



June 4th, 2005

Cathy Grant, Engineering Specialist – Air Pollution Control
Standards Development Branch
Ontario Ministry of the Environment
135 St. Clair Avenue West, 7th Floor
Toronto, Ontario
M4V 1P5

Dear Ms. Grant,

I am writing on behalf of Pollution Probe in response to the proposed “Regulation to Revoke and Replace Ontario Regulation 346 – General Air Pollution and Amendment to Ontario Regulation 681/94” (EBR Registry Number: RA05E008) that was posted on the EBR Registry on May 5th, 2005. The new regulation will introduce new standards, update air dispersion models, and provide a risk-based decision making process to address implementation issues and improve upon clarity and enforceability. As you are aware, Pollution Probe participated in the risk-based pilot project upon which many of the proposed changes in the regulatory framework are based. We have continued to participate in public consultations on the proposed regulation, and monitor the regulatory process closely on an ongoing basis. This submission builds upon previously submitted comments on this issue in October 2004.

Pollution Probe believes that the new regulation will go a long way towards protecting human health and the environment in Ontario communities from the local impacts associated with air emissions from point sources. In general, we support the updated air standards, the use of new air dispersion models, and the adoption of a risk-based health effects process for alternative standards. In the case of the risk-based health effects process, Pollution Probe is pleased to see many of our suggestions incorporated into the regulation. In particular, the degree of transparency in the process to alter standards, the requirement to hold a public meeting, and the engagement of the local medical officer of health.

More specifically Pollution Probe is pleased that the proposed framework incorporates health risks along with economic and technological considerations, encourages continuous improvements that are driven by health-based air standards, and adopts new dispersion models that are more accurate and capable of estimating concentrations of

pollutants over various averaging time periods. It is our view that the proposed regulations provide a solid foundation for, and are complimentary to, the emission reduction targets for NO_x and SO₂ outlined in the Provincial Clean Air Plan. In this context the implementation and enforcement of this regulation has the capacity, in principle, to act as a critical back stop to any problems that may potentially arise from other elements of the Plan.

Pollution Probe does, however, have some minor concerns with the proposed regulations, specifically changes from the previously proposed framework. The phase-in of contaminant concentration standards is not as rapid or extensive as in the previously proposed framework. We recognize that this approach may be a necessary compromise to accommodate the large number of facilities in Ontario that will come under the regulation and the resources currently allocated to the Ministry of the Environment for implementing alternative standards. Similarly, we note that the 5 – 10 year period provided for the alteration of schedule 3 standards for facilities with emissions below the upper risk thresholds but above Ministry standards have been extended from the time frame previously proposed. We note that the proposed time period is comparable to those in other jurisdictions (e.g. California), giving Ontario some of the highest air standards in North America. However, it must be ensured that in both cases human health and the environment are not compromised.

While the proposed regulations will provide greater protection of public health and the environment, we believe that it may still be necessary to monitor emissions on a periodic basis, especially for sectors and facilities not targeted for 2010 under Schedule 4 and those not targeted for 2013 under Schedule 5. The proposed new models are a huge improvement, but they may still need support from a strong monitoring system. It may also be necessary for the Ministry of the Environment to continue to engage industry, public health departments and environmental groups to clarify the frequency and magnitude of exceedences when assessing applications for alternative standards. This may need to be done on a broad scale or for some pollutants on a case by case basis.

Pollution Probe would be pleased to continue to work with the Ministry of the Environment on these issues, and in other ways to improve and promote the new regulations and guidelines.

Sincerely,

A handwritten signature in black ink that reads "Quentin Chiotti". The signature is written in a cursive, flowing style.

Dr. Quentin Chiotti
Air Programme Director and Senior Scientist

cc. K.B. Ogilvie, Executive Director