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# Standing Committee on Environment and Sustainable Development

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**EVIDENCE**

## Tuesday, March 20, 2007

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## Chair

**Mr. Bob Mills**

# Standing Committee on Environment and Sustainable Development

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● (1105)

[*English*]

**The Chair (Mr. Bob Mills (Red Deer, CPC)):** We have a quorum.

I would just like to review quickly with members what I hope to accomplish.

Obviously we have two private members' bills that we're looking at today: Bill C-298 and Bill C-307. As you can see, we've allocated 45 minutes for each of these bills. So I would like to ask members, if they would agree, to go to five minutes on the questions on the first round instead of the normal ten minutes. That way we can get the maximum number of questions.

Our other question will be that we have now scheduled Bill C-298 from 11 o'clock until 11:45, with the possibly of extending that 15 minutes if necessary, due to the motion already having been dealt with. We'll wait until Mr. McGuinty gets here. Mr. Regan will talk to him; he understands what I'm trying to do.

I will hold you to five minutes. Perhaps we could start with Bill C-298. As you can see, we have witnesses and we have department people here as well. So if we could keep it to five minutes, and I would ask our witnesses as well if they could keep it as short as possible, five minutes ideally, then we will have the maximum time for questions and can get through both these bills.

Perhaps you could begin, Mr. Khatter.

**Dr. Kapil Khatter (Environmental Defence Canada):** Thank you, Chair, committee members.

We don't have much time, so we'll be brief. We're talking today about Bill C-298, which is a bill to virtually eliminate perfluorooctane sulfonate, or PFOS.

The Canadian Environmental Protection Act says that any toxic substance that is mostly due to human activity and is persistent, bioaccumulative, and inherently toxic is supposed to be virtually eliminated. PFOS is extremely persistent and bioaccumulative, more so than even our famous persistent organic pollutants DDT and PCBs. It stays in the environment for decades, and the human body takes over eight years to clear just half of it.

Human studies have found increased rates of bladder cancer, male reproductive cancers, liver cancer, and multiple myeloma. That's in worker studies and in studies of people living around factories using PFOS.

Animal studies have shown that PFOS harms the thymus, the pancreas, the brain, and the immune system. What really alarmed the United States Environmental Protection Agency when they first looked at PFOS was that when they gave PFOS to pregnant rats, it killed the pups, their kids. When they lowered the level of PFOS enough so that the pups survived, many of the grandkids didn't survive, meaning that the majority of the pups' pups died. The EPA found this to be a rare finding, and they found it extremely alarming. At the time, they concluded that

> PFOS represents an unacceptable technology that should be eliminated to protect human health and the environment from potentially severe long term consequences.

The United States banned PFOS in 2000, with certain exceptions. Since then, Sweden has called for a global ban, nominating PFOS as a persistent organic pollutant under the Stockholm Convention on Persistent Organic Pollutants, again with exemptions for semiconductors and photography for the moment.

We were happy in the spring of 2006 to see this private member's bill, six years after the United States banned PFOS. We saw this as an attempt to catch up with our neighbours. Since then, the government has announced its own prohibition, with exemptions, and the government's assessment under CEPA, the Canadian Environmental Protection Act, found PFOS to be persistent and toxic, but not to be bioaccumulative. This is because of the way the regulations for bioaccumulation are written. They didn't anticipate that substances like PFOS would bioaccumulate in new and novel ways, or what we're finding out are new ways.

Even though PFOS is possibly the most bioaccumulative chemical we know, it has been declared not bioaccumulative in Canada. This private member's bill will declare PFOS a candidate for virtual elimination, as it should be as a persistent bioaccumulative and inherently toxic substance.

There is concern about a lack of alternatives in some uses: in making semi-conductors, for certain photography uses, and for chrome and electroplating. These exemptions are found in the proposed prohibition regulations. We think the government should take another serious look at the need for these exceptions, always keeping in mind that health and a healthy environment need to come first. In particular, there should be another look at chrome and electroplating. Half of the platers in Canada don't use PFOS, so it's hard for us to see why the others cannot switch over.

PollutionWatch believes that PFOS should be listed for virtual elimination, as it meets the criteria in real life. What the government needs is more flexibility in how virtual elimination is done. As raised before this committee at the review of the Canadian Environment Protection Act, virtual elimination needs to be fixed. We need to eliminate the level of quantification that is making virtual elimination unworkable.

As well, there should be the option of using prohibition as a tool for virtual elimination, so that we can put something on the virtual elimination list because it's persistent, bioaccumulative, and inherently toxic. The prohibition should be a justifiable way of making that elimination happen. The goal of virtual elimination, after all, is to continuously work towards getting rid of PFOS. In that light, any exemptions to a prohibition need to be temporary.

The objective is to eventually eliminate manufacturer import, use, and release. There is a global movement to do this, as I've said, with Sweden having nominated PFOS to be listed under the Stockholm Convention. Canada should be helping by vocally supporting this nomination internationally and by eliminating PFOS at home.

Finally, just as a comment, the PFOS case has revealed problems with our bioaccumulation regulations. The government should amend these regulations to reflect what we know today about bioaccumulation.

In summary, we ask the government to add PFOS to the virtual elimination list, to fix virtual elimination, to amend the bioaccumulation regulations, and to be a leader in ridding the world of PFOS.

Thank you.

● (1110)

**The Chair:** Thank you, Mr. Khatter.

Mr. Clarkson, Mr. Moffet, I believe you have comments.

**Mr. John Moffet (Acting Director General, Legislation and Regulatory Affairs, Environmental Stewardship Branch, Department of the Environment):** I have the dubious distinction of being the only government representative who will speak.

I'm here with Steve Clarkson, from Health Canada, who is available to answer any questions that committee members may have; and Greg Carreau, from Environment Canada, who is the lead risk manager for PFOS within Environment Canada. He is available to answer questions as long as his beeper doesn't go off, because his wife may enter into labour at any moment.

**The Chair:** We would excuse him if that happens.

**Mr. John Moffet:** If he leaves, it's not because you've offended him.

Thank you.

Let me start by stating very simply that the government completely supports the need to address PFOS. Any debate that you see this morning is not about PFOS, and it's not about the need to get rid of PFOS. What we're talking about this morning are some fairly technical issues.

Dr. Khatter suggested that PFOS should be added to the virtual elimination list, but he also suggested that one of the problems we're encountering with this very bill highlights the problems that we have with the virtual elimination list.

I hope I'm not misinterpreting, but I understood him to say that we should be eliminating the “level of quantification requirement” in CEPA that is associated with the virtual elimination list provisions at the moment, and that we should be allowing prohibition, or a prohibition regulation, as a means for implementing virtual elimination.

I agree 100% with that position. Unfortunately, that's the CEPA that we'd like to see, but not the CEPA that we have today. The CEPA that we have today says that if we add something to the virtual elimination list, we have to develop a level of quantification and we have to have a ministerial release limit regulation, notwithstanding the fact that we may already have prohibited the substance through a governor-in-council regulation.

That's what Bill C-298 would have us do. Despite the fact that the government has introduced a regulation to prohibit the substance, this bill would require us to develop a level of quantification and another regulation to limit its releases from products. It's our position that those two extra steps—a level of quantification and a release limit regulation—will simply be make-work projects and will not add any value to the environment or to human health.

That was not the case when this bill was introduced, to Ms. Minna's credit. When this bill was introduced in May of last year, the government had not added this substance to the list of toxic substances and we had not introduced a regulation. Since then, however, the government did add PFOS and its salts and its precursors to the list of toxic substances. The government did this in December 2006.

In the same month, the government introduced a proposed regulation and published that regulation in part I of the *Canada Gazette*. That regulation would prohibit the import, manufacture, use, and sale of PFOS, its salts, and its precursors, as well as any products containing those substances.

As Dr. Khatter explained, that regulation would allow four critical use exemptions. It's our understanding that these four exemptions are the same exemptions that the United States EPA and the European Union have allowed. Those are the two jurisdictions that have actually implemented regulations to address these substances.

The four exemptions are as follows. The first is a five-year exemption for fume suppressants for the metal-plating sector. These are needed until alternatives are in use throughout this sector. We need to suppress fumes because those fumes contain other dangerous substances, such as hexavalent chromium. Here we have a classic trade-off of one bad substance for another. We recognize the need to eliminate PFOS, as do the other jurisdictions. What we're doing is allowing a very clear timeframe within which to implement, to purchase and install, the technology and processes needed to use alternative fume suppressants.

The second is a five-year exemption on the use of existing stocks of firefighting foam. You can't buy any new firefighting foam. As for the stuff that you got from the fire stations or the large institutions, you can continue to use that material for up to five years, after which, even if you still have it, you have to get rid of it. You certainly can't buy any new firefighting foams that contain PFOS.

● (1115)

The third exemption is for photographic material and semiconductor devices for which critical use exemptions have been granted in jurisdictions where these devices are manufactured.

The final exemption is for the sale and use of manufactured items that were manufactured or imported into Canada before the regulations came into force. We're not asking people to take products off the shelf. If they're on the shelf, if they've been manufactured or imported, we're just phasing them out, essentially. You can't bring in any new products. As I explained, this regulation was published in *Canada Gazette*, part I, in December of 2006. We're now working under a timeline to bring those regulations into force this calendar year.

So why is that enough? Why don't we also need the steps that Ms. Minna outlines in Bill C-298?

First, the government regulation would prohibit not just PFOS but all chemicals that degrade into PFOS. The current bill is limited to PFOS, and the government's regulation goes beyond it. Obviously that would be a simple amendment to the bill.

Second, the government regulation goes to the source of the problem. It would prohibit sources of PFOS in Canada. The key route for the release of PFOS into the environment is through the breakdown of consumer products over time. So instead of regulating releases of PFOS from those products, the government bill would go to the source of the problem and prohibit its use in those products.

Third, it would be easier to enforce the government regulation. The government regulation, as I've explained, focuses on the use of PFOS, and would prohibit the use of PFOS. That's something we can monitor and enforce. A release-limit regulation, on the other hand, would require us to focus on products, and look at whether those products are releasing the substance. That means measuring PFOS coming off of manufactured articles, as opposed to just saying you can't use it any more. It would be much more cumbersome to enforce.

Finally, it's our position that at least two of the three actions the bill requires won't add value to health and the environment.

The bill would require the Minister of the Environment to develop a release-limit regulation, as I've explained, and it's our view that this would be redundant. We're prohibiting the use. You don't need to also regulate releases. If you can't use it, there won't be any releases.

The bill would also require a level of quantification, or LOQ. The only reason you need a level of quantification is to develop a release regulation. The premise of the virtual elimination regime is that you develop a level of quantification, which is the lowest level we can measure using routine but sensitive analytical methods. Then you put that in the regulation, and say that you can't have any more than that being released.

Well, if we're not developing a release regulation, we don't need the LOQ. It costs a lot of money to develop an LOQ, so let's force the government to spend that money only if we think it will add value.

The third thing the bill would do would be to add that substance to the virtual elimination list. Now, there may be some symbolic value in adding the substance to the virtual elimination list. As Dr. Khatter has stated, there are international efforts under way to add PFOS to the Stockholm Convention, which would have influence in other countries, including developing countries that continue to use PFOS. If putting the substance on a list in Canada would further those international efforts, and if the committee is of that view, then certainly there may be some merit there. But it's our position that in terms of actually requiring the government to take those extra steps of developing a second regulation and a level of quantification, it would not go any further than our current regulation would go, which is to completely prohibit the substance.

Thank you very much, Mr. Chair.

● (1120)

**The Chair:** Thank you, Mr. Moffet.

For the benefit of members who have just arrived, we have agreed—I hope—to five minutes in the first and second rounds so that we can get through this private member's bill and the next one. I'll keep it fairly tight to five minutes. That way we'll get in all of the questions.

Mr. Rota, please begin.

**Mr. Anthony Rota (Nipissing—Timiskaming, Lib.):** Thank you, Mr. Chair.

Thank you for coming in this morning and explaining PFOS. I have to admit it's not something that I'm terribly aware of on a day-to-day basis. I guess what's troubling about it is it is intergenerational. It does pass from one person to an offspring, possibly changing some characteristics down the road.

The questions are regarding CEPA and the virtual elimination section in there. When I read through this, it just seems like it's slipping through the holes. I'll ask two questions. One of them is fairly pertinent and the other one is just more for my own information.

How can the virtual elimination section be changed within CEPA? What changes do you see happening so there isn't that gap in the floorboards so that it falls through? How would you make that change to CEPA?

The other question I have is regarding the metal plating sector. You're suggesting a five-year exemption right across the board, although Dr. Khatter mentioned that only half of the metal plating sector is using PFOS at this time. Why the five-year exemption if the technology exists today and it is that dangerous and causes that much of a problem?

If you can answer those two questions, I'd appreciate it.

**Mr. John Moffet:** Sure. I'll answer the first question and then I'll ask Mr. Carreau to answer the second question.

The first question had to do with virtual elimination. Your perception, as I understand it, is that PFOS has somehow fallen through the cracks. I hope to allay that concern. What the government has done is proposed a regulation to prohibit the use of this substance. Prohibition goes well beyond virtual elimination, but the way virtual elimination is defined in the act it's a virtual elimination of releases, not a virtual elimination of uses. That's an artifact of the way the act is written. This committee is currently conducting a review of CEPA, and it may want to look at that, but the way the act is written now, it's a virtual elimination of releases.

There are various problems with the way the act is constructed now. One of them has to do with the requirement that in all cases, a substance that is identified for virtual elimination must have a level of quantification; it must have a ministerial release limit regulation. As I think we've all agreed, that's not always appropriate. Virtual elimination may be appropriate for substance A, but you may not need a release limit regulation. If you're going to prohibit the substance, you don't need to limit it. You don't need to also regulate its releases. CEPA doesn't give us that flexibility right now. That's a problem, in my view, that this committee may want to address, probably not through this bill hearing, but through the CEPA process.

Another problem that Dr. Khatter legitimately raised is that the bioaccumulation regulations didn't catch this substance, so this substance doesn't bioaccumulate in accordance with the criteria established by the bioaccumulation regulations that have been developed under CEPA. We know that's the case, and we're currently revisiting those regulations. We don't need to change CEPA to do that; what we need to do is revise the regulations. We're currently in the process of revising the regulations that define the criteria for bioaccumulation to allow us to address this problem.

Now, to be perfectly candid, that hasn't been urgent, to date, because we didn't want to catch ourselves in the virtual elimination bind, where if it had satisfied the B requirement, the bioaccumulation requirement, we would then have had to go down the route of an LOQ and a release limit regulation, when what we really wanted to do with this substance was ban it. So we need to fix the statute and then we can identify more things as PBiTs and slate them for virtual elimination, but allow the government to do the right thing for each substance, as opposed to locking us into one certain route that may be appropriate for some things but not others.

I'd be happy to go into more detail, but let me stop there and turn to my colleague to answer the question about the rationale for—

● (1125)

**The Chair:** You have 15 seconds to answer.

**Mr. Greg Carreau (Commercial Chemicals Formulation, Department of the Environment):** The short answer is that technology doesn't exist for alternatives to PFOS in the metal plating sector. There has been some penetration of some alternatives and some applications, but the reality is that this sector is quite diverse. There's quite a different number of metals involved and different applications, and the technology just isn't there yet to suppress the fumes as a result of the plating for the whole industry sector. Again, there are small penetrations in some areas, but across the board we're not there. We're working with the industry sector and we've given them a clear date of five years to develop the alternatives and get them on the marketplace.

**Mr. Anthony Rota:** So it's not 50% using it and 50% not using it, then.

**Mr. Greg Carreau:** No.

**Mr. Anthony Rota:** Okay. That was my understanding from what I heard.

Thank you.

**The Chair:** Thank you.

Mr. Bigras.

[*Translation*]

**Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ):** Thank you, Mr. Chairman.

I will keep it short. My first question will be directed to Mr. Moffet, and my second, to Dr. Khatter.

I don't quite understand the government's position on perfluorooctane sulfonate, or PFOS. If I understand correctly, the government published a recommendation in the *Canada Gazette*, Part I, as recently as October 2, 2004. Therefore, there was a proposal on the table. The public had 60 days to comment. Two and a half years later, we're debating a bill that addresses in part the question raised by the government in 2004.

Why has it taken you so long? You said you moved on this issue in December 2006. Why did it take you so long to deal with PFOS?

Dr. Khatter, are you satisfied with the statement made by Mr. Moffet this morning, and with the proposals made in December 2006? To all intents and purposes, do they render the bill now on the table obsolete?

[*English*]

**The Chair:** Dr. Khatter, do you want to reply to that while Mr. Moffet is consulting?

**Dr. Kapil Khatter:** Thanks for the question, Chair.

To respond to the first part of the question, which was actually more for Mr. Moffet, part of what we've been concerned about and we've spoken at length about at the CEPA review is the lack of timelines that occur in terms of getting substances on the schedule of toxic substances, and after they're on the schedule of toxic substances, the length of the timelines the government has for proposing regulations and then finalizing regulations. We've been pushing for the idea that it really needs to be sped up. There's no reason that it should have taken us until 2004 to even propose anything, and until now we're still sitting on trying to decide what we're going to do with PFOS.

In terms of whether this bill is useful, I think we're less concerned about how you get PFOS out of the system than that you get it out of the system. So will you support the idea of using prohibitions? But let's be clear about the fact that we don't need release limits and the fact that the prohibitions have exemptions. There will be releases: the chrome-plating sector, the electroplating sector, the plastic-etching sector will be still releasing substances. Those who are making semiconductors will still be releasing PFOS. We do need release limits for that area.

The other part of it is that PFOS is a substance that should be virtually eliminated. It is persistent. It is biocumulative. It is inherently toxic. It is appropriate and important symbolically to make sure that it gets on the list and is labelled for what it is, both, as Mr. Moffet says, internationally in terms of the symbolism and domestically in terms of CEPA.

● (1130)

**The Chair:** Mr. Moffet.

**Mr. John Moffet:** Thanks, Mr. Chairman.

I'd like to ask your permission to refer the first question to my colleague Robert Chénier, who is the manager of the assessment section at Environment Canada. So he manages all of the risk assessments and has the full history of the assessment that was undertaken.

**The Chair:** I would ask you to keep it as short as you can. As you know, we're under a time crunch here. Thank you.

[*Translation*]

**Mr. Robert Chénier (Manager, Assessment Section, Existing Substances Division, Department of the Environment):**

Thank you very much.

The assessment report was indeed published in the *Canada Gazette* in October 2004. Further to this process, we invited members of the public to send us their comments on the report, on our scientific findings, and so on. We received many comments, in particular about the bioaccumulation of the substance. The fact remains that research into perfluorinated substances like PFOS is a relatively new field. Ten years, ago, no one really knew much about these substances. Science has evolved considerably.

So then, we received comments, in particular about the accumulation of these substances and their effects. As is always the case, we were required to take a serious look at these comments and to convene a meeting of international experts. In 2005, European, American, Canadian and Japanese experts came together to discuss accumulation issues. As Dr. Khatter mentioned earlier, according to the report, this substance does not meet the accumulation criteria under the Canadian Environmental Protection Act. The report found that based on new scientific data, the substance accumulates in organisms.

In short, we were able to use this time to conduct additional research and to consult with international experts in order to do an assessment and reach some conclusions on substance accumulation.

[*English*]

**The Chair:** Thank you.

We'll go on, please, to Mr. Cullen.

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** Thank you, Chair.

Thank you to the witnesses, and to Mr. Carreau in particular, for being here today, given the circumstances. And congratulations.

I have a question for Mr. Khatter. If the government listed this substance in December 2006, is that not sufficient in answering some of the issues raised and presented in Bill C-298? Is it not enough that the government has listed it on the banned substances list and Canadians should feel satisfied with that?

**Dr. Kapil Khatter:** Again, I think the prohibition does well. We do need to follow the path that we've decided in Canada of virtually eliminating substances that are persistent, biocumulative, and inherently toxic, and virtual elimination will allow us to move toward zero emissions in Canada.

In particular, when we're looking at the chrome-plating sector and the electroplating sector, where PFOS will still be in use, if you look at the *Gazette* notice, it speaks of the number of plating companies in Canada using PFOS and the number that aren't, and it is about a 50-50 split. I don't know enough about the sectors, but that may cut down on the lines of certain uses and some that need PFOS more than others. But I think the government needs to look at the fact that the nomination of PFOS to the Stockholm Convention does not include an exemption for chrome plating and electroplating.

As well, in the U.K. there is a widely available consulting report to their environmental agency that also does not recommend an exemption for chrome plating and electroplating and says that fume hoods and other technology is available to eliminate the use of PFOS or to switch over from PFOS.

**Mr. Nathan Cullen:** So if I understand this point clearly, the government's actions in December, while moving in the right direction, the thing added by this bill is the continued release of PFOS and other industrial processes right now.

**Dr. Kapil Khatter:** Yes, that's part of what it would do.

**Mr. Nathan Cullen:** There seems to be some challenge of this, Mr. Carreau, in terms of what's happening on the industrial side if what's being suggested in the Stockholm Convention and what's in place in England is not suggesting any alternatives. Clearly, they have this industrial sector as well. Are there not substitutions available for PFOS in this part of the industrial process?

**Mr. Greg Carreau:** Of the 50% that are referenced in the *Gazette* publication, there are a number of control technologies that are available to the metal-plating sector as a whole. Basically it's a bath that they put the metal plating in. There's an option where you put a closed cover on top so that the fumes don't come out of it.

Fifty percent of that industry sector is using a fume suppressant. The other half is using the other technologies, like a closed cover or other control technologies. Of the 50% that are using a fume suppressant, virtually all of them are using PFOS. There is 50% of the metal-plating sector that we anticipate is using a PFOS substance, but all of them are using the fume suppressant. Because of the distinct and unique operations within that industry sector, they have to use a fume suppressant—it is an essential qualification.

The EU recently published a directive in December 2006 that did reference the chromium and metal-plating sector as an exemption. Although the U.S. EPA has not published an exemption for the metal-plating sector, it is under consideration under the 2006 significant new use rule that they published in 2006.

● (1135)

**Mr. Nathan Cullen:** This is an important piece, and I'll go back to Mr. Khatter for this.

I appreciate that you're not an expert on this particular part of the industrial process, but an important consideration in CEPA, or when we go and list substances this way as suggested by Bill C-298, is that there is some substitution available. We're trying to see the implications of this bill going ahead and passing into law. If it were to do so, from what you're hearing today, are there any considerations the committee would have to make for some part of the industrial sector, or can they simply adapt, by your opinion?

**Dr. Kapil Khatter:** As you say, I don't have the clear answer on whether the exemptions for the chrome-plating and electroplating sectors are rational. There's a contradiction internationally, where the U.S. originally did not exempt it and is considering exempting it now; the EU is considering exempting the sector; the international ban at the moment, which is widely supported, will not exempt the sector; and the U.K. has no plans to exempt the sector either.

What having virtual elimination on top of these prohibitions with exceptions will do—and again, we're talking about prohibitions that are allowing people to still use PFOS in these sectors—is deal with the emissions from those sectors, if we are going to allow this exemption to go forward. I think it still needs more study and some transparency. We need to at least be controlling the emissions from the use of those sectors, how PFOS is disposed of, and how much PFOS pollutes when the platers are using it.

**The Chair:** Mr. Cullen, your time is up.

We'll go to Mr. Warawa, please.

**Mr. Mark Warawa (Langley, CPC):** Thank you, Chair.

Thank you to the witnesses for being here. I'd also like to thank the Honourable Maria Minna, who is the author of Bill C-298, for bringing this bill to this committee.

The focus of my questioning is to provide the right tools to deal with PFOS. I think that's the intent of Dr. Khatter and also the staff here. Environment Canada has said we need to get rid of PFOS, and right now its use is being prohibited.

What we see in Bill C-298—and Dr. Khatter has a recommendation—is that PFOS should be on the virtual elimination list. We've heard from Mr. Moffet that that may not be the best tool or the most practical way of dealing with it.

I would like specific recommendations from Dr. Khatter and Mr. Moffet as to how they would change Bill C-298 to be the tool that achieves what we all want to see happen here.

**Dr. Kapil Khatter:** Well, I'm not sure that we've proposed any amendments as to how to change it. I think we're pretty happy with it the way it is. We understand there will be a statutory requirement for the moment, if you put it on the virtual elimination list, to look at the level of quantification before you look at release limits.

Although that isn't necessarily appropriate, as Environment Canada has said, for PFOS where it's in consumer products, that will be completely appropriate for the use of it in the chrome-plating and electroplating sector, if we're going to continue to allow that usage.

I don't think at the moment that PollutionWatch has a proposal for amending Bill C-298. We think that adding it to the virtual elimination list on top of the prohibitions is a rational approach.

**Mr. Mark Warawa:** Okay, so you're still supporting virtual elimination, regardless of the testimony that we've heard.

● (1140)

**Dr. Kapil Khatter:** Yes.

**Mr. Mark Warawa:** Okay.

Mr. Moffet, could you make a recommendation or advise the committee on what would be appropriate tools within Bill C-298?

**Mr. John Moffet:** Bill C-298 requires the minister to do three things: first, add PFOS to the VE list; second, specify a level of quantification; and third, make regulations prescribing the quantity or concentration that may be released into the environment.

My testimony earlier suggested that the latter two things won't add value. Developing an LOQ won't do anything in the context of the prohibition regulations, nor will creating release regulations, which could specify any amount and which could be addressing any or all aspects of release or sources of release. The statute's very vague.

So, again, I come back to the possible international symbolic importance of adding a substance to the VE list. The department wouldn't have any objection to limiting the bill to that step.

**Mr. Mark Warawa:** Okay, thank you. That's it.

**The Chair:** Good. Thank you.

I'd like to thank our guests. Mr. Carreau, you made it, and with no beeper. Hopefully, it all goes well later with your beeper.

We will just suspend for a moment to change witnesses, and we'll go on to Bill C-307.

**Mr. John Moffet:** Mr. Chairman, I'll just clarify that there will not be an Environment Canada representative at the table for the next bill, which is a Health Canada bill. Mr. Chénier will remain. If there are technical questions, he'll be available to answer them.

**The Chair:** Thank you, Mr. Moffet.

● _____ (Pause) _____ ●

**The Chair:** If I could call us back to order, we are again going to be in somewhat of a time crunch. I would again ask our witnesses to please keep their comments to five minutes, and I'll also ask our members to keep their questioning to five minutes on the first round. It's the only way we're going to be able to get through this.

If we could, we're beginning on Bill C-307. I would ask our first witness, Mr. Upshall, to please begin.

● (1145)

**Mr. Phil Upshall (National Executive Director, Mood Disorders Society of Canada):** Why am I first?

**The Chair:** It's because you're first on the list.

**Mr. Phil Upshall:** That's exciting.

Thank you, Chair, for the opportunity to be here.

My apologies to all of you for not having the opportunity to submit a brief.

The Canadian Alliance on Mental Illness and Mental Health and the entire mental health community have been involved in the advocacy for the Canadian Mental Health Commission, which was recently established in the budget. We've concentrated there.

However, I have instructions to tell you that we're honoured to have the opportunity to make a presentation here this morning, brief though it may be, about raising awareness of mental illness and brain damage caused by toxins, particularly phthalates, in this instance.

We support the general implications of the bill. Particularly with regard to baby products and products aimed at pregnant women, we think it's quite appropriate to ban the substances.

At this stage of the game, I'm a past member of the advisory board for the Institute of Neurosciences, Mental Health and Addiction. I've consulted Dr. Rémi Quirion on this issue, and he's advised me that there has not been adequate research in this area from a mental illness or brain damage perspective. He would recommend that until there is research, this type of substance should be banned because of the implications and the work that's been done in the European Commission.

Suffice it to say that we appreciate the opportunity to be here. We support the bill, and we support greater awareness of committee members on issues relating to brain damage and corresponding mental illnesses, including depression, that follow from neurological issues.

I'll leave it there to keep the ball rolling. If there's anything I can help you with, I'd be happy to.

**The Chair:** Good. Thank you, Mr. Upshall. I appreciate that.

Ms. Brody.

**Ms. Charlotte Brody (Executive Director, Commonweal):** Thank you.

I'm a registered nurse, and I was one of the founders of Health Care Without Harm in 1996. Health Care Without Harm is an international campaign on environmental responsibility in the health care industry. In that first year, in 1996, it was part of my job to review the science on phthalates to decide whether or not there was enough to include it in the original mission and goals of Health Care Without Harm.

At that time there were a few studies about phthalates as a carcinogen, some about phthalates as a cardiotoxic chemical, but there wasn't enough. I recommended against including phthalates in the first mission and goals of Health Care Without Harm, because compared to dioxin, compared to mercury, there just wasn't a lot of science there. But in just a few years, in three years, there were so many studies that had been done that were so profound in looking at phthalates not as a carcinogen but as a reproductive toxin that we were part of the effort at the national toxicology program in the United States to look at phthalates and have it listed as a reproductive toxin.

Then my history as a nurse in a neonatal intensive unit became useful, because the research docs, the toxicologists who were in the NTP, really hadn't spent much time in NICU and didn't understand the multiple exposures that a child could have from the tube giving nourishment, the tube giving air, the tube giving IV fluids, the isolate itself, the vinyl gloves of a nurse. All of those were different exposures that needed to add up.

At the same time, there were new studies that showed that you really had to think about exposure to different phthalates in a cumulative way so that the phthalates from the shower curtain made out of vinyl and the phthalates from the vinyl dashboard in your car got added to the phthalates in medical devices, got added to the phthalates in cosmetics, and between them could be enough to cause harm, especially to babies in the womb and very young children.

In 2000 NTP found DEHP to be a reproductive toxin, and Health Care Without Harm worked with the FDA to issue a public health notification. We got to spend a lot of time in hospitals that were trying to implement this new public health notification. We realized, and this is what I've come to talk to you today about, that it's not enough to label, and it's not enough to label and educate, because when a baby presents in a neonatal intensive care unit, that's the wrong time for the physician or for the parent to be specifying DEHP-free. You want every device that can be free of DEHP, and there are always going to be some exceptions, to be phthalate-free if possible.

Since the NTP made its findings in 2000, there have been 150 studies on the reproductive toxicity of DEHP and other phthalates. I want to tell you about four of them that came out in the last twelve months. A 2006 study of vinyl flooring factory workers in China showed that these workers had higher levels of DBP and DEHP than a control population, and lower levels of free testosterone. A 2006 study from Finland tied DHP from vinyl wall coverings to adult onset asthma in office workers. A Boston study found that men with more DBP had impaired sperm quality than at levels that you find in the general population. And a German study of rats showed that low levels of DHP suppressed the activity of the key enzyme that's necessary for the masculization of the brain.

The findings of each of these studies is supported by most of the hundred plus other pieces of peer-reviewed research. While there are confounding reports, often funded by industry, the weight of the evidence is that the DHP, BBP, DBP, and other phthalates are toxic to the male reproductive system, that they are anti-androgens, interfering with a male rat or a baby boy's in utero capacity to become male.

Let me just explain how it works. All of us start out as girls in the womb, and then if you have a Y chromosome, the body is lightly bathed in a wash of testosterone, and that's what turns female embryos into male babies. Phthalates seem to interfere with the testosterone bath. What we see is what's called testicular dysgenesis syndrome, TDS, that's linked to testicular cancer, undescended testes, hypospadias, and low sperm counts. I want to suggest to you that those are the parts of being male that we can see, and that we have reason to be concerned about what anti-androgens are also doing to the parts of maleness that we can't see.

● (1150)

Given the cumulative properties of phthalates, and given that phthalates cross the placenta, and given the alarming CDC data on phthalates in women of childbearing age, some of us in Health Care Without Harm worry that what good was it doing us to get phthalates out of medical devices where we could, if women were going to present in labour already full of phthalates?

So we started looking for phthalates on the labels of personal care products, because we knew phthalates were in women at higher levels than in men. When we couldn't find them on the labels, except for nail polish, we did our own testing and found phthalates in 72% of the products we tested.

I brought you one of the products we tested. This is actually from the sample. This is Poison, by Christian Dior—aptly named—which had more phthalates than any other product we tested. I brought it today because while you would think that while it had BBP and DEHP and DP and DBP in 2002, something would have changed in the five years since then. But at the beginning of this year, January 2007, *Consumer Reports* did their own follow-up testing of phthalates in personal care products. They tested both the European and the U.S. versions of Poison and still found DEHP and DBP in the products.

I want to close by saying why I think that's really important.

Christian Dior doesn't add DEHP on purpose. When they add the fragrance, the DEHP is there. In the same way, the manufacturers of teething rings or rubber duckies aren't adding phthalates on purpose; they're making products out of vinyl, and the phthalates are in the vinyl. So it's very important in the language of these bills that it not just be what's voluntarily added, but actually what's in the product to be able to actually enforce the law in the way you want to. If there is language like that, we're going to be continuing the don't look, don't tell, don't test, and deny-and-spread-doubt culture. That culture dominates current chemical policy in the United States. And I have come all this way from California because I am hopeful that we will be able to change that situation soon in the U.S., both federally and in the states, especially if we have your leadership.

So let me just close by saying that as a nurse, as someone who has followed the phthalate science, as someone who was an early doubter of the danger of phthalates, but mostly as a mother of sons and as someone who is a little bit desperate to become a grandmother, I urge you to pass the strongest possible bill. I am proud to be a woman, but I want my sons and my grandsons to grow up to be the men they were supposed to be, not the products of phthalate contamination.

Thank you.

● (1155)

**The Chair:** Thanks, Ms. Brody.

We did manage to arrange a minus-27 wind chill for you just to welcome you to Canada. It will get better if you stay a day or two.

We would go to Ms. Goldman, please.

**Dr. Mindy Goldman (Canadian Blood Services / Héma-Québec):** Mr. Chairman, honourable committee members, fellow witnesses, ladies and gentlemen, I'd like to thank the committee members for inviting me to speak here today.

My name is Dr. Mindy Goldman, and I'm an executive medical director with Canadian Blood Services.

[*Translation*]

I consulted my colleagues at Héma-Québec. I'm here today representing Canada's two suppliers of blood.

[*English*]

I was a member of the Health Canada expert advisory committee panel on DEHP and medical devices, as was Dr. Khatter, I think. I'm here to address four words in the bill: other than blood bags. I hope that's all I'm supposed to address.

Blood is collected in sterile, single-use plastic collection sets, and it's then separated into different components. The main components are plasma, platelets, and red cell concentrates. Because plasma is stored frozen there is no leaching of the DEHP from the plastic into the product during storage. Most platelet storage bags do not contain DEHP. In addition, platelets can only be stored for five days, so there's very little time for the DEHP to leach into the component.

Red cell components, however, are stored at one degree to six degrees for up to 42 days, and these conditions do permit substantial leaching to occur. The concentration of DEHP increases with the length of time of storage. Interestingly, DEHP plays an important role in the actual survival of the red blood cells themselves. Currently, red cell components can be stored for 42 days, or six weeks. Without DEHP, storage beyond 21 days, or three weeks, is not possible. Such a reduction in storage period would have a major impact on blood inventory and availability. Other plasticizers do not have the same stabilizing effect on the red cell membrane.

Based on animal toxicity data, the Health Canada expert advisory committee considered that newborns, infants, and young children receiving large amounts of red cells would be at greatest risk for possible transfusion-related DEHP toxicity. Unfortunately, there have been few studies evaluating long-term DEHP toxicity in transfusion recipients.

One study published in the journal *Environmental Health Perspectives* in 2004 followed adolescents exposed to very large amounts of DEHP as neonates, and found normal growth and endocrine function. However, although the study was reassuring, the small number of patients involved does not really permit firm conclusions about the lack of toxicity of DEHP.

The Health Canada expert advisory panel made several recommendations that are relevant to blood transfusion. Following the recommendations, both Canadian Blood Services and Héma-Québec added a section to our circular of information, just like our product insert, that we distribute to our hospitals about DEHP. Physicians are advised to select fresh or red cell components that would contain less DEHP for large-volume transfusions in susceptible populations, and to remove some of the liquid part of the red cell component prior to transfusion to further reduce the amount of DEHP present.

The Canadian Pediatric Society recommends the use of fresh or red cell components for large-volume transfusions in these patient groups for various reasons, including reduced DEHP exposure.

In summary, DEHP is present in certain blood components, particularly those containing red blood cells. It is essential for the preservation of red blood cells for up to 42 days. Both information from the blood suppliers and recommendations from professional organizations attempt to reduce DEHP exposure in the most vulnerable patient groups.

Thank you for your attention.

● (1200)

**The Chair:** Thank you.

Dr. Khatter.

**Dr. Kapil Khatter:** Thank you for the opportunity to speak again.

It's a complicated bill, so I'll try to move through it quickly. The committee has already heard about the health effects of these three phthalates; they are developmental and reproductive toxins, according to the national toxicology program. We've also heard that it's important that we look at these chemicals together as a class, particularly because BBP and DBP share a breakdown product that itself is toxic. The goal we should have here is to do what we can, given the strength of the scientific evidence, to reduce exposures wherever we can.

I'll go through the bill by product class rather than by chemical class.

In terms of children's products, that aspect of the bill, all three chemicals need to be restricted. The DEHP part is a no-brainer. It's a reproductive and developmental toxin. It's been restricted in children's toys in the European Union since 1999, and now in child care articles as well, like baby-bottle nipples. More importantly, it is declared toxic to human health under the Canadian Environmental Protection Act, and has been since 1994. Canada has done nothing to reduce DEHP exposure since it was declared toxic 13 years ago. There is much less DEHP now in children's toys and products, but we need regulations to keep outlying companies from selling a teether in Canada that could harm a child.

In terms of BBP and DBP in children's products, they have also been banned in toys since 1999 in Europe, and that ban was extended in 2005. The presence of these phthalates has also been reduced in children's products since then. There is nothing that should keep us from passing that part of the bill.

The argument you'll likely hear is that BBP and DBP are not toxic under the Canadian Environmental Protection Act. There are three problems with this argument. The first is that if you look back at the risk assessments from BBP and DBP, they did not take into account exposure from children's products and exposure from household products. They didn't take into account exposure from breast milk, house dust, or cosmetics in terms of deciding whether BBP and DBP were a risk to human populations. As well, there was no combined assessment. We know that there is a shared breakdown product between the two chemicals and that both of them work in the same way—they both block testosterone. Yet there was no cumulative or combined assessment of the two to decide whether they were causing the problem.

Finally, even if you decide that you can't do this or you don't want to do this under the Canadian Environmental Protection Act, you can easily do it under the Hazardous Products Act, as it already restricts other non-CEPA-toxic substances in toys.

In terms of cosmetics, PollutionWatch supports restricting these chemicals in cosmetics using the Canadian Environmental Protection Act. There is, however, another approach, and that's to use the cosmetics hot list, which is a simple and easy way to prohibit these chemicals. DEHP and DBP, as it says in the bill, should be put on this list. They were both classified in the EU as reproductive toxins as early as 2001, and as of 2003, no reproductive toxins can be used in cosmetics. Most major companies are on their way to eliminating these chemicals, but as we've heard in earlier testimony, they are still present in cosmetics. DBP, in particular, is in nail polishes.

Just as in the argument for children's products that we can't put DBP on the children's hot list because it's not CEPA-toxic, the cosmetics hot list is full of substances that are not toxic under the Canadian Environmental Protection Act. We're talking here about chemicals that are developmental and reproductive toxins and about direct exposure through cosmetics.

Finally, in terms of medical devices, which is perhaps the most important part of the bill, the exposure of infants, children, and the rest of the population to DEHP through medical devices has the potential to be the largest. As a family physician, I am sensitive to the importance of many of these products.

As Ms. Goldman said, I was on the expert advisory group to the Medical Devices Bureau looking at DEHP and medical devices. At the time, we were quite conservative, because we had little information about the alternatives. We were handicapped in how much we could call for substitutions, because we weren't given much information about what kinds of safe alternatives were out there. Still, at the time, the report we put out said that a switch to alternatives was immediately justifiable. In recommendation 4, we urgently encouraged research into the alternatives. I'm dismayed, at this point, to see that since 2002 there has been little research into the alternatives, there's been no education of doctors and nurses in the health care community, and there have been few switches to safer alternatives.

● (1205)

We support this important private member's bill and the part that deals with DEHP and medical devices, with the following caveats. We think there needs to be a phase-out period of three years or so for the health care system to adjust to the removal of DEHP-containing products. We believe that over those three years there should be a safe-substitution consultation in which they work with the health care community to figure out areas in which alternatives do not yet exist on the market, or are not feasible. Finally, we think a procedure needs to be built in so that the government can give three-year exemptions if no reasonable substitutes for products exist.

With these safeguards added, taking action now on DEHP medical devices will be the most important thing this bill can do, and it is an action long overdue.

Thank you.

**The Chair:** Good; thank you.

I understand, Mr. Glover, you are going to speak on behalf of Health Canada.

**Mr. Paul Glover (Director General, Safe Environments Program, Department of Health):** Yes, I will, Mr. Chairman.

Thank you, Mr. Chairman and committee members. It's a pleasure to be here and to have the opportunity to speak to this bill.

As you are aware, Health Canada is responsible for helping Canadians maintain and improve their health while respecting their individual choices and circumstances. We work to prevent and reduce risks to individual health and to the overall environment. We also protect Canadians and facilitate the provision of products vital to their health and well-being.

Our department regulates and approves the use of thousands of products, including medical devices and chemical substances. We do this by being risk-based, and it's important for that to be a critical element as we move forward on this. “Risk-based” means you take a look at both the hazardous profile of a substance and at the exposure, and put those two things together to say whether there is a likelihood harm will result. It is not simply based on the hazardous properties of the substance; it is those properties and the likelihood of exposure that drive the department to act.

Health Canada, to be clear, supports the human health objectives of Bill C-307. However, we do have some concerns with the bill as it is currently written. Please allow me to elaborate.

We've heard a lot this morning about different types of phthalates—BBP, DBP, DEHP. There is a range of phthalates. Three of these phthalates mentioned in the bill have received government action since early in the 1990s. The risks posed by these substances to human health and to the environment were formally assessed under CEPA.

The assessments for BBP and DBP were published in 1994 and in 2000 respectively. Both of those were found not to be CEPA-toxic, and therefore no further action was required under CEPA. That was primarily on the basis of exposure, or the lack of it. DEHP, as you've heard, was found to meet the criteria of CEPA-toxic and was added to schedule 1 of CEPA, giving the government the authority to take regulatory action if necessary.

In addition to the CEPA risk assessments that I mentioned, actions were taken to address risks to human health posed by DEHP in products that pose the greatest risks of health based on the exposure to children. In 1998, based on a risk assessment, Health Canada issued a public advisory on soft PVC toys and child care products containing another type of phthalate, DINP, for which there was a demonstrated health risk through prolonged daily mouthing by children under three years of age—so it was in products designed to go into children's mouths. Canadian industry was requested to immediately stop the sale and production of products containing DINP.

In anticipation of a similar request on DEHP, Canadian industry voluntarily removed DEHP from use in production of children's products likely to be mouthed or chewed, such as soothers and teethers. In essence, we took action on DINP; the industry saw the writing coming and, ahead of us, took voluntary action to remove DEHP at the same time. Although this is a voluntary agreement, Health Canada has evidence that indicates the agreement is working. A 2007 Health Canada survey of child care and other products likely to be mouthed by children under three years of age supports this conclusion. Based on 52 samples collected in 14 different retail outlets, the study did not find any phthalates in child care products intended for mouthing, such as pacifiers and teethers.

We can turn now to the issue of medical devices containing DEHP. Health Canada is very cognizant of this issue. You have heard about the expert panel; in 2003 Health Canada posted on its website a draft position paper for medical devices containing DEHP that included the expert advisory committee's recommendations to develop clinical practice guidelines. This position paper is currently being finalized and will be promoted to the medical community this year.

Next we can turn to cosmetics. They are regulated under the cosmetics regulations made under the Food and Drugs Act, which prohibit the sale of cosmetics that may contain any substance that may cause any risk to the health of the users when the cosmetic is used. The cosmetics regulations require that cosmetics be notified to Health Canada with a list of ingredients and their concentrations within ten days of a cosmetic's sale in Canada.

Neither DBP nor DEHP is found on the cosmetic ingredient hotlist, which you heard of earlier. It doesn't, by the way, require a CEPA assessment, but it does require an assessment to go on the Health Canada list of substances; they're not on that hotlist.

Neither DBP nor DEHP has been found in cosmetics products notified to Health Canada in the work that we have done.

● (1210)

Health Canada believes there is merit to take additional measures to predict the risks of phthalates to the health of Canadians, especially young children, but Bill C-307 is problematic as currently written. Our specific concerns include the following.

DEHP is already on schedule 1 of CEPA, so such an action is not necessary.

Second, given that DBP and BBP were assessed and found not CEPA-toxic, deciding now to add them to schedule 1 without the benefit of reassessment would be problematic and would disregard the evidence-based processes under CEPA. In essence, we have to go back and reassess those before the ministers could approach the Governor in Council to say that there has been a change.

Third, we are concerned with the way the bill is currently written that Bill C-307 may contravene Canada's international trade obligations by imposing technical regulations on imported products without supporting scientific evidence—that is, we have old risk assessments that, if not updated, could create legal concerns for us.

Fourth, with respect to the prohibition of DEHP in medical devices except blood bags, it should be noted that none of Canada's major trading partners, including the United States and the European Union, have prohibited DEHP in medical devices. In the case of the European Union, the European Parliament has urged national governments to restrict the use of DEHP in medical devices for vulnerable groups, except where such restrictions would have a negative impact on medical treatments.

Five, we also have no long-term safety data on the alternative chemicals used for medical devices. It is important to note that some phthalate-free medical devices have not yet been tested for all of the same indications of use as if they had phthalates in them. Therefore, it may not be suitable to simply substitute these out. We would need to assess them further. The bill as written could mean that Canadians might not have access to life-saving medical devices in that case.

Finally, Bill C-307 would use CEPA to control phthalates in products. While that's possible, CEPA may not be the most effective federal act to manage the risks posed by the phthalates in question. Cosmetics are regulated under the Food and Drugs Act; consumer products, including products for children, fall under the Hazardous Products Act.

So as I said from the outset, we do support the human health aspects of this bill, but we feel that, as currently written, there are a number of problems.

We thank you for the opportunity.

**The Chair:** Good. Thank you, Mr. Glover.

Mr. Regan.

**Hon. Geoff Regan (Halifax West, Lib.):** Thank you, Mr. Chairman.

My first question is about kinds of products. We've heard about some of the products that involve phthalates, but I've heard previously that in fact phthalates can leak from such things as soft pop bottles. I haven't heard that today. Have we heard today the limit of what these particular phthalates are in? Am I wrong about the pop bottles, and should we be concerned about pop bottles?

I guess I'll start off with perhaps Dr. Goldman or whoever would like to answer.

**Dr. Mindy Goldman:** I don't distribute pop bottles, only blood, so I will refrain.

**Hon. Geoff Regan:** Maybe I could ask, who can answer this question for me, if anyone?

**Ms. Charlotte Brody:** I've seen soft PVC used for some large water containers. I've seen it sometimes used for shampoo bottles. I've seen it used for food storage containers, but I've never turned over a drinking bottle and seen that on the bottle.

**Hon. Geoff Regan:** I guess the question is that I heard we should be very concerned about all the plastic storage containers, about pop bottles that are plastic. Is that not the case?

Dr. Khatter.

**Dr. Kapil Khatter:** It's a complicated question, only because there are so many types of plastics. There's what we call the plastics pyramid, where polyvinyl chloride—PVC—and polycarbonate plastics are considered the worst ones. So if you're seeing a three or a seven, that's where you're worried about chemicals. The seven is the polycarbonates that have bisphenol A, and the PVC tends to have phthalates such as DHP. There's less concern at the moment about ones and twos that you might find on a pop bottle.

● (1215)

**Hon. Geoff Regan:** Dr. Khatter, and perhaps also the other witnesses, you've heard the concerns from the Department of Health about this bill. What's your reaction to that?

**Dr. Kapil Khatter:** I'm trying to remember all the different parts of it.

I think we understand, to take the last thing first, the idea that there isn't enough testing and alternatives. We are recommending that there be a process to look at alternatives in terms of where there are safe substitutions.

There are two kinds of alternatives, in a way. One is other PVC that has other softeners in it, and there may be some of those softeners that haven't been well tested. But we know there are other products that are made from polypropylene or from nylon where Health Canada itself has not expressed any concern that there's any leaching or any problems. We know there are substitutes out there that we are fairly comfortable are safe.

**The Chair:** I think Mr. Glover wants to answer, Mr. Regan.

**Mr. Paul Glover:** To respond very directly to the question about pop bottles, our current evidence is that, no, it is not the case. Phthalates are used in a range of substances.

On our test of products, though, we have concerns that we intend to act on with respect to children's toys that are not intended for the mouth, but which we know are being put in mouths. A rubber ducky isn't meant to go in kids' mouths, but they put it there, and that sort of thing. We are seeing some evidence of phthalates being used. We intend to take action to close that loophole.

**Hon. Geoff Regan:** To follow up on that, if I may, if people go to a store to buy plastic containers for food, should they be concerned about phthalates being in them today?

**Mr. Paul Glover:** Again, it's a very broad question. I think it's been answered that you can turn it over and look at the number on the bottom. In terms of your specific question on pop bottles, from the evidence we have today, the answer is no.

**Hon. Geoff Regan:** Okay.

**Ms. Charlotte Brody:** It's still a fair question. Should we have to memorize the numbers we have to be worried about and turn over the food container? Given that we have other plastics that don't need phthalates, shouldn't all food containers be phthalate free?

**Hon. Geoff Regan:** My impression from what you're saying is that it doesn't need to have phthalates to be somewhat soft and flexible and therefore more durable.

**Ms. Charlotte Brody:** Milk-bottle plastic has no phthalates in it, and it's nice and soft. Tupperware has no phthalates in it, and it never did.

**Hon. Geoff Regan:** What an ad for them.

**Ms. Charlotte Brody:** While we're worried about things like blood bags or other priority medical devices that we don't have an alternative for, why don't we look at the low-hanging fruit, like food containers or nail polish, where we know how to make them without phthalates?

**Hon. Geoff Regan:** Thank you.

**The Chair:** Thank you.

Mr. Bigras.

[*Translation*]

**Mr. Bernard Bigras:** Thank you, Mr. Chairman.

I'll get right to the point, since our time is limited. I'd like to draw your attention to lines 8 and 10 on page 2 of the bill which refer to medical devices, excluding blood bags. I'm rather concerned about these two items covered in the bill, so much so that I'm thinking about moving an amendment to delete these two lines.

Regarding DEHP in medical devices, excluding blood bags, the plan is to ban phthalates. After doing a bit of research, I came to the realization that DEHP is found not only in blood bags but in other medical devices as well, such as catheters, IV tubing and gloves. If we adopt this bill, 12 months after it comes into force, a ban will be imposed on medical devices that are required to treat patients and sick people.

In 2004, Quebec's Institut national de santé publique released a report which contained the following finding:

> Until such time as phthalate-free products come on the market, it is not recommended, and there is no reason for depriving the public of certain types of treatments or procedures at this time since the health benefits far outweigh the risks associated with exposure to DEHP.

Can you tell me if phthalate-free medical devices have come onto the market? If these two components are not removed from the bill, are we not running the risk of depriving certain patients of life-saving treatment options?

● (1220)

[*English*]

**The Chair:** Dr. Khatter.

**Dr. Kapil Khatter:** Thanks for the question.

I think we'd agree with the member that in the way the bill is phrased at the moment, it's a bit of a blunt tool. We need to take some serious action. We need to take serious action now—we've been waiting years—on DEHP-containing medical devices. We need to have a process to make sure that in places where we need to exempt it, we can exempt it.

To answer the question about whether there are non-DEHP alternatives, I have a document that we unfortunately couldn't pass out because it's too dense to translate and it's 14 pages long. There are 14 pages of alternatives in all the different product classes that are non-DEHP-containing alternatives, silicon, polypropylene, and nylon, to the DEHP products that are on the market. They're all marketed in the U.S. and Canada.

**The Chair:** Mr. Lucas.

**Mr. Stephen Lucas (Director General, Policy, Planning and International Affairs Directorate, Health Products and Food Branch, Department of Health):** Thank you, Mr. Chair.

We concur with the honourable member's concern, and it's one of the concerns that Mr. Glover raised in his opening statement. Without adequate long-term testing of the safety and effectiveness of the substitutes for use in the same environment in which DEHP-containing devices are currently used, we are not certain of the potential risks that the substitution could incur.

That being said, we are committed to moving to phasing out their use through substitution, but we are concerned about the approach taken in the bill.

**The Chair:** Mr. Bigras, are you finished?

[*Translation*]

**Mr. Bernard Bigras:** I'm fine.

[*English*]

**The Chair:** Thank you.

Mr. Cullen.

**Mr. Nathan Cullen:** Thank you, Mr. Chair.

I have some questions here. I thought your testimony was quite compelling in terms of the effects of some of these chemicals on human health, and I think the last comment was rather instructive. I'm confused by the lack of urgency when governments around the world are dealing with what we have established are very harmful chemicals to human growth, particularly human male reproductive growth.

Without a deadline and in the jurisdiction you deal with, what hopes do you have? Without a deadline of eliminating, of banning, removing these substances from the human health environment, are manufacturers going to spontaneously come to this conclusion? DEHP and DBP seem like wonderful products. They soften plastics. They're very cheap. Mr. Khatter just held up.... I have another one from the sustainable hospitals project that goes through all the different uses of these chemicals in the hospital environment and then comments on all of the substitution options that industry can use. So I think the substitution question.... It seems strange.

The argument being presented to us today is that we know these things are dangerous, but we're not sure of the alternatives, so we should leave the dangerous ones in. I'm confused by that type of notion, particularly from a group like Health Canada.

**Ms. Charlotte Brody:** I'm confused by it as well. It makes it seem like an intractable problem, and our experience is that it's not intractable.

There may be some particular uses, and I think that's why blood bags are exempted in the bill, but I have held in my hands the Baxter PVC-free bags, the Baxter PVC-free tubing, the Hospira, formerly Abbott, the two biggest IV manufacturers in the world. Both have now developed PVC-DEHP-free products, and they did it not because we could convince the U.S. government to adopt any stronger language than Health Canada is now suggesting, but rather because we got hospital groups and group purchasing organizations and their shareholders to insist that they develop alternatives.

So we both drove market change by demand from their consumers and by shareholder demands—

**Mr. Nathan Cullen:** Let me just—

**Ms. Charlotte Brody:** —and found that they they can make almost everything they make out of DEHP with PVC, with alternative plastics.

**The Chair:** Mr. Cullen, I think Mr. Glover—

**Mr. Nathan Cullen:** I need to follow up before Mr. Glover.

So the comment that Canadians would be deprived of certain medical devices, such as the catheters and the tubes, if such a bill were to come into law.... Having held these products and knowing these products exist, how reliable is that threat?

**Ms. Charlotte Brody:** If tomorrow you told every health care provider in Canada that they had to take the DEHP-containing products off their shelves, you would have that kind of a problem. But if you give health care providers enough time to stock the alternatives, if you do a reasonable phase-in, given the tremendous number of alternatives that are on the market, there are going to be perhaps a few exceptions, but if Baxter and Abbott found a way to do it, not by using an alternative plasticizer that we haven't tested, but by using plastics that don't need chemicals in them to be soft, you really do.... We can do this. It's just a question of signalling the market that it's time to make this change.

● (1225)

**The Chair:** Mr. Glover.

**Mr. Paul Glover:** Two points. My apologies to the committee if my remarks created any confusion, so let me attempt to reiterate.

Health Canada is risk-based, so we do not respond solely to the hazards. We are not questioning the hazardous properties of these substances. The question, and what drives our regulatory actions and approval of substances, is the extent to which there is exposure that creates real risk for Canadians. When we have found the exposure is there, we have acted.

So in the instance of products designed for children to be mouthed, where we know there is a direct risk, we have taken action. We have worked with industry. They have voluntarily withdrawn. We have not needed to regulate—

**Mr. Nathan Cullen:** But let's be clear here.

**Mr. Paul Glover:** Furthermore, with respect to the substitution issue, what we are suggesting and what this committee has talked about during CEPA review is the notion of not replacing one substance with another without fully understanding the risks that substitution can create.

**Mr. Nathan Cullen:** And that question was just addressed. So the question I have for you is can plastic toy manufacturers import substances that have phthalates into Canada right now? Is that possible? Can I go to a store and find these things imported into Canada?

**Mr. Paul Glover:** With respect, I believe I've answered that. We are finding those, and we intend to take action to prevent that.

**The Chair:** Your time is up. Sorry, Mr. Cullen.

Mr. Warawa.

**Mr. Mark Warawa:** Thank you, Chair.

I'd like to thank Mr. Cullen for his private member's bill. I appreciate his passion for this and to see phthalates removed. It's an admirable goal. We need to strike a balance of what is realistic, but I think heading in this direction is worthy.

The question I have is similar to Mr. Bigras'. In reading through Bill C-307, the exception is that medical devices would be included, other than blood bags. We've heard from the Canadian Blood Services that storage is cut almost in half if we don't have DEHP in the blood bags. Is that correct?

**Dr. Mindy Goldman:** Yes.

**Mr. Mark Warawa:** How long did the research take to find that out?

**Dr. Mindy Goldman:** Those studies were done in the eighties, when there first was concern over the health effects of DEHP and people started thinking they could maybe remove them from the plastic and use other plasticizers.

There were some very elegant studies done. They put the blood in glass bottles instead of bags, and they didn't have DEHP. They found the cells didn't last very well and that if they added DEHP they did last. The summary of those studies was that before we consider removing this from the bags we'd better have an alternative that will preserve the red cells.

That being said, it's not that well understood as to why that's the case.

**Mr. Mark Warawa:** I appreciate that...so science is very important.

Canada has a population of approximately 32 million. Medical devices are used worldwide. If Canada were to restrict the use of DEHP in medical devices like catheters, intravenous tubing, medical gloves and these supplies, are we going to put the health of Canadians at risk if we do not have a reasonable amount of time for manufacturers to be able to do the research necessary to provide alternatives? What are the pros and cons?

Everything has a risk, so what kind of time would we need realistically? Considering that Canada is a relatively small consumer in the global sense, is there a possibility of putting Canadians at risk if we do not allow enough time...?

Maybe you could comment on that, Mr. Lucas.

**Mr. Stephen Lucas:** Thank you. I'd like to respond to this question.

As the honourable member indicated, Canada is a relatively small consumer in the global market. Approximately 10% of medical devices used in Canada are from Canadian manufacturers; the other 90% are imported to Canada, primarily from the United States and Europe.

As we've noted, we are committed to an approach that is consistent with our draft policy and works to phase out the use of phthalates, starting with high-risk populations, where alternatives or substitutes can be found and implemented.

Our concern is that if we move too quickly to a prohibition, given that the bulk of the manufacturers are outside of the country—as I noted, 90%—Canadians could be deprived. And some of the implications could be use of devices that aren't proven effective and could kink. That's one of the potential consequences of not proving the long-term safety and effectiveness of an alternative device.

We've also noted the costs and that there will be an adjustment period for the hospitals to purchase and implement the substitutes. Right now we're looking at about ten times the cost of the current DEHP-containing ones.

With these considerations in mind, we want an approach that moves our policy and implementation of its recommendations ahead.

● (1230)

**The Chair:** Ms. Brody, you have about 15 seconds.

**Ms. Charlotte Brody:** I just want to ask where the figure of ten times the cost came from, because I know hospitals in the United States are moving to PVC-free units that are the same cost as current devices.

**The Chair:** Mr. Lucas, can you give a five-second answer?

**Mr. Stephen Lucas:** We can validate that—

**Ms. Charlotte Brody:** I'd like to see the data.

**Mr. Stephen Lucas:** —and report back to the committee.

We do recognize that when the market does move, it will drive the cost down.

**The Chair:** If you could get that back to the committee, we could certainly provide Ms. Brody with it. Thank you very much.

I'd like to thank our witnesses for appearing.

Mr. McGuinty does want our motion dealt with, so we'll move on to that after we grab some lunch.

● _____ (Pause) _____

●

● (1235)

**The Chair:** Members, we'll begin again.

I should have mentioned at the beginning of the meeting that the minister will be here for two hours on Thursday. He has basically said that we can ask him any questions we want. He's open to that, and that's been communicated to us.

The motion that I'm going to ask Mr. McGuinty to speak to is basically more of an information.... The supplemental estimates have been reported back, but of course we can carry on a study of whatever we want in committee.

At this point, I'd ask Mr. McGuinty to put his motion. Then we'll open it for debate.

**Mr. David McGuinty (Ottawa South, Lib.):** Thanks, Mr. Chair.

I guess the best way to start is to just read the motion, as follows:

> That, in light of the very short timelines available to committees to study the Supplementary Estimates (B) for the fiscal year 2006-2007, the Minister of the Environment be invited to appear on Thursday, March 22, 2007, with regard to a review under section 108(2) of the Standing Orders of the expenditure plans of the department for the fiscal year 2006-2007, and the effectiveness of their implementation.

I move the motion as so put, Mr. Chair, and I'd like to speak to it, if I may, for just a few minutes.

I'm glad to hear that the minister is available on Thursday for several hours. I'm pleased to see that his attending won't be a problem. But the motion I put here is a specific one, and I think it goes to the heart of accountability.

We decided at the last meeting, Mr. Chair, to invite the minister. At that time, our committee decided to study the supplementaries for 2006-07, the end of last year's fiscal cycle. Unfortunately, due to scheduling issues and the standing orders, the minister was not able to appear before the supplementaries were deemed reported back to the House—yesterday.

I understand that the minister, as you've just said, has graciously agreed to appear anyway so that the committee might exercise some accountability—looking retrospectively, looking back—and review environmental spending and value for money propositions for 2006-07. I was a bit surprised to see, then, based on our last discussion, that the official notice for Thursday's meeting lists the order of the day to be the main estimates for this coming year—that is, 2007-08.

**The Chair:** But just to clarify, he has agreed to talk about anything that any member wants to talk about. So it's open to whatever.

**Mr. David McGuinty:** I think we're going to have plenty of time—until May—to do a proper review of this year's main estimates, and the committee will want to follow through with a separate study when the time comes. But what we need and what the committee has asked for is a timely review of last year's performance by the government. It's a reasonable request.

I know that the Auditor General, in repeated reports, has regularly suggested that all standing committees make this a top priority. So the invitation described in my motion would allow us to take this up in full on Thursday and clear up the confusion. That's the essence of what I'm proposing for Thursday with the minister. I'm sure he would be pleased to attend and discuss that.

I think it's important to circumscribe the area we're examining, given that covering everything at once makes it a bit more difficult for us to be better prepared. It will allow the minister much more latitude in explaining to Canadians how and why decisions were made, and the effectiveness of spending patterns and new programs launched in budget 2006, for example, to get a better sense of how they have worked out.

I've always believed that the estimates process is the heart of the democratic process, and sometimes as parliamentarians we lose sight of that. But it will be a wonderful opportunity on Thursday to look back at 2006-07, and I recommend we look forward to another meeting on the main estimates, as presented some four weeks ago.

● (1240)

**The Chair:** Just to be clear, the minister has indicated he'll talk about whatever we want. Obviously that notice came out from our office, from the clerk, and it said main estimates because that is where we are. But I see no reason why we can't discuss those areas and invite the minister back at another occasion to discuss whatever we want.

Mr. Warawa.

**Mr. Mark Warawa:** I was a little disappointed that this motion cut into the time for private members' business. I think Mr. Cullen's Bill C-307 is an important bill, and we had to cut the discussion short. We all had to reduce the amount of questioning time to be able to deal with this motion before us.

Bill C-298, PFOS, is another very important private member's bill. We had to cut back discussion on both these bills to deal with this.

Mr. McGuinty has said he's doing this to clear up the confusion. I don't believe there is confusion in the committee. The committee can choose to discuss whatever we want. We've been notified that the minister will be here to answer questions on whatever we want to ask him. So the motion is redundant, and it tragically cut into valuable time to deal with private members' business. I don't believe there's confusion around this table.

**The Chair:** Mr. Bigras.

[*Translation*]

**Mr. Bernard Bigras:** Mr. Chairman, the parliamentary secretary's argument is weak, in my opinion. We've had time to examine the two bills and in my opinion, we've followed proper procedure. We've heard testimony from witnesses.

When a witness testifies — and this has always been the rule — it's important to have a purpose in mind. The government is proposing that we invite a minister here, without giving us a specific agenda. In my view, we run the risk of straying from the subject at hand. It's important, for government and opposition members alike, to be well prepared.

For now, the only motion on the table calls for us to hear from the Minister on Thursday. If the government has something better to suggest, then it should move a motion. At the very least, we need an agenda.

[*English*]

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** In the past, the committee's attention to the estimates has been insufficient in looking over what the government has actually spent. I think it's poignant.

If you need to change the motion to declare that, so that the minister is not able to hide behind this particular motion, which looks forward in spending, then we can make whatever change is necessary. But having the minister here, having him accountable for what moneys were and weren't spent in the last fiscal year I think is important, particularly in conjunction with efficacy around climate change, in particular.

I don't think there's a need for a long debate about this. I think we can move to a vote and have it decided.

● (1245)

**The Chair:** Mr. Warawa.

**Mr. Mark Warawa:** I have one more comment on this to respond.

The minister has indicated he's coming to speak on spending, on the main estimates. Mr. Bigras made a comment that we need to have an agenda. We do have an agenda. The minister is willing to talk about anything, but is here primarily to speak about spending, the main estimates. If there are other questions the committee would like to have addressed, he would be happy to address them.

It's interesting that when the previous minister was here she was criticized for having a narrow field by some members of this committee. The new minister has said he's open to discuss anything. No matter what the availability of the minister, there seems to be criticism.

I think we need to be willing to work with this minister; he's willing to work with the committee. He'll be available to answer any question, but he's primarilry here for, and the agenda Mr. Bigras spoke of is primarily about, the main estimates.

**The Chair:** Mr. McGuinty, if possible let's have our last or closing comment.

**Mr. David McGuinty:** Thank you, Mr. Chairman.

I think our parliamentary secretary, Mr. Warawa, is confused. He says it's not confusing, but he confuses that matter.

This is a very specific motion that is seeking to ascertain the will of this committee to have the Minister of the Environment come to present and be prepared to explain the conduct of the government over the past 12 months of the fiscal year ended on March 31, 2007.

This is not a motion that is calling on the minister to arrive and discuss the main estimates as presented four weeks ago. I put that in black and white in my opening statement. This is about circumscribing, as Mr. Bigras said clearly, the minister and our agenda for Thursday, so that we can more fully focus.

If we're on a high seas fishing expedition and the minister wants to speak about everything, including what his favourite cookie recipe is, I'm not interested. We're talking about the year-end, March 31, 2007.

I'd like to be positive about this and I'd like to call for the vote now, Mr. Chair, because I think the motion is very clear, and I'd like it to be the expression of the will of the committee.

**The Chair:** I'll just let Mr. Harvey speak very briefly.

[*Translation*]

**Mr. Luc Harvey (Louis-Hébert, CPC):** I understand quite well motion the motion on the table. It calls for the Minister to appear before the committee so that we can put questions to him about a topic of our choosing. Those are his words.

No one is stopping you from asking the questions you want to ask. If you want to limit yourself to one topic, we don't have a problem with that. If my Bloc colleagues want to tackle other issues, then so be it. The same goes for Mr. Cullen. It's not a matter of limiting the number of topics that will be discussed. I don't see what the problem is.

[*English*]

**The Chair:** Well, I think we can call for the vote. I think Mr. McGuinty has explained himself, and others have explained themselves.

We'll have a recorded vote.

(Motion agreed to: yeas 7; nays 4)

**The Chair:** Are there any other topics for today?

We're going to hand out the revised CEPA report, so that you'll have time to go through it.

**Mr. Nathan Cullen:** I have a question, Mr. Chair.

**The Chair:** We will have the minister on Thursday. The following Tuesday, we'll do clause-by-clause of the private members' bills, and then we'll go to CEPA on Thursday, whatever date that is.

Mr. Cullen.

**Mr. Nathan Cullen:** The recommendation to schedule—and maybe we could talk about this afterwards—is to flip the Thursday and Tuesday meetings, only because of the size of the report, and do CEPA on the following Tuesday, finish this conversation we had today on Thursday, and have them back to the House.

● (1250)

**The Chair:** I think it would be good to finish the schedule as we have it.

**Mr. Nathan Cullen:** My only concern is that I'm not sure we can do the whole CEPA in one day. Is that the plan, to do that?

I know we can do the private members' bills in one day. I'm not 100% convinced we can do CEPA in one day. That's pretty hefty.

**The Chair:** Again, we'll have to see how it works out, Mr. Cullen. I don't know any better than you do, but you'll have a copy of this report to go through for that over a week.

**Mr. Nathan Cullen:** Okay.

**The Chair:** The meeting is adjourned.

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