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Toxics Reduction Act: Key Recommendations

1. Inclusion of Sewage Treatment Plants (STPs)

Data derived from PollutionWatch indicates that STPs are responsible for approximately 87% of mercury, 37% of arsenic, 71% of lead, and nearly all chlorine releases into Ontario waterways. Ensuring the Act includes STPs, which receive effluent from at least 12,000 industrial, commercial, and institutional facilities,[1] would provide a much-needed incentive for upstream toxics use reduction, foster greater awareness of what is being released, and create pressure for STPs to work with municipal governments on stronger sewage control bylaws. Only an estimated 260 of 446 Ontario municipalities had sewer use bylaws in 2000, and many bylaws maintained inadequate discharge limits.[2] The current provincial best-practice municipal standard is Toronto's Right-to-Know bylaw, which has a 100 kg reporting threshold and no employee reporting threshold.[3] Such measures would have significant environmental benefits and result in significant cost savings to municipal governments by reducing demand on municipal sewage infrastructure. Application of the Act to STPs was recommended by Ontario's Scientific Expert Panel.[4]

2. Establishment of Toxics Reduction Targets

As the business maxim goes, "If you can't measure it, you can't manage it." Clear and ambitious goals for toxics reduction in Ontario are needed to spur innovation and provide benchmarks to measure progress. The establishment of targets is in accordance with the panel's recommendation for the Act to include "clear, viable, and progressive goals (i.e. a percentage reduction in toxics use and release in the Province within a specified period of time)."[5] The panel further suggested that there be "a mechanism for monitoring and public reporting on achievement of those targets."[6] Massachusetts' *Toxics Use Reduction Act* (TURA) required a state-wide 50% reduction of toxic byproducts within 10 years.[7]

3. Formalization of Substitution and Alternatives Use

Within a precautionary policy framework, substitution of chemicals harmful to human health or the environment with safer alternatives should be mandatory. Legislation should also mandate the creation of a comprehensive alternatives list to provide industry guidance and save companies from having to defend every alternative substance with a long and costly analysis. The encouragement of substitution and implementation of innovative technologies, as well as a framework for assessing alternatives was recommended by the panel.[8,9] Massachusetts' TURA explicitly states that use reduction would be achieved through six techniques and established an institute to facilitate this.[10]

4. Provide Ministry of Labour and Joint Health and Safety Committees with Tools to Address Toxic Use Reduction

Bill 167 must break down the silo between the Ministry of Labour and Ministry of Environment in order to effectively reduce the use of toxic chemicals. Workplace Hazardous Materials Information System is a comprehensive system of chemical management already in place in workplaces across Ontario. Unfortunately its potential to be more than just an information system was undermined when the previous Conservative government removed section 36 of the *Occupational Health and Safety Act* (OHSA) which required employers to inventory the chemicals they used on an annual basis. Currently the Ministry of Labour receives notification under section 34 of OHSA from employers regarding new biological or chemical agents that are being introduced into Ontario workplaces. This is reviewed by technical staff who assess the accuracy of Material Safety Data Sheet information. An amendment to Bill 167 is required to reinstate section 36 in OSHA, to mandate joint committees to consider alternatives or substitutes to toxic chemicals as is done in British Columbia and Federally, and to require the employer to report to the joint committee and Minister of Labour on the progress in removing toxic chemicals from the workplace annually.

5. Lower Reporting Thresholds

The bill adopts the NPRI reporting threshold of 10 employees and 10,000 kg of pollution emitted. This threshold exempts the small and medium-sized businesses responsible for emitting the majority of toxics into urban areas.[11] The expert panel recommended "implementing pollution prevention obligations to facilities with lower thresholds than NPRI for certain substances."[12] The TRA threshold should be lowered to the City of Toronto's standard, which maintains no employee threshold and reporting thresholds of 100 kg for most substances.[13]

6. Proclamation of Enabling Legislation for Products Regulation

The panel recommended "the Province immediately embark on developing an implementation plan to regulate products."[14] To implement this recommendation, within one year of the passage of legislation, the Province should identify priority substances and products for regulation, using a precautionary approach. Early action should focus on formaldehyde, lead, vinyl chloride, bis(2-ethylhexyl) phthalate, and bisphenol A.

7. Expansion of the Chemicals List

Schedule 1 of the TRA lists chemicals for which comprehensive action is required. However, the Act leaves many important chemicals off this list. For example, acetaldehyde and VOCs, designated "toxic" under the *Canadian Environmental Protection Act*, are currently listed under Schedule 2, which requires significantly less rigorous action. Schedule 2 should be expanded to include CEPA-toxic chemicals, even if they are not listed under NPRI, and this list should be automatically updated when chemicals are added to the International Agency for Research on Cancer, as well toxics on California's Safe Drinking Water and Toxic Enforcement Act (also known as Proposition 65).

8. Increased Comprehensiveness of Toxic Use Reduction Planning

To capitalize on TRA co-benefits, the role of toxic planners should be expanded and specifically linked with water and energy conservation. In Massachusetts, "in order to certify…the implementation of an environmental management system," toxics use reduction planners are trained in resource conservation and environmental management.[15] An expanded role is consistent with the panel's recommendation that the Ministry "incorporate water use/conservation, energy efficiency and waste reduction under the pollution prevention planning."[16]

9. Establishment of a Toxics Reduction Institute

The Toxics Use Reduction Institute at the University of Massachusetts has been an integral part of the Massachusetts law's success. The Institute has undertaken research, education, and information dissemination for the purpose of promoting comprehensive environmental management practices, inherently safer products, and the efficient use of resources.[17] The establishment of a similar institute in Ontario, one that would serve as a "neutral forum for constructive dialogue among the public, industry and government" and provide consistency across political mandates, was endorsed by the panel.[18]

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Blue Green Canada is an alliance between the United Steelworkers and Environmental Defence to support the development of good green jobs as part of a new green economy.

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[1] Environmental Commissioner of Ontario. 2004. Sewer Use Bylaws in Ontario: *Choosing our Legacy, ECO Annual Report, 2003-04.* (2004). Retrieved from www.eco.on.ca/eng/index.php/pubs/eco-publications/2003-04-annual-report.php.
[2] Ibid.
[3] City of Toronto. Environmental Reporting, Disclosure and Innovation. (2008). Retrieved from www.toronto.ca/health/hphe/pdf/technicalreportnov2008.pdf.
[4] Toxics Reduction Scientific Expert Panel. July 23, 2008 Memorandum to Environment Minister John Gerretsen (2008). Retrieved from www.ene.gov.on.ca.
[5] Ibid.
[6] Ibid.
[7] Massachusetts. Massachusetts Toxic Use Reduction Act, Mass. Gen. Laws, ch. 21I, §§ 1-23. (2008). Retrieved from www.mass.gov/legis/laws/mgl/gl-21i-toc.htm .
[8] Toxics Reduction Scientific Expert Panel. July 23, 2008 Memorandum to Environment Minister John Gerretsen.
[9] Toxics Reduction Scientific Expert Panel. December 31, 2008 Memorandum to Environment Minister John Gerretsen.
[10] Massachusetts. Massachusetts Toxic Use Reduction Act, Mass. Gen. Laws, ch. 21I, §§ 1-23.
[11] City of Toronto. Environmental Reporting, Disclosure and Innovation.
[12] Ibid.
[13] City of Toronto. Environmental Reporting, Disclosure and Innovation.
[14] Toxics Reduction Scientific Expert Panel. December 31, 2008 Memorandum to Environment Minister John Gerretsen.
[15] Massachusetts. Massachusetts Toxic Use Reduction Act, Mass. Gen. Laws, ch. 21I, §§ 1-23.
[16] Toxics Reduction Scientific Expert Panel. December 31, 2008 Memorandum to Environment Minister John Gerretsen.
[17] Massachusetts. Massachusetts Toxic Use Reduction Act, Mass. Gen. Laws, ch. 21I, §§ 1-23.
[18] Toxics Reduction Scientific Expert Panel. July 23, 2008 Memorandum to Environment Minister John Gerretsen.