made under the *Toxics Reduction Act, 2009* in respect of the use and creation of the toxic substances referred to below at [insert name of facility] and am familiar with their contents and to my knowledge they are factually accurate.

[insert list of toxic substances]

O. Reg. 214/11, s. 3.

(7) The Director shall make available to the public any record that is given to the Director under this section, other than the information and quantifications mentioned in subclause (2) (b) (ii), by,

(a) posting the record on the Internet; and

(b) giving a copy of the record to a member of the public, upon written request. O. Reg. 125/10, s. 4.

(8) For the purposes of subsection (7), a signature in a certification may be redacted and replaced with an indication that the original was signed. O. Reg. 295/18, s. 2 (2).

**10. REVOKED:** O. Reg. 304/17, s. 1.

#### **Exemption, volatile organic compounds**

**11. (1)** Despite subsection 3 (1) of the Act and the inclusion of volatile organic compounds as a NPRI substance in a NPRI Notice, no toxic substance reduction plan is required to be prepared in respect of volatile organic compounds as a group. O. Reg. 125/10, s. 4.

(2) The exemption in subsection (1) does not apply in respect of a NPRI substance that is listed individually in a NPRI Notice and that is also a volatile organic compound. O. Reg. 125/10, s. 4.

**11.0.1 REVOKED:** O. Reg. 295/18, s. 3.

## TOXIC SUBSTANCE REDUCTION PLANS — TIMING

### Plan, timing requirements

**11.1** (1) If subsection 3 (1) of the Act applies in a calendar year, the owner and the operator of a facility shall ensure that a toxic substance reduction plan is prepared for the toxic substance on or after the day on which a report is prepared under section 25 in respect of the plan and on or before December 31 in the following calendar year. O. Reg. 125/10, s. 4.

(2) REVOKED: O. Reg. 295/18, s. 4.

(3) Despite subsection (1), if the owner and the operator of a facility have ensured that a toxic substance reduction plan has been prepared for a toxic substance, they are not required to prepare a new version of the plan or a new plan for the substance in a subsequent calendar year in which subsection 3 (1) of the Act applies unless,

- (a) a new version of the plan is required to be prepared under subsection 20 (1) as a result of an amendment under section 5 of the Act or a review under section 7 of the Act; or
- (b) a new plan is required to be prepared under subclause 9 (4) (a) (i) or (ii), subsection 9 (5), subclause 11.3 (2) (a) (i) or (ii) or subsection 11.4 (2). O. Reg. 125/10, s. 4.

### Creation of record if s. 3 (1) of Act ceases to apply

**11.2** (1) This section applies to the owner and the operator of a facility if, in a calendar year immediately following a year in which subsection 3 (1) of the Act applies to them in respect of a toxic substance, that section of the Act does not apply because one or more of the criteria set out in section 4, 5, 6 or 7 is not met. O. Reg. 125/10, s. 4.

(2) A person mentioned in subsection (1) shall create and submit a record to the Director on or before the NPRI compliance date, subject to subsection 30.1 (1), in the year immediately following the year in which subsection 3 (1) of the Act does not apply,

- (a) identifying all criteria that are no longer met;
- (b) describing the circumstances that led to the criteria no longer being met; and
- (c) setting out all information and any quantifications relied upon in making the determination that the criteria are no longer met. O. Reg. 125/10, s. 4; O. Reg. 295/18, s. 5 (1).

(3) Subject to subsection (3.1), a record submitted under this section shall contain a certification signed by the highest ranking employee at the facility who has management responsibilities relating to the facility, stating the following:

As of *[insert date]*, I, *[insert name]*, certify that I have read the record created for the purposes of section 11.2 of Ontario Regulation 455/09 (General) made under the *Toxics Reduction Act, 2009* in respect of the use and creation of the toxic substance referred to below at *[insert name of facility]* and am familiar with its contents and to my knowledge it is factually accurate.

*[insert toxic substance]*

O. Reg. 214/11, s. 6.

(3.1) Records submitted under this section in respect of two or more toxic substance reduction plans for a facility may be contained in a single document and, if that is done, the certifications required by subsection (3) may be combined into a single certification stating the following:

As of [insert date], I, [insert name], certify that I have read the records created for the purposes of section 11.2 of Ontario Regulation 455/09 (General) made under the *Toxics Reduction Act, 2009* in respect of the use and creation of the toxic substances referred to below at [insert name of facility] and am familiar with their contents and to my knowledge they are factually accurate.

[insert list of toxic substances]

O. Reg. 214/11, s. 6.

(4) The Director shall make available to the public information contained in a record that is given to the Director under this section, other than the information and quantifications mentioned in clause (2) (c), by,

(a) posting the record on the Internet; and

(b) giving a copy of the record to a member of the public, upon written request. O. Reg. 125/10, s. 4.

(5) For the purposes of subsection (4), a signature in a certification may be redacted and replaced with an indication that the original was signed. O. Reg. 295/18, s. 5 (2).

**If s. 3 (1) of the Act applies again, fewer than 3 years elapsed**

**11.3** (1) This section applies to the owner and the operator of a facility if,

(a) they have been required to submit a record under section 11.2 in respect of a toxic substance; and

(b) subsection 3 (1) of the Act applies to them,

(i) in the calendar year in which they are required to submit the record, or

(ii) in the calendar year immediately following the calendar year mentioned in subclause (i). O. Reg. 125/10, s. 4.

(2) The owner and the operator mentioned in subsection (1) shall,

(a) ensure that a new plan is prepared as if it were the first plan prepared under the Act, if,

(i) the calendar year in which subsection 3 (1) of the Act applies is a year during which, had subsection 3 (1) of the Act never ceased to apply, a review under section 7 of the Act would have been required to be conducted in respect of the toxic substance reduction plan for the substance, or

(ii) the calendar year in which subsection 3 (1) of the Act applies is a year immediately following a year mentioned in subclause (i); or

(b) ensure that this Regulation is complied with as if there had been no interruption in the application of subsection 3 (1) of the Act, if the calendar year in which subsection 3 (1) of the Act applies is not a year described in subclause (a) (i) or (ii).

O. Reg. 125/10, s. 4.

**If s. 3 (1) of the Act applies again, 3 or more years elapsed**

**11.4** (1) This section applies to the owner and the operator of a facility if,

(a) they have been required to submit a record under section 11.2 in respect of a toxic substance; and

(b) subsection 3 (1) of the Act applies to them in any calendar year after the year in which the record was required to be submitted, unless subsection 11.3 (1) applies in that year. O. Reg. 125/10, s. 4.

(2) The owner and the operator mentioned in subsection (1) shall ensure that a new toxic substance reduction plan is prepared in respect of the calendar year in which subsection 3 (1) of the Act applies in accordance with this Regulation as if it were the first plan required to be prepared under this Regulation. O. Reg. 125/10, s. 4.

## TOXIC SUBSTANCE ACCOUNTING

### Toxic substance accounting, requirements

**12.** (1) Subject to section 13, for the purposes of section 9 of the Act, the owner and the operator of a facility shall determine the following in respect of the toxic substance:

1. The amount of the substance that enters a process as the substance itself or as a constituent of another substance.
2. The amount of the substance that is created.
3. The amount of the substance that is destroyed or transformed.
4. If the substance is a NPRI substance,
  - i. quantifications relating to its release, disposal and transfer that,
    - A. are required to be provided under the NPRI Notice, or
    - B. are determined through mass balance, published emission factors, site specific emission factors or engineering estimates, if no quantifications were required to be provided under the NPRI Notice, and
  - ii. the amount of the substance that is contained in product, other than a substance that is identified as a criteria air contaminant or a volatile organic compound in the NPRI Notice.
5. If the toxic substance is acetone, the calculations mentioned in subsection 4 (3) of Ontario Regulation 127/01 (Airborne Contaminant Discharge Monitoring and Reporting) made under the *Environmental Protection Act*. O. Reg. 125/10, s. 5.

(2) For the purposes of section 9 of the Act, the owner and the operator of a facility shall create the following records in respect of the toxic substance:

1. A record that describes,
  - i. every stage of the manufacturing operation at the facility that uses or creates the substance, and
  - ii. how each stage is divided into one or more processes that use or create the substance.
2. A record that includes process flow diagrams that,
  - i. give a visual representation of the movement of the substance through each process, including how it enters the process, whether it is created, destroyed or transformed during the process, how it leaves the process and what happens to it after it leaves the process, and
  - ii. show the relationships between the processes.
3. A record of the tracking and quantification of the substance for each calendar year in which section 9 of the Act applies in respect of the substance.
4. If the sum of the quantities of the substance that are used and created in a process in a calendar year does not approximately equal the sum of the quantities of the substance that are destroyed, transformed and leave the process, a record describing why the sums are not approximately equal.
5. A record that describes the method or combination of methods used to track and quantify the substance in each process and explains why the method or combination of methods was chosen. O. Reg. 455/09, s. 12 (2).

(3) In determining how many processes a stage of the manufacturing operation should be divided into for the purposes of subparagraph 1 ii of subsection (2), the owner and the operator of the facility shall ensure that a sufficient number of processes are identified for that stage to enable the owner and the operator to meet the requirements set out in section 9 of the Act and this section. O. Reg. 455/09, s. 12 (3).

(4) A process flow diagram mentioned in paragraph 2 of subsection (2) may specify the quantifications made under section 9 of the Act in respect of the toxic substance. O. Reg. 455/09, s. 12 (4).

(5) The record required under paragraph 4 of subsection (2) shall be completed on or before June 1 in the year following the calendar year in which the sums specified in that subsection do not approximately equal each other. O. Reg. 455/09, s. 12 (5).



(6) The owner and the operator of a facility shall ensure that for each process identified in the record mentioned in paragraph 1 of subsection (2), the best available method or combination of methods for tracking and quantifying the toxic substance is used, taking the following into consideration:

1. How the substance enters the process, what happens to it during the process, how it leaves the process and what happens to it after it leaves the process.
2. Industry standards.
3. Economic achievability of a method or combination of methods.
4. Continuous monitoring, predictive monitoring, source testing or sampling, mass balance, published emission factors, site-specific emission factors and engineering estimates.
5. Any methods required to be used for the purposes of meeting a requirement under federal, provincial or municipal law.  
O. Reg. 455/09, s. 12 (6).

(7) The method or combination of methods used for tracking and quantifying a toxic substance for a process shall not be changed unless,

- (a) the change is made in respect of the year during which a review is required to be conducted under section 7 of the Act;
- (b) the change is for the purposes of complying with a requirement under an Act, an Act of Canada or a municipal by-law; or
- (c) subject to subsection (7.1), the change,
  - (i) is made as a result of a recommendation provided by a toxic substance reduction planner under section 18.2, and
  - (ii) is made after the recommendation is provided and before June 1 in the year immediately following the year in which the recommendation was required to be obtained. O. Reg. 455/09, s. 12 (7); O. Reg. 214/11, s. 7 (1, 2).

(7.1) Clause (7) (c) does not apply if the recommendation is provided in respect of a new version of a plan prepared as a result of an amendment under section 5 of the Act. O. Reg. 214/11, s. 7 (3).

(8) If the method or combination of methods for tracking and quantifying a toxic substance is changed under subsection (7), the record created under paragraph 5 of subsection (2) shall be amended to describe the new method or combination of methods and the owner and the operator of the facility shall ensure that the change is reflected in the next version of the toxic substance reduction plan. O. Reg. 455/09, s. 12 (8).

#### **No accounting required for specified activities and things**

**13.** Section 9 of the Act does not apply in respect of amounts of a toxic substance that enter a process or are created, destroyed, transformed, released, disposed of, transferred or contained in product, if, under the NPRI Notice, the amounts are excluded from the determination of whether the criteria for reporting under the NPRI Notice are met. O. Reg. 125/10, s. 6.

**14., 15.** REVOKED: O. Reg. 125/10, s. 6.

## **TOXIC SUBSTANCE REDUCTION PLANS — CONTENTS**

### **Information to be used in preparing plan**

**15.1** If a toxic substance reduction plan is required by section 11.1 to be prepared in a year, the owner and the operator of the facility shall ensure that the plan is prepared using information contained in the report that is required by section 25 to be given to the Director on or before the NPRI compliance date, subject to subsection 30.1 (1), in that year. O. Reg. 214/11, s. 8; O. Reg. 295/18, s. 6.

### **Description of each process**

**16.** For the purposes of providing a description of each process at a facility, as required under paragraph 4 of subsection 4 (1) of the Act, a toxic substance reduction plan for a toxic substance shall include the records mentioned in paragraphs 1, 2 and 5 of subsection 12 (2). O. Reg. 455/09, s. 16.

### **Options for reducing use and creation**

**17. (1)** For the purposes of paragraph 5 of subsection 4 (1) of the Act, a toxic substance reduction plan for a toxic substance shall include the following:

1. Subject to paragraph 2 and subsection (2), at least one option identified for each of the following categories of toxic substance reduction methods:
    - i. Materials or feedstock substitution.
    - ii. Product design or reformulation.
    - iii. Equipment or process modification.
    - iv. Spill and leak prevention.
    - v. On-site reuse or recycling.
    - vi. Improved inventory management or purchasing techniques.
    - vii. Training or improved operating practices.
  2. If an option cannot be identified for a category listed in paragraph 1, an explanation of why no option could be identified for the category.
  3. For each option identified under paragraph 1,
    - i. estimates of the amount by which the use of the substance at the facility will be reduced, if the substance is used at the facility,
    - ii. estimates of the amount by which the creation of the substance at the facility will be reduced, if the substance is created at the facility,
    - iii. estimates of the amount by which the discharges of the substance to air, land or water will be reduced, if the substance is discharged to air, land or water, and
    - iv. estimates of the amount of the substance contained in product leaving the facility that will be reduced, if the substance is a NPRI substance other than a substance that is identified as a criteria air contaminant or a volatile organic compound in the NPRI Notice and is contained in product that leaves the facility.
  4. A list of the options that have been determined to be technically feasible.
  5. For each option that has been determined to be technically feasible, an analysis of the economic feasibility of the option, including any anticipated savings that could result from implementing the option and the anticipated payback period for the option.
  6. A list of the options that have been determined to be both technically and economically feasible. O. Reg. 455/09, s. 17 (1); O. Reg. 125/10, s. 8 (1).
- (2) For the purposes of paragraph 1 of subsection (1), an option may be identified only if,
- (a) the implementation of the option will not violate a provincial law, a federal law or a municipal by-law; and
  - (b) after considering the positive and negative impacts of the option on human health and the environment, the option will not result in greater negative impacts to human health or the environment. O. Reg. 455/09, s. 17 (2).
- (3) In creating a timetable for the purposes of subparagraph 7 ii of subsection 4 (1) of the Act, the owner and the operator of a facility shall ensure that the timetable includes anticipated timelines for achieving the estimated reductions of the use and creation of the toxic substance. O. Reg. 455/09, s. 17 (3).

(4) If an option described in paragraph 5 of subsection 4 (1) of the Act will be implemented, in addition to the estimates required under subparagraphs 7 iii, iv and v of subsection 4 (1) of the Act, a toxic substance reduction plan for a toxic substance that is a NPRI substance other than a substance that is identified as a criteria air contaminant or a volatile organic compound in the NPRI Notice shall include an estimate of the amount by which the substance contained in product leaving the facility will be reduced. O. Reg. 455/09, s. 17 (4); O. Reg. 125/10, s. 8 (2).

(5) In giving an estimate for the purposes of subparagraphs 7 iii, iv and v of subsection 4 (1) of the Act and this section, the owner and the operator of a facility shall ensure that,

- (a) the estimate is developed in good faith and using the best available information;
- (b) the estimate is calculated using the quantifications used to prepare the current version of the plan;
- (c) the information that formed the basis of each estimate and the method or combination of methods that was used to develop the estimate is set out in the current version of the plan; and
- (d) the estimate is expressed as a percentage and in the unit of measurement specified in section 31. O. Reg. 455/09, s. 17 (5).

#### **Other information**

**18.** (1) A toxic substance reduction plan for a toxic substance shall contain estimates of the direct and indirect annual costs related to the toxic substance being,

- (a) used or created at the facility;
- (b) released from the facility;
- (c) disposed of by the facility;
- (d) transferred from the facility; and
- (e) contained in product that leaves the facility, if it is a NPRI substance, other than a substance that is identified as a criteria air contaminant or a volatile organic compound in the NPRI Notice. O. Reg. 455/09, s. 18 (1); O. Reg. 125/10, s. 9.

(2) A toxic substance reduction plan for a toxic substance shall contain the following information:

1. The name of the substance and the Chemical Abstracts Service Registry number for the substance, if a number has been assigned.
2. The National Pollutant Release Inventory (NPRI) identification number for the facility.
3. The identification number assigned to the facility by the Ministry of the Environment for the purposes of Ontario Regulation 127/01 (Airborne Contaminant Discharge Monitoring and Reporting) made under the *Environmental Protection Act*, if one has been assigned.
4. The legal and trade names of the owner and the operator of the facility, the street address of the facility and, if the mailing address of the facility is different from the street address, the mailing address.
5. The number of full-time employee equivalents at the facility.
6. The six-digit NAICS Canada code for the facility.
7. If applicable, the name, position and telephone number of the individual who is the contact at the facility for the public.
8. If applicable, the name, position and telephone number of the individual who is the technical contact for the facility.
9. The name, position, and telephone number of the individual who is responsible for coordinating the preparation of the plan.
10. The name, position and telephone number of the person who prepared the plan, if that person is different from the person mentioned in paragraph 9.
11. The name, position and telephone number of the highest ranking employee at the facility who has management responsibilities relating to the facility and who is responsible for making a certification mentioned in section 19.
12. The email address of each person mentioned in paragraphs 7, 8, 9, 10 and 11.

12.1 The licence number of the toxic substance reduction planner who is responsible for making recommendations under section 18.2 or providing a written explanation under subsection 18.2 (5), as the case may be.

12.2 The licence number of the toxic substance reduction planner who is responsible for signing a certification mentioned in section 19.1.

13. The spatial coordinates of the facility expressed as latitude and longitude.

14. In respect of each person who is the Canadian parent company of the facility, if applicable,

i. the legal name of the person,

ii. the street and mailing address of the company, if different from the addresses mentioned in paragraph 4,

iii. if available, the company's percentage of ownership of the person responsible for ensuring a toxic substance reduction plan is prepared, and

iv. the business number assigned to the company by the Canada Revenue Agency. O. Reg. 455/09, s. 18 (2); O. Reg. 214/11, s. 9 (1, 2); O. Reg. 295/18, s. 7.

(3) A toxic substance reduction plan for a toxic substance shall include the record mentioned in paragraph 4 of subsection 12 (2), if such a record is required under that paragraph. O. Reg. 455/09, s. 18 (3).

(4) If a toxic substance reduction plan for a toxic substance contains a statement under paragraph 6 of subsection 4 (1) of the Act that no options will be implemented, the plan shall contain an explanation of why no options will be implemented. O. Reg. 214/11, s. 9 (3).

(5) A toxic substance reduction plan for a toxic substance shall include any recommendations, including the rationale for the recommendations, provided by a toxic substance reduction planner under section 18.2 and any written explanation provided under subsection 18.2 (5). O. Reg. 214/11, s. 9 (3).

**Owner and operator of facility shall ensure accuracy, etc., of plan**

**18.1** Before providing a draft copy of a toxic substance reduction plan to a toxic substance reduction planner as required under subsection 18.2 (1), the owner and the operator of a facility who are required under subsection 3 (1) of the Act to ensure that the plan is prepared shall ensure that,

(a) the information set out in the plan is factually accurate; and

(b) the plan contains all information required under the Act and this Regulation, other than,

(i) the information required under paragraphs 12.1 and 12.2 of subsection 18 (2),

(ii) the certifications mentioned in sections 19 and 19.1, and

(iii) anything required under subsection 18 (5). O. Reg. 214/11, s. 10; O. Reg. 295/18, s. 8.

**Recommendations by planner**

**18.2** (1) The owner and the operator of a facility who are required under subsection 3 (1) of the Act to ensure that a toxic substance reduction plan is prepared shall provide a draft copy of the plan to a toxic substance reduction planner for the purpose of obtaining recommendations with respect to the plan. O. Reg. 214/11, s. 10.

(2) The recommendations shall be provided for the purpose of improving all aspects of the plan, including,

(a) the potential for reducing the use and creation of the toxic substance at the facility; and

(b) the business rationale for implementing the plan. O. Reg. 214/11, s. 10.

(3) Recommendations made by the toxic substance reduction planner shall address any relevant issues that the toxic substance reduction planner identifies, including the following:

1. Whether improvements could be made in the expertise relied on in preparing the plan.
2. Whether improvements could be made in,
  - i. the data and methods used to make the determinations required under subsection 12 (1),
  - ii. the records prepared under paragraphs 1 and 2 of subsection 12 (2),
  - iii. the description in the record required under paragraph 4 of subsection 12 (2), and
  - iv. the description provided under subparagraph 4 i of subsection 4 (1) of the Act of why the substance is used or created.
3. Whether there are technically and economically feasible options for reducing the use and creation of the substance at the facility that have not been identified in the plan and that would result in reductions that are equal to or greater than those already identified in the plan.
4. Having regard to additional methods, the data and any other factors that the toxic substance reduction planner considers relevant, whether improvements could be made,
  - i. in the estimates of anticipated reduction under paragraph 3 of subsection 17 (1),
  - ii. in the determination of the technical feasibility of options under paragraph 4 of subsection 17 (1), and
  - iii. in the analysis of the economic feasibility of options under paragraph 5 of subsection 17 (1).
5. Whether improvements could be made in the estimates provided under subsection 18 (1).
6. Whether the steps and the timetable set out in the plan, as required under paragraph 7 of subsection 4 (1) of the Act, are likely to be achieved. O. Reg. 214/11, s. 10.

(4) Unless subsection (5) applies, the owner and operator of the facility shall ensure that the toxic substance reduction planner makes all recommendations with respect to the plan in writing and includes the rationale for his or her recommendations.  
O. Reg. 214/11, s. 10.

(5) The owner and the operator of the facility shall ensure that the toxic substance reduction planner provides a written explanation if the toxic substance reduction planner is of the opinion that no recommendations are necessary with respect to the matters listed in paragraphs 1 to 6 of subsection (3). O. Reg. 214/11, s. 10.

**Certification by highest ranking employee**

**19.** (1) Subject to subsection (2), the certification required by subsection 4 (2) of the Act shall state the following:

As of *[insert date]*, I, *[insert name]*, certify that I have read the toxic substance reduction plan for the toxic substance referred to below and am familiar with its contents, and to my knowledge the plan is factually accurate and complies with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09 (General) made under that Act.

*[insert toxic substance]*

O. Reg. 214/11, s. 11.

(2) If, under subsection 3 (2) of the Act, two or more toxic substance reduction plans for a facility are contained in a single document, the certifications required by subsection 4 (2) of the Act may be combined into a single certification stating the following:

As of *[insert date]*, I, *[insert name]*, certify that I have read the toxic substance reduction plans for the toxic substances referred to below and am familiar with their contents, and to my knowledge the plans are factually accurate and comply with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09 (General) made under that Act.

[insert list of toxic substances]

O. Reg. 214/11, s. 11.

**Certification by toxic substance reduction planner**

**19.1** (1) For the purposes of subsection 4 (3) of the Act, the person who signs a certification under that subsection shall be a toxic substance reduction planner. O. Reg. 214/11, s. 11.

(2) If a new version of a toxic substance reduction plan is created, the new version shall contain a new certification signed by a toxic substance reduction planner. O. Reg. 214/11, s. 11.

(3) Subject to subsection (4), the certification required by subsection 4 (3) of the Act shall state the following:

As of [insert date], I, [insert name] certify that I am familiar with the processes at [insert name of facility] that use or create the toxic substance referred to below, that I agree with the estimates referred to in subparagraphs 7 iii, iv and v of subsection 4 (1) of the *Toxics Reduction Act, 2009* that are set out in the plan dated [insert version date] and that the plan complies with that Act and Ontario Regulation 455/09 (General) made under that Act.

[insert toxic substance]

O. Reg. 214/11, s. 11.

(4) If, under subsection 3 (2) of the Act, two or more toxic substance reduction plans for a facility are contained in a single document, the certifications required by subsection 4 (3) of the Act may be combined into a single certification stating the following:

As of [insert date], I, [insert name] certify that I am familiar with the processes at [insert name of facility] that use or create the toxic substances referred to below, that I agree with the estimates referred to in subparagraphs 7 iii, iv and v of subsection 4 (1) of the *Toxics Reduction Act, 2009* that are set out in the toxic substance reduction plans referred to below for the toxic substances and that the plans comply with that Act and Ontario Regulation 455/09 (General) made under that Act.

[insert list of toxic substances, including, for each substance, the date of the plan to which the certification applies]

O. Reg. 214/11, s. 11.

**Certifications to be signed in same copy of plan**

**19.2** (1) The owner and the operator of a facility who are required under subsection 3 (1) of the Act to ensure that a toxic substance reduction plan is prepared shall ensure that the certifications mentioned in sections 19 and 19.1 are signed in the same copy of the plan and that, if the plan is subsequently revised, the certifications are signed in the same copy of the plan as revised. O. Reg. 214/11, s. 11.

(2) A certification mentioned in section 19 may be signed before or after a certification under section 19.1. O. Reg. 214/11, s. 11.

**AMENDMENT AND REVIEW OF PLAN**

**Amendment or review, new version of plan required**

**20.** (1) If a toxic substance reduction plan is amended under section 5 of the Act or reviewed under section 7 of the Act, the owner and the operator who were required to ensure the plan was prepared shall ensure that a new version of the plan is prepared to reflect all updated information. O. Reg. 455/09, s. 20 (1).

(2) If a review of a toxic substance reduction plan under section 7 of the Act is required to be conducted in a calendar year, the owner and the operator of the facility shall ensure that the new version of the plan is prepared on or before December 31 in that year. O. Reg. 455/09, s. 20 (2).

(3) The owner and the operator of a facility shall ensure that an amendment under section 5 of the Act or a review under section 7 of the Act is carried out in respect of the current version of a toxic substance reduction plan. O. Reg. 455/09, s. 20 (3).

(4) Subject to subsection (6), if a new version of a toxic substance reduction plan is created as a result of a review under section 7 of the Act, the new version shall contain a certification, signed by the highest ranking employee at the facility who has management responsibilities relating to the facility, stating the following:

I, *[insert name]*, certify that, during *[insert calendar year of review of plan]*, a review of the toxic substance reduction plan for the toxic substance referred to below was conducted in accordance with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09 (General) made under that Act. As of *[insert date]*, I also certify that I have read the toxic substance reduction plan dated *[insert version date]* for that substance and am familiar with its contents and to my knowledge this version of the plan is factually accurate and complies with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09.

*[insert toxic substance]*

O. Reg. 214/11, s. 12.

(5) Subject to subsection (7), if a new version of a toxic substance reduction plan is created and subsection (4) does not apply, the new version shall contain a certification, signed by the highest ranking employee at the facility who has management responsibilities relating to the facility, stating the following:

As of *[insert date]*, I, *[insert name]*, certify that I have read the toxic substance reduction plan dated *[insert version date]* for the toxic substance referred to below and am familiar with its contents and, to my knowledge, this version of the plan is factually accurate and complies with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09 (General) made under that Act.

*[insert toxic substance]*

O. Reg. 214/11, s. 12.

(6) If, under subsection 3 (2) of the Act, new versions of two or more toxic substance reduction plans for a facility are contained in a single document and subsection (4) applies to two or more of the plans, the certifications required by subsection (4) may be combined into a single certification stating the following:

I, *[insert name]*, certify that, during *[insert calendar year of review of plan]*, reviews of the toxic substance reduction plans for the toxic substances referred to below were conducted in accordance with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09 (General) made under that Act. As of *[insert date]*, I also certify that I have read the versions listed below of those toxic substance reduction plans and am familiar with their contents and to my knowledge those versions of the plans are factually accurate and comply with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09.

*[insert list of toxic substances, including, for each substance, the version date of the plan to which the certification applies]*

O. Reg. 214/11, s. 12.

(7) If, under subsection 3 (2) of the Act, new versions of two or more toxic substance reduction plans for a facility are contained in a single document and subsection (5) applies to two or more of the plans, the certifications required by subsection (5) may be combined into a single certification stating the following:

As of *[insert date]*, I, *[insert name]*, certify that I have read the versions referred to below of the toxic substance reduction plans for the toxic substances referred to below and am familiar with their contents and to my knowledge those versions of the plans are factually accurate and comply with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09.

*[insert list of toxic substances, including, for each substance, the version date of the plan to which the certification applies]*

**When review must be conducted**

**21.** (1) For the purposes of conducting a review of the current version of a toxic substance reduction plan under section 7 of the Act, the owner and the operator of a facility shall,

- (a) if the plan is required to be prepared on or before December 31, 2018, ensure that the plan is reviewed during 2019, during 2023 and during each subsequent fifth calendar year;
  - (b) if the plan is required to be prepared during the period beginning on January 1, 2019 and ending on December 31, 2022, ensure that the plan is reviewed during 2023 and during each subsequent fifth calendar year; or
  - (c) if the plan is required to be prepared on or after December 31, 2023, ensure that the plan is reviewed during the calendar year determined in accordance with subsection (2) and during each subsequent fifth calendar year. O. Reg. 295/18, s. 9.
- (2) For the purposes of clause (1) (c), the first calendar year during which the plan is required to be reviewed shall be determined by applying the following equation:

$$2023 + 5 (x + 1)$$

where,

$x = (y - 2023)/5$ , rounded down to the nearest whole number, and

$y$  = the year in which the plan was required to be prepared.

O. Reg. 295/18, s. 9.

(3) In addition to conducting a review required under subsection (1) and subject to subsection (4), the owner and the operator mentioned in subsection (1) shall ensure that the current version of a toxic substance reduction plan is reviewed during a calendar year if there was a significant process change at the facility during the previous calendar year. O. Reg. 455/09, s. 21 (3).

(4) Subsection (3) does not apply if the significant process change at the facility was a result of implementing one of the options identified in a statement included in the current version of the toxic substance reduction plan under paragraph 6 of subsection 4 (1) of the Act. O. Reg. 455/09, s. 21 (4).

(5) Despite subsections (1), (2) and (3), section 7 of the Act applies to the owner and the operator of a facility in a calendar year in respect of a toxic substance reduction plan only if subsection 3 (1) of the Act applied to them during the previous calendar year in respect of the toxic substance. O. Reg. 125/10, s. 10.

(6) REVOKED: O. Reg. 125/10, s. 10.

**Review of plan, requirements for new version of plan**

**22.** (1) On a review of a toxic substance reduction plan required under section 7 of the Act, the owner and the operator who are required under section 20 to ensure that a new version of the plan is prepared shall ensure that the new version of the plan, in addition to meeting all other requirements for a toxic substance reduction plan under the Act and this Regulation, includes the following:

1. If a statement mentioned in paragraph 1 of subsection 4 (1) of the Act was not included in the current version of the plan and will not be included in the new version of the plan, a statement as to whether the reasons for not including the statement in the current version of the plan remain valid and, if not, the new reasons for not including such a statement in the new version of the plan.
2. If a statement mentioned in paragraph 1 of subsection 4 (1) of the Act was included in the current version of the plan and, due to any change in circumstances at the facility, is not included in the new version of the plan, an explanation of the reasons for not including a statement, including information concerning whether the exclusion of such a statement is the result of the successful implementation of an option to reduce the use or creation of the toxic substance.



3. An update of the objectives that were contained in the current version of the plan for reducing the use or creation of the toxic substance, including information explaining the reasons for any changes to the objectives in the new version of the plan and why an objective in the current version of the plan is no longer valid or requires revision.
4. Any update of the records created under paragraphs 1, 2 and 5 of subsection 12 (2) in the current version of the plan that is necessary to ensure the records are accurate and complete.
5. Any update of the description of each process at the facility contained in the current version of the plan that is necessary to ensure the description is accurate and complete.
6. An update of the description and analysis of options set out in paragraphs 1 to 6 of subsection 17 (1) that were included in the current version of the plan for reducing the use and creation of the toxic substance at the facility.
7. An update of the estimates made for the purposes of subparagraphs 7 iii, iv and v of subsection 4 (1) of the Act and subsection 17 (4) of this Regulation, based on quantities for the most recently completed calendar year.
8. Any update of the timetable created for the purposes of subparagraph 7 ii of subsection 4 (1) of the Act included in the current version of the plan that is necessary to ensure that the timetable is accurate and complete.
9. Any update of the estimates of annual costs associated with the toxic substance as set out in the current version of the plan under subsection 18 (1) that is necessary to ensure the estimates are accurate.
10. The correction of any errors in the current version of the plan, including any errors previously reported to the Director in accordance with section 29. O. Reg. 214/11, s. 13.

(2) REVOKED: O. Reg. 295/18, s. 10.

## SUMMARY OF PLAN

### When summary must be prepared

**23.** (1) The owner and the operator of a facility shall ensure that a summary required to be prepared under section 8 of the Act is prepared in respect of the first version of a toxic substance reduction plan and in respect of each new version of the plan prepared as a result of an amendment under section 5 of the Act or a review under section 7 of the Act. O. Reg. 455/09, s. 23 (1).

(2) The owner and the operator of a facility shall ensure that a summary of a toxic substance reduction plan mentioned in subsection (1) is given to the Director, made available to the public on the Internet and given to a member of the public upon written request, subject to subsection 30.1 (2),

(a) in the case of a summary of the first version of the plan, on or before the day that the plan is required to be prepared; or

(b) in the case of a summary of a version of a plan other than the first version,

(i) within 30 days after the new version of the plan is prepared, if the new version is prepared as a result of an amendment to the plan under section 5 of the Act, or

(ii) on or before December 31 in the year in which the plan is required to be reviewed, if the new version is prepared as a result of a review under section 7 of the Act. O. Reg. 455/09, s. 23 (2); O. Reg. 295/18, s. 11 (1).

(3) The owner and the operator of a facility shall ensure that no later than five days after the day that a summary is made available to the public under subsection (2), notice is given to all employees of the facility regarding the summary. O. Reg. 455/09, s. 23 (3); O. Reg. 295/18, s. 11 (2).

(4) The owner and the operator of a facility shall ensure that the summary remains available to the public on the Internet until a summary of a new version of the plan is made available to the public on the Internet under this section. O. Reg. 295/18, s. 11 (3).

### Contents of summary

**24.** (1) For the purposes of section 8 of the Act, a summary of the current version of a toxic substance reduction plan for a toxic substance shall contain the following:

1. The information set out in subsection 18 (2) of this Regulation, except for the information mentioned in paragraphs 8, 9, 10, 11 and 12 of that subsection and the business number mentioned in subparagraph 14 iv of that subsection.

2. The name of all other toxic substances used or created at the facility for which plans are required to be prepared under subsection 3 (1) of the Act.
3. If a statement mentioned in paragraph 1 of subsection 4 (1) of the Act is included in the plan, a copy of the statement, and if no statement is included, the reasons referred to in paragraph 2 of subsection 4 (1) of the Act.
4. A description of why the toxic substance is used or created at the facility.
5. For the purposes of paragraph 2 of subsection 8 (2) of the Act, a description of any options to be implemented, as identified in the current version of the plan, and, for each of those options, the estimates set out in the plan in accordance with subparagraphs 7 iii to v of subsection 4 (1) of the Act and subsection 17 (4) of this Regulation.
6. The anticipated timelines for achieving the estimated reductions of the use and creation of the toxic substance.
7. The statement under paragraph 6 of subsection 4 (1) of the Act that no options will be implemented and a copy of the explanation required under subsection 18 (4) of why no options will be implemented, if the plan contains such a statement.
8. A statement that the summary accurately reflects the current version of the plan. O. Reg. 455/09, s. 24 (1); O. Reg. 214/11, s. 14.

(2) A summary of the current version of a toxic substance reduction plan may contain a description of any actions that the owner or the operator of the facility has taken to reduce the use and creation of the toxic substance at the facility. O. Reg. 455/09, s. 24 (2).

(3) A summary of the current version of a toxic substance reduction plan may contain a rationale for why the options mentioned in paragraph 5 of subsection (1) were selected for implementation. O. Reg. 455/09, s. 24 (3).

(4) A signature in a copy of a certification that is included in a summary of a toxic substance reduction plan may be redacted and replaced with an indication that the original was signed. O. Reg. 295/18, s. 12.

## REPORT

### When report must be prepared

**25.** (1) For the purposes of section 10 of the Act, the owner and the operator of a facility shall ensure that on or before the NPRI compliance date, subject to subsection 30.1 (1), in each year a report is,

- (a) prepared in respect of the current version of a toxic substance reduction plan that is required to be prepared; and
- (b) given to the Director. O. Reg. 455/09, s. 25; O. Reg. 125/10, s. 11 (1); O. Reg. 295/18, s. 13.

(2) Section 10 of the Act applies to the owner and the operator of a facility in a calendar year in respect of a toxic substance reduction plan only if subsection 3 (1) of the Act applied to them during the previous calendar year in respect of the toxic substance. O. Reg. 125/10, s. 11 (2).

### Contents of report

**26.** (1) The owner and the operator of a facility shall ensure that a report prepared in respect of a toxic substance reduction plan for a toxic substance under section 10 of the Act contains the following information:

1. The information set out in subsection 18 (2), other than the information mentioned in paragraphs 9, 10, 12.1 and 12.2 of that subsection.
2. The name of all other toxic substances used or created at the facility for which plans are required to be prepared under subsection 3 (1) of the Act.
3. If the report is prepared by a person other than the owner or the operator of the facility, the name and address of the person who prepared the report.
- 4., 5. REVOKED: O. Reg. 214/11, s. 15 (2).
6. A statement of whether any incident out of the normal course of events occurred at the facility during the previous calendar year and whether the incident affected the results of tracking and quantification of the substance and, if so, an explanation of how.

7. On a facility-wide basis, the results of the determinations mentioned in subsection 12 (1), other than the determination mentioned in paragraph 3 of subsection 12 (1). O. Reg. 455/09, s. 26 (1); O. Reg. 214/11, s. 15 (1, 2).

(2) The owner and the operator of a facility shall ensure that a report other than the first report prepared in respect of a toxic substance reduction plan for a toxic substance contains the following information in addition to the information required under subsection (1):

0.1 The information mentioned in paragraphs 9 and 10 of subsection 18 (2).

0.2 A statement of whether there has been a change in the method or combination of methods used to track and quantify the toxic substance during the previous calendar year and, if there has been a change, a description of the change, the reason for the change and how the change impacts tracking and quantification of the substance.

0.3 A statement of whether there has been a significant process change at the facility during the previous calendar year.

1. A comparison of the results mentioned in paragraph 7 of subsection (1) to the results reported for the most recent calendar year for which a report has been submitted under section 10 of the Act, expressed as a percentage and in the units of measurement specified in section 31.

2. If the comparison mentioned in paragraph 1 indicates a change in the quantification of the substance between calendar years, an explanation of the reasons for the change.

3. The objectives set out in the current version of the plan, including any targets for reducing the use and creation of the substance at the facility.

4. For each option identified under paragraph 6 of subsection 4 (1) of the Act in the current version of the plan,

i. a description of the steps described in the plan under subparagraph 7 i of subsection 4 (1) of the Act that were taken during the previous calendar year to implement the option,

ii. the amount of reduction in the use, creation and discharge to air, land or water of the substance at the facility during the previous calendar year that resulted due to the steps mentioned in subparagraph i,

iii. if the substance is a NPRI substance other than a substance that is identified as a criteria air contaminant or a volatile organic compound in the NPRI Notice, the amount of reduction in the substance contained in product at the facility during the previous calendar year that resulted due to the steps mentioned in subparagraph i, and

iv. an indication of whether the timelines set out in the timetable created for the purposes of subparagraph 7 ii of subsection 4 (1) of the Act and included in the current version of the plan will be met.

5. For any actions in addition to the steps mentioned in subparagraph 4 i that were taken during the previous calendar year to achieve the plan's objectives, including any targets specified in the plan,

i. a description of the additional actions,

ii. if applicable, the amount of reduction in the use, creation and discharge to air, land or water of the substance at the facility during the previous calendar year that resulted due to the actions mentioned in subparagraph i, and

iii. if applicable and if the substance is a NPRI substance other than a substance that is identified as a criteria air contaminant or a volatile organic compound in the NPRI Notice, the amount of reduction in the substance contained in product at the facility during the previous calendar year that resulted due to the actions mentioned in subparagraph i.

6. A comparison of the steps described under subparagraph 4 i and the steps described in the plan under subparagraph 7 i of subsection 4 (1) of the Act. O. Reg. 455/09, s. 26 (2); O. Reg. 125/10, s. 12; O. Reg. 214/11, s. 15 (3).

(2.1) REVOKED: O. Reg. 295/18, s. 14.

(3) Subject to subsection (4), a report prepared for the purposes of section 10 of the Act shall contain a certification, signed by the highest ranking employee at the facility who has management responsibilities relating to the facility, stating the following:

As of [insert date], I, [insert name], certify that I have read the report on the toxic substance reduction plan for the toxic substance referred to below and am familiar with its contents, and to my knowledge the information contained in the report is factually accurate and the report complies with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09 (General) made under that Act.

[Insert the toxic substance]

O. Reg. 214/11, s. 15 (5).

(4) Reports on two or more toxic substance reduction plans for a facility may be contained in a single document and, if that is done, the certifications required by subsection (3) may be combined into a single certification stating the following:

As of [insert date], I, [insert name], certify that I have read the reports on the toxic substance reduction plans for the toxic substances referred to below and am familiar with their contents, and to my knowledge the information contained in the reports is factually accurate and the reports comply with the *Toxics Reduction Act, 2009* and Ontario Regulation 455/09 (General) made under that Act.

[insert list of toxic substances]

O. Reg. 214/11, s. 15 (5).

#### **Information to be made available to public**

**27.** (1) For the purposes of subsection 10 (4) of the Act, the owner and the operator of a facility shall ensure that the following information contained in a report prepared under section 10 of the Act is given to a member of the public upon written request and, on or before December 31 of the year in which the report is required to be prepared, made available to the public on the Internet:

1. The information referred to in paragraph 1 of subsection 26 (1), except for the information mentioned in paragraphs 8, 9, 10, 11 and 12 of subsection 18 (2) and the business number mentioned in subparagraph 14 iv of that subsection.
2. The information referred to in paragraphs 2 and 7 of subsection 26 (1).
3. The information referred to in paragraph 1 of subsection 26 (2).
4. A summary of the reasons referred to in paragraph 2 of subsection 26 (2).
5. The information referred to in paragraph 3 of subsection 26 (2).
6. A summary of the information referred to in paragraphs 4, 5 and 6 of subsection 26 (2).
7. A summary of any descriptions included in the report under clause 10 (2) (b) (iii) of the Act.
8. A copy of the certification prepared in respect of the report under subsection 26 (3) or (4). A signature in the copy may be redacted and replaced with an indication that the original was signed. O. Reg. 455/09, s. 27 (1); O. Reg. 214/11, s. 16; O. Reg. 295/18, s. 15 (1, 2).

(2) For the purposes of paragraph 2 of subsection (1), if the Director specifies ranges within which information mentioned in paragraph 7 of subsection 26 (1) may be expressed and the owner and the operator of a facility choose to express the information in a range, the owner and the operator shall express that information in the range specified by the Director. O. Reg. 455/09, s. 27 (2).

(3) For the purpose of subsection (2), the Director may specify ranges having regard to the class of facility, the number of employees at the facility and the toxic substance used, created or contained in product. O. Reg. 455/09, s. 27 (3).

(4) The owner and the operator of a facility shall ensure that no later than five days after the day that the information mentioned in subsection (1) is made available to the public, notice is given to all employees of the facility regarding the provision of the information to the public. O. Reg. 455/09, s. 27 (4); O. Reg. 295/18, s. 15 (3).

(5) The owner and the operator of a facility shall ensure that the information set out in subsection (1) in respect of a report remains available to the public on the Internet until information set out in subsection (1) in respect of a subsequent report is made available to the public on the Internet under this section. O. Reg. 295/18, s. 15 (4).

(6) The Director may, for the purposes of subsection 10 (5) of the Act, make available to the public some or all of the information set out in subsection (1) by,

(a) posting it on the Internet; and

(b) giving it to a member of the public, upon written request. O. Reg. 295/18, s. 15 (4).

## TOXIC SUBSTANCE REDUCTION PLANNERS

### Application for and issuance of licence

**27.1** (1) An individual may apply to the Director for the issuance of a toxic substance reduction planner's licence in a form approved or provided by the Director. O. Reg. 214/11, s. 17.

(2) The Director shall, subject to section 27.4, issue a licence to an applicant if the applicant has submitted the fee established by the Minister for the issuance of the licence and has submitted documentary evidence to the satisfaction of the Director verifying that the applicant satisfies the following requirements:

1. The applicant,

i. holds a Bachelor's degree, Master's degree or doctoral degree in a field mentioned in subsection (3) and has at least four years of full-time work experience, or the equivalent in part-time hours, in at least one of the areas mentioned in paragraph 1 or 2 of subsection (4),

ii. holds a college diploma in a field mentioned in subsection (3) and has at least six years of full-time work experience, or the equivalent in part-time hours, in at least one of the areas mentioned in paragraph 1 or 2 of subsection (4), or

iii. has at least eight years of full-time work experience, or the equivalent in part-time hours, in the areas mentioned in subsection (4), with at least two years of the experience being in an area mentioned in paragraph 1 of subsection (4) and at least two years of the experience being in one or more operational activities that qualify under paragraph 2 of subsection (4).

2. Within the 12-month period before submitting the application, the applicant completed a course approved by the Director.

3. Within the 12-month period before submitting the application, the applicant obtained the passing mark specified by the Director in an examination approved by the Director. O. Reg. 214/11, s. 17.

(3) The following fields apply for the purposes of subsection (2):

1. Biology.

2. Business administration.

3. Chemistry.

4. Engineering.

5. Environmental management.

6. Environmental science.

7. Environmental technology.

8. Geology.
9. Metallurgy.
10. Mineral processing.
11. Occupational health and safety.
12. Physics.
13. Quality control.
14. Toxicology.
15. A field that, in the opinion of the Director, is equivalent to any of the fields set out in paragraphs 1 to 14. O. Reg. 214/11, s. 17.

(4) The following areas apply for the purposes of subsection (2):

1. Environmental management, including,
  - i. compliance with environmental regulations,
  - ii. environmental management system development and implementation,
  - iii. pollution prevention plan development and implementation, and
  - iv. reporting under NPRI Notices.
2. Operational activities in any of the following areas, carried out at a facility referred to in subsection 4 (2):
  - i. Business administration.
  - ii. Engineering.
  - iii. Industrial design.
  - iv. Management.
  - v. Occupational health and safety.
  - vi. Planning.
  - vii. Process control.
  - viii. Quality control.
  - ix. Research and development. O. Reg. 214/11, s. 17.

(5) The documentary evidence required under subsection (2) shall be submitted in a form approved or provided by the Director. O. Reg. 214/11, s. 17.

(6) An applicant for a toxic substance reduction planner's licence or a holder of a toxic substance reduction planner's licence shall notify the Director in a form approved or provided by the Director of any change in his or her contact information within 30 days after the effective date of the change. O. Reg. 214/11, s. 17.

#### **Expiration and renewal of licence**

**27.2** (1) Subject to subsection (2), a licence expires five years after the day it is issued. O. Reg. 214/11, s. 17.

(2) Upon receipt of a request from the holder of a licence, the Director may extend the expiry date of the licence for a period not exceeding 90 days and shall provide written notice of the extension to the holder. O. Reg. 214/11, s. 17.

(3) The holder of a licence may apply to the Director for the renewal of the licence in a form that is approved or provided by the Director, if the application is made before the licence expires. O. Reg. 214/11, s. 17.

(4) If an application for renewal of a licence is received before the licence expires, the Director shall, subject to section 27.4, renew the licence if,

(a) during the term of the licence that is expiring, the holder of the licence obtains at least 60 professional development credits in accordance with subsection (5), at least 30 of which are for educational courses that satisfy the requirements of paragraph 1 of subsection (5); and

(b) the holder pays the fee established by the Minister for the renewal of the licence. O. Reg. 214/11, s. 17.

(5) A holder of a licence may obtain professional development credits in one or more of the following ways:

1. The holder may obtain one professional development credit for each hour he or she spends in taking an educational course in a field or area mentioned in subsection 27.1 (3) or (4),

i. that relates to one or more functions performed by a toxic substance reduction planner in complying with the Act and this Regulation or in preparing toxic substance reduction plans, and

ii. that, in the opinion of the Director, contributes to improving the holder's professional knowledge and ability to perform his or her functions as a toxic substance reduction planner.

2. The holder may obtain one professional development credit for each hour he or she engages in teaching or making educational presentations at an academic institution or conference, or in another training setting, in one or more fields or areas mentioned in subsections 27.1 (3) or (4), if, in the opinion of the Director, this activity contributes to improving the holder's professional knowledge and ability to perform his or her functions as a toxic substance reduction planner.

3. The holder may obtain two professional development credits for each paper or article relating to one or more fields or areas mentioned in subsections 27.1 (3) or (4) that he or she writes and has published in a publication acceptable to the Director, to a maximum of 10 professional development credits during each term of the holder's licence, if, in the opinion of the Director, writing the paper or article contributes to improving the holder's professional knowledge and ability to perform his or her functions as a toxic substance reduction planner.

4. The holder may obtain five professional development credits for preparing a toxic substance reduction plan or performing one or more functions of a toxic substance reduction planner under section 18.2 or 19.1, but shall not obtain more than five professional development credits in respect of the same toxic substance reduction plan or version of the plan.

O. Reg. 214/11, s. 17.

#### **Replacement licences**

**27.3** The Director shall issue a replacement licence to a holder of a licence if the fee established by the Minister for a replacement licence is paid and,

(a) the licence has been lost or destroyed; or

(b) the licence holder's name has changed and the original licence has been returned to the Director. O. Reg. 214/11, s. 17.

#### **Refusal to issue, renew, etc.**

**27.4** The Director may refuse to issue or renew a licence and may suspend or revoke a licence if,

(a) the application for the issuance or renewal of the licence, or any previous application, contains information that is inaccurate or that the applicant knew to be false at the time the application was made; or

(b) the applicant or licence holder, as the case may be, has been convicted of an offence under the Act. O. Reg. 214/11, s. 17.

**Notice of intended action**

**27.5** (1) This section applies if the Director intends to,

- (a) refuse to issue a licence;
- (b) refuse to renew a licence;
- (c) suspend a licence; or
- (d) revoke a licence. O. Reg. 214/11, s. 17.

(2) Before taking an action described in clause (1) (a), (b), (c) or (d), the Director shall give written notice of the Director's intended action to the applicable applicant or holder of the licence. O. Reg. 214/11, s. 17.

(3) Upon receipt of a notice under subsection (2), the applicant or holder may, within seven days after receiving the notice, give the Director written comments to consider before making a final decision. O. Reg. 214/11, s. 17.

(4) If, after considering any comments received from the applicant or holder, the Director makes a final decision to refuse to issue or renew the licence or to suspend or revoke the licence, the Director shall serve a written notice of the final decision, together with the reasons for his or her decision, on the applicant or holder. O. Reg. 214/11, s. 17.

**Appeals re licence**

**27.6** (1) Subject to subsection (8), a person may, by written notice served on the Director and the Tribunal, require a hearing by the Tribunal with respect to the Director's final decision under section 27.5 to,

- (a) refuse to issue a licence to the person;
- (b) refuse to renew the person's licence;
- (c) suspend the person's licence; or
- (d) revoke the person's licence. O. Reg. 214/11, s. 17.

(2) The written notice under subsection (1) shall be served on the Director and the Tribunal within 15 days after the notice of the final decision is served on the person under section 27.5. O. Reg. 214/11, s. 17.

(3) Sections 33, 34, 36, 37 and 39 of the Act apply, with necessary modifications, to an appeal of a decision under this section. O. Reg. 214/11, s. 17.

(4) The commencement of a proceeding before the Tribunal in respect of a hearing required under subsection (1) does not stay the operation of the Director's decision. O. Reg. 214/11, s. 17.

(5) The Tribunal may, on the application of a party to a proceeding before it in respect of a hearing required under subsection (1), stay the operation of the Director's decision. O. Reg. 214/11, s. 17.

(6) A party to a proceeding in respect of a hearing required under subsection (1) may apply for the removal of a stay that was granted under subsection (5) if relevant circumstances have changed or have become known to the party since the stay was granted, and the Tribunal may grant the application. O. Reg. 214/11, s. 17.

(7) A person who is made a party to a proceeding in respect of a hearing required under subsection (1) after a stay is granted under subsection (5) may, at the time the person is made a party, apply for the removal of the stay, and the Tribunal may grant the application. O. Reg. 214/11, s. 17.

(8) This section does not apply if the person referred to in subsection (1) requested or consented to the Director's decision to refuse to issue or renew the licence or to suspend or revoke the licence. O. Reg. 214/11, s. 17.

**MISCELLANEOUS****Documents and records, retention**



**28.** (1) The owner and the operator of a facility shall retain at the facility every document and record that they create or acquire for the purposes mentioned in subsection (2) for a period of at least seven years after the date that the document or record is created or acquired or, if the document or record is required to be certified, after the date the document or record is certified. O. Reg. 455/09, s. 28 (1).

(2) The purposes mentioned in subsection (1) are the following:

1. Preparing a toxic substance reduction plan in accordance with section 4 of the Act.
2. Amending a toxic substance reduction plan in accordance with section 5 of the Act.
3. Reviewing a toxic substance reduction plan in accordance with section 7 of the Act.
4. Preparing a summary of a toxic substance reduction plan in accordance with section 8 of the Act.
5. Tracking and quantifying a toxic substance in accordance with section 9 of the Act.
6. Preparing a report in accordance with section 10 of the Act. O. Reg. 455/09, s. 28 (2).

(3) The owner and the operator of a facility shall retain at the facility each version of a toxic substance reduction plan that has been prepared under the Act for a period of at least seven years after the date the version of the plan is certified in accordance with subsection 4 (2) of the Act. O. Reg. 455/09, s. 28 (3).

#### **Notice of errors and change of ownership**

**29.** (1) Subject to subsection (2), the owner and the operator of a facility shall, within 30 days after becoming aware of an error or inaccuracy in a document mentioned in subsection (3), notify the Director of the error or inaccuracy and submit the corrected information. O. Reg. 455/09, s. 29 (1).

(2) The owner and the operator of a facility may apply in writing to the Director for an extension of the time limit set out in subsection (1) and the Director may specify an extended time limit if, in the opinion of the Director, the extended time limit is necessary to correct the error or inaccuracy. O. Reg. 455/09, s. 29 (2); O. Reg. 214/11, s. 18.

(3) The documents referred to in subsection (1) are the following:

1. A summary prepared under section 8 of the Act.
2. A report prepared under section 10 of the Act.
3. A record submitted to the Director under section 9 or section 11.2 of this Regulation. O. Reg. 455/09, s. 29 (3); O. Reg. 125/10, s. 13.

(4) If there is a change in the owner or the operator of a facility, the new owner or operator of the facility shall notify the Director in writing of the change within 30 days after the change. O. Reg. 455/09, s. 29 (4).

#### **Fees relating to licences**

**29.1** The Minister may establish fees to be paid for,

- (a) the course mentioned in paragraph 2 of subsection 27.1 (2);
- (b) the examination mentioned in paragraph 3 of subsection 27.1 (2);
- (c) the issuance of a licence;
- (d) the renewal of a licence;
- (e) the replacement of a licence. O. Reg. 214/11, s. 19.

#### **Electronic filing**

**30.** If the Act or this Regulation requires or permits the submission to the Director or the giving to the Director of a summary, notice, record or report, the summary, notice, record or report must be in an electronic form provided by or approved by the Director. O. Reg. 295/18, s. 16.

#### **Extensions of time**

**30.1** (1) The due date in respect of a calendar year for submitting a record under clause 9 (2) (b), for submitting a record under subsection 11.2 (2) and for giving a report under clause 25 (1) (b) is extended for an owner and an operator who was granted an extension under subsection 46 (6) of the *Canadian Environmental Protection Act, 1999* in respect of that calendar year to the date to which they were granted the extension if all of the following conditions are met:

1. The owner or the operator of the facility emails the Director a copy of a document from the minister of the Crown in right of Canada who is responsible for subsection 46 (6) of the *Canadian Environmental Protection Act, 1999*.
2. The document referred to in paragraph 1 shows that the extension was granted to the owner and the operator of the facility.
3. The document referred to in paragraph 1 shows the date to which the extension was granted.
4. The email is sent on or before the date on which the record or report would otherwise be due. O. Reg. 295/18, s. 16.

(2) The Director may extend the due date under subsection 23 (2) for the owner and the operator of a facility to ensure that a summary is given to the Director, made available to the public on the Internet and given to a member of the public upon written request, if all of the following conditions are met:

1. The provider of the electronic form referred to in section 30 is experiencing technical difficulties in providing the form.
2. The technical difficulties prevent the owner and the operator from giving the summary to the Director on or before the due date.
3. The owner or the operator requests the extension in writing on or before the due date.
4. The request explains how the technical difficulties prevent the owner and the operator from giving the summary to the Director on or before the due date.
5. The request includes whatever information is available from the provider of the form about when the technical difficulties will be resolved. O. Reg. 295/18, s. 16.

(3) There is no limit on how many extensions may be received under this section. O. Reg. 295/18, s. 16.

#### **Unit of measurement, information for public or Director**

**31.** If the owner or the operator of a facility is required by the Act or this Regulation to make any information related to a toxic substance available to the public or to give any information related to a toxic substance to the Director, the owner or the operator shall, in making the information available or giving the information, use,

- (a) the unit of measurement required to be used when tracking or reporting on the toxic substance for the purposes of the NPRI Notice, if the substance is a NPRI substance; and
- (b) tonnes, if the toxic substance is acetone. O. Reg. 455/09, s. 31; O. Reg. 125/10, s. 14.

**32.** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 455/09, s. 32.

TABLE A REVOKED: O. REG. 304/17, S. 2.