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Standing Committee on General Government

Toxics Reduction Act, 2009

Chair: David Orazietti
Clerk: Trevor Day

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Loi de 2009 sur la réduction des toxiques

Président : David Orazietti
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Hansard Reporting and Interpretation Services
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Monday 25 May 2009

Lundi 25 mai 2009

The committee met at 1405 in committee room 1.

TOXICS REDUCTION ACT, 2009

LOI DE 2009 SUR LA RÉDUCTION DES TOXIQUES

Consideration of Bill 167, An Act to promote reductions in the use and creation of toxic substances and to amend other Acts / Projet de loi 167, Loi visant à promouvoir une réduction de l'utilisation et de la création de substances toxiques et à modifier d'autres lois.

The Chair (Mr. David Orazietti): I'd like to call the committee to order and get back to our hearings on Bill 167, An Act to promote reductions in the use and creation of toxic substances and to amend other Acts. Just for the information of members of the committee, there is an interim summary of recommendations on your desk that has been provided by legislative research. With that, we'll get started.

ONTARIO BIOAUTO COUNCIL

The Chair (Mr. David Orazietti): Our first presenter is the Ontario BioAuto Council. Welcome to the Standing Committee on General Government. You can state your name for the purposes of our recording Hansard, and you can begin when you're ready.

Mr. Craig Crawford: My name is Craig Crawford. I'm the president and CEO of the Ontario BioAuto Council. I've passed out copies of our presentation to the committee, which goes through some detail of who we are and our position on the bill. We outline some of the business opportunities and emphasize the role of research and innovation. I didn't want to take the committee through the details of this at all; I just wanted to summarize some of the key points that we'd like to emphasize.

First of all, we're very supportive of the general direction the government is trying to take to make the province a healthier and safer place and to try to create green jobs.

We see tremendous opportunities in this area for green jobs. There are a number of studies that have taken place that try to estimate that, and it's somewhere in the order of $140 billion to $210 billion globally. So there are huge market opportunities out there.

If you look across Canada, the industries that would use those new technologies are largely the resin and plastics industry. There are about 100,000 jobs out there in that sector, and they ship about $28 billion. So there's a lot at stake here to try to move Ontario and Canada to the forefront of toxic chemical reduction.

The government, in our understanding, basically has a two-pronged approach: one, regs, where they're trying to implement the regs in a way that is reasonable and fair to business; and then financial incentives for industry to help implement the strategy. I didn't really want to talk here about the regs. I really wanted to emphasize the incentives for industry, which I think are not really sufficient and are too narrow in scope. They're allocating $24 million to do auditors and planners. While that might be necessary, I don't think it's sufficient. What we really need, I believe, is targeted funding to industry to develop very innovative and competitive products.

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I'd like to give you a couple of examples about what the BioAuto Council is doing. The council involves everyone from agriculture and forestry, who provide renewable materials, through plastics makers, to auto companies. We have a fund that is called the commercialization fund. The money came from the province, and what it's for is to try to develop competitive products. We would like to see more of an emphasis on this.

This is what's called a headliner. It's the part that goes above on the roof of the car, and it's made out of polyurethane foam. Woodbridge Foam is the company that made this. What they did is replace the polyurethane foam with a bio-based foam that doesn't use ethylene or propylene oxide--two of the toxic chemicals that are discussed in the legislation--but it goes further than that. They've evolved innovative, new manufacturing equipment that makes this thinner and lighter, so that not only do you eliminate toxic chemicals but you have a car that's lighter, gets better gas mileage and reduces greenhouse gas emissions.

On top of that, to give structure to the headliner, the company has replaced fibreglass with natural fibre, so you have a safer fibre and it's recoverable. The idea is, we sell this to Japan, and they can then take this and recover the energy and the chemicals.

I don't think you're going to get a product like this just out of implementing the regulations. There has to be a complementary piece that helps industry develop these kinds of competitive products.

I'll give you another example. This is an inside door panel. It's made from polypropylene, which is a non-toxic plastic, and it's reinforced with pulp mill fibre to give it sufficient strength that it can replace steel. It's non-toxic, it's lighter, it can replace steel, get better fuel economy, get greenhouse gas reductions, get jobs for people up north, and it's recyclable. The microfibre technology allows us to recycle this, and the more you recycle it, the stronger it gets. It's all in the material science.

So what we're saying, simply, is that we think that to really create these green jobs, to be not just good but great, to be a world leader, we really need to think about how we can supplement the Ministry of the Environment's regulations with investments in research and innovation, targeted not just to universities but to companies to help them accelerate market introduction of these new products.

The Chair (Mr. David Orazietti): Thank you very much for your presentation and for your comments. We have a few minutes for questions.

Mr. Barrett, questions?

Mr. Toby Barrett: I guess we've heard a bit about dashboards and other products made from agricultural crops. Are there any projections on what impact this would have on agriculture? I'm thinking of soybeans, for example. How significant could this be? I know we're producing millions of cars less right now, but just making a projection, say, once that industry recovers.

Mr. Craig Crawford: I don't have any hard and fast numbers for you, but in discussions with the soybean growers, I think they see this as a very positive development. It creates alternative markets for soybeans--not just for the oil, but there are other applications using the soy meal.

Mr. Toby Barrett: The DuPont example you give, the starch-based 1,3--is that grain corn-based or what would that--

Mr. Craig Crawford: It's corn-based, yes. They're looking at using corn now and, as the technology develops, using what they call lignocellulosics for the feedstock source. It would be corn stocks and things like that.

We actually have a pilot plant for that. There's Cerenol that we reference in that document. There's a pilot plant in Kingston, Ontario.

Mr. Toby Barrett: The Ontario BioAuto Council--you're an agency of the Ontario government? How is this set up--

Mr. Craig Crawford: I would describe it as an industry-led, not-for-profit organization that tries to pull together industry and link them up with centres of excellence for research, like our universities, Auto21, Ontario Centres of Excellence, this sort of thing, so that you link companies in with sources of innovation coming out of our universities.

The Chair (Mr. David Orazietti): Mr. Tabuns, questions?

Mr. Peter Tabuns: First of all, thank you. What you're doing is extremely interesting, extremely useful.

One of the things that was done in Massachusetts when they brought in their Toxics Use Reduction Act was to set up a toxics research institute at a university to help industry make the transition. Is that sort of structure one that would be useful to bioauto developers here in Ontario?

Mr. Craig Crawford: Yes, I think it would be. One possible location for that institute could be Queen's. The BioAuto Council wrote a letter of support to Queen's to try to obtain federal money. We were successful--$9 million. They're trying to pull together university experts across the world to bring these ideas forward to industry, and we would definitely work very closely with them.

There are innovations that come out of university and there's research and innovation that comes out of business. The real trick here, I think, to become global leaders is, how do we pull those two pieces together and get the best out of it? In this particular case, the fibres were a university innovation, but some of the other components of the innovation came out of industry. So it was joining the best and the brightest from both university and industry. We really have to do both, not either/or.

Mr. Peter Tabuns: Okay. Thank you very much.

The Chair (Mr. David Orazietti): Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Craig, for your presentation. We hear a lot of talk these days about things like green chemistry, green engineering, that type of thing. Sometimes the terms are perhaps abused and sometimes they're not used the right way. Is there some real potential for advances in that field as a result of the passage of this bill?

Mr. Craig Crawford: Yes, I think there will be. Again, there's a lot of talk inside the bill about green chemistry and green engineering, but there are other sciences here that could benefit as well: biotechnology, nanotechnology, material science. There's a whole range of emerging sciences here that I think could benefit.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. David Orazietti): Thank you very much for your presentation.

ONTARIO CENTRE FOR ENVIRONMENTAL TECHNOLOGY ADVANCEMENT

The Chair (Mr. David Orazietti): Our next presentation is the Ontario Centre for Environmental Technology Advancement. Good afternoon, and welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five minutes for questions from members. You can start by stating your name for the purposes of Hansard, and you can begin when you're ready.

Mr. Fred Granek: My name is Fred Granek. You have my bio, my presentation and three recent case studies in the handouts that you've all received. Thank you for the invitation.

I'm going to be talking about pollution prevention, toxic use reduction and the business case that ensues.

On slide 2: My experience is based on being responsible for the Toronto region sustainability program, a one-stop pollution prevention technical assistance program for small to medium-sized manufacturers throughout the GTA over the last nine years.

If you go to slide 3, the premise I'm making is that any manufacturer anywhere has a system for quality management to avoid defects, and from my standpoint, pollutants and wastes are quality defects. If you look at avoiding defects, you're trying to make products, not wastes.

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There are really six key questions to ask if you're doing a toxic use reduction pollution prevention plan. What are your processes? What are your wastes? What are the priority waste streams you want to address, using the 80-20 rule that 80% of the wastes come from 20% of the sources? The root cause analysis is fundamental. Why do you have the wastes? What are the solutions that you can do to eliminate the underlying root causes of the wastes? And the one that is most important for driving implementation: What is the business case? I'm going to quickly go through only slices of three case studies to illustrate my point.

The first one is a public case study with Trimac, a service provider for the auto industry that cleans totes and portables and used methylene chloride, a toxic under the Canadian Environmental Protection Act. If you go to slide 6 and look at the process column on the left, "Tote and portable cleaning," you can see that the target pollution was methylene chloride. It's very functional, very inexpensive and toxic. The solution, working with a consultant, was to replace methylene chloride with baking soda driven from a Blaster Master. That eliminated the use of 62 tonnes a year of methylene chloride, the savings were $162,000 over waste water treatment costs and payback was 0.2 years. You can see the rest of the examples on that slide. Basically, you're talking about integrated solutions, but it was pretty spectacular.

Slide 7: a chemical company subject to the sewer use bylaw in Toronto that makes glycerine and oleic acid. The regulatory trigger was sewer use--you have toxics--but they wanted to reduce their costs.

If you go to slide 8 and look at fatty acid and glycerine production, the targeted pollutants for that particular process were zinc and nickel, which are subject pollutants under the sewer use bylaw, and hazardous wastes. By rethinking the process, the company is precipitating, coagulating and floculating their nickel wastes from the condensates. They've eliminated 120 tonnes of hazardous wastes a year, they're saving $140,000 a year in disposal costs, the capital investment was exactly $7,000 and the payback was less than a month. You can look at other examples at the bottom: They reduced wastes, toxics, hazardous wastes, water. Again, there's money in avoiding waste.

The last example to illustrate the theme is a paint manufacturer, again triggered by the sewer use bylaw and Ministry of the Environment regulations on air emissions. On slide 10, notice the middle group, the resin plant. They were using bisphenol as a thickening agent. Bisphenol is needed so that paint sticks to the wall and doesn't run off, and they use very fine particles to mix well. By rethinking the process, they migrated to a pelletized version. That eliminated 13 tonnes a year of fugitive losses of very fine toxic material that was floating out the stack--a saving of $27,000--and the capital investment was exactly zero. They just rethought the process. Other paint manufacturers are still doing it the other way, and an engineering way would have been to put in ventilation hoods at $80,000. They just rethought the process.

Slide 11: Working with 58 clients to date and 323 projects, you can see the list of environmental reductions we've achieved by doing pollution prevention with manufacturers. Volatile organic compounds, fine particulate matter--the reduction in toxics is equivalent to the weight of 37 SUVs. The avoidance of water loss is equivalent to not flushing the toilet 95 million times.

If you go to slide 12, you see the return on investment on average--simple payback. It's 11 months, and 90% of the clients, based on business cost avoidance and the business case, are implementing all or most of the recommendations.

My conclusion, on slide 13, is very simple. The business case for pollution prevention for toxic use reduction is three things: TUR is led through process efficiencies and minimizing material input and minimizing waste outputs--it avoids costs; business risk reduction, which is hidden costs of non-compliance, the threat of regulation, like TUR and others things; and business cost is competitive advantage. That's the business case. By doing it right, all three things can be achieved.

My name's Fred. Thank you.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. We have time for questions. Mr. Tabuns?

Mr. Peter Tabuns: Mr. Granek, thanks for the presentation. I certainly have to say that I'm impressed by the results that you were able to generate.

What would this act need to give you a more effective framework within which to operate?

Mr. Fred Granek: The act right now would be mandating toxic use reduction planning. That would be an incredibly powerful driver for generating more throughput, because right now, we're using many different ways to market--sewer use, air emissions, whatever. This would be an overwhelming driver for going in the right direction.

The premise I have, though, is that the act needs to look at the full suite of tools to make business decisions. That means it's not just accounting for materials, it's also the root cause and the business case associated. With those elements, you have a very powerful way of driving people to basically sustainable performance.

Mr. Peter Tabuns: Thank you.

The Chair (Mr. David Orazietti): Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for your presentation. Of the three examples you cited, just putting

myself in the shoes of the owner, I'd be upset if my employees or the managers I had working for me had not drawn this to my attention. It seems to me, if I understand your presentation correctly, that the savings you are illustrating in each of the examples would be savings to the corporation. They're not societal savings; they're actual savings of hard cash.

Mr. Fred Granek: They're savings of cash and environmental reductions--both.

Mr. Kevin Daniel Flynn: Okay. Some people have offered the opinion that toxics reduction is going to cost them money. Why is that? Why does that school of thought still exist?

Mr. Fred Granek: The school of thought, in my opinion, exists because if you're looking just at the Toronto sewer use bylaw and you're looking just at toxics, it's hard to get a good payback. What we're talking about is doing it in an integrated fashion: toxics, hazardous waste, processed waste, water, energy, smog precursors. Then there's a good payback. If you're doing it very narrowly, it's very difficult if you're talking about small quantities.

Mr. Kevin Daniel Flynn: Okay. But why, from a business planning perspective, isn't it done in the broader spectrum by business itself?

Mr. Fred Granek: Habit, inertia.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. David Orazietti): Mr. Barrett?

Mr. Toby Barrett: Thank you for the presentation. On page 2, you talk about the importance of prioritization and you pose the question of what are your priority waste streams. Again, just to follow this thread of a good business, it doesn't make sense to waste resources working on some of the products that maybe aren't necessarily a risk for people or are not subject to release into the environment. Do you think that would be important, to make some changes in this legislation so that it actually works on the right substances rather than all toxic substances, whether they're a risk or not? Should we focus or should we continue with this approach, which looks at dealing with every single substance?

Mr. Fred Granek: If you're looking at a company and you're looking at every substance that's on the legislative table, there are only going to be a handful that are relevant to any particular facility. A priori it's very difficult to tell. Once you're done your internal inventory, then you know. So your priorities, instead of being 400, will be 10. It bubbles down, but for somebody in government to tell everybody in industry what their priorities are--every paint manufacturer, every metal plater, has a different process. The list is probably a good start, but the method of going through the discipline is necessary. So the onus is on both sides.

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Mr. Toby Barrett: Okay. Thank you.

The Chair (Mr. David Orazietti): Thank you very much for your presentation.

Mr. Fred Granek: Thank you.

CANADIAN CONSUMER SPECIALTY PRODUCTS ASSOCIATION

The Chair (Mr. David Orazietti): Our next presenter is the Canadian Consumer Specialty Products Association. Good afternoon. Welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five for questions from members of the committee. You can start by stating your name for the recording purposes of Hansard, and you can begin when you're ready.

Ms. Shannon Coombs: Thank you very much. Good afternoon, Mr. Chair and honourable committee members. It's a pleasure to be here today to provide an overview of the Canadian Consumer Specialty Products Association's suggested amendments to the proposed legislation, Bill 167, and some of our recommendations for the committee to report back to the government for further action.

Who is CCSPA? Well, let me introduce myself. I'm Shannon Coombs, the president of the Canadian Consumer Specialty Products Association, and with me is Anne McConnell, my colleague, who has been helping me work on the toxics legislation and some of the discussion papers that we've had since last August.

We're a national trade association that represents 45 member companies across Canada. We're collectively a $20-billion industry. We employ directly 12,000 people at over 100 facilities, 65 of which are in Ontario. Our companies manufacture, process, package and distribute consumer, industrial and institutional specialty products, such as soaps and detergents, pest control products, aerosols, hard-surface disinfectants, deodorizers and automotive chemicals.

I've provided the clerk with copies of our submission and our one-pager, which gives you a very colourful, very illustrative description of our products that the members make. I'm sure many of you use some of those products every day.

Why are we here? The health and safety of Canadians is the priority of CCSPA members. Our member companies are leaders in the responsible use of chemicals for consumer and institutional products in Canada, and we are committed to the safe and appropriate use of our products. We support and appreciate the government of Ontario's commitment to ensuring the safe use of chemicals.

Over the past year, we've announced a number of voluntary initiatives, such as lowering the amount of phosphorus in automatic dishwasher detergent. We have Concentrate on the Future, a communication initiative for consumers which helps explain the 2X and 3X that you see on your bleach in your laundry these days. As well, we announced a voluntary ingredient disclosure initiative, which would allow companies to disclose their ingredients, whether on product labels and/or a member's website.

So can Canadians be confident that the products are safe? Yes. The products that they purchase have all had

various levels of government review and oversight, and that level of oversight depends on the product. All products, such as laundry powder, liquids, fabric softeners and dishwashing liquids, have either had a new substances notification review under CEPA or an existing substance review under the chemicals management plan by the federal government. If any of these types of consumer products make antibacterial or antimicrobial claims, such as "kills 99% of germs," then they're also regulated under the Food and Drugs Act. As well, our labels are regulated by the consumer chemicals and containers regulations under the Hazardous Products Act. The foundation of this particular regulation is science. It's a hazard classification, but it provides risk communication to consumers. We've had appropriate regulation for over 39 years.

Given the diversity of the product types that our member companies represent, we are subject to various laws and regulations under the Canadian Environmental Protection Act, the Pest Control Products Act and the Food and Drugs Act. Therefore, the experience that we've had to date with various pieces of legislation, we hope that you will find helpful.

We have a few suggested amendments to the proposed legislation. We're going to focus on three key ones for today. We would like to include a definition of "toxic," remove the term "substances of concern," and we want to streamline the authority for regulating toxics in consumer products by providing clear and concise language in the bill.

So what are we asking you to consider? We respectfully request that there is a clearer definition of "toxic substance" in the bill; we find it is a bit odd that the name of the legislation has "toxic" in it, but it is missing. We think that it would provide a clear and transparent definition, and therefore be able to be well understood by all those who are going to be implementing this bill.

We are suggesting using the Canadian Environmental Protection Act's definition of toxic substances for the purposes of this bill, and the precise definition is in our submission. If it's included, we believe that the term "substance of concern" can be removed from all relevant sections of the legislation.

We're also seeking the removal of section 64, clause 49(1)(n.1)(ii), where clause (n.1) states, "prohibiting or regulating the manufacturing, sale or distribution of," which clearly gives the Ontario government the authority to take action on toxic substances in consumer products via regulations. Clause (ii) of section 64 doesn't provide clarity, we believe, and uses a very broad term, as in "anything that contains a toxic substance."

Clause (ii), as we said, is broad, and we believe it would be counterproductive to providing a meaningful piece of legislation, as just about anything can be construed as a toxic substance. Safety depends on exposure as well as hazard. Many products contain substances that could be toxic in another situation but are safely used in beneficial and desired products, such as sunscreen, coffee and pharmaceutical active ingredients.

Therefore, we believe that, as I said, if the government wishes to move ahead with regulations, in section 64, clause 49(1)(n.1), when you say "prohibiting or regulating the manufacturing, sale or distribution of," it gives the authority to the government to undertake the regulations that they wish to develop to protect the people of Ontario.

We appreciate appearing before the committee today with our recommendations to improve this important piece of legislation, and if you have any questions, I'd be pleased to answer them.

The Chair (Mr. David Orazietti): Thank you very much. We'll start the questions with Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for your presentation and thank you for the suggestions you've made for amendments. As you're probably aware, some parties are saying that this bill goes too far and others say that it doesn't go far enough. You, perhaps, are in the former as opposed to the latter.

Some people are saying that we should mandate the substitution of toxic substances with safer alternatives where those alternatives are available. Do you have any comments on that suggestion? Also, where do you think the balance should be struck between protecting the interests of the public when they want to know what's in a product and proprietary information that a corporation may hold on certain ingredients that are in a product?

Ms. Shannon Coombs: On your second question, all of our ingredients are regulated under the Canadian Environmental Protection Act under the chemicals management plan or under new substance identifications, and a lot of our end-use products are regulated under various acts as well. That's one of the reasons why our industry was very proactive and responsible with respect to disclosing the ingredients. As of January 1, 2010, you'll be able to know what is in your cleaning products, on the label or on the manufacturer's website. We're very committed to that and to being transparent, because our products are safe.

Mr. Kevin Daniel Flynn: So that shows there is room for improvement, then.

Ms. Shannon Coombs: What?

Mr. Kevin Daniel Flynn: Obviously you are making improvements.

Ms. Shannon Coombs: We are providing the information, yes.

Mr. Kevin Daniel Flynn: Which I think, as a member of the public, I see that as--I'm thankful you're doing that.

Ms. Shannon Coombs: Thank you.

Mr. Kevin Daniel Flynn: And on the other question?

Ms. Shannon Coombs: On the substitution?

Mr. Kevin Daniel Flynn: Yes.

Ms. Shannon Coombs: As I mentioned, all of our ingredients are regulated under various laws and regulations. Canadians can be confident that the products are safe to use as intended. I guess I struggle with a little bit of your question.

Mr. Kevin Daniel Flynn: Some people are suggesting that it should be mandated; that if a safer alternative exists, you should be forced to use that alternative.

Ms. Shannon Coombs: If the original ingredient is safe, I would argue that you should be allowed to use that, because you are regulated under various laws.

Mr. Kevin Daniel Flynn: I've probably used up my time, but I think they said "safer," not "safe"--a "safer" alternative.

Do I have time left?

The Chair (Mr. David Orazietti): No, that is time. Thank you. Mr. Barrett.

Mr. Toby Barrett: We've been working on this for a number of weeks. I think this is maybe the first time I've actually seen a definition of what a toxic substance is, and we thank you for that. I think this is very important. It has taken this long to find out just exactly what we're talking about here.

I understand your concern with respect to the term "substance of concern." I had half a cup of coffee this morning. I don't drink coffee, and I made the mistake of drinking it on an empty stomach and at a very high dosage. I consider that cup of coffee a substance of concern, and I probably won't drink another coffee for about a year. But I use that example because: How does one decide what anything is or what a substance of concern could be? Is that based on the risk to people's health, or does that fall into this other phrase under the rubric of the precautionary principle? I just wonder: How does one make these kinds of decisions, or is there any valid line of reasoning to make these kinds of decisions? I don't think it's based on science. I just wonder: How are these decisions made?

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Ms. Shannon Coombs: I think Anne is itching to answer that question, so go ahead.

Ms. Anne McConnell: In listening to your question, I think that is our question, that "substance of concern" doesn't actually have a definition. You might be concerned about coffee; I might be concerned about a pharmaceutical product I'm using. So it comes back to having a robust definition of what is toxic so that you can evaluate substances against a definition. I think it kind of reflects on the earlier question about "safe" or "safer." You need to have some science-based criteria by which you would evaluate whether it's toxic or not.

Mr. Toby Barrett: Okay. And that might not be present in this legislation.

Ms. Anne McConnell: Correct.

Mr. Toby Barrett: Yes. Okay. Thank you very much.

The Chair (Mr. David Orazietti): Mr. Tabuns?

Mr. Peter Tabuns: Thanks for the presentation. I don't know if you followed the earlier presentations, but we've had the Canadian Cancer Society, the Registered Nurses' Association of Ontario and the Ontario Public Health Association come in and say that in fact we have a problem in this society with cancer, with neurotoxins and reproductive toxins, and that this legislation, as written, is not adequate to actually protect the population.

I have to say that I've dealt with the federal government on environmental issues in the past, and I'll cite climate change as the easiest one: Their record of protecting the public has been abysmal. So a suggestion that we should rely on the federal government for protection is one that I find surprising.

Why do you think that your testimony and position is stronger on health than the registered nurses, the Ontario Public Health Association and the Canadian Cancer Society?

Ms. Shannon Coombs: Thank you for your question. I think there are a couple of things. One is that we live very much, every day, in the regulatory world in Ottawa of the Canadian Environmental Protection Act, the new substances notification regulations and the chemicals management plan. The science, the rigour, the data call-ins, the amount of testing data that is submitted--it's onerous and it's rigorous. It's science-based. So we're living that, very much, every day, and the fact is that our products are highly regulated: the ingredients and the end products, and so is the labelling. We are very much committed to meaningful and risk-based information to consumers. We would welcome any kind of science-based discussion with the cancer society or the Registered Nurses' Association of Ontario.

Mr. Peter Tabuns: So are you suggesting that in their presentations they're overstating the risk to the public of toxic chemicals?

Ms. Shannon Coombs: I wouldn't want to presume to suggest. I think that they're very committed. Both of the groups are very committed to what they do. What I believe is that at times, there may not be an understanding of the rigour that goes into the registration of these products. The labelling of these products is risk-based. Consumers have had this type of information for the past 40 years. I believe that we have a very rigorous system here.

If there is a gap analysis that is the basis for moving forward, for us to do more, then we're committed to working together to find that end. Anne, did you want to add--

The Chair (Mr. David Orazietti): I think that's time.

Ms. Shannon Coombs: Oh, is it? Oh, sorry.

The Chair (Mr. David Orazietti): Yes, that's fine. Thank you very much for your presentation today. I appreciate your coming in.

ARTHUR JEFFORD

The Chair (Mr. David Orazietti): The next presentation, the United Steelworkers, will not be making a presentation this afternoon. Our presentation from 4:15 has agreed to go ahead. So, environmental plastics: Mr. Jefford.

Good afternoon, and welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five for questions from members. You can state your name and you can get started.

Mr. Arthur Jefford: My name is Art Jefford, of Jefford Industries: environmental plastics, environmental enclosures, environmentally friendly, healthy living environments.

First of all, I wish to apologize for filling in what perhaps might have been a break for you, but I hope you're not going to hold that against me.

Some questions were asked: What's toxic and what's not? What's toxic and what's not relates to TLV individually.

The second thing is, in our parliamentary effort to protect us, to preserve our environmentally friendly, healthy environments, what we do now is perhaps too late. It is now time to dig in and protect ourselves and buy still more living time. While we need to fix the problems, we may need more time than we have left.

Respectfully, I believe this committee is addressing only the scientific concerns and failing to address the human well-being impact of all those affected by toxics legislation.

So I am here to present to you an illustration of what can happen if you do not include in this legislation a pre-impact safety valve and a simple procedure to appeal for redress.

Let's look at energy efficiency to reduce toxicity. Precedents of action for saving our environmental toxicity: Today, right now, our prime concern is making an indoor safe air environment for us to be able to recoup and recharge our overtaxed immune system, as this can be individually controlled and we can monitor that toxic environment. The reason for concern is that our polluted outdoor air environment is individually uncontrollable. It's a global problem, and it should be addressed on that level.

What can, in some cases, be more toxic than scientifically identified listed toxic concerns is a parliamentary trend to save us from harm. So what has happened in the past when we failed to consider parliamentary legislation impact on the few to protect the many? Let's look at the urea formaldehyde foam ban.

On December 17, 1980, at 10:30 in the evening, the Minister of Health, Canada, announced the UFFI ban. This time, we acted before the US. Unknowingly, I was helping train new sales agents till after midnight that night. I went to the plant at 5:30 a.m. the next morning to help get the crews out to all the jobs. I verified the work schedule and all the while nobody said anything about the UFFI ban. My ex-wife was in talking to a divorce lawyer at 10 o'clock that morning. I didn't find out about the problem until the bank called me at work at 10:30 a.m. advising me I had $55,000 in stopped payments and my business was banned. I needed to come in and see them right away.

Disbelieving what I was told, my normal routine, at my 10:30 a.m. lunch break, was turned upside down. I couldn't even verify with Health Canada that I was banned, but after a newspaper verification I started calling all the crews off the unfinished jobs and started endeavouring to deal with the unimaginable health hazard created by my member of Parliament's premise of protecting my health. The US banned UFFI six months later, only to have the US ban overturned one year later as UFFI was not a known health hazard, and all impacted parties were compensated.

In Canada, after a board hearing was requested on the UFFI industry, I was allowed five minutes only to address the board and this time took all my introduction time requesting to be treated other than as an upset homeowner as I could offer the board a lot more information under the mandate. I was thanked by the board members for my attendance and five minutes' limited presentation.

So I went back to deal with the 3,483 legal actions for $484 million I had identified by March 5, 1981, 78 days after the ban that kept on coming.

In 1982, I asked my MP, Don Blenkarn, to stand on the front steps with me and say, "Don't bulldoze your house," only to have both of us removed by police just before the home was destroyed. My brother's home was levelled and caused intense family stress. How can Health Canada ban it as a hazardous product if it isn't even a health hazard?

My next member of Parliament, Bob Horner, took the exact opposite UFFI position. He was with the Mulroney government that said, "When I was accused of the RCMP allegations, I lost three years of my life." Well, this took three decades of mine, 28 years.

My new member of Parliament reported me to the Canadian national security police. Now I have suffered RCMP attendances at my home. My other family members have claimed to be so upset that I could threaten Canada's homeland security and I feared the rest of my life being spent in Gitmo Kingston, Canada. Seven years later, in October 1987, returning from two weeks from Germany as head of the Canadian delegation, I was arrested and taken to Detention West, deliberately avoiding service as now 130 bench warrants over UFFI had been issued for my arrest ever going on to the present.

After 9/11, I was requested to go and meet at a bar in Bali. Twenty minutes after I declined to go and did not appear there, it was blown up. My three American associates just escaped before.

In January 2004, as a Canadian expert on the special international task force dealing with post-9/11, the preservation of high-rise structures and bridges, I was picked up by a cell, repeatedly beaten, covered in blood, vomit, urine, diarrhea, stripped, repeatedly drowned and died over and over again only to wake up again. I escaped three days later and went to a small local hospital in a captive's clothing. After being given IVs, I was discharged as a foreign indigent. I picked up my ID in the locker kept for me in the storage locker, as I owed room rent. I went to the better big-city university hospital and was admitted for a week and treated for near-death dehydration. I was able to message home that I was recovering in hospital and was able to return to Canada. The only RCMP help to those missing me in Canada was a helpful hint of advice given to verify that I did not

come back to Pearson Airport as expected and was missing.

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During the torture, I released information that I thought was of no importance: that I was a Queen's Scout and held a bushman's thong; was senior NCO in command, sergeant-major of 1 MP, military training of cadets at Base Borden; I was senior commissioned in command, major commissioned officer of a cadet corps. I thought this was better than expanding on my captors' no-knowledge of my bush pilot hours of flight experience, but it seems that what this did was create difficulties for those caught up in recruiting of the Toronto 18, which I again ran into difficulty in being harassed, for which I apologize to them.

With the use of safe UFFI around the world being recognized as one of the best insulations after our recent Canadian RetroFoams, three years of usage in Ontario, the Canadian government's acceptance and then Health Canada's advisory of 11-2009, toxic regulations need to be universal or we will just wait briefly for the next Canadian entrepreneur to advertise, sell and distribute, directly and indirectly, to the next stigmatized Canadian in any one of the ridings of our members of Parliament, all across Canada, the next devastation and years of loss of one's life and their family's lives from exposure to a toxic material that isn't a toxic.

Urea formaldehyde foam insulation is not banned properly because it's banned as "foam-in-place," and it isn't a foam-in-place insulation. Like urethane, with a blowing agent, it is mixed as a pre-mixed insulation and then injected, much like you would pump concrete into a cavity. The urea formaldehyde ban, although banned absolutely on schedule 1, did not ban spray foam, did not ban spray-on-board stock, did not ban pre-houses and did not ban building blocks or ICFs. Should it have been banned under part II? Well, it didn't matter, because they didn't properly ban with the three elements.

Then again, we now have ICQ tests of indoor air quality and how safe or how toxic the air is inside homes. We test among 267 other formaldehyde-emitting products and say, "This proves how bad urea formaldehyde foam insulation is," which was on the outside of the national mandatory vapour barrier that separates the inside of the house from the outside. So how can you test one area and say something else is bad?

The Chair (Mr. David Orazietti): Thanks for your presentation. That's time. Mr. Barrett, go ahead if you want to ask some questions.

Mr. Toby Barrett: Thank you, Mr. Jefford. With respect to urea formaldehyde, just to summarize on that, what evidence was there as far as mortality or morbidity with respect to people living in homes? Was Canada the only place that banned it? I'm not sure where else it's been done.

Mr. Arthur Jefford: It's only a Canadian problem. In numerous formaldehyde tests, morticians who work with formaldehyde all the time have an average life expectancy of seven years longer than people who don't. Basically, it pickles you while you're dead, but it pickles while you're alive, too.

Mr. Toby Barrett: Okay. I think of other products that I've worked with, like--well, with insulation alone, you think of Styrofoam, SM or that closed-cell blue SM. Vermiculite: We used to work with vermiculite. We use that in greenhouses, in plants. Have any of those products--I think vermiculite has been identified as a problem.

Mr. Arthur Jefford: Containing asbestos, yes.

Mr. Toby Barrett: I beg your pardon?

Mr. Arthur Jefford: Containing asbestos.

Mr. Toby Barrett: Vermiculite has asbestos in it?

Mr. Arthur Jefford: But it's deemed to be a legal product for distribution in Canada. In foreign countries, we can kill people outside of the country with it.

Mr. Toby Barrett: Canada does export asbestos, as I understand.

Mr. Arthur Jefford: If you've followed our leader of the opposition, you will find that he made quite an error on the asbestos, where he said, "Well, if it's killing people, we should remove it." Then he took a back-step and said, "Well, we allow it to be shipped to foreign countries, when they accept it to be used in their country, and kill their people."

Mr. Toby Barrett: Okay, thank you.

The Chair (Mr. David Orazietti): Thank you. Mr. Tabuns?

Mr. Peter Tabuns: Mr. Jefford, thank you for the presentation. I find I have no questions.

The Chair (Mr. David Orazietti): Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you, Mr. Jefford. You used a term that I found interesting; I've never heard it before: a pre-impact safety valve. What did you mean by that?

Mr. Arthur Jefford: What I'm saying is that I was chairman of SPI. I was involved with this. We did $120 million a year with 1,005 employees and we got no notice whatsoever about this. Boom--and my court cases still come today. There should be a seven-year statute of limitations, but there isn't; they still keep coming.

Mr. Kevin Daniel Flynn: So how would you define exactly what you mean by pre-impact safety valve? What, practically, is it?

Mr. Arthur Jefford: If you're going to ban some product, then I think at that point in time you should identify that particular product--"We're going to add it to list a, b, c or d, and we're providing notice"--and then try to identify who those people are that could be impacted from it. So you have a pre-impact thing. Then if you install the legislation and the safety officers come to say, "Hey, this is a problem," you need to have an area where you can redress it and you can say, "Well, look, this isn't what you're claiming it to be, and you haven't passed the legislation the way it should be. We're working together, we're co-operating to solve it and to have everybody have health and well-being."

Mr. Kevin Daniel Flynn: Do I still have time, Mr. Chair?

The Chair (Mr. David Orazietti): Very briefly.

Mr. Kevin Daniel Flynn: The intent here is that it would be compulsory for businesses in Ontario to prepare a plan based on their toxics use, and then the implementation of a plan to deal with the reduction would be on a voluntary basis. Would that give you the sort of time you're talking about? You're saying that yours happened overnight: One day the product was legal; the next day it was illegal. In this case, we're asking that over the next few years business come forward with a plan to reduce toxics use. Is that more in line with the process you'd like to see?

Mr. Arthur Jefford: As the head of the Canadian delegation to international standards on plastics, I propose what you call a VOC test procedure. In other words, you would have a box, you'd put your material inside it, you'd have air coming in, and you'd monitor the air outside, much like we do to control a house environment, where you have a sealed-up building envelope, you have air in. And the only exception to this, which we normally do--we only have an air-to-air heat exchanger--is that you also put a scrubber on to it. So you scrub off some of the nitrogen, increase the oxygen content. People who have a taxed immune system can then turn around and recoup and be able to then go out into our toxic environment and better deal with their threshold limit value--because you're always adjusting up their threshold limit value and sensitivity to any irritant or toxin.

The Chair (Mr. David Orazietti): Thank you. That's time. We appreciate you coming in today.

CANADIAN CHEMICAL PRODUCERS' ASSOCIATION

The Chair (Mr. David Orazietti): The next presentation is the Canadian Chemical Producers' Association. Welcome to the Standing Committee on General Government. You have 10 minutes for your presentation, five for questions. You can begin by stating your name for the purposes of Hansard, and you can start your presentation when you like.

Mr. Norm Huebel: My name is Norm Huebel. I'm the Ontario regional director of the Canadian Chemical Producers' Association.

The Canadian Chemical Producers' Association represents leading companies engaged in the business of chemistry. Member companies apply the science of chemistry to create innovative products and services that make people's lives better, healthier and safer. The business of chemistry is a $27-billion-a-year enterprise for CCPA's industrial chemical manufacturers, through which they provide the basis for the broader $50-billion-a-year chemical and chemical products sector.

The chemical industry is the fourth-largest in the manufacturing sector, creating up to 280,000 jobs. The basic chemicals and resins subsector provides jobs with salaries in excess of $69,000 a year. Our members are efficient converters of energy and add up to 10 times to the value of Canada's natural resources by upgrading natural gas, oil, electricity and minerals.

CCPA member companies are committed to improved environmental, health and safety performance and to social responsibility through Responsible Care. The Responsible Care ethic and codes of practice apply sustainable development throughout the life cycle of chemicals.

Mr. David Peters: My name is David Peters. I'm the manager of environment, health and safety and Responsible Care for BASF Canada.

BASF Canada is part of the BASF group of companies, with headquarters in Germany and regional headquarters in the US. BASF is the world's leading chemical company. We operate five manufacturing facilities in Ontario, with a head office in Mississauga, and employ over 500 employees.

BASF Group has four strategic guidelines, one of which is to ensure sustainable development. For BASF, sustainable enterprise means combining economic success with environmental protection and social responsibility, thus contributing to a future worth living for coming generations. Many BASF products help the end user reduce their environmental footprint. Some examples are:

BASF catalysts that are used in automotive catalytic converters make the tailpipes of today's cars many times cleaner than in previous generations;

Our insulating products make buildings many times more energy efficient, saving fuel and reducing air emissions. Our Toronto facility blends resins used to make polyurethane foam insulation; and

BASF plastics used in components like intake manifolds on automobiles make them lighter and more fuel efficient.

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Mr. Norm Huebel: We're here today to talk to you about a good idea that's gone wrong. Conceptually, reducing people's exposure to toxics is fundamentally sound; however, reducing toxics use will not accomplish this. Use could go down, but releases or emissions could go up. We have to reduce the risk of exposure to toxics.

I'd just like to refresh your minds with respect to risk. As you know, risk is equal to hazard times exposure. Consequently, if we can reduce the probability of exposure, we can reduce the risk associated with toxics. To use an example that is not presently covered by the act--because most of it is used by municipalities, but everyone can associate with it--let's talk about chlorine, which is an extremely hazardous substance. It is this hazardous nature that allows us to make our water safe to drink. Surely we don't want to reduce the chlorine that is being intentionally put into the water. Think of Walkerton. What we want to do is reduce the risk associated with chlorine by reducing the probability of exposure, not the use.

That being said, we need a good, sound, scientific process for assessing the risk of potentially toxic chemicals to know what chemicals to work on. We have that with the chemicals management plan and risk assess-

ments under the Canadian Environmental Protection Act administered by the federal government. We don't have to re-invent the wheel in Ontario and add unnecessary burden to Ontario's industries by creating a completely different process that does not assess risk.

As I said in the beginning, we want to talk about a good idea that's gone wrong. It can be fixed. We have redrafted a number of the sections of the proposed act to improve it and to ultimately deliver on its potential without putting undue administrative burden on industry.

I'm going to cherry-pick some of our redrafts; the complete redraft is a part of this package. For instance, in section 2, "Definitions," "toxic substance" should be defined as a substance on schedule 1 of the Canadian Environmental Protection Act and prescribed by the regulation as a toxic substance for the purposes of this act.

The other area is the elimination of "Substances of Concern." We feel that this section should be eliminated. The CCPA does not understand why there is a separate definition for substances of concern. The purpose of the act relates to toxic substances and does not mention substances of concern, and the explanatory backgrounder accompanying the act and the more detailed backgrounder that was also made available with its introduction do not justify creating this class of substances. If, as it is implied in the explanatory backgrounder, the purpose is to report on these substances because they are not on the federal National Pollutant Release Inventory list, then instead of setting up its own reporting regime, Ontario should seek to have these substances added to the NPRI. Legislation should only be introduced if there is a clear purpose, and there is none for substances of concern and their reporting requirements.

With respect to releases, in all the areas where the act talks about toxic substances that are used or created, the words "released" or "releases," as appropriate, should be added. When we look at sections 50 to 64 limiting regulatory powers, the CCPA recommends that sections 50 to 64 be deleted as we do not believe that there is any basis for Ontario to have regulation-making powers to prohibit or regulate manufacture, sale or distribution. This is the job of the federal government under CEPA, which is very up-to-date legislation from 1999 that was reviewed federally in 2008, with all-party agreement it was fundamentally sound.

Our detailed drafting is included as part of this package. We do not have time to cover all the redrafting details here as we want to give David the opportunity to tell you what the real-world implications of this act, as originally proposed, are to companies such as BASF.

Mr. David Peters: The most significant area of concern for BASF Canada is that the proposed act does not address the risk of exposure to toxic chemicals. This results in problems for manufacturers in Ontario. By calling substances toxic based on hazard and not risk, facilities that safely manage the risk--i.e., reducing the probability of exposure--will still face pressure to stop using the substances.

Section 4, "Contents of Plan," states that a toxic reduction plan must contain a statement that the owner or operator of the facility intends to reduce the use of the toxic substance at the facility, if used at the facility. This means that even if a facility has very few emissions of a substance, the facility must plan to reduce use or include a statement as to why the facility will not reduce use.

BASF Canada and its customers in Ontario will have no intention of reducing the use of many of the chemicals proposed to be listed as toxic by the act because there are no safer substitutes and the risk is acceptably managed. These facilities should instead continue to focus on reducing the probability of exposure to the substances. The problem that the act creates is that substances regulated as toxic will carry a stigma even if the risk is managed to a safe level. Customers might demand that toxics be formulated out of products that they use even though the risk is low. An unintended consequence of not focusing on risk might be substitutions to substances not on the list of toxics but that actually have a higher risk.

Here's an example: Polymeric diphenylmethane diisocyanate--I'll call that MDI--is a key component in making polyurethane foam and is an industrial adhesive used to make oriented strand board, or chipboard. MDI is listed on schedule 2 of the toxic reduction strategy document. Therefore, the OSB mills in Ontario--and there are quite a few of them, probably three or four or five, maybe--would be required to plan on reducing their use of MDI or explain why they won't. They really have no viable options for reducing use. If they reduce the output of OSB, this would make them less competitive with mills in other jurisdictions. If they switch back to only using phenol formaldehyde as the glue, they would produce an inferior product, lose market share and result in larger emissions of formaldehyde from both the mill and from off-gassing of the board in people's homes. MDI is safely used in these mills, governed by strong occupational health and safety regulations, with minimal emissions from the mills. MDI also reduces the off-gassing from the board. MDI is also used to make polyurethane insulating products such as steel foam doors, insulating panels and spray foam insulation. These products greatly increase the energy efficiency of buildings, resulting in less heating use and fewer greenhouse gas emissions.

We have a plant in Smiths Falls, Ontario, employing 22 people, that makes specialty aluminium pigments for the export market. Aluminium is the first product listed on schedule 1. The facility has minimal emissions of aluminium from the site. Their options are to move to another jurisdiction or to state that they have no intention to reduce use.

By not focusing on risk, the proposed act will result in wasted effort in the manufacturing sector as facilities defend their safe use of toxic substances. The federal government's chemical management plan is based on risk. There is a great opportunity to harmonize and align the Ontario act with the federal CMP, which would result in a stronger Canadian environmental protection framework.

We thank you for your time and are pleased to answer any questions that you might have. Note that suggested redrafts of Bill 167 are part of the submission as well, as Norm pointed out.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. Mr. Tabuns, you're first up.

Mr. Peter Tabuns: Thanks for taking the time and coming down and making the presentation today. The question I have for you, first off, is, do you ever have accidental releases of toxic chemicals into the environment?

Mr. David Peters: Accidental releases of hazardous chemicals? On occasion, yes, and some of them are toxic. But one of the things we're arguing about here is also the definition of "toxic," where toxic is exposure times the hazard.

Mr. Peter Tabuns: The thing that strikes me--and I had an opportunity to be in Sarnia last year--is that, on occasion, there are releases from chemical plants there which result in warnings to the population to go indoors. So if you're releasing chemicals that pose that sort of immediate risk to people, I don't see the logic in avoiding reducing the use of those chemicals or the substitution of those chemicals with less dangerous substances when that opportunity presents itself.

Mr. Norm Huebel: There are certainly opportunities, maybe in some instances. But to use the example of polystyrene, you take benzene, which is extremely hazardous, you convert it to styrene and then you convert it to polystyrene, which is completely non-hazardous. There is no substitute for producing polystyrene from something else. So as a society, you'd have to determine whether you want to forgo having polystyrene, with all of the end uses that go with it, because you can't reduce it.

Mr. Peter Tabuns: But as I understand it, in this act, the opportunity is there to replace toxic or hazardous chemicals with non-toxic and non-hazardous as the opportunity presents itself. It doesn't call for the elimination of all toxic and hazardous chemicals.

Mr. Norm Huebel: But I guess we're not arguing about elimination, we're arguing about how you define "toxic" and the process used for toxic. The act, the way it's proposed right now, has pollutants as the basis for it, not toxics, and there's a big difference between pollutants and toxics.

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Mr. Peter Tabuns: I would say that if you're introducing something into the environment that damages health, is a neurotoxin or a reproductive toxin, causes cancer--pollutant or toxic, something that kills you immediately--it's to the advantage of society as a whole to have a reduction of those substances, not only in the case of your using them but also in terms of wastes that are generated.

The Chair (Mr. David Orazietti): That's time, Mr. Tabuns. Thank you.

Mr. David Peters: One example is that you have ethanol on the list--

The Chair (Mr. David Orazietti): That's time for that question. We're going to continue.

Mr. David Peters: Okay, sorry.

The Chair (Mr. David Orazietti): It's okay. Mr. Flynn, go ahead.

Mr. Kevin Daniel Flynn: Actually, I'd be interested in the reply to the question from Peter Tabuns.

Just going back to my own community, there were a couple of companies--Ashland, Elf Atochem, places like that--that came up with a Responsible Care program some years ago, which I thought was a good first step to try to engage the community in discussions. That program, as it's been designed and carried out with the community--is that entirely a risk-based program, or do you inject other ingredients into the development of those plans?

Mr. David Peters: We certainly inject other ingredients in there, but it is strongly risk-based. In fact, we're just revamping Responsible Care after almost 25 years with the existing one to actually have it encompass sustainability. One of the key things in there is to innovate for safer products and processes, and to make sure that we're minimizing or reducing risk. We're getting rid of risk where we can and making products that benefit society.

Mr. Kevin Daniel Flynn: I guess what I'm having a hard time understanding is why you would propose that the toxics reduction plan for the province be entirely risk-based, but your own Responsible Care program is risk-based plus other things.

Mr. David Peters: When we're talking about responsible care, we want to make sure we're safe in the communities where we operate, which means going out to our stakeholders and identifying who they are. One of the key things we do is a worst-case scenario: What's the worst thing that could credibly happen at our plant? Then we try and model how far that would go out into the community. That's where we would go and talk to the people. If it was in Sarnia, we would talk to people within that neighbourhood to make sure they had an understanding of what to do and how they would be communicated with if something did go wrong at that facility. It could be things like to shelter in place, or it could be to evacuate. We work with the local emergency responders. There is an element of risk to that, for sure, and there are some things beyond risk.

Mr. Kevin Daniel Flynn: If you wanted to take a few seconds to answer Mr. Tabuns's question, you could use your time to.

Interjection: Talk about ethanol.

Mr. David Peters: Ethanol is one of the ones on the proposed list. Aluminum is as well. I mentioned something about aluminum, but the auto industry is looking at aluminum as one of the solutions for improving fuel efficiency.

There's a risk in everything, and we have to be good, as a society, at managing risk. We talk about risk when we get on an airplane. We talk about risk when we go in a car. The chemical industry brings you some of the

things that allow us to be good at those things. So there's risk at every stage along our life. We happily get in a car with somebody--maybe not anymore--who's had a couple too many to drink and drive off home. That's something that's happened a lot in society. Is that the smartest thing to do? No, it's not, but it's understanding these things--and we're getting better at that with driving--and all that kind of stuff.

The Chair (Mr. David Orazietti): Thank you. That's time. Mr. Barrett.

Mr. Toby Barrett: Yes, maybe just further, using examples like ethanol and aluminum, I think for government and all concerned to not waste scarce resources working on substances like that when there is a number of other substances that can be identified as truly toxic and downright dangerous.

Would this legislation or the regulation--is it possible to fix it to the point where it would have more of a credible risk assessment approach? If it doesn't, just how many substances are we going to be spending our time documenting? You mentioned two, but how many others are there?

Mr. Norm Huebel: I think if you look at the proposed redraft we have included as part of the package, you'll see that we feel you can really fix it. I think the details are in there. We'd be happy to talk about it outside of the time allotted here.

Mr. Toby Barrett: Okay, so through the legislation. Does this bill, this proposed legislation, have any risk assessment approach at all, or is it purely precautionary or whatever the term is?

Mr. Norm Huebel: It's not risk-based.

Mr. Toby Barrett: Not risk-based.

Mr. Norm Huebel: No, it's hazard-based, and I think that's the thing we're having problems with. We're saying that really at the end of the day you should have something that is related to risk.

Mr. Toby Barrett: Okay. Thank you.

The Chair (Mr. David Orazietti): Thank you for your presentation this afternoon.

MIRIAM DIAMOND

The Chair (Mr. David Orazietti): Our next presentation, the University of Toronto. Good afternoon. Welcome to the Standing Committee on General Government. You have 10 minutes for your presentation, five for questions, and you can start by stating your name. You can begin your presentation.

Dr. Miriam Diamond: My name is Miriam Diamond. I'm from the University of Toronto. I hope to take less than 10 minutes and open up more room for discussion. I've distributed some copies of my statement and I'm really actually very interested in following Mr. Huebel and the comments that he's made. What I'm going to do is go through what I've written, but I'm just going to touch on the highlights, because it's probably pretty boring for you to hear all sorts of written statements all afternoon.

I was the co-chair of the Ontario toxics reduction scientific expert panel, along with University of Ottawa Professor Lynda Collins, who has seen my statement.

First of all, I'm really excited about this legislation being introduced into the Legislature. A lot of work has gone into it, a lot of deliberation, so I'm very excited about it. What's special about the TUR is that it focuses on upstream pollution prevention. Most other legislation in Ontario focuses on downstream, or sort of end of pipe. Let's stop the emissions. The whole thing about pollution prevention is getting ahead of the curve and saying, "You know what? Should we be using this compound? What happens if we do have an accidental release? What happens if the compound migrates out of the material or product over time?" For example, you know those vinyl binders that you probably had as a kid and how they crack around the edges? Can you relate to the vinyl binders that you had? That means that the phthalates are leaving; they're degassing from your vinyl binder. The phthalate is a plasticizer added to increase the flexibility.

Long-term migration now: I happen to be involved in a project right now that is looking at the relationship that's been found between phthalates occurring in dust in your homes and the occurrence of asthma. Who would have figured that one? It's epidemiological study. Anyway, what this is aimed at is looking at toxic substances: What about manufacturing and processing this substance before it gets to the plant gate where it's used? What about accidental releases during manufacturing? What about those releases during the life cycle of the product, and what happens to the product once it goes to landfill or is dumped somewhere? So we've got to get ahead of the curve.

The other reason we want to do this--I'm a professor; I'm talking too long already--is because it's expensive for industry to have to deal with waste. That's the end-of-pipe solution: Capture it and deal with it. Why not just use resources really efficiently at the get-go so you don't have all sorts of waste management issues, particularly hazardous waste, which is really expensive to deal with? Doesn't CEPA do this? Why should Ontario have its own bill? CEPA does have wide-ranging powers, and a lot of us were very excited when CEPA was introduced, including the power to ask industry to do pollution prevention planning. The fact of the matter is that it hasn't been used in that capacity. In fact, its pollution prevention and risk management measures have been on the weak side. I've provided a reference for you because this isn't just me talking. Being a professor, I did my homework; I got you the reference. I do have to get you the reference, though. Right now it's unpublished, but it will be published under the International Joint Commission, on which I sit. So CEPA doesn't do the trick.

There's a lot of discussion about the lists and schedules, and I'm going to talk about Norm's comment that it's not a risk-based process. First of all, we avoided defining "toxic." In terms of legislation, it's a political definition. There's no such thing as a scientific definition of "toxic," because of the scientific complexities and

because the science is constantly moving. Ten years ago, who would have thought that a substance could be an endocrine disruptor? Who would have thought that it's possible that phthalates could be involved with asthma, acting through the immune system? It's very difficult to set in stone, in fact I really think it should be avoided to set in stone, what is meant by "toxic." Hence, the bill uses it by reference. So, for example, what is deemed CEPA toxic, or what California Prop 65 deems as toxic? What is a carcinogen which is defined using IARC--the International Agency for Research on Cancer?

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Why did we develop our own schedules? Why did we use our own list? Why didn't we just use CEPA? Well, first of all we did rely on CEPA. In fact, we relied on it for screening. We used the CEPA screens--the screens for persistence, bioaccumulation and inherent toxicity both to humans and aquatic substances. We did use that. We found that very few substances have been deemed toxic under CEPA, but a whole lot have been characterized as being of medium or--I have to check my notes--high concern. But they haven't been sort of dealt with in the process yet. So we thought, "Okay, let's look at those. Let's see which are pertinent to Ontario and let's put them into the list if they are pertinent." Okay, that's good. And then we thought, "Okay, to minimize the burden on industry, let's use the National Pollutant Release Inventory, NPRI, because industry is already reporting on that. So we minimize the effort for industry because we harmonize with the feds on NPRI. That's indeed what's under schedules 1 and 2. That minimizes duplication. I've got some language there about NPRI: NPRI is deemed as toxics and went through a very large vetting process for those compounds to be put on NPRI. We didn't redo the science on that one.

Our process: I will stand up here and say that it was a scientifically defensible process that dealt with risk, which is the probability of a hazardous occurrence, which, as Norm said, blends hazard and exposure and hazard which is the inherent toxicity of a substance. We use both. Let me see; am I getting ahead of myself? So we reviewed the list from a whole bunch of jurisdictions. We looked at CEPA and the CMP stuff. We looked at what was going on in the Netherlands, California, IARC, and I mentioned California Prop 65. We evaluated those chemicals, using the CMP chemical management screens for P, B, iT. We also used information on the use of the substance in Ontario, and that's where the hazard approach comes in. We used the same type of approach used federally, under CMP, because that's the risk: "Do we use it?" "Is it in the environment?" We used that, and we used expert judgment, because just relying on a computer screen to spit out numbers is not an intelligent thing to do. We're aware of the scientific flaws of using a simple screen. Every listing process at some point relies on expert judgment. Why else would we be expert? We were the ones that devised the screens.

We used both a risk and a hazard-based approach, as I said. The reason why we used a hybrid--Norm is right: You want to use risk because it prioritizes where to put your effort. There are an awful lot of chemicals out there. You cannot rely singly on hazard. That's where the use in Ontario comes in, in the thresholds.

What about hazard? We said, "It's not good enough just to rely on risk because, in fact, the information on use in Ontario"--well, it's not a lot of information, let's put it that way, and history tells us that when you just rely on risk, you can miss the boat. We've been doing work on flame retardants, which had a doubling time in women's breast milk of two to five years, in the Great Lakes, and nobody really knew where the exposure was coming from. It would not have been picked up under the CEPA process, because at that point in time we didn't know that dust was the main exposure, so the process wouldn't have figured it out. That's why you need the scientific expertise and that's why you do have to include the element of hazard.

The Chair (Mr. David Orazietti): Thank you. That's--

Dr. Miriam Diamond: Good. Questions?

The Chair (Mr. David Orazietti): Mr. Flynn, go ahead.

Mr. Kevin Daniel Flynn: I'd be happy to just use our time if you wanted to continue. You got kind of cut off there. Did you want to wrap up? Or, I did have a specific question.

Dr. Miriam Diamond: No, I'm good. If folks want to ask me questions--I'm sorry. My professorialness got out of hand. I apologize.

Mr. Kevin Daniel Flynn: No problem. Maybe you can explain exactly how you came up with the lists themselves, the process you used, because obviously some are criticizing them as too soft and some are criticizing them as too firm. How did you arrive at the list that you're proposing or that you're advising the minister that we adopt?

Dr. Miriam Diamond: First, NPRI. Second, we looked at other lists. We used the CMP process to adjudicate; then we went through each chemical to see if it was used in Ontario. We assessed the persistence, bioaccumulative properties and toxicity of every chemical. We did that, using a subcommittee of scientists.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. David Orazietti): Mr. Bailey?

Mr. Robert Bailey: Thank you for your presentation. One of the questions I wanted to ask was: On the committee that came up with this and advised the minister, were there any of the chemical producers or industrial users downstream who were able to take part in the study?

Dr. Miriam Diamond: Yes. First of all, it wasn't a study. We had a consultation panel, and they did take part, because they supplied their comments through the EBR, the environmental registry. Sorry, there are too many acronyms in my brain. Moreover, there were consultations that were held by the ministry. Finally, I participated in a couple of meetings in which I met folks, and I've also talked offline.

Mr. Robert Bailey: Okay. Do I have a little more time?

The Chair (Mr. David Orazietti): You do. Go ahead.

Mr. Robert Bailey: So they actually were on the committee and had voting, to make the recommendations, or--

Dr. Miriam Diamond: They were not on the committee, but I mentioned the opportunities, and you'll find in my written submission my comments to facilitate innovation and the uptake of TUR to be most effective for the Ontario economy.

The Chair (Mr. David Orazietti): Thank you.

Mr. Robert Bailey: I was only going to make one comment.

The Chair (Mr. David Orazietti): Go ahead.

Mr. Robert Bailey: You quoted California, and they're always pointed at as--

Dr. Miriam Diamond: I didn't quote, but I mentioned them, yes.

Mr. Robert Bailey: They're bankrupt--a $25-billion deficit.

Dr. Miriam Diamond: But that's not because of their carcinogens.

Mr. Robert Bailey: I don't know what it's because of.

The Chair (Mr. David Orazietti): I think that's time, Mr. Bailey. Mr. Tabuns, go ahead.

Mr. Peter Tabuns: Miriam, thanks for the presentation. One of the questions we've dealt with is this whole question of mandatory substitution, something that I think your expert panel recommended. Can you tell us--

Dr. Miriam Diamond: We didn't recommend it.

Mr. Peter Tabuns: You did not?

Dr. Miriam Diamond: No, and you know what? Norm outlined why: because there are some substances that cannot be substituted, and it's industry that has to make those decisions, not government. It requires an intelligent approach to figuring out: Are there alternatives? Can we use them? Can we develop them? Sometimes there aren't, and I've got an example. Do you have mercury fillings or fillings with bisphenol A?

Interjection.

The Chair (Mr. David Orazietti): Thank you very much for your presentation.

Dr. Miriam Diamond: I have mercury fillings by the way. I thought I had two more minutes. I was watching the clock.

The Chair (Mr. David Orazietti): It's 10 minutes and questions from members, and there are no other questions.

Dr. Miriam Diamond: Are there no other questions? Okay. Thank you.

The Chair (Mr. David Orazietti): Thank you very much.

POLLUTION PROBE

The Chair (Mr. David Orazietti): The next presentation is Pollution Probe. Good afternoon. Welcome to the Standing Committee on General Government. You have 10 minutes for your presentation. You can state your name and get started.

Ms. Julie Sommerfreund: Okay. Good afternoon. Thank you for having me here today. My name is Julie Sommerfreund. I am the toxics project manager at Pollution Probe.

To begin, we just want to say that Pollution Probe supports the Ontario government's commitment to protecting the health and environment of Ontarians through the management of chemicals. However, we feel that the proposed act is an important piece of legislation, but it can be strengthened. In my talk today I will outline for you our recommendations for strengthening the act and then provide you with some insights from my experiences at the European Nickel Industry Association, where I contributed to their implementation of REACH, Europe's new approach to chemicals management. It's an innovative policy that is being hailed as a world leading standard.

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Our first two recommendations support those presented by some of our NGO colleagues at the first meeting on May 13. We recommend that the Ontario government require renewable targets for toxics use reduction. As you've heard before, these are necessary to encourage all sectors--industry, government and NGOs--to continue the move toward the reduction of toxics use and release into our environment.

Further, we recommend a fee structure to enable a fund and an institute to facilitate the implementation of the act to support industry in developing meaningful toxics use reduction plans.

In addition to these recommendations, we would like to bring your attention to the lack of clarity in the act. As you've heard, the act falls silent on defining toxic substances, what requirements are required of the minister for substances of concern, and what is meant by the creation of the substance, whether it is for a by-product or production as a value substance for sale on the market. We recommend that these definitions be clarified to ensure successful interpretation of the act.

In particular, in regard to defining toxic substances, we have now heard an articulation of the methods that were used. However, we would recommend that the methodology be more public and transparent. Further, we recommend that if an alternative is suggested for the substitute of one of these substances, it also be evaluated against these criteria.

In terms of substances of concern, we recommend that specific action be required of the minister following the first collection of data. Possible action could include the addition of the substance to the list of toxic substances, the removal from the list of substances of concern or the development of an alternative strategy within a fixed time frame.

Further, we propose an integrated accompanying monitoring and reporting program to monitor the success of the act in achieving its purpose in improving the health and environment of Ontarians. The integrated program

should extend beyond that of tracking the releases and uses of toxic substances to also include environmental concentrations in air, water, soil and in our Ontario population, for example, through biomonitoring. The accompanying documentation suggests that the act will be limited to large facilities and limited sectors, although this will limit the application and not include smaller facilities and non-point sources. Although the individual contribution at these sources might be small, the total contribution could be large. Therefore it is important to track both the environmental concentration of these substances and that in Ontarians.

Now I'd like to take a few minutes to provide you with some examples from the REACH experience in Europe and how this approach supports what we're doing here in Ontario and encourages us to go further. As you may know, REACH came into force in June 2007, and as its implementation continues, it is having worldwide influence on chemicals management. Interestingly, the objectives of REACH are very similar to what we are trying to achieve here in Ontario. They seek to improve the protection of the environmental and human health through the management of chemicals and encourage the economy and development of green alternatives. In order to achieve these objectives, the EU has incorporated some novel principles in the way people are thinking about chemicals management.

First off, they require that industry demonstrate the safety of its substances, both the producers and importers, prior to accessing the European market: essentially, no data, no market. Further, it extends the responsibility beyond the facility to include all downstream users: their customers and life-cycle stages of the substance. Further, it extends to both new and existing substances alike in order to encourage the development and enhance the competitiveness of the EU industry. Prior to this, the requirements for existing substances were substantially lower than those of new substances and as a result they did not see innovation in new substances.

As I mentioned, these impacts are being felt, and will likely continue to be felt, around the world as the responsibilities fall to importers, and subsequently the exporters of non-EU countries, of these products and substances into the EU market. Governments around the world are now considering implementing this type of legislation in their jurisdictions to support the developments of their industries in order to access this very important market.

Now I'd like to take a bit of your time to bring your attention to the many elements of REACH that we can learn from. First, in order to ensure the success of the legislation, the EU, similar to Massachusetts, developed an agency to oversee the implementation of the act. This continues to be supported by the registration fees paid by industry.

The second learning lesson that I'd like to bring to your attention is how REACH deals with substitution. In fact, it incorporates both a hazard- and risk-based approach. Authorities nominate substances of very high concern, based on hazard criteria, for what is known as the authorization list. Substances will be prohibited from use after an agreed-upon sunset date. However, the risk-based approach comes when the industry has the opportunity to request an authorization for a particular use of the substance. An authorization can only be granted in two scenarios. One is the demonstration of adequate control, through a risk assessment; note, however, that this does not apply to those substances without threshold, or safe, levels of exposure. The second option is to demonstrate that the socio-economic benefits outweigh the risks posed by the substances, in addition to demonstrating that there are no suitable alternatives available. What this means is that industry now must do a full assessment of the substitutes available, justify why they are not appropriate, and if they are appropriate, develop a plan to substitute away from the more hazardous substances of very high concern.

There are four main elements that will contribute to the success of this approach, and I think they can teach us a lot about what we could do here in Ontario. First, there is a clear, transparent methodology for substances' inclusion in and removal from the list. There is opportunity for public and all stakeholders to comment on these proposals and to submit information on available alternatives. Further, once a decision is made, full public disclosure of the rationale for that decision is required. Finally, all authorizations will only be on a time-limited basis and require review after a certain time limit, which is set case by case.

The combination of these elements encourages industry to identify alternatives. They are able to identify substances for which alternatives are necessary. Further, they know the timeline, as they have a certain sunset date and they have a review period for the particular authorizations for a particular use.

Further, this process will be protective of the environment and human health, as all stakeholders can comment on the generation of the list and evaluate against known criteria.

Finally, the establishment of a process such as this provides industry with the certainty and predictability of the requirements.

To summarize, Pollution Probe supports the Ontario government's commitment to the management of chemicals in order to improve the environment and human health of Ontarians. We have identified some areas where this act could be improved, including things like the addition of renewable targets, the development of fee structures to support the implementation, as well as increased clarity in the act and an integrated monitoring program.

In closing, jurisdictions around the world are taking action on chemicals management. We are very pleased that Ontario is taking steps to raise the standard in Ontario. This approach will further our understanding of the chemical mixtures in our communities and encourage companies to identify how to best improve the current situation.

It is important, as we consider this act, that we look to enable Ontario's important industries to enhance their competitiveness on the world market. The increasingly stringent environmental policies around the world are increasing the demand for safer alternatives. We believe that the Toxics Reduction Act, at a minimum, should meet these standards in order to encourage our industries to play on that market and contribute to the innovation and development of the green economy.

Thank you for your attention, and I'd be happy to take any questions.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. Mr. Bailey, you're up first.

Mr. Robert Bailey: You heard the presentations of some of the other presenters. Where do you feel that CEPA--is it part of this act? Do you feel that they would contribute in any way, or do you feel that we have to move ahead separately, here in Ontario?

Ms. Julie Sommerfreund: I'd like to take a moment to explain two things about CEPA. First, the definition of toxics within CEPA: There is "inherently toxic" and "CEPA-toxic." These are two distinct things. "CEPA-toxic" is a term that has been designated politically in Canada to deal with hazard and exposure. "Inherently toxic" is more of a hazard criteria, and that's what we're dealing with today in the Toxics Reduction Act.

Further, the CMP process that is currently undergoing, the chemicals management plan, is a slow, arduous process that's going chemical by chemical. Currently, we know actions for the 100 priority substances. However, no management actions have been taken yet.

Given the complex mixture of substances in our environment, I think that it is likely to be more appropriate and prudent to take a precautionary approach and deal with what we know right now, and take action in Ontario.

The Chair (Mr. David Orazietti): Thank you. Mr. Tabuns.

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Mr. Peter Tabuns: Thanks for the presentation today. Your recommendations--the reduction targets. Can you talk about the necessity to have targets in this legislation?

Ms. Julie Sommerfreund: We believe at Pollution Probe and I think in most environmental policies that the importance of targets is to set a goal, to start moving toward something. Without a goal, we aren't motivated. I think that's true in everyday life and it's true in environmental policy.

The Chair (Mr. David Orazietti): Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Julie, for your presentation. Speaking about substances of concern and the tracking of those substances of concern and the reality that we live in a changing world, how often do you think that the government should require companies to report on substances of concern as they change, as they evolve?

Ms. Julie Sommerfreund: I believe that since we have very limited information currently on the substances of concern, a high frequency of reporting would be essential to identify where to move forward in the future.

Mr. Kevin Daniel Flynn: Also, some people from industry are coming forward and saying, "You know what? This is all done at the federal level anyway. Why don't you just leave us alone?" What would you think of that viewpoint?

Ms. Julie Sommerfreund: In terms of the risk assessments that are currently done at the federal level, they're being completed on what information is currently available. We know that there are 23,000 legacy substances on the market that were not required to develop significant environmental and human health criteria data when they first came on the market. So yes, the federal process is slowly moving along, but we have huge data gaps, and I think a precautionary approach would help us to ensure that we don't wait until 10 or 20 years from now to find out what the information says.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. David Orazietti): Thank you very much for your presentation today.

Ms. Julie Sommerfreund: Thank you.

AUTOMOTIVE PARTS MANUFACTURERS' ASSOCIATION

The Chair (Mr. David Orazietti): Our next presentation is the Automotive Parts Manufacturers' Association. Good afternoon, and welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five for questions from members. You can state your name for the purposes of our recording Hansard and then you can start.

Mr. Peter Corbyn: My name is Peter Corbyn, from the Automotive Parts Manufacturers' Association. Thank you for the opportunity to share our thoughts regarding the Toxics Reduction Act today.

APMA is Canada's national association representing original equipment automotive suppliers. APMA's members account for approximately 90% of Canada's $24.3-billion industry--that was last year--with 80,000 employees; again, that was last year too. APMA's fundamental objective is to promote and support the automotive original equipment supply industry both domestically and internationally. APMA members, such as Magna and Woodbridge Foam, represent a broad range of manufacturing processes, including plastics, metal stamping and finishing, and tool and die.

As you know, this industry is experiencing its most trying economic times in decades. Thousands of people have already lost their jobs, and the risk of more losses is high. That said, automotive sales will rebound in the next one to three years, and thanks to the recent changes announced by the Obama administration, new vehicles will be become increasingly more fuel-efficient sooner than later.

Typically, over two million vehicles per year are built in Ontario, and thousands of well-paying parts suppliers jobs are attached to those vehicles. Support for bringing

back jobs to this industry while helping our members reduce the use and release of toxic substances is the responsible and appropriate action for the province of Ontario to take at this time.

I would like to first share that we are supportive of an act that promotes the reduction of toxic substances. In fact, the APMA was one of the first industry associations to implement a pollution prevention strategy, in partnership with the Ministry of the Environment and Environment Canada, almost 15 years ago. In 1998 alone, APMA members voluntarily and publicly reported an aggregate reduction of over 1,100 tonnes of toxic substances.

However, as written, adherence to the act will be onerous for industry, not just from the perspective of what is required with respect to submitting a plan, but more importantly, execution of the plan.

To jog our memory, let me read selected excerpts from sections 4 to 7. They shall submit:

"4. A description of each process at the facility that uses or creates the toxic substance, including,

"i. a description of how, when, where and why the substance is used or created, and....

"C. show, as of the time the quantifications were made, how the substance entered the process, whether it was created, destroyed or transformed during the process, how it left the process and what happened to it after it left the process.

"5. A description and analysis of options that were considered for reducing the use and creation of the toxic substance at the facility, including an analysis of the feasibility of each option.

"6. A statement identifying the options described in paragraph 5 that will be implemented, or a statement that none of the options will be implemented.

"7. If an option described in paragraph 5 will be implemented,

"i. a description of the steps that will be taken by the owner or operator of the facility to implement the option,

"ii. a timetable for taking the steps described in subparagraph (i),

"iii. an estimate of the amount by which the use of the toxic substance at the facility will be reduced as a result of implementing the option, if the substance is used at the facility,

"iv. an estimate of the amount by which the creation of the toxic substance at the facility will be reduced as a result of implementing the option, if the substance is created at the facility, and

"v. an estimate of the amount by which discharges of the toxic substance to air, land or water will be reduced as a result of implementing the option, if the substance is discharged to air, land or water." That's right from the bill.

Completing this plan will be onerous, but more importantly, what value is it if a business's plan is to do nothing because it cannot afford to, per section 6 of what I just read?

You will see in a minute why this act needs to be harmonized with the federal chemicals management plan and why a third party institute that works with industry and government to research and develop toxic reduction strategies and outreach needs to be established.

Let's make an analogy to creating an energy-efficiency plan before moving forward. As you know, addressing climate change is a top priority today. People, business and government all have a role to play. Businesses' plans on how to address climate change consist essentially of three strategies: implement low- or no-cost solutions, such as turning off motors and lights when not in use, which is very realistic and costs virtually nothing; install more efficient lighting, motors and controls at a cost, which these days is getting less realistic, unfortunately; and install renewable energy systems. In today's environment, it's not that realistic for them to do it themselves.

Toxic reduction, or pollution prevention plans, are similar: implement low or no-cost solutions, such as proper equipment maintenance--which is an option that will get you somewhere; install relatively inexpensive equipment or chemical substitutes to achieve some incremental improvements; and research and develop paradigm-shifting technologies and/or substances, either in-house or in partnership with vendors of said technologies and/or substances.

The reality is that inexpensive options in both cases will result in relatively small, incremental improvements, but in both cases--energy efficiency and pollution prevention--substantial financial and human resources are required to make a real difference.

The government of Ontario recognizes that this is the case with respect to energy generation with its Green Energy Act, which addresses the high cost issue by ensuring that the economics work for suppliers of green energy. This is an innovative approach for jurisdictions in North America. We ask that the government apply the same efficient and innovative approach towards reducing the use of toxic substances. The question is, how?

First of all, not harmonizing with the federal chemicals management plan will certainly add substantial cost to administering the Toxics Reduction Act. That has been well documented by other groups that have submitted input on this act. In a time of substantial deficits and the opportunity to harmonize, doesn't it make sense for Ontario taxpayers' money to be more wisely spent on working with industry towards researching, developing and implementing toxic reduction strategies than policing the submission of plans? What good is a plan if it cannot be executed?

Organizations such as the APMA and OCETA--which I believe you heard from earlier; the Ontario Centre for Environmental Technology Advancement--have demonstrated for years that a co-operative approach towards pollution prevention gets results. As stated earlier, APMA members, in partnership with the MOE and Environment Canada, successfully eliminated over 1,100 tonnes of toxic substances. That was over 10 years ago.

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More recently, OCETA, through its Toronto region sustainability program--which received funding from the MOE, amongst others--has helped manufacturers eliminate over 1,700 tonnes of VOCs, particulates, metals, toxics and other wastes.

Imagine the positive impact on toxics reduction if programs like these were scaled to include all sectors and geography. Ontario could become an innovative world leader with tools such as creating an institute to quarterback information sharing and drive R and D in partnership with industry; sharing solutions and case studies in a Web 2.0 environment, essentially accelerating the learning curve with an efficient and logical data collection process; and helping manufacturers go lean and green with environmental value-stream mapping.

Innovative, industry-friendly solutions like these will help position Ontario as open for business when it comes to partnerships to address environmental issues, help create and build a thriving green technology sector, and help Ontario industry become more competitive globally, especially when it comes to greener products.

Manufacturing needs to be an integral part of Ontario's economy; it cannot be driven away. Anecdotally, one of our members said that their toxics reduction plan may well include moving production to Michigan. Helping them achieve toxics reduction results would likely keep them here.

One-hundred-mile-per-gallon vehicles, the smart grid and zero-environmental-impact buildings of the future don't just happen; they have to be manufactured and maintained by skilled and creative people. If we don't manufacture those green technologies in Ontario for tomorrow's environment and economy, other jurisdictions will. The provincial government needs to work with industry to reduce toxic substances with carrots and sticks, not just sticks. Innovation and public-private sector co-operation is the most important support and tool that will help Ontario become a cleaner and greener province in the coming decades. Please consider this as you further deliberate this act.

The Chair (Mr. David Orazietti): Thank you very much. Mr. Tabuns, you're first.

Mr. Peter Tabuns: First of all, thank you. It was a good presentation. It's useful. I think that your point on making sure there's an institute that can work with industry to reshape its products is a critical one. Massachusetts obviously does that, and they do it very effectively. Are you aware of any other jurisdictions that are doing this and having the kind of impact we want to see in Ontario?

Mr. Peter Corbyn: To be honest, other than Massachusetts, no, but I can visualize what that institute would look like.

Mr. Peter Tabuns: Do you want to sketch it out?

Mr. Peter Corbyn: Here's a blueprint for an institute right now.

Mr. Peter Tabuns: I know; you don't get two hours to do it, but--

Mr. Peter Corbyn: If you look at it from a priorities perspective, if you look at the substances and essentially do a Pareto analysis and look at your target substances--to establish a centre that will work together and basically help fund R and D, there are questions there with respect to trade secrets and such. That said, I think that if you look at the list of substances, you'll find that a lot of them aren't necessarily ones that should be an issue from that respect. I also think that having an institute like this, where you've got NGOs and industry and government and scientists working together to focus on specific substances, really will make a difference. The reason why I think it's really important is this: When I look at this, my interpretation of the act at this point in time is that you are asking people to make plans based on stuff they don't really know how to achieve yet.

I did not include it in here, but again, the reason I made the analogy to climate change is, as you know, a lot of work has been put into determining the cost-per-tonne reduction of greenhouse gas emissions. I'm sure you're all familiar with the McKinsey curve for greenhouse-gas-emission reduction, right? You really need to do the same thing here. It's one thing to say globally, "We're going to reduce our emissions by 50%." You can't do that until you know what it takes to get there. The other reality is, how far down can you go with any particular substance? Maybe you can go 100% with one and only 5% with another and that's progress. So you don't know that yet.

The Chair (Mr. David Orazietti): Thank you. That's time. Mr. Flynn?

Mr. Peter Tabuns: Thank you.

Mr. Kevin Daniel Flynn: Thank you for your presentation today. You use OCETA quite frequently throughout your presentation. They presented before you today, I don't know if you were in the room for their presentation--

Mr. Peter Corbyn: No, I was not.

Mr. Kevin Daniel Flynn: They were fairly complimentary to the bill, thought it was going in the right direction, and gave some examples of where they've been able to achieve significant cost reductions with fairly minimal investments. You seem to take a different tack on this. I guess I was wondering why. What further support do you think business needs in order to make progress in reducing toxics? We've heard from the cancer society, we've heard from the registered nurses association all weekend long, suggesting that we're not going far enough. To be honest, your presentation surprised me, and I just wondered if you wanted to expand on it a little.

Mr. Peter Corbyn: Surprised you in what respect?

Mr. Kevin Daniel Flynn: This seems to be something that I thought an organization such as yours would see the opportunities in. Rather, your presentation, in my opinion, seemed to focus on the hurdles.

Mr. Peter Corbyn: There are always opportunities and hurdles, aren't there?

Mr. Kevin Daniel Flynn: Yes.

Mr. Peter Corbyn: If you look at the number of substances--you're absolutely right. To go back to your

question with respect to an institute, you're right, there is a lot of low-hanging fruit out there, but there is a lot that isn't low-hanging fruit. It's as simple as that.

Mr. Kevin Daniel Flynn: Okay, I'll accept that. Thank you.

The Chair (Mr. David Orazietti): Mr. Bailey?

Mr. Robert Bailey: Thank you, Mr. Corbyn, for your presentation.

First of all--two parts--the cost to implement the incremental changes that you had indicated in there that probably would be generated; and second, are any of the competitors that you and your industry would compete with, say in Europe or North America, doing anything like this now, and at what kind of a disadvantage, if it does, would that put your industry?

Mr. Peter Corbyn: As you know, in automotive parts, we represent a broad range of processes. We're not common by process; we're common by where our product ends up. So to speak specifically for automotive parts, it would be difficult to answer, because we represent plastics, foundries and metal stamping. It would depend on the process and on the jurisdiction which may be competing on that particular process.

Mr. Robert Bailey: Is that the answer about Europe or North America? Are there any other jurisdictions that are doing anything like this bill?

Mr. Peter Corbyn: Globally?

Mr. Robert Bailey: Yes.

Mr. Peter Corbyn: Off the top of my head, something close to this--I can't think of that off the top of my head, no.

The Chair (Mr. David Orazietti): That's the time for your presentation. Thank you very much for coming in.

CANADIAN PAINT AND COATINGS ASSOCIATION

The Chair (Mr. David Orazietti): Our next presentation, Canadian Paint and Coatings Association. Good afternoon and welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five for questions. You can state your name and start when you're ready.

Mr. Jim Quick: My name is Jim Quick. I'm president of the Canadian Paint and Coatings Association.

Let me begin by saying that CPCA and our members support the responsible management of chemicals and have for decades. We've made a fundamental decision to be proactive with chemical management, as we are committed to the protection of the environment, enhancing human health and the quality of life through the responsible formulation, production and sale of high-quality, safe products.

CPCA contends that any new toxics reduction or chemical management strategy in Canada must be built on the proven, science-based approach for chemical assessment and risk management at the federal level. We believe that any provincial approach should align with what is already being done federally as well as with existing voluntary initiatives in the marketplace, and should not create unnecessary regulatory or administrative burdens to industry.

We're very pleased to see initiatives establishing a framework for toxics reduction plans and the building of centres to promote green chemistries. We're also pleased that you considered to look at the focus on the development of expertise through universities, academia and other programs.

While we are supportive of the objectives of the bill, we would like to comment on four key areas of the legislation where we have concerns.

Firstly, the proposed bill gives the authority to the Minister of the Environment to ban or restrict the manufacture and sale of products, including those that may be deemed safe through scientific review by the federal government. Expanding or mandating administrative activity to products, with no scientific basis or transparency and with no health, safety or scientific rationale, would seriously undermine the Canadian regulatory system.

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We are concerned that provincial efforts to categorize "toxic" substances may differ from the science-based risk approach of the federal government, resulting in substances deemed safe at the federal level but deemed toxic in Ontario. In fact, there is a great deal of existing legislation and regulation in Canada--and I noted those in appendix A for you--that the paint and coatings industry meets or exceeds, and they are all aimed at delivering on the same environment or health and safety objectives. They provide consistency for the safe use of chemicals in products and, if required, they can be properly risk-managed, including removal from the marketplace. CPCA and member companies would suggest that additional provincial legislation would put the national regulatory framework at risk. It creates confusion and duplication in the marketplace, adds costs to an already economically stressed manufacturing sector and hurts Canadian competitiveness.

Our second concern is the need to include a rigorous, science-based approach for assessing chemicals. It is well established nationally and internationally that a scientific evaluation of chemical substances to determine the potential harm or danger takes both exposure and hazard into consideration. The definition for chemical substances in Canada to be called "toxic" takes into account the likelihood and the magnitude of releases into the environment and the harm it may cause to human health or ecosystems. If a substance is found to be CEPA-toxic, the federal government is bound to work with the provinces, territories, industry, non-governmental organizations and other interested parties to develop a management plan to reduce or eliminate the harmful effects that substance has on the environment and the health of Canadians. We would argue that this system and this process is working.

Ontario however, defines "toxic" as "anything that can cause harm," regardless of how much or how the sub-

stance is used. This proposed definition covers essentially every substance, natural or man-made. CPCA and our members recommend that Ontario harmonize its "toxic" definition with the CEPA definition and avoid legislation that may be at odds with the federally legislated definition of "toxic."

The proposed bill also requires collecting and reporting uses, even when the material is not emitted to the environment or present in finished products. There are no scientific criteria provided of how the list of substances was developed. Mr. Chairman, I believe we heard a presentation on that earlier; that was the first, as an industry representative, that I'd heard of those criteria.

Ontario should harmonize toxic lists with the CEPA schedule 1. This list is expected to grow substantially in the coming months and years through the CMP progress.

Our third concern is using the Canadian chemical management program as a starting point, and we would recommend that. The federal government's CMP is comprehensive, touching all chemicals in commerce. Through the CMP, all 23,000 existing substances in Canada are being systematically reviewed, and controlled as appropriate.

There has been full Canadian stakeholder engagement in the CMP process. The CMP draws extensively on national and international government, scientific, academic, non-governmental organization, and industry resources. CMP is held up internationally as a positive example of chemical management policy, and is considered a world-leading approach.

It is important that Ontario not create a different, parallel process. CPCA and our members urge the government of Ontario to work collaboratively and effectively with the federal CMP. It is a world-leading approach and should be the basis of any approach, if the province was to consider that.

Our fourth concern is avoiding a climate of regulatory and economic uncertainty in Ontario. It is important that businesses have confidence in the regulatory system so that they can build their industrial processors to ensure high levels of compliance. Although the proposed bill requires a detailed administrative reporting for Ontario-based manufacturing facilities, no specific results or actions are mandated, and these would be voluntary.

While some of these administrative requirements are already in place for sound management of chemicals, the proposed measures are a marked increase from current national NPRI reporting. New Ontario procedures would require accounting for materials used or consumed in productions and processes or in creating finished products, not just emissions and releases.

These activities will increase non-value-added costs for companies. These activities will also compromise confidentiality and drive reporting of out-of-context information for locally made products.

These procedures would also not recognize internationally accepted programs, such as our Coatings Care, which defines health, safety and environmental management best practices. It would also not recognize those reductions already implemented over the years by many industries, such as our lower VOC targets, as well as reductions made over the years through implementation of long-term voluntary stewardship programs.

All regulations should take into consideration and respect the goals and objectives of other government initiatives, such as the Open for Business campaign, and budget commitments such as the 25% reduction in regulatory burden.

It is vital to Ontario's economy that we avoid placing undue burden on industry, especially when another government is already regulating. Legislative and regulatory costs are a significant burden to our industry and can create enormous uncertainty for companies. To compete in the highly competitive global arena, Ontario needs to build on the positive tax changes it recently announced in the budget by reforming its regulatory structures and processes so that we can achieve economic, environmental and health objectives.

In conclusion, any new toxics reduction or chemical management strategy in Canada must deliver improved health and safety outcomes versus existing regulation. It should not create unnecessary and counterproductive regulatory or administrative burdens. It must be well-founded in science and work in co-operation with the world-leading CMP, at a minimum, as a starting point. It must not increase the climate of uncertainty in Ontario and the burden on Ontario manufacturing. And there must be clear benefits to the protection of the environment and human health of Ontarians. Clearly, we do not believe that this bill achieves these objectives.

The Chair (Mr. David Orazietti): Thank you very much. We appreciate your presentation. Mr. Flynn, you're up first.

Mr. Kevin Daniel Flynn: Thank you very much for your presentation today and for your suggestions.

Earlier today, we heard from a number of people, but the one presentation that's stood out in my mind was one made by OCETA, by Fred Granek. It was interesting; he brought us three cases of places or of circumstances where, for a minor investment, toxics had been reduced substantially--very short payback periods and quite substantial amounts of money. Two of the three examples would be involving paint. I'm just wondering, why would somebody in the business world today not come up with these suggestions as a matter of course, as a matter of routine business? If I was president or the manager and I had employees who weren't coming forward with these ideas, I'd be quite upset. So I asked Mr. Granek why this just wasn't being done without government interfering at all. To paraphrase him, he said that there seemed to be a lack of will. I think he called it "inertia." Any comments on that?

Mr. Jim Quick: Sure. I can only speak for my own industry, but I can tell you right now that we've spent millions and millions of dollars over many decades in trying to produce products that are consumer and environmentally friendly. Our low VOC product is a perfect example. We've worked, particularly over the last five

years, from the first--well, I guess the initial VOC reduction was a 54% reduction on our own as a voluntary initiative. We're currently sitting down with the federal government and we're crafting a regulation that will see an additional 30% reduction in VOC regulations in Canada. So that will be an 84% reduction over the last, probably, 10 or 20 years.

We're not opposed to it. As a matter of fact, that's the direction that we're going in, and that's the direction we want to go in as an industry. The concern that you get is, as you're reformulating and you're getting to what people call greener product or greener chemistry, you always have to be careful of whether the product that you're actually manufacturing maintains its quality, its performance, and at a reasonable price point. Those are the primary issues that we have to sit down and talk about as an industry, saying, "How do we get to these other types of chemistry?"

Mr. Kevin Daniel Flynn: So the two examples that he cited today--I realize you don't have them in front of you, but they met all those criteria, obviously--

Mr. Jim Quick: Absolutely.

Mr. Kevin Daniel Flynn: --for the company, and you would think that they should be duplicated by other companies.

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Mr. Jim Quick: Absolutely. The other thing I would add on that is that we're taking a very unique approach to chemical management with the federal government. We're taking a sector approach. So, as each batch comes out, we sit with the federal government, we identify what products are paint-specific products and we go through a whole regime with them, including things like substitutions: What are the substitutions, how much do they cost, what would it mean for the end product, and would the end product still have the efficacy that it was planned to have in the very beginning? So we're taking a very unique approach to chemical management, one that we think is working and one that we would offer here in Ontario.

The Chair (Mr. David Orazietti): Thank you. Mr. Barrett.

Mr. Toby Barrett: Thank you, Mr. Quick. You outline four areas of concern. On page 2 you start off on your first area. I'll just quote: "The proposed bill gives the authority to the Minister of the Environment to ban or restrict the manufacture and sale of product, including those that may be deemed safe...." I actually thought that this legislation was just about requiring a plan to be submitted, requiring paperwork, and everything else was voluntary. But is your interpretation of this legislation that this is about banning products?

Mr. Jim Quick: I think the way we're interpreting it is that under the way we read the act, the minister would have that authority that he could take on those kinds of measures. On substances that the federal government would deem as being safe in the marketplace, and then Ontario deeming that they're not, the concern for us there is that when we make paint, we make paint for the world. We don't make it for Ontario or for California; we make it for the world. And that's a primary concern for us.

Mr. Toby Barrett: With this mandatory paperwork, this bill will give the government agents police powers. They can go into a facility without consent and without a warrant. Do you feel that they need those kinds of powers to find out why the paperwork didn't get sent in?

Mr. Jim Quick: First of all, we're not threatened at all by that kind of thing. That happens in other areas of our business now, where they come in and we're audited. One of the things that we find is that when you do come in and audit, it takes a tremendous amount of our resources to explain our business to you and to explain our internal processes to you. So when we make those kinds of comments, it's that when enforcement officials come into our facilities it's a tremendous amount of work. We don't mind them being there, but it's a tremendous amount of work for us to have them there.

Mr. Toby Barrett: Okay. Thanks.

The Chair (Mr. David Orazietti): Thank you. Mr. Tabuns.

Mr. Peter Tabuns: Thanks for coming down today and making a presentation. If you make paint for the world, then you're going to be shipping paint to the European Union, and their REACH chemicals process is much tougher than anything we've got here. Are you going to be meeting their standards?

Mr. Jim Quick: First, your comment on REACH in terms of it being tougher: I would argue that CMP is ahead of REACH in many, many ways. If you talk to my member companies, they would tell you that it's very expensive to be doing business in Europe at the moment because of REACH requirements; it's long, slow and expensive. Based on our experience, we would argue, and we have--we brought the paint world to Canada in March and we brought in Environment Canada and Health Canada to present CMP because we think CMP is a better alternative than REACH.

Mr. Peter Tabuns: Interestingly, the Canadian Commissioner of the Environment and Sustainable Development in 2008 talked about the federal government's management of one chemical, acrylonitrile. This was declared toxic under CEPA in 1999. The amount of emissions in Canada has tripled since 1999, and that was when it was found toxic. So you're telling me that they have an effective program when they declare something toxic and the amount of emissions in the environment has gone up three times? Is that effective?

Mr. Jim Quick: I'm not sure what the particular circumstances are around that substance. What I can tell you from our experience is that when we sit with health and environment in our sector approach, there is a thorough review of each of those paint substances: current emissions, amounts being sold in Canada, where the substitutions are; if there are no substitutions, what we think the timelines are for the substitutions. So we're very much focused on how we do the reductions that are being required by government.

Mr. Peter Tabuns: If in fact organizations do blood tests and find fire retardants in the bodies of children and

adults in this society, if the emissions of acrylonitrile into the environment, something declared toxic in 1999, have tripled, that says to me that we don't have an effective program at hand.

Mr. Jim Quick: I would assume that if that is the case, then Health Canada and Environment Canada have a risk-management strategy for that substance to reduce it.

Mr. Peter Tabuns: They declared it toxic. You would assume at that point that the legislative checks and balances and controls would kick in, and it has tripled. That says to me that you've got a program that doesn't work. Doesn't that say that to you?

Mr. Jim Quick: No; it would depend on what the risk-management strategy is.

Mr. Peter Tabuns: Three times more of a toxic substance in the environment is not an indication of something that's dealing with toxic pollution.

Mr. Jim Quick: The member cites one example. I think there are hundreds of other substances where we consistently see reduced emissions into the environment. On a lot of the substances that I mentioned earlier on in terms of VOCs and things like ethylene glycol that we use in our industry, we are seeing substantial reductions and not increases.

The Chair (Mr. David Orazietti): Thank you. That's time for the presentation. We appreciate your coming in this afternoon.

Mr. Jim Quick: You're welcome.

CANADIAN VEHICLE MANUFACTURERS' ASSOCIATION

The Chair (Mr. David Orazietti): Our next presentation is--we're going to move to the 4:45 presentation on the schedule and come back to the 4:30--Canadian Vehicle Manufacturers' Association.

Good afternoon. Welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five for questions. State your name for the purposes of our recording Hansard, and you can begin when you're ready.

Mr. Mark Nantais: Good afternoon. My name is Mark Nantais. I'm president of the Canadian Vehicle Manufacturers' Association. With me today is the vice-president of environmental and occupational health and safety for the Canadian Vehicle Manufacturers' Association.

For those of you who may not be aware, the submission that we're making today is on behalf of Chrysler, Ford and General Motors, as well as Toyota manufacturing and Honda manufacturing Canada. We're very pleased to be here to offer our comments as they relate to Bill 167 and to offer up for you some suggestions as to how we can actually improve the bill and find ways in which we can better achieve the objectives that the bill has set out for itself.

Let me begin by simply saying that these companies operate world-class, highly competitive, state-of-the-art facilities, with continuous improvement being entrenched in their business philosophy, using mature, certified environmental management systems. They have proactively taken a broad range of steps to address environmental impacts and minimize or eliminate the use of toxic substances or other substances, emissions, energy consumption, water consumption as well as waste generation. Through their existing experience with environmental management systems and the National Pollutant Release Inventory, they have developed unsurpassed expertise in pollution prevention and planning programs.

The CVMA recognizes the Ontario government's desire to take action to promote reductions in the use and creation of toxic substances. However, the bill is focused on how substances are used in the manufacturing processes and not necessarily on environmental and human risk outcomes. In our view, Bill 167, as currently drafted, raises a number of serious concerns and actual barriers to effective implementation of toxics reduction planning and prevention.

Our comments today, as I said, are intended to actually make the bill more effective and efficient in terms of achieving its goals. There are essentially five areas that I wanted to address very quickly, if I may.

The first is providing a clear definition of "toxic" in the act. The act, under section 2, as currently drafted, does not contain a definition of or clear principles for the identification of toxic materials that are to be regulated. The section 2 definition indicates that "'toxic substance' means a substance prescribed by the regulations as a toxic substance" for the purposes of the act.

We believe that in order to achieve government's desire to reduce toxics, the act needs to provide clear and predictable principles for identifying the substances that are actually to be regulated. This issue can be addressed simply by providing a clear definition of the proposed act itself, like that described under the Canadian Environmental Protection Act, 1999. We have provided specific recommended changes to section 2 of the act in this regard, and these changes appear in the more detailed submission that we just circulated to all committee members.

Inclusion of a clear definition will provide certainty with respect to ensuring targeted action for substances of concern, provide greater certainty for industry, assist in the achievement of the government's goals, allow for much-needed consistency within the provincial and federal jurisdictional authorities and, lastly, ensure that the concept of risk is incorporated in the proposed act.

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Let me give you a simple example to illustrate why it is so important to have a clear definition of "toxic." Zinc is used in auto assembly operations and in parts and components manufacturing to prevent corrosion. Because of its anti-corrosion properties, alloyed zinc is an inherent element in sheet metal that helps maintain the integrity of structural components, fasteners and other miscellaneous sub-assembled vehicle components. The act, as it is currently drafted, implies that resources would have to be

expended to account for inventories of zinc in our facilities, even if it is already integrated into a part or component of the vehicle. The potential outcome could be to force manufacturers to develop mandated plans to reduce the amount of zinc in sheet metal. Aside from the significant resources and reporting relative to inventories of zinc alloyed in steel, this really illustrates the need for a clear definition of toxics to ensure that an appropriate focus is taken under the legislation. We could really be asking ourselves whether the intent of this legislation is to ensure vehicles are less safe and rust more quickly. I don't think that was the intention of the act at all.

Second: allow for one plant facility plan to address multiple toxic substances and the substances of concern, not one plan per substance. As it's currently drafted, we are concerned that the proposed legislation is unduly constraining and is not sufficiently flexible to promote effective toxic substance reduction planning. In fact, it may actually create barriers to effective implementation.

The proposed legislation would require companies to develop a toxics reduction plan for each substance reported to the NPRI. Based on our experiences with the NPRI, large assembly operations actually require months of preparation to comply with the required reporting. Hundreds of person-hours are spent in a given assembly plant to track and ultimately report 20 to 50 different NPRI compounds.

We submit that a more effective approach would be to encourage and support a company to strategically look at their facility's environmental impacts through a certified environmental management system, or EMS. Such an approach enables a facility to objectively evaluate the processes, identify those that are significant, create operational controls and set objectives and targets to reduce total impacts. Auto companies have used this approach with respect to the use and emissions of VOCs, demonstrating significant and continuous improvement year over year. This would be a much more effective and productive means of ensuring that the province's objectives are actually being met.

Rather than taking a prescriptive approach that will limit creativity, the legislation needs to provide for the option of one plan for a facility and enable prioritization of planning by allowing facilities to choose to address a manageable number of substances, perhaps three to five substances at one time, based on their knowledge and expertise of their manufacturing facility. The auto companies could not sufficiently manage a detailed planning exercise for the 20 to 50 substances reporting to the NPRI. Moreover, the requirement to develop a toxics reduction plan for substances with no emissions or very limited emissions certainly will not help the province achieve its toxics reduction objectives. It will, however, impose ineffective and costly paper-chase exercises.

We would ask that consideration be given, for example, to subsection 4(1), "Contents of plan," which, as I said, is unduly prescriptive and therefore constraining. We would suggest, in fact, that subsection 4(1) and paragraph 4 of subsection 4(1) should be modified. Again, we have provided some recommended changes in our detailed submission. The changes we have suggested to section 4 would allow for one plan to address multiple substances. Changes would therefore also be required to section 9, regarding toxic substance accounting. Again, we've provided some revised wording for your consideration.

Other sections in the act would benefit from similar revisions, whereby the references to "each", "every" and "all" processes are also revised.

Third: provide equivalency with other certified environmental management systems, such as ISO 14001, without any changes to the EMS, and actually provide, again, powers to the ministry directors to recognize such plans under the act.

Through ISO 14001, our experience is to incorporate NPRI and toxic substance reduction planning into business planning. The legislation should promote integration of toxic substance reduction planning into operations by enabling incorporation of the plans into certified EMSs. We propose that the act include a provision that allows facilities with a certified EMS that includes objectives and targets to reduce pollutants or toxics reduction to be exempt from the detailed reporting requirements, as well as providing directors of the ministry that power to recognize other plans as being sufficient to satisfy the requirements of the act.

While section 44, "Document prepared for another purpose," recognizes documents prepared for other government purposes, this does not allow flexibility in use and integration into existing systems. We provided some additional wording there.

The last two items are providing for some of the same exemptions as those afforded in the NPRI. That's very appropriate in terms of the NPRI system and reporting systems that are in place at the manufacturing facilities. The last one is an exemption of vehicles from the consumer products provisions in the act, as they are already covered under federal legislation; that is, the Motor Vehicle Safety Act and the Canadian Environmental Protection Act.

Those are essentially the five key points that I wanted to address. We'd certainly be open to questions, but we do believe that these recommended changes will actually make the bill more effective and make it a more successful bill in terms of achieving Ontario's environmental objectives in this instance.

The Vice-Chair (Mr. Jim Brownell): Thank you. You're right on time. We have about a minute and a half from each party. Mr. Barrett, you're first.

Mr. Toby Barrett: You used the example of zinc. I imagine that a steel mill, or steel sheet metal fabricating, would have to report zinc, and then the auto assembly would have to report zinc. Does this go on anywhere else? Does Michigan have to do this? Does a steel mill in Indiana have to do this? Is this done anywhere else?

Mr. Mark Nantais: What we find is that the jurisdictions they've actually looked to to help structure and develop this plan are jurisdictions which essentially no

longer have vehicle assembly or manufacturing. So in many respects, they've turned to jurisdictions that are no longer competing jurisdictions, and basically they're out of date with what's actually going on in the industry.

Mr. Toby Barrett: You make it very clear that you're already covered by federal legislation, that this would be duplication. I think of other automotive countries--I don't know, Brazil. Are there states in Brazil that require identical regulation to this, identical to the federal legislation in the country of Brazil? Does this happen elsewhere in the world?

The Vice-Chair (Mr. Jim Brownell): A very quick answer--15 seconds.

Mr. Mark Nantais: I'm not aware of the Brazilian situation, but there are, for instance, emissions standards and whatnot that exist in virtually all major jurisdictions around the world.

Mr. Toby Barrett: But at different levels of government?

Mr. Mark Nantais: No; generally one national standard.

The Vice-Chair (Mr. Jim Brownell): Thank you. We'll move on to Mr. Tabuns.

Mr. Peter Tabuns: Mark, thanks very much for the presentation today. A fellow was here earlier today from the auto parts manufacturers--he's still sitting at the back--talking about the need for assistance through a toxics reduction institute that could work with manufacturers to reduce their use of toxic chemicals or achieve substitutions. Would your association see that as useful? And if so, in what way?

Mr. Mark Nantais: I think something like that could be useful for small and medium-sized enterprises. In our industry, the CVMA was actually the first, as a sector, to sign up to a pollution prevention program, dating back to 1992, which was probably the most successful toxics--and other environmental contaminants of concern--reduction program, where we essentially eliminated or reduced 440,000 tonnes of the designated substances. Part of our program, to be very quick, included linkages to the Canadian Centre for Pollution Prevention, which in many instances provided the basis for small and medium enterprises to look to actual case studies where we've removed environmental contaminants of concern from our processes or our products, because it was one which went right up the value chain, if you will, through the actual materials and our parts suppliers. So I can see a resource like that being useful to organizations that may not be that sophisticated, that may not have the resources available to them.

The Vice-Chair (Mr. Jim Brownell): Thank you. That brings an end. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you, Mark, for your presentation today. As you know--I wouldn't be telling you anything you don't know--there's tremendous public support for the reduce of toxins in our environment today in society. It's got strong support from the Canadian Cancer Society, from the Registered Nurses' Association of Ontario, so I appreciate the constructive tone you've brought today.

I should know this, and I don't: Where do you think Ontario's auto manufacturing would rank compared to the rest of the world as far as pollution, emissions and toxics use today?

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Mr. Mark Nantais: A very good question. I'm not sure I can be all that precise, but I think it would be safe to say that the Canadian automotive industry is probably among the highest in any jurisdiction in the world in terms of all its programs.

Mr. Kevin Daniel Flynn: Your point, if I could take one thing away from your presentation today, is that you agree with the end gain, but you think there are improvements we can make to the process to reach it.

Mr. Mark Nantais: Yes. We think there are improvements to make in terms of both the efficiency, as to how we carry it out internally as part of our business operations--there are better ways to actually get to where we need to be. We've got some good ideas, I think. A lot of industries have some good ideas. I think you'll find that all major manufacturing supports the bill, but we need to support it in a way that's going to ensure that we remain competitive relative to our jurisdictions at a time when we've now got very few resources--financial or human resources--to duplicate or engage in paper chases.

The Vice-Chair (Mr. Jim Brownell): That brings us to the end of your deputation. I want to thank you for appearing here today.

CANADIAN MANUFACTURERS AND EXPORTERS

The Vice-Chair (Mr. Jim Brownell): Next we have the Canadian Manufacturers and Exporters.

Please step up, take a seat and say your names so that we can have them recorded for Hansard purposes. You will have 10 minutes for your presentation, and we'll have five minutes split between the parties for questions. Begin now.

Mr. Ian Howcroft: My name is Ian Howcroft. I am vice-president, Canadian Manufacturers and Exporters, Ontario division. With me is Nancy Coulas, our director of environmental quality.

On behalf of CME, I'd like to thank you for this opportunity to comment on Bill 167 and offer insight from our members' perspective.

Before we turn to some of the specific or substantive comments, I think it's important to say a few things about CME and about manufacturing and the important roles we play in the Ontario economy that will help put things into context.

We speak for the manufacturing and exporting sector. Our member companies account for about 75% of Ontario's manufacturing output and approximately 90% of Ontario exports. Our members represent a broad variety of industry sectors, with approximately 85% of them being SMEs. Consequently, we feel we're very well

placed to speak for manufacturers and exporters here in Ontario.

In Ontario alone, the manufacturing sector accounts for approximately 15% to 16% of the GDP, producing about $300 billion worth of manufacturing output. Further, the manufacturing and exporting sector provides employment for approximately 800,000 Ontarians directly, and about 1.5 million other Ontarians have their employment indirectly linked to manufacturing. Consequently, one out of every six jobs depends on the manufacturing sector. This is after, I should point out, significant losses that we've experienced in the manufacturing sector since the high point in 2002. These are highly skilled and highly paid jobs in many, many instances. On average, wages paid are 25% above the national average. Every dollar invested in manufacturing generates $3.25 in total economic activity. It's the highest multiplier of any sector.

I would also like to highlight that the manufacturing sector has realized great success in reducing greenhouse gas emissions. They've actually fallen by 9.3% between 1990 and 2005. We raise these facts again to demonstrate how important manufacturing is and how we have had some significant successes.

However, manufacturers are trying to respond to challenges. They're implementing new strategies; managing cash flow wisely using financing, hedging, pricing, contracting, outsourcing; and focusing on what customers value to eliminate waste, to innovate and to find solutions in specialized products, services and customization. They're developing new markets in Canada and around the world, leveraging logistics advantages and achieving results through people, through skills and through workforce capabilities.

In order to better respond to the challenges, manufacturers need Ontario's help to assist manufacturers with key problems, such as access to financing, providing a competitive tax structure and encouraging investment and providing a competitive regulatory infrastructure.

The Open for Business initiative in Ontario is of prime importance to manufacturers as it seeks to provide what manufacturers need to compete in today's marketplace: a regulatory environment that is practical, achievable, low-cost, effective and timely.

I'd like to turn to Nancy to ask her to talk about some of the specifics that we have with regard to the bill. Again, we support its objectives and goals, but we do have some concerns as to how we get there.

Ms. Nancy Coulas: As Ian said, CME members are highly supportive of effective toxics management. They recognized the importance of this long before Bill 167, with the implementation of ISO 14000 standards, voluntary pollution prevention programs and other federal government regulatory initiatives, and they fully realize the benefits of being environmentally responsible members of their communities.

Many CME members participated in the federal government's accelerated reduction and elimination of toxics program, which was developed jointly by government, environmental groups and industry. By the year 2000, ARET attracted participation from eight industry sectors, 171 companies and 318 facilities and made reductions of about 70,000 tonnes of ARET toxic substances.

Ontario manufacturers have also been improving productivity using the "lean" philosophy of reducing waste, and they're now recognizing the importance of the "lean" lens on environmental issues. CME continues to assist its members to implement "lean."

We understand that Ontario has a desire to follow the Massachusetts model for toxics reductions. CME has had discussions with its industry counterparts in Massachusetts, and we've learned that while their program has evolved significantly over the last 20 years, it was certainly a very tough start for their manufacturers. The manufacturing numbers in Massachusetts today have declined significantly--over the past 20 years, that is--since they began their program, but they also face challenges similar to those facing Ontario companies, other than environmental and regulatory challenges. In Ontario we need to do a bit better for our manufacturers.

It's important to note that CME members are typically users of a wide number of substance. This leaves CME members more susceptible to costs and burden associated with compliance with the proposed legislation. We're concerned about the amount of regulatory burden that the legislation may add, and believe it's important to ensure that regulatory and paper burden are properly addressed.

We understand that many issues of concern that we outline today are going to be considered in the regulatory development phase of this legislation, but we believe that the issues we present here are important enough to be addressed in a forum that provides a true democratic process.

Getting into the main concerns that CME has, one main concern is the contents of the toxics reduction plan. We appreciate the voluntary approach to implementation of the plan, but the development of the plans is going to mean significant extra paper burden for manufacturers. To address this, changing the requirement to do one plan per facility, and not one plan per substance, would greatly improve the paper burden for CME members because, as noted above, they have numerous chemicals in the manufacturing processes.

The legislation should allow for one plan for a facility, and enable efficiency by allowing facilities to choose and address a manageable number of substances based on the expertise of that manufacturing facility.

We've made a few suggestions where the act could be changed to help the situation.

It would also be helpful for industry and the environment if the processes that are most significant sources of substances would be considered when developing plans. We've also made some recommendations for those changes.

To give you an example of why this would be important, and I know the CVMA gave an example as well: If you look at a substance like chromium, chromium

compounds may be used in a wide variety of processes in a manufacturing facility, such as chrome plating, dyes, pigments, leather, wood and cooling tower water, used in drilling and textiles, and even the toner for photocopying machines. So it would be more practical if a company only needed to report on the significant sources of chromium compounds.

CME members also believe it's important to provide equivalency with other certified environmental management systems, such as ISO 14001, with no changes to that EMS, and provide powers to MOE directors to recognize these plans.

With respect to toxic substance accounting, CME believes that MOE should not dictate which type of accounting system a company uses. If a company is already using a recognized accounting method, it should not be required to change. There would be no environmental benefit to this, and it would add unnecessary costs for compliance.

CME is not opposed to public reporting. However, there is a real concern about confidential business information being exposed under this legislation. Industry has worked with the federal government extensively in reporting information publicly, and CME suggests that MOE use this information learned, work with the federal government and ensure that we don't miss any of the important issues. MOE must ensure, by clearly stating in the act, that manufacturers' confidential business information cannot be used by competitors.

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The Vice-Chair (Mr. Jim Brownell): There's one minute remaining in your presentation.

Ms. Nancy Coulas: In the presentation that you have in front of you, I've basically outlined the six ways that we felt the legislation could be improved, but I'd also like to suggest that MOE run five trials or pilots of the legislation, five each of small, medium and large-sized companies, before the requirements come into force. This would allow MOE to recognize any needed changes with the legislation prior to full implementation.

The Vice-Chair (Mr. Jim Brownell): Thank you. We will start with the third party.

Mr. Peter Tabuns: Thank you for coming in and making the presentation today. I appreciate the way you approach the bill and the kinds of changes you wanted.

One of the issues that's come up in presentations is the establishment of a toxics reduction institute that would assist manufacturers in actually implementing the plans and identifying processes or substances that would help them reach the act's goals. How do you see such an initiative?

Ms. Nancy Coulas: I think that would be very useful for small and medium-sized companies. Big companies have environmental engineers on staff and they've been working these issues, as I mentioned, prior to Bill 167. But I know the smaller and medium-sized companies will have some issues and that Massachusetts has--I'm not sure if it's just a website or if they have an actual--

Mr. Peter Tabuns: They do have an institute.

Ms. Nancy Coulas: Yes, an actual institute. But I've talked to the Massachusetts industry and they believe it's very helpful to medium-sized and smaller companies as well.

The Vice-Chair (Mr. Jim Brownell): Thank you. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Nancy, for your presentation. Two brief questions: I need you to help me understand your request that a facility plan be used instead of individual toxins, because I'm wondering--and this goes back to the CVMA presentation as well; they asked for the same thing. How do you develop a facility plan without developing a plan for each of the individual ingredients or toxins or emissions that are being used? Also, we had somebody here today from OCETA, who gave us three examples of where it was a no-brainer that you would move to a toxics reduction because it made money, it didn't cost a lot of money and the payback was very short; you'd be a very poor business person if you didn't do what these people did. What type of specific assistance does business need for some of the higher-hanging fruit?

Ms. Nancy Coulas: I'll answer the second question first. There's a lot of research, I guess, that goes into changing a chemical substance in a company's process. Certainly a small or medium-sized company is going to really need that technical assistance to find out what chemical it can replace a certain substance with. Also, the actual reporting of the chemicals is going to be a challenge for some of the smaller companies.

Mr. Kevin Daniel Flynn: Do I have 10 seconds?

The Vice-Chair (Mr. Jim Brownell): You have 10 seconds.

Mr. Kevin Daniel Flynn: Okay. How do you develop that big plan without looking at the individual toxins?

Ms. Nancy Coulas: I think that certainly for the bigger companies that have maybe 100 substances, they are going to know exactly what their priority substances are, where the significant uses are, so that they would track those significant uses first and then work toward more substances that are less commonly used in the process--

The Vice-Chair (Mr. Jim Brownell): Thank you.

Mr. Toby Barrett: You mentioned the Massachusetts legislation. I got an e-mail from Dave Wawer, CEO of the Massachusetts Chemistry and Technology Alliance. They did a study based on US government toxic release inventory emissions that found there was no link between that law and emissions in those New England states. In fact, they did a follow-up study, and Massachusetts lagged behind the other five states that do not have that TURA law. Lastly, he indicated that as manufacturing jobs left Massachusetts for other states or countries, the reporting of chemical use declined. Any comments on that? We just got this a few days ago.

Ms. Nancy Coulas: Yes, and I've spoken with the manufacturers' association in Massachusetts and their environmental policy person. He said that it's been absolutely tough implementing this legislation. They've

gone through actually many iterations but, yes, he feels first of all that there's very little manufacturing left and he finds it difficult to comment on whether that has actually reduced the emissions. He would agree with that study.

Mr. Toby Barrett: This indicated it didn't work.

Ms. Nancy Coulas: Yes.

The Vice-Chair (Mr. Jim Brownell): Thank you for your presentation this afternoon and have a good afternoon.

Would Toronto Public Health be here, David McKeown? No.

CANADIAN PLASTICS INDUSTRY ASSOCIATION

The Vice-Chair (Mr. Jim Brownell): Next, we'll have EPIC, Canadian Plastics Industry Association. Welcome to the hearings. Make yourself comfortable. You will have 10 minutes for a presentation and five minutes for questions following that presentation. Please state your name for Hansard purposes and begin.

Dr. Fred Edgecombe: My name is Fred Edgecombe. I'm representing the Canadian Plastics Industry Association and its Environment and Plastics Industry Council.

Mr. Chairman and honourable members, the Canadian Plastics Industry Association appreciates the opportunity to comment on Bill 167. Previously, CPIA commented on the discussion paper and we did attend the consultation sessions.

CPIA is a national association representing the Canadian plastics industry. CPIA's members comprise resin producers, processors of plastics resins into articles of commerce, manufacturers of machinery and moulds, as well as compounders and suppliers of chemicals and additives to the plastic processors.

On the basis of value shipments, the plastics industry is the third-largest manufacturing sector in Canada. Forty-eight per cent of Canada's manufacturers of plastics, about 1,800, are located here in Ontario and we employ about 55,000 people. As an industry, we are committed to the protection of public health and the environment. However, the bill, as drafted, will lead to arbitrary application affecting hundreds of plastics companies, adding another costly burden on the industry. Thus, as an industry, we are concerned.

We believe that toxic substances are well controlled by the Canadian Environmental Protection Act, CEPA, and the federal chemicals management plan. The federal government is well advanced in its risk assessment of chemicals and the institution of management plans for those which put the public and the environment at risk. We are recommending that Ontario not devise an independent system but, rather, harmonize Bill 167 with CEPA and the chemicals management plan.

Areas of Bill 167 which should be amended to facilitate this harmonization include the definition of "toxic substance." The definition of "toxic substance" in section 2 of the act is of particular concern to us. The definition as it exists in section 2 is one that is prescribed by regulations. We believe this definition is inadequate and one which will result in the arbitrary selection and labelling of substances as toxic when they are not.

There needs to be evidence that chemicals have been assessed scientifically for both their hazard and risk to public health and the environment. Paracelsus said in the 15th century that dosage makes the poison. It is the analysis of risk that determines the dosage. For example, I suspect that some members of this committee added a small quantity of sodium chloride to their eggs this morning; they're still here. But if this committee was adrift in a lifeboat at sea and its members started to drink seawater, the quantity of sodium chloride in that water would soon kill them.

The federal chemicals plan is carrying out assessments of hazard and risk. Ontario should not duplicate the CMP and add another cost burden to Ontario taxpayers. Without consistency with CEPA, industry is subject to arbitrary rules, and economic consequences to the province could be severe.

We recommend that the definition of "toxic" in section 2 be consistent with that used in the Canadian Environmental Protection Act. Bill 167 should refer to CEPA and its schedule for the list of toxic substances that will be applicable for regulation under the bill.

Regarding the application of the act, Bill 167, as written, applies only to the manufacturing and mining sectors of the economy. Since the focus of the bill is public health, it should include other sectors which use toxic substances, for example, municipalities which are large users of chlorine, a chemical that was listed in the discussion paper as toxic.

1650

We recommend that regulations pursuant to Bill 167 not be restricted to manufacturing and mining for substances deemed to be toxic under CEPA.

Regarding the process for managing toxic chemicals: Section 4 of Bill 167 does not outline any process for managing a chemical which has been designated to be toxic other than reducing its use. In some cases, risk to public health and the environment from the use of toxic substances can be managed through other mechanisms, and these should be allowed. CEPA includes management options such as environmental performance agreements as a mechanism to control use and eliminate releases. Simply reducing use can have severe economic consequences.

For example, in the discussion paper, ethylene is declared toxic. The principal use of ethylene is to manufacture polyethylene. In the riding of Sarnia--Lambton, there are three world-scale polyethylene plants. Reducing the use of ethylene will have a major economic effect on their operation. In addition, in the riding there is also a large producer of ethylene which would be affected. Polyethylene is a world commodity which could be imported into the province from either Alberta or as far away as Qatar in the Persian Gulf.

CPIA strongly recommends that the Ontario government amend Bill 167, section 4, to include other options to manage toxic substances such as environmental performance agreements and management plans developed pursuant to CEPA.

Regarding public disclosure: Section 10, subsection (4) of the bill permits the director to make information available to the public. Extreme care is required so that any information released to the public is not misconstrued, causing collateral damage to another substance. As previously stated, ethylene, a gas, is used to make polyethylene, a solid, a totally different substance. Information released to the public on ethylene could negatively impact many plastic products, ranging from packaging to automotive parts, based on ethylene.

If it is the intent of the ministry to link toxic chemicals to the manufacture of a consumer product, we are strongly opposed to that as well. It will result in chemophobia amongst Ontario citizens. Furthermore, since it is only plants in Ontario that have to report, the province risks a further loss of local jobs to imports which will not be subject to the same control and scrutiny.

We recommend that an additional clause be added to section 10 that states the director is not permitted to link a toxic chemical to a specific consumer product unless that product has been assessed under CEPA and determined to be toxic. We also recommend that section 10, subsection (4), be amended to require the director, prior to releasing any information publicly, to carry out an economic assessment of potential damage to another substance through misinterpretation by the public of information which the director may release.

As the bill is currently drafted, the costs to many plastic processors would be detrimental. Ontario's plastic processing sector has been hard hit in this economic climate. The downturn of the auto industry and the slowdown in the building sector have had their impact. The passing of the bill, as drafted, would have severe impacts on the plastics processing sector, one that is highly innovative and highly technical. Additional costs could drive some Ontario-based companies to seek less costly jurisdictions.

We, CPIA, believe in product stewardship, and that includes the control of toxic emissions. In working with Environment Canada, CPIA has proactively led the development of product stewardship programs to manage the release of chemicals into the environment.

The Vice-Chair (Mr. Jim Brownell): You have one minute remaining in your presentation.

Dr. Fred Edgecombe: Thank you.

Such programs include an environmental performance agreement on the use of tin stabilizers and an environmental management program for the vinyl sector.

CPIA, in working with industry, has identified other opportunities to further our product stewardship efforts through the development of best practices to manage the use of substances in our industry. We believe such proactive approaches should be endorsed and fostered by the province of Ontario as supporting co-operative efforts between industry and governments.

In summary, our comments stress the need to harmonize Bill 167 with the federal government's chemical management plan. We have made recommendations on some areas of Bill 167 that need to be amended to accomplish harmonization. There is an opportunity to leverage the federal government programs and to avoid significant costs to both the Ontario government and industry, which is highly desirable in the current economic climate.

The Vice-Chair (Mr. Jim Brownell): Thank you. That brings us to the end of the presentation. Mr. Flynn, you have the first question.

Mr. Kevin Daniel Flynn: Thank you, sir, for your presentation today. I just want to focus a little bit on the public disclosure. I remember a scene from The Graduate, where Dustin Hoffman is quite young and gets advice to go into plastics.

Dr. Fred Edgecombe: Yes.

Mr. Kevin Daniel Flynn: He was a baby boomer. I suspect that if the same advice was given to somebody from Generation X or Generation Y, the advice wouldn't be taken. I think times have changed a little bit and when you talk about public disclosure, you're saying that for some reason some things should not be disclosed. My sense, being in politics for a long time, is that the consuming public wants more knowledge now, not less. So how do you justify the right of a company to maintain its trade secrets or whatever it has going, proprietary information, with that increasing desire of the public to know exactly what they're dealing with when they make a purchase?

Dr. Fred Edgecombe: We're concerned primarily about what we call collateral damage. If you state that ethylene, for example, is toxic and a plastic bag or a dry cleaning bag is manufactured from polyethylene, unfortunately there is collateral damage resulting against this other product, which is not toxic. Consequently, it affects the business.

By the way, going to back to The Graduate again, I'm sure that there are many facets of the plastics industry that are far more sophisticated.

Mr. Kevin Daniel Flynn: I was being facetious.

The Vice-Chair (Mr. Jim Brownell): Thank you. That brings us to the end of the government. Mr. Barrett?

Mr. Toby Barrett: That line in that film is a good example of the power of emotion and the impact that maybe that can have. You use the term "chemophobia." I think you raised the point about people having a desire for knowledge about these kinds of things and they get the emotional messages; I don't know whether they get the facts.

To what extent has the Ontario government explained to people what they're doing here? I'm not aware of any public meetings. I'm an environment critic; I haven't been aware of anything. Is this more of an inside baseball, that the government--I assume there were some meetings held for the various industries. To what extent has the government laid this out for the people of Ontario?

Dr. Fred Edgecombe: I don't believe they have, and certainly if you went to some of the consultation sessions, you would find that certain staff members of the Ontario government were very much confused.

Mr. Toby Barrett: Is there something inherently wrong with this federal legislation that Ontario has to essentially replace it?

Dr. Fred Edgecombe: I would say not, actually. The federal government has looked at 23,000 chemicals on a domestic substances list. It has narrowed that down. It has put out an industry challenge for more information on other materials--

The Vice-Chair (Mr. Jim Brownell): That brings us to an end. Mr. Tabuns, you're next.

Mr. Peter Tabuns: I will pass.

The Vice-Chair (Mr. Jim Brownell): Okay. Thank you for your presentation this afternoon.

TORONTO PUBLIC HEALTH

The Vice-Chair (Mr. Jim Brownell): Next we have Toronto Public Health. Step right up to the table. Please introduce yourselves for Hansard purposes; we have to have that clear. You have 10 minutes for the presentation. We will have five minutes for questioning.

Dr. David McKeown: Thank you very much, Mr. Chairman. My name is David McKeown. I'm the medical officer of health for the city of Toronto. I'm joined today by Mr. Rich Whate, who works in the environmental protection office at Toronto Public Health.

I'm glad to see that the government is conserving energy by not air conditioning this room; you can tell as soon as you walk into the room.

Thank you very much for the opportunity to speak with the committee today. My comments are going to draw on the past three years that my colleagues and I at Toronto Public Health have spent researching toxics reduction programs in other jurisdictions and consulting with businesses, worker agencies, health and environmental organizations and with Toronto residents, in fact, to develop our own environmental reporting and disclosure bylaw, which Toronto city council adopted last year. It comes into effect at the same time, January 2010, as the proposed legislation that you're dealing with today.

I'm also pleased that Toronto Public Health was able to contribute to the development of the proposed act by having one of our staff sit on the government's scientific expert panel. That's Dr. Monica Campbell, who's the manager of the environmental protection office.

1700

Let me begin by commending the provincial government for proposing legislation which is aimed at protecting the health of Ontarians and our environment by reducing the use and release of toxic chemicals. This initiative also represents, I think, an important opportunity to stimulate the innovation that is essential to a robust and green manufacturing sector in Ontario. In both of these areas, Ontario is quite right to join a growing global move to modernize and align chemical and environmental health policy.

The proposed act, in my view, has several key strengths:

--first, requiring facilities to track chemical use. Toxic substances that are used in manufacturing and other industrial processes or that end up in products do represent an immediate or, in some cases, a potential risk to the health of workers and the public, which is my main concern as the medical officer of health. Tracking chemical use is the first and essential step toward reducing or replacing these substances with safer alternatives;

--second, requiring facilities to produce toxics management plans. This will create public commitments to reducing chemicals and enable the facilities, government and the community to measure progress toward these goals;

--third, requiring public disclosure of information. I think this is an extremely important component of the legislation. It introduces public scrutiny, engages and informs communities, and further stimulates pollution prevention. I think the experience that we've seen in other jurisdictions shows that releasing chemical usage information can stimulate environmental innovation that can reward many companies with both loyal customers and increased profitability.

However, Ontario's legislation should be progressive and should acknowledge how chemical policy is being modernized around the world. Bill 167, as it's currently proposed, is missing several elements that would align it with progressive laws like the Massachusetts toxics reduction act and its new proposed safer alternatives bill, California's green chemistry act, and REACH in the European Union.

I do recommend that the ministry add several elements to the final act or its regulations, many of which were suggested by the ministry's own toxics reduction scientific expert panel:

--first, mandatory phase-outs or substitution of high-hazard substances. The act gives the minister the authority to identify and regulate high-hazard substances, but it's not clear how the regulations will provide for this. I would urge the ministry to include specific provisions in the act and in the regulations for ensuring that this process is an open one, subject to regular review, so that the list of substances addressed reflects scientific developments and includes specific dates for companies to achieve the elimination or substitution of high-hazard substances;

--second, targets for toxics reduction. I believe the act should set specific targets for the reduction of the use and release of toxic substances. For example, the Massachusetts Toxics Use Reduction Act was enacted with a target of a 50% reduction in hazardous waste in 10 years. This target was achieved, and I think similar kinds of targets should be considered for Ontario's program;

--third, lowering of reporting thresholds over time. The use or release of chemicals from small and medium-sized facilities, which would not be covered by the

proposed legislation, contributes to a cumulative exposure for Ontarians, which is of concern from a health point of view. Lower reporting thresholds would motivate smaller businesses to reduce chemicals and provide valuable local-level information for communities and for public health officials. The act should include provisions for reviewing and lowering reporting thresholds over time;

--fourth, the creation and funding of an independent institute to increase technical capacity of industry and to advance research and commercialization of green chemistry. The ministry, we believe, should create and fund an institute which is independent of government, composed of a collaboration of academics, government and industry. This should be modeled on approaches such as the Toxics Use Reduction Institute in Massachusetts and the Eco-Efficiency Centre at Nova Scotia's Dalhousie University. These collaborations provide businesses with pollution prevention advice which is state of the art and help train the next generation of green industrial scientists;

--fifth, clear targets for the review, restriction and labelling of consumer products that contain hazardous substances. The act provides authority to the minister to review chemicals in consumer products, to regulate their manufacture of sale and labelling. The act should include timelines for the province to identify priority substances and products for regulation and labelling;

--finally, capacity building for small and medium-sized facilities. The proposed act includes capacity-building measures, including technical assistance and incentives for regulated facilities, those large facilities which meet the release targets that are included in the act. Under the act, these facilities have the same threshold as NPRI.

I agree with the suggestion made by the scientific expert panel that capacity building should also be available to support small and medium-sized facilities. They use and release priority substances at levels that are under the reporting thresholds, but they're very important to the overall impact on health and the environment because of the usual close proximity of smaller facilities to the places where people live, in particular in urban centres.

Let me just conclude by confirming that the proposed act is complementary and not in conflict with Toronto's new environmental reporting and disclosure bylaw, which is one of the city government's many commitments to environmental sustainability and the greening of local businesses. Toronto, under this new bylaw, will collect and disclose important data on 25 priority substances used and released by thousands of local facilities which are too small to be captured by the proposed provincial legislation but which nevertheless contribute to exposure to chemicals in neighbourhoods across this city.

Toronto's program will also provide supports for small and medium-sized businesses to assist them to report and to adopt pollution prevention measures. Both the Toronto bylaw and the proposed act will come into force at the same time--at the beginning of 2010--and Toronto public health staff are working closely with the Ministry of the Environment to ensure that these programs work effectively together.

The Chair (Mr. David Orazietti): Thank you for your presentation. Mr. Barrett.

Mr. Toby Barrett: Thank you, Doctor. So this bylaw will be coming into force next year. Is there any duplication with this proposed legislation or any duplication or triplication with the federal law that also requires this kind of reporting?

Dr. David McKeown: No. Of course, we're aware of the federal legislation, which exists, and we actually delayed bringing forward an approval of our own local legislation until we saw the shape of the proposed provincial toxics use reduction legislation, so we have designed our legislation so that it complements rather than conflicts with other levels of government.

Mr. Toby Barrett: This will be applied to thousands of businesses, and they're missed by the federal program and they're missed by the provincial program?

Dr. David McKeown: That's correct. There are only about 300 businesses within the city of Toronto that are covered by the NPRI. That would be a similar number that would be covered by the proposed legislation provincially.

Mr. Toby Barrett: The 25 priorities that you've identified: Is this primarily stuff that would end up in sewers, for example, or is it air emissions or ground emissions?

Dr. David McKeown: It's mostly air emissions. That's the main focus of this legislation, since there are existing city statutes that deal with sewer use discharge, for example.

Mr. Toby Barrett: Okay. Thank you.

The Chair (Mr. David Orazietti): Thank you. Mr. Tabuns?

Mr. Peter Tabuns: David, thanks very much for the presentation and the recommendations. If the bill is not, in fact, modified, as you have proposed, where will we see the weaknesses?

Dr. David McKeown: We know from the experience of other jurisdictions that we do see reductions in emissions just as a result of public reporting and support for pollution prevention, but I think the recommendations that have to do with setting targets give us an additional degree of assurance that those changes are going to happen over time.

Mr. Peter Tabuns: Mandatory substitution is something that you propose in this letter. It's in place with REACH and in place with the California legislation. You're suggesting that we put it forward here.

Dr. David McKeown: Yes. I think we want to see the mechanism put in place to identify those substances which are technically feasible to substitute for or phase out and then set targets for them. Clearly, it's not possible for all substances to be covered by the legislation, but for those in which there's a really strong business case, it makes sense to set targets.

The Chair (Mr. David Orazietti): Thank you. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Dr. McKeown, for your presentation. I'm assuming--I'm not sure if you've done this--you've done a jurisdictional scan of the experience of other jurisdictions in this regard. Previously, Mr. Barrett, as late as this afternoon, was trying to imply that the initiative that took place down in Massachusetts did not work. Dr. Ken Geiser, a professor of work environment and director of the Lowell Centre for Sustainable Production at the University of Massachusetts, was actually a member of the expert panel. He tells us that Massachusetts has never seen any evidence studies or any data to support the claims of the opposition and the organizations they contacted that toxic legislation has in any way adversely impacted business. In fact, the data shows that companies have voluntarily reduced toxic chemical use while maintaining their competitive advantage. Industries subject to reporting since 1990 have reduced their toxic chemical use by 40%, by-products by 71% and releases on-site by 91%. I'm impressed by that, compared to other jurisdictions. What would your opinion be of that?

1710

Dr. David McKeown: We did review the Massachusetts experience as a part of developing our own local legislation, and we found evidence that there were tangible and substantial reductions in emissions of hazardous substances. There was also perhaps less complete information but nonetheless information that there were benefits to business economically as a result.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. Thanks for coming in today.

CEMENT ASSOCIATION OF CANADA
ST MARYS CEMENT GROUP

The Chair (Mr. David Orazietti): Our next presentation is the Cement Association of Canada, St Marys Cement. Good afternoon and welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five for questions. You must state your name for the purposes of our recording Hansard, and you can begin when you're ready.

Mr. Michael McSweeney: Michael McSweeney.

Mr. Martin Vroegh: And Martin Vroegh.

Mr. Michael McSweeney: Thank you very much, Mr. Chairman and members of the committee, for seeing the cement association again so soon after seeing us during the review of the Green Energy Act. I won't repeat a lot of what I've said, but we're here today to comment on the Toxics Reduction Act and to let you know some of our thoughts on that. I would like to provide a very brief context because I do see some new faces around the table.

Our cement companies include names that you'll know: Lafarge, Holcim, Essroc, Federal White, and St. Marys Cement. Together they manufacture over seven million tonnes of cement and meet all of Ontario's cement needs, employ over 1,000 Ontarians and contribute over $1 billion to economic activity here in the province.

Cement is a fine grey powder which, when mixed with water, becomes the glue that holds all of the materials together that form concrete. Cement has been made for thousands of years, and still today, there is no substitute for cement. So when you see concrete out there, the cement is about 8% to 10% of that composition. Without cement, there is no concrete. Concrete is an essential ingredient to rebuilding Ontario's infrastructure.

On the Toxics Reduction Act--and I'm starting at slide 4, for your information--our member companies do take their responsibility for sound environmental management seriously. Toxic substances present risks to human health and the environment, and these risks must be managed, there's no question about that. Under our auspices and the World Business Council on Sustainable Development and in line with the Stockholm Convention, the global cement industry has endorsed a global strategy for the reduction and elimination of risks associated with persistent organic pollutants; those pollutants that pose the greatest risk due to their persistence in the natural environment and their tendency to bioaccumulate.

On slide 5, I'd like to point out that it is with great consideration that we offer the following recommendations with respect to the proposed legislation. We fully recognize that the proposed act is the framework legislation and does not present the full detail on the government's approach. However, we believe that it is of paramount importance that the legislation not be unduly limiting and that the full range of acceptable approaches be clearly articulated so it is not unintentionally limiting the ministry's interpretation or capacity to respond to the spirit of the legislation both efficiently and effectively.

We have three recommendations to avoid overlap and duplication, providing for a sector-specific approach, and ensuring that the regulation is risk-based with adequate consultations with the affected parties.

Slide 6: The approach of managing toxic substances outlined in the proposed act has the potential to be very duplicative, especially of the approach that is currently being administered by the federal government through the chemicals management plan and the designation of toxic substances under schedule 1 toxic substances list of the CEPA, 1999. The federal toxics process has involved substantial consultation with industry, environmental groups and non-governmental organizations, as well as the general public, and the CEPA is broadly endorsed across Canada.

In 2006, Canada became the first country to complete the risk-based prioritization or categorization of roughly 23,000 existing substances being used domestically here in Canada. These substances were evaluated with regard to their toxicity, their persistence in the natural environment and their potential for bioaccumulation.

Through the chemicals management plan, the government of Canada has initiated an information-gathering

and risk assessment process for the highest-priority substances identified through the categorization process. Where warranted as a result of these assessments, the federal approach also provides for extensive measures to control the use or release of the substance.

I would like to remind honourable members that Ontario, as part of the Canadian Council of Ministers of the Environment, pledged to take a harmonized approach to toxics management with the federal government. To be consistent with this pledge, we recommend that the Toxics Reduction Act, first, formally recognize the potential for overlap and duplication, especially with the federal government's efforts, including the chemicals management plan and the CEPA toxics process; and secondly, we'd ask you to provide the Minister of the Environment and his staff with a specific directive that would say there should be no overlap and duplication with current schemes out there.

On slide 7: Approximately 70% of these substances are considered for designation as toxic substances, and they've been identified as relevant to the cement manufacturing sector--70% are relevant to the cement manufacturing sector. However, most of these substances are present in the raw materials only, and when processed by the industry pose no risk to human health or the environment, either through the handling of the raw materials or the handling of the finished product. To the extent that any of these substances of concern do pose risks to human health and the environment, they do so as a result of their coincidental release into the atmosphere as a result of the manufacturing process. These releases, however, are already aggressively managed by the Ontario cement manufacturing companies as part of our response to the Stockholm Convention and as required already by the province's comprehensive air approvals and local air quality regulations under the Ontario Environmental Protection Act. Requirements for further reporting and toxic reduction planning in the cement sector are unlikely to contribute to any further and meaningful environmental or human health benefits.

Slide 8: At the same time, tracking, monitoring and reporting represent real costs to our industry and other industries across the province. A broad-based blanket approach, as was identified in this discussion document, would be administratively burdensome to industry in Ontario and would truly fly in the face of the government's Open for Business thrust that it is also trying to implement in Ontario at the same time. Furthermore, broad-based reporting, such as is undertaken already for the National Pollutant Release Inventory, leads to data with low-level accuracy and reliability, data which is frankly unusable as a basis for policy analysis and regulation.

Taking a sector-based approach, however, and designating priority substances based on risk would shift the focus from quantity of reporting to quality of reporting, and would be more efficient and more effective in reducing risks associated with toxic substances. We therefore recommend that specific provision for a sector-based approach, including a risk-based prioritization of substances, be explicitly included in the act to ensure that subsequent interpretation is open to finding this approach consistent and within the spirit and intent of the Toxics Reduction Act.

Slide 9: Subsection 64 of the proposed act includes broad regulatory authorities, including the authority to:

(1) Prohibit or regulate the manufacturing, sale or distribution of a substance or product containing a substance;

(2) Prescribe circumstances in which a person who manufactures, sells or distributes a substance or related product is required to give notice to the public or specified persons; and finally

(3) Specify the contents of a notice to the public or specified persons.

These are extremely broad and powerful regulatory powers and must be very carefully applied to avoid unintended, perverse outcomes. If there is to be any distinguishing between products based on their contents, it must be done on the basis of environmental and human health exposure pathways and corresponding risk. Having said that, the risk must still be communicated clearly and accurately, so there is a very real need for upfront consultation with affected parties. The cement sector has had to confront poor risk communication often in the past.

For example, the Green Guide for Health Care is a prime example of poor risk communication which ultimately contributes to an increased risk from toxic substances. Under the Green Guide for Health Care, and without any supporting risk assessment, hospitals, for example, that use concrete containing fly-ash cement are penalized due to concerns that fly ash in cement could contain mercury residues from the combustion of coal in the electric power plants. Rather than posing a risk, however, the mercury is chemically bound in this cement and concrete matrix, and the use of fly-ash cement actually reduces the overall risk to the public compared to the conventional alternative of disposing of fly ash in landfills.

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To minimize the potential for perverse outcomes resulting from directing consumer preferences to alternatives that may actually pose a higher risk to themselves and the environment, we recommend that the final act include language directing the ministry to take a risk-based approach to product regulation, including consideration of both inherent toxicity and exposure pathways, and to undertake consultations with affected parties prior to making their intent to regulate known.

Finally, on slide 10, and in closing, the proposed Toxics Reduction Act leaves a number of significant decisions to regulatory development. The act is very unclear in terms of the specifics of how it will be applied to industry, and there is a need for inclusion of language in the act to provide more explicit direction with respect to avoiding overlap and duplication with federal programs, including the option to take a sector-based

approach with targeted, risk-based selection of substances; and ensuring that product-focused regulatory powers are applied based on total risk and only after consultation with the affected parties.

Thank you again for taking the time to hear us and for the opportunity to tell our story once again. We welcome any questions that you have.

The Chair (Mr. David Orazietti): Thank you for your presentation. Mr. Tabuns, you're first up.

Mr. Peter Tabuns: I appreciate you taking the time to come down and make the presentation. I have to say that I'm consistently taken aback by people citing the federal government as a source of good environmental management. The commissioner on environmental sustainability reported just in December of this past year that one chemical that they took as an example, declared toxic in 1999, has seen its emissions treble since that time. This is a federal government, both under Liberal and Conservative hands, that has allowed greenhouse gas emissions to increase dramatically in Canada, far more than even under the Bush administration in the United States. Why do you think that there's an interest here in taking action on toxic chemicals if the federal government is actually doing a good job?

Mr. Michael McSweeney: We feel that we comply with all of the regulations that we have to file under the NPRI, and if there is a problem with what the governments do with that data, then that problem should be fixed--and not thinking that just because you're going to approve a Toxics Reduction Act that it's going to be any better or any worse. What industry needs to be competitive in the province of Ontario is business certainty and low administrative costs. If you are going to collect data, do something with it, but don't ask us to collect data and then not ask us to do anything with it.

Mr. Peter Tabuns: I'm entirely in agreement. Simply having an exercise at collecting data and then filing the books or the CDs is a useless process. In fact, if we collect data, we should be talking with you about how in fact we can deal with the chemicals or the releases that are of concern. I don't have a problem with that. I'm not interested in paper creation.

Mr. Martin Vroegh: I certainly agree also, on top of that, with one window of reporting. If it's going to be one for federal, one for provincial, one for municipal, it starts to become an added burden. If we could somehow get that to work together and reported in one window, all of the information, and then use that data accordingly, so if it's going to be some kind of improvement to--if it's NPRI, then work with NPRI so we're collecting the data in the same sort of format and the same way.

Mr. Michael McSweeney: Yes. This is a data collection exercise--

The Chair (Mr. David Orazietti): Thank you. That's time for questions. We're going to move on. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for the presentation. Two brief questions: I'm assuming, and correct me if I'm wrong, that a bag of St Marys cement is the same as a bag of St. Lawrence cement. I'm sure that Martin will tell me that St Marys is better, but essentially they're the same ingredient, they're the same product that I would buy at a Rona or at a Home Depot.

Mr. Martin Vroegh: In general, yes.

Mr. Kevin Daniel Flynn: So there must be some competitive advantages in the process that leads to the creation of that within the business itself that the business would want to achieve. Is that a fair statement?

Mr. Martin Vroegh: Yes.

Mr. Kevin Daniel Flynn: Like it or not, I know from my experience with St. Lawrence Cement in my neighbouring municipality that the cement manufacturing industry in Ontario is a bit of a lightning rod for the environmental movement, and I didn't cause that. It's just something that's emerged over the years.

As I understand, what I got out of your presentation, though, today was a positive one--that you agree with the end result, but you're not sure about the process we're employing to get there. Is that a fair statement as well?

Mr. Michael McSweeney: Yes. We want to be part of the solution, but we want to remain competitive and we want to keep that billion dollars here in Ontario and not have it migrate to other jurisdictions because Ontario's not a good province to invest in.

Mr. Kevin Daniel Flynn: Right, but you agree that Ontarians have the right to expect the healthiest environment that they can?

Mr. Michael McSweeney: Absolutely.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. David Orazietti): Thank you. Mr. Barrett.

Mr. Toby Barrett: Reading your brief, in 2006 Canada became the first country to complete the risk-based prioritization of the 23,000 substances, and we just heard as well that the city of Toronto is bringing in a bylaw. They're setting priorities. They're going to focus on 23 substances.

I guess I'm mystified why this government would not set priorities, why it seems determined to try and capture on paper, on reporting just about every substance that would be flowing through your process or through an oil refinery, whether it's a risk or not. There's always a danger of an emission, I suppose, or a spill. But is there any valid reason why they would reject the risk-based approach and go with the precautionary approach or the emotional approach, whatever this other approach is called?

Mr. Martin Vroegh: Off the top and without knowing anything else about it, I would suggest that it's out of simplicity. Risk-based would require a risk-based study and a risk-based assessment.

Mr. Toby Barrett: There's no mechanism here for any kind of assessment that way. It's essentially process--paper process, fill out the forms every year or every two years, no targets, no action beyond that--

Mr. Michael McSweeney: Collecting data does not protect the health of Ontarians.

Mr. Toby Barrett: Okay.

The Chair (Mr. David Orazietti): Thank you for coming in today.

ONTARIO MINING ASSOCIATION

The Chair (Mr. David Orazietti): Our next presentation is the Ontario Mining Association. Good afternoon and welcome to the Standing Committee on General Government. Welcome back to Queen's Park, Mr. Hodgson.

Mr. Chris Hodgson: Thank you. It's a beautiful day. Good afternoon, Chair and members of the committee. My name's Chris Hodgson. I'm president of the Ontario Mining Association. With me today are Adrianna Stech, manager of environment and sustainability at the OMA, and Mike Dutton, director, environmental and health science, Vale Inco Ltd. Mike is here representing the OMA's environment committee. So thank you for granting us the time.

We very much appreciate the opportunity to appear today to address Bill 167, the Toxics Reduction Act, which is of considerable interest to the members of the OMA and could significantly impact their activities.

The Ontario Mining Association was established in 1920 to represent the mining industry in the province and is one of the longest-serving trade organizations in the country. We have a long history of working in concert with the government to ensure the mining industry in Ontario is competitive and that our industry is a leader in environmental protection.

Because of their environmental leadership position, our members are supportive of the government's aim to improve the protection of the environment and human health by encouraging a reduction in harmful exposures to chemical substances in Ontario's communities. The Ontario government should be commended for its intent to develop this legislation, following the example of jurisdictions, such as Massachusetts, where, to quote the government's April 7 press release, "successful toxic reduction legislation [has been] in place for several years."

However, in our earlier submissions to the Ministry of the Environment, we indicated that OMA has fundamental concerns related to the details surrounding the implementation of the government's strategy on toxics management.

First and foremost, we continue to be concerned that a definition of "toxic substance" has been left to regulation, so it's unclear how a "toxic" will be characterized. Based on preliminary consultation, a broad-brush approach to designating substances as "toxic" is expected.

To label a substance "toxic" is no simple matter. Toxicity will vary according to the nature of exposures--inhalation, skin contact or ingestion--the form of the substance to which exposure occurs and duration of exposure. This is why we strongly urge the government to refrain from the inclusion of substances based solely on consideration of their inherent toxicity without a disciplined consideration of exposure, which is a critical element of full risk evaluation and thoughtful management of chemical substances. This is not simply an industry stance; it's an issue of science, identified by the scientific expert panel that the Ministry of the Environment has commissioned to provide guidance on its toxics reduction strategy.

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Specifically, Ontario's toxics reduction scientific expert panel recommends that "additional effort should be directed towards listing specific metal substances...." We agree. Deterring legitimate uses of metals on the basis that they have been classified as toxics would be highly inappropriate. While it may well be that Ontario has no intention to act officially to ban metals, we are concerned that the effect of applying the term "toxic" to metals under broad classifications such as "copper and compounds" or "zinc and compounds" will surely induce disorganized and unplanned substitution in the marketplace in Ontario. If key metals and alloys are designated as being toxic, appropriate uses in stainless steel sinks, cutlery, water supply and rustproofing--just to name a few common examples--could be stigmatized in the marketplace.

Allow me once again to refer to the recommendations made by the scientific expert panel:

"Consider eliminating from phase 1 some high-volume, but relatively less toxic chemicals such as aluminum and compounds, copper and compounds ... and zinc compounds" and others, "which would significantly add to reporting facilities' challenges with relatively less toxics reduction impact."

In this regard, we also encourage Ontario to take a renewed look at the Massachusetts model, which is singled out as a success in the government's press release. It should be noted that Massachusetts has a very small mining industry, with no metal mining, contributing $193 million to the state's GDP of $326 billion in 2005. In comparison, Ontario's mining sector contributed $7.4 billion to Ontario's $493-billion GDP in 2005. The metals sector contributed $5 billion of this. Despite the relatively insignificant size of the metal mining sector in Massachusetts, a review led to the exclusion of metals and alloys from the state's toxics reduction legislation.

It makes infinite sense that Ontario should adopt the exclusion of metals and alloys in the legislation. It would be wasteful to require Ontario industries to devote resources to processes that would invariably produce the same conclusions arrived at in the model jurisdictions, such as Massachusetts. In addition, we strongly urge the MOE to review the previously cited expert panel's memo dated December 31, 2008, which recommends that a priori assessments of alternatives be carried out before including substances on the toxics lists. The current approach suggested in the discussion paper, Creating Ontario's Toxics Reduction Strategy, of simply adopting the National Pollutant Release Inventory, or NPRI, substance list will target metals and alloys. We believe this approach may have unintended consequences involving health, environment and the economy. Society should not

simply adopt alternatives to metals and alloys without assessing alternatives ahead of time.

In summary, I would once again like to emphasize the OMA's support of the intent of the government's toxics reduction strategy and Bill 167. In selecting an approach to toxics management, however, we believe that there are valuable lessons to be learned from the government--selected Massachusetts model and Ontario's toxics reduction scientific expert panel: namely, that Bill 167 should explicitly exclude metals and alloys. Leaving this important decision to the regulation development stage creates a needless period of uncertainty that runs counter to the government's overriding policy to make Ontario open for business.

We appreciate your consideration regarding our concerns and we'd welcome any questions.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. Mr. Flynn, if you'd like to go ahead.

Mr. Kevin Daniel Flynn: Thank you, Mr. Hodgson, for your presentation. I appreciate the tone of the presentation and your support of the intent. When you talk about the reasons that we should perhaps exclude things like copper and compounds and zinc and compounds, you bring forward, I think, some compelling arguments, that they are things we use in everyday things--you know, knives and forks. You also say that it contributes quite heavily to the economy, which it does--

Mr. Chris Hodgson: I just want to point out that Massachusetts wasn't influenced by the mining lobby when it came to that conclusion.

Mr. Kevin Daniel Flynn: No, that's fine. And I buy that--I mean, that is a significant contribution. Is there a way of attaching a health perspective to that argument? That's what this is all about: It's about people's health. How do you make that same argument and include health in there?

Mr. Chris Hodgson: I think Massachusetts had the same motive behind their legislation. It all revolves around the health of our citizens. They came to the conclusion that the health of the citizens would be better protected by not including metals and alloys in their legislation.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. David Orazietti): Thank you. Mr. Barrett.

Mr. Toby Barrett: Thank you to the mining association. As you indicate, Massachusetts essentially does not have a mining industry.

Mr. Chris Hodgson: They have a very small one. They don't have a metals industry.

Mr. Toby Barrett: Okay. And with respect to Ontario's industry--as you point out, a $7.4-billion industry--once you are sending these forms in, anything that is done after that will be voluntary. But is there anything realistically that can be done with some of the product that is mined and smelted, with respect to substituting other chemicals to extract or come up with the finished product?

Mr. Chris Hodgson: No. If you take the NPRI proposal and just take their list, that includes nickel, copper and the alloys. So by deeming them toxic, some other company that wants to produce a product might say, "Well, we don't want to use a toxic product because it will hurt our sales." They might look for an alternative or a substitute. We're saying that some of those substitutes might be worse than a recycled material of copper. If copper is inherently toxic, that doesn't mean it creates a health hazard for individuals unless they ingest it. But to use it in plumbing pipes, for example--copper has been used for hundreds of years, and nobody has shown a better alternative in terms of--

Mr. Toby Barrett: But in the smelting or the refining, which would use other chemicals to extract the finished product, is there anywhere in the world--do they have other substitutes that can be used?

Mr. Chris Hodgson: I can let Mike talk to that.

Mr. Mike Dutton: There are opportunities to utilize new processing techniques, and they're being developed. For example, there are some new--I guess we'd call them green chemistry--approaches that would allow flotation of the metals in the milling and concentration processes that could be recyclable. These developments are good developments, I guess.

Your question indicates that you're a little bit off-centre from where we're coming from, which is the very products that we make, the metals that we make, that we're concerned about the substitution. But we do agree that there are opportunities to continue to improve environmental performance.

Mr. Toby Barrett: Is anybody in the world doing this, or does Ontario have to take the lead? That's what concerns me. What's the slippery slope on this?

Mr. Chris Hodgson: We will be leaders in the environmental production of the metal. Our concern is that if you say it's an inherent toxic material, it will change the marketplace in Ontario. Massachusetts went through this and they came to the conclusion that "This doesn't make sense for the health of our citizens." They weren't subject to the economic pressure that might have been there to maybe offset the environmental or the health concerns. They came to the conclusion that, no, it should be exempted, and that's why they exempted it. That's what we're asking for. How we get to provide that nickel to the marketplace is a constant-improvement area, and we will definitely take into regard any improvements to make it a safer process when we derive the nickel that goes on to the marketplace, or the copper or the zinc. But just to come out and say that everything's going to be listed as toxic, we think is the wrong approach.

The government has acknowledged that Massachusetts has it right. We're saying, "Just follow that."

The Chair (Mr. David Orazietti): Thank you. Mr. Tabuns.

Mr. Peter Tabuns: Chris, I appreciate the presentation, and I appreciate the support for taking action on toxic contamination. I want to look at what Massachusetts has done.

I have to tell you, I do have some concerns. I come from a riding which has had an historic problem with lead poisoning. Canada Metals operated in the south end of my riding, and contaminated a large residential area. We had kids who had lead in their blood; we had health effects from that. We know that cadmium, a heavy metal, can be toxic. Port Colborne, down on Lake Erie, has had a problem with very high levels of nickel in the soil.

You have to use metal. I think that stainless steel is an extraordinarily useful product, and I know you can't have it without nickel. So for me, it's not a question of not listing metals; it's a question of how you manage so that you don't get the negative effects, because you're going to have to use those metals.

I appreciate you pointing it out. I think we should look at Massachusetts, and I would appreciate it if legislative research staff would actually bring us information on how Massachusetts came to that decision.

But in your approach, are you saying that there are no circumstances under which metals would be toxic to people?

Mr. Chris Hodgson: No, no, quite the contrary. We're saying that the process--the examples you gave, are how we came to get the nickel or the lead or whatever. Of course, there are always constant improvements. There are horror stories of legacy issues. Going forward, our industry has invested hundreds of millions of dollars to make sure that we produce these products in a less toxic manner.

But when the product is finished, the product that goes out in the market, we're saying that shouldn't be on a list as toxic. Copper, for example: Yes, if you eat it, it might create some health hazards. But to replace it, you should look at the alternatives. I think that's the process that Massachusetts looked at, and they said, "Well, is there a healthier alternative?" Without looking at that, why would we rule that that product shouldn't be on the market?

Mr. Peter Tabuns: I appreciate it.

Mr. Chris Hodgson: The examples you're talking about are producing the product. We're talking about the end product going to the market.

The Chair (Mr. David Orazietti): Thank you very much. That's time for your presentation. We appreciate you coming in today.

Mr. Chris Hodgson: Thank you very much. I appreciate that.

The Chair (Mr. David Orazietti): For the purposes of members of the committee, amendments are to be filed with the clerk's office by noon on Thursday. That's this Thursday, May 28. The committee will meet for clause-by-clause consideration of the bill on Monday, June 1, and the location will be sent to you.

That's it for today. Committee is adjourned.

The committee adjourned at 1739.

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