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Chair

Mr. Bob Mills

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● (1535)

[*English*]

The Chair (Mr. Bob Mills (Red Deer, CPC)): I would like to inform members that on Thursday at our Festival of Trees, we managed to raise $660,000 for the hospital that night and, after that, over $1 million for the hospitals in our local area. I got to be the emcee, so was I ever lucky.

Anyway, I'd like to welcome our guests. I think most of you know the format. We ask you to keep your comments to about 10 minutes or less, if possible, and then the members will have questions. The first round will be 10 minutes, the second round will be five minutes, and we'll try to get through as many questions as we can in the two-hour timeframe.

Perhaps we could begin with the Salt Institute, Richard Hanneman, please.

Mr. Richard Hanneman (President, Salt Institute): Thank you, Mr. Chairman and members of the committee. It's an honour to be with you.

I would remind you that we not only submitted extensive written testimony back in June, but we had two earlier opportunities to provide oral testimony. So we will confine our remarks today to enforcement, public participation, and appropriate tools, which we understand to be your particular concern today.

Most of our remarks will deal with public participation. Generally speaking, we've had a very positive experience with the CEPA public participation process with regard to the implementation, the risk management phase, and a relatively negative experience with public participation with regard to the risk assessment process. Unlike the risk management phase with stakeholder involvement, which invaluably improved the end product and facilitated implementation, the insularity of the assessment process and the agency's refusal to impose rigour on its scientific exercise impaired the result and set back the implementation. It was a distinct misstep.

For example, we were quite disturbed when Environment Canada publicized its findings before they went to the public participation process. They scheduled a news conference we were unable to effectively respond to at the last second and rebut some of the misinformation that was given out. The headlines across the country were all about the warnings that road salts were toxic; and this being a food, it was very unclear and confusing to the public. We think Environment Canada played on that as opposed to trying to understand that's what was going to happen.

The assessors proceeded to ignore that public outcry and went to the second phase, and at that point they understood they were in trouble with their communication with the public. When they announced the second phase they did not use the word “toxic”; they very studiously avoided it. They even counselled the media that they intended not to use it, and yet the headlines were that salt is toxic. Again, the press had been sold this, so they couldn't back off.

At about this time, Environment Canada was trying to tell the world that road salts were toxic, but at the same time they were rolling out the implementation process. So unlike the rather obscure public participation process of gazetting for the assessment, the implementation for the risk management phase was very public, very inclusive. A stakeholders group was set up, and a lot of constructive things were said. So instead of having the situation that under the assessment it was the largest public participation process under CEPA—I believe that's still the case—most of the comments came back negative to what Environment Canada had proposed. Instead of being able to condition the groups that were going to have to comply, which are the provincial and local government agencies that were the target of the assessment, it set us back in terms of mobilizing those people in a constructive way to solve the problem.

It bears mention that the risk management phase involved an entirely new team. The people who did the assessment were in one branch and the people who did the risk management were in another branch. There was no carry-over, and so a whole new set of people were getting up to speed. We're very pleased to report that in contrast to the public participation and risk assessment phase, our experience with public participation on the risk management process and in implementing an excellent code of practice for road salts management has been very positive. It was like night and day to us. Frankly, we'd give Environment Canada failing grades for public participation in the assessment process, but tell them to go to the head of the class in terms of the way they ran the risk management phase.

As is the case with most environmental initiatives, once people understand how to do things better and once they make necessary investments to achieve better environmental management, momentum is achieved by these incentives. In the case of road salts, the agencies now understand that proper management not only can protect the environment but can be accomplished consistent—

The Chair: Would you mind slowing down just a little bit? Our interpreters are having a little bit of trouble keeping up with you. Thank you.

Mr. Richard Hanneman: All right. My two-hour statement in 10 minutes, by the look of it.

In the case of road salts, the agencies understand that proper management not only conveys environmental benefits and can be done consistent with accomplishing the mission of keeping the roads safe, but it can also even save tax dollars by being able to put down road salts a little more conscientiously.

Designing a solution that allows society to derive the benefits of CEPA-managed materials is fundamental. We can't compromise the safety of the roads. We can't trade dead motorists for pine trees, we can't sacrifice workers' jobs for a park ranger's opinion that salt intoxicates birds, and we can't immunize governments against civil suits if they don't do their job of keeping the roads safe.

The bottom line is that we think the involvement of the stakeholders has achieved the momentum for implementation of the code of practice, which is getting the job done, which would not have been expected given the tenor of the assessment process.

Turning then, in my remaining time, to the issues of enforcement, why would we have enforcement? What we want really is the environmental result, so we want people to be encouraged, induced, to adopt the correct practices.

The Salt Institute has been engaged in teaching our customers sensible salting for about 40 years. We have sent out people to train the operators, because it's the operator in the cab who actually decides how much salt's going to go down. It's not the road agency itself, and it certainly isn't the salt company that, months before, sold them the salt. We really need to get training down to the operator level, and that's what we've been doing, in partnership with TAC and with the OGRA. And I think we have been quite successful, because we've been able to work cooperatively during the risk management phase with Environment Canada.

In terms of what we want to do, we don't really want to regulate something that is going to be so variable, because the weather, the topography, the service demands are set by locally elected officials. Those are all going to vary storm by storm, not only region by region. We need to give enough flexibility so that a regulation that is written can be applied in a real life situation, which is a life and death situation on the highways in the middle of a winter storm.

We do think that promoting compliance is going to be best done with a voluntary arrangement, such as a code of practice.

That moves us into the final point of appropriate tools. Right now, we have a code of practice, of course. Also, we have tools of the pollution prevention plans, where there's a regulatory arrangement. And we are engaged with Environment Canada in negotiating an environmental performance agreement for the salt industry to do its part in terms of producing the product and storing the product properly. But we don't see any need to move into a regulatory environment if you can get the voluntary situation to work, because, in our case anyway, there's a great deal of local variability in terms of what proper management is.

We believe the statutory process should encourage Environment Canada to promote risk management much sooner and focus resources earlier on doing a better job with environmental management. Where regulations may be required, the focus of the debate should be on the context of the substance that's creating the problem in the first place, as opposed to the name of the substance, which creates the stigma that we've testified about earlier.

Once again, with this approach we'll achieve a better environmental outcome. We thank you for your attention.

● (1540)

The Chair: Thank you very much.

Mr. Wright, you might want to comment at the end on a couple of the statements that were made there. We'll give you first crack at that at the end.

Perhaps we could go on to the chemical producers, and Mr. Lloyd.

Mr. Gordon Lloyd (Vice-President, Technical Affairs, Canadian Chemical Producers' Association): Thank you, Mr. Chairman, and thank you to the committee. I'd like to thank you for the opportunity to participate in this round table.

In my presentation I will be focusing on one topic, the question of tools for CEPA, and I'll really only be talking about one tool, industry responsibility programs. This is something that I think isn't used as much as it deserves to be used.

Last May when I appeared before you and discussed our CEPA review submission, we suggested that CEPA should explore differentiating between good and poor environmental performers more than it does, and using the act to support the use of what we called industry responsibility programs in order to recognize and encourage good-performing companies. We think those companies should be treated differently and more favourably than poorer performers. Guidelines and, in particular, pollution prevention planning requirements in the legislation could provide a means to do that, but that isn't being done nearly as much as it should be today. There may be other means as well, but those are the ones we'd like to focus on.

Criteria for using what we're going to call industry responsibility programs and the principles governing their design have already been well established, with broad acceptance by industry and NGOs. In the late 1990s, the New Directions Group put together a paper, “Criteria and Principles for the Use of Voluntary or Non-regulatory Initiatives (VNRI) to Achieve Environmental Policy Objectives”, which addressed and, I think, very successfully resolved a lot of these issues.

There's very broad consensus about going ahead on this approach between industry, government, and environmental groups. In fact, the federal government essentially adopted the New Directions Group principles in its *Policy Framework for Environmental Performance Agreements*, which it put out in 2001. In CCPA's view, that was a very good framework, but unfortunately we don't feel it's been applied as broadly or as often as it deserves to be.

There has been a number of successful examples of industry responsibility programs. From a chemical industry perspective, our Responsible Care initiative that I have previously described to committee members, I think quite a bit, we believe is a leading example. It applies to the chemical industry, and not broadly, but other sectors also have similar programs that they try to model after it.

Our Responsible Care program has also been the underpinnings of a memorandum of understanding or agreement the CCPA has had for about 10 years that involves the federal government, British Columbia, Alberta, Ontario, Quebec, and there are also public interest group representatives on it as well. The performance results of Responsible Care and what we look at through our memorandum of understanding are set out in the attachment that I've provided to the committee. I think it's been given to you.

I'll not go through this in any kind of detail. I'll leave that to you.

The first chart is an overview of our performance, both for the listed air pollutants in Bill C-30 and greenhouse gases. Looking at the percentage changes, both since we started tracking in 1992 and more recently last year, I'm sure you'll agree our performance is good. Similarly, I've talked about our climate change performance before this committee in the past and I think it's also good. There's more detail provided in the accompanying charts that back up those figures, and it also shows that generally our record is that we exceed our projections.

As I said, industry responsibility programs have also been used beyond the chemical industry. Probably the best broad example of a successful program is ARET, the accelerated reduction/elimination of toxics initiative, which concluded in the late 1990s. More recently, Ontario and Alberta have tried to develop programs along these lines: in Ontario, the environmental leaders program; and in Alberta, their EnviroVista program.

Problems with these types of programs to date have arisen when, in an effort to ensure that only the true leaders participate, sometimes overly restrictive and burdensome bureaucratic entry criteria are imposed by government. That makes it unattractive for companies to participate, and it would actually penalize and certainly not reward high-performing companies.

It might be worth paying some of this extra price if there were true benefits from these programs, but often there's only very vague recognition rather than any real benefit, such as a better permitting procedure or something like that. Ontario and Alberta are currently struggling in trying to address these issues in their respective programs, trying to create meaningful differentiation and real rewards for high-performing companies.

I think the federal government had the lead in this about five or six years ago, but I think it has been overtaken by the provinces now.

● (1545)

Encouraging industry responsibility programs through CEPA would, I think, also be very consistent with the 2004 *Smart Regulation* report. The report stated:

> The federal government should develop a framework to guide the design and use of instruments and ensure that instrument decisions are appropriately challenged throughout the policy development cycle. The government should accelerate efforts to make the regulatory community more aware of the various instruments. Legislative constraints in creating mixes of policy instruments and using performance-based regulations should be eliminated.

I think we have an example of the legislative constraint in CEPA that I'll talk about later.

The *Smart Regulation* report described the challenge the federal government faces in being innovative in the use of instruments related to regulation. They noted the many benefits of choosing the most efficient instrument to accomplish legislative objectives, and they also noted the federal government has a strong tendency to choose only traditional instruments such as regulation, as opposed to a combination of instruments that would involve regulation, but also involve other approaches such as economic incentives, information, and challenge programs—the types of things we're referring to as industry responsibility programs.

A few of the more interesting recommendations in the *Smart Regulation* report were recommendations 22 and 23. These outline a need for the federal government to develop guidance and a framework on the use of various instruments and when they might be most effective, and the need to develop better understanding in the public service of the range of instruments available to respond to policy issues.

Over the years, we've had many discussions at CCPA about our success in Responsible Care. The question often emerges, why doesn't government do more to recognize this type of good initiative? That's a question that I think MPs and this committee should address in your CEPA review report. We would be very interested in the answer.

● (1550)

CCPA believes the reason that government doesn't recognize programs like Responsible Care, and its record is that often agencies like to simplify the world into what we would see as the false dichotomy of so-called voluntary versus regulatory programs. They dismiss anything that is not a standard regulatory approach because it is only voluntary: do it if you like. But Responsible Care is far from that. It's a program that goes beyond what is required. Our actions under Responsible Care are mandatory among our members. They involve reporting and verification, including independent verifiers. We think Responsible Care is the kind of initiative that can be considered in developing regulatory frameworks and linked to CEPA in various ways, such as pollution prevention planning.

Since the *Smart Regulation* report, has anything changed? We don't think so. We see no improvement in the administration of CEPA towards the kind of innovation the report recommended. The Clean Air Act and the notice of intent are probably the most recent examples. These do not look for innovative approaches beyond traditional regulation, and miss opportunities to use different tools that might be more effective. They do not provide in any way for recognizing high performers.

The government is proceeding to work with sectors like ours as if Responsible Care were irrelevant. This type of approach undermines the ability of our association to expand the application of Responsible Care to other companies. This is an example of the government missing an opportunity to reinforce high performers.

With CEPA under review, it would be useful, I think, to determine if the act has built in appropriate guidance and flexibility for the government to work with the full range of instruments, including industry responsibility programs.

In terms of guidance, we think the act could be improved here. We would urge the committee to recommend that the government consider adding some specific sections to the act that promote considering the use of industry responsibility programs but within the overall regulatory context of CEPA.

In terms of flexibility in the legislation, we think that is actually there but it's not being used. Pollution prevention planning is a tool in CEPA that could be used more, and more effectively, to support and promote industry responsibility programs. Environmental objectives could be set for our sector as factors to be considered in developing pollution prevention plans. What companies are already doing, such as under Responsible Care and our MOU and under provincial regimes, could be recognized under the pollution prevention plans.

We believe that for sectors like ours this would work very well. If the approach fails to work, or sectors don't have the kind of infrastructure and performance record that Responsible Care has given ours, perhaps regulatory approaches would also be warranted where necessary. But the government has not used its pollution prevention powers in the fashion that I've described. We're not sure if the powers in the act are the problem—we don't think so, because we think they're there to be used as I've described—or if it's a question of political will. I think that's where the real problem lies, and I think that's also what the *Smart Regulation* report was reporting to.

To conclude, CCPA urges that the committee recommend that CEPA be used to differentiate between good and poor environmental performers, and use the act to support the use of industry responsibility programs, such as Responsible Care, to recognize and encourage good-performing companies.

This approach would assist industry to be partners with the government when companies show leadership and high performance. From CCPA's perspective, our member companies, with their commitment to Responsible Care and their performance record, provide an example of the type of companies where such recognition would have been earned. Such an example would also encourage more companies and sectors to adopt initiatives similar to Responsible Care. We think that would be a significant environmental improvement in itself.

Thank you. I look forward to the discussions.

The Chair: Thank you very much.

We'll go on to the Sierra Legal Defence Fund.

Mr. Wright, please.

Mr. Robert Wright (Counsel, Sierra Legal Defence Fund - Toronto): Good afternoon, Mr. Chairman and committee members. Thank you for the opportunity to address you this afternoon on these issues of public participation and enforcement.

I will be dealing with two matters that no one else, as far as I know, has dealt with in these hearings. The first is the environmental protection action that is found in part 2 of the act; and the second is the offences and penalties section, and in particular, I'll be recommending a provision like the Fisheries Act fine splitting provision.

Our interest at Sierra is that we are considered a watchdog on the environment. We deal only with legal matters. We have offices in Toronto and in Vancouver, and soon to be in Ottawa. We look at the legal aspects to these environmental issues.

My background is 20 years of commercial litigation in private practice in Toronto, so I've seen both sides of the fence. I've spent in the last six years in public interest litigation.

There has been a lot of talk, as there should be, about voluntary programs. Mr. Lloyd talked about them. We think those are great, but we also think you have to balance that with enforcement.

I submitted a written brief, which I understand some or most of you have. In that, I highlighted these two issues of public participation.

The public participation section of the act really deals with five things. It has an environmental registry; an application for investigation; the environmental protection provision, which is the action I've been talking about; an injunction you can bring if harm is going to occur; and last, the civil action in section 20. So it talks about harm before it occurs, with the injunction; and it talks about it after it occurs, with the environmental protection action or with the civil action for damages.

As far as the environmental protection action goes, it's modelled after the provision in the Ontario Environmental Bill of Rights. It has a reasonableness standard, and one has to show significant harm. There is a limitation period of two years, and the onus is the balance of probabilities as opposed to the criminal onus.

So one would hope, or think, that this would have been used in the past. It has not. It has been used only once or twice. It has not met the need of the public to participate through this environmental protection action. I mentioned the other possibilities, one of which, outside the act, is private prosecution. Another is acting under other statutes such as the Fisheries Act. It's very clear that this environmental protection action is not working.

Why is it not working? I suggest that there are a couple of reasons, but frankly, I don't have the answer. I think that requires more study. However, I would note that even the Environmental Commissioner of Ontario has commented on this provision and on the fact that it has not been used. In fact, the Ontario provision has not been used often either. Part of the reason is the cost, the potential of costs that can be put on a person using the environmental protection action. There's no environmental protection action if the defendant engages in any kind of mitigation. There's no emergency provision in the environmental protection action.

I'd like to read out just the government's own conclusions on the environmental protection action and the public participation, which are contained in a document at tab A of our material. It's called the *Formative Evaluation of CEPA 1999,* and in that, at paragraph 2.2, the expected outcome of this action was that Canadians would have "the opportunity to initiate investigations of alleged offences, recover personal damage and economic loss, make personal claims and file citizens' suits".

Well, it hasn't happened. As they note, "The public participation provisions have not yet been triggered, as no relevant public applications for investigation or public environmental protection actions have been received (One environmental protection action was initiated under a Section 22 request, but this was dismissed by the Minister)".

● (1555)

Under their issues and challenges, the government itself commented again that very few public applications for investigations have been made. It talks about the barriers to increased public participation and their not having been formally examined.

Again, I said I don't have all the answers. I think I would have some of the answers because we engage in activities under the Fisheries Act, i.e., private prosecutions. We've never done it under CEPA. If we haven't done it, it's unlikely that anyone else will do it, because we're one of the few organizations in the country that do this sort of thing.

To conclude, this is reading from the government document again: "The expected outcome related to Canadians initiating investigations of alleged offences, recovery of personal damages and economic losses, making personal claims and filing citizens' suits is unlikely to be achieved without further actions by the Department. Work needs to be done to identify and address barriers before the opportunity provided through the public action provisions of the Act can be fully realized".

We make a few suggestions in our document. We laid it out by showing the CEPA provision. We've laid out suggested amendments and we had a comment column as to why that was necessary. There are provisions in numerous U.S. statutes that provide for citizen actions. We feel we can do a better job.

We've also included a section on enforcement. We suggest there should be a Fisheries Act-like provision. The Fisheries Act is the main pollution prevention provision that we use—the federal one, in any event. It is not CEPA. CEPA is anemic regarding individuals beginning and constituting actions for harm to the environment.

One of the advantages of the Fisheries Act is that it has a fine splitting provision. It's been around a long time. It has not opened the floodgates to these kinds of private prosecutions. It is very useful. It takes some of the sting out of the bringing of private prosecution under the Fisheries Act, because you can recover half the fine if you initiate a private prosecution.

Our main recommendation in that regard is there's nothing comparable at the moment in CEPA. As I said, in the other main pollution prevention statute, the Fisheries Act, we have one. So why not have one in CEPA? I throw that challenge out to you.

To conclude, I think you have an opportunity here to really give valid and real public participation, as was intended by the act. Pretty well every poll out there shows the environment is near the top or at the top of concerns of Canadians. You have an opportunity here to bring laggards into line. Mr. Lloyd was talking about good performers, high performers. They're doing the job, and others are not. This would be a good club to bring them into line. I think any socially responsible corporation would concur with the suggestions made under both our headings of public participation with the protection action in the fine splitting provision of the Fisheries Act.

Finally, this is an opportunity to put CEPA on level with the Fisheries Act. Why not? Why shouldn't we protect our citizens as well as we protect our fish?

Thank you very much.

● (1600)

The Chair: Thank you, Mr. Wright.

We'll go on to Great Lakes United, Mr. Stack.

Mr. Derek Stack (Executive Director, Great Lakes United): Thank you, Mr. Chair.

Thank you to the committee for having me, once again, testify.

The Canadian public's interest in environmental stewardship pulls relatively high on voter priority lists, but it's rarely reflected by way of broad participation and CEPA consultation. Committed environmental groups such as Great Lakes United will continue to consult under various provisions of the Canadian Environmental Protection Act, but I think we'll nonetheless be left wondering what to do in terms of engaging the public at large.

Two backgrounders were prepared by Great Lakes United under the auspices of the CEPA Review Advisory Committee, and I've tabled those with the clerk for your review.

For the purposes of analysis, GLU's following comments are loosely grouped as access and outreach, the mechanics of consultation, and the absence of departmental champions.

On public access and outreach, comprehensive state of the environment reporting, I think, would be very beneficial for attracting public interest in CEPA. To date, as it stands now, it's the National Pollutant Release Inventory, more commonly known as the NPRI, that's the primary tool through which the public engages or gets information on pollution data for Canada.

Progress on the NPRI has largely stalled since 2002, and as of August 2006, I believe, PCBs, thallium, beryllium, barium, and radionuclides were still not included in the inventory, despite years of having been tabled for discussion. Likewise, recommendations to reduce reporting thresholds have gone unheeded, revisions to mining exemptions have not been addressed, and the credibility of NPRI data is undermined by a lack of auditing polluter reports.

Other CEPA databases should be tightened to report on actual pollution levels rather than on volume of pollution permitted. I'm referring here to ocean dumping requirements. The use of other statutes in pollution reporting mechanisms—for example, greenhouse gases—that fall outside of CEPA further undermine efforts to draw public attention to CEPA as a one-stop shop for pollution information.

State of the environment reporting has been poor and insufficient for promoting the act and government efforts on pollution control generally. State of the environment reporting needs to be enhanced and should include reporting on specific CEPA provisions, including efforts to meet international agreements impacted by the act. I'm referring here to international emissions into air, land, and water.

With no public profile for the act, a lack of ministerial reporting, and precious few cuts to pollution to report, the value of the CEPA registry is challenged not by the website architecture, but rather by what I would describe as ministerial disinterest in reporting on progress and insufficient interest in the promotion of public participation. For those reasons, a concerted promotional campaign for highlighting CEPA as Canada's cornerstone pollution statute and for the release of the state of the environment report would be beneficial, and I think actually might be needed.

Under the heading of mechanics for consultation, Environment Canada has a well-established history of public consultation and is supported, in part, by the delegate selection processes of the Canadian Environmental Network, whose members nominate NGO representatives on various issues. Environment Canada does a much better job than most federal departments, including, notably, Health Canada, at ensuring stakeholder balance in consultations and at avoiding undue influence in the selection of NGO representatives.

That said, treatment of first nation representatives has been inconsistent under CEPA. At times they fall under the rubric of civil society and effectively displace an environmental representative on that point. My point here is that a first nation delegate typically will focus interest on issues of governance, representation, and treaty rights rather than on broad issues of civic interest and operationalization of the act. It's therefore unfair to dilute representation of non-governmental organizations with representation from Canada's first nations, and it's equally unfair to characterize first nations as stakeholders on par with environmental groups and private industry. Inasmuch as they represent governments or ambitions of self-governance, first nations must be consulted outside of CEPA's delicate stakeholder balance between industry and the NGO sector.

● (1605)

The third point I want to address is the lack of a departmental champion for the environment. Stakeholder balance alone is insufficient to guarantee credible outputs from consultation. Exactly how and the extent to which participants engage largely determine the final recommendations coming out of consultation. Whereas departmental participation is necessary and encouraged, it is not at the moment balanced, inasmuch as no department champions the environment per se. By way of example, at consultations, Natural Resources Canada is routinely able to identify with recommendations that reflect mining and forestry interests, and Health Canada ensures that its pharmaceutical clients are not undermined by proposed action.

Environment Canada seems steadfastly focused on consultation process rather than on promotion of environmental protection. Rarely at consultations does Environment Canada table its recommendations for discussion or provide critiques to consultants' reports. More routinely, as recently reported to GLU from CCME meetings, there is stakeholder review of discussion documents prepared by third-party consulting firms without the benefit of a critique or an indication of what the department plans to do with the report. The public is more frequently consulted on consultants' reports than on any proposed policy direction intended to realize CEPA objectives.

Environment Canada needs to step beyond the current role of coordinating input toward one that also shows leadership in environmental protection in a way that identifies the recommendations the department is tabling. At consultations, stakeholders should be reacting to draft recommendations, not to the recommendations of private consulting firms.

In the view of Great Lakes United, dedication to state of the environment reporting, an enhanced NPRI, improved stakeholder balance, and a special track for consulting with first nations, along with departmental leadership and championing of environmental protection, will all improve the act's capacity to engage the public.

I'm sorry, but the timelines didn't allow for specific clause-by-clause proposals in this text. I'll be submitting those later this month.

● (1610)

The Chair: You can send those to the clerk.

Mr. Derek Stack: We will do that. Thank you.

The Chair: Thank you.

Ms. Wright, did you want to comment on the assessment failure mentioned earlier?

Mrs. Cynthia Wright (Associate Assistant Deputy Minister, Environmental Stewardship Branch, Department of the Environment): Certainly. Thank you, Mr. Chair.

I've said this before publicly, so I think it's fair to say it in front of this committee: we learned a lot through the road salts example. We learned a lot about how difficult it is for the public to understand the word “toxic” and how much upfront work you need to do to indicate what the intention is of adding a substance to the schedule. I was pleased that the witnesses did indicate that the risk management has gone better. That's what we've been trying to do more of, so that when we add something to the schedule we give more sense of where we are trying to go and what we are trying to do in terms of managing the risks.

That being said, though, I don't want the committee to feel there's no engagement or consultation during the risk assessment phase. There is expert peer review. There are discussions with experts and there's a peer review process. And then the purpose of publishing a *Canada Gazette* notice about the intent to add a substance to the schedule is to ensure there's formal engagement.

But that being said, I think we learned a lot about the process we went through with road salts.

The Chair: Good, thank you very much.

We'll go to Mr. Silva.

Mr. Mario Silva (Davenport, Lib.): Thank you, Mr. Chair.

I also thank the witnesses for coming forward. We have heard from many of the organizations before, so it's another opportunity to hear from them again.

I just want it to be clear for the record—and maybe I misheard him—but there seems to be one particular view held and another by the department. I want to make sure this is clarified. In particular, we all know that enforcement actions are essential to ensure compliance with the act, but education promotion activities encourage compliance with the act's essential parts.

Mr. Hanneman, you stated that you have given failing grades for this participation. I didn't hear anything from the department, from Mrs. Wright, on that. I just wonder if you could clarify this, and maybe I can hear from Mrs. Wright on whether she feels there's adequate participation or not, and whether it's working or not.

Mr. Richard Hanneman: Thank you for giving me the opportunity to respond on that.

We believe that although there was peer review and a formal *Gazette* comment period, there were several deficiencies in public participation in the assessment process. We've testified to those before. We would say that the primary one is that in the peer review, for example, the reviewers were not even listened to by the departmental staff. We made the point that during the gazetting process, one of the peer reviewers—an expert and consultant and author of some of the background documents—actually had to write in protest that the departmental staff had misrepresented his views in the report they filed.

A voice: [*Inaudible—Editor*]

Mr. Richard Hanneman: I'm not sure that I understand—

Mr. Michael Teeter (Consultant, Salt Institute): I think we have to differentiate between the gazetting consultation process and a more open one that might occur with, for example, the risk management process for road salt, which is a very robust process involving hundreds of stakeholders across Canada.

The gazetting process, which is what you get when you're involved in a risk assessment, is, as you know, simply publication in a magazine called the *Canada Gazette*. Unless there's an attempt to have people participate in that process, it really can be very obscure.

To be fair, certainly in the first phase of the risk assessment, it only happened because the salt industry stimulated conversations on it and actually went out and told municipalities and the provinces that there was this process for them to participate in. Had we not done that, there would have been very little participation in the whole issue of whether road salt should be listed on schedule 1 or not.

That could be improved, I have no doubt. Dick also mentioned that at that time, for some reason—I'm still baffled by it—in August 2000 Environment Canada felt that they had to hold a national press conference on the issue. We were given one day's notice about it. I don't frankly think that was public participation either. It did get some news coverage, obviously, on road salt as being toxic.

Just to summarize, I think the gazetting process is a little obscure, and if you want to enhance public consultation in risk assessment, I'd suggest that maybe Environment Canada could make it more robust.

● (1615)

Mr. Mario Silva: Mrs. Wright, when you answer the question, maybe you can also state how we can avoid this situation.

Mrs. Cynthia Wright: The reason I said I think we've learned a lot is that the kinds of substances we were dealing with initially were obscure substances. In the past, CEPA 1988 was dealing with substances that were difficult to pronounce and unknown, and the purpose of the risk assessment phase was really to gather the science and the evidence on whether or not these substances were being properly managed and prevented from entering into the environment in such a manner as to cause harm to the environment or a danger human health.

The reason I say that with road salt we learned is that road salt was one of the early substances we tackled dealing with something people knew and understood. Intuitively, they had their own judgment of how or whether it causes harm.

That means there needs to be more care for communicating what the science tells us about it, and then where we're going in terms of managing the risk. I think that's the part that we've learned and tried to do better, as we've dealt with some other substances that are more of a common nature.

Mr. Mario Silva: Let me also clarify something. When I was on city council in Toronto, the issue of salt, of course, was raised many times. I tried my best to either phase it out or to limit it as much as we could. There are other alternatives to salt that can be used for our roads, and it's not helping the environment and isn't helping our water. It's damaging our environment.

Yet even with the classification of salt as a toxin, it didn't seem to at all diminish the use of salt in our city and most of our municipalities. I'm wondering what we can do. By putting in maybe stronger legislation, we could in fact see whether we could phase it out or reduce it within our municipalities.

Mr. Richard Hanneman: I think the reports that Environment Canada has received—as part of the code implementation, they receive annual reports—have shown actually just the opposite, both in Toronto and throughout Canada, but very strongly throughout Ontario, which has been wildly enthusiastic about cooperating. I think the record shows that although for 40 years we've been preaching using the minimum amount of salt necessary to keep the roads safe and commerce moving in the winter, it wasn't until Environment Canada came in and created this stakeholders process and brought everyone to the table and explained to them that people listened.

So I think you cannot rely on the industry, even though we have tried very hard to be the public education. But I think the record will show that the usage of salt by Ontario municipalities in the last three years has been dramatically reduced.

Mr. Mario Silva: You don't mention the fact that we also have had warmer weather in the city of Toronto and other cities as well, which may be the reason we're using less salt.

But I don't want to get into another debate, because I think my honourable colleague has another question. I'll go again in the second round to ask more questions.

The Chair: Mr. McGuinty, you have three minutes.

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

I'd like to ask a question, if I could, of Mr. Lloyd.

Thank you very much for attending, ladies and gentlemen, this afternoon.

Mr. Lloyd, if I can, I want to cut right to the chase, because we've worked together in the past on different issues. I want to go to your brief. In the conclusion you say that CEPA ought to be used to differentiate between good and poor environmental performers, and that this act should be used to support the use of industry responsibility programs to recognize and encourage good-performing companies. The reader and the viewer is left hanging with a question of just how it is we should do this.

In fact, our government worked hard with you and so many other stakeholder groups for years to, for example, devise eco-efficiency indicators that would allow for meaningful comparison between not only companies in your Responsible Care program but for companies that hail from other sectors, like pulp and paper, for example. I want to put this to you. First, if you could, could you help us understand, for example, whether eco-efficiency indicators could be used and ought they to be reflected in the act? And secondly, ecological fiscal reform is, most western democracies now realize, the way forward. We need to find the way in which we're going to have a meaningful intersection of fiscal policy and environmental policy. Can you tell us, for example, how that might be used to achieve your objective, which is to have government recognize and reward good performers over bad performers?

● (1620)

Mr. Gordon Lloyd: Sure. Let me tackle the second question first. I've made this point, as has our CCPA president, Richard Paton, to this committee before. I think it's really unfortunate that improving capital cost allowance isn't being looked at from an environmental dimension. We've talked here before the committee, and I think Jay Myers from Canadian Manufacturers & Exporters made the same point, that it's pretty well demonstrated that if you get more new investment, you're going to have, with those newer plants, better environmental performance. One of the things governments can do to attract more of that new investment to Canada would be to improve the capital cost allowance provisions.

That's the type of example that would fit into your second question on the type of economic instruments that the government should be using. We think that should have been part of, for example, the notice of intent and the package of measures around greenhouse gases—I think it also applies to air pollutants—but it's not.

The first question means to differentiate between poor and bad performers. I allude to that a bit in a couple of paragraphs before my conclusion. I think there are tools in CEPA that could do that. Pollution prevention planning tools could be used for that, but the problem is that they're not being used. I think that's a question of political will and I think that's also what the *Smart Regulation* report said.

I don't know what the act can do to encourage that political will. One of the things that we're suggesting this committee do is to suggest that there be preambular text to ensure that governments at least consider that type of approach when they look at instruments they're going to use. I think that would be helpful. Now it wouldn't be determinative.

I haven't answered your specific question about indicators. They might fit into that, but I think the idea that I've put forward about pollution prevention planning would be an easier way to approach this within the existing framework of the legislation and the kinds of tools that we already have, but aren't using enough.

The Chair: Good, thank you.

Mr. Bigras.

[*Translation*]

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

My questions will focus mainly on the document that was submitted to us by the Sierra Legal Defence Fund, and more specifically on Appendix I of this document. In my opinion, this document provides the best information on the enforcement provisions of the Canadian Environmental Protection Act since 1999.

I think it was a good idea to postpone the Canadian Environmental Protection Act review, because when looking at this document, I realize that we had to wait until 2004-2005 for the first environmental protection compliance orders to be issued by virtue of this Act.

Mr. Chair, this means that if we had proceeded with a review five years after passing the Act, as specified, we would probably not have recorded a single compliance order.

How can we explain that we had to wait five years before obtaining the first compliance orders under the Canadian Environmental Protection Act? I am referring to the 2004-2005 period, when some 100 compliance orders were issued. This number represents the total number of issued orders registered in this report.

[*English*]

Mrs. Cynthia Wright: I think you're thinking of the environmental protection compliance orders. They were used extensively in the last couple of years with regard to dry cleaning regulations.

This is a tool just to make sure that everyone is on the same page. Essentially it's like a stop work order. There has to have been evidence of a violation to use this tool. It's a fairly tool new. It came in with CEPA 1999. In the early days there had to be training of our staff and awareness in the industry around it. It's been used fairly significantly since that training and awareness, and used extensively in the dry cleaning regulations.

● (1625)

[*Translation*]

Mr. Bernard Bigras: I understand, but there were still some 25,680 inspections during this period. First, how do we explain the fact there were 100 orders? This is my question. How do we explain such a limited number of orders, over a five-year period, when we are there to check the enforcement of the Act?

Secondly, I would like to know how many of these 100 environmental protection compliance orders were carried out in Quebec? Next, I would like to know who delivered these compliance orders. Did federal officers deliver them? If I am not mistaken, the Act clearly specifies that the enforcement officer may be a person who exercises a function of environment protection under the jurisdiction of another level of government. Therefore, there is always the possibility that another officer, say a provincial one, was able to do so.

These are my questions. How can we geographically divide these 100 compliance orders? How many of them were in Quebec?

[*English*]

Mrs. Cynthia Wright: Mr. Chair, we did provide the committee earlier with details of all the different tools we've used in enforcement. We can certainly make sure that's brought to the attention of the member.

I just want to make sure there's an understanding that the environmental protection compliance order is not the only enforcement tool. It's the tool to use if there's not a change in industry's behaviour right away. Often when industry has violated a law they're aware of it, and they're often taking action as we're inspecting. There's often a willingness to comply right away. The environmental protection compliance order is a tool where there has been a lack of evidence of the willingness to comply.

We could get the statistics on Quebec. I don't have those in my hands. I think we did give just total summaries, so we can look into that.

Finally, yes, the law does allow training and designation of other members, but I believe most of those, if not all of them, have been by Environment Canada staff. I can look into that as well.

The Chair: Those summaries were distributed just prior to this meeting, Mr. Bigras.

Mrs. Cynthia Wright: I think they're at the national level.

The Chair: No details, yes.

[*Translation*]

Mr. Bernard Bigras: I have a second question. How do we explain that there were only 33 convictions in five years? Does this mean that the alternative measures are effective? Does this mean that, in the end, there is no need to proceed with an enhancement of the Act? Can't we assume that everything is just fine and dandy and that, in the end, very few offences or penalties end up as convictions? Thirty-three convictions in three years is not really a significant number.

Mrs. Cynthia Wright: When we conduct inspections, if there is no violation, there is no subsequent legal action. If there is no conviction, usually, it is really a sign of compliance with the law. For example, in the pulp and paper sector, there is a 98% rate of compliance. This is a really good indication of the industry's will to act in compliance with the law.

Mr. Bernard Bigras: O.K.

What does Mr. Wright think? Does he believe that the fact that there were only 33 convictions proves the existence of good corporate citizens?

[*English*]

Mr. Robert Wright: I think the number for CEPA 1999 is at our tab H, and the number for CEPA 1999 was only 24. So 9 of those 33 were for CEPA carry-overs for CEPA 1988, according to the records we were given.

In our view, that's inordinately low for what is said to be Canada's premier environmental protection piece of legislation. There's been more activity certainly, I believe, under the Fisheries Act. It doesn't mean that everything should be resolved by way of prosecution, but it is there and available and it surprises us. I think the suggestion by the government itself in that document I referred to earlier, the formative evaluation, we have that at tab G. The government's own conclusion was, and I quote:

> It is not possible to determine whether expected outcomes with respect to Part 10 of the Act will be achieved as measurement and reporting systems capable of documenting progress towards expected outcomes in this area remain under development at the time of this evaluation. Such systems will need to be developed and implemented in order to ascertain the likelihood of progress relating to the expected outcomes.

Part 10 of the act being the enforcement section, and the evaluation referred to was in March 2005.

In our paper we also ask for an increase in the information obtained and analyzed, to assess whether the enforcement is working. Our own view, in our own experience, is that it is not indicative of enforcement with that number of convictions. However, we would concur with the government paper that they need to look at it very seriously and analyze it properly.

I hope that answers your question.

● (1630)

The Chair: Mr. Lussier, do you want to finish? You have a little less than two minutes.

[*Translation*]

Mr. Marcel Lussier (Brossard—La Prairie, BQ): My question is for Mr. Lloyd.

In your document, you state that you have MOUs with four provinces. What about the other provinces?

[*English*]

Mr. Gordon Lloyd: We don't have sufficient operations in the other provinces to warrant doing that. We actually have what I would call a national MOU, memorandum of understanding. The federal government is a signatory at the ministerial level from three departments: Industry, Health and Environment. In its first renewal, Ontario and Alberta also joined. And in its upcoming renewal, which is still in progress, British Columbia has joined and Quebec is participating in the management group for this. It's called the Environmental Protection Steering Group, and Quebec isn't signing the same document as everybody else, but we're developing a parallel MOU with them. They see themselves as a full participant and came to the last meeting and participated.

Then we also have environmental groups that participate in this. We have a national advisory panel for Responsible Care, which has people from various walks of life. We have a couple of representatives from there and some environmental representatives as well. It's not with each separate provincial government, it's kind of all in together, although we will be having the separate arrangement with Quebec so they can participate in our national approach.

We have a separate agreement also with Ontario related to that. And that's basically the answer to your question.

The Chair: Thank you, Mr. Lussier.

I would mention that Mr. Cullen did come to see me. He is attending Mrs. Broadbent's memorial this afternoon. Now you know where Mr. Cullen and members of the NDP are.

Mr. Vellacott, please.

Mr. Maurice Vellacott (Saskatoon—Wanuskewin, CPC): Thanks.

I have a question I want to ask, probably to each of the witnesses. I think it would be a good thing to have each of you respond, if you could, to the issue of whether you think CEPA places too much emphasis on voluntary instruments, such as guidelines, codes, codes of practice and policy statements, or is something more required? Is there too much emphasis on those voluntary things? Do we need something else?

Mr. Richard Hanneman: Thank you.

I would say that our remarks will have to be confined to our issue, which is road salts. In that, I think the appropriate response is a voluntary code of practice, as has been worked out. I don't think a regulation can be sufficiently flexible to reflect the operating conditions, and the local topography, and environmental conditions to make it work.

I could envision that other substances might very well require an enforcement regulatory approach, but we're talking about a situation where you have millions of tonnes of a very low threat material. So it's really the question of where it gets concentrated, and does that concentration occur at a place where it is vulnerable to that kind of challenge.

● (1635)

Mr. Michael Teeter: I've said this before and I'll say it again. I think if the discussion with industry, in particular about substances because it's a substance-based act, focused more on the use of the context of the substance and the problem areas that resulted from the use of those substances to human use, you'd get the solutions a lot faster. Frequently, regulations would be the best solution, and everybody might agree to that.

I think one of the problems with the statute is the broad nature of the process. Looking at a substance broadly and all its uses just makes for a real mess if you want to get agreement quickly. So if we looked at the context of use, the human dimension of a substance, I think you'd probably get to regulation faster, if that's your objective.

Mr. Maurice Vellacott: Do I understand you to say then that you are in support of moving to some greater regulatory approach?

Mr. Michael Teeter: No, I'm just saying that in some cases all stakeholders might agree. I think where there's agreement, in order for equity and fairness to work, I think that if you looked in context you'd get a lot more agreement.

No, some things obviously wouldn't work in a regulatory environment, and some things do. It just depends on the circumstance. And I think even Environment Canada and Health Canada would agree that every situation is different, that the solution is different for every situation.

Mr. Gordon Lloyd: First of all, I think we should stop using the word "voluntary", because it has the wrong connotation. It has the connotation that these are things you do if you want to. Where you're going to have these kinds of programs and you're going to rely on industry to do it in a non-regulatory sense, I think there should be some ability to count on industry to be able to deliver.

There should be infrastructure with the sector reporting. It's not voluntary in the sense of "do it or not do it, it's up to you". It's that the legislature is going to take a route of having industry use a non-regulatory approach, with the assurance that it will get done. So that's why I call these things industry responsibility programs instead of voluntary programs.

It's a nuance perhaps in language, but I really wish that 10 years ago when we started to talk about these we'd picked a different word. I think we trapped ourselves collectively into the wrong lexicon on this.

I think industry responsibility programs need to be more embedded in the act in trying to make sure they actually do deliver on what's committed. That's why I suggested that one approach might be tying them to pollution prevention planning, which gives the use of a quasi-regulatory instrument. The government can set out factors to be considered, things that it would like done, and the industry can respond through its industry responsibility program of how it's doing that.

As I said, I think that's allowed for in the act; the problem is that there seems to be not much political will to use it. And I think that's partly because of this false dichotomy we've set up of voluntary, which has the notion in the public that they can do it if they want, versus regulatory. I think there's really this very important ground in between where you're not using a regulation, which tends to be complex and with which I think it's much more difficult to achieve results, but you are using the fact that it will happen, it will get delivered, and you're tracking against that.

I hope that helps.

Mr. Maurice Vellacott: Partly. I'm still a little confused. Some of it might be around the term "regulatory" as opposed to "quasi-regulatory". I don't know, it's either regulatory or it's not. I'm still not really clear in terms of subtle distinctions here. You either regulate or you don't. I'm a little baffled on that, I would say.

Mr. Gordon Lloyd: I think there's actually something that's in the middle, where it's quasi-regulatory in the sense that it's reflected in the legislation, like pollution prevention planning is.

I think one of the bases of pollution prevention planning is that there's a recognition that if government, through stakeholder consultations or whatever, sets out some broad objectives to be achieved and then leaves industry to achieve them, with some kind of commitments that they will be achieved, industry is going to be able to achieve the objectives in a more efficient way than if it's done through regulation, because regulation tends to always be very prescriptive.

We talk about performance-based regulations as an ideal, but I don't think we often get that. So I think with an instrument like pollution prevention planning, you can have something that does have the benefits of being enshrined in the legislation, which I think improves public confidence, allows objectives to be set out, but has greater flexibility in terms of how it can be implemented.

● (1640)

The Chair: Mr. Hanneman, I think you wanted in on this.

Mr. Richard Hanneman: I just wanted to offer a quick comment, which I hope is clarifying.

When you talk about industry, that's not the situation we're facing. We have five salt producers in Canada. That's all. It's easy to enforce against them. That's not what we're talking about. We're talking about thousands of agencies and tens of thousands of operators who are actually putting the salt into the environment. That's where the "enforcement" has to be done, and that's where you have thousands, and those occur in different snowstorms, with different approaches.

The Chair: Ms. Wright, do you have a comment?

Mrs. Cynthia Wright: Yes, if I could comment to help clarify about the process and the tools, the department does have a guidance manual it follows every time it's making a decision to control risks of a substance or prevent risks. It does consider the full range of tools, from regulations to call it voluntary or call it industry-led tools; and it does look at factors like the compliance rate of the industry currently, the nature and severity of the risk, the probability of compliance, a number of different factors, which are often related to the number of facilities and the dispersiveness of them. We'd be happy to share that tool so you can see the way we approach our work.

Mr. Maurice Vellacott: It would be good to have that. I wouldn't mind receiving it.

I don't know, through the chair, if Robert Wright and Derek Stack have responses to that, and maybe also responding to Mr. Lloyd and Mr. Hanneman.

Mr. Robert Wright: Sure, I would like to.

We would favour more of a regulatory approach. We think that brings certainty, and it levels the playing field. One of the goals of enforcement in all of the policy manuals of Environment Canada is that enforcement is carried out in a fair, consistent, and predictable manner. We believe the regulatory approach will do that.

The one I'm most familiar with is of course the Fisheries Act. We have the pulp and paper effluent regulations, and we have a complaint before the CEC on those now, but at least those regulations are there. You can go in and see whether they're being enforced. There's something measurable that helps the enforcement people. They're not dealing with some airy-fairy ideas about what's voluntary and what is not. So I think it is useful and I think we have gone perhaps a little further the other direction.

Of course, on the ground, one of the problems is that often those responsible for enforcement see the people they're enforcing against as their clients, so they end up getting a little closer than they would otherwise, and so the tendency is to move to voluntary programs.

Again, we've made two suggestions that we think will help bring the laggards up to speed and level the playing field for the good performers.

The Chair: Do you have a comment?

Mr. Derek Stack: I would echo what Mr. Wright has just said. I think the question was, are we relying too much on a voluntary versus regulatory approach? Maybe if we spent five years focused on regulatory we could compare a little bit, but as it stands, I think it's a tough comparison to make.

The Chair: Thank you, Mr. Vellacott.

We'll go on to Mr. Scarpaleggia.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you, Mr. Chair.

This is a very interesting discussion, but it's hard to really get a handle on it. For example, I think it was Mr. Lloyd, or someone else, who said that we need to look at context, that if we're going to take action on certain chemicals, we need to look at context. Then other witnesses talked to us about risk management. It seems to me that risk management is all about a study of context. So it's very hard to understand that context isn't taken into account. That's one question. Anyone can take a stab at that one.

The second issue that is still unclear to me is the issue of the salt regulations or voluntary management program.

Mr. Hanneman, you seemed to suggest that you were okay with CEPA the way it is, but that the government's actions were not as appropriate or effective as they could have been. Does that mean you are okay with the fact that salt is considered CEPA-toxic?

Ms. Wright, you started with a *mea culpa*, or it seemed to be anyway, at the beginning. But you weren't specific. What went wrong there?

First of all, are you fine, Mr. Hanneman, with the idea that salt is CEPA-toxic? What really went wrong? If you could name one or two specific things that didn't go well in this case, I'd like to know what they are.

● (1645)

Mr. Richard Hanneman: If I may start to respond, we are not comfortable with the designation of road salts as CEPA-toxic. That's why we have argued that they should not be added to schedule 1, or they would be CEPA-toxic.

At this point, Environment Canada has made a designation, which is sort of, the way the process works, more of a recommendation to cabinet or whoever is going to make that decision. Therefore, we are not stuck with the CEPA-toxic label at this point, which would dramatically impede the cooperation that thousands of government agencies have been willingly given. I think it would be unnecessary, since you have every indication that without that designation people have been most responsive to environmental improvements.

Mr. Michael Teeter: Mr. Chair, perhaps I could clarify. The Salt Institute was actually here back in September.

Mr. Francis Scarpaleggia: You talked about how the CEPA-toxic label was impeding, or almost shut the door to, the Japanese market.

Mr. Michael Teeter: That was certainly one of the points made, but we also presented some recommendations for changing the statutes. I think you made the comment that we were happy with the statute the way it was. Our interests really in that presentation were to try to make the statute more workable, to try to get to positive actions for the environment faster.

Mr. Francis Scarpaleggia: I'm a little unclear.

Mr. Michael Teeter: Just so you know, we do want to make some significant recommendations to change the statute that we have.

Mr. Francis Scarpaleggia: I understand. But for example, we spent the whole session talking about how the CEPA-toxic label had hurt salt.

Mr. Richard Hanneman: The discussion, as I testified earlier, put out as a nationwide press conference stating that salt is toxic, and the headlines parroted back “Salt is Poison”—that's what hurt.

Mr. Francis Scarpaleggia: Okay.

Mr. Richard Hanneman: And that's what poisoned, if you will, the working relationship and set us back several years.

Mr. Francis Scarpaleggia: Sure, but then the government reacted to that in some way by not labelling salt as CEPA-toxic—

Mr. Richard Hanneman: Once the cat is out of the bag.... That was the problem.

Mr. Francis Scarpaleggia: But the point I'm trying to make is that there seems to be enough flexibility in the legislation that if something is a commonly used product, like road salts, the department can somehow nuance its position and take that into account. Maybe the problem is that they didn't do that right away, and they should have.

It seems to me that, first, as I was saying at the beginning of my intervention, the law does allow context to be taken into account, and second, it really was, at the end of the day, in the case of road salt. I don't understand the problem.

Mr. Richard Hanneman: It was taken into account. In other words, the recommendation was that road salts—all sodium chloride, potassium chloride, magnesium chloride, and calcium chloride—were going to be called toxic. That's not localizing it. Obviously all salts, or any of those salts, are not toxic.

Mr. Francis Scarpaleggia: No, but in the end it was not considered—

Mr. Richard Hanneman: Correct, but it was a discussion that caused the problem.

Mr. Francis Scarpaleggia: No, I understand that, and this is where the department probably erred. But it seems to me that the framework of the legislation is adequate.

The Chair: Mr. Scarpaleggia, your time is up. You may pick up on that.

Ms. Wright, I know you want in there as well.

Mr. Calkins.

● (1650)

Mr. Blaine Calkins (Wetaskiwin, CPC): Thank you, Mr. Chairman.

I think everybody's kind of pointing in the same direction, with the wind sock maybe teetering a bit left and right, depending on the particular issue. I know that the salt guys have a specific issue here that they want to talk about, and the chemical producers as well. Everybody's got their interests at heart, and I certainly do appreciate some of the difficulties that this legislation poses.

But where I want to go with this is, how often are these things being used for the department? How many complaints do we get? How many voluntary submissions do we get? About people bringing forward information of wrongdoing and so on, is there adequate whistle-blower protection for some of these submissions?

Mrs. Cynthia Wright: There is whistle-blower protection, and we think it's fairly modern and powerful. If your question is how often do we get people whistle-blowing, making a complaint and informing us, it's not often.

However, there are two things. As I said earlier, our observation is that the regulations under CEPA are substances that are somewhat obscure. They're not usually as visible as the kind of substances or regimes under the Fisheries Act. They're a bit more difficult for citizens to understand, and therefore it's more costly to understand what the violation is, etc.

So those are the reasons, which we're coming up with, that citizens don't use these tools more often. But the act has fairly modern tools for allowing citizens to make the environmental protection action, civil law proceedings, and whistle-blower protection. It has a number of these tools in it.

Mr. Blaine Calkins: I have a question for Mr. Wright.

In your discussion, obviously you want to make changes parallel to the Fisheries Act, as far as the penalties are concerned. I have some concerns with that, because when you're talking about the Fisheries Act, you're talking about water. Nobody owns the water. So when you're talking about penalties and so on, it's obvious we're just dealing with fish. But when you're talking about environmental protection, we're talking about whole different levels of property ownership that could be involved. And when you start talking about these penalties, where half goes to the person laying the charge, we're talking about whole different amounts of money and a whole different context, compared to the Fisheries Act.

I have some serious reservations with that. I was wondering if you would like to address this first, and if anybody else on the panel would like to give their input on that as well, please do so. Frankly, I don't think it's an equal or a fair comparison.

Mr. Robert Wright: Thank you.

I'd respectfully have to disagree with that. We own the water; it's a public resource. The fisheries are a public resource. Regarding the Fisheries Act, there's a case right now in P.E.I. as to whether the fish resource is held in trust for the people in Canada. So we'll wait and see what the court has to say about that.

I'd have to disagree with your starting point. I don't think the difference, even if there was the one you suggested, really holds up under analysis. Here we're dealing with substances that are known to be toxic to human beings. How can you have a lesser regime dealing with substances that are toxic to human beings than the one dealing with fish? We're left in the conundrum of using the Fisheries Act as our premier pollution prevention legislation. It's pitiful.

If anyone stood back in any other country and looked at this.... In the U.S. they have the Clean Water Act, the Clean Air Act, and so on. We have the Fisheries Act as our strongest provision. It is the only act that has the provision I'm suggesting. It's a federal act. It has a long history of being used respectfully and responsibly. I suggest we should go for it with CEPA, bring it up to par.

I hope that dealt with the issues. If you have any further questions, I'd be pleased to answer.

The Chair: Go ahead, Mr. Hanneman.

Mr. Richard Hanneman: Mr. Teeter wants to talk, I think, about part of it, but I want to specifically address the point made earlier, the point that CEPA deals with human health. It does, but it doesn't have to.

In the case of road salt, it specifically was not alleged that salt was toxic to human health. That was part of the public confusion—that under CEPA, it is something that could be called toxic to human health. But no one was alleging that. Health Canada has reviewed salt in the diet for many years and is quite confident, I'm sure, that salt is not toxic to human health in the amounts used. Anything is toxic in the right dosage.

● (1655)

The Chair: Mr. Teeter is next.

Mr. Michael Teeter: I'm sure that Cynthia or Gordon would know this better than I do, but I think you're completely right. The complexity of the interactions with society is much greater with CEPA than it is with the Fisheries Act, in my opinion. Not the least of those is the constitutionality issue; it is a reality. No one disputes that the federal government has constitutional authority over fish and water; it's much more complex in the case of CEPA-managed substances or CEPA-assessed substances, as we found out in the case of road salt. So I don't think these two statutes are actually easy to compare, when you look at them very carefully.

The Chair: Thank you, Mr. Calkins.

Mr. Bigras is next.

[*Translation*]

Mr. Bernard Bigras: Thank you, Mr. Chair.

To better grasp the enforcement of the Act, it's always a good idea to consider the example of a specific case. Consider the case of tetrachloroethylene, a solvent used by many dry-cleaning companies. I was surprised to hear that Quebec is the province with the highest number of such companies per inhabitant in Canada. This was my first surprise. This is a good example.

This product — please correct me if I am mistaken — has been assessed, pursuant to clause 64 of the Act, as a toxic substance. We have implemented a regulation by virtue of clause 93 of the Act; we gathered around an issue table the industry, the environment community and the government; as early as 1998, we established a training group in the Quebec area, in order to phase in the good codes of practice adopted by the Canadian Council of the Ministers of the Environment; and today, we wonder where we stand.

As for the enforcement of the Act, where do we stand? Have there been any inspections? What actions have been taken pursuant to the Canadian Environmental Protection Act? I think that based on a specific case, it is always interesting to see how the law has been enforced.

[*English*]

The Chair: Ms. Wright, do you want to tackle that one?

Mrs. Cynthia Wright: We did give the numbers of investigations, inspections, and compliance actions in the summary documents. We can certainly give them for Quebec, and we can give, relative to that particular substance you're talking about, the regulations and the level of inspections in Quebec. In our annual report we do break it down by jurisdiction, so we can give you more detailed information.

It's fair to say that in some cases the Quebec government did get out in front of the regulation and did provide a trading incentive to encourage industry to get into compliance with some of these issues around dry cleaning early on. I don't know for sure if that is one of the reasons we have fewer actions in Quebec, but I wouldn't be surprised if it is. It's an example of two levels of government trying to achieve the same ends and using both their authorities in doing that.

[*Translation*]

Mr. Bernard Bigras: I understand that we have tried to encourage the installation of new more recent and more effective equipment and that we have tried to implement a management code, a code of practice for waste collection. I would like to see if these codes of practice have finally yielded conclusive results? An acknowledgement has been granted — I saw this on your Web site — to approximately 10 or 15 dry-cleaning companies, especially in Quebec. In other words, between 15 and 20 dry-cleaners out of 700 have an accreditation, a certification. That's not bad, but there is still work to be done. Have the codes of good practice that we implemented yielded any results?

Mrs. Cynthia Wright: I have no specific information with regard to these codes, but I can have the clerk forward it to you.

Generally speaking, we do a follow-up on a code, such as the one we referred to earlier. There is a code for that. So we do a follow up to see if it is effective enough. There is always the possibility to add a regulation if a code does not yield the desired results. We do the follow up in compliance with the codes, not only according to the regulation.

● (1700)

Mr. Bernard Bigras: OK. So in the end, this did not bring about any lawsuits.

Mrs. Cynthia Wright: Not so far.

Mr. Bernard Bigras: Thank you.

[*English*]

The Chair: Thank you.

You have 30 seconds—one question.

[*Translation*]

Mr. Marcel Lussier: I would like to come back to the code of practice of salt spreading vehicle operators. Are there code of practice reports involving the 25,000 trained operators? Have annual reports been provided to the Department?

[*English*]

Mr. Richard Hanneman: The department has produced two years of annual reports. We've been briefed on them at stakeholders meetings. I don't have the figures in front of me, but they're very impressive in terms of the percentage; I think somewhere around 90% of the municipalities, counties, and provincial governments are participating in the program.

[*Translation*]

Mr. Marcel Lussier: You say that you have produced two annual reports. You also mentioned a downward trend in salt consumption. In what percentage?

[*English*]

Mr. Richard Hanneman: I think we all agreed that was not going to be a relevant statistic, but I do believe there has been a diminution of salt.

Do you have the numbers, Cynthia?

Mrs. Cynthia Wright: I don't have the numbers with me.

Mr. Richard Hanneman: I think you can say that the amount of salt has gone down. I don't think you can conclude from that alone that there has been progress. As was said earlier, it depends on weather. Also, at a conference here in Ottawa last spring they talked about the effects of global warming and what it would do to winter maintenance activities; the conclusion was that it would mean more salt would have to be used.

[*Translation*]

Mr. Marcel Lussier: Are you planning on using more?

[*English*]

The Chair: We'll have the next round, and Mr. Warawa.

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

Again, I appreciate the witnesses' presence here today.

My riding is Langley, British Columbia. We didn't use a lot of salt in that area until this weekend.

I'd like to continue in the vein of enforcement and compliance—basically, how issues of compliance and enforcement are initiated and how we work with industry to make sure they're aware of the statutes. I believe that would be my first question for the staff of the department: how do we make sure industry is aware of the obligations? Is it step by step? Who initiates that there is a problem from a specific company or from the use of a substance? Is it a public complaint? Is it field officers? Who initiates it? Is the education progressive as they deal with the person who is not using the substance properly? If there's a compliance issue, are they educated through the process and there are fines only if they are pushing back and not wanting to be good citizens? Basically, how do we go through the education and enforcement?

Mrs. Cynthia Wright: In the early days before regulation is passed, we begin what we call compliance promotion with industry. We do workshop training with them to explain what their obligations are, how they're going to have to measure or report whatever is relevant. There are extensive training workshops, written material, etc. Dry cleaning was translated into numerous languages, mail-outs, as well as sessions. We often work through industry associations to reach the regulatees and do everything we can to get out to the regulatee before the regulation comes into effect.

Who initiates the actions? Once the regulation is in effect, we have an inspection plan. That inspection plan is based on our knowledge of the degree of compliance we think is already in place when the regulation comes into effect. Usually the compliance level pretty close when the regulation comes into effect. We have a history on companies and generally have some fairly good information on who has a tendency to comply. Based on that, we'll do an inspection across the country, looking at where we expect violators.

Enforcement officers will go in and conduct inspections, and then based on that information they can use a number of different enforcement tools. Usually in first level, particularly if the industry is showing a high degree of willingness to comply, we have what's called a warning letter that writes out very clearly what the expectation is, and then we follow up on that.

If after we follow up on the warning letter there are still some violations, and if they're not of a serious nature, we have another step we can use. That is the inspector's directive, which is really like it sounds, spelling out exactly what we expect to have done and by when.

We can then go into a number of actual enforcement tools that can lead to penalties. That environmental compliance order we were talking about earlier allows us to ensure there's a stoppage of whatever the violation is.

If a charge is laid and an industry shows a high degree of willingness to comply, there's something called the environmental protection alternative measure, which is essentially a dispute resolution to avoid the costly court proceedings. If they agree to what they're going to do, we write that down and then we don't go through a court, but we follow up.

Ultimately, there are court proceedings, and the fines under CEPA are quite severe. They can go up to $1 million a day for the time a violation exists. Mr. Wright is suggesting the fines we collect be shared if there's a civil prosecution. To date, the federal government has prosecuted. We're encouraging judges to assign those fines to something called the environmental damages fund. Industry pays into that fund, and we can use the money to rehabilitate the environment, do community engagement programs, or do something related to the violation to ensure the environment is improved.

● (1705)

The Chair: Mr. Glover.

Mr. Paul Glover (Director General, Safe Environments Programme, Department of Health): Thank you, Mr. Chair.

The member's question was directed at both departments, and it provides me with an opportunity to explain my silence today. With respect to enforcement and compliance, the act is fairly clear. Environment does that on behalf of both departments. We express our concerns, and they act on our behalf.

One other piece of information relevant to this discussion is that a trend level determining compliance can be done through things like NPRI, where we can see our levels going up or down. On the human health side, we still have a bit of a gap there, in that we don't have programs like biomonitoring to say what the levels are in humans, so that at an aggregate level we can keep track of that. We hope that will change.

The Chair: Thank you, Mr. Warawa.

Mr. McGuinty.

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

Can I go back to this discussion of the spectrum of possibilities under CEPA? At one end, there is pure volunteerism; at the other end, command and control regulation. If you stopped any Canadian coming off any bus in any city in Canada, they would understand it isn't as simple as two extremes. They understand when they purchase a vehicle that's a hybrid vehicle or an alternative-fuel vehicle that in Ontario, for example, they get a $1,000 provincial sales tax rebate. They'll understand if they live in Ontario, my home province, that they must have their vehicles tested for emissions on a certain-number-of-years basis. If the car isn't meeting the emissions test, it has to go back for retrofit. So most Canadians understand that CEPA should not be, and is not simply, a conglomeration of two extremes—regulation in command and control versus pure volunteerism.

Everybody understands that in 40 years of environmental practice in the western world, there's a full spectrum of possibilities. That's what our smart regulation panel tried to achieve in the past government, which is to say, let's be intelligent about this, let's be cost-effective about this, and let's work hand in glove like a mature democracy, business and government together.

The question I want to put to you is this. I've heard no one at this panel speak about two or three other weapons in our arsenal between these two extremes. One is the use of fiscal instruments.

A more specific question to Ms. Wright is, how many people inside Environment Canada today are working on environmental and economic linkages and measures that can help us achieve CEPA objectives? I would guess there are fewer than 10 full-time employees working at Environment Canada in that area.

Mr. Lloyd, you mentioned the notion of accelerated capital cost allowance. The finance department doesn't like to toy with capital cost allowance. It's been reluctant to do so for 20 years. How many people at Finance Canada are busy delivering options for consideration by the Canadian people to achieve environmental objectives using economic measures?

Finally, the most important example we've seen of using an economic instrument has been the Kyoto Protocol, which was like that old Sesame Street riddle, “One of these things is not like the others”. The Kyoto Protocol, for the first time in human history, was going to reflect two things: first, that we have one atmosphere; and second, that we're going to monetize carbon by internalizing the price of carbon in economic decision-making. I would dare say the salt industry would be weighing its approach to salt differently if cumulative environmental impacts were costed. If a dollar figure were placed on damage to a river or damage to a lake, and a company went back to its shareholders to account for it, it might be different.

I want to put two things to the panel: measurement and money. No government can tell one company over another company, whether it's part of Responsible Care or the Forest Products Association of Canada's pulp and paper standards, or any other industrial conglomeration, no government can say, “Company X, you're going to be rewarded this way, and Company Y, you will not be rewarded this way”, unless it can actually measure it. You cannot manage what you cannot measure. No one has talked about eco-efficiency indicators and how you're actually going to measure apples and apples and apples and oranges, and secondly, how we can use the economic system, fiscal and tax spending for example, to achieve environmental impacts.

● (1710)

The Chair: Panel, you only have one minute to answer that question.

Mr. Gordon Lloyd: Let me take a crack at that.

I fully agree the spectrum needs to be looked at, and it shouldn't be this false dichotomy between strict regulation and voluntarism. There are things in the middle. I talked about using pollution prevention planning, which is something in the middle that needs to be used a lot more.

I agree that Finance doesn't seem to be too interested in capital cost allowance, but it does not approach it from an environmental perspective. This committee has a real opportunity to say yes, this is one of the fiscal instruments Finance should be looking at. They would listen to you, and that is an important tool we need to start making use of. I really hope that is one of the recommendations this committee will look at in its CEPA review report. Environment will say that's not us, it's Finance, but the message would be directed from you to Finance.

The Chair: Mr. Calkins.

Mr. Blaine Calkins: Thank you, Mr. Chair.

My first question is fairly straightforward and it deals with enforcement again. It seems to be where I like to go.

The penalties set out in this act include a fine of up to $1 million and three years imprisonment if convicted by indictment; $300,000 and six months for summary conviction. What is the maximum fine and prison term ever handed out for a conviction under CEPA in 1999?

Mrs. Cynthia Wright: I can't tell you off the top of my head, but I know it's been going up over the last few years.

Mr. Blaine Calkins: Can you give me an average or can you give me roughly what we're looking at? I know everything is based on its own merits and the levels of severity. What are we talking about? Are we close to the top, or are we close to the bottom?

Mrs. Cynthia Wright: I'd say we were in the mid-zone, but we can get you that precise information.

The Chair: You can send that to the clerk.

Mr. Blaine Calkins: I'd sure like to know that.

I'm going to start with Mr. Hanneman and go across the panel. Based on those numbers, based on what we've seen here, $1 million and three years or $300,000 and six months, depending on whether it's indictment or summary conviction, do these penalties act as sufficient deterrents?

Mr. Richard Hanneman: My feeling is the salt industry is not the object of enforcement with regard to road salts. It's whether you want to fine the City of Toronto or the City of Montreal or the province of whatever, and whether or not there's the political will to impose that kind of fine on a sister jurisdiction for a violation when the impact is distinctly local. It goes back to the fiscal instrument. You can't very well give tax incentives to a tax-supported organization.

● (1715)

Mr. Blaine Calkins: Fair enough. The pushback on you would be that the municipality would say you sold it to them. There are those repercussions, but ultimately they're responsible for how they apply that.

I sat on municipal council, and so did Mr. Silva and several others around this table, and had to wrestle with those decisions. In Alberta we use the less than 5% blend of salt with sand, and when I came down here, I saw big chunks of salt lying on the road. I'd never seen anything like that until I came to Ottawa.

Mr. Richard Hanneman: It's a different climate here than in Alberta.

Mr. Blaine Calkins: It's a completely different situation, absolutely.

Mr. Richard Hanneman: There's no question.

The other point is that it's not the salt that's delivered that causes any problem. It's the salt as applied in a particular place at a particular time, given certain local environmental conditions. The salt industry cannot control that unless it has somebody in the cab of every vehicle.

Mr. Blaine Calkins: But this is the hammer we're holding over your clients.

Mr. Richard Hanneman: Correct.

Mr. Blaine Calkins: Are you worried about that?

Mr. Richard Hanneman: We are, and that's why we've been trying to train them for 40 years. That's why in the early days of the CEPA assessment we worked very closely with TAC, the Transportation Association of Canada, to develop guidelines that were the running head start the department was able to work into its code of practice.

Both the industry and the customers have been very proactive in trying to reduce the environmental insult of mismanagement of road salt.

Mr. Blaine Calkins: I'd sure like to hear from Mr. Stack and Mr. Wright on this as well.

Mr. Robert Wright: If you look at our chart, there was only one conviction in 2005. So even if these were at the top end, we're not talking a lot of money, but these fines are generally at the lower end of the scale. Certainly, under the Fisheries Act the maximum is around $100,000 to $120,000. They're generally $10,000 to $20,000, so they're at the low end of the scale.

That's part of the reason I'm saying we should be equitable in our enforcement measures. I don't think they're dealing toughly enough with those lagging behind.

Derek.

Mr. Derek Stack: Thank you, Rob.

I don't think either the fines or the threat of regulation have been sufficient to drive even voluntary action.

Mr. Blaine Calkins: Mr. Lloyd.

Mr. Gordon Lloyd: This question is almost irrelevant to our membership. This is not what drives our performance. Responsible Care is about going beyond regulations, the charts I've shown you, and the performance we've achieved.

We're much more interested in what our communities want us to do, so we have mechanisms for that. We have mechanisms like this MOU I was talking about to listen to what stakeholders—and we see governments sitting on there as stakeholders—have to say about our performance and where it needs to be improved, and then we go and do it. Our members don't want to get caught up in paper trail violations. We don't get complaints from that, so I assume that's working properly, but that's not what motivates our members.

The Chair: Thank you, Mr. Calkins.

Mr. Silva.

Mr. Mario Silva: Thank you, Mr. Chair.

Mr. McGuinty spoke of the spectrum and the tools that are available within CEPA, and within those tools and options, I sort of need to know as well.... Of course one of them is the ability to fine, and there's even imprisonment if it's a gross violation. That spectrum goes from $1 million and three years imprisonment to $300,000 and six months imprisonment. But I need to know, what is the maximum ever handed out by the department?

Mrs. Cynthia Wright: Off the top of my head, I can't recall what the maximum is. I'd have to come back to you on that.

Mr. Mario Silva: How many fines have been laid? Do you know the number?

Mrs. Cynthia Wright: No, but there are a lot more than one per year. Again I can't give you that; I'd have to get back to you.

Mr. Mario Silva: I think it's very valuable information, because we need to know whether the system we have in place is actually effective, and also if it's being effectively applied as a tool. I think this information is quite valuable for the committee, so I would appreciate it if you could provide that as soon as possible.

Mrs. Cynthia Wright: What I was trying to draw your attention to was the number of inspections per year, which are up around 5,000, and then to how this tracks into some of the tools that I mentioned, such as 1,000 warning letters and 100 environmental protection compliance orders. What it's showing you is that generally speaking industry is complying.

Out of over 5,000 inspections—an inspection is going on-site and finding out if there's a problem—this translated into 43 investigations. So that's when somebody goes on-site to inspect, starts to find a problem, and then launches an investigation.

● (1720)

Mr. Mario Silva: When you go out and investigate, and for example you find there's a problem, what do we do? Do we just send a warning, and then go back and see if there's another violation, and send another warning? When do we stop? At what point do we say, we have to fine these companies and these individuals, so that we can in fact have a clean, sustainable environment?

Mrs. Cynthia Wright: We have a policy that describes how we go from one step to the other. Generally speaking, it depends on the nature of the violation; if it's a serious violation, we go from one step to another very quickly.

Mr. Mario Silva: Okay.

Now, obviously you work with provincial counterparts in dealing with those. Does their fining mechanism work well with the one that we have at the federal level? Or is it totally different and apart from what we're doing right now within CEPA?

Mrs. Cynthia Wright: Generally speaking, the two levels of government actually have quite different regulations. But CEPA does allow us to cooperate with identical regulations. CEPA allows us to let the federal regulation stand down and the provincial one apply. We can also have work-sharing arrangements with the provinces, so that we don't send two levels of government in to inspect. The provinces can inspect for us.

In terms of fines, it's varies. But most of the provinces have tended to follow the federal government level of fines and have modernized their fines. Probably they don't tend to have the same range of tools as we do in terms of the stop work order type of thing and the alternative measures. But I suspect some of them will start copying those.

Mr. Mario Silva: Okay. Thank you.

The Chair: Mr. McGuinty.

Mr. David McGuinty: Mr. Wright, can I go back to some comments you made about public participation? I think our guest from the Salt Institute mentioned it as well.

There are a number of examples of public participation out there. The North American Free Trade Agreement's Commission for Environmental Cooperation has a citizen-initiated process. Our Commissioner of the Environment and Sustainable Development has a citizen-initiated process. There is a myriad of examples in provinces and across American states, and I think even at the federal level in the United States. The last time I looked at most of them, overall citizen-initiated processes of these kind were very few, not for lack of information or ease, or even in some cases for lack of intervenor funding, which is made available for them to initiate an action or a complaint.

Why is that?

Mr. Robert Wright: On the processes you've talked about, at the end of the day all the CEC can do is make a recommendation. They can't make a legally enforceable decision, and of course it's across Mexico, Canada, and the U.S.

In the U.S. they have the citizen suits, which I've been talking about. We suggest that we should have the equivalent under CEPA, as we have under the Fisheries Act.

So I would suggest that in the U.S. they're not using those mechanisms as well, because they have citizen supervisions, the very kind that we're suggesting would work under CEPA. We think you would see more participation. You sure see it under the Fisheries Act, as far as it can go, and I would suggest there's no reason it wouldn't work here.

Mr. David McGuinty: What about the Commissioner of the Environment and Sustainable Development, Madam Gélinas? She appeared before this committee numerous times in the last couple of years to say that she's disappointed with the uptake by Canadian citizens in participating in a citizen-initiated complaints process that leads her to formally investigate.

Mr. Robert Wright: In fact we're generally the largest customer for the CEC complaint process in Canada. We often use the federal process as well, and it is very useful. It certainly highlights, and they investigate well and deliver a report, and that is used.

But generally we would use this as another step to go once beyond, because again that's a recommendation process—quite an effective one, as it happens, in the federal case—but it doesn't go the same length as a private prosecution would, for instance, which would bring the force of law on a specific topic.

The Chair: Thank you very much, Mr. McGuinty.

I'd like to thank the panel for being here. It was certainly very informative.

Thank you, members.

I need to advise the members that tomorrow the minister has advised us that she will not be attending at 9 a.m. We'll start right at 9 a.m. We have a set of witnesses, we have a couple of other issues to deal with, and motions. So please, let's start on time.

Thank you.

The meeting is adjourned.

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