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EXAMINING MICROBEADS IN COSMETIC PRODUCTS

FRIDAY, MAY 1, 2015

House of Representatives,
Subcommittee on Health,
Committee on Energy and Commerce,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:15 a.m., in Room 2123, Rayburn House Office Building, Hon. Joseph R. Pitts [chairman of the subcommittee] presiding.

Present: Representatives Pitts, Guthrie, Shimkus, Burgess, Blackburn, Lance, Bilirakis, Long, Ellmers, Brooks, Collins, Upton (ex officio), Green, Schakowsky, Kennedy, and Pallone (ex officio).

Staff Present: Clay Alspach, Chief Counsel, Health; Gary Andres, Staff Director; Leighton Brown, Press Assistant; Noelle Clemente, Press Secretary; Andy Duberstein, Deputy Press Secretary; Carly McWilliams, Professional Staff Member, Health; Tim Pataki, Professional Staff Member; Graham Pittman, Legislative Clerk; Mark

Ratner, Policy Advisor to the Chairman; Adrianna Simonelli, Legislative Associate, Health; Heidi Stirrup, Health Policy Coordinator; Ziky Ababiya, Minority Policy Analyst; Christine Brennan, Minority Press Secretary; Jeff Carroll, Minority Staff Director; Tiffany Guarascio, Minority Deputy Staff Director and Chief Health Advisor; Brendan Hennessey, Minority Policy and Research Advisor; Ashley Jones, Minority Director, Outreach and Member Services; and Tim Robinson, Minority Chief Counsel.

Mr. Pitts. The subcommittee will come to order, and the chair will recognize himself for an opening statement.

Today's Health Subcommittee hearing will be examining the sale, distribution, and use of cosmetics that contain synthetic plastic microbeads and what impact those microbeads may have on our waterways.

Our colleagues Representative Frank Pallone and Fred Upton have jointly introduced legislation, H.R. 1321, the Microbead-Free Waters Act of 2015, which would prohibit the sale or distribution of cosmetics containing synthetic plastic microbeads.

[The information follows:]

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Mr. Pitts. And a number of State legislatures have also taken independent action in this area.

Scientists have discovered the presence of these tiny plastic beads accumulating at high levels in the Great Lakes and other waterways. Microbeads are commonly used as an abrasion or exfoliating scrub and can be found in toothpaste, facial scrubs, some soaps, and even shampoos.

Admittedly, there is other plastic litter that has broken down from plastic debris, but the concern is that the synthetic plastic microbeads are difficult, if not impossible, to break down. We will hear from the cosmetic industry today about their commitment to phasing out the use of microbeads in their products. We also have two witnesses from the Great Lakes to discuss the impact on their waterways as well as New Jersey State Senator Greenstein, who co-sponsored the legislation in her home State.

The concern of course is that different State-based legislation will result in a patchwork of regulations and requirements, making it difficult, if not impossible, for manufacturers to comply with so many different laws.

Do I have any requests for time on my side?

If not, I yield back and recognize the ranking member, Mr. Green, for 5 minutes for his opening statement.

[The prepared statement of Mr. Pitts follows:]

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Mr. Green. Thank you, Mr. Chairman, and good morning.

I would like to thank Chairman Pitts for holding the hearing today and thank our distinguished panelists for joining us this morning in discussion of this important issue. I would also like to recognize the leadership of our chairman of the full committee and ranking member, Chairman Fred Upton and Ranking Member Frank Pallone, in coming together in a spirit of bipartisan and introducing the Microbead-Free Waters Act.

Plastics today is an integral part of daily life, from health care and food preservation to communications and home construction. Plastic's tremendous range of uses is based on its desirable products and properties, including durability, corrosion-resistance, and low cost. The plastic industry is our Nation's third largest manufacturing industry, responsible for \$350 billion in economic activity and hundreds of thousands of jobs in our country with several plastic manufacturers located in my district in Houston, Harris County, Texas. In much part due to the very properties that make plastic so universal in daily life, plastic can have a negative impact on our environment. All the more so when it is not disposed of properly and released into the environment without oversight and restriction.

This is what is happening with micro plastic products of microbeads. The microbeads, due to their tiny size, 5 millimeters or less, fail to be captured by modern wastewater treatment plants and end up in our Nation's rivers, lakes, and oceans. The accumulation of microbeads in our Nation's waters, particularly the Great Lakes,

has been startling in recent years and deserves immediate Federal attention.

Recent studies in the Great Lakes have found debris concentration, much of it attributable to microbeads, that rival some of the largest ocean garbage patches. When released in the environment, microbeads present a clear risk to our Nation's waterways and wildlife, from the physical impacts of wildlife ingestion of microbeads to the harmful chemicals, such as PCBs and DDT, that can accumulate on these tiny plastic particles.

I am pleased to learn that most of the cosmetic industry, including nationwide manufacturers like Procter & Gamble, Johnson & Johnson, have voluntarily decided to replace microbeads in their personal care products with natural biodegradable alternatives, such as ground almonds, ground walnuts, cocoa beads, and sea salt. Nevertheless, due to the current technical restraints on our Nation's wastewater system, it is necessary that plastic and nonbiodegradable microbeads in cosmetic products be removed from manufacture and sale at the earliest feasible date.

The legislation before us today will provide an appropriate Federal response to microbeads by amending the Federal Food, Drug, and Cosmetic Act to prohibit the sale and distribution of cosmetics containing microbeads by January 1 of 2018. I am support of that effort, and I hope we can use today's hearing and learn more improvements are necessary in this legislation and bring momentum towards passage and enactment.

Again, I thank you, Mr. Chair.

[The prepared statement of Mr. Green follows:]

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Mr. Green. Is there anyone else on my side that would like the remainder of my time?

Hearing nothing, I yield back.

Mr. Pitts. If not, I thank the gentleman.

We are voting on the floor now. So we will finish opening statements before going to the floor, and I am pleased at this time to recognize the chairman of the full committee and one of the sponsors of the Pallone-Upton bill, Mr. Upton, 5 minutes for opening statement.

Mr. Upton. Well, thank you, Mr. Chairman.

I won't take 5 minutes. Microbeads, they are tiny, plastic, but big-time pollution, especially for our lakes, rivers, and streams.

So what is a microbead? Well, you may not know it or want to admit that you know a little bit about this, but millions of Americans use them on a daily basis. Microbeads are those tiny, little scrubbers in your soap, cleansers, and, yes, even in toothpaste. On their own, they are nearly visible, smaller than a pinhead, as you can see here, compared with the size of a penny.

But once they are flushed down the drain is when the problem really does begin. Because they are so small, they escape water filtration systems and end up in our bodies of waters, obviously, including the Great Lakes. They are known to absorb pollutants and are often mistaken as food by fish and wildlife. And simply put, microbeads are causing mega problems. That is why I partnered with our full committee ranking member, Frank Pallone, to co-author H.R. 1321, the Microbead-Free Waters Act of 2015.

There are also currently 26 States that have engaged on legislation to address this very important issue.

I am excited to partner with Ranking Member Pallone on an issue that is so important to not only my district in southwest Michigan but the entire Great Lakes region. Both, to me and my family personally, as someone who grew up on Lake Michigan and represents a large chunk of the Michigan coastline, I understand firsthand how important it is to maintain the beauty and integrity of our Great Lakes. The Great Lakes have survived many a foe, severe pollution, discharge from refineries, zebra mussels, an attempt to steal our water, particularly from Texas, not -- just to name a few. Our fight against the Asian carp also continues. I will not stand for any activity that puts our beloved Great Lakes in jeopardy.

I look forward to working with my colleagues in a bipartisan manner to get this harmful pollution out of our waterways. We need this bill to fight the army of microbeads that is growing by the day in our waters.

I want to thank all of our witnesses, particularly my good friend and constituent, Dan Wyant, who heads the Michigan Department of Environmental Quality, and Molly Flanagan from the Alliance for the Great Lakes. As the Holland Sentinel editorialized in March, there is no reason keeping our faces feeling clean should require us to trash our lakes.

Yield back.

[The prepared statement of Mr. Upton follows:]

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Mr. Pitts. The chair thanks the gentleman.

I now recognize the ranking member of the full committee, Mr. Pallone, for 5 minutes for an opening statement.

Mr. Pallone. Thank you, Mr. Chairman, for holding this morning's hearing examining microbeads in cosmetic products. The hearing also gives us an opportunity to discuss legislation that I have introduced with Chairman Upton, the Microbead-Free Waters Act of 2015. And I want to thank Chairman Upton for his support of the legislation. I would like to welcome our witnesses and thank them for sharing their knowledge with the committee today, particularly New Jersey State Senator Linda Greenstein, who is one of the counties that I represent. And Senator Greenstein is a leader in New Jersey who worked hard to pass a State law banning the manufacturing and sale of cosmetic products containing plastic microbeads. So welcome.

Cosmetic products like face and body washes contain tiny plastic particles or microbeads that are used as exfoliants. While these plastic products are not harmful to the user of the product, studies have shown that microbeads can easily escape the screens in wastewater treatment plants and enter our Nation's lakes, rivers, and oceans. A study by the 5 Gyres Institute, an organization dedicated to research and advocacy on the issue of plastic pollution, found high concentrations of plastic microbeads in samples pulled from Lake Erie. In some cases, they found that plastic microbeads outnumbered more than 450,000 per square kilometer, and this plastic does not belong in our Nation's waters, and certainly not in such extreme amounts.

This high concentration of plastic microbeads in our country's lakes and other bodies of water is cause for concern for a number of reasons. Particles this small often float on the surface of the water and can attract other pollutants that collect on the water's surface. If consumed by fish and other organisms, these chemicals accumulated on the surface and inherent in the plastic itself can then travel up the food chain, potentially being transferred to humans who consume fish, bivalves, and crustaceans.

I have serious concerns about fish and other aquatic life potentially ingesting these plastic particles and the effect this could have on humans who consume the fish. While many of us strive to eat local seafood caught by fishermen in our communities, we often eat seafood from other areas of the country. So, until a national standard is set, we can't be certain these particles are kept out of our Nation's waters and are not being accidentally consumed by fish harvested from other regions of the country.

Further, there have been anecdotal reports by dentists and dental hygienists of plastic microbeads from toothpaste being lodged in a patient's gumline, which could trap bacteria and lead to gingivitis. While no clinical study has demonstrated negative oral health effects, I remain concerned about the potential risk.

Last month, Chairman Upton and I introduced the Microbead-Free Waters Act of 2015, legislation that requires FDA to prohibit the sale or distribution of cosmetics containing synthetic plastic microbeads beginning January 1, 2018. I want to thank Chairman Upton for joining

me in this effort. I look forward to working with him to move this bill forward. Our legislation, bills, and efforts are already moving forward in many States including the one by Senator Greenstein in our home State of New Jersey.

The legislation as it is currently drafted allows FDA to define a synthetic plastic microbead. The bill also does not currently address over-the-counter OTC drug products containing microbeads, of which toothpaste and acne creams are the most common examples. But I remain open to including these products in the legislation. However, also understand there are concerns about FDA requiring an 18-month stabilization period for reformulated OTC products, so it may be difficult to replace microbeads from these products on the same timeline.

So I hope to hear more about this potential challenge from our witnesses today. I want to commend companies, such as Proctor & Gamble, Johnson & Johnson, who have already begun proactively phasing out the use of plastic microbeads in their products, but I believe we must set a Federal standard that requires all companies selling cosmetics and personal care products to remove plastic microbeads from these goods. And that is why we have introduced this bill, to provide certainty at the Federal level that these polluting plastics will finally be removed from our face scrubs, soaps, and other personal care products.

So, Mr. Chairman, thanks again for holding this hearing. We have been able to come together on an issue to advance a commonsense solution

that benefits our constituents and the environment. I don't know, Mr. Chairman, there are beginning to be so many bipartisan bills around this committee lately, I don't know what we are going to have to do. Maybe we should have a course for the rest of the Congress on how to act bipartisan.

[The prepared statement of Mr. Pallone follows:]

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Mr. Pitts. We are going to have to call this public health Congress, I think.

Mr. Pallone. I yield back.

Mr. Pitts. All right, the chair thanks the gentleman.

That concludes the opening statements.

For the members, as always, any written opening statements will be made part of the record. We still have 397 Members who have not voted, so we are going to try to get through the opening statements of the witnesses. Let me introduce our panel, and they will speak in this order: Dr. Dan Wyant, director of Michigan Department of Environmental Quality; State Senator Linda Greenstein, from New Jersey legislature; Ms. Molly Flanagan from the Alliance for the Great Lakes; and Mr. John Hurson, executive vice president of government relations at the Personal Care Products Council.

Your written testimony will be made a part of the record. You will each be given 5 minutes to summarize your testimony. Thank you very much for coming today.

And, Mr. Wyant, we will begin with you. You are recognized for your opening statement.

STATEMENTS OF DAN WYANT, DIRECTOR, MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY; LINDA R. GREENSTEIN, STATE SENATOR, NEW JERSEY LEGISLATURE; MOLLY FLANAGAN, ALLIANCE FOR THE GREAT LAKES; AND JOHN HURSON, EXECUTIVE VICE PRESIDENT OF GOVERNMENT RELATIONS, PERSONAL CARE PRODUCTS COUNCIL

STATEMENT OF DAN WYANT

Mr. Wyant. Mr. Chairman, thank you --

Mr. Pitts. Make sure you press the button there. If the light is on, that is good.

Mr. Wyant. Mr. Chairman, and distinguished subcommittee members, thank you. I am Dan Wyant, and I am Director of the Michigan Department of Environmental Quality and I appreciate this opportunity to come before you today to speak on this important issue of microbeads.

With four out of the five Great Lakes, 6.5 million acres of wetlands, and over 11,000 inland lakes, water is fundamental to the way Michigan views its future. Michigan is surrounded by 20 percent of the world's fresh water, and so water is, quite simply, why people come to Michigan to live, work, and play.

You know, Michigan has a long history, as Chairman Upton certainly knows and has talked about, heritage of being a leader in water conservation and protection issues, and so my testimony today is going to be very consistent with what I have heard all of you talk about

already.

We have worked very hard in Michigan to protect and restore our Great Lakes, from our tough ballast water standards to the diligent implementation of the Compact Agreement that protects the Great Lakes from water diversions, to our regional leadership on the Great Lakes Commission, and the Council of Great Lakes Governors. You know, Michigan has been at the table ready to work on environmental challenges of the day.

Keeping in line with that, stewardship responsibility entrusted to my department, our focus now is shifting to the emerging issue of plastic microbeads in our water. You know, as has been stated and as you are aware, plastic microbeads are a commonly used abrasive agent in personal care products, such as facial cleansers and toothpaste. Recent studies have noted that microbeads can pass through wastewater treatment plants into our surface waters.

Microbeads were found in the Great Lakes surface waters during a number of studies, particularly in 2012, 2013. Plastic microparticles, of which microbeads are a subset, were detected in Lakes Erie, Huron, and Superior at a rate that is quite concerning, 43,000 per square foot per kilometer, and almost 10 times higher in samples collected in Lake Erie downstream of two major Ohio cities.

So the presence of microplastics in the Great Lakes is a concern because these constituent plastics may be entering the food chain after the plastics are consumed by fish and wildlife. In addition, toxic pollutants already present in the Great Lakes may bind to these

pollutants and plastics, making them even more harmful. Recent laboratory studies have shown that microplastics have the potential to adversely affect fish and other aquatic organisms.

Legislation is being debated in Michigan in our House and our State Senate that would phase out over the next couple of years the production and sale of personal care products that use microbeads. The legislation before this subcommittee and the same legislation that is being debated in Michigan I believe is a commonsense first step to the phaseout of the use of microbeads in personal care products. Although microbeads comprise only a portion of the plastic pollution detected in the Great Lakes, microbeads are an easily controllable component of that pollution.

The simple phaseout of their use in beauty products would reduce the amount of plastics passing through our wastewater systems and reduce the potential harm to our fish and wildlife. It is important that we put into place a thoughtful but diligent phaseout of the harmful microbeads while allowing industry a path forward for new product development and use if they can demonstrate that their products would not have an adverse impact on the water and its biological life.

Just as we don't tolerate plastics littering our roadside, we should not allow plastics to taint our beautiful Great Lakes. We urge action on this issue. We welcome a national approach. We have many complex issues to solve in the Great Lakes throughout our Nation's waterways, including invasive species and nutrient loading, just to name two. Microbeads is a clear issue. It is a clear threat. And

there is a clear simple answer. And we support the phaseout of microbeads and a Federal approach. And we in the State of Michigan will continue to work to be part of that solution.

Mr. Chairman, I appreciate this opportunity to come before the subcommittee and speak on behalf of the Department of Environmental Quality and, more broadly, the people of State of Michigan. Michiganders love the Great Lakes. They expect strong leadership, and we want to recognize your leadership and the committee's leadership to address this issue. I appreciate being here, and I will be happy to take any questions that you may have.

[The prepared statement of Mr. Wyant follows:]

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Mr. Pitts. The chair thanks the gentleman.

We are out of time on the clock on the floor, but we still have 297 people who have not voted, so we are going to continue.

And I will recognize Senator Greenstein, 5 minutes for opening statement.

STATEMENT OF LINDA R. GREENSTEIN

Ms. Greenstein. Thank you very much, Chairman Pitts, Ranking Member Green, with greetings to Chairman Upton of the full committee and Ranking Member Pallone and members of the committee. Thank you for your invitation to be here today as you consider H.R. 1321, bipartisan Federal legislation that is aimed at stopping the entry into our waterways of billions of pieces of small bits of plastic known as microbeads, an effort that is similarly addressed under laws recently enacted in five States: New Jersey, Illinois, Colorado, Indiana, and Maine. I think in my testimony I said two. We were among the first two. There actually have very recently been three others, so five States.

Before I begin I would like to acknowledge my home State Congressman and a co-sponsor of H.R. 1321, Representative Frank Pallone, whose leadership on environmental issues is legendary in the Garden State and whose invitation to testify is the reason that I am here this morning.

Thank you, Congressman.

I mentioned a moment ago that New Jersey is one of five States that has adopted legislation outlawing the use of microbeads. They are used by the personal care products industry in everything from toothpaste to over-the-counter skin treatments and exfoliants like facial scrubs. The problem is that these plastics are so small and nonbiodegradable, and they escape catchment screens at our sewage plants and wind up by the billions in our water supplies.

These microplastics were recently found by research scientists, as you just heard, in all five of the Great Lakes, as well as in fish that make their homes in the Great Lakes and in fish-eating birds. These microbeads absorb toxins and so can be very dangerous to wildlife and ultimately to human beings. In New Jersey, two-thirds of our drinking water supply is drawn from local waterways like the Delaware or the Passaic Rivers. And so we, too, have our issues with microplastics. That is why, once their presence became known, we moved quickly to eliminate them through the bipartisan legislation that I co-authored. I would like to note that the bill passed unanimously in the New Jersey Senate and by an overwhelming margin in the Assembly.

And a funny thing happened on the way to this bill being signed into law in Trenton just 6 weeks ago. Groups that can often politely be called, quote, "at odds with each other" came together as one in agreement that these plastics should be eliminated from our waterways.

The Chemistry Council of New Jersey, in a position shared by the American Chemistry Council and member companies, joined with the Sierra Club and other environmental groups to support our legislative efforts.

Also Johnson & Johnson, the Consumer Health Care Products Association, and the Personal Care Products Council were all together on this issue. And I think if they can do it in New Jersey, they can do it everywhere else, and hopefully with a Federal law.

Like your efforts here in Congress, we also agree to give the personal care products industry time to adjust and to find alternatives to these plastics.

So the New Jersey bill uses a gradual approach to stepping down the production of these synthetic microbeads until they are completely off the market by January of 2020. It starts with the elimination of the tiny plastics from use in the manufacture of products beginning January 1, 2018, and then prohibiting the sale of such products after January 1, 2019. And, by January 1, 2020, no person shall sell an over-the-counter drug with microbeads.

The industry is already turning to natural alternatives, using crushed walnut shells, sea salt, and pumice stone, to produce the desired effect that the plastic microbead does. In our bill the penalty is \$500 for each offense. We did lower our penalties from the original ones that we had, and our Department of Environmental Protection commissioner can institute a civil action for injunctive relief. There is no private right of action. We took that out as well.

I appreciate the opportunity to appear today and will be available for any questions members may have, and I thank you, Chairman and members.

[The prepared statement of Ms. Greenstein follows:]

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Mr. Pitts. The chair thanks the gentlelady.

We are voting, of course. We still have 185 Members who haven't voted. We are going to keep going. If you can abbreviate a little, I think we will make it through.

The chair recognizes Ms. Flanagan.

STATEMENT OF MOLLY FLANAGAN

Ms. Flanagan. Good morning. Chairman Pitts, Ranking Member Green, members of the committee, thank you for inviting me to appear today to address the threat that plastic microbeads pose to the Great Lakes. My name is Molly Flanagan. I am vice president of policy for the Alliance for the Great Lakes. For more than 40 years, the Alliance for the Great Lakes has been working to protect and restore the Great Lakes.

We have frontline experience with the impacts of debris on the Great Lakes because each year more than 14,000 of our volunteers show up to clean up Great Lakes' beaches through our Adopt-a-Beach program. The Alliance supports Federal efforts to remove plastic microbeads from consumer products. The extremely small size of plastic microbeads allows them to easily wash down drains, pass through sewer systems and then head directly into our Nation's waterways.

A study by the New York State Office of the Attorney General released in April 2015 detected microbeads in the effluent samples of 74 percent of the wastewater treatment plants participating in the

study. Research by Dr. Sherri Mason of the State University of New York at Fredonia and Dr. Marcus Eriksen of the 5 Gyres Institute found microplastic fragments in each of the Great Lakes and throughout water column in concentrations that rival or surpass those found in the Nation's oceans. Plastic microbeads attract and accumulate toxic chemicals, such as PCBs and DDT, which are present in waters throughout the United States, including the Great Lakes.

An ongoing study of fish in the Great Lakes has shown plastic contamination in all 25 species that have been analyzed to date. You have the opportunity to stop this needless source of pollution by passing a Federal ban on the use of plastic microbeads. Continuing to allow plastic microbeads to enter the Great Lakes runs counter to our current protection and restoration efforts. Adding new sources of stress to the Lakes undermines the \$1.9 billion in Federal funding that have been spent in the last 5 years through the bipartisan Great Lakes Restoration Initiative. Needlessly sending billions of plastic microbeads into waters we are spending so much time, energy, and money restoring is simply irresponsible.

Microbeads can be found in over 100 personal care products, but it doesn't have to be that way because readily available alternatives existed. As noted by other speakers, a number of large companies in the cosmetic and personal care industry have voluntarily pledged to remove plastic microbeads from their products. We applaud these efforts. They are positive examples of good corporate stewardship. We also note that these voluntarily efforts have a variety of timelines

for phaseout, may not include timelines at all, and do not consistently indicate what the company will use to replace microbeads. For example, the concept of marine biodegradable microbeads has been brought up in a number of States as they have considered bans. Unfortunately, there are no national or international standards for the biodegradability of plastics in ambient water environments. Until peer-reviewed research or testing by the American Society for Testing and Materials can provide standards for the biodegradability of plastics in Great Lakes' water conditions, biodegradable plastics should not be exempt from a ban.

The Alliance believes that the right Federal regulatory approach can solve this problem. We urge Congress to pass a Federal ban on all forms of plastic microbeads in cosmetic and personal care products that, number one, charges the Food and Drug Administration with clearly defining plastic microbeads based on current scientific research and standards testing by authorities like the American Society for Testing and Materials.

Number two, if terms such as "synthetic" and "biodegradable" are used in statute or regulations with regard to microbeads, these terms must be clearly defined by the FDA to ensure that substances such as bioplastics are not excluded from biodegradability requirements.

And, number three, it should set a realistic and achievable timeline to phase out cosmetic and personal care products that contain microbeads, ideally beginning 1 year from the enactment of this legislation.

You have a great opportunity before you. We know that plastic microbeads are entering our waterways every day and that readily available alternatives exist. The Alliance for the Great Lakes and our supporters urge the United States Congress to pass a ban on the manufacture and sale of cosmetic and personal care products that contain all forms of plastic microbeads.

The Alliance thanks Congressmen Upton and Pallone for introducing H.R. 1321 and considering our comments. Chairman Pitts, Ranking Member Green, thank you for holding this hearing. I look forward to answering your questions.

[The prepared statement of Ms. Flanagan follows:]

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Mr. Pitts. The chair thanks the gentlelady.

We still have 89 Members that haven't voted. We are going to go to the last witness.

Mr. Hurson, you are recognized for 5 minutes for an opening statement.

STATEMENT OF JOHN HURSON

Mr. Hurson. Thank you, Mr. Chairman.

Chairman Pitts, Ranking Member Green, Chairman Upton, and Ranking Member Pallone and members of the committee. Thank you for the opportunity to testify in support of discontinuing the use of plastic microbeads in personal care cleansing products and specifically to address H.R. 1321, the Microbead-Free Waters Act. The Personal Care Products Council is the leading trade association, representing 600 large-, medium-, and small-sized companies that manufacture and distribute the vast majority of cosmetic and personal care products marketed in the U.S. As makers of a diverse range of products that consumers trust and rely on every day, from sunscreen, shampoo, and toothpaste to moisturizer, lipstick, and fragrance, personal care product companies are global leaders committed to safety, quality, and innovation.

The American cosmetics industry employs more than 2.8 million people nationwide with more than \$260 billion in global annual sales. Our industry is dynamic and continuously develops innovative products

to meet consumer demands and expectations. Our member companies invest more than \$3.6 billion each year on scientific research and development. As a result of this research, 2,000 new products are launched each year, and numerous scientific studies are published on enhancing or developing new safety methods.

Equally important is that our industry shares a common interest with other stakeholders in protecting the environment, and our members take questions regarding the presence of microbeads in our waterways very seriously. Our industry has a longstanding commitment to the global environmental stewardship of its products.

Historically, plastic microbeads have been used in some personal care cleansing products because of their safe and effective exfoliating properties. These plastic beads have an excellent health and safety profile; do not present adverse effects, such as allergic reactions; are gentle on the skin, especially for consumers with sensitive skin conditions.

Over the last 5 years, numerous reports in the press and some scientific literature have indicated the occurrence of plastic microbeads in our oceans and lakes. It should be noted that the source of these plastic microbeads are varied and difficult to ascertain. These may include clothing fibers, boat paint particles, degrading plastic bags and plastic bottles, and personal care products. However, out of an abundance of caution and despite the absence of any peer-reviewed science on the contribution from personal care products to plastic microbeads in the aquatic environment, our member companies

have committed to discontinuing formulating products with plastic microbeads in favor of other viable alternatives.

While we do support the discontinued use of plastic microbeads, it is important to recognize that product reformulation is an extremely complex process. Various and necessary steps include raw materials research and development; product testing and qualification to meet safety and regulatory requirements; manufacturing and postmarket surveillance for continual evaluation. This process takes many years. Furthermore, because of our commitment to the safety of our products, we must affirm that the alternative ingredient will not cause unintended consequences and will meet our consumers' safety and product needs.

In 2014, a wide range of environmental, government, and business stakeholders came together in the State of Illinois to negotiate legislation to phase out plastic microbeads. All stakeholders supported the bill, which passed both houses unanimously and was signed into law in June of last year. New Jersey, Maine, Indiana, and Colorado have enacted similar legislation. And the Council of State Governments, a bipartisan government organization of State government officials, has adopted the Illinois law as suggested model legislation. Our industry supports Federal plastic microbeads legislation establishing a national, uniform standard that provides certainty for both consumers and businesses by setting appropriate and pragmatic phaseout dates, appropriate definitions of synthetic plastic microbeads, and inclusion of over-the-counter drugs containing plastic

microbeads.

It is especially important to carefully define synthetic plastic microbeads in the statute to avoid inadvertently prohibiting the use of natural alternatives and to make sure the prohibition provides clear direction to companies regarding reformulation. The dates for prohibition of manufacture and sell through of both personal care products and OTC products are also critical to assure a level playing field for both large and small companies as they reformulate. With the right policy framework, we can remain an innovative industry, providing our consumers with the safest, high-quality products they expect and deserve while also doing our role to continue to protect the environment.

Thank you again for the opportunity to be here today. On behalf of the members of the Personal Care Products Council, we look forward to working with the committee on this legislation.

[The prepared statement of Mr. Hurson follows:]

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Mr. Pitts. The chair thanks all the witnesses for their opening statements.

We will recess for about an hour. We have got a series of votes. So we will reconvene as soon as the last vote is taken for questioning of the witnesses. Thank you very much for your patience. This committee stands in recess.

[Recess.]

RPTS YORK

DCMN WILTSIE

[10:54 a.m.]

Mr. Pitts. All right. If the panel will take your seats, we will reconvene. The subcommittee will reconvene. And I thank the witnesses and everyone for their patience.

And I will begin questioning and recognize myself for 5 minutes for that purpose. And these are questions for all the panelists. So we will just go down the line.

So the first question is -- many of the largest consumer product companies already have committed to phasing out the use of synthetic plastic microbeads under very aggressive timeframes.

The question is: What additional benefit would a Federal phaseout of microbeads provide? Will the market move away from the use of microbeads without Federal oversight?

Mr. Wyant.

Mr. Wyant. Mr. Chairman, thank you.

My opinion is that a Federal ban will ensure, essentially, elimination of a patchwork. States are moving quite aggressively, as has been pointed out. And, with that, there is going to be a number of approaches.

I do compliment the personal care products industry in recognizing that there is a phaseout voluntarily in place. But on both sides of that, it is just my opinion that you would get consistency,

you would get uniformity, and you would close the vulnerability for those who were not phasing out. And that is why we would support a Federal approach.

Mr. Pitts. Senator Greenstein.

Ms. Greenstein. Thank you, sir.

I agree that uniformity is going to be the major advantage, but even now we see some disagreements. The first few States like New Jersey that got in right on the ground floor didn't seem to have these disagreements. But an example that I was talking with some of my colleagues about is that there has been brought up the idea of biodegradable plastics.

So what we are going to have is that, as the industry moves forward, they will be saying, "Well, make an exception for the biodegradables," even though they don't really exist now, as I understand it, "Make other exceptions." And I think we are going to see a real patchwork, as you heard. I do agree with that.

So I think it is very important, especially on something like this where we do have a lot of buy-in from the industry, to see if we can get a Federal law. I think that would work best.

Mr. Pitts. Ms. Flanagan.

Ms. Flanagan. I also agree that a Federal law makes sense. I applaud the personal care industry for the great steps that they are already taking to phase out these products.

But it is not happening across the board. It is not happening on the same time line, and they are not defining what will replace these

microbeads in the same way.

So a Federal ban would give us consistency and ensure that all companies are removing plastic microbeads from their products. Thank you.

Mr. Pitts. Mr. Hurson, the question was -- many of the largest consumer product companies already have committed to phasing out the use of synthetic plastic microbeads under very aggressive timeframes.

What additional benefit would a Federal phaseout of microbeads provide? And will the market move away from the use of microbeads without Federal oversight?

Mr. Hurson. I do think that the Federal approach is very, very important. First of all, you have a lot of States that have not yet taken action, and we need a Federal standard, a national standard, to cover all of those States.

And I think the consistency of having Federal legislation in terms of both the timing and the definitions is going to be extremely important and very helpful.

Mr. Pitts. Okay. Let me continue with you. We will go back the other way.

Why is it important to carefully define synthetic plastic microbeads in the statute?

Mr. Hurson. It is important to define it in the statute for two reasons. First of all, it gives clarity to businesses as to how to reformulate them, what would be acceptable and not acceptable in the reformulation. And the second reason is because we want to get this

done.

I mean, the problem with waiting by having a Federal agency sort of have to look at this again, it will just take a lot of time, and I think we want to get this thing solved and done and have these banned by a certain date. So --

Mr. Pitts. Okay. And we will go to Ms. Flanagan.

And I want to add one more question to that. Not only the importance of defining the microbeads in the statute, but why would adding a phaseout date be important, if you can respond, Ms. Flanagan?

Ms. Flanagan. Sure. So in terms of adding definitions, I think definitions could be included in statute or in regulation, but the importance of having careful definitions is so that industry does understand what is expected of them and so that we ensure that substances like bioplastics that may not be biodegradable aren't allowed. And what we are saying is that we just need to make sure that any standards and any definitions are based on current scientific research.

And then, in terms of phaseout periods, I think it is important to have phaseout periods in order to make sure that all industries are meeting the standards on the same timeframe.

Mr. Pitts. Senator Greenstein.

Ms. Greenstein. Well, I will start with the phaseout dates. On the phaseout dates issue, in New Jersey, that was one of the places where we compromised. That was one of the places where the Governor in his conditional veto talked about the importance -- he wanted lower

fines because he didn't want people to go out of business, and he also wanted to give the industry a chance to adapt to this and to do what they needed to do. We made sure that the dates were very reasonable.

I also think it is very important to define someplace, regulation or in the law -- preferably in the law -- exactly what we are talking about. So, in this case, I think definitions are critical. And the example I gave earlier about biodegradable and non-biodegradable products would be an example of where this is very important. We have to say what we are talking about so that industry is on notice.

Mr. Pitts. Mr. Wyant.

Mr. Wyant. I agree with clarity, consistency. And then the last point that you raise, I think it then encompasses and captures the entire, in our case, Great Lakes system.

Mr. Pitts. Thank you. My time is expired.

I now recognize the ranking member, Mr. Green. 5 minutes for questions.

Mr. Green. Ms. Flanagan, thank you for your testimony.

What currently are the known impacts of microbeads on our waterways and wildlife?

Ms. Flanagan. So we know that fish and wildlife mistake plastic microbeads as food. And so fish will eat microbeads instead of eating other food sources. They don't provide any nutrition and can accumulate both in the gut of the fish and get into the circulatory system.

And then, as larger predators eat those fish, those microbeads,

which attract toxins like DDT and PCBs, get concentrated throughout the food chain, which could then cause harm to human beings who are eating those larger fish.

Mr. Green. Have microbeads been found to negatively impact human health? And to carry on what you just said, has it been -- you know, because I know in our area we have a dioxin problem in our waterway and, you know, obviously, the fish feed on it and humans catch those fish.

Is that the same thing in the Great Lakes, I assume?

Ms. Flanagan. I don't know the answer to that related to microbeads. I do know that fish, when they have PCBs or other contaminants concentrated in their tissue, that that does have an effect on human health, which is why we have fish consumption advisories in most Great Lakes waterways. I would imagine that plastic microbeads would work in much the same way, but I don't know for sure.

Mr. Green. Mr. Hurson, in regards to the Microbeads Free Waters Act, is the January 1, 2018, ban on the sale and distribution of microbeads contained in cosmetics a realistic time for the industry to reformulate the products?

Mr. Hurson. The January 1, 2018, in the model bills at a State level was a ban on manufacture, and then there is a year later for the ban on sale. That is sort of the compromise that we reached.

There has to be a period of sell-through. So the banning of the manufacture is one thing, but getting all the product off the shelves will probably take another year.

Mr. Green. Okay. The legislation currently allows the FDA to define the term "synthetic plastic microbead." However, the States have already passed laws banning microbeads have included a specific definition of the term.

I understand that getting the definition right is important to ensure that all plastic microbeads are removed from products, but also to ensure that unintended consequences aren't caught in the definition.

You know, chemistry changes literally every day. And if we define it so fine, there is going to be someone who will change that and maybe have the same product that is just a little bit different.

How have the States dealt with that?

Sure, Senator.

Ms. Greenstein. Okay. It is true that we will have changes as the science develops. No question about that. But I think at this particular time we have to deal with what we do know.

There have been some recent studies. I know that, in 2012, there was a major study of the Great Lakes area and how that is being polluted by these microbeads. And there is also a study that I saw in the Tulane Environmental Law Journal that talks about the case for the ban.

And we have the definitions that we have right now. We know that the non-biodegradable plastic is the thing that we were aiming at in our definition. So --

Mr. Green. And I would hope the EPA would, you know, be cognizant of what the States have done on things that have worked and come up with a similar definition that you have.

Ms. Greenstein. Well, we think that our definition was good. And I think the five States that have passed it have used similar definitions. So we are hoping that the Federal one would do that as well.

Mr. Green. Mr. Hurson, in your testimony, you noted that the cosmetic industry supports the inclusion of over-the-counter drugs containing microbeads in the Federal ban.

Would you elaborate on the concern about OTCs in microbeads?

Mr. Hurson. Yes. Be happy to do that.

The industry does support the inclusion of over-the-counter drugs that contain plastic microbeads. Those would be mostly toothpaste and, also, acne cream. Those are both products that are on the market that contain these beads, acne cream in particular because of the sensitivity of the skin, and that is why they were used.

But in order to get at all these products, we think those OTC products should be included. There is an issue related to regulation of OTCs different than the regulation of cosmetics. OTCs are regulated through an FDA monograph, and that requires certain additional types of testing of OTCs.

So in terms of reformulating, we think the OTCs need an additional year to get the ban in place and to get the product sell-through. So that is an issue related to FDA regulation.

Mr. Green. Okay. Mr. Chairman, I am out of time. Thank you.

Mr. Pitts. Chair thanks the gentleman and now recognizes gentleman from New York, Mr. Collins. 5 minutes for questions.

Mr. Collins. Thank you very much.

As someone who has Lake Erie on the western end of my district and Lake Ontario on the northern end, certainly in Lake Erie the microbead issue is front and center right now. And, you know, our waterways are a major piece of our economy.

So my question is for Senate Greenstein. And you mentioned in your testimony that you agreed that it is -- and we have all discussed this, I think -- it is important to give the personal care products industry time to adjust to find alternatives, and I think we know why.

But on the record, could you go into a little bit more discussion on that. And what is the timeframe, knowing that the products are a little bit different?

Ms. Greenstein. Well, what we did in our legislation is we had -- I am just looking for the exact dates here.

On or after January 1, 2018, no person shall produce or manufacture in the State a personal care product containing synthetic plastic microbeads except at that point for an over-the-counter drug.

Then on the date of January 1, 2019, no person shall sell, offer for sale, or offer for promotion a personal care product with the synthetic plastic microbeads except for an OTC drug. And, finally, January 1, 2020, no sale, promotion, offer of an OTC drug.

So we had different dates for each of those, the production, the sale, the over-the-counter. It was just in discussions with these companies that they felt they needed this additional time.

Mr. Collins. Sure. So the good news for us in a way is seeing

what New Jersey has done. In your discussions with the industry, they were comfortable that those timeframes were something they could live with.

And I have to assume, many of them, they are not going to make a product for New Jersey and a different product for everyone else, that by leading the way in New Jersey, they are going to be transitioning.

And I think, you know, a Federal law here does make a lot of sense, but I have to think common sense says they are going to make one kind of toothpaste and --

Ms. Greenstein. Right. I think that is true except that, you know, perhaps some of the industry would -- although they have been starting on their own and trying to, you know, do this even before the law went into effect, I think they would scramble to some extent to find some different definitions, some product that perhaps they could do, that, you know, might be okay under our State law.

But if we had a good, uniform, comprehensive Federal law, I think it would guide them in how they should --

Mr. Collins. So what is going on in Europe? A lot of times on these types of issues we seem to see Europe would take a stance before us. Do they have standards now in Europe?

Ms. Greenstein. Actually, you are right. They usually are ahead of us on some of these kinds of things. But on this, from the little bit that I have read about international standards, I think they don't have good standards on it, which is interesting.

Mr. Collins. Well, that is. So we would actually be setting the stage --

Ms. Greenstein. I think we are, and I think we are in the forefront on this issue.

Mr. Collins. Yeah. Well, I think --

Ms. Greenstein. Usually, that isn't the case on this type of thing.

Mr. Collins. No, it isn't. So, again, I am glad to see what New Jersey has done.

Ms. Greenstein. Thank you.

Mr. Collins. It is a big issue, again, up in Lake Erie especially. So --

Ms. Greenstein. I know it is.

Mr. Collins. That is all I have got, Chairman. I yield back.

Mr. Pitts. Chair thanks the gentleman and now recognizes the ranking member of the full committee, Mr. Pallone. 5 minutes for questions.

Mr. Pallone. Thank you, Mr. Chairman.

Let me ask -- I wanted to try to get in a question of Mr. Hurson and then to Senator Greenstein.

So, Mr. Hurson, first, I wanted to focus a bit on the prevalence of the natural biodegradable alternatives to plastic microbeads.

I know that many companies are transitioning away from plastic to natural exfoliants, like the walnut shell powder, and I am pleased to see that trend, coupled with proactive commitments from major

companies like P&G and J&J to phase out plastic microbeads in their products.

But I think it is important for us to pass this legislation to ensure that all companies manufacturing and selling personal care products in the U.S. phase out these plastic ingredients.

So could I ask you if you could tell me what actions your member companies are taking to transition to natural biodegradable exfoliants. I know you talked about this a little, but --

Mr. Hurson. Thank you.

The industry is actively doing research and trying to find the right kinds of raw materials that they could substitute and that have the same effectiveness. That is an ongoing practice right now.

This industry is always reformulating products. It is sort of how it does business because they always want new things on the market. So it is an active industry in terms of reformulating and trying to get it right.

But it does take time to both source the materials, make sure they are effective, that they are effective for what the consumers want. So that is actually happening now, all that resourcing.

Mr. Pallone. And in transitioning to natural exfoliants, do you think it is going to be particularly burdensome or cause the companies to be unable bring effective products to market?

Mr. Hurson. It is obviously going to be difficult and it takes time, but it is not something these companies can't do. They are experts at reformulating. That is what they do every year. There are

2,000 new products a year. So they can do it, but it will take some time.

It is just -- it is not a simple thing where you just pull out one ingredient and put in another. It actually takes a lot of research and testing and time to get it done. So it is happening now, and it will happen and they will do it.

Mr. Pallone. All right. Thank you.

Let me go back to my friend here, the Senator. I would like you to discuss -- I know you talked about the New Jersey law. And, you know, obviously, you have done a great job in getting this passed.

But can you tell me briefly about -- well, I mean, I know you have kind of gotten into this already, but just give me a little more information about the bipartisan nature of this in New Jersey and how industry and environmental groups came together to support the bill.

Ms. Greenstein. Well, it was really a combination. It was bipartisan on a political level. Everybody joined in, and there was not a single partisan aspect to the passage of the bill. Everybody became part of it.

I think I said it passed the Senate unanimously and almost unanimously in the Assembly. I think some people were just absent. So it definitely had bipartisan support, and not everything does.

But in addition to that, we had the support of groups that normally don't get together on the same bill. So we had the Sierra Club and then we had all of the industry, the chemistry industry and the personal products and all of the different parts of the industry who would really

lose money, in a sense, by moving to this new formulation, but, nevertheless, felt this was the right direction to go.

And this is the direction that we are going and they felt that push and everybody got together on it. So I think it would be great if everything were that way. Unfortunately, everything isn't. But this bill certainly moved in that --

Mr. Pallone. Well, there has been a lot of it around here lately, I have to say.

Ms. Greenstein. I tell you, that is great.

Mr. Pallone. Now, of course, you know, you said that we should have a national standard, and there was a recent study released by the New York Office of the Attorney General that detected microbeads in samples from 25 of 34 wastewater treatment plants that were surveyed in New York.

Given that New Jersey and New York share many of the same waterways, does that concern you? And, you know, again, if you wanted to talk again about the need for a national standard, you know, I think most people are aware of it, but certainly we are acutely aware of the fact that, you know, being a small State and sharing waterways with New York and Pennsylvania, you know, that we can't just do things on our own.

Ms. Greenstein. Well, I actually did see that study, and I noticed that several of the waterways would be ones that we would share. So, yes, we are all affected by what goes on in the States around us and sometimes several States away.

And that study did concern me, along with several other studies that I looked at. And there have been quite a few since the year 2012 and more and more, starting with the Great Lakes and working up to areas like ours in New York.

So what was the second part of the question?

Mr. Pallone. Yeah. You answered it. Thank you.

Ms. Greenstein. That essentially, I think, is extremely important and the need for the national standard, as you heard from, I think, all of us here, uniformity, definitely, making it all clear to the industry so they know which direction to go.

There is no point in having 50 different laws, and it seems like we are moving that way. Because just in a very short period of time, three new laws were signed. And there are a bunch on governors' desks, and pretty soon we will have 50 different laws.

I think it would behoove us to have a Federal law that makes it very clear to the industry where we are going.

Mr. Pallone. Thank you.

Ms. Greenstein. Thank you.

Mr. Pallone. Thanks for being here.

Mr. Pitts. The chair thanks the gentleman.

Mr. Pallone. Oh, Mr. Chairman.

Mr. Pitts. Yes.

Mr. Pallone. Can I just ask unanimous consent to enter into the record a letter from 5 Gyres, which I mentioned in my opening statement, and also from the Surfrider Foundation on this issue?

Mr. Pitts. All right. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Pitts. And I have a unanimous consent request from the American Chemistry Council submitted by Mr. Shimkus to be put into the record. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Pitts. The chair recognizes the vice chair of the subcommittee, Mr. Guthrie. 5 minutes for questions.

Mr. Guthrie. Thank the chairman for yielding.

I appreciate all of you being here today. And I have a question to all of the panelists. I would like to address this going down the line, I guess.

Wasn't there microbeads that are used in other industries that are contributing to this problem? But I would like to hear from each of you why you think eliminating the use in personal care products will be a profound start to correcting the problem.

If you will just start, Mr. Wyant.

Mr. Wyant. There are other plastics, clearly, but this is, I think, a practical, commonsense solution. More science could come to bear on this, but what we do know is we are accumulating microbeads in the Great Lakes, and we have a great concern about that.

We now know their bio-accumulative effects when wildlife consumes microbeads, and we know that has the potential of human health impact over time.

So we just think it makes common sense and it is the right thing to do. Phasing out, I think, is the, again, win-win that we look forward to, consistency, uniformity, and then no loopholes in the system. And that is why we support it.

Mr. Guthrie. I am going to continue on down the line because I want to get to a couple other questions.

But specifically why in personal care products? I don't

understand the issue with microbeads, why you think it would be a profound difference to do it in just personal care products when other industries do it.

Ms. Greenstein. I am going to assume that personal care products would be the main area where we get the microbeads. Now, certainly there are other kinds of plastics that come from many different sources. All of the articles I read focused on microbeads. That is personal care. But, frankly, I think we do need to go beyond it.

One of the things that really either impressed or depressed me, depending on how you look at it, was these large -- I guess they call them garbage patches -- in both the North Atlantic and the Great Pacific, which are not just microbeads, but they have relatively high concentrations of certain kinds of plastics and chemical sludge because these mix together. And there are enormous patches just, I guess, under the surface of the water in both of our oceans.

So we definitely are polluting with manmade products. I think, frankly, we should look beyond just microbeads, but microbeads go with personal care products. So that is what we are focusing on right now. But we have to look at the other plastic and other chemical pollution that is going into our oceans.

Mr. Guthrie. Okay. I will just go on to Ms. Flanagan.

But my understanding, though -- and I will just go on to Ms. Flanagan -- is that microbeads that are personal care products aren't just in personal care products. They are in -- I understand there is other plastics.

So, Ms. Flanagan.

Ms. Flanagan. Yes. There are other sources of microplastics. From my understanding, it can come off of certain types of fleece or other microfibers. So you can get microplastics that aren't necessarily spherical.

I do think plastic microbeads are a good place to start. In the study that I referenced during my testimony by Dr. Sherri Mason of the State University of New York at Fredonia and Dr. Marcus Eriksen of the 5 Gyres Institute, when they surveyed the Great Lakes and looked at microplastics, 58 percent of all the microplastics that were smaller than 1 millimeter collected in the Great Lakes were spherical.

So you are not going to tackle the entire microplastics issue by getting at microbeads, but you are going to be addressing a significant chunk of it.

Mr. Guthrie. Oh, thank you.

And Mr. Hurson.

Mr. Hurson. It is a very good question.

There is not any reliable scientific information at this point as to the sourcing of microbeads, but it is very clear they are used in personal care products. So we are committed to getting them out of personal care products.

That is the simple answer to your question, which is we know they are in our products. We want to get out of them. Our companies are already reformulating out.

But since there isn't any definitive science study at the moment

as to the sourcing of all the microbeads that are out there in the environment -- there are other industries that use them.

So it is a great question. But at least we can start here, and we think it is smart to start with a national standard and a very clear idea of what we are trying to get at.

Mr. Guthrie. So, Mr. Hurson, just continuing, should over-the-counter products be included in this legislation? And what are the requirements for the over-the-counter for just regular cosmetic products?

Mr. Hurson. As an industry, we do support the inclusion of over-the-counter products like toothpaste and acne cream that do have microbeads. It does mean that we have to look a little bit more carefully at the time lines because, because of the way those products are regulated by FDA, there is additional testing that has to be done.

So when you reformulate those products, you literally have to spend 18 months -- you put the new formulation -- put it on the shelf. It is called stabilization testing. You have to make sure that the new ingredient doesn't in some way affect the active ingredients in an over-the-counter drug, and that is why you need more time to reformulate in that product category.

Mr. Guthrie. Okay. In your previous answer, you said that microbeads are from other industries, that nobody knows exactly where the ones collecting are from, but you recognize they are in your products; so, if we want to address the problem, if you are contributing to it, addressing it by getting microbeads out your products.

What ingredients are companies using to replace these products? I mean, what is the replacement for that?

Mr. Hurson. You know, we are looking for all kinds of natural ingredients that could replace it. You know, you have things like salt, sugar, ground-up walnut shells, ground-up apricot pits.

But when you think about manufacturing these products, first of all, you have to source them. You know, you have to find a place to buy those and supply those ingredients, and that could be tricky as the entire industry moves at the same time. It might be hard to source them.

And then the other thing is you have to recalculate and redo your manufacturing processes because it is -- you are going to have a different reaction in trying to put that particular ingredient into the products. You might have different machinery that you need.

So it does take time to actually get this done. But it is the natural things that we are trying to find that would give us the same scrub type of effect in exfoliating.

Mr. Guthrie. Well, thank you.

And this is an issue that I am learning more about and didn't really understand it until we started focusing on it through this committee.

And that is what this process is for and why your testimony is important. And, hopefully, we will work into a solution because I understand there is a real problem we need to address. So thank you very much.

And I yield back.

Mr. Pitts. The chair thanks the gentleman and now recognize the gentlelady from Illinois, Ms. Schakowsky. 5 minutes for questions.

Ms. Schakowsky. Thank you.

I would like to continue along those lines talking about the various products that we want to get off the market.

So, Mr. Hurson, you said in your testimony that the Personal Care Products Council supports the discontinued use of plastic microbeads, in general. And I am not quoting, but you made kind of a general statement.

So you do support a ban that applies both to personal care products and to over-the-counter drugs like acne? And you were talking about how much longer it might take for those. But you do support that?

Mr. Hurson. Yes, we do.

Ms. Schakowsky. Okay. Thank you very much.

I wanted to ask Ms. Flanagan a question. And, first of all, let me just say I am very proud that Illinois was the first.

And congratulations, Representative Greenstein, that -- is it "-stein" or "-stein"? "Greenstein"? --

Ms. Greenstein. "Greenstein."

Ms. Schakowsky. -- "Greenstein" -- for New Jersey following.

And all this has happened pretty quickly. Five States now have laws, and many more are considering it because clearly it is viewed as a serious hazard.

So I am trying to get a sense of just how critical this is in the

Great Lakes, an estimate for how -- not exactly how many microbeads. But how present is it in the lakes right now?

Ms. Flanagan. Sure. So microbeads have been found in all of the Great Lakes and throughout the water column and in concentrations that rival or surpass the concentrations of microbeads found in the oceans. So it is a pretty critical problem in the Great Lakes region, and it is a problem throughout all of the lakes and even into the St. Lawrence River.

And then, of course, the issue is that fish throughout the region mistake these microbeads for food and can concentrate toxins up the food chain. And so, you know, there are a number of critical issues facing the Great Lakes: invasive species, nutrient problems. Microbeads are just one of them.

You are spending a lot of money through the Great Lakes Restoration Initiative to address those issues. Thank you for that. And I think that avoiding this needless additional threat to the Great Lakes makes a lot of sense.

Ms. Schakowsky. So clearly it ought to be a priority to get Great Lakes States involved in banning them.

Ms. Flanagan. Yes. Absolutely. I think, you know, if the Federal Government can come to agreement on standards and regulation that will ensure that plastic microbeads are out of personal care products, that that would be a good solution.

Aside a Federal ban, then, yes. Having the Great Lakes States act collectively would be important for --

Ms. Schakowsky. Yes. Of course, if there were a Federal ban. But then what about internationally? Has Canada made any moves?

Ms. Flanagan. I just got an update from a colleague in Canada. They do not have bans now. But the Province of Ontario is learning more about this problem and considering taking action, and in Ottawa the Federal Government has also, I think, approved some additional study of the issue. So additional work is certainly needed on both sides of the border.

Ms. Schakowsky. I think one of you had testified earlier that it is not really a danger to human beings. Obviously, I guess, if it is external, that is true.

Is that the case?

Ms. Greenstein. Well, I think I might have said earlier, when it comes to dangers to the environment, that is pretty much documented at this point. Dangerous to water. Dangerous to animals. And, of course, that goes up the food chain.

But actual studies of human health and how it is affected, there really is not a lot of scientific study of that yet. I think we are moving in that direction. But right at the moment, if you said pick out a study that shows the dangers to human health, I don't think we quite have that yet.

Ms. Schakowsky. Toothpaste. Clearly, if you are brushing your teeth, the chances are great that you swallow those.

Ms. Greenstein. The chances are great.

Ms. Schakowsky. And so it would seem to me, if we are concerned

about the fish and up the food chain, that that would be an area that we would want to look at.

Anybody else want to comment on that?

Ms. Flanagan. I would just agree with you that, you know, the fact that we know fish are eating these microbeads, that they are concentrating up the food chain, that they even could pose a risk to human health, is enough of a reason to get them out of the Great Lakes and out of our waterways.

Ms. Schakowsky. And, finally, again for Mr. Hurson, so tell me what the Council is doing in terms of educating its members.

Oh, I am sorry, Mr. Chairman. I see I am over time. Can he answer that?

Mr. Hurson. I would be happy to answer it.

The Council has been very active in this area at the State level. We were the ones who were part of the negotiations in your State when Illinois passed the first bill.

And we also took the Illinois bill to the Council of State Governments to get it as model legislation to be recommended to all the States, and that is one of the reasons you have had three additional States, besides Illinois and New Jersey, pass it this year. It is under consideration in at least 10 to 15 more States right now.

So we are very active in advocating the banning of these microbeads in personal care products and certain over-the-counter products. We also are very active in the science side, trying to get more information about how the flow does work in our wastewater

treatment plants, as well as trying to educate internationally, both in Europe and in Canada, trying to get them to understand how important it is to get these ingredients out of these products.

Ms. Schakowsky. Thank you for that.

I yield back.

Mr. Pitts. Chair thanks the gentlelady and now recognize the gentleman from New Jersey, Mr. Lance. 5 minutes for questions.

Mr. Lance. Thank you, Mr. Chairman.

It is an honor to meet you, Ms. Flanagan, and, Mr. Wyant. And I have worked in the past with Mr. Hurson.

But on the panel the person I know best is Senator Greenstein. The Senator and I served together in the lower house of the New Jersey Legislature, the General Assembly, and then in the upper house of the New Jersey Legislature, the State Senate, and the Senator is familiar with Washington, having graduated from Georgetown Law School. And I see Mr. Greenstein in the audience as well.

I guess I would want to know, Linda, who was absent in the Assembly and didn't vote for your bill.

Ms. Greenstein. We will be checking that out.

Mr. Lance. I hope it is not my two members of the General Assembly.

Let me first ask, Mr. Wyant. I understand before your distinguished tenure at the Department of Environmental Quality in Michigan you were also the director of the Department of Agriculture for both a Republican and a Democratic governor.

Is there an interplay between agricultural matters and environmental protection on this issue?

Mr. Wyant. I wouldn't say necessarily on this issue. You know, Michigan's perspective is -- clearly we know microbeads are making it into the Great Lakes and the Michigan waters. Clearly we know, when we test wastewater treatment facilities, we -- you know, we discover microbeads.

And then we can draw the natural conclusion and issue -- the relationship with agriculture and nutrient-loading and water quality issues is quite apparent. And so there are other significant nexuses.

And so I guess I would add in close with the fact that the fact that we do get, in some cases, toxins, not necessarily agriculture-related, you know, we know that, again, big industrial States have legacy issues. That is our concern.

Mr. Lance. Thank you.

And to Senator Greenstein, as I understand the New Jersey legislation, you crafted it in such a way that it was a model based also on what has happened in Illinois.

Could you explain to the committee why the phaseout period was designed the way it was and, also, the importance of providing an adequate timeframe for compliance.

Ms. Greenstein. Yes. I believe in some earlier versions of the bill we may have had a little bit of a tighter timeframe.

But in the Governor's conditional veto, the two things he was very concerned about was adequate time for the industry -- so we needed to

spread that out a bit -- and he was also concerned that the fines were too -- we were going up to like \$10,000. So we brought it to \$500. And, also, we had included a private right of action. He wanted that out as well.

So we went along with everything he said because we wanted the bill to pass and we thought it was still a very good bill, even with those changes.

Mr. Lance. Thank you.

As a matter of information to the committee, in New Jersey, the Governor of our State has the power to modify legislation that reaches his desk. And that modification is then sent back to both houses of the State legislature, and both houses have the opportunity to agree with the Governor's modifications by simple majority. And that is a way in which the two elected branches in New Jersey work together.

And I certainly commend all of those involved in New Jersey, including, in particular, my friend, Senator Greenstein.

Mr. Chairman, I yield back the balance of my time.

Mr. Pitts. Chair thanks the gentleman.

Just one question.

Clarification. In the material, we read of glass microbeads as well. This legislation only applies to plastic microbeads.

Are you familiar with microbeads which are glass? Are they utilized? Are there any dangers with that, Mr. Hurson?

Mr. Hurson. Mr. Chairman, I am not aware of glass microbeads being used in our products. I think one of the alternatives that people

are looking at would be like a pumice stone type of microbead. But I am not aware that they are researching looking at glass.

Mr. Pitts. Ms. Flanagan?

Ms. Flanagan. I am not familiar with glass microbeads. I am not saying they don't exist, but I am not familiar with them.

Mr. Pitts. Senator?

Ms. Greenstein. Also have not read anything about that. And the only thing that I can think of is maybe for decorative purposes. But they wouldn't be used in these kinds of products because glass in toothpaste -- let's hope that doesn't happen.

Mr. Pitts. Hope not.

Mr. Wyant.

Mr. Wyant. I am not aware of any issues as it relates to glass.

Mr. Pitts. All right. I think -- yeah. I think the other members who were here are at another hearing. I apologize for that.

We will have follow-up questions. If we submit them to you in writing, would you please respond promptly? Thank you.

And I remind members that they have 10 business days to submit the questions for the record. And members should submit their questions by the close of business on Friday, May the 15th.

Very interesting hearing. We intend to act on it. Thank you very much for your patience today and all the good information you provided to the committee.

At this time, without objection, the subcommittee is adjourned.

[Whereupon, at 11:34 a.m., the subcommittee was adjourned.]

