CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

May 13, 2009

Remarks to the Standing Committee on General Governance
Re: Bill 167 An Act to promote reductions in the use and creation of toxic substances and to amend other Acts

Good afternoon Chairman and Committee Members, thank you for the opportunity to address you on this critical piece of legislation. Bill 167 has the potential to substantially reduce the exposures to harmful toxic substances that Ontario facilities release in record levels to the air and water sheds of North America. In 2006 Ontario facilities reported releases of 879,246,698 kilograms of toxics to all media. Constitutionally Ontario has the right to design its own solutions to address this made in Ontario problem. We see no conflict with federal chemical management programs.

The Canadian Environmental Law Association (CELA), a public interest legal aid clinic with a law reform mandate, has worked since 1970 to reduce toxic use and influence a shift to a precautionary approach toward harmful substances. We congratulate the Premier and all members of Parliament for recognising that this is first and foremost a health issue and we are here to prevent avoidable diseases caused by chronic exposures to these substances in workplaces and the environment. CELA worked closely with the Take Charge of Toxics Coalition and our contribution to their Campaign was the drafting in August 2008 of a Model Toxic Use Reduction Act for Ontario setting out our suggestions for the best model for fast effective action. Our remarks here to day will touch on differences in our Act and Bill 167 and will briefly list matters that need to be included in the Act in the form of amendments, and other components necessary for successful Ontario toxic reduction. Many of the recommendations made by the government's Expert Panel concur with ours. We have provided you with our report *Our Toxic-Free Future: an Action Plan and Model Toxics Use Reduction Law for Ontario* as well as our other submissions.

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from a defence of officially induced error in the event of the need to prosecute under the Act, since the actions and advice of the institute would not be that of the MOE.

6. **Employee Assistance Programs** Bill 167 is silent on programs needed for employees that could be impacted by this Bill.

7. **Technical and Financial Assistance Programs for Small Businesses** Bill 167 is silent on technical and financial assistance programs for small facilities and businesses. Such assistance should be made available even if small businesses are not subject to the requirements of Bill 167.

8. **Enhanced Public Participation** Further provisions are needed to provide for adequate public access to information. A public right to apply for review of pollution prevention and substitution plans under the EBR, and a public right of action to enforce provisions of Bill 167.

Other matters that require improvement in Bill 167

1. The purpose of the Bill should include the precautionary principle and substitution of safer substances.

2. The Bill needs to cover all sectors that meet the Legislative thresholds.

3. The Minister of the Environment should lower thresholds in the Bill to capture small and medium sized facilities and particularly for carcinogens, reproductive toxins and toxins that are bioaccumulative and persistent.

4. The application of Bill 167 to consumer products should be clarified in regard to bans, restrictions, labelling and warnings.

In conclusion we urge you to look to our Model Law for ways CELA has outlined to improve Bill 167 and consider the advice of the Minister's Toxic Reduction Scientific Expert Panel. In our September 2008 submission we

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, May 13, 2009

Committee Room 228

AGENDA

Bill 167, An Act to promote reductions in the use and creation of toxic substances and to amend other Acts

4:00 p.m.	**Canadian Cancer Society, Ontario Division** Irene Gallagher Jones, Senior Manager, Public Issues
4:15 p.m.	**Environmental Defence** Janelle Witzel, Toxic Nation Coordinator
4:30 p.m.	**Canadian Cosmetic, Toiletry and Fragrance Association** Darren Praznik, President and CEO
4:45 p.m.	**Sarnia Lampton Environmental Association** Dean Edwardson, General Manager
5:00 p.m.	**Canadian Environmental Law Association** Sarah Miller, Coordinator and Researcher Joseph Castrilli, Counsel
5:15 p.m.	**Registered Nurses Association of Ontario** Doris Grinspun, Executive Director
5:30 p.m.	**Canadian Petroleum Products Institute** Eric Bristow, Director, Government Stakeholder Relations for Ontario
5:45 p.m.	**Ontario Public Health Association** Carol Pimmings, President Helen Doyle, Environmental Specialist Connie Uetrecht, Executive Director

- SUBJECT TO CHANGE -

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The Canadian Environmental Protection Act (CEPA), the National Pollutant Release Inventory (NPRI) and Ontario's Bill 167 Toxic Reduction Act ~ Potential Lists of Substances

The Canadian Chemical Producers Association (CPPA) has suggested Ontario should be basing their program on the Canadian Environmental Protection Act (CEPA) and that the Ontario government has no science-based process for adding to the list. Other assertions CCPA has made are:

CEPA is "science based" list of chemicals based on risk. Globally, we are moving away from risk assessment because it does not take into account cumulative and interactive effects. Regulators are looking at hazard and hazardous effects and exposures. The Ontario list represents hazardous chemicals. Risk assessment is an industry strategy that ties people up in knots for years trying to prove something is not good for us. It puts the onus on government and the public to prove the "risk" of hazardous chemicals, while a precautionary approach assumes that we should reduce the quantities of hazardous substances all mixed together in our environment because we can never figure out all of their possible consequences.

NPRI is "emissions-based" not "risk based". That's the point -- TRA is about toxics use reduction, and not about estimating risk. It incorporates a precautionary point of view that less toxics mean less exposure and less environmental and health risk. It has been particularly useful in reducing exposures in workplaces. These have nothing to do with emissions and

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http://www.ec.gc.ca/ceparegistry/subs_list/Toxicupdate.cfm . This list currently covers only **85** substances. Many of these are not individual toxic chemicals but conglomerations in emissions. Bill 167, if it maintains the schedule set out in the Government Discussion Paper, will eventually cover **475** substances.

- The CEPA list does not cover or stress many of the carcinogens that our July 2007 report *Cancer and the Environment in Ontario: GAP Analysis on the Reduction of Carcinogens.* This report identified **202** carcinogens of concern in use and largely unregulated in Ontario. All three parties promised to act on this Report before the last election.

- The Government Discussion Paper set out to include these carcinogens in order to meet the original objective of Toxic Use Reduction announced by Premier McGuinty which was "to reduce the environmental causes of sickness in Ontario"

- Furthermore the Government Discussion paper and their Expert Panel has targeted other substances that are known to be neurotoxins, reproductive toxins and mutagens that are not currently reported under NPRI to eventually be covered by TRA.

- The CEPA program does not require pollution prevention planning on a facility by facility basis as the TRA does.

ROOM 228

STANDING COMMITTEE ON GENERAL GOVERNMENT

REPORT OF THE SUB-COMMITTEE

Your Sub-committee 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 & 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 12:00 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 minutes increments to allow for questions from the Committee.

6. That witnesses be scheduled on a first come first serves 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 Sub-committee with a list of requests to appear.

8. That the members of the Sub-committee prioritize and return the list of requests to appear by 12:00 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 5:00 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 12:00 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 Sub-committee to commence making any preliminary arrangements necessary to facilitate the Committee's proceedings.

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See Pollution Reports for 2006 2005 2004 2003 2002 2001 2000 1999 1998 1997 1996 1995

Ontario

List of Facilities
Pollution Ranking
Pollution Timeline
View Greenhouse Gas province info

Total Reported Releases On- and Off-site - Toxics Only for Ontario in 2006 are 135,576,703 (kg)

National Ranking for Total Reported Releases On- and Off-site - Toxics Only for ON in 2006 is 3

To see other pollution reports, please go to Pollution Ranking.

Please note:

- The units of measurement for data presented below are in **kilograms (kg)**, excluding hexachlorobenzene which is measured in **grams (g)** and dioxins/furans which are measured in **grams (g) TEQ**.
- Recycling data is not included in total releases or transfers data. To obtain recycling data, please go to Who is Polluting? or Pollution Rankings.

Breakdown by Pollutants:
(NOTE: Click on the column total number for a detailed look at the data.)

Pollutant *	Air Release	Water Release	Land Release (on & off-site)	Underground Injection (on & off-site)	Total Release	Adjusted Total Release	Percentage*
Combined Total	781,002,155	54,786,431	39,060,255	4,303,571	879,246,698	875,704,954	--
Toxics Total	37,332,160	54,786,431	39,060,255	4,303,571	135,576,703	132,034,960	--

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Air Releases of Carcinogens by Province 2006

Rank	Provinces	Air Releases of Toxics of Carcinogens (kg)	Percentage
1	Ontario	2,736,369 Kilog	38. 18 %
2	Alberta	1,283,727	17. 91 %
3	Quebec	1,261,851	17. 61 %
4	British Columbia	797,639	11. 13 %
5	New Brunswick	392,403	5. 47 %
6	Manitoba	369,686	5. 16 %
7	Saskatchewan	115,839	1. 62 %
8	Nova Scotia	97,280	1. 36 %
9	Newfoundland	65,029	. 91 %
10	Northwest Territories	29,103	. 41 %
11	Prince Edward Island	18,325	. 26 %

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[2006] Ranking Provinces by Total Reported Releases On- and Off-site - Toxics Only

Rank	Provinces	Total Reported Releases On- and Off-site - Toxics Only (kg)	Percentage
1	British Columbia	386,658,218	42.47%
2	Alberta	268,313,791	29.47%
3	Ontario	135,576,703	14.89%
4	Quebec	59,634,152	6.55%
5	Nunavut	18,695,703	2.05%
6	Manitoba	12,563,645	1.38%
7	Saskatchewan	10,436,324	1.15%
8	New Brunswick	8,054,733	.88%
9	Nova Scotia	6,375,691	.70%
10	Newfoundland	3,268,456	.36%
11	Prince Edward Island	559,654	.06%
12	Northwest Territories	227,487	.02%

Benzene	317,123	212	146	2	317,498	317,498	.04%
Methyl isobutyl ketone	272,826	0	35,858	0	311,013	311,013	.04%
Chlorine	99,087	165,952	0	0	266,205	266,205	.03%
Carbon disulphide	249,296	0	0	0	249,296	249,296	.03%
Acetaldehyde	217,958	1,811	6	0	219,775	219,775	.02%
Chloromethane	199,000	0	0	0	199,000	199,000	.02%
N-Methyl-2-pyrrolidone	197,401	0	1,368	0	198,814	198,814	.02%
Phenol (and its salts)	156,448	271	11,024	0	168,468	168,468	.02%
Vanadium (except when in an alloy) and its compounds	77,047	176	78,014	0	155,311	155,311	.02%
Arsenic (and its compounds)	31,144	3,739	114,467	0	149,349	145,333	.02%
i-Butyl alcohol	136,632	0	776	0	138,776	138,776	.02%
Cadmium (and its compounds)	6,539	1,209	120,775	0	128,522	123,945	.01%
Nitric acid	18,177	30	591	92,190	112,605	112,605	.01%
Dichloromethane	102,141	0	48	0	103,557	103,557	.01%
Acrolein	101,457	0	0	0	101,457	101,457	.01%
HCFC-142b	75,773	0	0	0	75,783	75,783	--
Formic acid	65,809	0	0	0	65,819	65,819	--
Hexavalent chromium compounds	979	248	23,460	38,620	63,308	63,308	--
Chlorine dioxide	58,923	0	0	0	58,923	58,923	--
Methylenebis (phenylisocyanate)	1,932	0	55,243	0	57,579	57,579	--
Nonylphenol and its ethoxylates	19,340	35,735	379	0	55,769	55,769	--
Selenium (and its compounds)	30,180	2,441	15,472	0	48,094	48,094	--
Sulphur hexafluoride	47,382	0	0	0	47,382	47,382	--
1,3-Butadiene	42,526	0	0	0	42,571	42,571	--
Triethylamine	38,238	2,200	0	0	40,439	40,439	--
Sodium nitrite	25,408	0	3,516	0	28,924	28,924	--
tert-Butyl alcohol	25,843	940	0	0	26,783	26,783	--
Diethanolamine (and its salts)	23,808	0	92	0	24,087	24,087	--
Cobalt (and its compounds)	4,086	283	15,784	0	20,272	20,272	--
HCFC-141b	19,711	0	0	0	19,732	19,732	--
Acetonitrile	18,994	0	0	0	19,174	19,174	--
Carbonyl sulphide	18,678	0	0	0	18,678	18,678	--
Hydrogen cyanide	18,606	0	0	0	18,676	18,676	--

2-Ethoxyethyl acetate	1,394	0	0	0	1,394	1,394	--
Pyrene	596	4	730	0	1,329	1,329	--
Acenaphthylene	639	0	682	0	1,320	1,320	--
Diphenylamine	1,267	0	0	0	1,277	1,277	--
Hexachlorobenzene	904,998.0000	113,561.0000	82,048.0000	.0000	1,100,607.0000	1,100,607.0000	--
HCFC-124 and all isomers	0	1,000	0	0	1,039	1,039	--
Dimethyl phenol	867	0	0	0	867	867	--
1,2,4-Trichlorobenzene	856	0	0	0	856	856	--
Dibutyl phthalate	0	0	0	0	755	755	--
Fluorene	172	0	555	0	727	727	--
Toluenediisocyanate (mixed isomers)	501	0	0	0	634	634	--
Anthracene	354	0	259	0	613	613	--
Dibenzo(a,i)pyrene	611	0	0	0	611	611	--
Toluene-2,4-diisocyanate	3	0	593	0	598	598	--
2-Mercaptobenzothiazole	0	0	0	0	562	562	--
Silver (and its compounds)	506	25	10	0	552	552	--
1,4-Dioxane	543	0	0	0	543	543	--
Benzo(a)phenanthrene	310	2	199	0	511	511	--
Octylphenol and its ethoxylates	332	0	0	0	503	503	--
Benzo(a)anthracene	191	1	285	0	477	477	--
PAHs, total Schedule 1, Part 2	382	5	68	0	456	456	--
Benzo(a)pyrene	161	3	290	0	454	454	--
Ethyl acrylate	46	0	0	0	450	450	--
Quinoline (and its salts)	426	0	0	0	426	426	--
Butyl acrylate	289	0	0	0	424	424	--
Phthalic anhydride	214	0	0	0	325	325	--
Benzo(b)fluoranthene	151	1	137	0	289	289	--
Cyclohexanol	17	0	0	0	273	273	--
Toluene-2,6-diisocyanate	0	0	198	0	198	198	--
Benzo(k)fluoranthene	81	1	108	0	190	190	--
Phosphorus (yellow or white)	140	0	50	0	190	190	--
Acrylic acid (and its salts)	110	0	33	0	185	185	--
p,p'-Isopropylidenediphenol	159	0	0	0	159	159	--
Nitrilotriacetic acid (and its salts)	0	0	0	0	137	137	--
Iron pentacarbonyl	129	0	0	0	129	129	--

PM - Total Particulate Matter	41,570,550	0	0	0	41,570,550	41,570,550	4.73%
PM10 - Particulate Matter <=is 10 Microns	27,926,397	0	0	0	27,926,397	27,926,397	--
PM2.5 - Particulate Matter <= 2.5 Microns	17,012,396	0	0	0	17,012,396	17,012,396	--

* Click on pollutant's name to see its health effect on external site

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