



House of Commons
CANADA

Standing Committee on Health

HESA • NUMBER 035 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Wednesday, January 31, 2007

—
Chair

Mr. Rob Merrifield

Also available on the Parliament of Canada Web Site at the following address:

<http://www.parl.gc.ca>

Standing Committee on Health

Wednesday, January 31, 2007

• (1535)

[English]

The Chair (Mr. Rob Merrifield (Yellowhead, CPC)): I want to thank the committee for being here. I believe we will have a productive and perhaps very short meeting today, in the sense that we're dealing with Bill S-2, which comes to us from the Senate. It's on the Hazardous Materials Information Review Act.

First I would like to welcome from the department Weldon Newton, Marc-André Dionne, and Sharon Watts. It's good to have you with us.

We will start with your presentation on this piece of legislation. Then we will open it up to questions. The floor is yours.

Mr. Weldon Newton (President and Chief Executive Officer, Hazardous Materials Information Review Commission Canada): I'd like to thank the committee for the opportunity to speak to the amendments to the Hazardous Materials Information Review Act, as set out in Bill S-2.

As president and chief executive officer of the Hazardous Materials Commission, I wish to introduce the officials who accompany me. Sharon Watts is a vice-president, corporate services and adjudication. Also here today is Marc-André Dionne, our legal counsel to the commission.

[Translation]

I will provide you with a brief overview of the Commission's responsibilities and governance structure. Ms. Watts will then present each of the proposed amendments, after which we will entertain your questions.

But first, by way of introduction, I would like to describe how the Commission fits into Canada's overall system to protect the health and safety of workers.

[English]

In 1987 the Workplace Hazardous Materials Information System, known as WHMIS, was established through a consensus of industry, organized labour, and the federal, provincial, and territorial governments. The goal was an integrated and coordinated approach to ensuring that workers using hazardous materials had the information they needed to minimize risk of illness and injury.

The WHMIS system ensures that appropriate information—key word, it's an information system—on the handling of hazardous materials is provided to workers through product labels and material safety data sheets. Concomitantly, these information documents

provide the basis for workers to receive necessary education and training.

When WHMIS was established, it was recognized that there was a need to balance the right of workers to have accurate health and safety information with the right of industry to protect confidential business or trade secrets. The Hazardous Materials Information Review Commission was set up as an integral part of WHMIS to provide this balance.

Like WHMIS, the commission is a joint undertaking on behalf of labour, industry, and the federal and provincial governments. I'll be coming back to this later when I make some comments on governance of the commission.

[Translation]

I will now provide a brief overview of the roles and responsibilities of the Hazardous Materials Information Review Commission and its governance structure.

[English]

The role of the commission is to manage the trade secret component of WHMIS. It operates as an independent, quasi-judicial agency established under the Hazardous Materials Information Review Act. The commission's mandate is to grant exemptions from ingredient disclosure for bona fide trade secrets, while ensuring that the documentation on the safe use of the hazardous products provided to workers is accurate and complete.

In essence, WHMIS is a hazard communications system. The system requires that product labels and safety documentation include the identification of hazardous ingredients in a product, the specific hazards posed by a product, the precautions to be taken in handling the product, and the first aid measures to be applied in the event of exposure to the product.

The basic rule of WHMIS is that health and safety documentation must include full information on the chemical identity, concentration, and mixtures of all hazardous ingredients in a product. But there's an exception to that full disclosure rule, and this is where the commission's mandate is so important.

Exemption from full disclosure of hazardous ingredient information is possible when disclosure would reveal a trade secret or betray a trade secret, and when this revelation would result in an economic loss to the claimant or an economic gain to the claimant's competitors.

• (1540)

[Translation]

The essence of the Commission's mandate is the review of economic and safety documentation in all situations where a hazardous material has a trade secret component and is being claimed as such. When the disclosure of certain information on a hazardous product would betray a trade secret, an application can be made to our Commission for an exemption from the requirement to disclose that specific information.

[English]

The commission is unique, in my opinion, because it is a single organization of government that serves all jurisdictions. The commission receives claims for trade secret protection, reviews health and safety documentation, issues compliance orders, and provides appeal mechanisms on behalf of the federal, provincial, and territorial jurisdictions.

The commission's mandate has been incorporated by reference into provincial and territorial legislation. For example, if you look at the Saskatchewan Labour Act you'll see the Hazardous Materials Information Review Commission named as being the provincial entity for having a provincial mandate to grant trade secret orders, while reviewing and issuing orders for health and safety compliance. It is really a unique, single-window type of commission.

[Translation]

At this point in my presentation, I would like to describe the Commission's activities in three key areas as they relate to its dual role to ensure a balance between workers' right to know what is in the products they work with and their hazards, and the industry's right to protect its trade secrets.

[English]

The commission's mandate really breaks down to three business lines, for want of a better description. First, we do an economic analysis to determine whether the claimant's information is truly a trade secret, and whether disclosure will have economic consequences.

Second, there's a scientific analysis to ensure that the health and safety information being supplied to employers and workers about the product is accurate and complete in its description of the product's hazards, ingredients, protective measures, and first aid to be taken should someone be exposed.

The third part of our mandate is an appeals process. We issue mandatory compliance orders when violations are found—and I'll come back to this. When the claimant or any affected party, such as a worker representative, a union, challenges a decision of our commission, an appeal board is appointed to hear that challenge.

I'd like to go back to the first part of our mandate. To support a claim that certain information is a trade secret, the current system requires that a claimant—for example, a big chemical company, whether American or Canadian—file documentation on the measures taken to keep that information confidential. The claimant must also file documentation on the amount of economic loss they would suffer if they had to disclose that information and it became public knowledge, or they have to file documentation on the

economic advantage their competitors would gain if the information became public.

When the documentation accompanying a claim comes to the commission, it's checked by commission staff. All the relevant information is enclosed in the application, and based on the fact that the file is complete, we issue a registration number that replaces, and therefore protects, the trade secret ingredient information on the health and safety documentation. The registration number permits the product to be marketed by the claimant in Canada.

Based on the information filed by claimants as to the value of their trade secrets protected by the commission during the fiscal year ending March 31, 2006, the disclosure protection mechanism administered by the commission had an industry value in the order of \$624 million.

The second part of the mandate of the commission is the scientific review of the health and safety information to be supplied to employers and workers using the product. The claimant must include this information with the application for trade secret protection.

• (1545)

[Translation]

This second part of the mandate is crucial. Because employers and workers do not have access to the information protected as a trade secret, it is essential that all of the health and safety information they are provided is complete and accurate.

[English]

Over the history of the commission's operations, the commission has ordered corrections to the health and safety documentation on a very high proportion—roughly 95%—of the claims filed. In 2005-06, a total of 2,605 inaccuracies—violations, if you will—were ordered to be corrected. On average, eight to nine corrections to health and safety information have been required on each claim filed with the commission.

A significant number of these inaccuracies result in a potential threat to the health and safety of workers. They include, for example, failure to identify hazardous or toxic ingredients in a product, and improper classification of the toxic properties of an ingredient, the first aid measures, and the protective measures that workers can take to protect themselves. That is, to some extent, the clustering of the violations.

Once we've completed our economic and scientific analysis, we communicate to the claimant our decisions: whether the trade secret's valid, and whether the health and safety documentation meets regulatory standards. At the same time, we publish these decisions in the *Canada Gazette* and on our website for all to see.

When the decision is that the health and safety documentation is not compliant, we oblige the claimant to make the necessary corrections. As I said, last year 2,605 corrections were ordered, obliged. The claimant must then provide the commission with a copy of the amended documentation, or, alternatively, appeal the decision, or stop selling the product in Canada.

This brings us to the third part of the commission's mandate: the appeals process. Appeals can be filed by the claimant and also by affected parties. An affected party could be a union. These appeals are heard by independent boards on which government, labour, and industry are represented.

So those are pretty well the three parts of our mandate. Now I'd like to switch to governance, because this commission has a unique governance structure that's worth sharing with you.

The governance structure of the commission is unique. It's overseen by a council of governors. This council of governors is an 18-member council. There are two representatives of organized labour, two industry representatives, one representing employers of those handling hazardous materials and one representing those supplying such materials. We also have a representative of each provincial and territorial government on our council, and a representative of the federal minister responsible for occupational health and safety.

• (1550)

[Translation]

The role of the Council is one of oversight and governance. Under the Act, the Council has the mandate to make recommendations to the Minister on procedures for reviewing claims, appeal procedures and changes in fees.

[English]

With respect to the amendments set out in Bill S-2, which is in front of this committee, these were developed under the aegis of our tripartite council, which then recommended them to the Minister of Health in accordance with the provisions of our act. This 18-member council played a key leadership role in the stakeholder consultations and analysis that were carried out under the renewal program initiated by the commission.

I believe it's unique to have industry, labour, and federal, provincial, and territorial governments at the same table for 19 consecutive years. They work extremely effectively. Throughout the renewal process there was a great deal of discussion. It was always positive. It was always constructive. In the end, unanimity was achieved, with the full support, again, of the federal, provincial, and territorial governments; the workers handling the hazardous materials; the industry supplying these materials; and the businesses using the materials.

In November 2002 the council of governors formally recommended to the Minister of Health that the renewal of the commission be completed through the implementation of the amendments that are the subject of Bill S-2.

[Translation]

The amendments you will be considering have been the subject of extensive consultation and debate among stakeholders. There were many improvements identified through the renewal process. Most of these have already been implemented through changes to administrative procedures or through regulatory changes.

[English]

At this point I will stop and ask Sharon to deal in more detail with the amendments.

[Translation]

Ms. Sharon Watts (Vice-President, Corporate Services Branch and Adjudication, Hazardous Materials Information Review Commission Canada): Three amendments have been proposed to modernize and streamline the operations of the Commission.

[English]

Within the economic review framework that we spoke of earlier, the first amendment will allow claimants to declare, with a minimum of supporting documentation, that the information for which they are seeking exemption—the trade secret—is a trade secret. Minimum documentation in this case means we are going to be asking the claimant to declare: one, this is confidential business information, or a trade secret; two, the value of that information; and three, that there are security measures in place that will protect the confidentiality of that information.

Currently, claimants have to provide detailed documentation to support each one of these three statements. They do so to protect the confidentiality of the information and the potential implications of either financial loss to the claimant or financial gain to the claimant's competitors. This is an administrative burden, not only on the claimants, but on the commission. Industry to date has been quite conscientious in supporting their claims for trade secrecy in terms of the economic justification. With very few exceptions, they have adequately supported these claims. Practically all of them as a result have been found to be valid, again, from an economic point of view.

The commission, with this amendment, will require full documentation in support of a claim when two things happen: one, an affected party makes a submission to the commission; or, two, when there's a validation scheme, which we will be developing with our counsel, that is instituted to take every *n*th claim in terms of a sampling plan, to ensure that there are no false or frivolous claims.

[Translation]

In summary, the proposal is for a declaration approach, but with a safety net — the requirement for full documentation remains if an affected party challenges a claim or if a claim is selected through the verification scheme. This is the first amendment; it relates to the first, economic part of the mandate described by Mr. Newton.

• (1555)

[English]

The second amendment relates to the second part of our mandate, which is the health and safety compliance review. This amendment will permit claimants who enter into undertakings to voluntarily correct the health and safety documentation when it's found to be non-compliant.

As the act stands now, we absolutely must issue correction orders—we're a quasi-judicial tribunal—and the claimants, even having been told what the compliance issues are, often are ready to make those changes right away. These orders are published in the *Canada Gazette*, but they don't become binding until at least 75 days: a 45-day period during which they can file appeals, and a following 30-day period after the appeal period ends to allow claimants to comply with the order and submit the amended MSDS to the screening officer.

Allowing these corrections to be made voluntarily will expedite the process of getting more accurate information into the hands of workers. Why? There's a 75-day period through which we are waiting for an appeal period and the submission of the MSDSs with an undertaking that information will be supplied immediately because it will have already been corrected with the submission of the undertaking.

[Translation]

Full compliance will be well ahead of what is achievable with the current system. This will also deal with the concern of claimants that compliance orders imply a reluctance on their part to fulfill their responsibilities for workplace safety, especially when they have already told us that they are fully prepared to provide an amended material safety data sheet without an order being issued.

[English]

It's important to note that a correction order will be issued immediately if there is no undertaking or if the undertaking has not been made to the satisfaction of the screening officer. In other words, full compliance will be realized no matter what.

Transparency of this new process will be assured by publishing the content of the undertaking in the *Canada Gazette* and again on our website. Workers will know what information was corrected voluntarily and accepted by the screening officer. They will be able to ensure immediately what is being made available to them in their workplaces and verify that information.

The third amendment relates to the third element of our mandate, as described earlier by Mr. Newton, and that is to approve the appeals process. This amendment will allow the commission to provide factual clarification of the record of the screening officer to appeal boards when it's needed to facilitate the process.

Our appeals are heard by independent boards, as Mr. Newton described, with three members drawn from industry, labour, and the chair of the appeal board, representing government. Most, if not all, appeals heard to date by the commission's appeal boards would have benefited from additional explanatory information from the commission, but this is not permitted under our current legislation.

[Translation]

We do not seek full standing in these appeal proceedings, but with this amendment, the Commission can serve as a friend of the court, providing information essential to the appeal board when it is needed.

[English]

Permitting the commission to do so will expedite the appeals process, and with full and accurate information in the hands of the

board, one would assume this will enhance the quality of the decision-making and add credibility to their decision-making abilities. None of this will interfere with the statutory independence of our appeal boards. That independence is absolutely essential for the acceptance of the decisions by the boards.

[Translation]

Those are the three amendments.

[English]

I turn it back to Mr. Newton.

Mr. Weldon Newton: Thank you, Sharon.

These are the amendments contained in Bill S-2. They are straightforward. They are the product of extensive consultations among industry, labour, and federal, provincial, and territorial governments, all of which support this bill.

I would like to share a little sidebar comment. At our annual meeting of my council in September, we spoke of Bill S-2. I reminded them of the importance of being able to say to this committee today, when given the opportunity, that the bill continues to enjoy unanimity of support among all stakeholders.

A process was agreed to. Each jurisdiction, represented by counsel, would take the bill, brief the jurisdiction's communities and stakeholders one more time, and confirm in writing—I received those confirmations prior to coming here today—an exchange of correspondence, again with my eighteen-member council, the unanimous authorization to restate today their absolute support for Bill S-2 as presented to this committee.

In a nutshell, the amendments will reduce the time required to review claims for exemption from disclosure of trade secrets. It will speed up the correction of information workers need to handle hazardous materials safely. Thirdly, it will expedite the appeals process. The net result will be earlier access by workers to complete and accurate information on the safe handling of hazardous materials. This can only be positive for workplace health and safety.

Those, Mr. Chair, are our opening comments.

● (1600)

The Chair: Thank you very much for your very clear explanation of these three amendments. It's not every day that you have a piece of legislation coming forward for change that has unanimity as far as all the stakeholders are concerned.

With that, we will open the floor to any questions that the members may have, and we'll start with Ms. Kadis.

Mrs. Susan Kadis (Thornhill, Lib.): Thank you, Mr. Chair.

Welcome, everyone. This is relatively new to me, but there are a few items that caught my attention and I'd like to have some clarification and confirmation on them.

I'd like to clarify or confirm that presently claimants are required to disclose the reason or information as to why they're requesting an exemption to the commission. Is that the case?

And there's this new phrase that "claimants can request an exemption without having to disclose to the commission the information for which the exemption is sought". That seems to imply that they won't have to. Do they presently have to give to the commission the reason why they are requesting the exemption? I understand that it wouldn't be done publicly due to trade secrets.

Ms. Sharon Watts: Absolutely. Thank you for the question.

The application for a claim for exemption is predicated on the fact that they must not only state why they want the claim for exemption, but justify why they want it. That's where we talk about whether or not it is really a trade secret. That's really what the economic justification is all about. It's not enough just to say that it is. There has to be a value attached to it, showing that there actually is some value attached to the trade secret, and that, if it is a trade secret, they've actually done something with their security systems and their methods of protecting the confidentiality in order to preserve that confidentiality. That was set up basically to preclude frivolous claims.

Mrs. Susan Kadis: I appreciate that.

One of the amendments will be that they will not have to supply the reason. Or do they still have to give the reason and information as to why? Is that going to stand in place?

Ms. Sharon Watts: You're quite right, they still have to provide the reason, but they don't have to provide the justification behind it. So they have to say, "Yes, it's a trade secret, this is the value of the trade secret and, yes, I have measures in place to protect the confidentiality".

Behind that, to show all of the justification as to why that value is x , that is triggered by either by an affected-party submission or our sampling plan.

Mrs. Susan Kadis: I'm looking at it from the health and safety standpoint when I'm asking the question, because we want to ensure that, of course. Here it talks about the balance of industry and workers, which I understand is part of the mandate of the commission. What I want to understand again is whether they have to tell you what is involved in the product, what it entails, and what the potential ramifications are to the health and safety.

Ms. Sharon Watts: Absolutely. The interesting thing about WHMIS and our role in it is that only the identity of the chemical that can be protected. All of the other information on that trade-secret ingredient and the product must be fully disclosed. So even when there is a trade secret claim made and it is registered as such, the only piece of information that is being withheld is the chemical identity. All of the information on the toxic properties, on the first aid measures, and on proper handling measures has to be there. With the knowledge of what that ingredient is, our role is to say whether those measures are appropriate, full, and accurate.

• (1605)

Mrs. Susan Kadis: Along those lines, they would have to always submit the first aid information, etc.

Ms. Sharon Watts: Always.

Mr. Weldon Newton: Permit me to say that the commission does an economic analysis and it does a health and safety analysis. On the economic side, whether it's a trade secret to begin with and is

deserving of protection, in the nineteen years that the commission has existed, with all the claims that have been made to the commission, the industry has only demonstrated non-compliance with the economic filings in four claims. They've always demonstrated 99.99% of the ability to meet the economic criteria to prove it's a trade secret.

I think your question goes to the health and safety side. We are not permitting any withholding of any health and safety information. They have to fully disclose and provide all the health and safety information. That frequently goes down into scientific studies on toxic ingredients, the LD50 studies, the tests that have been applied in animals to achieve certain scientific conclusions.

To the extent that we are permitting the industry to withhold some data, it's economic. There has to be absolutely full, 100% disclosure and provision of the health and safety data to the commission for review.

Mrs. Susan Kadis: I assume that's why the unions, other stakeholders, etc., have agreed with the amendments.

Mr. Weldon Newton: You're absolutely correct.

Mrs. Susan Kadis: That was what I wanted to clarify.

Thank you.

The Chair: Thank you very much.

Mr. Fletcher and Ms. Davidson would like to share.

Mr. Steven Fletcher (Charleswood—St. James—Assiniboia, CPC): Yes. I just want to say that I realize the officials have been working on this under the previous government and now the current government. On behalf of the health minister and the government, thank you for all your hard work on this.

With that, I'll pass my time to Ms. Davidson.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you.

I'd like to thank the presenters. Certainly I think they've clarified most of the questions that I had.

Certainly, I was going to ask a question much along the line of those of Ms. Kadis, but further to what she asked, and again referring to the health and safety aspect of the worker, what, if any, ingredients or chemicals are excluded from trade secret status? Do you have a list that you follow, or is there anything that somebody could say was a trade secret that would not be allowed?

Ms. Sharon Watts: No, actually, there aren't any lists of products that would be excluded, other than that the product must be a controlled product as defined by the Hazardous Products Act and the controlled products regulations. There are products excluded from that sphere of responsibility, such as pesticides and cosmetics, and those are listed in part II of the Hazardous Products Act.

If you have a controlled product or a hazardous product that meets that definition and you have an ingredient concentration or identity that you don't want to disclose, then you can come to the commission—again, as long as you meet the test of the economic criteria and you submit the accompanying MSDS with it.

Mrs. Patricia Davidson: Do these rules and regulations apply to a Canadian company as well as an American or any other company?

Ms. Sharon Watts: Any company that wants to do business in Canada must conform to the Canadian legislation and regulations.

Mrs. Patricia Davidson: Thank you.

The Chair: Thank you.

Ms. Priddy.

Ms. Penny Priddy (Surrey North, NDP): Thank you, Mr. Chair, and thank you to the presenters for the information.

I don't know if I should say it's unfortunate, but perhaps there might have been a way for that first exemption to have been worded in a way that any of us who are new would read it with suspicion. I appreciate your explanation that all the health information has to be provided, but it could have been clearer in its wording. That wouldn't have caused Ms. Kadis and I to leap to...if not a conclusion, then a question.

Would it not always be that? Could you not always justify economically that it was a trade secret? Surely, if you have a new product, it's a trade secret. Wouldn't it always come out to be?

• (1610)

Ms. Sharon Watts: Not necessarily.

What WHMIS wanted to do in the creation of the commission and our tests—so to speak—is to ensure that the product was indeed competitive. It was more than just “I have a product, and there are some things in here that I don't want to disclose”. There had to be a rational and economic reason to keep that information from workers, because WHMIS is all about the right to know. The right to know is part of that balance that we have to always be assuring ourselves we are keeping in check.

Ms. Penny Priddy: Did you say keep the information from workers? I thought it would be to keep the information from other companies. That's what I would have thought would be the trade secret issue. Why would you want to keep the information from workers?

Ms. Sharon Watts: If something is being claimed as a trade secret, then that information is not being fully disclosed on the material safety data sheet in the workplace. Not only will the companies not see the information, but the workers who use the product will not know what that chemical identity is.

Ms. Penny Priddy: I understand that. It would just seem odd that the goal would be, as you stated, to keep the information from workers. It seems a bit off.

Can you please tell me the union or labour people who—sorry, you must have a list—are on your council who signed on to the amendments? In case they land on my desk, with both feet I'd like to be able to say, “Hey, you guys or gals signed off.”

Mr. Weldon Newton: Yes.

Through the course of these amendments, we've had Dr. Dave Bennett and his colleagues sit on our council and work with us. He's with the CLC.

Ms. Penny Priddy: They've signed off in writing, the CLC?

Mr. Weldon Newton: Yes, as recently as January 2007.

The one signing off was Mr. Bill Chedore, with the CLC. The other you may know—Larry Stoffman, from Vancouver.

Ms. Penny Priddy: Yes, I do, actually.

Mr. Weldon Newton: I thought you might.

Ms. Penny Priddy: Does it say Vancouver somewhere on here?

Mr. Weldon Newton: No. I read your bio.

Ms. Penny Priddy: Okay, CLC has signed off with two people.

Mr. Weldon Newton: The point is that labour represents their constituents with a lot of dedication, and that's always been evident around the table. They would absolutely not accept any regulatory compromise that would in any way diminish the protection.

Ms. Penny Priddy: No, I'm sure they would not.

Mr. Weldon Newton: That's right.

It's arguable that the resources we can save through economies and efficiencies and the trade secret—the economic side of the house—can be reinvested into our health and safety reviews and will hopefully permit us to be even more vigilant of workplace dangers and risks.

Ms. Penny Priddy: Okay, thank you.

I have just one quick question, if I might. When people voluntarily correct their labels, do you monitor that? How do you know they do? If I say okay, I'll go change my label, is there some way to monitor that?

Mr. Weldon Newton: Well, as part of the order process, when we issue an order obliging the claimant to change their safety data sheets and labels, we ask that they be submitted to us. We then review that for compliance.

If they don't want to submit it to us, they either appeal or take it out of the market. We'll oblige them to do so. We have the mandate.

Ms. Penny Priddy: I see. Thank you.

The chairperson is being very patient. I just want to repeat, then, that for amendment one, all the health and safety information around side effects, health effects, anything like that, is submitted to you regardless of exemption around trade secrets.

Ms. Sharon Watts: Exactly.

Ms. Penny Priddy: Thank you.

The Chair: Ms. Priddy, you shouldn't be surprised that people know about you, a household name in certain places in this country.

Ms. Brown.

Ms. Bonnie Brown (Oakville, Lib.): Thank you, Mr. Chairman.

Thank you for the presentation.

I'm wondering, how much does this commission take to operate? What was your annual budget last year?

Ms. Sharon Watts: Our budget was \$3.5 million.

Ms. Bonnie Brown: That's \$3.5 million, and what is the source of your revenue? Is it the government or is it the industry?

Ms. Sharon Watts: It is both. We are partially cost-recovery. We have fees that industry must pay in order to file a claim for exemption, and those fees cover the costs of the claim validity side of our decision-making process.

•(1615)

Ms. Bonnie Brown: Okay. What percentage of the \$3.5 million is provided through the fee structure or other ways you get it from the industry?

Ms. Sharon Watts: We usually collect about 25% to 30% of our total cost.

Ms. Bonnie Brown: So are you saying about 75% comes from government?

Ms. Sharon Watts: That is correct.

Ms. Bonnie Brown: Do the unions chip in? No, just the companies.

Ms. Sharon Watts: No.

Well, I shouldn't say that. If you are appealing one of our orders and it is an affected party who happens to be a union member, yes, there is a fee for filing an appeal as well.

Ms. Bonnie Brown: Okay, and what percentage of your budget would that represent?

Ms. Sharon Watts: For appeals?

Ms. Bonnie Brown: Yes.

Ms. Sharon Watts: Right now, zero, because we've had no appeals for the last five years.

Ms. Bonnie Brown: Okay, good.

How many full-time employees work reviewing these 2,600 claims every year?

Ms. Sharon Watts: Our commission employs 35 people, of which I would say 60% are on line, direct, either an evaluator doing the toxicological work or a screening officer issuing the quasi-judicial decisions.

Ms. Bonnie Brown: You just mentioned "on line". Do you mean they're not in one place?

Ms. Sharon Watts: No, sorry, I meant hands-on, directly issuing decisions on claims.

Ms. Bonnie Brown: You said the result of these amendments will be to reduce the time it takes to review these claims. Does that mean you'll be having fewer employees because there will be less work?

Ms. Sharon Watts: No. In fact, that's a very good point. Right now, we have a backlog of claims to be processed. I would say in the order of 75% of our resources are devoted to the health and safety side of our review. That part of the review and the comprehensiveness of our review has caused a backlog of claims to be waiting. So what we want to do is reinvest the efficiencies that we gain through all three of these amendments into the health and safety side of our work.

Ms. Bonnie Brown: Does that get a product on the market faster because it then has your approval, the WHMIS approval? Or are

these products already out there and they just want to get the sticker to put on it?

Ms. Sharon Watts: Yes. This is post-market review.

Ms. Bonnie Brown: Okay.

On the first-aid measures, do you people test the suggested first-aid measures for efficacy?

Ms. Sharon Watts: We don't test it, but we evaluate it against the standards.

Ms. Bonnie Brown: In other words, "Take an aspirin" or "Put a band-aid on" might not be quite the ticket.

Ms. Sharon Watts: Right.

Ms. Bonnie Brown: How do you know that what they're suggesting as something that will offset the effects of a certain chemical actually will, particularly if it's a new product with a new combination of chemicals?

Mr. Weldon Newton: Our scientists would go through the scientific evidence pertaining to a particular ingredient. It happens regularly where they'll say to take water, or milk, or whatever, and our scientists will order that that not be the case because that's not the proper intervention in terms of first aid.

So we look at the toxic properties, whether it's a phytotoxin or whatever the case, that would damage the central nervous system. We go through the prevention, we go through the first aid and whether it's gloves or whether it's latex gloves or cotton gloves, or whatever, but we get right down to that level of ordering changes to be sure that the proper first-aid measures are taken, given the gravity or the consequences of the accident with the product with the toxic ingredient.

Ms. Bonnie Brown: How do these products, requiring these corrections by your staff, get through the application process of the Hazardous Materials Information Review Act in the first place without somebody doing all that?

Mr. Weldon Newton: Well, 45% of our claimants are American companies—some are European—and they have a bit of a different system in the States, which sometimes results in spirited discussions with the claimant. In Canada we have certain health and safety disclosures; they have to be done in a certain format, to a certain level. In these discussions we order them to comply or not sell the product in Canada and take it out of the market.

Ms. Bonnie Brown: They're already on the market, you're telling me. That's after the fact.

Mr. Weldon Newton: That's right. That's after the fact, yes.

Ms. Bonnie Brown: How do they get on the market?

Mr. Weldon Newton: For example, we only see about 2%, perhaps, of the MSDSs for hazardous products in Canada, and 98% go directly into the market with no review whatsoever. They're the subject of provincial, territorial, and federal inspection programs to review the documentation, the accuracy, or what have you. The ones that come to us, as we have the scientific competence, we ensure that on these products the health and safety documentation is 100% correct. But you're right, it is after the fact.

Ms. Bonnie Brown: Thanks very much.

It seems to me, Mr. Chairman, these people are doing an excellent job of catching and harnessing the horse after it's out of the barn.

• (1620)

The Chair: Oh well, at least they're capturing and harnessing.

I want to thank you very much for coming in.

I see no other questioners, so I will move on to clause-by-clause at this time.

Thank you very much, and I appreciate your very thorough explanation of the bill.

There's no need for you to leave. I hope this will take a very short time.

We now move to clause-by-clause. We can do this slowly or we can do it fast. We can do all the clauses together from one to nine, which I recommend, since I see no indication of any amendments. If we want to do it that way, we can. If not, we can do clause 1, clause 2, clause 3.

I suggest one to nine in one motion. Is that okay with everyone? Do I hear any opposition to that?

Hearing none, we will proceed that way.

(Clauses 1 to 9 inclusive agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall I report the bill to the House?

Some hon. members: Agreed.

The Chair: Thank you very much.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.