

Jan. 31, 2011

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Ana Tinta,
Senior Policy Advisor,
Ministry of the Environment
Integrated Environmental, Programs Division
Toxics Reduction Project
135 St. Clair Avenue
Toronto, Ontario M5V 1P5

Dear Ms. Tinta:

RE: EBR Registry Number 011 – 1191: Amendments to Ontario Regulation 455/09 to extend the date for Phase 1 toxic substance reduction plans by one year and address requirements to “toxic substance reduction planners”

Thank you for the opportunity to provide comments on amendments and proposals relating to O.Reg. 455/09. Through this EBR mechanism we are also commenting on the Ministry of Environment (MOE) January 2011 Consultations.

The Ontario Public Health Association (OPHA) strongly supports legislation to reduce the use and release of toxic substances across the province, and to inform Ontarians on the use, creation and emissions of toxic substances in their communities.

OPHA is a volunteer, non-profit organization that conducts research, education and advocacy on issues related to community and public health throughout Ontario. OPHA works with our partners including the Canadian Cancer Society, Cancer Care Ontario, and the Ontario Medical Association to advocate for toxics reduction. Together with these organizations we support the Take Charge on Toxics campaign.

Proposed Extension for Phase 1 Plan and Plan Summary

OPHA does not object to the extension for toxic reduction plans and plan summaries by one year to ensure that there are sufficient Toxic Substance Reduction Planners in place to assist facilities in developing and certifying the plans. We understand that it is difficult for a facility to produce a plan without a qualified planner so we strongly urge the MOE to implement the programs necessary to get toxic use reduction planners certified and preparing plans as soon as possible. OPHA wants good information for toxic management planning that would be beneficial to community-right-to know initiatives.

We also support the proposal that all other timelines remain the same – first annual report for Phase 1 substances due June 1, 2011.

Toxic Substance Reduction Planners

OPHA agrees with the proposed areas of recommendations by Planners as it pertains to toxic reduction opportunities to be identified in the Plan. Under the area “Assembling the Team” we recommend that employees be consulted to identify improvements in the plan. We support Planner recommendations in areas of toxic substance accounting, identifying, analyzing and implementing options, and estimating direct and indirect cost. Furthermore, we recommend that health impact assessments be included in the estimates of direct and indirect costs.

Planner Qualifications

OPHA agrees with the planner qualifications and education as a substitute for some years of experience. However, we question the inclusion of ‘business administration’ as a relevant field of study to qualify as a Toxic Reduction Planner. We recommend the Ministry provide further explanation or remove this as a possible qualification.

Further we encourage the Ministry to ensure that there is not a two-tier planner certification system. Every prospective planner should be tested and licensed similarly.

In an earlier consultation the MOE presented a proposal for enhanced planning and options for employee participation. At the January 2011 consultation session, stakeholders were informed that mandatory consultation is not being considered at this time. We are disappointed with this position and recommend that the MOE encourage employee engagement by making consultation mandatory.

Oversight Model for Planners

OPHA supports the licensing of Planners and the proposed length of licence (5 years).

Proposed Approach for Training

OPHA agrees with the proposed training model (self study and classroom). We recommend the following topics in addition to the proposed curriculum: health effects of toxic substances; and related and relevant legislation e.g. Health Protection and Promotion Act, Environmental Protection Act (Spills, Regulation 419/05), Canadian Environmental Protection Act and reporting requirements under NPRI. It would be beneficial to have case studies that are sector specific to illustrate levels of risks reductions from improved toxic reduction management plans. There can be large differences in how chemicals are used, produced and controls, as well as what alternatives may be available across and within sectors.

Proposal to Expand Exemptions for Dioxins, Furans and Hexachlorobenzene

OPHA is unclear as to what is being proposed with respect to this section. We recommend that the Ministry provide clarity as to how these exemptions will be implemented given that the limits of quantification are not health-based.

Proposed Bands and Ranges for Public Reporting

OPHA believes that the best option for reporting is the one that provides the greatest degree of precision. As the Ministry pointed out in the January consultation presentation, reporting should be precise enough to ensure that the public has good understanding of data reported for a given year. It should also enable the public to estimate emission load where there are multiple local emitters.

We recommend that if the MOE decides to use bands when reporting that the range be substance specific and the units correspond to the toxicology of that substance. Substances that are more toxic at low concentrations should have much tighter bands for reporting than substances that are less toxic. For instance a substance like lead should be reported down to the mg as even small increases in amount released will have significant increases in community risk.

Toxics Reporting and Information System and Reporting to the Public

Reliable and representative information on exposure to toxic substances is crucial for government staff at local and provincial levels that have a responsibility to respond to concerns of potential health hazards from possible exposures to toxics, both in the environmental and occupational setting. Full toxic reduction plans should be made available to local medical officers of health, the ministry of health and the ministry of labour upon request.

To respond to the Ministry question about what provincial reports would be beneficial, OPHA recommends reporting on:

- trends by substance;
- trends by groups of substances with same health effects – e.g., respiratory irritants, carcinogens;
- trends by groups of substances with similar properties – bioaccumulative, persistence, acid gases, precursors to ozone and smog;
- trends in risk reductions;
- trends by sector;
- geographical trends down to the health unit or municipal level;
- statistical reports (e.g. substances used/created the most);
- reports of toxics in products corresponding to amount of production;
- reports by airshed (according to Federal comprehensive airshed management system) and
- comparisons against National Ambient Air Quality Standards.

This information should be provided with interpretation, providing context around the data (ie. relative toxicity, health impacts, etc). We also recommend that the MOE share the data with other governments/organizations (e.g. public health units) because static reports may have limited value.

Recommendations for Upcoming Regulations

OPHA recommends that the development of the regulations regarding substances of concern, living list process, toxics reduction planners and administrative penalties begin immediately. Of utmost importance is the inclusion of additional substances that have been identified as substances of concern and as having the potential for human exposure in order to collect data and assess exposure to these substances.

Conclusion

The Regulation under the *Toxics Reduction Act* has the potential to greatly increase public knowledge about toxics in the environment, in the workplace, and in consumer products. Two benefits from increased awareness: it could also sharply reduce exposure to toxics in the workplace and community setting, and create opportunities for improvements in health and safety and emergency planning. It could also sharply reduce exposure to toxics. OPHA is very supportive of legislation that will reduce toxics use and release in our communities, and provide significant health benefits by reducing exposures and public health impacts associated with toxics.

In closing, OPHA looks forward to viewing the first set of facility-specific annual reports and province-wide reports for Phase 1 toxic substances later in 2011. At the same time, we urge the Province to identify timelines for incorporation of administrative penalties and substances of concern into future regulations.

Sincerely,



Liz Haugh
President