



**COMMENTS ON:**

**the ONTARIO TOXICS REDUCTION ACT, 2009**

**draft REGULATION (EBR registry # 010-7792)**

**to the**

**Ontario Ministry of the Environment**

**November 2, 2009**

**by the**

**Canadian Federation of University Women**  
**ONTARIO COUNCIL**

Submitted by  
Myra Willis  
President, Ontario Council  
Canadian Federation of University Women  
[www.cfuwontcouncil.ca](http://www.cfuwontcouncil.ca)  
[cfuwontario@yahoo.com](mailto:cfuwontario@yahoo.com)

Researched and written by Dr. Charlotte Rigby and Olga Lee, members of CFUW  
Ottawa's Environmental Toxins and Health Study Group

Submitted via email

Ana Tinta,  
Policy Analyst, Ministry of the Environment  
Integrated Environmental Policy Division, Strategic Policy Branch  
Toxics Reduction Project  
FAX (416) 326 6679  
[ana.tinta@ontario.ca](mailto:ana.tinta@ontario.ca)

Re: Draft Regulation of the Toxics Reduction Act, 2009  
EBR # 010-7792

The Ontario Council of the Canadian Federation of University Women (CFUW Ontario Council) welcomes the opportunity to comment on this draft regulation. Environmental policies and practices are a major area of study and advocacy for our members. As an organization of concerned educated women, we encourage government actions to reduce the severe environmental degradation to which our world is being subjected.

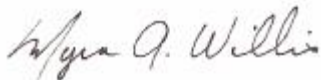
CFUW Ontario Council is composed of 57 clubs comprised of graduates living in urban and rural areas across Ontario. We are non-partisan, non-sectarian, and we are member funded. We are part of the Canadian Federation of University Women and have links to the International Federation of University Women.

**The authors of this paper:**

Olga Lee is a retired psychiatric nurse with a B.Sc. in Nursing from the University of Toronto. Thanks to Olga's initiative and concern, CFUW Ottawa's Environmental Toxins and Health Study Group was started in July 2006, and currently provides workshops and other educational materials concerning toxins.

Dr. Charlotte Rigby is a retired government microbiologist with a Ph.D. from the University of Ottawa in Medical microbiology and immunology, having done post doctoral research and spent much of her career in veterinary microbiology. Dr. Rigby retired as the Director of the Ottawa Laboratory of the Canadian Food Inspection Agency.

Respectfully submitted,



Myra Willis  
President, Ontario Council  
Canadian Federation of University Women  
[cfuwontario@yahoo.com](mailto:cfuwontario@yahoo.com)

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## **Introductory Remarks**

The Ontario Toxics Reduction Act 2009 is an important and timely initiative to ensure that the health and environment of Ontarians is protected by Toxics Reduction (TR) measures. It will encourage Ontario industries to develop and utilize cost-saving, sustainable, toxic-free technologies and to move to a greener economy and improved competitive advantages.

CFUW has developed policy to support action by all levels of government to protect the health of Canadians and our environment by reducing our exposure to environmental toxins. Ontarians understand the serious threat that environmental toxics pose to our health and environment; according to a 2008 Ipsos Reid poll of Ontarians:

- *99% felt that they have the right to be informed by an easy-to-read label or symbol about harmful chemicals in a product before they buy it;*

- 87% felt it is very important to substitute toxic chemicals with less harmful chemicals whenever possible;
- 80% felt that the issue of toxic chemicals should be a high or somewhat high priority for the Ontario government; and
- 96% support the government's strategy to have industries develop a toxics reduction plan.

The purposes of the Toxics Reduction Act 2009 are, “(a) to prevent pollution and protect human health and the environment by reducing the use and creation of toxic substances; and (b) to inform Ontarians about toxic substances.” The draft Regulation encourages some 2,000 currently-regulated facilities in the manufacturing and mining industries to find new, greener technologies and alternatives to toxics. These objectives need clear, practical and enforceable measures.

In October 2008 we commented on the TR Strategy Discussion Paper, which presented Ontario's commitment to:

- introduce legislation to reduce toxics pollution, and to inform and protect Ontarians from toxic chemicals in air, land, water and consumer products;
- work with Cancer Care Ontario and the Ontario Medical Association to identify, target, and reduce the number of cancer-causing agents released into the environment; and
- provide programs and technical assistance to replace toxic chemicals with less polluting substances, and to introduce innovative technologies.

At that time we commended:

- the commitment to reduce toxins at the beginning of the product cycle before they create problems, and at each successive stage including waste management;
- the commitment to public disclosure, consultation with consumers and stakeholders, and collaboration and consultation with federal and municipal governments; and
- the proposal to train and accredit TR planners who would provide training, establish criteria and certify TR Plans.

We urged:

- the revision of TR Strategy goals to include endocrine disrupting chemicals and reproductive toxins, in addition to known carcinogens as “Substances of Concern”;
- establishment of clear, measurable targets, time lines and monitoring procedures;
- enforcement measures that are specific and appropriate;
- the need for inclusion of Small and Medium-sized Enterprises (SMEs); a TR Strategy should provide incentives for this sector as well as large facilities;
- early expansion of the TR Strategy to include other sectors of the economy, including agriculture, forestry, and waste management in addition to manufacturing and mining; and
- mandatory implementation of TR Plans.

## **General Comments**

We commend Ontario as the first Canadian province to introduce legislation and programs to reduce toxics, find greener alternatives to toxic substances and develop new technologies, to reduce our dependence on toxics and develop green alternatives. The focus on reducing toxic inputs as well as emissions is an important advance in pollution prevention strategy.

The second phase of regulation, due in spring of 2010 will present criteria for the accreditation of TR Planners. Training and certification costs are to be funded from the \$24 million 3-year allocation to support the TR Strategy. This time schedule means that information required for Phase 1 (for calendar year 2010) will be collected before clear criteria for TR Planner accreditation have been established, and before qualified TR Planners are available to provide industries with advice and counsel.

We note that the successful Massachusetts Toxics Use Reduction Act on which the Ontario Act is modeled did not require mandatory implementation of toxics reduction plans but did require a toxics emission fee based on the TR Plan reports. This provided an incentive for facilities to proceed with implementation of TR Plans.

### **We continue to propose mandatory implementation of toxics reduction plans to ensure the desired outcome.**

The Act and Regulation do not provide for **an independent third party institute**, like the Massachusetts Toxin Use Reduction Institute (TURI), which has been such an important component of that state's TR program.

### **Ontario needs a Toxin Use Reduction Institute (TURI) to**

- **identify and support best practices,**
- **provide technical training, and**
- **advise owner/operators on measures to restrict the use of toxic chemicals that cannot be replaced by safer alternatives.**

Ontario industry leaders and workers need basic education about toxics and workplace and environmental pollution to allay fears, recognize opportunities, and promote buy-in for TR plans. In stakeholder consultation sessions, comments included "There will be pressure to change, even if there is no possible substitute"; "sometimes industry can't change because of chemistry." Effective leadership is needed – perhaps by promotion of government initiatives such as Ontario's Environmental Leaders Program.

## **Responses to Consultation Questions**

(These questions were presented to participants at the Stakeholders Consultation meeting held October 7, 2009 in Ottawa)

### **1. The proposed list of toxic substances is familiar to the regulated community and includes substances of demonstrated environmental and/or health concern. What do you think of the approach taken to identify this list and proposed approach to phasing in its application?**

The alignment of the TR Act and Regulation(s) with the National Pollution Release Inventory (NPRI) is an important measure to enhance consistency between jurisdictions and ease the administrative/reporting burden on industries.

Table A contains 47 Toxics plus acetone, and includes 24 known or probable carcinogens. We advocated for inclusion of more endocrine disruptors and developmental toxins as well. We expect to see more included in Phase 2.

**It is important to ensure that the 19 proposed Substances of Concern are included in Phase 2.** They are not tracked by the NPRI, and more information is needed about their use and release in Ontario.

In cooperation with the federal government's Chemical Management Plan, Substances of Concern will be subjected to a one-time reporting requirement. What information will be required? Will the reports include a Toxics Reduction Plan?

**We are concerned that there are no defined tests, criteria, or guidance on how Toxics will be designated.** The Draft Regulation defines a Toxic Substance as: 1. "any substance listed in Schedule I to the NPRI notice, if the substance is used or created in the form specified in that Schedule; 2. Acetone." According to the TR Act, "Toxic substance" means a substance prescribed by the regulations as a toxic substance for the purposes of this Act."

**The Regulation needs more precise wording,** such as that in the federal Canadian Environment Protection Act 1999 (CEPA) which defines a substance as toxic "if it is entering or may enter the environment in a quantity or concentration or under conditions that:

- Have or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- Constitute or may constitute a danger to the environment on which life depends; or
- Constitute or may constitute a danger in Canada to human life or health.

**2. What do you think of the considerations used to identify the proposed facilities that would be subject to toxic substance planning requirements?**

We look for lower thresholds, especially for industries in or near population centres.

**Municipal waste management and sewage treatment facilities** are significant sources of toxics such as heavy metals and organochlorines; and most are located in reasonable proximity to heavily populated areas. They should be subject to toxics substance planning and reduction requirements.

We urge the **early expansion of the TRS** to other sectors of the economy, including agriculture, and forestry in addition to manufacturing and mining. We also look for site-specific criteria to include Small-and-Medium sized Enterprises (SMEs) in populated areas.

**3. What do you think about the considerations used to identify the other proposed criteria (i.e. substance and employee thresholds and other criteria) which if met would require the preparation of a toxic substance reduction plan?**

No comment

**4. What do you think about the proposed requirements related to toxic substance accounting? Please consider in your response the pros and cons of the proposed approach, and any additional elements you think should be included.**

The Act and regulation do not provide targets for reductions of toxics; nor do they require mandatory substitution of toxics by safer chemicals, or requirements to consider all options for toxics reductions.

**We urge the early establishment of clear, measurable targets, with specific time lines for reduction of toxics and their replacement by safer chemicals where possible.**

**5. What do you think about the proposed requirements related to toxic substance planning, including plan contents, plan review and exemption criteria (i.e. termination notice)?**

The regulation does not specify a role for “**Toxic Reduction Planners**” (TR Planners), although they are to provide expertise in preparing plans, identifying alternatives, and approving plans. Their role is to be clarified in the second regulation, due next year, but the first round of plans will be done without their participation or expertise.

Will certification of plans require a TR Planner? an outside consultant? Who will conduct the review required under regulation 16?

**6. What do you think about the proposed requirements related to summaries of toxic substance reduction plans?**

Every plan should include a list of **options considered, desired outcomes, and time-specific targets.**

**7. What do you think about the proposed requirements related to the content and timing of: a) reports to the government? (b) information from reports to be provided to the public?**

**The requirement to inform Ontarians requires a more active approach** than simply providing a web site and responding to written requests.

**The information needs to be easily accessible by all Ontarians, including those who do not have convenient internet access.**

Information should be provided as **Public Service Announcements** on television and radio. It should be comprehensible and transparent and easily understandable by a reasonably well-informed Ontarian.

We should have **extension programs** to reach and inform grass roots organizations and give the public the information it needs to make better informed choices.

The ministry should provide funds to **support and maintain an interactive, easily-accessible web site** similar to the TURAData site of the Massachusetts Toxics Use Reduction Institute (TURI).

According to Section 19, (3) the Director may, if authorized by the regulations, make information contained in TSR plan reports available to the public. The Director “may” make all or part of a report public. What is the basis for the Director’s discretionary powers?

The Director should provide **an annual summary of progress in toxic reduction** in Ontario. This could include progress report data for major cities, specific industries, specific toxins, or other data or criteria of interest to Ontarians.

The regulation should include requirements for **product labelling** to include information and warnings about hazardous ingredients.

## ***Concluding Remarks***

Section 50 (1) of the Toxics Reduction Act 2009 gives the Lieutenant Governor in Council broad regulation-making powers, including the power to enact additional regulations to ban and/or regulate toxic substances, to set targets, and to govern the timing, and content of reports.

**We expect to see additional substances and facilities addressed in regulations as the Green Centre and other initiatives create more knowledge and new technologies for sustainable toxics reduction.** A successful TR Strategy will assist Ontario industries to comply with current and expected EU regulations which restrict or prohibit imports of products containing hazardous substances.

**We anticipate Phase 2,** which should include the second list of Toxic Substances, Substances of Concern, facilities covered and timelines. The proposed Phase 2 list currently contains more than 250 substances; we expect that they will be prioritized before the list is presented for consultation and finalized for regulation.

CFUW Ontario Council commends the government of Ontario for introducing this important legislation to protect the health and environment of Ontarians, and of all Canadians. Ontarians agree that the reduction of toxic pollutants in our environment is critically important. We are especially pleased that Ontario is leading the way in Canada. We look forward to the introduction of the second regulation in the spring of 2010.

## ***SOME CANADIAN FEDERATION OF UNIVERSITY WOMEN POLICY CONCERNING TOXICS and the ENVIRONMENT***

**Note:** Policy for CFUW Ontario Council integrates resolutions passed by CFUW Ontario Council ([www.cfuwontcouncil.ca](http://www.cfuwontcouncil.ca)) as well as the Canadian Federation of University Women (CFUW) ([www.cfuw.org](http://www.cfuw.org)) and the International Federation of University Women (IFUW).

### **Protecting the Health of Canadians by Reducing Environmental Toxins** CFUW, 2009

**RESOLVED**, That the Canadian Federation of University Women (CFUW) urge the Government of Canada and provincial, territorial and municipal governments to protect the health of Canadians by reducing their exposure to environmental toxins through measures that:

1. strengthen and enforce regulations that require all those who produce, use, distribute, and/or disseminate toxic or potentially toxic materials to show due diligence to protection of human health and the environment;
2. require producers/importers to provide evidence to regulatory authorities that a product will not threaten health nor the environment before it can be approved for import and use in Canada; that this evidence meets Canadian and international standards; that precautionary decision-making is applied throughout the process;
3. promote and require producer responsibility at every stage of product life, including waste management during manufacture, packaging, distribution and final product disposal;
4. enhance monitoring programs and research into effective control of the distribution, dissemination, disposal and offshore discharge of environmental toxins; and
5. promote public awareness and education, and support the development and use of safe alternatives.

### **Pollution Problems - Solution Strategies** IFUW, 1998

**RESOLVED**, That national federations and associations urge their respective governments without delay to give priority to the development of:

1. a campaign together with other governments to counter pollution problems;
2. specific strategies and practical ecological measures to master the escalating pollution of metropolitan areas;
3. environmental education programs that will create awareness among both adults and children of the gravity of these problems so that responsibility for environmental improvement is accepted at both personal and government levels; and
4. specific strategies to involve women at every stage of environmental interaction, including international meetings.

## **Hazardous Waste**

CFUW, 1981

RESOLVED, That the Canadian Federation of University Women (CFUW) urge the Government of Canada and the provincial and territorial governments to implement a compulsory registration of toxic waste products, whether in liquid, semi-liquid, solid, semi-solid or gaseous form, with specification as to type, origin, quantity, present location and final disposal plans;

RESOLVED, That these same governments encourage the generators of toxic wastes to reduce the output and reuse the waste products by the development of alternative processes;

RESOLVED, That these same governments formulate clear and precise regulations concerning the transportation of toxic waste products, where these regulations are not already in place;

RESOLVED, That these same governments set up verification and enforcement procedures to ensure the safe disposal of toxic waste products, on short and long term bases, specifically to avoid leakage into the environment; and

RESOLVED, That these same governments enforce prohibitive penalties against these generators and transporters of toxic waste who are in violation of the regulations.

## **Household Hazardous Waste (CFUW, 1990)**

RESOLVED, That the Canadian Federation of University Women (CFUW) urge all levels of government to cooperate in providing the public with regular, accessible and safe systems of collection and disposal of household hazardous wastes;

RESOLVED, That CFUW urge the Government of Canada, the provincial and territorial governments and municipal governments to ensure the availability of, and, where lacking, to initiate comprehensive information programs to educate the public about:

1. the dangers of household products hazardous to human health and the environment;
2. the safe disposal of hazardous household products;
3. the diversion of products from the hazardous waste stream by reuse wherever safely possible; and
4. the preferred use of non-hazardous and less hazardous products.

RESOLVED, That CFUW urge the federal, provincial or territorial governments to initiate, and/or continue to research and report on the long-term effects of the unsafe disposal of hazardous waste on human health and the environment.

RESOLVED, That CFUW urge the Government of Canada to enact legislation requiring all household products containing hazardous ingredients, manufactured or sold in Canada, to be labelled as hazardous, and to include safe disposal instructions on the label.

RESOLVED, That CFUW urge all its Provincial Councils and member clubs to:

1. become informed of the significance and dangers of the improper disposal of hazardous household waste, and promote, where applicable, the use of safe alternatives;

2. monitor the adequacy and effectiveness of household hazardous waste management programs when established; and
3. exert consumer pressure on industry to research, develop and market safe alternatives.

**Household Hazardous Waste (IFUW, 1992)**  
IFUW, 1992

RESOLVED, To encourage the national federations and associations to urge their respective governments to initiate and sustain comprehensive information programs to educate the public about:

1. the dangers of household hazardous wastes;
2. their safe disposal;
3. the diversion of products from the hazardous waste stream by re-use wherever safely possible; and
4. the use of non-hazardous and less hazardous alternative products;

RESOLVED, To encourage the national federations and associations to call upon their respective governments to co-operate in providing the public with regular, accessible and safe systems for the collection and disposal of household hazardous waste;

RESOLVED, To urge the national federations and associations to:

1. facilitate the dissemination of information on the significance and dangers of the improper disposal of household hazardous wastes and promote, where applicable, the use of safe alternatives; and
2. exert consumer pressure on industry to research, develop and market safe alternatives to hazardous household products.

**Waste Management**  
CFUW, 1989

RESOLVED, That each member of the Canadian Federation of University Women (CFUW) be urged to become environmentally responsible by taking an active role in reducing her use of paper products, products containing chlorofluorocarbons, plastics, disposable consumer products and toxic household substances and by consciously choosing to support environmentally sound alternatives; and

RESOLVED, That CFUW urge community groups the Government of Canada, the provincial and territorial governments and municipal governments and private businesses to:

1. promote and implement recycling programs for all reusable and recyclable products and to promote research for the uses of these products; and
2. carry forward a plan that moves by stages towards a total ban of products dangerous to health and the environment, in particular, those causing destruction of the ozone layer and to promote the use of safe alternative products.

**CANADIAN FEDERATION OF UNIVERSITY WOMEN  
ONTARIO COUNCIL**

**CLUB LOCATIONS**

Ajax – Pickering	Kitchener - Waterloo	Owen Sound & Area
Aurora - Newmarket	Leaside - East York	Perth & District
Barrie & District	London	Peterborough
Belleville & District	Markham- Unionville	Renfrew & District
Brampton	Milton & District	Sarnia Lambton
Brantford	Mississauga	Saugeen
Burlington	Muskoka	Scarborough
Cambridge	Nepean	Southport
Chatham - Kent	Niagara Falls	St. Catharines
Cornwall & District	Norfolk	St. Thomas
Etobicoke	North Bay	Stratford
Georgetown	North Toronto	Sudbury
Georgian Triangle	North York	Thunder Bay
Grimsby	Northumberland	Toronto
Guelph	Oakville	Vaughan
Haliburton Highlands	Orangeville & District	Welland & District
Hamilton	Orillia	Windsor
Kanata	Orleans	
Kincardine	Oshawa & District	
Kingston	Ottawa	