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## **Standing Committee on Finance**

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**EVIDENCE**

**Wednesday, April 25, 2018**

—  
**Chair**

**The Honourable Wayne Easter**



## Standing Committee on Finance

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•(1605)

[English]

**The Chair (Hon. Wayne Easter (Malpeque, Lib.)):** I call the meeting to order. I understand that we'll be interrupted by bells. We're here continuing our study on the budget implementation act, Bill C-74.

With us to give their comments on part 3 of the act, amendments to the Excise Act, cannabis taxation, is Mr. Coulombe, who is Director, Sales Tax Division; Mr. Mercille, who is the Director General, Sales Tax Division; and Mr. Baddeley, Policy Analyst.

The floor is yours, Mr. Coulombe.

[Translation]

**Mr. Gervais Coulombe (Director, Sales Tax Division, Tax Policy Branch, Department of Finance):** Thank you, Mr. Chair.

[English]

Part 3, which covers clauses 68 to 119, implements a new federal excise duty framework for cannabis products, a measure that was proposed in the February 27, 2018, budget and detailed in the supplementary information on tax measures, on page 40.

The proposal builds upon the framework that was released for consultation by the government in November of last year, and reflects the revenue-sharing agreement that was agreed to in principle at the finance minister's meeting in December of last year as well.

[Translation]

The duty, which will be introduced as part of the Excise Tax Act, 2001, will generally apply to all products available for legal purchase, which at the outset of legalization will include fresh and dried cannabis, cannabis oils, and seeds and seedlings for home cultivation. Cannabis cultivators and manufacturers will be required to obtain a cannabis licence from the Canada Revenue Agency and remit the excise duty, where applicable.

[English]

Excise duties will be imposed on federally licenced producers, the so-called cannabis licensees, at the higher of the flat rate applied on the quantity of cannabis contained in a final product and the percentage of the dutiable amount of the product as sold by the producer. The dutiable amount generally represents the portion of the producer's sale price that does not include the cannabis duties under the Excise Act, 2001.

[Translation]

The proposed excise duty framework will be applied as follows.

A flat rate duty will be imposed, at the time of packaging for final retail sale, on the quantity of cannabis flowering and non-flowering material, generally referred to as "flower" and "trim", respectively, as well as on cannabis seeds and seedlings in the case of home cultivation. The flat rate duty will be imposed on a dollar-per-gram basis, or dollar-per-seed or seedling basis in the case of seeds or seedlings. A lower rate per gram will be applied for trim as compared to flower.

A product will generally be considered to be packaged by a cannabis licensee when it is put in a container intended for sale to a final consumer at the retail level.

•(1610)

[English]

At the time of delivery of the cannabis product by the cannabis licensee who packaged it to a purchaser, for instance, a provincially authorized distributor, an *ad valorem* rate will also be imposed on the dutiable amount of the transaction. Cannabis licensees selling to purchasers would be liable to pay duty at the higher of the flat rate, the dollar per gram, or the *ad valorem* rate on the product, the 10% that I just mentioned. The applicable duty will only become payable at the time of delivery to a purchaser. The cannabis licensee who packages the cannabis product for final retail sale will be liable to pay the applicable excise duty.

[Translation]

All cannabis products that will be removed from the premises of a cannabis licensee to enter into the Canadian market for retail sale will be required to have an excise stamp. Excise stamps will have specified colours indicating the provincial or territorial market in which it is intended to be sold. It will be the responsibility of the cannabis licensee who packaged the cannabis product to determine and apply the appropriate excise stamp before its entry into the duty-paid Canadian market.

[English]

The excise duty framework will generally apply to cannabis products that contain THC, tetrahydrocannabinol, the primary psychoactive compound of cannabis. However, packaged products that contain concentrations of no more than 0.3% of THC, and consequently have little to no associated psychoactive effects, will generally not be subject to the excise duty under the proposed framework. Pharmaceutical products approved by Health Canada, with a drug identification number, a DIN, that are derived from cannabis and that can only be acquired through a prescription will also not be subject to the excise duty.

The federal government has reached an agreement with provincial and territorial governments on a coordinated cannabis taxation framework for the initial two years after legalization. In practice, the coordinated framework provides for the application of the federal excise duty, as well as an additional excise duty, in respect of provinces and territories.

This part also amends the goods and services harmonized sales tax, the GST/HST, the basic grocery rules of the Excise Tax Act, to ensure that any sales of cannabis products that would otherwise be considered basic groceries are subject to the GST/HST, in the same way as sales of other types of cannabis products.

In addition, relieving rules for various agricultural products will be changed to ensure that sales of cannabis products, including seeds and seedlings, will not be relieved under these rules.

The measure will generally come into effect when cannabis for non-medical purposes becomes available for retail sale. That means that the measure is contingent upon the passing by Parliament of Bill C-45, which is currently in front of the Senate—Bill C-45 being the bill legalizing cannabis for non-medical purposes in Canada.

[Translation]

We are available for questions.

Thank you.

[English]

**The Chair:** Thank you.

We'll go to Mr. Sorbara first and then—

Go ahead, Mr. Julian.

[Translation]

**Mr. Peter Julian (New Westminster—Burnaby, NDP):** Thank you very much, Mr. Chair. Welcome, once again. We are pleased to see you here.

Witnesses have the opportunity to make two presentations, one on Part 3 of the bill and the other on Part 5. Since today's meeting may be interrupted, could they also make a presentation on Part 5? In that way, we would first have the information from the Department of Finance and then we could get to the questions and comments.

[English]

**The Chair:** Mr. Julian, having been down this road a few times, I find it works best to deal with one section at a time. Members do have the right to exhaust their questions. We're not going to keep to your five minutes. We'll go back and forth until you get your

questions answered on the budget implementation act. That is what we try to do.

I think it's better for the department and for us if we stick to one part, complete that, and go to the next.

On the three budget implementation acts, we've tried several scenarios, and to be honest with you, that's the one that works best. We'll stick to all the questions on part 3 on this one. Then we'll deal with part 5 of the greenhouse gas pollution pricing act. If we think we have to revisit some of those points, we have done that in the past as well.

I think we'll complete our discussion on this one and then go to the other one. The officials will likely still be in the room. In fact, Mr. Coulombe is on both, so he can cross over on the two.

Mr. Poilievre.

● (1615)

**Hon. Pierre Poilievre (Carleton, CPC):** I want to make sure I understand your plans. Clearly, we will discuss this part and then we will proceed to part 5. If any members have questions outstanding about part 5, then we will call the officials back for another meeting.

**The Chair:** We will call the officials back, yes.

**Hon. Pierre Poilievre:** Thank you.

**The Chair:** On part 3, Mr. Sorbara will go first.

**Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.):** Thank you, Mr. Chair.

[Translation]

Thank you very much for your explanation.

[English]

Can you quantify the excise tax and how that will work? Is that at the point of production, if I understand that correctly?

**Mr. Gervais Coulombe:** That's correct.

Basically, the rules that currently apply for tobacco products have been used to inspire the new framework for cannabis products. Producers of cannabis products would be required to get a licence from the CRA, the Canada Revenue Agency, as well as a licence from Health Canada under the proposed cannabis legalization act. Those licensees will remit the excise duty to the federal government. That excise duty will be comprised of two components, a federal component and an additional provincial component, in respect of the amount going to the provinces as part of the agreements with them.

In the technical information provided in the budget, you will find most of these technical details on page 40. That's the tax measures supplementary information that was released aside from the budget plan.

**Mr. Francesco Sorbara:** Okay. My understanding is that, and you may or may not be able to comment on this, the agreement in place will put a cap on the revenues that come to the federal government for the first, I believe, two years of the excise tax in place.

**Mr. Gervais Coulombe:** That's correct. For the first 24 months of legalization, federal revenues will be capped at \$100 million. For instance, if you have in the first year, let's say, nine months of coverage, assuming a July 1 implementation date, we would be capped at \$75 million federally, and any additional revenues from the 25-75 split would be provided to provincial and territorial partners.

**Mr. Francesco Sorbara:** Okay.

Mr. Chair, I'll stop there on this one.

**The Chair:** Mr. Julian.

[*Translation*]

**Mr. Peter Julian:** Thank you, Mr. Chair.

You spoke earlier of excise tax stamps that will be placed on cannabis product packages.

Does that apply to recreational use cannabis as well as medical use cannabis?

**Mr. Gervais Coulombe:** The tax stamps will have to be placed on all cannabis products that are subject to the excise tax, whether those products are used for medical or non-medical purposes.

However, Budget 2018 does specify that products with a very low concentration of tetrahydrocannabinol, or THC, that is to say 0.3% at most, will not be subject to the excise tax. They will not be subject to the excise tax and will not be stamped. They are not covered by the regime.

However, cannabis that is smoked and used for medical purposes will be subject to the rules from the 2001 Excise Tax Act and will have to be packaged according to regulatory standards. They will also have to have a tax stamp.

• (1620)

[*English*]

**Mr. Peter Julian:** Thank you for that. This means that there is an excise tax paid on cannabis medication that is provided to Canadians following a prescription from their doctor. I have two questions. Could you confirm that there isn't any exemption? In other words, all of the taxes that apply to recreational cannabis actually equally apply to medical marijuana, medical cannabis.

Then secondly, the finance minister regularly does models. I'm sure you have some idea of what the projected percentage of marijuana that is used for medicinal purposes on prescription would be. What would be the cost if there was an exemption put into place for medical marijuana?

**The Chair:** Go ahead. You touched on this in your remarks.

**Mr. Gervais Coulombe:** In respect of your first question, again, the exemptions that are put in place in respect of the excise duties for the moment are in respect of low-THC products. The other products that may be used for recreational or medical purposes will be taxed

equally. There is no special tax treatment for medical cannabis, except for low-THC products.

The government, though, has announced that it will be undertaking a drug review program with Health Canada to try to get quicker access for pharmaceutical products that are derived from cannabis. I should have mentioned that those pharmaceutical products—we currently have I think Sativex that is one of those, with a DIN number—are also excluded from the application of the excise duty.

**The Chair:** Just to come back to your remarks, Peter, they should be in your binder.

This is what was said in your remarks, Mr. Coulombe: "Pharmaceutical products approved by Health Canada, with a drug identification number...that are derived from cannabis and that can only be acquired through a prescription will also not be subject to the excise duty."

If it's a prescription, the way I read this, and it has a drug identification number from Health Canada, it will not have the excise tax. Is that correct?

**Mr. Gervais Coulombe:** Yes. That's correct.

**The Chair:** Okay.

**Mr. Peter Julian:** That does not include certain types of medical marijuana.

**The Chair:** That's true.

**Mr. Peter Julian:** What we're talking about are derivatives. The derivatives are not subject to the excise tax, but medical marijuana is subject to the excise tax. Is that correct?

**Mr. Gervais Coulombe:** That's correct, but—

**Mr. Peter Julian:** Okay, so that brings me back to my original question of whether or not you have a model or did an evaluation on how much the cost would be for the excise tax for medical marijuana.

I raise this. It's no small issue. We're having some debates around pharmacare in this country. We already know that many Canadians can't afford their basic medication—one in five Canadians. If what we're doing is cutting the access to medical marijuana for people who can't afford to pay for it in the absence of a pharmacare program, that's actually a fairly significant issue. If they can no longer access their medical marijuana, the additional charge is simply too much for them, then it means that they're going to have to cut back on their medication or do other things, as people do in this country when they can't afford their medication.

Is there a sense of how much money would be involved in exempting that excise tax for medical marijuana that's not in a derivative form?

• (1625)

**Mr. Gervais Coulombe:** The numbers that were included in the budget did not break down into that separation. These are all new realities that we are facing.

There is a lot of work going on with Health Canada, including in respect to drugs that may be approved in the future, with the DIN numbers. The government has announced in the budget that it will be examining options for establishing, potentially, a rebate program to retroactively reimburse Canadians using cannabis for medical purposes, an amount that would be in recognition of the federal portion of the excise duty that may be imposed on equivalent products before the completion of the program. There is still work that is being undertaken in this area by the government.

In terms of a specific analysis with Health Canada, there is no number that I have in my possession that I could provide a comment on today.

**Mr. Peter Julian:** May I ask you this, then. We had some questions yesterday that we'd like you to bring back as well. I apologize for burning the midnight oil, but these are important facts as we consider this bill, and prior to witnesses coming forward as well. If you could come back with some numbers in terms of the impact on access to medical marijuana, that would be helpful.

I certainly understand the government may be looking at other solutions, but I think for this finance committee to know to what extent access to medical marijuana is being cut off or rendered more difficult, because of the imposition of a tax that doesn't include, as an exemption or an exception, medical marijuana, would be very helpful for this committee. I'm sure I'm not the only one around the table who knows people who have medical marijuana prescribed to them. It's a huge, significant cost in the absence of pharmacare. Having that cost increase is something fairly significant that I think we would well want to know more about as we go through the various steps of potentially amending the legislation.

**The Chair:** Medical marijuana is in use at the moment. A number of veterans certainly use it. What's the situation now? Is there an excise tax on medical marijuana now, or is this just what's...? I should know that answer, but I don't.

**Mr. Gervais Coulombe:** Currently there are no excise duties that are applied to marijuana for medical purposes, but in the GST/HST framework, the general sales tax does apply to medical marijuana. In that sense the excise duty treatment that is proposed is not a departure from GST/HST policy. Again, there's the DIN test, so products that are only used for medical purposes, upon prescription, will not be subject to the excise duty.

Correct me if I'm wrong, Pierre, but the same treatment would also apply from a GST/HST standpoint. Those products with a DIN that currently exist, that will be approved in the near future by Health Canada, will not be subject to both the excise duty and the GST/HST framework.

**Mr. Pierre Mercille (Director General (Legislation), Sales Tax Division, Tax Policy Branch, Department of Finance):** Can I...?

**The Chair:** We can come back to you.

Go ahead, Mr. Fergus.

[Translation]

**Mr. Greg Fergus (Hull—Aylmer, Lib.):** Mr. Coulombe, thank you for your presentation on Part 3.

Could you explain to the committee how the department determined the penalties that are proposed for offences committed

by cannabis licensees, or offences that are related to the cannabis tax stamps, as well as for other offences? Could you provide some information on that?

**Mr. Gervais Coulombe:** Yes, of course.

First, I have to tell you that this is very technical. Basically, there are scales to calculate the percentage of duties that are not correctly remitted. We went by the fee scales that already exist for tobacco taxes. If memory serves, I believe that between 200% and 300% of duties are not properly remitted. Under the Excise Tax Act, 2001, there were already penalties for offences. We basically aligned our regime on that one so as not to reinvent the wheel.

We added a new part to the Excise Tax Act, 2001, to control the production of cannabis, and then we made changes to the parts of that act that involve offences and penalties related to the production of tobacco, alcohol, wine and so on.

• (1630)

**Mr. Greg Fergus:** You just answered my second question. It's a good idea to compare this to tobacco products. If I understood you correctly, the penalties are to two to three times higher.

**Mr. Gervais Coulombe:** I'm talking about the duties.

**Mr. Greg Fergus:** But the penalties are comparable to those that apply to tobacco production, are they not?

**Mr. Gervais Coulombe:** That is correct. The penalties are comparable insofar as the fee scales are concerned. I don't have the figures in front of me but I think Mr. LeBlanc has them.

**Mr. Greg Fergus:** You spoke about 200% or 300%.

That is in the Canadian context, but did you compare the penalties to those that apply in American states, such as Colorado or Oregon? Are ours still two or three times higher than the same penalties for tobacco-related offences?

**Mr. Gervais Coulombe:** We made these comparisons especially to ensure that the basic tax measure at the outset, which is the dollar per gram, would not result in an overly high taxation level, which would run counter to the government's objectives. The government wants to get rid of the illegal market, establish a robust and legal market to protect youngsters, and ensure that profits from cannabis will not fall into the hands of criminals.

In studies done over the past year, some analyses were carried out to establish the parameters on which offences would be based. As for the excise tax on cannabis production, we first of all looked at the existing parameters for tobacco and alcohol in Canada.

**Mr. Greg Fergus:** Thank you.

[English]

**The Chair:** Anyone else over here? Mr. Julian, are you ready again? Do you have more questions?

**Mr. Peter Julian:** I will when we get the information back. Mr. Chair, I'm a little bit in your hands.

**The Chair:** Okay.

**Mr. Peter Julian:** We need that information back. Yes, I think I would like to ask a question.

**The Chair:** Just so that we're clear, you're basically asking what would the excise tax be from recreational marijuana and what would the excise tax be, estimated roughly, from medical marijuana that doesn't have a DIN.

**Mr. Peter Julian:** It's for the non-derivative medical marijuana and what the overall increase in cost will be with these budgetary measures and, second, in terms of the model, what the government intends to raise from the excise tax on medical marijuana. I think that's valuable information for us to have prior to our witnesses, but also prior to the amendments that we'll have to consider for this budget bill.

**The Chair:** Thank you.

I hear no further questions for part 3.

Do we have agreement to stay here until about 10 minutes before the vote?

Okay. We'll invite the witnesses for part 5 to come forward. We'll start that and see where we end up. We may have some time after the vote. If not, we'll have to call you back.

We have Mr. Coulombe again; Mr. Turner, who is a Tax Policy Analyst; Mr. Mercille, who is Director General, Sales Tax Division; Mr. Giguère, Manager of Legislative Policy; and Ms. Meltzer, who is Director General of the Carbon Pricing Bureau. I think we have you all.

The floor is yours. I'm not sure who is going to open it up and make the presentation, but we'll hear the presentation and see how long we have.

Welcome.

• (1635)

**Ms. Judy Meltzer (Director General, Carbon Pricing Bureau, Department of the Environment):** Thank you very much, Chair and members of the committee. We're very pleased to be here today to participate in this review.

As you noted, I'm joined by colleagues from Finance Canada, as well as from our legislative governance team at Environment and Climate Change Canada.

I'm going to begin with a very brief, contextual overview of the pan-Canadian approach to pricing carbon pollution, and I'll turn to my Finance Canada colleague to discuss part 1 of the bill, the fuel charge component, in a bit more detail. After that, Philippe Giguère will discuss part 2 of the bill, which is the output-based pricing system for large industrial emitters.

[Translation]

Carbon pricing is widely recognized as an effective way to reduce emissions at the least cost to businesses and consumers while stimulating innovation and clean growth.

Carbon pricing sends an important signal to the market and encourages a reduction in the consumption of energy thanks to energy savings and energy efficiency measures.

Carbon pricing constitutes a central pillar of the national clean growth and climate plan, the Pan-Canadian Framework on Clean Growth and Climate Change, adopted by almost all premiers in December 2016.

[English]

The development of the pan-Canadian framework, including the approach to carbon pricing, was informed by input from Canadians across the country. Under the Vancouver declaration, first ministers asked for federal-provincial-territorial working groups to work with indigenous peoples and to consult the public, businesses, and civil society to present options to act on climate change and enable clean growth. The working groups heard directly from Canadians through various mechanisms: interactive websites, in-person engagement sessions, and town halls. The pan-Canadian approach to pricing carbon pollution is based on the findings of the working group on carbon pricing mechanisms in their final report.

As you aware, over 80% of Canadians already live in a jurisdiction that has a price on carbon pollution. In order to extend the carbon pricing approach throughout Canada, in October 2016, the Prime Minister announced the pan-Canadian carbon pricing standard, or the benchmark.

This recognizes the systems that are already in place and gives provinces and territories the flexibility to implement the type of system that makes sense for their particular circumstances, either in explicit price-based systems such as a carbon tax as in B.C., a carbon levy and performance-based approach such as in Alberta, or a cap-and-trade system such as is in place in Quebec and Ontario.

This benchmark, or federal standard, also sets some common criteria that all systems must meet in order to ensure they are effective. It also includes a commitment to review carbon pricing across Canada in 2022 in order to inform the path forward.

In order to ensure that there is a price on carbon across Canada, the benchmark also commits the Government of Canada to develop and implement a federal carbon-pricing backstop system that would apply in any province or territory that requests it or that does not have a carbon-pricing system in place in 2018 that meets the federal standard.

Key milestones to date in the development of the federal carbon-pricing backstop system include the release of a technical paper in May 2017 for public comment that outlined the proposed federal pricing system. In January 2018, we released draft legislative proposals relating to the proposed federal carbon-pricing system for public comment. Also at that time, Environment and Climate Change Canada released a regulatory framework describing the proposed federal approach for pricing carbon pollution for large industrial facilities.

We continue to have ongoing engagement with stakeholders, provinces, territories, and the public, in particular on the development of the output-based pricing component.

• (1640)

The introduction of the proposed greenhouse gas pollution pricing act is a step in the development of a federal carbon pricing backstop system. The key purpose of the act is to help reduce greenhouse gas emissions by ensuring that a carbon price applies broadly throughout Canada, with increasing stringency over time. It provides the legal framework for the federal backstop system, which consists, as you know, of two elements.

The first is a charge on fossil fuels generally payable by fuel producers and distributors. The second component is a performance-based system for industrial facilities, which is called the output-based pricing system. This is the approach that will create a price signal for large industrial emitters but also ensure that competitiveness and carbon-leakage risks are minimized. The federal carbon-pricing backstop system will only apply, as mentioned, in provinces or territories that request it or that do not have a system in place that aligns with the benchmark.

As you're likely aware, this past December, the Ministers of Finance and the Environment wrote to their provincial and territorial counterparts outlining the timelines for understanding and hearing about the provincial and territorial plans. There is a deadline of September 1, 2018, for provinces and territories to indicate what their plans are.

For those jurisdictions that plan to maintain or establish their own carbon-pricing systems, there will be a requirement that they indicate how their systems align with the benchmark. This assessment against the benchmark criteria will occur after that, and the backstop system would apply on January 1, 2019, starting at \$20 a tonne in any jurisdiction that either requests it or that does not have a system in place that meets the benchmark. This assessment against the benchmark will occur on an annual basis.

Where the federal carbon-pricing system applies, the Government of Canada will return all direct revenue from the carbon price to the jurisdiction of origin. Revenue from carbon pricing can be used in different ways, whether it's to provide rebates or assistance to households and businesses or to further invest in programs and technologies to reduce emissions.

Carbon pricing is just of the measures being taken to reduce greenhouse gas emissions towards meeting Canada's target, in combination with other complementary actions under Canada's pan-Canadian framework.

With this overview, I'm going to turn to my colleagues at Finance Canada to discuss part 1 of the act in more detail. Then we'll come back to Environment and Climate Change Canada to discuss part 2.

Thank you very much.

**The Chair:** Okay. Who's up?

Mr. Mercille.

• (1645)

[*Translation*]

**Mr. Pierre Mercille:** Good afternoon.

My name is Pierre Mercille. I am the Director General, Legislation, Sales Tax Division, Finance Canada.

As we said previously, Part 5 of the bill implements the Greenhouse Gas Pollution Pricing Act. Part 1 contains provisions that implement the carbon pricing system, which is a fuel charge.

Under Part 1 of the act, the fuel charge applies to 22 kinds of fuel. Some are more common than others, like gas, light fuel-oil, often called "diesel", and natural gas. It also applies to less common fuels like methanol, and coke oven gas.

Schedule 2 of the bill contains the fuel charge rates. To comply with legal drafting rules, the appendices are not in Part 5, but at the end of the bill, on pages 546 and following.

The fuel charge rates in schedule 2 represent \$10 to \$50 levies per ton of carbon dioxide equivalent, but they are expressed in normal commercial units so as to facilitate compliance and administration of the charge. All of the rates can be found in schedule 2, but I'll give two examples.

The first example is gas. \$10 a tonne means 2.21 cents per litre; \$50 a tonne, in 2022, represents a charge of 11.05 cents a litre. The other example is natural gas. \$10 a tonne means 1.96 cent per cubic metre; \$50 a ton, in 2022, represents 9.79 cents per cubic metre of natural gas. I am referring here to marketable natural gas, which is used to heat homes.

[*English*]

The English title of this act is the greenhouse gas pollution pricing act. From now on, because it's very long, I will refer to it by its acronym, the GGPPA, in my remarks in English.

Part 1 of the GGPPA provides that a charge apply to fuels that are produced, delivered, or used in a listed province, brought to a listed province from another place in Canada, or imported into Canada at a place in a listed province. A listed province is a province, territory, or area that is listed in part 1 of schedule 1 to the GGPPA. Currently that schedule is empty.



Provinces will be listed in part 1 of schedule 1 if they request that the federal carbon pricing regime apply in their jurisdictions or if they do not have a carbon pricing system in place in 2018 aligned with the national benchmark to pricing carbon pollution.

Under part 1 of the GGPPA, the Governor in Council is provided with the authority to add a province, territory, or area to part 1 of schedule 1, which would result in the application of the fuel charge in that province, territory, or area.

Generally, in the most difficult case the fuel charge is paid by fuel distributors that are registered for the purpose of part 1 of the GGPPA—that is, registered with the Canada Revenue Agency. Registered distributors are, most commonly, fuel producers or persons who distribute fuels at the wholesale level. Typically these distributors will be large corporations. Registered distributors are responsible for paying the charge in respect of the fuel that they delivered to another person, and also in respect of the fuel that they may use themselves.

Part 1 provides for specific circumstances in which no charge is applicable to certain fuels that are delivered to certain persons if an exemption certificate is provided. In this case, when a registered distributor delivers fuel to certain types of persons, the registered distributor does not have to pay the fuel charge in respect of that delivery of fuel; therefore, the fuel charge is not embedded in the selling price of the distributor.

The types of persons who can use exemption certificates are, for example, other registered distributors of the same fuel, farmers in respect of certain fuels in certain circumstances, or persons subject to the output-based pricing system in part 2 of the GGPPA, where the fuel is for use at a covered facility. My colleagues will be describing part 2 of the GGPPA after my presentation.

What's an exemption certificate? An exemption certificate is a certification that the purchaser provides to the vendor—for example the registered distributor—that relieves the distributor of the obligation to pay the charge in respect of that fuel. For example, the operators of a covered facility under the output-based pricing system would be required to certify, first, that they are registered with the Canada Revenue Agency as an emitter under the output-based pricing system, and that the fuel is for use at a covered facility under the output-based pricing system. This means that the emissions from the burning of that fuel will be priced under part 2 of the legislation and not under part 1 of the legislation.

Part 1 also provides specific rules for determining the fuel charge applicable to certain interjurisdictional air, marine, rail, and road carriers. Some of these carriers will be entitled to receive fuel from a registered distributor, with no charge applying up front, when they present a valid exemption certificate. In this case they will be, instead, required to self-assess and pay the charge directly based on their fuel use. For example, air and marine carriers are generally required to pay the charge only on fuel used in intrajurisdictional journeys, which means a journey that begins and ends in the same listed province.

Part 1 also provides for limited and very specific circumstances in which a person may be eligible for a rebate of the fuel charge paid by the person. To give you an example, if a person is not a registered

distributor and imports the fuel in Canada at a place in a listed province, they will be required to pay the charge in respect of that fuel. However, if the person subsequently removes the fuel from that listed province, they may be entitled to a rebate if they become registered with the Canada Revenue Agency.

• (1650)

**The Chair:** Pierre, I'll have to stop you there. We have to go and vote. After the vote, we do have a hard stop at 5:30 today, because another committee has this room booked. We'll come back and see if we can at least finish the presentation, but I think you can figure on coming back before the committee. This is complicated.

We will suspend until the vote is over.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1715)

**The Chair:** We're going to start, because it will be on the record. I do think we're probably going to have to go back to some of the wording for some of this complicated stuff to figure it out.

Go ahead, the floor is yours.

[*Translation*]

**Mr. Pierre Mercille:** Thank you very much. I will continue my presentation.

Part 1 also contains obligations regarding the registration of persons who perform certain activities related to the fuels to be charged. A person who produces fuel in a listed province must register as a distributor. Someone who operates a marketable natural gas distribution network in a listed province must also register as a distributor.

Under Part 1 of the act, fuel charges will be administered by the Canada Revenue Agency. In Part 1 there are administrative rules, such as rules on filing periods, the obligation to file a form, and the obligation to pay the fuel charge to the Receiver General. Part 1 also includes enforcement regulations meant to ensure compliance with the rules in Part 1 by those who must pay the charges. This includes provisions containing penalties, offences and means of recovery. Those provisions are similar to enforcement measures to be found in other acts administered by the Canada Revenue Agency.

Part 1 also gives the minister the right to distribute the net amount of the charges under Part 1 regarding a province, territory or zone. The net amount must be determined for a given period. It basically represents the amount of the charges levied for the period, net of any charge-related amount reimbursed or remitted during the period.

Part 1 contains all of the necessary regulations to ensure the proper operation of the fuel charge. However, in order to ensure that the government may rapidly adjust fuel charge regulations following potential issues that may be raised by stakeholders or the Canada Revenue Agency, the governor in council is authorized to make regulations concerning the application of the fuel charge in particular cases.

In conclusion, I would add that Part 1 also authorizes the governor in council to set the fuel charge rates, as set out on schedule 2 of the act, which includes the power to set those rates for the years following 2022.

I will now yield the floor to my colleague Mr. Giguère, who will describe Part 2.

● (1720)

[English]

**Mr. Philippe Giguère (Manager, Legislative Policy, Department of the Environment):** Thank you, Mr. Chair.

[Translation]

Like my colleague Mr. Mercille, I am going to give a summary overview of Part 2 of the act, which sets out the output-based pricing mechanism for greenhouse gas pollution caused by large industrial installations. For your information, Part 2 is in sections 169 to 261 of the act.

The objective of Part 2 is to reduce to a minimum the risk of carbon leaks from industries that engage in trade, while imposing a price signal that encourages those industries to reduce the level of greenhouse gases their facilities emit.

Part 2 is mostly enabling legislation, since it establishes some of the main powers and obligations of the output-based pricing mechanism, but most of the details of the system will be provided in the regulations. May I direct your attention to section 192, which sets out those regulatory powers in detail? In other words, regulations detailing the mechanism will have to be made in order for them to be operational in one of the administrations listed in schedule 1 of the act.

The government has already begun consultations on the proposed regulatory framework for the implementation of the output-based system, which may be the subject of regulations, if this bill is given royal assent.

The output-based pricing system will only apply to facilities that meet the following criteria.

First, the facilities must be located in a province or territory to which the federal system applies; secondly, their emissions must be over a given threshold, that will be set in the regulations. Finally, they must perform certain activities, which will also be listed in the regulations. The regulated facilities are referred to in the act as "covered facilities". The term is defined in section 169 of the act.

As mentioned previously, the output-based pricing system will complement the fuel charge. In other words, the fuels used in facilities covered by the output-based pricing system will not be subject to the fuel charge contained in Part 1.

Regulated facilities will have to register with the system, submit reports on their GHG emissions, and assess their emissions output against a GHG limit. The annual limit for covered facilities will be based on an emissions intensity standard for the industrial activity of the facility. The standards will be defined by regulations.

For the purpose of publishing emissions intensity standards in the fall of 2018, the department has begun to engage with stakeholders. For instance, a standard could be set to allow the emission of the equivalent of a tonne of CO<sup>2</sup> per unit of production for a given regulated activity. In that example, facilities that practice the regulated activity would have an annual limit equal to a tonne of CO<sup>2</sup> equivalent, multiplied by the number of units produced by the facilities in the course of that year. That design feature will encourage the facilities to be as efficient as possible in their production, in other words, to reduce their emissions per production unit. The goal is to encourage energy efficiency and the use of cleaner fuels.

Section 174 requires that regulated facilities provide compensation for the part of their emissions that exceeds the annual limit. However, if facilities emit less than their annual limit, under section 175 they will receive surplus credits, which they may apply in future or sell to other regulated facilities. In this way the system creates an incentive for continuous improvement.

● (1725)

The facilities that must remit compensation for excess emissions may do so in one of the following three ways.

First, the facilities may submit the surplus credits they have earned or acquired from other facilities. Second, the facilities may submit compliance units from approved projects that prevent or eliminate GHG emissions. Third, the facilities may also pay an excess emissions charge, which is set out in schedule 3 of the bill.

As previously mentioned, the charge is set at \$10 per tonne of carbon dioxide equivalent in 2018, and will increase by \$10 a year until it reaches \$50 a tonne in 2022.

In addition to credits referred to as compliance units, which will be delivered under Part 2 of the act, it is possible that credits from other jurisdictions, such as compliance units issued under a provincial system, may be accepted as compensation.

The facilities will have to open accounts in a tracking system to allow for the purchase, sale and use of credits. The Part 2 tracking system will also register the payment of charges for excess emissions.

As for the distribution of revenue collected under Part 2, essentially, as my colleague Mr. Mercille described it, all of the revenue collected from the output-based pricing system will be returned to the province or territory it came from. Under the law the revenue may be distributed to the government of a province or territory, or to persons designated by regulation.

A large part of this bill, which has 200 pages, refers to provisions related to the enforcement or application of the law. Those provisions are designed to ensure the integrity and proper operation of the pricing system. They are largely inspired by the application and enforcement provisions that are found in other federal environmental acts such as the Canadian Environmental Protection Act.

Part 3 of the act allows the federal government to apply, if need be, a provincial pricing mechanism in keeping with the federal standard to federal Crown lands, as well as to federal works and enterprises, what is known as the "federal house". These powers mean that the federal house is subject to the same provincial pricing system as the other federally regulated entities on that territory.

Finally, Part 4 of the act requires that the Minister of the Environment and Climate Change table a report every year on the application of the act before both houses of Parliament.

Thank you.

We are ready to answer your questions.

[English]

**The Chair:** Okay, that completes the presentations. That is great.

We are going to have to adjourn because there's another committee that starts immediately. I'm just looking at the schedule here to see what we can do because I do think that there's going to be a substantive amount of questions on this section.

We have a subcommittee meeting on Monday, April 30. Would we be agreeable to having an additional committee meeting put in on the morning of Tuesday, May 1, to deal with this issue? We already have a meeting slated in the afternoon, and that's with witnesses.

Are you okay with that?

• (1730)

**Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC):** Yes.

**The Chair:** We'll try to slate an additional meeting on Tuesday morning. I'll talk to you personally to see if we can find a time that doesn't complicate your schedules. On the morning of Tuesday, May 1, we'll come back to this issue that the presentations have been made on. We'll send out a time.

The meeting is adjourned.

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