



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

January 31, 2008

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Medical Officer of Health
City of Toronto Public Health
Environmental Reporting and Disclosure Program Consultation
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Dear Dr. McKeown and Toronto Public Health,

Environmental Reporting and Disclosure Consultation

Thank you for the opportunity to comment on the framework the City of Toronto has put in place for the Environmental Reporting and Disclosure bylaw. As you know the Canadian Environmental Law Association (CELA) as a member of the Occupational and Environmental Working Group of the Toronto Cancer Prevention Coalition has advocated for improved community right-to-know in a bylaw for some time. We appreciate the care that you and your staff have taken to assess first, how little information you have access to about substances in use in the City and secondly to design a program that will capture information on those substances that are of the greatest health concern in Toronto's environment.

CELA is a legal aid clinic established in 1970 with a mandate to represent low-income Ontarians in environmental matters as well as a mandate to improve environmental laws. For several decades we have made toxic use reduction a strategic focus and have worked closely with health protection advocates to link pollution prevention with health promotion. CELA has done extensive research on law reform tools that can best achieve these goals. Our research has convinced us that improved access to information results in a number of benefits in avoided health costs, workplace health and safety, improved emergency response, proactive pollution prevention planning for businesses and industry that can lead to cost savings as well as healthier neighbourhoods.

Your program comes at a time when the public are asking for government action to protect the public and vulnerable populations from involuntary exposures to health threatening substances, in products in the marketplace, used in production and released into the environment. The leadership you have taken in this program is the most advanced toxic use reduction initiative underway in Canada. It will pave the way

for other efforts that are just promises in Ontario or will take decades in the case of the Federal Government's Chemicals Management Plan. It is appropriate that the largest urban city in Canada take this step because it will capture a significant range and scope of 7,000 to 8,000 facilities. In contrast, the most successful and advanced toxic use reduction plan that is most often cited as a success in the State of Massachusetts covers around 1,000 facilities.

CELA has long advocated for improved environmental reporting in the Canadian Federal reporting system the National Pollutant Release Inventory (NPRI). We along with our partners Environmental Defence have created a website Pollutionwatch www.pollutionwatch.org to help the public understand what the NPRI data means to them. By inputting their postal code the public can learn what discharges are coming from large facilities in their neighbourhoods. Our staff that have designed and maintained this website will be making their separate submission to you on what they have learned on public needs, data management and reporting of the limited NPRI data. The Pollutionwatch site also links the public to information on the health impacts of the substances emitted. We have been critical of the NPRI system because it only looks at discharges and not use of substances within facilities. The NPRI thresholds are far too high to capture the numerous small and medium sized businesses that are tucked into all of our communities and contribute to the cumulative pollution burden we are exposed to in our air, land and water. Your program's emphasis on lower thresholds and proposal to collect data on use as well as discharge will give us a realistic and more accurate picture of exposures. Ontario facilities reporting to NPRI in 2005 were around 1,800. Toronto's proposed system will capture at least 4 times this.

Toronto's leadership will enable others to follow with their programs and will make our City an innovator in the transformation to a greener, healthier economy.

1. **In what ways will the proposed program impact you or your community organization?**
 - a. **Improved services to our community.** Our organization receives hundreds of phone and e-mail inquiries from the people in the GTA concerned about their exposures to toxic substances in their neighbourhoods. While we often make referrals to Toronto Public Health there has not been an obvious place to send the callers on the City's website or in a staff directory. The communications and reporting aspect of this program could allow the public to readily find and evaluate information on toxics use in their neighbourhoods. As well, it could result in considerable savings in staff time for those who are now responding to individual requests. As well it will give the public the confidence that their local government has anticipated heard their concerns and is acting to prevent harmful exposures.
 - b. **Creating new Educational Resources.** The educational opportunities of this program are huge. Our research shows that in places like New York City

environmental reporting systems are instrumental in encouraging pollution prevention in small and medium sized businesses by inclusion of pollution prevention and educational materials, technical assistance and training in these programs. Many of these small businesses in Toronto employ new Canadians. Particular care should be taken to provide these materials and information on the website in the main languages of these employees.

- c. **Promotion of Best Practices in Pollution Prevention and Health Protection.** We would use Toronto's program as an example to demonstrate the benefits of community right-to-know and pollution and toxic use reduction in our campaigns on Provincial, Federal and International law reform as well as our extensive work to prevent pollution in the Great Lakes. As well CELA will promote this bylaw as a best practice to health and environmental coalitions. We are members of networks such as the Cancer Partnership Against Cancer's National Committee on Environmental and Occupational Exposures, the Canadian Partnership for Children's Health and Environment and the Ontario Environmental and Occupational Stakeholder Group, the Ontario Environment Network, the Canadian Environment Network and Great Lakes United.
- d. **Improved Environmental Compliance.** CELA has been concerned for some time about the lack of resources for and the effectiveness of the Province's environmental compliance mechanisms. The Ministry of the Environment has been candid about the unmet demands of their Certificate of Approval's program which issues approvals for each industrial facility in the province. They recognize that it is challenging for their staff to keep pace with the volumes of approvals and reviews. Toronto's new Environmental Reporting and Disclosure Program should be made available to the Province to augment the data they are currently collecting on facilities. By making this information more transparent to the industries and the public while providing information on pollution prevention, it is likely your system will promote innovation and greater compliance in other jurisdictions.

CELA is currently working with the Province on new toxic use reduction initiatives. Although this work is just beginning it is **not a duplication** of Toronto's Environmental Reporting and Disclosure proposal. We are currently writing a Model Toxic Use Reduction Model for the Province which will focus on best practices that have proven useful in other jurisdictions in the US and EU. This system will focus on new tools such as pollution prevention plans, substitution of safer alternatives to toxics now in use and materials use accounting. Central to our law will be a Toxics Use Reduction Institute that will enable this successful transformation modeled on the Massachusetts experience. We see this effort as being parallel and complimentary to your efforts. It is likely that the Institute if established will be a resource to businesses reporting in Toronto.

The same holds true with the new Federal government initiatives on toxics which we are also involved in. They do not overlap with Toronto's environmental reporting. In their new chemicals management plan they will be undertaking a chemical by chemical analysis over time. Other new efforts are focusing on labelling consumer products.

2. How would you make use of the information collected through the Environmental Reporting and Disclosure Program?

- a. **More effective and economical priority setting.** It is often difficult for governments and environmental groups assisting the public to know which actions will yield the greatest benefits for environmental and public health. This data will allow Toronto and its citizen's to set priorities and target budgets and activities to maximise reduction of the most harmful substances in use and generated locally. As well this data will help Toronto understand which substances in our air are generated outside our City. This will assist to make the City's efforts to reduce those sources originating from long range sources and provide for more effective negotiations with other jurisdictions in Ontario, the Great Lakes and North America and with Ottawa to better share the responsibilities and costs of pollution prevention. It will be important to allow this reporting and disclosure program to be flexible in order to add new substances or categories later as they emerge as problems. While greenhouse gases are not now part of the program, this program could assist Toronto later to eventually ascertain its own footprint and loading from diverse sources.
- b. **Making the theoretical and speculative tangible.** CELA is currently on several Advisory Committees where we would find having tangible data collected by Toronto on exposures very helpful to otherwise theoretical policy discussions on chemicals. These include the International Persistent Organic Chemicals (POPs) discussions arising from the Stockholm Convention, the Chemicals Management Plan Stakeholders Advisory Panel, our submissions on Canadian Environmental Protection Act designated substances and a toxic use reduction strategy announced recently by the Province. Additionally we are involved in discussions on modernizing the Great Lakes Water Quality Agreement last updated in 1987 which includes in Appendix 1 a listing of Hazardous Polluting Substances.

While the City will likely receive criticism of the collection of data from some but not all sources, this program will be able to identify important problems, eliminate others as sources and identify gaps. It was the recognition of the massive gap in the lack of information on the sources of 97% of the chemicals present in Toronto's environment that led to Public Health's realisation that more information is required to influence the local environment and protect the health of Toronto residents.

2. **How could the City make the information accessible, understandable and relevant for users?**
 - a. **Give the public the tools to evaluate the information they are given.** For far too long, information has been withheld from the public because there were fears voiced by governments and industry that the public would panic and not understand. With the tools of the internet and other media the public has the ability to seek out their own information. It is the responsibility of governments to make sure that the best information on the health implications of environmental pollution and use of toxics is easily available. On CELA's Pollutionwatch site there are links to reliable information on the health impacts of chemicals reported on the NPRI as well as a link to the health information from the counterpart scorecard site in the US www.scorecard.org . We would urge Toronto to link this source of health information for specific chemicals on the Toronto site since health protection is central to your bylaw making authority.
 - b. **Ask the businesses and industries to report on pollution prevention Initiatives they might have underway.** While the proposed Toronto by-law does not require pollution prevention, there have been efforts to promote voluntary pollution in Canada and in Ontario. Indeed proposed toxic use reduction efforts by Ontario may eventually require these plans. Many businesses see competitive advantages to being visibly accountable and green. This reporting could have marketing benefits for them and could encourage change for others.
 - c. **Make your website GIS interactive.** Do some Toronto neighbourhoods have more exposures than others? Should some social services and planning policies respond to these inequities between neighbourhoods in the future? These are serious questions that we are unable to adequately answer now. Making your information searchable by neighbourhood would assist the City and the public in evaluating this. This could be done by making the site searchable by postal code at a scale that captures distinct neighbourhoods within the GTA.
 - d. **Include information on other City initiatives that are relevant to the environmental reporting information.** To maximise the effectiveness of the searchable website proposed, information on common household use of chemicals reported could be available in a section that would allow the public to answer the question "How could I personally limit my own use of this chemical?". This could help the public make healthier choices until such a time as consumer products are labelled in Canada. The City of Toronto has numerous policies on pollution prevention that should be integrated into the website. For instance Public Health advises that dry cleaning should be aired prior to it being bought into the indoors environment to off-gas the TCE fumes. The cumulative efforts of Public Health and other City Departments to protect the

environment and public health may not be easily accessible to the public on the current City website. Making this site a portal would demonstrate to Toronto citizens that the City takes its responsibilities as an environmental leader seriously. The educational materials made available to the industrial sectors on the program and on pollution prevention should also be available to the public.

- e. **Annual reporting of data needs to have enough transparency and specificity so that the public can access reports on neighbourhood facilities rather than be made too generic.** Ability to obtain information on neighbouring facilities has been transformative in the US right-to-know systems. Availability of information has led to local initiatives between communities and facilities where “Good Neighbour Agreements” have been negotiated to address local concerns and have led to pollution prevention. A balance needs to be struck between right-to-know and proprietary information. Massachusetts has done this well in their provisions on trade secrets and proprietary information.

Additional Comments

CELA is disappointed that reporting under the sewer use bylaw is not included in this Environmental Reporting and Disclosure framework. Inaccessibility to the current data collected under this bylaw has not made it an effective deterrent. Consequently, the NPRI data for 2005 on our Pollutionwatch site lists the City of Toronto as the biggest polluter of water in Canada. Three of Toronto’s Sewage Treatment plants rank among the top ten polluters to water in Canada. Ashbridges Bay leads at #1 in the Nation at staggering volume of 16,295,443 kilograms; Highland Creek is #6 at 4,572,634 kg and Humber at 2,504,976 kg. The lack of information on the contributors to the pollution burden of these facilities will create a disparity in the right to know about air polluters and inability to know about local polluters to water. CELA strongly recommends that the City reconsider the exclusion of facilities captured by the Sewer By-laws. As well the City should consider including pesticides targeted in the Pesticide By-Law so that lawn care businesses are required to report. This would give the City valuable information on the implementation and success of this by-law.

The purpose and vision of the by-law should include a strong statement of purpose that emphasises the health protection goals that has been at the forefront of the City’s work throughout each stage of consultation and research in building this framework. Annual Reports on this reporting system should be made to Public Health as well as Environment Departments of the City.

The City should look at ways to make this reporting system revenue neutral over time. This has been built into reporting systems in the US and has become routine and accepted by reporting facilities.

Our staff would be happy to discuss these submissions and our other Toxic Use Reduction programmes with you and City staff and Councillors any time. You are to be congratulated in taking this important step. In our estimation it is one of the most significant advances in health and environmental protection in Canada.

Yours truly,
Canadian Environmental Law Association

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ISBN #978-1-897043-75-2

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