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**Official Report  
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**Wednesday 13 May 2009**

**Journal  
des débats  
(Hansard)**

**Mercredi 13 mai 2009**

**Standing Committee on  
General Government**

Toxics Reduction Act, 2009

**Comité permanent des  
affaires gouvernementales**

Loi de 2009 sur la réduction  
des toxiques

Chair: David Oraziotti  
Clerk: Trevor Day

Président : David Oraziotti  
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Wednesday 13 May 2009

Mercredi 13 mai 2009

*The committee met at 1603 in room 228.*

**The Chair (Mr. David Oraziotti):** Good afternoon, everyone. Welcome to the Standing Committee on General Government. We're here for public hearings on Bill 167, An Act to promote reductions in the use and creation of toxic substances and to amend other acts.

**SUBCOMMITTEE REPORT**

**The Chair (Mr. David Oraziotti):** We have a subcommittee report first to take care of. Can someone move the subcommittee report? Ms. Mitchell.

**Mrs. Carol Mitchell:** Your subcommittee met on Wednesday, May 6, 2009, to consider the method of proceeding on Bill 167, An Act to promote reductions in the use and creation of toxic substances and to amend other acts, and recommends the following:

(1) That the committee meet in Toronto on Wednesday, May 13, 2009, and Monday, May 25, 2009, for the purpose of holding public hearings.

(2) That the committee clerk, with the authorization of the Chair, post information regarding public hearings in the Ontario edition of the Globe and Mail, the Toronto Star and the Sarnia Observer for one day during the week of May 11, 2009.

(3) That the committee clerk, with the authorization of the Chair, post information regarding public hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(4) That interested parties who wish to be considered to make an oral presentation contact the committee clerk by 12 noon on Thursday, May 14, 2009.

(5) That groups and individuals be offered 10 minutes for their presentation. This time is to be scheduled in 15-minute increments to allow for questions from the committee.

(6) That witnesses be scheduled on a first come, first served basis for the May 13, 2009, hearing date.

(7) That in the event all remaining witnesses cannot be scheduled for the May 25, 2009, hearing date, the committee clerk provide the members of the subcommittee with a list of requests to appear.

(8) That the members of the subcommittee prioritize and return the list of requests to appear by 12 noon on Tuesday, May 19, 2009, and that the committee clerk schedule witnesses based on those prioritized lists.

(9) That the deadline for written submissions be 5 p.m. on Monday, May 25, 2009.

(10) That the research officer provide the committee with a summary of presentations.

(11) That for administrative purposes, proposed amendments be filed with the committee clerk by 12 noon on Thursday, May 28, 2009.

(12) That the committee meet for the purpose of clause-by-clause consideration of the bill on Monday, June 1, 2009, and that each party be offered an opportunity to make opening remarks.

(13) That the committee clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Chair (Mr. David Oraziotti):** Thank you, Ms. Mitchell. Any debate? All in favour? Carried.

**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.

**CANADIAN CANCER SOCIETY,  
ONTARIO DIVISION**

**The Chair (Mr. David Oraziotti):** We can start with our first presentation, the Canadian Cancer Society, Ontario division. Good afternoon. Welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five minutes for questions among members of the committee. If you would just state your name for the purposes of our recording Hansard, and you can begin when you like.

**Ms. Irene Gallagher Jones:** Good afternoon, ladies and gentlemen. My name is Irene Gallagher Jones, and I am the senior manager of public issues at the Ontario division of the Canadian Cancer Society. Joining me is Kathleen Perchaluk, senior coordinator, public issues.

I would like to begin by thanking committee members for the opportunity to speak to you today about Bill 167, the Toxics Reduction Act.

The Canadian Cancer Society's volunteers and staff would like to congratulate the government for taking the first step towards reducing toxic substances in Ontario. However, after reviewing Bill 167, as well as the recommendations made by the Ministry of the Environment's toxics reduction expert panel, the society has identified some gaps in the legislation that need to be addressed to ensure Bill 167 protects the health of Ontarians. Kathleen and I will review these gaps in detail, as well as our recommendations, later in our presentation.

I would like to first highlight the burden of cancer in Ontario and provide some information on environmental and occupational carcinogens and the public's support for reducing toxic chemicals in our environments.

The Canadian Cancer Society is very concerned about the toxic substances in our air, water, land and consumer products. The society strongly believes that, as community members, workers and consumers, we all have the right to know about the environmental and occupational risks we are being exposed to, allowing us to make informed decisions affecting our health. In particular, we believe people have the right to know if they are being exposed to cancer-causing substances.

As you may know, cancer is a leading health issue in Ontario, and while cancer treatments have improved and mortality rates have fallen, cancer incidence is expected to increase drastically due to Ontario's aging and growing population. This year alone, approximately 65,100 Ontarians will be diagnosed with cancer and 27,900 deaths from cancer will occur.

Cancer is also a major cost driver in provincial health care budgets and affects the ability of all levels of government to collect revenue and pay for services. Due to the prevalence of cancer and its growing impact on the lives of Ontarians, many sectors of government in this province must address cancer control, and strong toxic use reduction legislation will reduce or eliminate toxic chemicals, resulting in less cancer-causing substances in our environments.

There is a lot of discussion right now about how many cancers are related to exposure to cancer-causing substances. Due to the synergistic and additive effects of carcinogens and the fact that cancer can take many years to develop, the exact percentage of cancers linked to this type of exposure is not known, but we do know that people who are continually exposed to known or probable cancer-causing substances at a high level or over a long period of time may have a higher risk of developing cancer.

We know that environmental and occupational carcinogens disproportionately affect certain sectors of Ontario's labour force. Also, exposure to cancer-causing substances during childhood will reflect on cancer occurrence later in life.

There is growing public concern about toxic substances in Ontario. The public is demanding to know

more about the use of cancer-causing substances throughout Ontario communities.

A Canadian Cancer Society public poll conducted by Ipsos Reid in October 2008 indicated that 77% of Ontarians believe toxic chemicals exist in their environments, and 76% believe such chemicals exist in their personal products. Over 80% of those who believe toxics exist in their environment are concerned that those toxics affect their health and the health of their families.

#### 1610

**Ms. Kathleen Perchaluk:** The society calls on the government of Ontario to enhance its Toxics Reduction Act by making amendments to Bill 167 that include measurable targets for reducing toxics, substitution requirements where safer alternatives exist, implementation of a third party institute, clear information for consumers and the promotion of green chemistry and green jobs. To achieve this, Bill 167 should reflect the following recommendations:

The society recommends that Bill 167 include targets to effectively reduce the release of toxic chemicals in places where people live, work and play. Currently, Bill 167 does not include numerical goals or targets for reducing toxic chemicals. Setting clear and ambitious goals is essential to spurring innovation as well as providing benchmarks to measure progress. Other jurisdictions that have enacted toxics use reduction legislation in the US and in Europe have demonstrated that targets are a necessary component to reducing and regulating toxics use and release.

The Ministry of the Environment's toxics reduction scientific expert panel also recommended that the Toxics Reduction Act include targets. In the panel's July 23, 2008, memorandum, the panel indicates that the legislation should "include clear, viable, and progressive goals ... the statute should include renewable toxics reduction targets, and a mechanism for monitoring and public reporting on achievement of those targets."

Targets and goals will help the government, industry and the public evaluate the progress Ontario is making in terms of reducing toxic chemicals in various environments. It is essential that an amendment be made which reflects the need for targets in Bill 167.

The society's second recommendation is to replace toxic chemicals where safer alternatives exist. Ontario is one of the top dischargers of toxic chemicals in North America. The implementation of safer alternatives is a vital step to reducing Ontario's harmful emissions.

The Toxics Reduction Act encourages companies to voluntarily reduce or substitute hazardous chemicals. The society believes that substitutions should be a requirement in situations where safer alternatives exist or where the use is not essential. Mandatory assessment and substitution of priority chemicals is now required on the European Union's chemical management program. Failure to address this issue will cause Ontario to fall behind developing initiatives in the United States and in Europe.

The society recommends that Bill 167 restrict the use of toxic chemicals that are still in use through the guid-

ance of an Ontario toxic use reduction institute. The society recommends that the government establish an institute—an independent, university-based research institute—to advance the province's capacity for toxic use reduction activities, safer substitution, green chemistry, education and information outreach, and training on toxic reduction planning. An institute was an important component to the success of Massachusetts's toxics use reduction legislation, but it's currently not part of the proposed Toxics Reduction Act here in Ontario.

The development and testing of safer alternatives can be done through the institute, as an institute would have the resources and knowledge in this area. The institute would also help facilities communicate between industry and academics so that academic research is effectively targeted to address the most pressing environmental issues facing Ontario industries.

Since the Toxics Reduction Act indicates that implementation for toxics reduction plans is voluntary for companies, it is vital that Ontario develop an institute to encourage and support the implementation of these plans.

The Ministry of the Environment's toxics reduction scientific expert panel also recognizes the benefit an institute can have on the success of toxic reduction legislation. The panel recommended that an external academic institute with stable funding be established, as it is essential to the successful implementation and sustained efficiency of toxics use reduction.

**Ms. Irene Gallagher Jones:** In addition, the society calls on the government to reveal to all Ontarians the toxic chemicals in their workplace, community and homes through an identifiable product label or symbol and access to a public database. Ontarians have the right to be informed of exposure to cancer-causing substances at home, at work and in their environment. The society supports the government's commitment to inform the public about toxic chemicals in their environments, but we encourage the government to go further and include product labelling.

The government has an opportunity to show leadership in Canada and follow other jurisdictions around the world by implementing product labelling in Ontario. The society believes that all ingredients in consumer products should be fully disclosed on product labels. In addition, if toxic or cancer-causing substances are present in products, they should be identified by a hazard symbol. The full ingredient list and hazard symbol should be visible to the consumer at point of sale and at point of use, and presented in clear language.

**The Chair (Mr. David Oraziotti):** Sorry, that's the time for your presentation. We need to move to questions at this point, but thank you very much. Mr. Barrett, go ahead.

**Mr. Toby Barrett:** Thank you, Irene and Kathleen. I've been reading some of your amendments put forward on behalf of the Canadian Cancer Society. You may not have had time to cover some of them. I know that you wish to see smaller companies involved, and to lower the 10-employee threshold to a five-employee threshold. You

do call on the government to go beyond the \$24 million, as far as providing financial support.

There's a memo here, from July 23, 2008, to the minister. I don't have a copy of the memo, but you call for the government to impose a fee on industrial facilities. So there would be a fee imposed on, say, a small, five-person company? Do you feel that they have the resources to make these kinds of changes, being a very small organization like that?

**Ms. Kathleen Perchaluk:** The memorandum you're referring to is the expert panel's recommendation. We are looking to the expertise of the expert panel that put that recommendation forward.

In terms of the fee aspect, we just feel that in order for this legislation to be as strong as possible, more money should be dedicated toward it. The expert panel recommended a fee, so we thought we'd include that as well into our recommendations.

**Mr. Toby Barrett:** Okay, I just wondered. I know that this went to the Minister of the Environment. Could this committee get a copy of that memo? There are a number of memos listed here as references.

**Ms. Kathleen Perchaluk:** Sure, absolutely. Yes.

**Mr. Toby Barrett:** If they could be made available to the committee, because we would not have received them.

**Ms. Kathleen Perchaluk:** They were available on the Ministry of the Environment's website, but we could definitely make sure that that's provided to you all.

**Mr. Toby Barrett:** Oh, they're on the website?

**Ms. Kathleen Perchaluk:** Yes.

**The Chair (Mr. David Oraziotti):** Thank you. Mr. Tabuns.

**Mr. Peter Tabuns:** Thanks very much for the presentation. It's useful for us.

Of the recommendations that you've brought forward, can you tell me which one or two are the most critical to ensure that the bill has the impact it has to have?

**Ms. Irene Gallagher Jones:** I think that all of them are crucial to protecting the health of Ontarians. But the importance of setting targets allows Ontarians and the government to track progress in the reduction on the use and release of toxins. As well, the community-right-to-know part of the legislation allows Ontarians to be informed about what they're being exposed to and, as a result, influence change in behaviour in manufacturing processes, as there will be a demand for safer products by consumers.

I know I was asked to list two, but of course, those two pieces can't happen without the support of a toxics use reduction institute to provide the expertise and the training.

**Mr. Peter Tabuns:** Okay. So I understand: All of these pieces are integrated, and you need them to all function together to actually give the result that you want. Will this act, without those amendments, in fact do what's needed in this province?

**Ms. Irene Gallagher Jones:** Ontario is taking the first step on this issue, which is commendable, but we want to

be sure that it's the best first step possible. So including all of our amendments will make the legislation as strong as it can possibly be, to follow global efforts on this issue and protect Ontarians' health.

**Mr. Peter Tabuns:** Thank you.

**The Chair (Mr. David Oraziotti):** Mr. Flynn.

**Mr. Kevin Daniel Flynn:** Thank you for your presentation, and thank you to your organization for what you do for our communities on a daily basis.

Some people have brought forward their comments on the bill, saying, "You know what? This is all done by the federal government, so why does the province need to do anything at all?" I wonder if you have any strong feelings on that, any comments.

**Ms. Irene Gallagher Jones:** There is, as you suggest, some work happening federally. But a couple of key points regarding the importance of Ontario moving forward with toxics reduction legislation are that this legislation will require companies to report on their use of the listed NPRI substances, as well as create plans to reduce their use. That isn't currently taking place at the federal level. CEPA is asking companies to assess the risk of substances that they use, but this will require reducing the use and release. As well, more substances are being addressed through this bill than through the CEPA chemical management plan.

1620

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

**Ms. Kathleen Perchaluk:** Great. Thank you very much for your time.

#### UNITED STEELWORKERS ENVIRONMENTAL DEFENCE

**The Chair (Mr. David Oraziotti):** Our next presentation is Environmental Defence and the United Steelworkers union.

Good afternoon, and welcome to the Standing Committee on General Government. You have 10 minutes for your presentation and five minutes for questions among members. Please state your name for the recording purposes of Hansard, and you can begin your presentation.

**Mr. Andrew King:** Certainly. Thank you for the opportunity to present to the committee. My name is Andy King. I'm the national health and safety coordinator for the United Steelworkers union. With me is Janelle Witzel from Environmental Defence.

We have formed a collaboration called BlueGreen Canada which is focusing on bringing together the need to address environmental and economic issues and create good green jobs.

It's a pleasure to come before you on such an important issue. Toxics use reduction really does represent the next important step in addressing the problem of toxic chemicals in our communities. We have dealt in the past

with regulations that set particular goals and eliminate particular chemicals, but this is the first time in Canadian history when we have really gotten into the question of how we encourage companies to transition, to engineer out the use of those chemicals. It's a really important step forward.

It will not surprise you that a number of the things we say are similar to what the previous presenters have said. Indeed, this is an issue upon which we have an incredibly important alliance of health organizations, environmental organizations and labour supporting the same principles, which are that further steps need to be taken to remove toxic chemicals from our workplaces and our environments.

You should all have a brief summary of the key areas that we want to address. We clearly are here in support of the bill. You've already heard some information about the amount of toxics we have in our environment and their costs. This is a huge burden on society. As a representative of an organization that represents miners, steelworkers and others—there are thousands of workers who have had their lives cut short or who are suffering as a result of toxic chemicals, and that problem continues to this day.

It's often lost in all of this that there are very sound economic reasons why we need to move forward as well. In addition to the costs to society, there is a further economic challenge facing us. The question of regulating toxic chemicals is not just happening in Ontario; it is a worldwide phenomenon. If we continue to want to participate in international trade, we're going to have to meet those international standards, be they the European standards of REACH that are required for all products and the supply chain of all products going to Europe, but also, there are very clear signs from the Obama administration that we can expect to see stronger, more stringent rules with respect to toxic chemicals.

For all those reasons, plus public demand, it is important for us to move forward.

As I said, we're in support of the toxics use reduction legislation, but as the previous speakers have indicated, we think there are some important amendments that are needed to make the bill stronger and effective.

I'm going to speak specifically to three areas, and then I will pass it to Janelle to speak to some of the others.

First, as with the previous speakers, we very strongly believe that the government needs to set overall toxics reduction targets for this initiative so that we can actually measure their success. This has been done before. It's not pie-in-the-sky. It was done in Massachusetts, where the legislation required a statewide 50% reduction in toxic by-products within 10 years. The good news is that that was in fact accomplished in less than the 10 years—both an affirmation of the work being done and of the feasibility of accomplishing it.

Second, I'd like to speak to our recommendation number 3, "Formalization of substitution and alternatives use." This is a very important part of it. We bring the process to the point where people are identifying and

planning what needs to be done. We need to take it to the next step, where they identify the alternatives.

The resources are being made available nationally and internationally to help companies make those decisions. It's an important next step; otherwise we're not really achieving the full benefit of a program such as this, both from a societal perspective as well as from a commercial perspective.

That leads me to number 4, which is of particular interest of course to the membership I represent and workers throughout the province, and that is to really recognize that the Ministry of Labour and joint occupational health and safety committees have a valuable role to play in making this work effectively.

We've had the workplace hazardous materials information system in place for over two decades, so there's an infrastructure in place there to identify the toxic chemicals, but presently it is only being really used as an information system. Unfortunately, that potential to be more than an information system was undermined when a previous government removed section 36, which required the employer to do two things, which was inventory all of the toxic chemicals plus provide a floor plan, so it both addressed the strategy for reducing the use of toxics plus provided emergency response professionals with a way of identifying where they were located in the event of an emergency.

We're asking you to bring that back so that steps can be taken to address it, and to recognize the critical role that the workplace parties can play in providing support for a toxic use reduction strategy.

**Ms. Janelle Witzel:** As mentioned as well by the previous speakers, Ontario is one of the largest emitters of pollution within North America. In fact, two million kilograms were released in 2006. We were second only to Texas in terms of tonnes of toxic chemicals released within North America. Some of the largest economies within North America—for example, New York state and California—released fewer toxins than Ontario.

Some of these toxins come from manufacturing, and a large proportion as well come from sewage treatment plants. That leads me into one of our key recommendations, which is inclusion of sewage treatment plants within the regulations. Data derived from Pollution Watch indicates that sewage treatment plants are responsible for approximately 87% of mercury emissions, 37% of arsenic emissions and 71% of lead emissions and almost all chlorine emissions into Ontario's water.

Ensuring that the act includes and applies to sewage treatment plants which receive effluent which is released to water from at least 12,000 industrial, commercial and institutional facilities would provide incentive for upstream toxics reduction. It would foster greater awareness of what has been released and would also create pressures for sewage treatment plants to work with municipal governments on stronger sewage control bylaws. Currently, only 260 of 450 Ontario municipalities have sewage bylaws, and the discharge limits differ.

The current best-practice standard for municipal sewage control bylaws would be Toronto's recent right-to-know bylaw. Within this bylaw there is a 100-kilogram reporting threshold and no employee threshold for businesses to emit toxic substances.

Ensuring that sewage treatment plants are within the regulations would have a significant environmental benefit and also result in significant cost savings to municipal governments by reducing the demand on municipal sewage infrastructure.

**The Chair (Mr. David Oraziotti):** Sorry to interrupt: That's time, but I'll give you 30 seconds to wrap up, if you can, and then we can go to questions.

**Ms. Janelle Witzel:** I will just quickly, then, run through the following five recommendations.

The bill adopts NPRI reporting thresholds at 10 employees and 10,000 kilograms. We recommend that lower thresholds be adopted, those similar to Toronto's right-to-know bylaw.

We also encourage that products for regulation be adopted and that within one year of passage of the legislation the province identify priority substances for action.

We encourage the expansion of the chemicals list, since some CEPA-toxic chemicals have not been included within schedule 1. We also encourage that schedule 2 be expanded to include CEPA-toxic chemicals, chemicals found in California's Safe Drinking Water and Toxic Enforcement Act, as well as those found on the International Agency for Research on Cancer's list.

Furthermore, we encourage the expansion of the role of the toxics use reduction planners to include water and energy conservation. Additionally, in support of what was said earlier by the previous speakers, we encourage the creation of an institute for the purposes of research, education and information dissemination to promote comprehensive environmental management practices, safer products and the efficient use of resources in Ontario.

1630

**The Chair (Mr. David Oraziotti):** Thank you very much. Members also have a full copy of your presentation, so we'll move to questions. Mr. Tabuns, you're up first.

**Mr. Peter Tabuns:** Thanks for the presentation today. We've had some lobbying about this whole question of which chemicals are listed and which aren't, some saying that the list that's in the act is too large and it needs to be reduced. You're proposing an expansion of the list. Can you justify that?

**Ms. Janelle Witzel:** We encourage the expansion of the list for Ontario to take a more precautionary approach to chemicals management. A lot of the chemicals on schedule 1, the 45 that we see—there is a blunt cut-off, even with those that are subject to NPRI reporting. But in addition to those that are even subject to NPRI reporting, jurisdictions such as California and such as the International Agency on Research for Cancer have iden-

tified additional chemicals that are of concern to all human beings, whether it be for reproductive issues, developmental issues or them being carcinogens. For that reason, we would hope that Ontario would take a precautionary approach and incorporate those carcinogens, those reproductive toxicants and those developmental toxicants currently not included under CEPA and under NPRI reporting into this act.

**Mr. Peter Tabuns:** Thank you.

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

**Mr. Kevin Daniel Flynn:** Thank you for your presentation again. It sounds like BlueGreen is going to be a pretty interesting partnership. I'm looking forward to hearing some more from you.

In the short period of time we have, there are a number of questions I have. One was on the toxic reduction targets you're talking about. I note that the state of Massachusetts had aimed for a 50% reduction. In hindsight, was that too small? Was that too high? The point that's being made right now is, really, what should the target be? Were we to have a target, what should it be? Would our putting in place a target right now—would it not be an arbitrary figure?

**Mr. Andrew King:** It would be an arbitrary figure, obviously enough. The surveillance data that we have currently is not sufficient to tell us exactly what the amounts are. By the same token, if we don't have such a figure, then we can't measure the success of our efforts and show the success of our efforts. I know that 50% was chosen in Massachusetts as an arbitrary figure, but it's a significant step forward. To do anything less than that would be to do less than what we know can be achieved. I would argue, in fact, that you could be encouraged to go better than 50% and go closer to 60% or 70% as an objective.

**Mr. Kevin Daniel Flynn:** Do I have any more time?

**The Chair (Mr. David Orazietti):** Very quickly.

**Mr. Kevin Daniel Flynn:** The other approach that has been suggested is that, at some point in the future, we go back and look at the question of targets, armed with a lot more information. Do you have any brief comment on that?

**Mr. Andrew King:** That's a great idea. Maybe it'll happen; maybe it won't. The problem is today, in getting things started today and being serious about our objectives today. If you set, for illustration purposes, a target of 50% in 10 years, as they did in Massachusetts, and you see in five years that you've achieved 50%, then you can come back to it. By the same token, if you see you haven't, then you can again measure. You've got something, either way, to measure whether the program is working or not. Without it, you don't have that.

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

**Mr. Toby Barrett:** Thank you, Steelworkers and Environmental Defence. In your recommendation number 3, you advocate that the "substitution of chemicals ... with safer alternatives should be mandatory." I know that

the minister, in his opening remarks, referred to Environmental Defence, Massachusetts and New Jersey and talked about mandatory planning, and then went on to say, "combined with voluntary implementation." "Voluntary implementation lets facilities set goals they can meet at a pace that reflects capabilities and resources."

Any comment on that? That's the opposite of what you're saying.

**Mr. Andrew King:** Respectfully, I'm not sure, and if it is, then what we're saying is not clear. We're not saying that it should be mandatory that they follow pollution-prevention plans. It should be mandatory that they have them.

**Mr. Toby Barrett:** Certainly.

**Mr. Andrew King:** The specific point is that if you are dealing with a chemical that you identify to be toxic, there should be steps taken to try and find a substitute and do an alternative. That already exists in two other jurisdictions in this country without toxic use reduction. In British Columbia, under the occupational health and safety regulations, it is a mandated requirement if substitutes exist. It is also a mandatory requirement under the federal Canada Labour Code, again in the occupational setting, that if a less hazardous substance exists, it should be used. It is common sense, but unfortunately sometimes we need common sense to make it happen.

So we agree with the principle of the act that the planning should be mandatory but its implementation voluntary. We agree with that, but there should be a mandatory requirement to look for substitutes for toxic chemicals that you're using.

**Mr. Toby Barrett:** To look for them but not implement?

**Mr. Andrew King:** Well, if you find them, I think there should be an obligation to act upon them.

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

**Mr. Andrew King:** Thank you.

#### CANADIAN COSMETIC, TOILETRY AND FRAGRANCE ASSOCIATION

**The Chair (Mr. David Orazietti):** Our next presentation is the Canadian Cosmetic, Toiletry and Fragrance Association. Good afternoon, gentlemen, and welcome to the Standing Committee on General Government. You have 10 minutes for your presentation, five minutes for questions from members of the committee. Please state your names for the purposes of Hansard, and you can begin.

**Mr. Darren Praznik:** Darren Praznik, president of the Canadian Cosmetic, Toiletry and Fragrance Association. Rory Demetriooff is doing some work with us.

Mr. Chair and members of the committee, thank you for the opportunity to be here today and make a presentation to you. We've distributed copies of our presentation. I don't intend to read it, but I'll walk through some of the highlights. I also want to put our

presentation in context. Some of the previous speakers have been addressing some of the broad aims of this particular bill which the ministry and government are attempting to address. I would like to very much focus on some specifics with respect to our industry and the effects of this bill in the context in which it would be applied to our industry and then conclude with several recommendations that we would make to do with us specifically, rather than the broader issue.

Our industry represents some 160 companies that manufacture, sell, distribute or support the personal care products industry in Canada, a very large segment of which is based in Ontario, including a large segment of the manufacturing portion of our industry. Our industry is very international by nature. The products we produce are not often produced just to supply a local market but are exported internationally, so the manufacturing facilities in Ontario—I speak, for example, of the MAC facility in Markham, which is probably one of the largest of its kind and produces for a world mandate. That really has two effects that I'd like to raise with you.

One is that our products are very heavily regulated as a consequence, not just in Canada today but also internationally—in the European Union, the United States, Japan, and all of the markets that they are going into—for human health, and now, with the growing interest in environmental concerns, also for our ingredients with respect to the environment.

Secondly, the economies of scale and production around them mean that you are producing in a plant for an international marketplace. It's very rare that you're producing just for one particular jurisdiction. The consequence for us, as a matter of policy in our association and our industry generally, is that we have usually always favoured having regulation of our products at the national level, simply because if we have markets segmented by provincial regulation it makes it very, very hard to be able to produce for multiple jurisdictions.

So as a general piece we've always preferred to have federal, national jurisdiction, and we've also worked very closely with regulators internationally to ensure that they are aligning their regulatory requirements to facilitate the movement of those products across boundaries.

One of the direct results of this particular effort in the last number of years has been the adoption of INCI, international nomenclature for cosmetic ingredients, mandatory ingredient labelling of personal care products using a nomenclature that's accepted internationally, which means consumers and their health care providers can identify ingredients in our products no matter where those products are manufactured. I just want to stress again: a very heavily regulated industry internationally.

What are the current regulations that govern us in Canada, just to put our particular products in the context of this legislation? We are governed by the Food and Drugs Act under three sets of regulations: the cosmetic regulations; the drug regulations, where our products have a therapeutic effect; and natural health product regulations, where they are therapeutic with an active

ingredient that is a natural health product. We're also governed by the Consumer Packaging and Labelling Act, the Competition Act with respect to the statements that are made, and the Canadian Environmental Protection Act with respect to the ingredients we use. So there is already a very, very extensive regulatory regime on our products, right down to requirements for labelling and what must appear on a label.

#### 1640

One particular point that I think is interesting to note is with respect to the cosmetic regulations. I think this is a very important point. Under those regulations today, no person can sell a cosmetic product in Canada that is or has in it any substance that may cause injury to the health of the user. It is illegal in Canada to sell a personal care product that may cause injury to the health of the user. That is the law. That is the standard to which our products are held, under current federal legislation and regulation.

Why this becomes so important is because our products have to go through extensive regulatory processes around the world to be safe for the user. I think that a couple of very key principles of that regulatory process under which our products are held up to scrutiny are that, firstly, it is based on sound science and risk assessment, and secondly, that there is a very robust process in which the arbitrator of that decision in Canada is not industry, it isn't NGOs, it is public servants in the federal department of health, Health Canada, who are mandated and have the expertise to make those decisions. Under that process, with any concern about a particular product or ingredient, information can be put into that process and sorted out. Sometimes we're not happy with the result; sometimes others are not happy with the result. But the process does mean that there is an opportunity for that information to be considered, and the arbitrators are public servants charged only with the mandate of protecting the health of Canadians.

We're also governed by the chemicals management plan—I think there was some comment about it—which is a very extensive process that is not just assessing but is now moving through batches in which part of their management tools for chemicals can include reduction of use in products, or actually the virtual elimination of those particular chemicals, if so warranted. So it is a very extensive regime.

I just want to stress again that with respect to our products in the marketplace and human health, and now our ingredients in those finished products with respect to the environment, there is a very, very extensive regulatory process, not just in Canada but internationally, where many of those products are sold.

What I would like to do, then, is get to the specific recommendations for the bill that we would like to make with respect to our products.

We've noticed section 64, which is a proposed amendment that would extend the regulatory power of the minister to products that contain substances that are covered by the act. We appreciate that that might be intended for

purposes beyond our particular products. We very much hope that if that provision is adopted by the committee, they would consider an exemption for finished consumer goods that are regulated under the federal Food and Drugs Act and, I would argue as well, the Canadian Environmental Protection Act with respect to their ingredients.

Again, our principle is not to have two parallel sets of regulation governing the same product that quite often could be contradictory and make it very difficult to comply with both. So that is one particular request that we would want to make.

We also flagged two issues. One is the definition of “substance of concern.” We think that just good legislative drafting and the kind of certainty that anyone needs in dealing with this requires some minimal description of what a concern would be based on. Certainly, if that isn’t the case, this would lead anyone assessing doing business in Ontario to identify it as a significant and unquantifiable risk. So I think good legislative drafting should provide at least some minimal definition of what a concern would be based on.

With respect to “Absolute liability,” we are somewhat troubled by that section. One of the things that I think we’ve all learned—we’ve seen it in health care—is that where you have an absolute liability, people who, with no ill intention, may have made an error are forced underground and don’t come forward, as you know, to discuss with the ministry how to improve their situation. We think you have to look to at least providing some level of defence around due diligence.

Finally, I would like to touch on the issue of an alternative list of substances. We would suggest that such a list would be very useful, for two reasons. There should be a suggested alternative list simply because the complexity of chemicals can have a lot of different results, which may work or may not work as alternatives. Secondly, the purpose of having the list is that it would give a verification outside of our boundaries to other jurisdictions that the government of Ontario has certified these particular substances as possible alternatives.

That’s my presentation in 10 minutes.

**The Chair (Mr. David Orazietti):** Thank you very much. We appreciate the presentation. We’ll go to questions. Mr. Flynn.

**Mr. Kevin Daniel Flynn:** Thank you for your presentation. With two family members in the cosmetics business, I understand the impact that you have on our economy.

Often, we think of emissions as something that’s coming out of a smoke stack or something we see going into a tributary. At the end of the day, people are rubbing your products all over their own bodies, so you’d think there would be a heightened sensitivity to that, which gets you into the area of perhaps the consideration of labelling. I haven’t given it much thought in the past myself, but now when I’m thinking about putting on a deodorant or putting on some fragrance—really in the past, I have not known what’s in there. Do you have any

comments? Are you seeing any change from a consumer point of view, where they’re more curious?

**Mr. Darren Praznik:** First of all, effective about a year and a half ago, there is now mandatory ingredient labelling for all personal care products in Canada, using the international nomenclature for cosmetic ingredients. That is mandatory, so if the product does not have that pursuant to the regulations—there are some exceptions for small-package products where it won’t fit, in which they have to provide it to you. Other than that, you must have it.

Secondly, with respect to cautionary labelling, our regime in Canada is about the right to safe products. This was proposed to Health Canada, we understand, some time ago, and they said, “Wait a minute. If we’re saying this product is safe for the consumer, how do you put a caution on it saying that it may be injurious to you?” That was rejected by them as regulators. They currently have the power to require any type of warning labels on those products. Our regime, how our products are governed under the Food and Drugs Act, is that this product must be safe for use as intended.

**Mr. Kevin Daniel Flynn:** Am I out of time?

**The Chair (Mr. David Orazietti):** You are. Mr. Barrett.

**Mr. Toby Barrett:** Thank you, Mr. Praznik, for the suggested amendments. You make reference to the problems for your industry if there’s duplication, if we’re trying to duplicate what the federal government already does in a well-established way. I imagine there is perhaps a fair bit of trade with countries like Brazil, Argentina and China. In Brazil and Argentina—there are a number of states down there; Brazil has a number of states. They are copying much of the federal approach, as you indicate. Would an individual state in Brazil have to deal with an individual province in Canada like Ontario with this trade back and forth? I’m hoping we’re selling perfume to Argentina.

**Mr. Darren Praznik:** The practical matter of it is that because these are internationally traded products, if the size of the market for which a labelling requirement or a particular ingredient requirement is too small—and Ontario is a very small market in the overall world; Canada is a small market—it just simply means you won’t make it here; you’ll make it somewhere else and avoid the market.

Your reference to those other countries: Canada’s regulation of these products is so highly respected—our association issues certificates of compliance for export—that these products would not be exported into China, Brazil or others without a certificate certifying they meet Canadian—that is, federal government—standards for health. That’s how these products are exported, MAC being a good example of a major plant in Ontario that exports. In these international markets, if you are not aligned in these processes—I’m not saying lessening standards, but if you’re creating additional labelling requirements, the run just simply isn’t there to produce it for export. It’s easier to move your production some-

where else, export out of there and re-label for Ontario, if that's even viable.

**The Chair (Mr. David Oraziotti):** Thank you. Mr. Tabuns.

**Mr. Peter Tabuns:** Thanks for the presentation today. I have to say, I don't have a lot of confidence in the federal government. For close to 20 years, I've had to deal with them on the climate change file, and they've been appalling. They've consistently used the term "sound science" to justify complete inaction. So when you refer to them as the standard by which we should judge our actions, it gives me reason to pause. Are you saying that in the standards set by the Canadian government, there are no carcinogens whatsoever in any personal care products?

1650

**Mr. Darren Praznik:** Mr. Tabuns, when you assess risk, the water we have, if it comes from a municipal supply, contains chlorine. That is a chemical on the list that Ontario is considering. In the amount that's in our water, for the good it does in protecting us, particularly post-Walkerton, we know that it has a value, and in the risk assessments, it's acceptable risk. Risk is always hazard times exposure. The federal government, using internationally accepted standards for this that have proven their worth in time, makes those assessments to say, "These products are safe when used as intended." They also require the ingredients in them to be listed. So if an individual doesn't agree with that and wants to make a personal choice, they're able to identify that ingredient with their health care provider and so avoid the product.

I think it's very well covered today in determining if we have a safe product, and in the information on the label for anyone who may disagree with that.

**The Chair (Mr. David Oraziotti):** Thank you. That's the time for your presentation. I appreciate you coming in today.

**Mr. Darren Praznik:** Thank you.

#### SARNIA-LAMBTON ENVIRONMENTAL ASSOCIATION

**The Chair (Mr. David Oraziotti):** The next presentation is the Sarnia-Lambton Environmental Association. Good afternoon, and 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 recording Hansard and we'll get started.

**Mr. Dean Edwardson:** Thank you very much. My name is Dean Edwardson. I'm general manager of the Sarnia-Lambton Environmental Association, SLEA. I would like to thank the committee for allowing me to make this brief presentation to you concerning Bill 167, the Toxics Reduction Act.

The Sarnia-Lambton Environmental Association is an environmental co-operative of 24 refining, petrochemical and associated industries in the Sarnia area. The SLEA

promotes the maintenance of a healthy environment through sustainable development by ensuring that members are well informed on environmental issues. Frequent seminars and workshops are held to ensure members understand and comply with current and emerging environmental issues and regulations, as well as control and prevention technologies.

A key element of our operation includes an extensive, technologically advanced environmental quality monitoring network that ensures awareness and understanding of industrial impacts on the local environment and tracks long-term change in air, water and groundwater quality. Continuous records dating back to the early 1960s demonstrate a continuously improving environmental quality, and are routinely shared with the Ministry of the Environment as a valuable resource in the selection of appropriate air and water quality standards.

The members of the association employ approximately 3,500 people and provide economic opportunities for thousands of others in the building trades and supply chain businesses. Our members are a key cornerstone of the manufacturing sector in Ontario.

The SLEA supports the Ontario government's initiative to regulate toxic substances, prevent pollution, and protect human health and the environment. However, our association does not agree with the manner in which the government proposes to do this as outlined in the Toxics Reduction Act.

Our concerns and comments will fall under the following three main areas:

- (1) federal-provincial harmonization;
- (2) reporting requirements: (a) contents of plan; (b) toxic substance accounting; (c) information available to the public; and
- (3) competitiveness and confidentiality.

**Federal-provincial harmonization:** The SLEA is disappointed that this legislation has not recognized or been harmonized with the federal government's chemicals management plan, or CMP. The chemicals management plan is one of the most stringent processes in the world for the assessment of substances considered to be toxic. We believe that duplicating this process at the provincial level is not necessary and, frankly, is a wasteful expenditure of Ontario tax dollars. Ontario should align its lists with those of the CMP-based toxic substances contained in the Canadian Environmental Protection Act, schedule 1.

We also question the process by which Ontario has proposed substances as toxic. Other than those which are consistent with schedule 1 of CEPA, the process does not seem to be open, transparent or clearly documented based on risk.

**Reporting requirements:** The SLEA believes that the reporting of toxic substance use in the manufacturing process does not meet the test of any toxics reduction strategy nor does it address the issue of the elimination of human exposure. The Toxics Reduction Act should focus on the reduction of emissions and releases based on scientifically valid risk, where the risk is a function of

both the hazards of the substance coupled with the emission exposure impacts.

**Contents of the plan:** The requirement to include a description of each process at a facility that uses or creates a toxic substance is very onerous and, in many instances, can be proprietary in nature. The members of the SLEA operate very large and complex facilities and the level of detail and effort of site personnel to achieve this requirement will be resource-intensive, if in fact the objective can be obtained at all. Petrochemical processes are often interdependent, whereby the product of one process may be a key ingredient in another process, which may or may not result in the creation of a toxic substance. The use of a toxic substance may be a key requirement in the process, which does not make it eligible for substitution or reduction strategies.

It is also important to note that the process itself may in fact be intended to produce a toxic substance. Under such scenarios, the SLEA believes that efforts would be better directed to the control and elimination of potential releases as opposed to developing a meaningless reduction strategy, which would only be achieved by shutting down the process or plant in question.

Although the legislation makes reference to “each process,” a more practical and meaningful approach would be to address toxic substances based on the overall infrastructure of the plant as a whole, as opposed to each individual process.

**Toxic substance accounting:** Although not specifically addressed in the legislation, the 2008 toxics reduction discussion paper suggested that materials accounting may be the preferred tool to assess and report on toxics reduction. The SLEA believes, and suggested in our comments on the discussion paper, that materials accounting is only one option that can be used for toxics reduction. Most members of the SLEA do materials accounting as part of their manufacturing management practices. However, there may be other approaches that can be used for toxics reduction. These tools may include direct monitoring of emissions, engineering calculations, risk assessments and use of emission factors. If materials accounting were prescribed, the SLEA would have issues around definitions, limits of detection and exemptions.

**Information available to the public:** Most SLEA members have community liaison committees which have been in place for some time. These committees have been instrumental in helping the community better understand our operations and their impacts. In turn, our members have a better understanding of the concerns the general public may have with respect to their operations. We continue to diligently address these concerns through a process of mutually respectful, frank and open dialogues. We know that our community has high expectations of local industry. However, the SLEA feels that disclosure of information around the use of toxic substances may create unwarranted fears and unattainable expectations within the community. The SLEA supports the belief that the community has a right to know about toxic emissions and that industry has an obligation to limit emissions

based on a scientific evaluation of the risk for exposure and the potential for adverse effect on human health and the environment.

**Competitiveness and confidentiality:** It is no secret that the manufacturing sector in Ontario has been impacted significantly by the current economic downturn. Ontario industries face unprecedented economic challenges on a global scale. To compete, manufacturers must produce quality products at a competitive price. The Toxics Reduction Act, as it is presently proposed, will add another regulatory burden and additional costs at a most inopportune time.

Further, elements of this act would potentially result in the disclosure of proprietary business information by disclosing the use and quantity of certain substances. Such information would not be required of companies who import similar products into Ontario. The disclosure of certain information on the use of toxic substances may also pose security concerns as these substances could be used in a variety of illegal activities, which would not be in the best interests of the general public.

In conclusion, the SLEA respectfully requests that the Ontario government consider the following recommendations:

- (1) Harmonize Ontario’s efforts with respect to the reduction of toxic substances with those of the federal government’s chemicals management plan and CEPA’s schedule 1 list of compounds.
- (2) That the contents of the toxics reduction plan be facility-based and not process-based.
- (3) Limit the prescriptive requirement for materials accounting and reporting, allowing for other methods as may be determined by professional judgment.
- (4) That the toxics reduction plan focus on emissions based on a scientific evaluation of risk of exposure.
- (5) That the information available to the public be limited to the risk of exposure to emissions and not the use or presence of toxic substances in a facility.

#### 1700

Consideration of these changes will help Ontario regulate toxic substances, protect human health and the environment and ensure that the manufacturing sector remains competitive while preserving confidentiality and security.

On behalf of the member companies of the Sarnia-Lambton Environmental Association, I wish to extend my appreciation to the standing committee for hearing our presentation. I would be pleased to answer any questions that you may have.

**The Chair (Mr. David Oraziotti):** Thank you very much for your presentation today. Mr. Bailey, go ahead.

**Mr. Robert Bailey:** Thank you, Mr. Edwardson, for your presentation today. It was very concise and it pointed out a number of improvements that you think we could make to the bill.

Could you speak, in your professional opinion, to a number of the chemicals that are listed provincially that, in your opinion, should not be there, that aren’t on the federal list, and you question why they’re there?

**Mr. Dean Edwardson:** Thanks, Mr. Bailey. I have not done an exhaustive evaluation of those chemicals, but we do know that there were some materials on there that are not presently on the CEPA schedule 1 and vice versa. The federal approach, in our minds, is a better way to go and avoids duplication.

**Mr. Robert Bailey:** My second question, if I have a moment: In Sarnia–Lambton there has been a lot of concern about a health study. Could you speak to the importance of conducting a health study and about funding from the provincial government?

**Mr. Dean Edwardson:** There have been a number of stakeholders that have been moving forward with an attempt to evaluate health in the Sarnia area. There have been a lot of inferences made about health conditions in Sarnia. We do know that there is a legacy of mesothelioma. We also know that, based on studies done by community health services, generally speaking, our health conditions, our cancer rates, are no different than any other area, other than mesothelioma.

We have been working with a number of stakeholders on a broad-based approach to try and assess these health issues so that we can fully understand the impacts on our local communities. To that extent, the Ontario government has promised \$75,000, which, thus far, we haven't received.

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

**Mr. Peter Tabuns:** Thank you for coming down and making the presentation. I won't belabour the point; I have to say, I don't have a lot of confidence in the Harper government's approach to environmental or health issues.

You talked about taking action to reduce emissions rather than reduce toxics. Do your members ever have an unplanned release of toxic chemicals into the air?

**Mr. Dean Edwardson:** Yes, they do.

**Mr. Peter Tabuns:** Do you ever have an unplanned release or leakage of toxic chemicals into the river?

**Mr. Dean Edwardson:** We have had spills into the river, yes.

**Mr. Peter Tabuns:** When I've been to Sarnia and talked with the occupational health people, the sense I've had is that they're dealing with very significant public health issues there—toxic chemical contamination—and great concern over that. Your data is showing a very different picture. Is that the case?

**Mr. Dean Edwardson:** As I indicated, we understand that there is a legacy issue with respect to mesothelioma, but the information that we get from the community health services department suggests that other forms of cancer are very much in line with the other standards across Ontario.

**Mr. Peter Tabuns:** Some of the chemicals that we work with have an impact on hormone balances. As you probably know, the Aamjiwnaang First Nation have far more girls than boys being born—

**The Chair (Mr. David Oraziotti):** Thanks. That's time for the questions. We're going to have to move on. Mr. Flynn?

**Mr. Kevin Daniel Flynn:** Thank you for your presentation. In a previous life, I used to chair the environmental advisory committee of Petro-Canada in Oakville. The treatment of the community by the refinery was just appalling. I saw that go, actually, to an era of mutual respect, but there was definitely a change in the mood of the people as far as demanding much more out of their community facilities than they had in the past. I also worked for Shell Canada for a period of my career, and I noticed that often what was said wasn't often what was done.

Has the relationship between the refineries in your area and the public gotten better over the years? Is it one of respect? Are there still problems there? Because when I hear from a group like the cancer society, for example, the first group today, that tells me that—I didn't have the aid of the cancer society in the past when I was chairing the environmental advisory committee. That tells me that this issue has gone into a different realm in the public's mind. Are you sensing that with the liaison committees that you deal with?

**Mr. Dean Edwardson:** The liaison committees that we have, and a number of companies have them individually for their operations—in actual fact, there was one called the Bluewater Community Advisory Panel, which is a broad-based committee of a number of people that also deals with a number of our companies. I think the communication is very adequate. I think that the citizens have the opportunity to talk and question and challenge what our companies are doing, and quite frankly I think the dialogue is quite meaningful and very constructive.

**Mr. Kevin Daniel Flynn:** We did talk about the use of targets. Do you have any comments on that as to whether they'd be appropriate or of any use?

**Mr. Dean Edwardson:** I guess my answer would be, it depends what those targets are.

**The Chair (Mr. David Oraziotti):** That's time. Thank you very much for your presentation today.

#### CANADIAN ENVIRONMENTAL LAW ASSOCIATION

**The Chair (Mr. David Oraziotti):** Our next presentation: the Canadian Environmental Law Association.

Welcome to the Standing Committee on General Government. Good afternoon. You have 10 minutes for your presentation and five for questions. Please state your name for the purposes of Hansard, and you can begin.

**Ms. Sarah Miller:** My name is Sarah Miller. I'm a researcher with the Canadian Environmental Law Association, which is a public-interest legal clinic. It has a law reform mandate and it has worked since 1970 to reduce toxics use and influence the shift to a precautionary approach towards harmful substances. With me today is my fellow researcher, Anne Wordsworth, whom I consider to be one of the foremost experts in best practices and toxic use reduction in Canada. She's an expert on labelling.

I would like to say initially that our colleague Joe Castrilli was going to be with us today. He has helped us over the last year to write a model toxic use reduction law for Ontario in anticipation of these efforts and this committee hearing. He's not with us today because he's spending his final days with his wife, who is dying of cancer. On behalf of Joe and others in Ontario, I think we're all here for the same reason, and that is to prevent avoidable diseases. I'd like to thank everyone in the Legislature who has raised those points very well in Hansard. I'm very grateful for the involvement of the cancer society and other health groups like RNAO; they have certainly furthered our cause. We've worked for 20 years on these issues and now, finally, we are seeing a break and we are having people reinforce our concerns.

What we're talking about today is limiting exposures here. That's why this province is taking a hazard approach and not the very long and difficult approach of risk assessment, which takes years and years on a chemical-by-chemical basis. Anne will certainly be able to answer some of your questions on the federal program later.

In our remarks today, we were going to touch on the difference between our act and Bill 167 and we were going to list matters that we feel really need to be included in the act and other components necessary for a successful toxics use reduction strategy in the province. Many of the recommendations that we are making were also echoed by the expert panel that the province enlisted in August 2008 to help them come to the conclusions to identify the substances that they thought should be targeted. We'd like to note that many of their recommendations are not yet in this act.

The province of Ontario in 2006 released 879,246,698 kilograms of toxics to all media. I know that Joe wanted me to especially say today that constitutionally, Ontario has the right to design its own made-in-Ontario solution to made-in-Ontario problems and therefore there is no conflict with federal government actions. We have very special problems with very special substances that were identified by many of the groups who worked together with us on a gap analysis report on the regulation of carcinogens in Ontario. We found that over 200 carcinogens which are in use in Ontario are largely not regulated at all. Before the last election, we were very gratified to get promises from all three parties to act on regulating those carcinogens. This is a first step.

#### 1710

I'm just going to very briefly list the headings. We've given you a very thick report that includes a report that Anne wrote as a background to our model law. We would just like to list matters which we think need to be included in the legislation to make it strong and viable.

The issue of targets has been covered well by other groups and we would recommend that a 50% emissions goal could be recognized within five years.

The fees and funds are really crucial. There are toxics use reduction programs other than the very successful Massachusetts one in the United States. The Massa-

chusetts one was successful because they had fees and funds that were based on the amount of toxic substances used, and those fees powered a huge number of programs out of the University of Massachusetts at Lowell in their Toxics Use Reduction Institute and also technical assistance to other groups. But in Maine and Oregon, where they had no fees, they don't have a similar financial engine. Largely, their actions have not been effective.

Other groups have mentioned that in order to keep up with regulatory reform globally, substitution of safer alternatives that are available—you need to provide for the substitution in this law, because this is the way regulation is going globally.

The establishment of a toxics use reduction institute is, in our belief, essential to success. In Massachusetts, pollution prevention plans were done side by side with certified pollution prevention officers working in each plant with good ideas, with knowledge and expertise on best practices. It was this that made the program a success, not some arm's-length kind of compliance system similar to the one that we have now.

We think that Ontario's shocking emissions records are proof that voluntary compliance just doesn't work. These plans need to be mandatory and industry has to buy into them in a way that we think can only really happen with a very active toxics use reduction institute.

Other things like employee assistance and transition programs are not in this bill. Technical and financial assistance programs for small businesses had been mentioned when the strategy was announced, but the bill itself is silent on this and it's still very unclear to us whether or not small businesses will be covered. If we rely on the discussion paper in September 2008, I don't think that small businesses have yet really been seriously included in this act. We think there needs to be a provision for expanding who this act covers over time so that it can cover all polluters in Ontario.

Enhanced public participation is going to be needed, and this should extend to the public's right to apply for review of pollution prevention and substitution plans under the bill and a public right of action to enforce provisions of Bill 167.

I'm not going to list anything more from our remarks because I really would like to spend the rest of the time here answering your questions.

As an organization, we are also very involved in the chemical management plans and make frequent trips to Ottawa to make input on those plans. We understand there's a lot of confusion between the CEPA substances—the national pollutant release substances—and the substances in these bills, but we agree with the expert committee that they've made the right choices and the right approach, using the National Pollutant Release Inventory first and foremost and also trying to address substances that they know are in use and existence here in the province.

We'd be happy to answer your questions.

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

**Mr. Peter Tabuns:** Thanks very much for the presentation, Sarah. That whole question of lists is one that has come up a few times here. Why is it that you believe a broader list, and I think particularly the NPRI list, is one that should be used here rather than the narrower CEPA list?

**Ms. Anne Wordsworth:** Well, one thing in favour of the NPRI list is that it's a public list and the emissions of the major polluters are disclosed by that list. The list of toxic substances, in that respect, would be completely useless, and in fact there's a lot of misunderstanding about the list of toxic substances. It's about 85 substances that are managed by the government. It's not equivalent to the NPRI in any way.

**Mr. Peter Tabuns:** The suggestion that we simply be in line with the chemicals management plan of the federal government: Do you have a critique of why that isn't the strategy that you would recommend?

**Ms. Anne Wordsworth:** Again, comparing the Toxics Reduction Act to the chemicals management plan is like apples and oranges. The chemicals management plan, as other people have said, is based on risk and risk assessment. What we're trying to do, as public interest representatives, is move away from that idea that you have to evaluate and prove a risk of something. We're exposed to so many risks—like products, drinking water, air—that it would be a monumental challenge to try to assess the risks that we are exposed to every day. So let's put that aside and look at what we're trying to do here, and that is to look at toxics as hazardous substances that should be reduced. If you reduce—

**The Chair (Mr. David Oraziotti):** I'm going to have to stop you there. That's time for that question. We have to move on to the other caucus. Mr. Flynn, go ahead.

**Mr. Kevin Daniel Flynn:** Thank you for your presentation.

Some of the speakers have made the case, "Why would you need to do this at all? This is really a federal job." I think you've expanded upon why you think that there is a provincial role.

You touched on the role of toxics reduction planners and having plans certified. I think you were talking about how that was used quite successfully in the state of Massachusetts. I wonder if you could expand a little bit more on the role of a toxics reduction planner.

**Ms. Sarah Miller:** Well, I think the planner actually works co-operatively with each facility, and it's interesting to note that all solutions aren't chemical solutions, necessarily, in toxics use reduction. Sometimes with a waste stream, the solution ends up being recycling a waste stream and reusing it again. Sometimes it means new machinery. There have been a broad range of solutions that aren't strictly all chemical management solutions that have come out of these kinds of plans. So you need engineers who understand the processes; they need to be trained properly to understand the processes. We have quite a broad sector of industries here in Ontario, so we're going to need someone, somewhere, to be training

people to be experts in these sectors. I think that's really a very key portion of this planning exercise.

But when done right, I think—if you listen to Ken Geiser from Massachusetts, who was part of the expert panel that Ontario consulted, everyone's invested in this; everyone's very proud of it. The politicians are proud of the successes that Massachusetts has had, but so is the industry. They feel they have profited financially, and consumer confidence has certainly risen in their products and conduct. I think it's a win-win all around.

**The Chair (Mr. David Oraziotti):** Thank you. That's time. Mr. Barrett?

**Mr. Toby Barrett:** Thank you to CELA. As you indicated at the end, Bill 167 mandates this long-overdue planning, and you also said voluntary compliance doesn't work. You're referring to compliance to planning?

**Ms. Sarah Miller:** Just voluntary compliance to environmental laws in general. I think the volumes of chemicals that are being spewed out in this province simply is a testimony to the fact that without making the planning mandatory, most industries are not going to elect to do it, when all this act is saying is simply, "Consider your use of toxics. Consider how you could productively reduce them. Consider how you could stop these exposures to your workers and consider how you could stop exposing the neighbours to your plant."

1720

**Mr. Toby Barrett:** Yes. Secondly, you talk about fees on the use of toxic substances. I guess that would be for large organizations. For small business, you call for technical and financial assistance for small business. How would that be funded? I like this idea of carrots. Would this be interest-free loans, grants, tax incentives or low-interest loans to help them do stuff?

**Ms. Sarah Miller:** I think that the fees overall can fund most of the programs for everyone.

**Mr. Toby Barrett:** Who pays the money?

**Ms. Sarah Miller:** The people who use more—the larger users of the largest volumes of hazardous and toxic substances fund the programs for the entire state, is the way I understand it happens in Massachusetts. It's not a problem.

**Mr. Toby Barrett:** They would have to pay for other companies, like the small companies that don't have these fees?

**Ms. Sarah Miller:** Yes, they would pay for the information and the technical expertise that's being developed overall for the entire program.

**The Chair (Mr. David Oraziotti):** I have to stop you there. That's the time for questions. Thank you very much for your presentation.

#### REGISTERED NURSES' ASSOCIATION OF ONTARIO

**The Chair (Mr. David Oraziotti):** Our next presentation is the Registered Nurses' Association of Ontario. Good afternoon, and 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 Hansard, and you can begin when you're ready.

**Ms. Wendy Fucile:** Thank you, Mr. Chairman. Good afternoon. My name is Wendy Fucile. I am a registered nurse and the president of the Registered Nurses' Association of Ontario. This is nurses' week, and I have been speaking a lot. I apologize for my voice. I am joined here today by Kim Jarvi, senior economist at RNAO.

RNAO is the professional organization representing registered nurses who practise in all roles and in every sector across this province. Our mandate is to advocate for healthy public policy, and for the role of registered nurses in enhancing the health of all Ontarians.

We welcome this opportunity to present our recommendations to the Standing Committee on General Government on Bill 167, the Toxics Reduction Act, 2009.

RNAO has joined with a broad range of health and environment partners in hailing the introduction of Bill 167 as a courageous first step to rectify Ontario's deplorable record on toxics. We are here to urge the government to take the next step: to strengthen this legislation through a series of amendments.

We come to you today with a sense of great urgency. By this government's own reckoning, Ontario is one of the biggest emitters of toxics in North America. This has dreadful health consequences, most particularly for our children. The ministry has identified childhood health effects of pollution as including cancer; learning, developmental and behavioural disabilities; impaired endocrine function; birth defects; and respiratory problems, such as asthma.

The scope of the pollution tells us that the health effects can only be tragically large. Research into a limited number of environmentally related outcomes, such as Parkinson's disease, diabetes, and neurodevelopmental effects, suggests that in these areas alone, the cost to society could come to \$10 billion in Ontario. And so our children are victimized twice, with compromised health and a terrible environmental legacy.

Effective, immediate action is imperative. We must change the way we do business, and we must do it now. The public supports and expects action on toxics and on the economy, and we believe that a well-articulated vision for green economic recovery will maintain and expand that public support. The government has made significant commitments in green energy, and toxics reduction will be another key element of green economic recovery. Please, do not wait on the federal government to act, as some before you today have requested. Ontario has the authority and indeed the obligation to act, and must act now.

Bill 167 is modelled on the successful Massachusetts toxics use reduction program, which saw sharp drops in toxics use, toxic waste, toxic releases and toxics shipped in product. The Ontario bill is framework legislation that depends on strong regulations to be effective. Its stated goals are to prevent pollution and protect human and

environmental health by reducing the use and creation of toxics, and to inform Ontarians about toxics. There is not a lot up front to assure Ontarians concerned about their health that the government can deliver on its promise. You have our submission, which goes into much more detail about areas that we believe require strengthening. However, I will use my limited time to speak to several key points.

First, so far, only \$41 million has been committed to this very important undertaking. RNAO recommends a substantial increase in the allocation to toxics reduction.

Secondly, there are no targets for reduction, whereas Massachusetts had targets in its own legislation, and the Ontario government's own toxics reduction scientific expert panel recommended numerical goals. RNAO recommends targets for use and release, including a 50% reduction in toxic releases within five years of the act coming into force.

Thirdly, there is no provision for an independent academic institute to support business, employees and communities in realizing the objectives of the toxics reduction strategy, again, as delivered in Massachusetts and as recommended by the government's expert panel. RNAO recommends establishing such an institute and funding it from a fee on the use and release of toxics, with a weighting towards fees on release.

Fourth, there is no commitment on the scope of the coverage, and alarmingly, the government's toxics reduction discussion document suggests that most toxics emitters may not be covered. Specifically, the adoption of very high federal reporting thresholds would exclude the vast majority of emitters. For example, here in Toronto today, federal reporting misses 97% of emitters and over 80% of emissions. Exclusion of all but manufacturing and mineral processing will exclude 25% of emissions of large emitters. Only prescribed toxics will be reported. The government discussion document speaks of only starting with 45 toxics out of the hundreds of chemicals of concern.

The right to know about poisons in one's environment is absolutely fundamental. RNAO recommends a more rapid phase-in of reporting and the inclusion of all toxics in the first phase, both those on the 2008 National Pollutant Release Inventory and those not as yet on the NPRI.

RNAO also recommends that the bill commit to a goal of comprehensive coverage of all toxics. Reporting thresholds must be significantly lower than current federal thresholds, and all users and emitters who reach thresholds must report.

Fifth, the bill must make a stronger commitment to labelling of toxics. The public wants labelling and the government must clearly put its commitment to labelling into the legislation.

Finally, the bill does not make substitution of safer alternatives mandatory. When safer alternatives are available, firms must be obliged to use them.

Members of the standing committee, as I have outlined some areas that must be strengthened, I wish to

reiterate that we are seeking to build on what has been presented. MPPs, ministry staff, the government expert panel and many, many community organizations have put in a tremendous amount of excellent work on this legislation, carefully weighing what is possible in the current economic climate. We put it to you that the public is ready for government to put teeth into this legislation and take this bill to its next level, which will make toxics reduction central to a healthier and new Ontario.

Accordingly, in addition to the above steps, we ask you to make the intent of the bill clearer and stronger by including in the preamble an endorsement of the principles of the Canadian Environmental Protection Act—specifically, the precautionary principle, pollution prevention, the virtual elimination of persistent and bio-accumulative toxic substances, and the “polluter pays” principle—and by adding to the purposes of the bill the following:

- the reduction or elimination of toxic releases, and not just their use and creation;

- the promotion of safer alternatives to toxics;

- recognition of Ontarians’ right to know the identity and amounts of toxics that are used or created or that occur in consumer products or are released into the environment or workplace; and

- adoption and application of the precautionary principle and principles of sustainable development to the above goals.

I want to thank you for your attention to this matter, which is of great concern to registered nurses. We will continue to work with government staff and with all parties to ensure that Ontarians get the protection from toxics that they both demand and deserve.

I thank you, Mr. Chairman.

**The Chair (Mr. David Oraziotti):** Thank you very much for your presentation. Mr. Flynn, questions?

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**Mr. Kevin Daniel Flynn:** Thank you for your presentation. I note that on the sectors you said perhaps we should include more sectors, because we’re only really picking up 75% of the emissions. My understanding is that with the phase-out of coal in 2014, we’d pick up the remainder of those, and there’s nothing to prevent us in the future from just going, I suppose, all the way at the end of the day.

But what I really wanted to question you about was your work with a number of other health disciplines and professionals. The information that becomes available as a result of the plans being prepared: What do you do with that as an organization, or what do your colleagues intend to do with that information, then, in the future?

**Ms. Wendy Fucile:** At the broadest policy level, we look to that information as a measure of determining the degree to which legislation of this nature is effective. One of our recommendations is around a standing committee, but a research-based institute to really analyze and identify that data with real scientific rigour. We do have on staff at RNAO a number of people who have

expertise in this area. One of them is Kim Jarvi. Kim, you might want to comment about what you now do.

**Mr. Kim Jarvi:** Well, just to say that the various reporting requirements proposed here, and it’s not just the plans, would be the basis for the right to know about toxics in the environment, so I think that’s a very important accountability and transparency measure as well. These are essential elements, and we applaud the government for putting them in there.

**Mr. Kevin Daniel Flynn:** Thank you, Kim.

**The Chair (Mr. David Oraziotti):** Mr. Barrett.

**Mr. Toby Barrett:** Thank you, Registered Nurses’ Association. You endorse the principles of the Canadian Environmental Protection Act, the precautionary principle, but you would also wish to implement a risk-based approach in this legislation with respect to releases—as you say here, the reduction or elimination of toxic releases, say, into the air, into the water, the environment.

**Mr. Kim Jarvi:** Our proposal is precautionary-based, hazard-based, as opposed to risk-based.

**Mr. Toby Barrett:** As opposed to risk-based?

**Mr. Kim Jarvi:** That’s correct.

**Ms. Wendy Fucile:** But to be clear, we’re looking for reporting when that happens.

**Mr. Toby Barrett:** Certainly reporting, but this legislation doesn’t focus on releases, really. It focuses on just that the product is there and having it reported. But you want to go beyond that to focus on some of the other problems when there is, say, an accidental release of one of these toxics.

**Ms. Wendy Fucile:** Yes, we do.

**Mr. Toby Barrett:** I guess maybe it’s semantics, “risk-based” and “precautionary.” It looks like you’re asking for both, but—

**Mr. Kim Jarvi:** There is some difference.

**Mr. Toby Barrett:** Yes, okay. Thank you.

**The Chair (Mr. David Oraziotti):** Mr. Tabuns.

**Mr. Peter Tabuns:** Thank you very much for coming down and making the presentation and giving us the background documentation.

You argued in your presentation that in fact there is a substantial health impact in Canada from toxic chemicals today: reproductive problems, cancer, neurotoxic problems—costs in the billions of dollars. We already have in place a variety of systems to protect people from toxic chemicals, and we’ve heard arguments today that we shouldn’t be duplicating or setting up systems at cross-purposes. Given that as health professionals you see health impacts now, can you say fairly that the safeguards that are in place now are failing, are not actually protecting people’s health?

**Ms. Wendy Fucile:** We continue to see people who suffer disease and disability and indeed death as a result of exposure to toxics. That alone would suggest that the current structures are not adequate to fully protect the public.

**Mr. Peter Tabuns:** I would call that a failure myself, but maybe I’m just being picky.

Do you think that the bill, as written, without the amendments you've proposed, will give the protection that's needed to substantially reduce people's exposure to toxic chemicals?

**Ms. Wendy Fucile:** No. We believe the bill does need to be strengthened to maximize the protection for the community.

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

#### CANADIAN PETROLEUM PRODUCTS INSTITUTE

**The Chair (Mr. David Oraziotti):** Our next presentation is the Canadian Petroleum Products Institute. Good afternoon. Welcome to the Standing Committee on General Government. You have 10 minutes for your presentation, five for questions. Please state your name for the purposes of Hansard, and you can begin.

**Mr. Eric Bristow:** Thank you. My name is Eric Bristow. I'm the director of government and stakeholder relations with the Canadian Petroleum Products Institute, based here in Ontario. Mr. Chairman, members of the Standing Committee on General Government, thank you for this opportunity to address you.

You are likely not surprised that Ontario's refining industry has taken a keen interest in this legislation. I also hope you are not surprised that Ontario's refining industry, for many years, has taken a keen interest in improving our environmental performance and working to protect Ontarians from exposure to toxic substances.

CPPI supports the public policy imperative to regulate toxic substances and to protect the health of all citizens. However, CPPI does not support the approach contained in the proposed Bill 167. If it is absolutely necessary to have a provincial law, we have suggested amendments throughout this presentation. I would add, though, that it is not clear what public policy benefit is derived by duplicating a federal framework that covers all Canadian jurisdictions.

There are four key issues I'd like to bring to your attention:

- first, the need for federal-provincial harmonization;
- second, the application of this proposed bill to a large facility such as a petroleum refinery;
- third, the extensive requirements in “contents of the plan” and “toxic substance accounting”; and
- fourth, the requirements associated with public reporting and communication.

The first issue is the need for federal-provincial harmonization in the management of toxic substances. This is well illustrated by the definition of what is a toxic substance. The bill itself does not define the basis for what a toxic substance is, which is fundamentally important. Rather, it leaves that to the regulatory stage.

Fortunately in Canada, through the federal government's chemicals management plan, we already have one of the most stringent processes recognized in the world

for assessing which substances should be considered as toxic. The CMP process addresses not only the hazardous nature of a substance, but also the level of public and environmental exposure to that substance. Duplicating this process at the provincial level is not necessary and works against federal-provincial harmonization. Ontario should leverage and stay aligned with the federal government both in respect to the reporting of substances as well as the assessment as to which substances are deemed toxic.

It's clear, though, that the Ministry of the Environment is planning to label many more substances as toxic than those deemed by the federal process. This is evident in the Ministry of the Environment's backgrounder paper, which outlines a list of toxic substances proposed by scientific experts through the government. This was the scientific expert panel. In reviewing the phase I and II lists, Ontario is proposing some substances as toxic that have already been deemed non-toxic by the federal government process. These additional proposed toxic substances on the Ontario list have not been through a transparent process and have not been through an open process. Industry has not been able to assess the science and the risk basis that was employed, as the detailed criteria used by the panel have not been shared.

CPPI's concern for the validity of the panel's work is based on reviewing the proposed additional Ontario toxics lists. For example, Petro-Canada Lubricants, located in Mississauga, is the only Canadian producer of non-toxic white mineral oil, which is on the list, which is used in everyday items from baby oils to gummi bears. As well, it supports the development of innovative, world-class products. There are several other examples of substances that should not be on the list. To help address these concerns, CPPI is tabling in this submission recommended changes to Bill 167 to be more explicit about the basis and criteria for substances to be considered toxic.

Our second issue concerns the application to a large facility, such as a petroleum refinery. Certain levels of toxics, sometimes at very low levels, are naturally present in crude oils. Since crude oil is drawn from nature, a petroleum refinery could not sign a statement that they intend to reduce the use of toxic substances that are contained in crude oil unless they reduced refining in Ontario.

Through the many refinery processing steps, various substances, including toxics, are created, destroyed and changed, all within contained lines and vessels. Therefore, a refinery could not commit to reducing the creation of toxic substances within its processes and continue to provide the petroleum products that Ontario society needs.

In addition, certain toxic substances are produced by a refinery as a feedstock to a chemical operation or are present as part of required product formulations. Some chemicals found on the proposed toxics list are building blocks for making useful non-hazardous products and cannot easily be replaced. Chemicals such as benzene, xylene and toluene are important raw ingredients for

many over-the-counter pharmaceuticals, such as Aspirin, and valuable consumer products, such as medical tubing. To address these concerns, CPPI is tabling in the submission recommended changes to Bill 167.

#### 1740

Our third area of concern is the requirements in “contents of plan” and “toxic substance accounting.” Bill 167 states that the purpose of the legislation is “to prevent pollution and protect human health and the environment by reducing the use and creation of toxic substances.” We believe that the most important test of any toxic reduction strategy is the minimization and, where science dictates, the elimination of human exposure, not how substances are used in the manufacturing process.

Substances that are contained within closed lines and vessels do not themselves present a risk to humans or the environment, and our member companies have very extensive emergency preparedness processes to help prevent the possibility of releases and to deal with them rapidly.

We view that it would be very expensive for a large chemical complex such as a refinery to meet the requirements in Bill 167, which states that for each process in a facility, how a substance enters needs to be tracked and quantified, whether it’s created, destroyed or transformed, and how it leaves the process. The cost of compliance will hurt the competitiveness of Ontario refining, and that level of detail is neither necessary nor useful in terms of reducing toxics that present real risks to people through exposure. To address these concerns, CPPI is tabling in this submission further recommended changes to Bill 167.

Lastly, I turn to the requirements of public reporting and communication. It is very important that the public is informed about the actual risks associated with toxic substances. All CPPI member companies have environment, health and safety procedures to communicate with their local communities about their operation, their emissions, the potential risks, emergency preparedness and key improvement plans. The simple broad sharing of the use of toxic substances that are being properly handled or the sharing of toxic substances in products that meet regulatory requirements does not, in and of itself, provide inherent benefit to the health or environment of Ontarians.

This would also create competitive inequities relative to product imported into Ontario. By example, for vehicle fuels, there are common regulated Ontario and federal standards that a fuel must meet, whether refined in Ontario or imported from elsewhere. If an Ontario refiner is required to conduct additional testing and reporting of chemicals in fuels while fuels imported into Ontario do not, it would add a cost burden to Ontario refiners and put them at a competitive disadvantage versus those refining outside the province.

As a final comment, looking at the Bill 167 compendium, it states: “The proposed legislation also includes regulation-making powers to prohibit or regulate the manufacturing, sale or distribution of toxic sub-

stances.” We know that Ontario is not an economic island, and the authority to ban or restrict the manufacture, distribution or sale of a product known to contain a toxic substance should be with the federal government to avoid different requirements related to commerce by province and avoid the balkanization of the Canadian marketplace.

To summarize, CPPI reinforces:

- the importance of harmonizing through regulations with the federal government, particularly the chemicals management plan;

- recognizing that a facility such as a refinery does not have a practical basis to reduce toxics in its feed-stock;

- reducing the proposed requirements associated with toxic accounting and focusing them on risk-based, reducing total facility emissions that result in exposures; and

- avoiding public reporting and communication requirements that put Ontario industry at a competitive disadvantage versus imported product.

I thank you for your attention, I welcome your questions and I also welcome your support.

**The Chair (Mr. David Oraziotti):** Thank you very much for your presentation. Mr. Barrett, go ahead.

**Mr. Toby Barrett:** Thank you, Mr. Bristow. You indicated that it’s not so much an issue of how the substances are used, contained within the pipelines, the tanks and what have you; the real key is to eliminate or reduce the risk, say, of emissions to air or land or water. I certainly understand that, but with the refinery you’re dealing with crude oil; you have no choice of what’s in there when it comes in. I assume it’s constantly changing as it goes through the system.

Now, does this principle—so we’re talking about a risk-based approach to eliminate or reduce risk to the environment and human health. Does the risk-based approach also apply to other industries beyond your industry, the petroleum industry?

**Mr. Eric Bristow:** The concepts I’m talking about, a risk-based approach, to the honourable member, would apply to all of industry. The first premise is understanding substances that are toxic and present, on exposure, risks to people or the environment, and then understanding where they are being emitted from facilities; I’m talking at a total facility level. Where are they coming from, and are they being emitted at levels that are presenting concerns or risks to people or the environment? In that principle, it would apply to all industry.

**Mr. Toby Barrett:** All industry. Thank you.

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

**Mr. Peter Tabuns:** Eric, thanks for the presentation. I appreciated the opportunity that you and I had to talk on Ontario environmental industry association day as well.

We’ve had health care professionals talk about the health impacts of toxic chemicals in our environment. Public health people are going to be talking I think next, and they may well have very similar commentary. The

cancer society had great concern about the impact of toxic chemicals. In my mind it's very clear: We have a problem of toxic chemicals in our environment and current federal regulation is not dealing with it, so there's a responsibility for authorities at the municipal and provincial levels to take up the slack.

I think notwithstanding the ability of engineers—and there are a lot of bright people out there—the nature of industry is that it is messy: Leaks happen, spills happen and workers are exposed inadvertently to toxic chemicals that will leak from sealed systems. So there is an interest in not just avoiding planned or controlled emission but in reducing the overall exposure.

In Massachusetts they have a system where companies account for the chemicals that they produce and are making efforts to reduce those chemicals. Those companies have been saving money. That's the word we get back from Massachusetts. Why is the Massachusetts system not applicable here in Ontario?

**Mr. Eric Bristow:** The concepts within the Massachusetts system that relate to understanding emissions I think are applicable, so understanding emissions and how they relate to risks that they present to people.

It's interesting, to the honourable member, in terms of trying to learn from other jurisdictions, my understanding is that they don't have a refinery in Massachusetts that this model has attempted to be applied to. So that makes it somewhat difficult. I think another challenge, in taking the Massachusetts model and applying it to the Ontario situation, is that we have a much more diverse and complex industrial base, including a lot of industry, be it mining, minerals or petroleum, that takes stuff from the ground, or trees, more so than would be the case in Massachusetts. I would encourage that while there are elements around understanding emissions and how emissions can be potential exposures which are valued from the Massachusetts model, the part around simply looking at the use of something or the creation of it where there aren't exposures is taking valuable resources, putting them into accounting and understanding that information, which will take resources away from working on a risk basis to actually reduce emissions that are causing issues and concerns.

**The Chair (Mr. David Oraziotti):** Thank you. That's time for questions. Mr. Flynn?

**Mr. Kevin Daniel Flynn:** Thank you again, Mr. Bristow, for your presentation. Just going back to my days when I chaired the environmental advisory committee at the Petro-Canada refinery in Oakville, that went from being a process where, at the beginning of the process, I have to say, without picking on any one company, the management of that particular oil company was openly hostile and adversarial to the community. Twelve years of meetings later there was actually an air of mutual respect between the two parties, and I got the impression that the refinery was trying to work with the community. So I've witnessed a change.

I guess I'm a little bit taken aback here, where the intent of the legislation is that it's compulsory that a plan

be prepared, and the implementation of that plan then becomes a voluntary initiative. You seem to be making the case that that would be an onerous burden for us to be placing on your industry. As somebody who has worked in a refinery and has worked 12 years with an advisory committee, I guess I'm just not getting that.

**Mr. Eric Bristow:** I'm not suggesting that the concept of developing a plan to reduce the emissions of toxics is onerous. The point I'm trying to make is that the development of the plan to be a value-add needs to be focused on where it makes a difference. Where it makes a difference is understanding your emissions and understanding where emissions are creating exposures and impacts on people and the environment. By understanding that, you could look at that on a risk basis and say, "Let's focus on this particular area and prioritize working on that." That would have value.

**1750**

The part of the legislation which doesn't have value—

**Mr. Kevin Daniel Flynn:** Could I jump in there, just so I understand it? Could that not be part of your plan? Could that not be the plan, to focus on those high-risk areas?

**Mr. Eric Bristow:** If that's where the plan requirements stopped, that would make some sense. The problem is that the plan requirements go far beyond that. It looks at all aspects of use and creation, even if those substances never see the light of day.

**Mr. Kevin Daniel Flynn:** But it's still on a voluntary basis.

**Mr. Eric Bristow:** Well—

**The Chair (Mr. David Oraziotti):** Thank you. That's time, gentlemen. Thank you for coming in today for your presentation.

#### ONTARIO PUBLIC HEALTH ASSOCIATION

**The Chair (Mr. David Oraziotti):** Our next presentation: the Ontario Public Health Association.

Welcome to the Standing Committee on General Government. You have 10 minutes for your presentation. Whoever will be speaking, just please state your name for the purposes of recording Hansard, and you can begin when you're ready.

**Ms. Connie Uetrecht:** I'm Connie Uetrecht. I'm the executive director of OPHA. On my right are Carol Timmings, our president, and Helen Doyle, one of our volunteers. She's an environmental health expert from one of our health units.

Thank you for the opportunity of appearing before you. We commend your government for taking action to reduce exposure to toxic substances in order to improve the health of the public. This act is a good first step.

Just a little bit about who we are: The public health association is a member-based, volunteer, non-profit organization that provides leadership on issues that affect the public's health and strengthens the impact of people who are active in public and community health throughout Ontario.

Among our members are the public health inspectors and environmental health specialists who implement health hazards prevention and management programs under the Health Protection and Promotion Act and the many public health professionals who are implementing the chronic disease prevention program, which of course includes cancer prevention. We are a supporter of the Take Charge on Toxics campaign, which is being led by the Canadian Cancer Society.

Why does this legislation matter to us? Our organization of course is very concerned about the toxic substances in air, water, land and consumer products. Some of these substances cause cancer and birth defects, contribute to asthma and have other adverse health effects. Ontario ranks second only to Texas in the tonnes of toxic chemicals released into the environment and is highest among the provinces in environmental carcinogen release. We believe that our citizens have a right to know what is in our products and in the environment.

We support your Bill 167 to reduce toxic substances. This legislation will help protect human health by reducing exposure to toxic substances. It requires industries to track, quantify and report on toxic substances that are used and created in their facilities; it informs Ontarians about their plans; it regulates the manufacturing, sale and distribution of substances and consumer products that contain toxics; and it provides technical and financial assistance to smaller businesses and strengthens the green economy.

We think, however, that the legislation could be substantially strengthened in the following ways, and I'll let Helen identify those.

**Ms. Helen Doyle:** We understand that a lot of these sections will be addressed in the regulation, but we just wanted to reiterate the areas we'd like to see strengthened:

- set targets for the reduction in use, creation and release of toxics; for example, a 50% reduction in five years;

- inform the public of exposures in their environment and in products made, purchased or consumed;

- address more substances, lower the threshold and include more sectors;

- require the substitution of safer products where possible;

- assist companies in finding safer alternatives to toxic substances; and

- develop a reporting system to monitor progress of toxics reduction.

With respect to setting targets for reduction in use, creation and release of toxics, the statute should include set reduction targets and renewable reduction targets. We feel these targets are necessary to stimulate reduction and regulate toxics use and release. We also believe that the targets can spur innovation and allow benchmarks for measuring and monitoring progress. Other jurisdictions in the United States and Europe have demonstrated this to be the case. As well, the Ministry of the Environ-

ment's toxics reduction scientific expert panel has also recommended that these targets be set.

**Ms. Carol Timmings:** OPHA supports your commitment to inform the public with the posting of a summary of industry's plans. We also recommend, however, that the legislation require companies to also disclose their actual use, creation and release of toxic substances. All ingredients in consumer products should be disclosed on product labels and, if cancer-causing, the product should display a hazard symbol.

The 45 substances identified in the legislation represent only 14% of the total number of substances currently subject to the NPRI, an already inadequate list of toxic substances that should be subject to reduction. The threshold for size of company covered by this legislation should also be reduced from 10 to five employees, otherwise our concern is that only a small percentage of companies are really affected.

We also would like to see all sectors that use listed substances above the regulatory threshold included.

With respect to substitution, the proposed legislation only encourages voluntary reduction and substitutions. Ontario is the top discharger of toxins in North America. An implementation of safer alternatives is critical to reducing harmful emissions. Substitution of priority chemicals is now required under the EU's REACH program and soon will be introduced into the Massachusetts safer alternatives bill. Requiring substitution will really assist in spurring green technology and green industry.

**Ms. Helen Doyle:** This legislation should assist companies in finding alternatives. An institute to assist companies to reduce toxics use and release is critical to the success of this legislation. Identifying safer alternatives and substitutions should be guided by the best available science, and a toxics use reduction institute is the best way of ensuring this. The Ontario Public Health Association recommends that a university-based research institute be established to increase Ontario's capacity for toxics use reduction activities, safe substitutions, green chemistry, education and information outreach and, most importantly, training on toxic reduction plans. Massachusetts, as you're aware, does have a toxics use reduction institute with a broad range of services with which they are able to support smaller companies in finding alternatives. As well, there's our Take Charge on Toxics campaign, which is led by the Canadian Cancer Society. We also recommend this.

We also would like to see a reporting system to monitor progress. We feel that industry needs to be held accountable to the public for its use, creation and release of toxic substances and that there should be full disclosure to the public. Local health units often get asked questions about toxins in the environment. Full disclosure is needed for health units and the public to understand local exposures to potentially toxic chemicals and public health impacts.

**Ms. Connie Uetrecht:** We want to thank you again and commend this government for introducing this legis-

lation. We would encourage that it be strengthened using some of our suggestions.

**The Chair (Mr. David Oraziotti):** Thank you for your presentation this afternoon. Mr. Tabuns, you're up first.

**Mr. Peter Tabuns:** Thanks very much for coming down and making the presentation. You're health professionals. You think that there's a health problem with toxic chemicals in our environment today. Is that correct?

**Ms. Carol Timmings:** Yes, that's correct.

**Mr. Peter Tabuns:** You would not be here if you didn't think that there were health impacts from the toxic chemicals that are going into our air and water. Is that correct?

**Ms. Carol Timmings:** Absolutely.

**Mr. Peter Tabuns:** So the suggestion that the current federal legislation and action on this issue are adequate to deal with the problem is probably not an accurate suggestion. Is that correct?

**Ms. Carol Timmings:** That's correct.

**Interjection:** That's correct; absolutely.

**Mr. Kevin Daniel Flynn:** Thank you. I had a bit of a similar question. This is getting to be a bit like the three bears here.

**Mr. Peter Tabuns:** But friendly bears.

**Mr. Kevin Daniel Flynn:** Somebody thinks the proposed bill is too hard, somebody thinks it's too soft, and the answer is probably somewhere in the middle.

**Mr. Peter Tabuns:** No, no.

**Mr. Kevin Daniel Flynn:** What I'm thinking of is, from a practical perspective, what will you do with this information? Part of the process is to get the information in the first place, is to ask about 75% of the emissions produced—we'll be able to keep track of them, in a way, and we're hoping that industry, on a voluntary basis, then will follow up and decide that it's going to reduce its emissions. As public health professionals, what do you do with that information? What practical value is it to your profession?

**Ms. Helen Doyle:** I can answer that. From my perspective, I would say that would help us in following up on inquiries or complaints that we get from the public. I work at a local health unit. When we do get complaints, one of the issues we have is that we don't have information on exposures or on local levels of pollutants and

we try to work with our local Ministry of the Environment office. But that information is not available at the local office as well, so if we want to try to track exposures and try to relate those exposures to potential health impacts, we don't have that information to do that.

**The Chair (Mr. David Oraziotti):** Mr Barrett.

**Mr. Toby Barrett:** Thank you, to the Ontario Public Health Association. You state here, "Ontario ranks second ... to Texas in the tonnes of toxic chemicals released" and Ontario is the worst in Canada as far as the carcinogen release. This bill doesn't seem to be dealing with actual releases into the air, the water or into the environment. The focus is on filling out forms about the toxic products that they are using, hopefully safely. So I wonder if you could comment: Just how effective is this kind of legislation going to be, to have the mandatory filling out of forms, but there's not focus in this legislation on dealing with the risk of the actual releases? It doesn't seem to be addressing that. It's mandatory form-filling.

**Ms. Helen Doyle:** My understanding of section 9 and section 49 of the proposed bill—I think it does address emissions, because it speaks to tracking and quantifying. I think part of tracking substances would be the emissions of those substances as well.

**Mr. Toby Barrett:** Okay, then. But it's not mandatory to do anything about it, other than to report on it. I just wonder if that is perhaps a misallocation of resources, where the people in the industry, given the resources or direction, could do something more about the releases and perhaps spend less time filling out forms. I'm looking for results here.

**Ms. Connie Uetrecht:** It's hard to know until you've actually done some work—

**Mr. Toby Barrett:** I know they do it in Massachusetts. They've been doing it there for 20 years.

**Ms. Connie Uetrecht:** Yes.

**The Chair (Mr. David Oraziotti):** Thank you very much for your presentation and for coming in today.

That concludes presentations for today. The committee's adjourned until Monday, May 25, at 2 p.m. in this room.

*The committee adjourned at 1804.*



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