

October 11, 2008

Greg Mouchian, Senior Policy Advisor
Ministry of the Environment
Integrated Environmental Planning Division
Strategic Policy Branch
135 St. Clair Avenue West, Floor 11
Toronto Ontario M4V 1P5

**RE: EBR Registry Number 010-4374 – Creating Ontario’s
Toxics Reductions Strategy – Discussion Paper**

Dear Mr. Mouchian:

The Ontario Public Health Association (OPHA) would like to express our strong support for the Government of Ontario’s proposal to introduce legislation to reduce the use and release of toxins across the province.

The OPHA is a volunteer, non-profit organization that conducts research, education and advocacy on issues related to community and public health throughout Ontario. The OPHA Environmental Health Work Group has been very active on environmental health issues in recent years. The majority of members in this Work Group work full-time on environmental health issues for public health units in Ontario.

The OPHA would like to provide the following comments on Creating Ontario’s Toxics Reduction Strategy Discussion Paper (Discussion Paper) in support of a comprehensive and effective strategy.

General Comments:

Support for a Comprehensive Toxics Reduction Strategy

The OPHA strongly supports a comprehensive and effective strategy to reduce the use of and release of toxics into our environment. As noted in the Discussion Paper, Ontario is one of the top dischargers of toxics in North America and the number one discharger in Canada. Taking legislative and informative action will address the public health community's goals of reducing exposure to toxins and increasing awareness of the health impacts associated with exposures.

The proposed Toxics Reduction Strategy will assist boards of health in meeting the requirements of the revised draft Ontario Public Health Standards (OPHS) – anticipated to come into force in January 2009. Under the legislative authority of the Health Protection and Promotion Act, the OPHS will require that boards of health identify and assess the relevant hazards and risks to the public's health and conduct surveillance of the environmental health status of the community. OPHA believes that data collected through the Toxics Reduction Strategy, along with spatial population health and environmental health surveillance data will enable boards of health to better examine the relationship between health outcomes and environmental exposures.

In addition, knowledge of the hazards and risks in a community, including the use and release of toxins, is an important component of Emergency Preparedness and Planning. The proposed Toxics Reduction Strategy will assist municipalities that are mandated under the Emergency Management and Civil Protection Act to protect the health, safety and welfare of residents in their jurisdiction. Under the OPHS – Public Health Emergency Preparedness Program, boards of health also have the requirement to ensure that the public is aware of health risks and emergency preparedness.

The proposed Toxics Reduction Strategy must include strong and enforceable legislation; the ability to react to new scientific research; consideration of cumulative impacts from multiple chemical sources; comprehensive and balanced public education and awareness; support for industry including incentives and education/training; allowance for more restrictive legislation (e.g. local by-laws); provisions for the public to have easy access to toxics information; and resources to provide capacity to implement and enforcement the legislation.

In order to demonstrate success of the Toxics Reduction Strategy, it is important that a baseline be established and performance targets are set. Setting targets will allow both the Province and individual facilities the opportunity to benchmark their performance and continually improve operations to reduce toxics use and release.

Legislation

Discussion Question #3: Do you have comments about materials accounting and how it should work?

Response: Industries that use or release any of the toxic substances identified in the legislation (as defined in the schedules) must be required to monitor, track and report both their inputs and outputs. Accounting and reporting on toxics use and release will assist the industry to identify reduction and material substitution opportunities, improve employee health and safety awareness, and address the community right to know about toxic use in their neighbourhood and beyond.

Discussion Question #5: What is an appropriate schedule for Toxics Reduction Plans – annually, every two years, every five years, other?

Response: Industry should be required to provide updates to their Toxic Reduction Plan on an annual basis, or more frequently upon changes or additions to the industrial processes that may impact the amount of toxics being used or generated.

Discussion Question # 6: Do you have comments on the contents of the Toxics Reduction Plan summaries?

Response: OPHA would support the requirement for facilities to submit summaries of their plan to the Ministry of the Environment, and have these summaries available to the public, however; facilities should be required to submit additional information to the Ministry upon request, if the Ministry identifies gaps or concerns in a review of the summaries

Discussion Question #7: Do you have any comments on the proposed reporting requirements?

Response: As a minimum, facilities must provide annual or more frequent updates on each substance on the list of toxics used or released by the facility, including total amounts as well as any exceeded of emission standards or guidelines. This information is vital to ensuring that the Ministry can monitor trends in toxics use and release, and can achieve their objective of reducing the use and emissions of toxics in air, land, water and consumer products.

Facilities should also report of progress in reducing toxics use and release as part of their update on their Toxics Reduction Plan.

Discussion Question #8: Do you have any comments on the frequency of reporting – annual, every two years, every five years unless significant changes to plans are made, other?

Response: Facilities should report on an annual basis or more frequently upon changes or additions to the industrial processes that may impact the amount of toxics being used or generated.

Discussion Question # 11: Do you have suggestions regarding the public disclosure of Toxics Reduction Plan summaries, use data from materials accounting and reports?

Response: OPHA believes that the public has a right to know what toxic substances are being used and released in their community. This right to know would extend to local boards of health that are mandated under the Health Protection and Promotion Act to address potential health hazards in their community. Medical Officers of Health should have access to the materials accounting reports, including inputs and outputs. Similarly, the public should have right to action, requesting that the Ministry review a facility's reports, toxics use reduction plans, and implementation plans to determine if they comply with the legislative requirements.

Discussion Question # 14: do you have any comments on the proposed list of toxics?

Response: OPHA recognizes the expertise and knowledge of the Toxics Reduction Scientific Expert Panel, and agrees with the proposed list of designated toxics developed by the Ministry and the Expert Panel. The legislation must also provide the authority to add or delete substances as additional scientific research indicates.

Discussion Question # 15 Do you have any comments on the Province's proposal to organize toxics into schedules and to tailor requirements for each schedule?

Response: Drawing from the existing reporting requirements for the federal National Pollutant Release Inventory (NPRI), it is appropriate to include these substances in the reporting requirements for the provincial legislation (Schedule 1 and Schedule 2), and to include additional non-NPRI substances whose use and release are less well known (Schedule 3) in order to collect data and assess exposure to these substances. OPHA also agrees with including Schedule 4 substances that will be further examined by the Ministry to determine if they should be subject to new requirements.

Discussion Question # 16: Do you have any comments on the proposed phase-in timetable?

Response: It is important that firm timelines for compliance with the requirements be outlined in the legislation. OPHA would support a phasing in of the legislation based on priority toxics with the requirement for the tracking and reporting of Schedule 1 toxics in January 2010, however, it is recommended that specific components of Phase 2, including the requirement to track and report on Schedule 2 toxics, be implemented earlier than the proposed date of January 2012. Schedule 2 toxics include smog forming pollutants (e.g. NO_x, VOCs, SO₂, CO) that impact human health, and toxics that are currently undergoing health assessment and review by the federal government.

Discussion Question # 18: Are the NPRI thresholds appropriate for Ontario?

Response: OPHA does not agree that the NPRI thresholds are appropriate and does not agree with the proposal to apply the legislation only to those facilities that use over 10,000 kg annually of a designated substance and employ 10 employees or more. Many smaller operations utilizing one particular substance are often geographically situated in close proximity, thus contributing to the cumulative emissions for the community. OPHA feels that utilizing the proposed thresholds of 10,000 kg and 10 employees would not address the cumulative impacts of multiple emission sources in local communities. The thresholds should be lower and be based on the inherent toxicity of the chemicals. The smaller facilities could be phased-in over time.

Discussion Question # 19: What are workable and effective approaches to address lower threshold emitters?

Response: As identified in the response to Question # 18, OPHA feels that lower emitters (lower than NPRI limits) should be included in the legislation, and the thresholds should be set based on the inherent toxicity of the chemicals. As part of the Toxics Reduction Strategy, smaller facilities should be supported through training and tools (e.g. templates and model toxics reduction plans) to assist in their tracking and reporting of designated substances.

Discussion Question # 20: Are there additional sectors that the province should consider for inclusion?

Response: In addition to the manufacturing sector and facilities undertaking mineral processing in the mining sector, OPHA recommends the inclusion of the electricity generation sector, water and waste water treatment, dry cleaning operations, automotive mechanic shops and other large and small operations/sectors that cumulatively contribute substantial quantities of toxic substances. Smaller operations could be included in a later phase of the Strategy.

Discussion Question # 21: Do you support creating new authority for Ontario to ban or restrict toxics and consumer products containing toxics? Should this authority be limited to a designated list or be broad enough to include any toxic substance?

Response: OPHA supports legislation that would give the Ontario government the authority to ban or restrict products that are identified to have a potential to harm human health.

Discussion Question # 22: Should the legislation include authority for the Province to take precautionary action when, with limited scientific evidence, it suspects that a toxic substance poses a serious risk of harm to human health or the environment?

Response: OPHA supports using the precautionary principle in the absence of scientific certainty. Many of the substances in use in Ontario are currently undergoing assessment by the Federal government. As the Discussion Paper points out, there is growing scientific and public concern regarding the presence of chemicals in our environment and the health implications of long-term exposure, most particularly the exposure during vulnerable life stages such as pregnancy and early childhood. Thus it is appropriate to take precaution when a particular substance is suspected of causing harm.

Discussion Question # 23: What are workable and effective ways to ensure the public has useful information on toxics and consumer products?

Response: A comprehensive and widespread public education and awareness campaign, involving government and non-government partners is the most effective way of ensuring that the public has information on toxics and consumer products. In addition, mandatory labelling on consumer products would assist consumer in making healthy choices on consumer products.

Discussion Question # 24: What should be the division of responsibilities between the government and other parties? Why?

Response: The Ministry should assume responsibility for the Strategy components as outlined in the Discussion Paper. In order for the Ministry to track compliance with the requirements of the legislation and regulations, and to undertake enforcement measures it is vital that the Province address the Ministry's human resource capacity. Additional human resources will be required to ensure compliance with the legislation and regulations through education and enforcement.

There are various external parties that would be appropriate to partner with to deliver the broader components of the Strategy including building capacity, training and technical assistance, and education and outreach. In addition to the parties identified in the Discussion Paper, OPHA recommends that the Province also consult with the following organizations to select the appropriate parties to manage the broader components of the Strategy:

- Ontario Public Health Association
- Ministry of Health and Long Term Care
- Ministry of Health Promotion
- Local health units
- Health Canada
- Public Health Agency of Canada – National Collaborating Centre on Environmental Health
- Canadian Cancer Society
- Canadian Partnership on Children’s Health and the Environment
- Other health based non-government organizations
- Universities and other academic institutions

Discussion Question # 26: Do you have any comments on the proposal to establish a training and certification program for toxics reduction planners?

Response: OPHA supports education and training that would assist facilities in tracking and reporting on toxics use and release, developing Toxic Reduction Plans, and identifying substitutions for toxics (green chemistry).

Building Capacity and Support

Discussion Question # 28: What are the key opportunities regarding the implementation of toxics reductions?

Response: The number one opportunity in implementing toxics reduction is the benefits to human health and the environment by reducing exposures to harmful substances. The first step in reducing exposures to toxic substances is increased awareness of the risks, from the view point of the facility owner/operator who is responsible for all aspects of their operation, to the employee handling toxic substances, to the individual who has a right to know what substances they could potentially be exposed to in their community. Other opportunities included economic development by investing in green chemistry and altering processes to use the least toxic, and often least costly method.

Discussion Question # 29: What are the key barriers regarding the implementation of toxics reductions?

Response: Given that Ontario is one of the top dischargers of toxics in North America, a comprehensive Toxics Reduction Strategy will target a substantial number of large, medium and smaller operations that use or release toxic substances. These operations may see real and perceived financial barriers to implementing the Strategy. To overcome this obstacle, it is vital that the Province provide assistance in complying with the legislation, funds to minimize additional costs of certification, incentives for green chemistry, education and awareness, and targets to demonstrate success in meeting the Strategy goals.

Informing Ontarians

Discussion Question # 40: What information would you like to know about toxics in your community?

Response: Information about toxics in a particular community should include amount of substance being used and amount of substance released into the environment (air, water, land, and consumer products) by a particular facility, location of the facility, inherent toxicity of the substance, any exceedances of standards and guidelines, information on actions being taken to reduce use and release of toxics (e.g. substitution, pollution prevention), and information on reducing individual and community exposure to toxics.

Discussion Question # 42: What organizations could the Ministry work with to help inform Ontarians?

Response: OPHA recommends that the Province work with the following agencies to help inform Ontarians about the Toxics Reduction Strategy, including the health benefits of reducing exposures to toxics through a reduction in the use and release of these substances:

- Ontario Public Health Association
- Ministry of Health and Long Term Care
- Ministry of Health Promotion
- Local health units
- Health Canada
- Public Health Agency of Canada – National Collaborating Centre on Environmental Health
- Canadian Cancer Society
- Canadian Partnership on Children’s Health and the Environment
- Other health based non-government organizations
- Universities and other academic institutions

Discussion Question # 44: What is the most effective way, such as a website or through outreach, to educate consumers?

Response: A comprehensive approach is the most effective way to educate not just the public, but also workers, employers, the industry and decision makers. Both government and non-government organizations, and health and environmental agencies have a role to play in increasing awareness about the impact of toxic substances in our environment. Understanding the importance of toxics reduction to public health and the environment, and realizing the opportunities in alternatives to toxics, can be achieved through targeted and comprehensive campaigns.

In conclusion, the Ontario Public Health Association is strongly supportive of legislation that will reduce toxics use and release in our communities, and reduce exposures and public health impacts associated with toxics. OPHA looks forward to reviewing the draft legislation and assisting in the education and outreach component of the Toxics Reduction Strategy.

Sincerely,

A handwritten signature in cursive script that reads "Carol Timmings".

Carol Timmings
President