

STANDING JOINT COMMITTEE
FOR
THE SCRUTINY OF REGULATIONS

c/o THE SENATE, OTTAWA K1A 0A4
TEL: 995-0751
FAX: 943-2109

JOINT CHAIRS

SENATOR PANA MERCHANT
HAROLD ALBRECHT, M.P.

VICE-CHAIRS

GARY ANANDASANGAREE, M.P.
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COMITÉ MIXTE PERMANENT
D'EXAMEN DE LA RÉGLEMENTATION

a/s LE SÉNAT, OTTAWA K1A 0A4
TÉL: 995-0751
TÉLÉCOPIEUR: 943-2109

CO PRÉSIDENTS

SÉNATRICE PANA MERCHANT
HAROLD ALBRECHT, DÉPUTÉ

VICE-PRÉSIDENTS

GARY ANANDASANGAREE, DÉPUTÉ
PIERRE-LUC DUSSEAULT, DÉPUTÉ

June 2, 2016

Ms. Deborah Schulte, M.P.
Chair, Standing Committee on Environment
and Sustainable Development
House of Commons
Justice Building, Suite 804
OTTAWA, ON K1A 0A6

Dear Ms. Schulte:

It has come to our attention that the Standing Committee on Environment and Sustainable Development has begun a review of the *Canadian Environmental Protection Act, 1999*. We therefore wish to draw the attention of your Committee to three matters concerning the Act that in recent years have been identified by the Standing Joint Committee for the Scrutiny of Regulations.

In connection with the Joint Committee's review of statutory instruments, discrepancies between the French and English versions of the Act have been noted. These discrepancies have been brought to the attention of Environment and Climate Change Canada, which promised to seek the introduction in Parliament of amendments to resolve them. The Department has indicated, however, that it would prefer to do so only after a review of the Act has been completed pursuant to section 343, or when a bill amending the relevant parts of the Act was introduced.

With the foregoing in mind, we set out below a brief description of the each of the three issues identified by the Joint Committee.

1. Paragraph 153(1)(a)

The English version of this provision permits a national emissions mark to be applied to a vehicle, engine or equipment, or for a vehicle, engine or equipment to which that mark has been applied to be sold or imported, if the item in question conforms to the required standards "at the time its main assembly or manufacture was completed." This would appear to provide an option: the required standards may be met either when the main assembly or the manufacture of a vehicle, engine or equipment is completed.

The French version of paragraph 153(1)(a), however, requires the standards to be met only at the end of the main assembly of a vehicle or at the end of the manufacture of an engine or equipment ("à la fin de l'assemblage principal des véhicules ou de la

fabrication des moteurs ou des équipements”). In this version, the time when the required standards must be met differs with respect to whether the item in question is a vehicle or an engine or equipment.

2. Paragraph 212(1)(b)

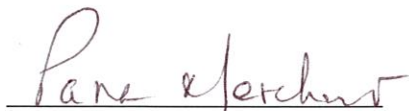
The English version of this provision requires certain persons to take all reasonable measures to “minimize” any danger that results from the release of a substance in contravention of a regulation made under the Act. The French version requires only that all reasonable measures to “mitigate” (“atténuer”) any danger be taken. Measures may, of course, mitigate, or reduce, a harmful effect without reducing that effect to a minimum, and the two versions therefore set out different standards to which persons must adhere. By way of contrast, elsewhere in the Act “atténuer” appears as the equivalent of “to mitigate”.

3. Paragraph 191(b)

The French version of this provision states that the Governor in Council may make regulations governing permit applications (“les demandes de permis”), whereas the English version allows for the making of regulations governing “the procedure for applying for a permit”. The French version appears broader than the English, in that it would on its face allow not only the making of regulations governing the procedure for applying for a permit, but also regulations setting out, for instance, classes of persons who may or may not apply.

It is our hope that the review of the Act now being undertaken by the Standing Committee on Environment and Sustainable Development will provide an opportunity to address these matters. We thank you in advance for your attention to them, and wish the Committee every success in its work.

Yours sincerely,



Senator Pana Merchant
Joint Chair



Harold Albrecht, M.P.
Joint Chair

c.c. Mr. Gary Anandasangaree, M.P., Vice-chair
Standing Joint Committee for the Scrutiny of Regulations

Mr. Pierre-Luc Dusseault, M.P., Vice-chair
Standing Joint Committee for the Scrutiny of Regulations

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