

**The Canadian Chemical Producers' Association's Comments to the  
Standing Committee on General Government  
May 25, 2009**

My name is Norm Huebel. I am the Regional Director of the Canadian Chemical Producers' Association.

The Canadian Chemical Producers' Association (CCPA) represents leading companies engaged in the business of chemistry. Member companies apply the science of chemistry to create innovative products and services that make people's lives better, healthier and safer. The business of chemistry is a \$27 billion a year enterprise for CCPA's industrial chemical manufacturers through which they provide the basis for the broader \$50 billion a year chemical and chemical products sector. The chemical industry is the fourth largest in the manufacturing sector, creating up to 280,000 jobs. The basic chemicals and resins sub-sector provides jobs with salaries in excess of \$69,000 per year. Our members are efficient converters of energy and add up to 10 times to the value of Canada's natural resources by upgrading natural gas, oil, electricity, and minerals.

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

My name is David Peters. I am the Manager of Environment, Health and Safety & Responsible Care® for BASF Canada.

BASF Canada Inc. is part of the BASF Group of companies with headquarters in Germany and regional headquarters in New Jersey, USA. BASF is the world's leading chemical Company. BASF Canada operates five manufacturing facilities in Ontario. The head office is located in Mississauga. BASF Canada employs over 500 employees.

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

Some examples are:

- BASF catalysts used in automotive catalytic converters make the tailpipes of today's cars many times cleaner than previous generations.
- BASF insulating products make buildings many times more energy efficient, saving fuel and reducing air emissions. The Toronto facility blends resins used to make polyurethane foam insulation.
- BASF plastics used in components like intake manifolds make automobiles lighter and more fuel efficient.



We're here today to talk to you about a good idea that's gone wrong. Conceptually reducing people's exposure to toxics is fundamentally sound, however, reducing toxics use will not accomplish this. Use could go down but releases or emissions could go up. We have to reduce the risk of exposure to toxics. I'd just like to refresh your minds with respect to risk. As you know risk is equal to hazard times exposure. Consequently, if we can reduce the probability of exposure we can reduce the risk associated with toxics. To use an example that is not presently covered by the Act because most of it is used by municipalities but everyone can associate with let's talk about Chlorine which is an extremely hazardous substance. It is this hazardous nature that allows us to make our water safe to drink. Surely we don't want to reduce the Chlorine that is being intentionally being put into the water. Think of Walkerton. What we want to do is reduce the risk associated with Chlorine by reducing the probability of exposure not the use.

That being said we need a good sound scientific process for assessing the risk of potentially toxic chemicals – to know what chemicals we need to work on. We have that with the Chemicals Management Plan and risk assessments under the Canadian Environmental Protection Act administered by the Federal Government. We don't have to re-invent the wheel in Ontario and add unnecessary burden to Ontario's industries by creating a completely different process that does not assess risk.

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

I'm going to cherry pick some of our redrafts:

For instance in

## **Section 2. Definitions**

### Redraft of definition of a toxic substance

"toxic substance" means a substance on Schedule 1 of the Canadian Environmental Protection Act and prescribed by the regulations as a toxic substance for the purposes of this Act; ("substance toxique")

### Elimination of substance of concern

*[Note: CCPA does not understand why there is a separate definition for substances of concern. The purpose of the Act relates to toxic substances and does not mention substances of concern and the explanatory background accompanying the Act and the more detailed background that was also made available with its introduction do not justify creating this class of substances.. If, as is implied in the explanatory background, the purpose is to report on these substances because they are not on the federal National Pollutant Release Inventory (NPRI) list, then instead of setting up its own reporting regime, Ontario should seek to have these substances added to NPRI]*



Legislation should only be introduced if there is a clear purpose and there is none for substances of concern and their reporting requirements

#### Releases

In all areas where the Act talks about toxic substances that are used or created, the word released or releases as appropriate should be added.

#### **Sections 50 to 64 Limiting Regulatory Powers**

CCPA recommends that sections 50 to 64 be deleted as we do not believe there is any basis for Ontario to have regulation making powers to prohibit or regulate manufacturing, sale or distribution. This is the job of the federal government under CEPA which is very up to date legislation from 1999 that was reviewed federally in 2008 with all party agreement it was fundamentally sound.

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

#### **BASF COMMENTS**

The most significant area of concern for BASF Canada Inc. is that the proposed act does not address the risk of exposure to toxic chemicals. This results in problems for manufacturers in Ontario. By calling substances “toxic” based on hazard and not risk, facilities that safely manage the risk (reduce the probability of exposure) will still face pressure to stop using the substances.

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

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

Here is an example, Polymeric diphenylmethane diisocyanate (MDI) is a key component in making polyurethane foam and is an industrial adhesive used to make Oriented Strand Board (OSB) or “chip-board”. MDI is listed on Schedule 2 of the Toxic Reduction Strategy document. Therefore, the OSB mills in Ontario would be required to plan on reducing their use of MDI or explain why they won’t. They really have no viable options for reducing use. If they reduced the output of OSB this would make them less competitive with mills in other jurisdictions. If they switched back to only using phenol formaldehyde as the glue, they would produce an inferior product, lose market share and result in larger emissions of formaldehyde both from the mill and from off-gassing of the board in people’s homes. MDI is safely used in these mills, governed by strong occupational health and safety regulations, with minimal emissions from the mills. MDI also reduces off-gassing from the board.

MDI is also used to make polyurethane insulating products, such as steel/foam doors, insulating panels and spray foam insulation. These products greatly increase the energy efficiency of buildings resulting in less heating fuel use and fewer greenhouse gas emissions.

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

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

We thank you for your time and are pleased to answer any questions that you might have.

Note: Suggested redrafts of Bill 167 entitled: COMMENTS AND RECOMMENDATIONS BY THE CANADIAN CHEMICAL PRODUCERS’ ASSOCIATION ON BILL 167 are part of this submission