



The mission of OPHA is to provide leadership on issues affecting the public's health and to strengthen the impact of people who are active in public and community health throughout Ontario.

Ontario Public Health Association

l'Association pour la santé publique de l'Ontario

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Program

Charitable Registration

Number 11924 8771 RR0001

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Ana Tinta, Policy Analyst,

Ministry of the Environment

Integrated Environmental Policy Division

Strategic Policy Branch, Toxics Reduction Project

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RE: EBR Registry Number 010 – 7792: Ontario Regulation made under the Toxics Reduction Act 2009

Dear Ms.Tinta,

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. OPHA provided comments on the Toxics Reduction Strategy in 2008 and on Bill 167, the *Toxics Reduction Act*, earlier this year. We also had the opportunity to present to the Government Committee on the *Toxics Reduction Act*.

As mentioned above, OPHA supports the Toxics Reduction Strategy and believes that the *Toxics Reduction Act* is a good first step. 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. It could also sharply reduce exposure to toxics.

We, however, strongly believe that the proposed regulation could be strengthened to improve the health of our communities. OPHA is very concerned about toxic substances in our air, water, land and consumer products. Some of these substances cause asthma, cancer, birth defects and other adverse health effects. As noted in the Ministry's Discussion Paper on the Toxics Reduction Strategy, Ontario is one of the top dischargers of toxics in North America and the number one discharger in Canada. We believe that our citizens have a right to know what is in their products and their environment. We also believe that medical officers of health and public health agencies need information on toxic use and creation in their communities in order to protect their residents.

As stated in OPHA's comments on the Toxics Reduction Strategy in October 2008, 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 Ontario Public Health Standards (OPHS) require boards of health to identify and assess the relevant hazards and risks to the public's health and conduct surveillance of the environmental health status of the community. Boards of health are also required to ensure that the public is aware of health risks and emergency preparedness. OPHA believes that data collected through this legislation, 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 our 2008 comments OPHA stated that the Toxics Reduction Strategy must include strong and enforceable legislation; performance benchmarks and emission reduction targets; 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.

The Ministry has indicated that the focus of the Regulation is on identifying toxic substances; identifying facilities subject to the proposed requirements related to toxic substances; and setting out the requirements related to toxic substance accounting, toxic substance reduction plans, and summaries and reports on toxic substance reduction plans.

The Ministry has indicated that to be subject to requirements of the Act respecting preparation of Toxic Substance Reduction Plans, facilities must meet criteria set out in regulation regarding: class of facility, minimum number of employees, and minimum use/creation thresholds for a toxic substance. Toxic substances would be defined as all substances on the federal National Pollutant Release Inventory (NPRI) and acetone. The initial focus would be on 47 priority substances (Phase I) and the requirements would apply to Phase 1 substances starting January 1, 2010 and to Phase 2 substances on January 1, 2012.

The Ministry has proposed 2 stages for implementing regulations:

- Fall 2009: Identify toxic substances, identify facilities subject to requirements related to toxic substances, establish requirements for toxics reduction plans, toxic substance accounting, plan summaries and reports
- Winter 2009-2010: Identify substances of concern, requirements for substances of concern reporting, toxics reduction planners, and administrative penalties

OPHA supports the Ministry's proposal to these stages; however in order to protect public health, OPHA feels that the first stage of the Regulations should be strengthened in the following areas:

Toxic Substances to which the Regulations Apply

The regulation proposes that only those substances listed in Table A (47 substances and substance groups) will be subject to phase one of the substance priority list, and that the remainder of the NPRI substances will follow in 2 years in the second phase. It is our opinion that since facilities are currently reporting on the entire list of NPRI substances through the federal program, it would not be an undue hardship to have these included in the requirements for phase 1 (toxic substance accounting and reporting).

Criteria for Toxics Reporting and Toxic Substance Reduction Plans

It is our opinion that the criteria for requiring reporting of toxic substances will not capture enough facilities. The regulation proposes that facilities have to meet all criteria (e.g. belonging to a class of facility; using or releasing a minimum amount of a toxic substance, and employing a minimum number of employees) in order to be subject to the Regulation. OPHA considers the threshold for the number of employees which triggers reporting of toxic substances too high.

OPHA recommends expanding coverage to all emitting sectors, beyond the proposed inclusion of manufacturing and mineral processing; and lowering the threshold to capture smaller facilities and their corresponding emissions and use of toxic substances. Other large and small operations/sectors that cumulatively contribute substantial quantities of toxic substances should also be included. Many smaller operations utilizing one particular substance are often geographically situated in close proximity, thus contributing to the cumulative emissions for the community. 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.

It is our opinion that utilizing the proposed thresholds 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.

Targets

Targets or numerical goals for reducing the use and creation of toxic substances at the facility should be a requirement of the Toxic Reduction Plans and public summaries. In OPHA's comments on the Toxics Reduction Strategy, we recommended that a baseline be established and targets are set to allow the Province and individual facilities the opportunity to benchmark their performance and continually improve operations to reduce toxics use and release.

Information Made Available to the Public

The regulation should ensure that Ontarians have information on exposure to toxic substances at home, at work and in their environment. Section 19 on the proposed regulation should be clarified to 'require' that reports on toxic reduction plans, not just the summaries, are made available to the public. Workers should also have access to all information on toxics chemicals in their work environment. The wording should be "shall" rather than "may". Section 19 also proposes that information on amounts of toxic substances used, released, etc., be expressed in ranges. OPHA strongly recommends that the quantities of toxic substances used, created and contained in products should be communicated in exact numbers rather than ranges.

Information Available to Public Health and Other Agencies

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, both in the environmental and occupational setting. Full toxic reduction plans should be made available to local medical officers of health, and the Ministries of Health and Long-Term Care and Labour upon request.

Describing and Analyzing Options to Reduce Toxic Substances

The proposed Regulation requires facilities to identify at least one option in a number of categories of toxic substance reduction methods. OPHA recommends that this section be reworded to required facilities to identify more than one option to ensure that industry makes all reasonable efforts to consider substance reduction methods.

Guidance and Support from the Ministry on Toxics Reduction Best Practices

A best practice repository will assist government, industry and the public learn about best practice in Ontario and other jurisdictions. OPHA feels that the Government of Ontario should be prepared to produce comprehensive guidance documents on toxics reduction best practice on a sector by sector basis and draw on such practices world-wide. Safe substitution and elimination are best practices and should be encouraged in plans and reporting requirements under the Toxics Reduction Act.

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.

In conclusion, 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.

OPHA thanks you for the opportunity to provide feedback. Please contact Marina Whelan, Chair, Environmental Workgroup, OPHA at (705) 721-7520 ext. 7345 if any questions or concerns arise.

Sincerely,



Carol Timmings

President