

Rebecca Teare
Policy Advisor, Ministry of Energy
Conservation and Renewable Energy Division
Conservation and Energy Efficiency Branch
Energy Conservation Policy
77 Grenville Street
5th Floor
Toronto, ON M7A 2C1

RE: Clean Air Council Member Feedback to the [Province of Ontario's Environmental Bill of Rights Registry No.: 012-6904](#)

The Clean Air Council (CAC) is a network of 27 municipalities and health units from across the Greater Toronto, Hamilton and Southwestern Ontario Area¹ who collaboratively work on the development and implementation of clean air and climate change mitigation and adaptation actions. The CAC is proud to have the Province of Ontario as a CAC member.

CAC members² strongly support the proposed Large Building Energy and Water Reporting and Benchmarking regulation.

This enabling legislation is a logical next step to Ontario Regulation 397/11 which requires public agencies to report on their energy use and prepare, make available to the public and implement energy conservation and demand management plans. Regulation 397/11 has significantly increased the understanding of the public sector on how they use energy and opportunities for energy saving actions within their facilities and operations.

One cannot manage what doesn't get measured. Many municipalities undertaking their community energy inventories have found that building energy use accounts for a significant share of greenhouse gas emissions within their communities, but have experienced significant challenges understanding how energy is presently used by this sector.

Increased knowledge of energy use within these sectors will better enable municipalities and building owners and managers to understand and identify energy saving opportunities. As such, this proposed Large Building Energy and Water Reporting and Benchmarking regulation can be used to better inform real-estate decisions, or

¹ CAC Municipal and Public Health Unit members include: Ajax, Aurora, Brampton, Burlington, Caledon, Clarington, Durham Region, East Gwillimbury, Halton Region, Halton Hills, Hamilton, King, London, Markham, Mississauga, Newmarket, Oakville, Oshawa, Peel Region, Pickering, Richmond Hill, Simcoe-Muskoka District Health Unit, Toronto, Vaughan, Whitby, Windsor, York Region.

² Municipal staff representatives on the Clean Air Council (CAC) were consulted in the preparation of this submission to reflect the priorities and directions of the member municipalities, but direct endorsement of this document by Municipal Councils was not sought due to the limited time frame of consultations. Many municipalities are also preparing their own independent submissions. CAC representatives are the municipal change agents within leading climate change action municipalities and have been working collaboratively across the region for the last 15 years to support and enable progress on clean air and climate change actions. The consultations were facilitated by the Clean Air Partnership, a charitable environmental organization that serves as the secretariat for the Clean Air Council.

to enable development of effective energy conservation policies and programs. Without energy reporting and benchmarking, there is little awareness of building emissions and waste, this results in weak economic and policy drivers to improve performance.

The Clean Air Council strongly supports the Regulation and advocates for benchmarking and reporting best practices that can enhance the impact of Ontario's proposed regulation. Given Ontario's leadership on energy benchmarking and reporting in Canada, it is crucial that the Province establish ambitious standards that will serve as a role model for other jurisdictions.

Key Recommendations

1. Enhance regulatory compliance and impact by supporting **capacity building and education** programs.
2. Require a robust mechanism for **data verification**.
3. **Disclose more building data elements**, specifically the building age and energy use intensity by fuel type.
4. **Postponement of Conservation Demand Management Plans**.
5. **Provide full disclosure of benchmarking data to municipal governments** to improve municipal planning and program delivery.

1. Capacity Building and Education

The Clean Air Council believes that both Bill 397/11 and this proposed regulation can be greatly enhanced by supporting capacity building and education programs to assist building owners in complying with the regulation, as well as understanding and using the benchmarking data to improve building performance. Complementing the regulations with capacity building efforts will enhance reporting compliance and policy impacts by raising awareness, training personnel, and improving energy literacy amongst buildings owners and managers.

2. Data Verification

The Clean Air Council recommends that the Province require a data verification procedure in the proposed regulation. One of the key components of successful benchmarking programs is reliable, accurate data. Regular and consistent data verification by a licensed professional or accredited verifier will ensure the quality and accuracy of data remains high. Current best practice recommends that reported data be verified from the first year of reporting and every three to five years thereafter³. To lessen the burden on building owners, flexibility can be incorporated by allowing a broad range of qualified professionals and for these professionals to be either in-house or third party.

If mandatory data verification is ultimately not adopted, a strong commitment to regular audits of a significant number of building reports is absolutely necessary to provide some sort of data quality assurance. This should include both random audits and targeted audits of buildings with outlying data points.

3. Benchmarking Disclosure

Data transparency will help magnify the impact of energy benchmarking as access to reliable data can be used by a variety of stakeholders. For tenants, brokers, and investors, building performance data can help to inform

³ This best practice is the system in place in Chicago and the one recommended in the CaGBC National Energy Benchmarking Framework White Paper.

purchasing or leasing decisions. For researchers and academics, access to greater data will enable the identification of trends that can help improve the impact and efficiency of energy and climate change policies.

The Clean Air Council recommends that the Province expand the disclosure requirement to include more benchmarking data. Specifically, we believe that **building age and weather normalized energy use intensity by fuel type (i.e. natural Gas and electricity intensities)** should be subject to public disclosure. Building age provides useful context to interpreting energy performance data and can enable researchers and the industry to assess the impact of changes in building code requirements and construction standards on building performance over time. Differentiating energy performance by fuel-type is critical to effective benchmarking, as well as enabling development of more effective policies and programs to improve performance. Leading US cities like New York City, Philadelphia, Chicago, and Boston are all making building age and energy performance data by fuel type publicly available, and Ontario should follow suit.

4. Conservation Demand Management Plans

While Ontario Regulation 397/11 does require the development of Conservation Demand Management (CDM) Plans for public agencies, the Clean Air Council supports the Ministry of Energy's approach to exclude CDM plans from this regulation at this point in time. Once real, building-level performance results gets reported however, a separate CDM regulation should be considered. This would allow for a more targeted approach that focuses on addressing buildings who are consistently poor performers who would benefit most from a CDM plan. Encouraging enrolment into continuous building performance improvement programs, such as BOMA BEST, City of Toronto's Tower Renewal STEP program and LEED Existing Buildings Operations & Maintenance would however supplement this regulation.

5. Full Benchmarking Disclosure for Municipal Governments

The Clean Air Council recommends that the Province provide full disclosure of all benchmarking data collected to municipal governments on a confidential basis for community energy planning purposes. The current proposal provides no details with regards to the provision of benchmarking data to municipal governments. Additionally, we note with some concern that the proposal to deem all data not released publicly to have been supplied in confidence to the Minister may unduly complicate the process of sharing the full data set with municipalities.

The Ministry of Energy has strongly encouraged Ontario municipalities to engage in community energy planning. One of the largest barriers faced by municipalities has been access to energy data at the level of detail required to support high quality energy planning. In addition to energy data, many cities lack high quality data on their building stock (e.g. property use details, quality gross floor area data) which is also critical for community energy planning purposes. The data proposed for public disclosure, however, is not nearly sufficient to close this data gap. The full data set collected by the Ministry would therefore be extremely valuable to municipalities for community energy planning.

In addition to community energy planning, this data would be useful for a variety of other important municipal purposes, including infrastructure planning, program design and delivery, and tracking policy goals. The proposed data elements to be publicly disclosed are also insufficient for these purposes. We strongly recommend the Ministry provide simple access to the full benchmarking data set to municipalities on a confidential, as of right basis. As such it is recommended that the Ministry of Energy exercise its authority under

the recent amendments in Bill 135 to the Green Energy Act by designating Ontario municipalities as an entity with whom the Province can share the full dataset from reported buildings. Below is suggested language to include in the Regulation:

Despite any other provision in this regulation and pursuant to Section 7.2(1)(b) of the Green Energy Act, the Minister will make available to Ontario municipalities all information not otherwise made available to the public pursuant to Section 7.2(1)(a) that prescribed persons (including building owners) report to the Minister under this regulation for any commercial building or other building located within that municipality's jurisdiction.

Conclusion

Clean Air Council members commend the Province of Ontario for the leadership it has displayed in advancing this proposed Large Building Energy and Water Reporting and Benchmarking regulation and appreciates the opportunity to provide feedback into this important consultation process. We would welcome the opportunity to provide further input or support.

For more information on the Clean Air Council priority actions of the Clean Air Council and the progress made thus far please see Appendix A for the 2015 Clean Air Council Inter-governmental Declaration and progress Report on Clean Air and Climate Change or contact Gabriella Kalapos, at gkalapos@cleanairpartnership.org or 416-338-1288.