

April 18, 2017

Transmission by email: publichealth@toronto.ca

Dear Toronto Public Health,

Re: Response to "Discussion Document" Proposal: Dry Cleaning Solvent Disclosure Program

About the Canadian Environmental Law Association (CELA)

The Canadian Environmental Law Association (CELA) is a legal aid clinic providing direct representation and legal services to low income and vulnerable Ontario communities. We also undertake law reform, public legal education and community development work that advances protection of the environment and human health. CELA has extensive involvement at all levels of society in promoting regulatory regimes that advance right to know programs. CELA actively supported and engaged in the development of Toronto's Environmental Reporting and Disclosure Bylaw (Municipal Code Chapter 423). The efforts to implement Toronto's bylaw has been instrumental in highlighting the importance of data on chemicals and their associated impacts to the environment and human health.

One of our main priorities is promoting government regimes that outline the human health impact of toxic substances. CELA is submitting brief comments in response to the "Discussion Document" Proposal: Dry Cleaning Solvent Disclosure Program as well as the City of Toronto's proposal for a dry cleaner solvent point of sale disclosure program.

CELA expresses its support for the City of Toronto's proposal for a point of sale display program for dry cleaners. It builds on the City's Environmental Reporting and Disclosure Bylaw and is an important step toward informing the public about chemicals that they are exposed to from dry cleaning processes and the potential health and environmental impacts associated with these chemicals.

Some of the chemicals used in the drycleaning process have been designated as toxic by the federal government, including tetrachloroethylene (PERC). Currently, there are two regulations focused on managing tetrochloroethylene including Tetrachloroethylene (Use in Dry Cleaning and Reporting Requirements) Regulations (SOR/2003-79), which aims to "reduce releases of tetrachloroethylene to the environment from dry-cleaning facilities.¹ These reductions will be attained by requiring newer, more efficient dry-cleaning machines, by minimizing spills of tetrachloroethylene, and by managing the collection and disposal of residues and waste." There is evidence that perc continues to be released into the environment creating a source of exposure to workers as well as to consumers. There are a number of other chemicals now used by

¹See: Tetrachloroethylene (Use in Dry Cleaning and Reporting Requirements) Regulations (SOR/2003-79). <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2003-79/index.html>

drycleaning including N propyl bromide, siloxane, propylene glycol ethers, and acetal. Some of these chemicals have yet to be fully assessed for their risk to the environment or human health while N propyl bromide is known to be hazardous to human health both in the short and long term. Despite some measures applied to chemicals used in drycleaning, the City of Toronto's proposed disclosure program appropriately acknowledges that "[s]ome of the solvents (chemicals) used by dry cleaners are a concern for public health because of their environmental and health impacts." The proposed disclosure program offers an opportunity to inform and raise awareness for the public, consumers and drycleaning operators related to the chemicals used in these operations.

Signage Options

We offer the following comments with this proposal related to the signage options.

Purpose of Posting

The document states that "the purpose of posting is to provide information about the solvents used in dry cleaning and possibly the potential health and environmental risks associated with the solvents". The potential health and environmental risks are not adequately demonstrated if the requirement for information is restricted to listing of chemicals used in the drycleaning process. Rather, CELA is of the position that the City's proposal should definitely (not "possibly") provide information to the public about the health and environmental impacts associated with solvents. The general public does not know the risks associated with certain chemicals and therefore listing only the names of chemicals (as in Option 1) would be nearly irrelevant. This is an opportunity to inform the public at the point of sale on the health risks associated with chemicals used in the drycleaning process. We prefer Option 2, not only because the health and environmental effects are listed, but because the red, yellow, and green colour coding is easily understandable.

Concerns with Labelling Carbon Dioxide as a Green Option

However, carbon dioxide being listed as the green option could be reconsidered. It will likely be mistaken by customers as the option they should look for, yet there are no dry cleaners using this option in Toronto. The green alternative being promoted by the City is wet cleaning, not carbon dioxide for dry cleaning. We propose that the carbon dioxide option could be removed from Option 2 and wet cleaning be listed in green in a separate category (not in the list of dry cleaning solvents). This would eliminate the need for two signs (Option 4) and include the intent of Option 3. Isolating professional wet cleaning signage from the other sign listing dry cleaning solvents misses an important educational opportunity about the safe alternatives available.

Limitations with Option 3

Option 3 as presented will likely be very confusing to customers because "environmentally friendly" is not a regulated term and dry cleaners can make the same unsubstantiated claim. The Option 3 "environmentally friendly" sign that is meant to be used only for cleaners using professional wet cleaning, does nothing to counteract the misinformation of other existing signs used by dry cleaners that claim the same thing. If a cleaner is claiming to offer professional wet cleaning, they must be able to demonstrate that they meet the minimum criteria (specialized detergents and specialized cleaning, drying and finishing equipment) and this should be vetted by

a government official, business association or other expert in this sector. Wet cleaning is not easily recognized by consumers, and therefore it is not yet known by the general public to be equivalent to dry cleaning in its efficacy. Referencing "wet cleaning" without a definition to accompany it will be problematic and poses too many opportunities for misleading consumers and potential misuse of signage by dry cleaners.

Recommendation: CELA supports Option 2 signage with modifications to delist carbon dioxide and add wet cleaning as a green option.

Issuing of Signs

We are familiar with two possible approaches to signage provision and vetting: one applied to New York City dry cleaners and the other to Toronto's DineSafe program. We recommend the latter approach. In the case of New York, dry cleaners printed off the applicable notice online and posted it in their window without any official sign-off from the municipal government. This Toronto Public Health proposal suggests the same method, making it the responsibility of the owner/operator to obtain a sign either online or in print form and to fill out the information as well as be responsible for publicly posting the notice in accordance with the by-law. It would then be the responsibility of the municipal government to enforce the by-law and issue financial penalties for non-compliance. In contrast to this proposal, Toronto Public Health's DineSafe initiative is a food safety program that requires inspectors to undertake an inspection of all establishments that serve and prepare food. The inspector signs off on the notice that will be posted by the establishment and the notice is made from a high quality material with the Toronto Public Health logo clearly shown. The sign is recognized by the public as an official notice meeting safety requirements outlined by the city.

Recommendation: CELA recommends the City of Toronto adopt the approach of Toronto's DineSafe program for issuing signs rather than the proposed New York City approach.

Other Signage and Display Requirements

It is important to consider the proposed signage in the context of other signage visible to the consumer. Some dry cleaners already have large "environmentally friendly" and "organic dry cleaner" signs posted in shop windows. It is important to consider measures to eliminate this unofficial signage, even if it requires working with other levels of government or taking legal action. The solvent disclosure sign could educate even further by clarifying these terms and the instructions that come with the disclosure program could remind dry cleaning businesses of the misleading and potentially actionable claims they are making.

Other elements of the proposal related to display requirements for signs that warrant support include requirements that dry cleaners post a sign listing solvents used in their process along with their impacts to the environment and human health in a publicly visible location. These requirements for posting notice should apply to facilities including dry cleaning establishments that function as a plant (use solvents on-site) as well as those facilities that only function as a dry cleaning depot (do not use solvents on-site). Finally, those facilities that operate web-based businesses are also required to display the notice on their website in clear manner.

Other Issues Relevant for Effective Implementation

Based on previous efforts by the City to ensure effective implementation of its bylaws, a critical element in the proposal focuses on adequately resourced enforcement and compliance resources that support effective signage. The absence of adequate enforcement support will undermine the purpose of signage for drycleaning establishments in Toronto and suppress the opportunity for larger engagement related to the impacts of toxic chemicals to human health and the environment.

Recommendation: CELA recommends that the signage program is adequately resourced for enforcement and compliance activities.

Thank you for your consideration of our recommendations on this important proposal. If you have any questions, please do not hesitate to contact us at 416-960-2284 ext. 7223.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



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