

MEMORANDUM

TO: TED SCHRECKER

FROM: STEVEN SHRYBMAN

DATE: DECEMBER 17, 1985

RE: DRAFT SUBMISSIONS OF FOE TO ROYAL
SOCIETY COMMISSION ON LEAD

I was greatly pleased to learn that you are preparing FOE's submissions to the Society and hope that these comments will be of some value.

I found the first portion of your submissions interesting and to the point given the general tenor of the Royal Society's interim report and its very clear bias in favour of requiring definitive proof as a pre-condition to regulatory action. I wonder however whether the approach you have adopted is appropriate to the audience and would consider the FOE constituency as well as the Society in this regard. My inclination would be to be less academic in setting out the issues here, particularly with regard to the level of analysis that is set out in the Society's interim report.

Would it be possible to phrase discussion of false positives and negatives in terms of burdens of proof and assumptions of guilt or innocence. As I understand it, the essential issue here is that at the end of the day choices are not as scientific as we would imagine them to be, but rather value judgments or questions of policy. I think you have phrased it quite appropriately on page 41 - "the choice of a standard of proof is a political and ethical, not a scientific, one; and it involves important judgments about the extent to which citizens can legitimately be asked to bear the risks which may result from economic activity, and about how society should decide on 'acceptable risks'".

I particularly like James Pirkle's exercise concerning compound X-10. I would add to question 4 a subsection (c) to read "your children will be administered a dose that represents between 10% and 25% of a lethal exposure". Clearly, people are going to regard these propositions as utterly beyond contemplation. That response is eminently reasonable and I would argue, determinative. Given the character of the decisions as you have described them, it would be an unconscionable and paternalistic conceit to disregard the vox populi and would be something akin to a doctor prescribing a dose of compound of X-10 to a patient without that patient's consent.

With respect to Part 2 of your submissions, I would be guided by the Society's interim report and focus attention upon those issues with respect to which the Society remains to be persuaded.

With respect to Part 3, it's great that you have tackled the nature of the industry's resistance to more forceful regulation. It seems clear that the industry's arguments with respect to the nature of risks, for example, are specious and are not motivated by a good faith desire to explore the rational and ethical issues that arise here. Rather, the arguments are purely motivated by economic self-interest. In my view, it is highly desirable to tackle the fundamental economic issues that are actually motivating industry's response. The Society seems to have been clearly persuaded by them. This is particularly disturbing given the fundamental methodological flaws in the industry's cost accounting figures.

I have yet to see in the submissions from our side to the Society an analysis or a critical review of the economic arguments being advanced by industry. It seems a pity to simply leave this issue to them by default thereby tacitly accepting the validity of their cost projections. Given the very questionable approach adopted, one wonders whether there may be any costs involved at all. As an aside, it is interesting that in making the transition from fluorocarbons to hydrocarbons, the profitability of the aerosol industry actually increased. Nevertheless and notwithstanding this empirical evidence, European aerosol manufacturers are still very reluctant to make the switch. I wonder if to some degree this irrationality may also characterize the gasoline industry's reluctance to make a similar transition. If the industry's arguments are full of fallacies, can't we expose them?

On page 50, you clearly set out the rationale that would lead one to dismiss industry projections as irrelevant and the position is one that I would clearly endorse. That being said however, and given the Society's clear biases, I believe that it still is appropriate to debunk the myths advanced by the industry if indeed they are without foundation.

With respect to issue of lead phasedown in gasoline, you should know that at a meeting with McMillan that was organized by Barbara McElgunn in Toronto on December 9th, that the Minister gave his assurance that he would vigorously advocate the complete elimination of lead from gasoline by January 1, 1989 with a fall-back being January 1, 1990. The only issue between us was whether additional reduction was warranted following those planned for January 1, 1987 pending the complete phaseout by the year 1990. The Society's recommendations are clearly out of step here and it is rather disturbing that they have taken a more conservative approach than Reagan's EPA or Mulroney's Environment Canada. I would be inclined to really take them on with respect to this conservatism.

With respect to the regulation of primary smelter emissions under the Clear Air Act, there are currently regulations limiting emissions from secondary lead smelters that have been promulgated under the Act. The "significant danger" legislative test was apparently satisfied with respect to promulgation of those regulations and this notwithstanding the much less sophisticated understanding of adverse human health impacts at the time. (July 1976). Arguably, more stringent controls could be justified on the basis of new knowledge. Further in this regard, I understand substantial lead emissions from mines, smelters and coal generation stations go virtually unregulated to the present day. While I would support your call for revision of the legislative standard set out by the Clean Air Act, I am not persuaded that it is inadequate to support further initiatives and indeed it would seem that the evidence appears to be to the contrary (see Murray Klippenstein's submissions to the Society on this point beginning at page 25).

I think your comments with respect to enforcement are well taken. I wonder however about the recommendation that a further inventory be established as a preliminary to establishing a more effective control strategy. Much of this information is available and I believe that it is possible for us to delineate in some detail a regulatory programme for emission control. Much of this work is currently going on in Ontario with respect to the Ministry's efforts to revise Reg. 308 (the point of impingement standards).

On page 64, you question the motives of those preparing the SEIA and I wonder if this is tactful. My inclination would be to vigorously assail the work and leave the reader to draw his or her own conclusions as to the motives of those preparing the assessment.

Ted, I'm new to this issue and have only had the opportunity of briefly reviewing our own and other submissions to the Royal Society. Neither have I had the opportunity of going through the interim report in any detail. Nevertheless, it seems like quite a shabby piece of work and much more of an apology for the industry than even the federal Tories are willing to mount. Do you have any idea what gives here?

Good luck with this.