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October 9, 2008

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

Dear Mr. Mouchian:

Re: Comments on Environmental Registry No. 010-4374 “Creating Ontario’s Toxics Reduction Strategy – a Discussion Paper”

As Toronto’s Medical Officer of Health, I am pleased to provide my comments on the proposed Toxics Reduction Strategy for Ontario. I have consulted with colleagues in Toronto Water, the Toronto Environment Office and Economic Development, Culture and Tourism in preparing this letter.

Overall, Toronto Public Health (TPH) commends the provincial government for initiating the development of progressive legislation aimed at protecting the health of Ontarians and the environment by reducing the use and release of toxic chemicals in air, land, water and consumer products. This initiative also represents an important opportunity to stimulate the environmental innovation that is essential to a robust, “green” manufacturing sector in Ontario.

The key strengths of the proposed Toxics Reduction Strategy are:

- **Materials use accounting.** Materials use accounting is already used in jurisdictions like Massachusetts and New Jersey and is used to guide facilities in reporting under the City of Toronto’s Sewer Use Bylaw. Materials use accounting stimulates facilities to gather detailed information about the flow of chemicals through their processes and motivates them to consider improving efficiency and substituting hazardous substances with safer alternatives.¹
- **Toxics management plans.** This requirement will stimulate facilities to make commitments to reducing hazardous substances, and enable the facility, governments and the community to measure progress towards these goals.

¹ In a 1996 survey of Massachusetts companies, 90 per cent reported that they were involved in tracking chemicals after their *Toxics Use Reduction Act* (TURA) was in place, compared to 48 per cent before TURA. Only 30 per cent of companies reported “reviewing changes in production processes for their environmental, health and safety impact” before TURA, but that proportion rose to 76 per cent after TURA was in place. (Source: Abt Associates. 1997. Survey evaluation of the Massachusetts Toxics Use Reduction Program, report to the Toxics Use Reduction Institute, UMass Lowell).

- **Public disclosure of information.** Providing access to data introduces public scrutiny and enables communities to become informed and engaged in local health and environmental issues, which further motivates companies to reduce chemicals.

Despite these strengths, however, the proposed strategy does not go far enough to reflect what many jurisdictions around the world are doing to strengthen the way hazardous chemicals are tested and regulated, nor to support green manufacturing and economic competitiveness. We strongly encourage the Ministry to include the following critical elements in Ontario's strategy:

- **Mandatory phase-outs or substitution of high-hazard substances.** It is essential that companies be required to discontinue using hazardous substances that end up in workplaces, our environment and consumer products. Mandatory assessment and substitution of priority chemicals is now required under the European Union's Registration, Evaluation and Assessment of Chemicals (REACH) legislation and Massachusetts' proposed Safe Alternatives Bill. The current provincial proposal, however, only encourages facilities to voluntarily reduce or substitute hazardous chemicals. The Ministry should make this a legal requirement under the provincial strategy, and develop a priority list of substances based on actions in other jurisdictions and developments in green chemistry and alternatives, and expand the list as knowledge and scientific capacity increase.
- **The creation and funding of an independent institute to increase technical capacity of our manufacturing sector and advance research in green chemistry.** This was recommended by Cancer Care Ontario's Cancer and Environment Stakeholder Group.² This approach has been demonstrated to be successful by existing institutes such as the Massachusetts Toxics Use Reduction Institute and the Nova Scotia Eco-Efficiency Centre at Dalhousie University. These "centres of excellence" are collaboration between academia, government and private sector partners to train students and provides businesses with pollution prevention advice. By training students they also support the next generation of workers in a green manufacturing sector.
- **Provincial authority to review, restrict and label consumer products that contain hazardous substances.** Growing scientific evidence continues to identify that Ontarians are exposed to harmful substances through everyday products. The Ministry should follow the example of California's new Green Chemistry regulations, which establish a new state department and authority to review chemicals in consumer products and the environment; regulate their manufacture, sale and labelling; create an online Toxics Information Clearinghouse to increase consumer knowledge about the toxicity and hazards of everyday chemicals of toxic substances; and fund new research in green chemistry and safer alternatives.
- **Strong supports and incentives to ensure that Ontario businesses can be innovators in the transition to green processes in a manner that enhances economic competitiveness and creates well-paying, sustainable jobs.** These supports should include systems to monitor the impact of the Toxics Reduction Strategy on businesses and economic competitiveness, and create partnerships between the Ministry of Environment and ministries such as Economic Development and Trade; Research and Innovation; Training, Colleges and Universities; Labour; and International Trade and Investment, to ensure that businesses, workers, researchers and educators are resourced to be innovators in assisting transition to green manufacturing.

² Cancer Care Ontario – Cancer and Environment Stakeholder Group. 2007. Cancer and the Environment in Ontario: Gap Analysis on the Reduction of Environmental Carcinogens. <http://www.cancercare.on.ca/english/home/pcs/prevention/occenviro/>

I have attached to this letter additional recommendations in response to the specific questions listed in the Environmental Registry proposal. As the timing of this consultation coincides with Toronto Public Health (TPH)'s proposal for a local Environmental Reporting and Disclosure Program, I also provide comments with respect to how the two programs align and where we see opportunities to collaborate with the Ministry of Environment in their development and implementation.

I look forward to seeing a more detailed policy when it is developed, and to having further discussions with the Ministry on opportunities to collaborate on our shared objectives of reducing chemicals and protecting our health and environment.

Sincerely,

A handwritten signature in black ink, appearing to read "D. McKeown". The signature is fluid and cursive, with the first name "D." and last name "McKeown" clearly distinguishable.

David McKeown, MDCM, MHSc, FRCPC
Medical Officer of Health

Attachment: Toronto Public Health Responses to Selected Questions on Environmental Registry Proposal

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Environmental Registry Proposal No. 010-4374 "Creating Ontario's Toxics Reduction Strategy – a Discussion Paper" contained 44 questions organized in 11 themes. Dr. David McKeown, Medical Officer of Health, is pleased to submit comments on selected questions within these themes.

Theme #1: Materials Accounting

Q2. How would materials accounting information assist in your understanding of how toxics are used in your community?

Q3. Do you have comments about materials accounting and how it should work?

Materials use accounting is already used in jurisdictions like Massachusetts and New Jersey and is used to guide facilities in reporting under the City of Toronto's Sewer Use Bylaw. Materials accounting is a useful tool for identifying chemicals used in a facility and where reductions or substitutions could be made to protect the environment and health.

Toronto Public Health (TPH) recommends that the requirements for materials use accounting and toxics management plans be extended to include Schedule 3 substances. The Ministry currently proposes to require materials use accounting and toxics management plans for Schedule 1 and 2 substances, but only general reporting for the 20 Schedule 3 substances. In describing Schedule 3 substances, however, the framework document states that "little is known about their use in Ontario, but other jurisdictions have begun to examine and act on them." The document also describes the Ministry's aim to "collect critical new information on their use and emission."

Theme #2: Toxics Reduction Plans

Q5. What is an appropriate update schedule for Toxics Reduction Plans - annually, every two years, every five years, other?

Toxics management plans help facilities identify goals and enable the facility, governments and the community to measure progress towards reductions of hazardous substances. It would be appropriate for these plans to be updated every two to three years. TPH supports the proposed requirements to make plan summaries publicly available, and these should be easily accessible via the internet and upon request from the facility.

Q6. Do you have comments on the contents of the Toxics Reduction Plan summaries?

Toxics Management Plans should also require facilities to identify substitution plans for certain high-priority chemicals. It is essential that companies be required to replace hazardous substances that end up in workplaces, our environment and consumer products with safer alternatives. The current proposal encourages facilities to substitute hazardous chemicals with safer alternatives, however TPH feels this should be a legal requirement under the provincial strategy. The Ministry should develop a priority list of substances based on current knowledge of developments in green chemistry and alternatives, then expand the list as knowledge and scientific capacity increase. The Toxics Reduction Plans may be an appropriate place for a facility to provide substitution information.

Theme #3: Reporting Requirements

Q7. Do you have any comments on the proposed reporting requirement?

The Ministry should expand and accelerate data reporting on chemical substances in the following ways:

- Add Schedule 2 substances to the reporting requirements for 2010. The strategy proposes to require facilities to begin reporting their use of only 45 NPRI substances (Schedule 1) and 20 additional substances (Schedule 3) in 2010, and begin reporting the balance of these NPRI substances (Schedule 2) two to four years later. There is no apparent reason for the difference in the schedules, as they include substances for which facilities already have data and experience reporting to the NPRI.
- Require materials use accounting and toxics management plans for the 20 priority Schedule 3 substances.

Q8. 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?

Reporting should be annual, as with the National Pollutant Release Inventory (NPRI) and programs in other jurisdictions.

Q10. Are the proposed components of the report useful for determining where and how facilities in your community are working to reduce the use and release of toxic substances?

While the strategy will provide valuable additional information on chemical use, it is of limited benefit in understanding use and exposures on an urban scale. In a city like Toronto, most industrial operations are small or medium-sized and located within or close to residential neighbourhoods. There are over 9,600 facilities using chemicals of health concern in our city, but 95 per cent are too small to meet the high thresholds (facilities with 10 or more employees, using 10,000 kg of most substances) of the proposed provincial strategy. Although use or emissions of chemicals from individual small and medium-sized businesses may seem inconsequential or within current standards, the long-term cumulative exposure to chemicals from many facilities in close proximity to where people live creates significant potential for adverse health impacts.

Public Disclosure

Q11. Do you have suggestions regarding the public disclosure of Toxics Reduction Plan summaries, use data from materials accounting and reports?

Material should be made easily accessible via the internet and in print, and be made understandable by providing both detailed data and summary information. The Ministry should provide summary information in a variety of languages.

Furthermore, the current proposal would make summaries of the toxics reduction plans publicly available. It would be appropriate that the regulations grant medical officers of health access to the full toxics reduction plans in order for them to meet their responsibilities to protect public health.

Q12. How will having access to this information better prepare you to make informed choices about toxics?

Information can help consumers make informed choices about the products they purchase or companies they support. Facility data should be accompanied by information on where these

substances may be present in consumer products and how the public can take steps to prevent exposure and choose alternatives that do not contain these substances.

Q13. Do you have any suggestions on how the Province should protect confidential business information?

Existing provincial privacy legislation contains provisions for the protection of confidential business information.

Toxics List and Timeline

Q15. Do you have any comments on the Province's proposal to organize toxics into schedules and to tailor requirements for each schedule?

Q16. Do you have any comments on the proposed phase-in timetable?

See response to Question 7.

Q17. Are there timing considerations that the government should consider in developing the phases?

Toronto Public Health has proposed an Environmental Reporting and Disclosure Program that would include a requirement for smaller facilities to report their use and release of 25 priority substances. If adopted by Council, the Toronto bylaw would come into effect on January 1, 2010, which aligns with the first proposed reporting phase of the provincial strategy.

Thresholds and Sectors

Q18. Are the NPRI thresholds appropriate for Ontario?

Q19. What are workable and effective approaches to address lower threshold emitters?

Q20. Are there additional sectors that the province should consider for inclusion?

To more fully address the needs of urban communities and small and medium-sized businesses, the Ministry should consider amending the reporting thresholds as follows:

- removing the employee threshold so that all sizes of facilities must report; and
- lowering the chemical thresholds to approximately 1 per cent of the NPRI thresholds (100kg or lower).

This would ensure that communities across the province have the same level of disclosure and potential for toxics reduction, and that facilities share equal reporting requirements and access to capacity-building resources.

Phasing in these lower thresholds can give the province time to prepare smaller businesses for new reporting obligations and support their consideration of pollution prevention options.

Toxics in Consumer Products

Q21. 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?

TPH supports Ontario creating this new authority, and the Ministry should adopt an approach similar to new regulations passed in the State of California. The California legislation, passed on September 29, 2008 establishes authority for the state to:

- develop regulations that create a process for identifying and prioritizing chemicals of concern and methods for analyzing alternatives;

- impose restrictions or bans on chemicals of concern;
- establish a Green Ribbon Science Panel made up of experts to provide advice on scientific matters, chemical policy recommendations and implementation strategies;
- oversee implementation of the green chemistry program; and
- create an online database to increase consumer knowledge about the toxicity and hazards of thousands of chemicals.

External Parties

Q25. What parties, such as a university, agency or centre of excellence, are most effective and efficient for particular functions and types of activities?

The province should establish and fund an independent institute modeled on approaches such as the Massachusetts Toxics Use Reduction Institute and the Nova Scotia Eco-Efficiency Centre at Dalhousie University, as was recommended by Cancer Care Ontario's Cancer and Environment Stakeholder Group.³ These "centres of excellence" create collaboration between academia, government and private sector partners to train students and provides businesses with pollution prevention advice. By training students they also support the next generation of workers in a green manufacturing sector.

Q26. Do you have any comments on the proposal to establish a training and certification program for toxics reduction planners?

TPH supports a certification program, supported by financial incentives, to ensure that facilities develop toxics management plans that are consistent, comparable and held to the highest standards.

Technical Assistance

Q28. What are the key opportunities regarding the implementation of toxics reductions?

This plan represents an opportunity to protect health by reducing our exposure to hazardous chemicals. Ontario industries are among the highest emitters of certain chemicals in North America. For example, Ontario industries released over 4 million kilograms of reproductive toxins and 3 million kilograms of cancer-causing substances into our air in 2004, placing us second and fourth-highest, respectively, among provinces and states in North America.⁴ It can also stimulate important investment in green jobs and innovations to increase the sustainability and competitiveness of Ontario's manufacturing sector.

Ontario is one of many jurisdictions around the world that is strengthening the way hazardous chemicals are tested and regulated. For example, a proposed Massachusetts' Safe Alternatives Bill would require evaluation of designated "Priority Toxic Chemicals" used in Massachusetts and linked to chronic illnesses, mandate safer alternatives to these chemicals where feasible, and provide for transition assistance to businesses. The European Union's Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) legislation, enacted in 2007, outlines greater responsibilities for industries to register chemicals in use or proposed for use, provide data to governments and assess new chemicals and whether safer alternatives exist. Ontario's Toxics Reduction Strategy should support our manufacturing sector in meeting the requirements of REACH, as Canadian companies that export chemicals or products to the European Union must comply its provisions.

³ Cancer Care Ontario – Cancer and Environment Stakeholder Group. 2007. Ibid.

⁴ Commission for Environmental Cooperation. 2007. Taking Stock: 2004 North American Pollutant Releases and Transfers. www.cec.org.

Q29. What are the key barriers regarding the implementation of toxics reductions?

The provincial strategy must support capacity-building for facilities to invest in alternatives and adopt pollution prevention. Should the strategy require facilities to certify their toxics reduction plans, the Ministry should consider economic incentives or funds to minimize additional costs of certification.

Q34. Are you aware of, or can you suggest, other potential partnerships or linkages that may be useful?

TPH has developed an Environmental Reporting and Disclosure Program that, if approved by City Council, would be complementary to the provincial strategy and offer opportunities for collaboration. Toronto's program would collect important data on chemicals used and released by thousands of local facilities that are not captured by the current programs or the proposed Toxics Reduction Strategy. The Environmental Reporting and Disclosure Program includes a new bylaw that would track and disclose data on 25 priority substances that are in Toronto's air at levels of concern for health. The program would also provide supports for small and medium-sized businesses to adopt pollution prevention measures. A framework of the program is available at www.toronto.ca/health/hphe/enviro_info.htm. Both the Toronto bylaw and the proposed provincial legislation would be in force at the same time (January 1, 2010).

TPH sees many opportunities to collaborate with the Ministry of Environment in the development and implementation of the Toxics Reduction Strategy and the Environmental Reporting and Disclosure Program. We welcome the opportunity to continue discussions we have begun with senior staff on:

- sharing technical information and assessments of less toxic alternatives for the 25 priority substances;
- linking databases to enable shared analysis of reported data;
- partnering to develop and deliver common educational and training supports for small and medium-sized businesses; and
- streamlining data reporting for facilities and information disclosure for the public.

The Environmental Reporting and Disclosure Program is one of many City of Toronto commitments to environmental sustainability and "greening" local businesses. The City seeks to expand environmental innovation, economic development and civic engagement through programs like its Climate Change, Clean Air and Sustainable Energy Action Plan, LiveGreen, the Green Economic Development Strategy, the Prosperity Agenda and the Pearson Eco-Business Zone. Linking these efforts to the Toxics Reduction Strategy would also support mutual success.

Informing Ontarians

Q43. What types of information do consumers need to make informed choices when purchasing products that may contain toxics?

Q44. What is the most effective way, such as a website or through outreach, to educate consumers?

See response to Question 21.