

Mr. Tim Krsul
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Ontario Ministry of the Environment
135 St. Clair Avenue West, 6th Floor
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**Re: Comments Related to the Proposal: Brownfields Regulation – Qualified Persons, EBR
Number 010-2364**

Dear Mr. Krsul,

Back in 2003, Chris Lompart of the MOE reassured all stakeholders present at a meeting (which included ACPO) that the draft regulation was open to change. Thus, the MOE would definitely consider including “C. Chem’s.” provided they met these criteria for a “Qualified Person” (QP):

- Public Accountability
- Assessment of competency
- Stakeholder Accountability
- Disciplinary Process
- Appeals Process
- Business case
- Industry Considerations

Given the MOE’s position on the QP issue, I would like to reiterate the following points.

The central issue to be addressed in any definition of QP in the Brownfields Draft Regulation is who should be accountable to the public by law for contaminated site assessment and remediation, rather than who has the ability to conduct the work in this sector.

I believe strongly that professional chemists are both able to do this kind of work and accountable to the public by law. Under provisions outlined in the “*Statutory Powers Procedure Act*”, the ACPO may, at its convenience, hold hearings or any disciplinary proceedings to investigate a breach of discipline or a violation of its code of ethics by one of its members. The ACPO may also issue subpoenas in respect of any documents or witnesses that may be relevant in these matters.

The ACPO Act provides that the Association may pass by-laws concerning the standards of the profession, a code of ethics, the rules of professional conduct and the prescribing of penalties for professional misconduct, incapacity or incompetence.

Indeed, the discipline committee established under powers of the ACPO Act ensures that the public is protected. Professional chemists are bound by a strict code of ethics and subject to a discipline committee, which makes them legally accountable and open to a similar force of law as the disciplinary regimes established for other professions.

Environmental assessment and remediation is a multidisciplinary task, and many people may have the experience to perform it. However, the necessary public accountability to enable certified practitioners to sign Records of Site Condition can only be provided by a professional body, such as the ACPO, established by statute in the public interest and accountable to the people of Ontario. As such, professional chemists doing environmental work are also required to carry professional liability insurance. Thus, should there be problems with an RSC they have signed, the public would have a recourse directly to the professional or to the ACPO, and the government's exposure would be entirely removed.

I do not feel that the general public interest will be properly served by allowing professional chemists to be disenfranchised as "Qualified Persons". It is my view that professional chemists have a comprehensive code of ethics and disciplinary standards, and therefore, will provide greater assurance for reliance on environmental assessments.

A great number of chemists have experience in environmental chemistry, and have performed several hundred Phase I/Phase II site assessments and other environmental investigations. If things were to be told plainly, the majority of these chemists are more qualified to work in the environmental area than some others who are already in it. Unfortunately, many of the current stakeholders are actively trying to exclude other professions from some of the lucrative business they enjoy.

This exclusion of chemists might even be regarded as a human rights issue. The right-to-work for a decent remuneration is key to the well-being of any society, and there would be great merits to include it in the Human Rights Declaration. If that were the case, the obstinate actions of some to exclude chemists from areas of expertise they work in would likely be interpreted as a basic human rights violation.

Historically, members of the ACPO who hold the title Chartered Chemist have been accepted by the Ministry as well-trained and experienced professionals, qualified to author remediation reports relating, for example, to brownfields, but also for any site assessment or cleanup.

For your information, most of ACPO members who hold the Chartered Chemist designation not only have baccalaureate degrees in chemistry but may also have masters and doctoral degrees. In fact, many of the professional chemists have instructed or taught those other professionals who the Ministry also recognize as qualified because they hold a professional engineering or geoscientist licence.

I would therefore humbly request that the proposal of denying qualified professionals the right to earn a living be promptly revoked and that full recognition be given to professional chemists as "Qualified Persons" under the revised Brownfields Regulations.



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