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# Standing Committee on Environment and Sustainable Development

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**Wednesday, June 4, 2008**

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**Chair**

**Mr. Bob Mills**

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• (1555)

[English]

**The Chair (Mr. Bob Mills (Red Deer, CPC)):** I would like to begin.

The clerk is handing out the report of our steering committee. It's very brief. We met yesterday to consider business after we've finished Bill C-469.

The committee looked at Mr. Scarpallegia's proposal and agreed that we should have two information meetings on the description, history, technology, future developments, and so on, of the oil sands. The intention is to make the meetings largely informational to begin with. Of course, in the fall we will begin with a more complete study.

So I would like you to think about that for a minute. If you agree, we will proceed to get witnesses for the 16th and 18th. They will provide us with information on the subject. We'll do our best to get a wide range of witnesses.

**Some hon. members:** Agreed.

**The Chair:** We will proceed and report on Monday's meeting. We have confirmed four speakers, and there's a probability of two others from Manitoba. We will likely have six witnesses and proceed on that basis.

Are there any questions? We're all clear.

We will now welcome our guest and have him tell us about the bill. Welcome.

[Translation]

**Mr. Guy André (Berthier—Maskinongé, BQ):** Mr. Chairman, thank you for welcoming me to the committee to talk about Bill C-469, which I introduced in the House of Commons in October 2007 and the purpose of which is to amend the Canadian Environmental Protection Act.

I am pleased to be here because I come from the riding of Berthier-Maskinongé, where there are approximately 700 lakes and a number of rivers. There are also a lot of recreational and tourist activities. In summer, people swim and take part in other aquatic activities. Last year, in the same riding, five lakes were hit hard by cyanobacteria, as a result of which a number of aquatic activities were compromised.

As you know, this bill proposes a ban on the manufacture, import and sale of laundry and dishwashing detergents containing phosphorus, in order to halt the spread of cyanobacteria, so-called blue algae, which we have experienced in the past few years. The bill

we are studying today is in fact the logical extension of the decisions made by your committee.

On June 12, 2007, considering that there was an urgent need to take quick action to combat the spread of blue algae, the member for Rosemont—La Petite-Patrie, on behalf of the Bloc Québécois, tabled and had adopted by your committee, a motion requesting that the government act quickly to amend its regulations to prohibit the use of phosphates in detergents.

Seeing that the government refused to respond favourably to the motion at that time, and still concerned to combat the phenomenon of blue algae, on October 25, 2007, in response to pressure by citizens in my riding and an increase in the phenomenon across Quebec, I introduced Bill C-49 to ban the manufacture and import of detergents containing phosphates within a 180-day time period, as well as the sale of such products within 360 days.

Through the bill, we asked the government to act in its own area of jurisdiction. Since Ottawa is responsible for regulating imported products, the federal government has a duty to act in order to have a real impact on manufacturers and to force them to change their practices. Furthermore, if the ban applies across Canada, no business has any interest in manufacturing, importing or selling detergents containing phosphates.

In the meantime, it should not be forgotten that, on September 25, 2007, the Government of Quebec announced that it intended to introduce a government program to combat blue algae, which would include, in particular, a ban on phosphates in dishwashing detergents. Quebec's environment minister urged the federal government to do the same by amending its regulations to increase the commercial impact of the ban on dishwashing and laundry detergents containing phosphates, and thus to reinforce the legislation Quebec intended to pass and make it more effective.

Lastly, it was not until Bill C-469 was passed on second reading, on February 13, 2008, that the federal government finally presented its plan. On Friday, February 15, the government announced that it would follow in lock step with the governments of Quebec and Manitoba by restricting phosphate concentrations in various detergents.

Consequently, according to the announced plan, the federal government intends to impose a phosphate limit of 0.5% by weight on dishwashing and laundry detergents by 2010.

•(1600)

We have observed that the federal plan is similar to the Quebec plan. However, the government could have been more ambitious, because the ban is not total and, more particularly, will not come into force until 2010, whereas replacement products, as you know, already exist.

I think it is important to repeat that there is an urgent need to act as soon as possible to address this issue, in order to halt the spread of blue algae.

From the outset, we decided to intervene in this matter because we can all see the extent of this spread. The phenomenon is not new, but it has expanded in recent years. Cyanobacteria were detected in 50 lakes in Quebec in 2005. The following year, that number doubled to 107 lakes affected by cyanobacteria. In 2007, more than 200 Quebec lakes were affected by the same phenomenon. So there have been four times as many lakes affected in two years.

There is no indication the phenomenon will decline in 2008. On the contrary, it should increase, hence the importance of acting quickly. The longer we delay implementation of these measures, the faster the situation will deteriorate, and more waterways will be affected.

That is why we are asking that the new regulations apply starting in 2009, particularly since, as I've already mentioned, large quantities of replacement products are already accessible on the market.

I am entirely aware that the ban on products containing phosphates in detergents will not be enough to completely eliminate blue algae from our waterways. We all know that surplus phosphorus in waterways comes from many human activities, such as the discharge of untreated or insufficiently treated waste water, defective septic facilities and, especially, agricultural activities.

However, it should not be forgotten that, in certain regions, fewer agricultural activities are carried on near waterways. For example, people are increasingly choosing to live permanently on the banks of waterways, which I can see in the riding that I represent. Many people who occupied so-called secondary residences at the time are choosing to occupy them permanently. These are no longer summer cottages, but rather principal residences equipped, for example, with dishwashers that use phosphates, which amplifies the cyanobacteria phenomenon, hence the importance of this bill and the need to act quickly.

But as I said, removing phosphates from detergents will not completely solve the problem. Other action will be necessary, such as preserving or restoring vegetation and the natural character of banks and lakes—action that is currently being taken to a greater extent in Quebec—avoiding the use of chemical fertilizers and ensuring that septic tanks operate properly and are maintained.

All these issues, which concern land use and agricultural practices, are the jurisdiction of Quebec and the provinces. Moreover, the Quebec government's action plan proposes a series of regulatory prevention and awareness tools and is making them available to the municipalities to help them address these challenges.

Mr. Chairman, I will close by repeating that the ban on phosphates in detergents can easily be implemented by the federal government. From the very start of this process, we have been open to discussion and proposals to improve the bill, like the possibility of adding an amendment that would avoid penalizing hospitals, if there are no replacement products.

I believe it is fundamentally important to repeat that it is important that we take action quickly and ensure that the regulations apply as soon as possible in order to prevent the situation from worsening.

Thank you, Mr. Chairman.

•(1605)

[*English*]

**The Chair:** Thank you very much.

We can go to one round of questions, and then we'll get to our other witnesses. We are a little tight on time.

I'll begin with Mr. Scarpaleggia.

[*Translation*]

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

Mr. André, thank you for coming to present your bill to us.

If I understood correctly, there is currently no exemption in your bill for commercial or industrial uses. However, you would be in favour of exempting, for example, hospitals, universities, public institutions and so on, where a lot of people eat in cafeterias or, in other words, people clean dishes or do laundry on a large scale.

Would you be in favour of amending your bill to include exemptions?

**Mr. Guy André:** Yes, thank you for your question, sir.

We've studied the subject. I worked in the health system in a previous career. This is a question that we in the Bloc Québécois have considered recently.

You know, some products are currently under review to replace phosphates in detergent, such as salt-based products. To date, however, those products have not been scientifically tested.

I believe that phosphates are currently used extensively to disinfect certain items, particularly in hospitals. Of course, this bill should not partly undermine public health or hospital care. So we would be prepared to examine that issue.

•(1610)

**Mr. Francis Scarpaleggia:** So you would only exempt hospitals, not academic institutions or restaurants, for example?

**Mr. Guy André:** We've considered the issue of hospitals. There may be other places for which it is demonstrated that removing phosphates from detergent is harmful and endangers the public health, and you have to be open in that regard; but we must not adopt an extreme position either.

**Mr. Francis Scarpaleggia:** Do you know whether the draft regulations announced by the government include exemptions?

**Mr. Guy André:** With regard to the regulations, I didn't see from the documents that they necessarily exempted hospitals or other institutions.

**Mr. Francis Scarpaleggia:** So you're saying that products that don't contain any trace of phosphorus or phosphates are currently being sold in the supermarkets. Is that already happening?

**Mr. Guy André:** As I told you earlier, there are nearly 800 lakes in my riding and a lot of tourists. There has actually been a high degree of cooperation among people who live on the banks of these lakes with the municipalities and merchants.

Merchants in these tourist regions—let's take Saint-Mathieu or Saint-Gabriel-de-Brandon, for example—are promoting phosphate-free products because they want to keep their environment, their lakes, in good health. Because this is really a threat—

**Mr. Francis Scarpaleggia:** I understand, Mr. André, and I don't want to interrupt you, but you said earlier that those products haven't been scientifically assessed.

So do we know whether we can in fact substitute those products for products that might contain 0.5% traces of phosphates? Can we go ahead and state that those products contain no phosphates, that we can use them to replace the products that currently contain phosphates or products that would contain a 0.5% phosphate level?

**Mr. Guy André:** When I talked about scientific evidence, I was thinking of products that could be used in hospitals to disinfect dishes as well as certain materials and substances. In Quebec, the Jean Coutu drug stores have decided, on their own initiative, to sell only phosphate-free products. These are found in a number of other businesses. I know you're interested in this aspect of the issue. I use them in my dishwasher, and I see they are as effective as products containing phosphates. These products already exist, and I believe the idea is simply to promote them. The stage is set. We must now adopt legislative measures that will make it possible to do prevention work to keep the water in our lakes as clean as possible.

•(1615)

**Mr. Francis Scarpaleggia:** But as you know, the industry is proposing to reduce the phosphate content of its dishwasher and laundry products to 0.5%. You know why it's proposing a reduction of that degree rather than fully eliminating them? There must be a rationale behind that. Since the provinces of Manitoba and Quebec have also proposed 0.5%, and that's also the limit imposed in certain American states, would you be open to the idea of adopting that percentage?

**Mr. Guy André:** Yes, we would. We mentioned 0% because, after checking what there was in the field, we noted that there were phosphate-free products. I have contacted manufacturers on a number of occasions. Those manufacturers say it's impossible to guarantee 0% phosphate content. As regards the 0.5% rate, in view of the fact that Quebec, Manitoba and some American states have legislated to that effect, I believe we would be ready to examine the matter.

**Mr. Francis Scarpaleggia:** As you know, I introduced a bill that would limit phosphate use to 0.5%. So you and I are on the same wavelength. However, since there will be regulations, why should we include these provisions in the bill? Doesn't that constitute

duplication? Shouldn't we simply state in the bill that the government shall regulate phosphate levels?

**Mr. Guy André:** I believe that a bill is more structural in nature than regulations. Passing a bill rather than mere regulations can be more beneficial. It's in that perspective that we're introducing this bill.

[*English*]

**The Chair:** Thank you.

Mr. Bigras.

[*Translation*]

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

First, Mr. André, I congratulate you on your initiative. I had the opportunity to go to your riding a few months ago. I saw that this kind of measure is awaited, more particularly by shoreline residents—who live near the lakes and rivers—not only in your riding, but in all Quebec regions. I'm thinking of Saguenay–Lac-Saint-Jean, among others.

We realize that this measure is not simply linked to the fact that the contamination or eutrophication of the lakes is attributable to agricultural activities, but also to human activities. The bill is entirely valid in that sense.

You answered Mr. Scarpaleggia's question on various aspects. I understand that you would like an exemption for health institutions such as long-term care centres and hospitals, of course, while ensuring that a number of public health standards are met.

You also told us that you are prepared to amend the bill to include the 0.5% limit provided for in the federal and Quebec regulations. So we are nearly in agreement. The only thing we are discussing is when the regulations should apply.

Should they apply now or in 2010? Is that in fact what I understand from your testimony today? Nearly everyone agrees, except as regards the regulations' immediate application. We may wind up agreeing on that.

•(1620)

**Mr. Guy André:** You've given a good summary of the evidence, Mr. Bigras. I thank you for your question.

We wondered why we wouldn't act immediately. Manitoba and Nova Scotia are experiencing the same phenomenon, but I'm going to talk to you about Quebec, which I know better.

People are ready and organized. We travel to certain regions where there are lakes. As I mentioned to Mr. Scarpaleggia, phosphate-free products can be found. People are aware. The municipalities are legislating on shoreline vegetation. They want to take measures to monitor and supervise septic tanks to a greater degree. Why not act now, when we know that the phenomenon is increasing year after year?

Last year, 200 lakes were affected. How many will be in 2008? The number of lakes affected could increase by 100 or so and reach 300, and this trend will continue. Once a lake is affected, it takes a few years before it becomes healthy again and people can carry on aquatic activities safely.

The eutrophication of Lac Mandeville, which is located in my riding, is extensive. The lake is dead right now. It contains such a high quantity of phosphorus that one of the solutions contemplated is to empty the lake. That's incredible but true. Some studies are looking at that option. Of course, there is the matter of phosphates in detergents, septic tanks and agricultural pollution. We're talking about lakes in which people have swum for years.

Our freshwater is our wealth of the future. If we can't guarantee the safety of aquatic activities, there's a serious problem. We have the means at our disposal, and we can act quickly. The phenomenon is growing. Why wait another two years?

**Mr. Bernard Bigras:** So you're saying that action should be taken now. What struck me first was that there are replacement products. In principle, it seems to me that should make it possible to introduce the regulations sooner.

I'm consulting the March 2008 issue of the consumer magazine *Protégez-vous*. What first strikes me is that there are replacement products. Furthermore, phosphate-free products are sometimes more effective—and I don't want to mention any well-known names—than products containing phosphates. In those containing phosphates, levels range from 2% to 6%. Phosphate-free products have been analyzed, taking the 0.5% rule into consideration. Not only are there replacement products, but very often they are more effective than the products containing phosphates. That seems a bit paradoxical to me.

There is another point that I'd like to talk to you about. The Library of Parliament briefing notes tell us: "The vast majority of phosphorus inputs from human activity are caused by agricultural practices and human waste management. Of this, a small proportion, perhaps 1% or 1.5% in total, comes from dishwashing detergent."

I remember the arguments at the time my motion was studied. We had heard from a witness at that time, Mr. Carignan—whom we'll be hearing from again soon—who told us that there was a danger in using a Canadian rule and results, and in trying to apply them in Quebec's regions. He cited the Laurentians as an example—it wasn't particularly in the Hautes-Laurentides, where there isn't any agricultural activity—where there are contaminated lakes.

Are you seeing the same thing in your region? Isn't it clear that the contamination is very often naturally due to agricultural activities, but also, in some regions where there are no agricultural activities, to the contamination of lakes. So it's directly related to use. That was my first question.

A second thing intrigues me, and that is whether there isn't also an economic impact on the property values of residences around those same lakes. Let's take the case of someone who bought a cottage in 1960, when water quality was up to standards, and now, 30 or 40 years later, there's a contaminated lake in the same place.

Doesn't that also have an impact on those citizens who acquire these secondary residences, which, at some point in their lives, very

often become principal residences? So there's an environmental aspect, of course, but it seems to there's also an economic aspect to this issue.

• (1625)

**Mr. Guy André:** Of course, I agree with you, sir.

When a lake is closed in summer because the cyanobacteria count is too high, that has significant economic effect on the community. Lac Maskinongé, in Saint-Gabriel-de-Brandon—you must know it—is regularly closed. That has a disastrous economic effect because that community's economy is based on the tourist industry. Lac Maskinongé is where people engage in aquatic activities and live in cottages. They live their entire lives there in summer. This has an economic consequence for the community, with respect to cottages and houses. The people who come to live beside a lake choose a lake with water they trust. They want that lake to be healthy, to meet health standards and public health standards. In that case, this has an impact.

Agriculture is an important phenomenon. We know that chemical fertilizers and all the pig manure that is discharged results in a lot of phosphorus, which causes cyanobacteria. In my riding, in the Laurentians and in other ridings—I've visited a few other places affected by cyanobacteria—there are places where there are just cottages, where there is no agricultural activity.

I put my hands on an Ontario government study conducted by Gartner Lee Ltd. concerning the Muskoka lakes—a number of Ontarians know them—where there are a number of residences. That study showed that every residence located 300 meters from the lakes produced approximately 800 grams of phosphorus per person. If you multiply that by the number of cottages and the number of persons, you'll understand that a significant quantity of phosphorus is being discharged into those lakes. From 30% to 40% of the phosphorus came from septic facilities. Septic facilities that are non-compliant, not maintained or too close to lakes can have a significant impact on phosphorus rates. From 55% to 60% of the phosphorus came from detergents containing phosphates. That's a study by the Government of Ontario, the reference of which I could give to the committee.

That has a significant impact. Of course if there were also agricultural activities around those lakes, that would become—

• (1630)

**Mr. Bernard Bigras:** Is it possible to get a hold of the study that the member just presented?

[English]

**The Chair:** I'm sure the member could provide that.

Mr. Bigras, you mentioned the different products from a magazine article. I think it might be interesting for the committee to have a copy of that as well. Perhaps you can give that to the clerk to have it reproduced, along with a copy of the study requested, so he can distribute them to the members.

We'll go to Mr. Warawa.

**Mr. Mark Warawa (Langley, CPC):** Thank you, Chair, and thank you, Mr. André.

Before I start I want to clarify if I'll be the last one in this round and then we'll move on to the government.

**The Chair:** Correct.

**Mr. Mark Warawa:** I'll be sharing my time with Mr. Harvey, so please stop me at five minutes.

Mr. André, did you have a chance to read the briefing notes we received from the Library of Parliament?

[*Translation*]

**Mr. Guy André:** No.

[*English*]

**Mr. Mark Warawa:** That's unfortunate, because it's quite a good document that addresses Bill C-469.

Mr. Scarpaleggia asked you some questions I was going to ask, so that leaves one big question for me. You told him you are open to amendments to exempt hospitals, for example. You're open to amending the amount from zero to 0.5%, which is in harmony with what's happening in Quebec, Manitoba, and a number of U.S. states.

Mr. Scarpaleggia asked why you were moving forward with this if it is by regulation. I believe you said you felt the legislation would be better than regulation. The report outlines the difference, and there is almost no difference between going with regulation versus legislation. You can accomplish the same thing.

So you're aware that the government introduced a notice of intent to regulate in February. If the same result can happen through regulation or legislation, and the process has already begun and likely will be completed before the legislation, why would you continue to move forward?

[*Translation*]

**Mr. Guy André:** Thank you for your question.

As I previously said, other regulations are of course being prepared. In the United States, a number of states, including Washington, are following suit and will be adopting a rate of approximately 0.5%. The European Union is headed toward 0.5%. The Government of Quebec, for example, has legislated 0.5%. The federal government, as I told you, won't have any regulations before 2010 and will adopt 0.5%.

We are therefore prepared to accept 0.5%. As I explained, when we put the bill in place, there were domestic products—they're still around—with 0% phosphate content. However, after contacting businesses, we saw that some businesses couldn't guarantee that they could meet that 0% figure.

[*English*]

**Mr. Mark Warawa:** Excuse me. I'm sorry for interrupting you, but my time is going very quickly.

So you're saying you want to move forward.

[*Translation*]

**Mr. Guy André:** Yes.

You're asking why right now and not in 2010? That's because the government's regulations come into force in 2010. But why not right away; why wait until 2010? That's what I understood.

[*English*]

**Mr. Mark Warawa:** I was asking why you were moving forward when the government was already doing that by regulation. Maybe we can get into 2010, as opposed to what you're proposing maybe a year earlier.

You did not have a chance to read the document, but you now have it. I encourage you to read it.

My question for you is on consultation. Who else have you consulted with? Have you consulted with industry and hospitals? Specifically on the science of the disinfecting properties of phosphates for hospitals, the example you used was that you tried it in your dishwasher, and therefore the alternative works.

With respect, you don't live in a hospital; you have this cabin, this cottage. So can you share with the committee the science you would be able to share with hospitals? Because there will be witnesses coming. What science are you using as your base to suggest that phosphates can be eliminated? I'm hearing from industry and hospitals that they need it.

• (1635)

[*Translation*]

**Mr. Guy André:** As I said, after studying the matter, we agree with you that we should keep a percentage of phosphates for certain industries, or for health services. We are in favour of that position.

However, some other scientific studies, which I don't have with me, talk about salt-based products that could eventually replace phosphates. I don't have the exact term, but I have it in my documents. It's not fully developed yet. To answer your question, you'll have to retain a certain phosphate level in some industries and hospitals; that remains to be seen.

[*English*]

**The Chair:** Mr. Harvey.

[*Translation*]

**Mr. Luc Harvey (Louis-Hébert, CPC):** First, phosphate isn't a disinfectant. It is a substance that helps to soften water. The bonds between water molecules come undone and that enables the water to act as a solvent and to clean things. So it's not an element that disinfects, like chlorine or ozone. A little earlier, I was looking at the calculations in your study. It states that every resident produced about 80 grams of phosphates in water and that approximately 50% of that phosphate came from personal items, from the home.

**Mr. Guy André:** It talks about phosphate use.

**Mr. Luc Harvey:** That 50% figure was directly linked to detergents. That means approximately 200 grams per inhabitant, which is the equivalent of one cup per capita, per year, roughly. That's what you're talking about.

A little earlier, my colleague talked about regulations that concerned not only the phosphates in soaps, but the industry as a whole, whether it be for agriculture and so on. Consequently, why introduce a bill that ultimately attacks a very small part of the blue algae problem?

**Mr. Guy André:** First, let's clarify matters: we're talking about roughly 60% of the 800 grams.

**Mr. Luc Harvey:** It's 250 grams.

**Mr. Guy André:** We're increasing it a little. I think it's nevertheless quite significant because lakes in tourist developments are significantly affected solely by this type of phosphorus coming from septic tanks and phosphates from detergents. This is nevertheless having a significant impact. You know that, you're in Quebec, you've no doubt seen certain phenomena. Lac-Saint-Jean has been affected.

Why move forward with this bill? There's one aspect that comes under federal jurisdiction when we talk about importing.

•(1640)

**Mr. Luc Harvey:** Mr. André, that's not the question. Regulations have already been made and will be implemented in 2010. They will cover the entire phosphate problem, not just 1% of the problem. That problem is all of the fertilizers that wind up in water, whether it be matter from the management of septic tanks, fertilizers used by residents near the lakes, whether it be as a result of deforestation, changes in river systems and so on.

**Mr. Guy André:** I would urge you to take another look at those regulations because they contain nothing for chemical fertilizers, septic tanks or anything else apart from phosphates.

There are other aspects: the issue of chemical fertilizers, the issue of buffer areas around banks, for farmers, which you've no doubt heard about. As you know, this is a provincial jurisdiction, so that of Quebec. The jurisdictions of the provinces and Quebec in this matter must be respected because they're starting to act. You know that a plan has been put forward by Quebec's environment minister on the reforestation of banks and improvement of the quality of septic tanks, and to enable municipalities to act, to move forward, to regulate and even to issue fines to people who do not comply with the rules.

Even today there are non-compliant septic tanks in a number of Quebec regions. There are people who don't even have septic tanks, and domestic waste goes directly into the... So there are still a lot of things to do, and a large part is under provincial jurisdiction. The idea behind this bill is that the federal government can act. That is why Quebec has asked the federal government to act in this area of jurisdiction.

[English]

**The Chair:** Thank you, Mr. Harvey.

Thank you very much, Mr. André. I should tell you it's a little déjà vu. I remember talking 35 years ago about how we had to get phosphorous out of our water systems. So it's good that it finally appears to be happening.

I should also mention that in the part of the world I come from, GPS is now used in the distribution of agricultural fertilizer and seed. So in places that are close to waterways or where phosphorous isn't needed, it's not applied. It has become a very scientific operation in the agricultural industry. I'm not sure if it's legislated or not, but it is certainly economically advantageous for a farmer to control his application of very expensive fertilizers, as they are today.

That's another plus for your bill. Thank you very much for bringing it forward. I know the committee will look at it. We have several other witnesses, so thank you very much for appearing.

I will now call on our witnesses from Environment Canada and the Department of Justice. My understanding is that we will have a short presentation from Environment Canada, and then we'll get right into questions.

I understand, Ms. Kenny, you're going to make a presentation. I want to welcome you here. I know members will have questions for you.

Thank you.

•(1645)

**Ms. Margaret Kenny (Director General, Chemical Sectors, Department of the Environment):** Thank you, Mr. Chair and members of the committee. We are very pleased to be before you today to assist you in your consideration of this bill.

I would like to begin by spending a moment on the important issue of blue-green algae and the role of phosphorus in its growth. We know that phosphorus-loading into our surface water can lead to a number of problems, including oxygen depletion, and that it can act as a nutrient that supports the growth of these algae.

When the nutrient levels in the water are high, the blue-green algae can form blooms that dominate the natural community and are capable of producing toxins that can be harmful to humans, livestock, and fish. The toxins themselves are odourless and tasteless, but there are other compounds that can result in foul taste or odour problems, which can impact on the recreational use of water and drinking water.

Environment Canada has been studying blue-green algae for a number of years and agrees that it is of the utmost importance that we reduce the risks of these toxins.

One factor in the proliferation of these blooms that we can affect is the concentration of phosphorus entering our surface waters. In fact, Environment Canada introduced regulations to do so in the 1970s, at that time under the Canada Water Act; these were later reflected in the Canadian Environmental Protection Act.

Since the regulation came into force, the use of phosphorus in laundry detergent has steadily diminished, but the growing number of dishwashers in Canadian households has meant that the phosphorus from this source has increased. This is why the government recently published a notice of intent in part 1 of the *Canada Gazette* to amend the phosphorus concentration regulations.

The notice of intent indicated that the proposed changes to these regulations would introduce a limit of 0.5% or lower by weight of phosphorus. At the present time, dishwasher detergent can contain up to 8%. As such, the results of this proposal would lead to considerable reductions in the level of phosphorus entering these waters.



At the same time, this notice proposed to further reduce the limit of phosphorus in laundry detergent from the current level of 2.2%, again to 0.5%.

Finally, the notice of intent indicated that other cleaning products would be examined to determine the feasibility of reducing their levels of phosphorus as well.

Over the past several months we've undertaken significant consultations, examined the current science in the field, and identified some best practices in other jurisdictions. On this basis, it is clear that the proposed changes I have described would require reformulation of products that are currently in the marketplace.

Industry has indicated that it's willing to meet these new limits, but it needs time to reformulate in order to find safe and effective alternatives. In fact, the Canadian Consumer Speciality Products Association in October led an initiative to voluntarily limit phosphorus concentrations to 0.5% by weight by July 2010. We also recognize that a number of U.S. states as well as the provinces of Quebec and Manitoba are proposing limits that would come into effect in 2010. For these reasons, we believe that consideration of any new standards should consider a similar date.

In undertaking our consultations and carrying out our research, we've also determined that it's important to consider reasonable exemptions for reasons of health and safety. This is of particular importance for institutions such as hospitals and restaurants, where machines use much bigger loads, have higher temperatures, and are cycling through much faster than those we would typically find in our household machines. Phosphorus plays a role in cleaning and sanitation for these specialized applications.

The results of our consultations have also underlined considerations regarding the level of phosphorus that could be prescribed in regulation.

• (1650)

It's important to note that all other jurisdictions, including Manitoba and Quebec, that we're aware of, have proposed limits of 0.5% phosphorous to accommodate incidental presence and the technical difficulties in trying to ensure 0% phosphorous.

Such a complete ban on phosphorous of these products in fact could constitute a violation of Canada's obligations under the WTO agreement on technical barriers to trade and NAFTA, as it could be seen as a measure that would be more trade restrictive than necessary, particularly when other jurisdictions are not imposing such a ban.

In addition to looking at ways to amend the phosphorous concentration regulations, Environment Canada is also working with provinces and territories to develop common standards and regulations for municipal waste water effluent that would also reduce the level of phosphorous entering our surface waters.

According to our current scientific information, this in fact is one of the most important sources of phosphorous entering our waterways, and the development of national standards implemented in jurisdictions for municipal waste water effluent will raise the Canadian standard for treatment and ensure that more phosphorous

is filtered out during that treatment. We anticipate proposing such a regulation this year.

Before concluding with these remarks, we'd like to emphasize that each water body and its drainage basin is in fact unique and that the best approach to phosphate control and management can differ from system to system. While it may seem pollution sources are sometimes obvious, in reality this problem is complex because there are a number of sources.

In any given watershed, some of the phosphate sources can be difficult to locate and measure because they spread out, such as in the case with poorly managed septic systems. That is why we believe it's important for Environment Canada to continue to work with municipal, provincial, and territorial partners to ensure we take the necessary care to protect and preserve waters.

As outlined above, the Department of the Environment agrees that the proliferation of blue-green algae is an important and complex issue, so we are supportive of the intent of Bill C-469. Our intention is to amend the phosphorous concentration regulations to effectively reduce the amount of phosphorous these products contribute to Canadian waters, while providing the time necessary for the proposed limits to be met.

I will conclude simply by saying that Bill C-469 is certainly an option for addressing this important issue. It does, however, pose a number of challenges that will require consideration.

We'll be happy to answer any questions members of this committee may have and to provide any follow-up analysis or information you may request.

**The Chair:** Thank you very much, Ms. Kenny.

Mr. McGuinty.

**Mr. David McGuinty (Ottawa South, Lib.):** Thanks very much, Ms. Kenny.

In so many freshwater settings, municipalities are often conflicted because they want the expansion of property-base municipal tax revenues. There have been pressures in different settings in the province of Quebec, particularly in better typical home or cottage country explosions and so on in terms of growth. There have been some variations in patterns of development among the municipalities. Some require 100 feet of frontage, 200 feet, or 50 feet, and minimum setbacks. It isn't consistent right across our provinces.

Have you, in all your consultation, come across any economic analysis that shows just how far property prices can fall when a waterway or a lake is affected by blue-green algae or in the early outbreaks of blue-green algae? Have you come across any analysis that shows the economic ramifications of an outbreak?

• (1655)

**Ms. Margaret Kenny:** I regret to say that in fact in this instance our consultations have focused on actually putting a standard in place and more of the technical aspects around that, such that we have not explored on an economic basis this larger real issue you are describing.

**Mr. David McGuinty:** Fair enough. Thank you.

You talked about 0.5% and the voluntary standard that the producers are contemplating for July 2010.

**Ms. Margaret Kenny:** Yes.

**Mr. David McGuinty:** When Loblaw's chief executive officer goes on Canadian television in English and in French and advertises Loblaw's new phosphate-free dishwasher detergent, is it phosphate-free?

**Mr. John Carey (Acting Assistant Deputy Minister, Science and Technology Branch, Department of the Environment):** Perhaps I could try to respond to that.

We're not aware of any standard by which you could claim to be phosphate-free and the basis for those claims. I think what they're really referring to is that they do not use phosphorus-containing products as detergent builders. When you build a detergent there has to be a difference in what you're basing your cleaning power on, whether it's phosphate or synthetic detergents, etc. But technically, as a chemist I can say it's very, very difficult to guarantee that an element is not present. They're naturally occurring, and they can occur at trace levels.

I'm not aware of any actually scientific rationale one could use to say something was phosphate-free. It's an operational definition. I think what they're really getting at there is that they're not using phosphorus-containing products as the basis for their detergent.

**Mr. David McGuinty:** Okay.

I'll leave aside the question of advertising standards and so on and so forth. I'll leave that on the table for now.

On the WTO technical barrier issue you raised, Ms. Kenny, do you have a legal opinion? Or do we have any legal opinions from either legal services at Environment Canada or elsewhere that would help us understand whether this may be a problem going forward?

**Ms. Margaret Kenny:** Yes. Perhaps my colleague from Justice Canada could respond to that.

**Mr. Daniel Blasioli (Senior Counsel, Department of Justice):** Thanks, Margaret.

Mr. Chair, as Ms. Kenny mentioned, the WTO agreement on technical barriers to trade and the government's position that the bill's proposal to ban phosphorus content could constitute a violation under its terms.... The NAFTA obligations regarding technical regulations and standards are very similar if not identical in many instances to those set out under the TBT agreement.

Article 2.2 of this agreement is of particular relevance here. It reads in part as follows:

Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to

international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective...

The bill, if enacted as drafted, would constitute a technical regulation within the meaning of this agreement. In addition, the information available to us in respect of phosphorous, its sources, its effects on the environment, and actions being taking by our other jurisdictions strongly indicate that an outright ban on phosphorous content would be found to be more trade-restrictive than necessary.

**Mr. David McGuinty:** More trade-restrictive than say 0.5%?

**Mr. Daniel Blasioli:** Yes.

**Mr. David McGuinty:** Is 0.5% more trade-restrictive than 1%?

**Mr. Daniel Blasioli:** With all due respect, that's not the issue we're dealing with, Mr. Chair. The fact that other jurisdictions do right now adequately, or in their view adequately, address phosphorous with 0.5%, Canada taking measures going to 0% would constitute the problem.

• (1700)

**Mr. David McGuinty:** If we enacted the bill based on 0%—let's theorize that it received royal assent—what would be the remedies open then to challenge this legislation?

**Mr. Daniel Blasioli:** As counsel, we always hate to theorize, but I'll try to give you something in response. I'll of course limit the remarks to legal consequences.

A violation may engage one or both of the dispute settlement processes in the event of a challenge.

**Mr. David McGuinty:** It would have to be invoked by whom?

**Mr. Daniel Blasioli:** There are two: investor and state dispute processes, as well as state-to-state. Under the state-to-state process, a party country challenges the measure it alleges is inconsistent with the applicable trade rules. If the panel finds that a violation has occurred, Canada would have to bring its laws into compliance, or the affected party may ultimately suspend benefits provided to Canada by the applicable agreement—for example, raising tariffs or eliminating reductions in tariffs.

The second process I mentioned is investor and state. In this situation an investor brings a claim for damages resulting from the measure it alleges is inconsistent with the applicable rules. In this instance, a trade panel decision is binding and it may award damages and applicable interest and restitution of property. Of course these can be quite detrimental to Canadian industry.

**Mr. David McGuinty:** Ms. Kenny, you spoke earlier about phosphates and developing national standards. I understood that this would have an effect on Canadian standards for waste water treatment. Do we know, does Environment Canada know, does the federal government know how many waste water systems today, presently, status quo, can or cannot remove phosphates from the waste water?

**Ms. Margaret Kenny:** We have pretty good information on that matter. It's a question of moving to a secondary treatment for municipal waste water, which is in line with what this national standard would be proposing. This secondary treatment would probably allow us to reduce phosphorous entering into the municipal waste-water stream by about 40%.

There are situations where there may be—

**Mr. David McGuinty:** Excuse me. Would that be a 40% reduction if all waste-water systems in Canada were at a secondary level?

**Ms. Margaret Kenny:** I meant that 40% of the phosphorous coming into the system would be removed through secondary treatment. If there were an augmentation, even beyond the secondary treatment, then there are ways to reduce the amount of phosphorous in the effluent leaving the plant by up to 90%.

**Mr. David McGuinty:** So you're telling Canadians that we have the know-how and the engineering capability to remove phosphates from waste water before it is returned, usually to surface water. Is that right? We have the shrink-wrapped ability and technology already on the shelf. We can—

**Ms. Margaret Kenny:** There are technologies that will go a long way toward doing that, yes.

**Mr. John Carey:** Secondary treatment is a general term, and there are many ways to accomplish it. What you're hearing is an average. In fact, depending on how you do it, how well run the plant is, and how you monitor it, you may get higher than 40%. You may get as much as 60%.

Then you can add on what's known as biological phosphorous removal processes. These are common in some sensitive watersheds in Europe, and they could get you up to 90% removal. It wouldn't completely remove it, but 90% removal can be achieved and is being achieved in some plants. It is required in some plants in Europe.

**Mr. David McGuinty:** Finally, do you have any idea what the cost would be across Canada to achieve a 40% reduction in secondary levels of water treatment?

• (1705)

**Mr. John Carey:** I don't have those figures, but we have analyses that could shed some light on the question. It's certainly in the billions.

**Mr. David McGuinty:** It's in the billions. Thank you.

**The Chair:** Mr. Lussier.

[*Translation*]

**Mr. Marcel Lussier (Brossard—La Prairie, BQ):** Thank you, Mr. Chairman.

Ms. Kenny, you talked about your notice of intent and partly explained the scope of the settlement concerning dishwashing products. Provisions on laundry soap are already included in the CEPA; so you aren't just going to deal with dishwashing products.

[*English*]

**Ms. Margaret Kenny:** As described in the notice of intent, the areas that we are examining for regulation include laundry detergents. They are already in CEPA, but at a percentage of 2.2% by weight phosphorous. This proposal would lower this to 0.5% for

laundry detergent. There is also the dishwashing detergent, with the proposed standard of 0.5%.

[*Translation*]

**Mr. Marcel Lussier:** In your presentation, you talked about phosphorus concentrations in waste water that is discharged into the lakes. Did you also consider discharges into waterways?

[*English*]

**Ms. Margaret Kenny:** I'm afraid I have not completely understood the question. I did not, in my presentation, identify the concentration in lakes themselves or in waterways.

**The Chair:** It's the concentration of the product.

[*Translation*]

**Mr. Marcel Lussier:** You mentioned in your presentation that you wanted to have new regulations passed on waste water discharges into the lakes, but you didn't talk about discharges into rivers. Was that intentional?

[*English*]

**Ms. Margaret Kenny:** Perhaps I misspoke. We were talking about the regulation of municipal waste-water effluent that would set a standard for treatment. It would reduce the amount of phosphorus, among other substances, that would be entering any waterway.

[*Translation*]

**Mr. John Carey:** If I correctly understood,

[*English*]

for surface waters, which is your question, we have Canadian water quality guidelines, some of which are formulated for the protection of aquatic life. They are not national regulations, however; they're national guidelines, which are implemented by the provinces rather than—

[*Translation*]

**Mr. Marcel Lussier:** —particularly targeting—

[*English*]

**Mr. John Carey:** Secondly, we have been working with Agriculture Canada in recent years to try to formulate environmental quality standards with respect to beneficial management practices in agriculture, such as the setbacks and buffer zones, etc., and their performance with respect to the actual concentrations in the receiving water, which would help guide the formulation of those practices.

[*Translation*]

**Mr. Marcel Lussier:** Mr. Blasioli, did you also study certain documents concerning Switzerland, which has had bans on phosphates since 1986, and which has belonged to the WTO since 1995? Were limits imposed on them concerning their products and activities in the WTO? You seem to want to transfer the problem to NAFTA, but has this matter previously been considered in the WTO agreements?

[*English*]

**Mr. Daniel Blasioli:** Those facts were not part of our examination.

I'm not saying this is the case in this particular instance, but I would caution you that "ban" may be a euphemism for a very low limit, like 0.5%, as opposed to a true absolute zero ban.

[Translation]

**Mr. Marcel Lussier:** Mr. Carey, you said that you were a chemistry expert. Has phosphorus been assessed in dredging waste?

• (1710)

[English]

**Mr. John Carey:** Has phosphorus been assessed in dredging waste? I'm sure that our dredging disposal guidelines consider phosphorus. I don't know the number off the top of my head, but it certainly has been a contaminant. It's been known for quite a while.

We do have guidelines for the open disposal of dredging waste.

[Translation]

**Mr. Marcel Lussier:** All right.

A few minutes ago, in his presentation before the member who introduced the bill, Mr. Harvey made an outburst in which he talked about the slightly broader scope of your draft regulations. He even included the shoreline issue. Does the government also intend to legislate on the protection of shorelines, including those of lakes?

[English]

**Ms. Margaret Kenny:** The regulation we are talking about here would fall under the Canadian Environmental Protection Act. Part of this act deals with nutrients very specific to cleaning products, and that is the area we are considering regulating at this point.

[Translation]

**Mr. Marcel Lussier:** I see the distinction. We thought it had received priority information. I think we're going to get more concrete information from our officials.

In your opinion, is the regulation of domestic waste water a provincial or federal jurisdiction?

[English]

**Ms. Margaret Kenny:** I might respond first to this question.

This is an initiative that the federal government, with the provinces and the territories, is undertaking under the auspices of the Canadian Council of Ministers of the Environment. So the objective is to jointly develop common standards, one of which would be published under the Fisheries Act, a federal piece of legislation; but then every province and territory would have the opportunity to put their own measures in place.

[Translation]

**Mr. Marcel Lussier:** Does the federal government intend to set conditions for the infrastructure program that funds waste water treatment works? Does it intend to set rules and conditions for the municipalities that build those waste water treatment infrastructures?

[English]

**Ms. Margaret Kenny:** My understanding of the strategy that accompanies these standards is that it will be phased in over a period of time, so that a municipality, for example, would need to be making investments to meet these standards ultimately. I know there are interactions or conversations between the infrastructure pro-

grams, but I do not have the details to answer the specific question that you asked.

[Translation]

**Mr. Marcel Lussier:** The presenter of Bill C-469 often mentioned septic facilities. The word "defective" is very often associated with them. Will the government's research make it possible to establish, for example, the distances that must be respected between a lake and septic facilities? Does the department intend to intervene in those construction rules?

[English]

**Mr. John Carey:** Thank you for your question.

We have done some research on the migration of both nutrients and microbes and viruses in soils from septic systems, which we do communicate to the provinces and municipalities, who are in fact responsible for the bylaws that control these. So, yes, we do have some information on it, which can inform the setting of setbacks and other processes.

However, I think one of the problems that sometimes can be ignored is that many of these cottages are built on terrain that is simply not suitable for septic systems. It's not a question necessarily of setbacks, if you're building cottages on the Canadian Shield, where you simply don't have enough soil for a septic system to work at all.

• (1715)

[Translation]

**Mr. Marcel Lussier:** All right.

[English]

**The Chair:** Thank you, Mr. Lussier.

I will let the last two members have their full times, so we'll go slightly over time, because we started half an hour late. But if you do finish in less than ten minutes, that will be okay too.

Mr. Cullen.

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** The evening of the Speaker's celebration adds a certain congeniality to Parliament when it goes on. So I won't use my full time.

I have just a few questions, and I apologize for being late, as you may have answered these already.

Of the total phosphorus being put out, 1% to 2% is identified by this bill. I'm trying to get a sense if there is any way to understand whether it contributes to 1% to 2% of the problem. Is it proportionally higher or proportionally lower? To be specific, if the vast majority of phosphorus going out into the environment and affecting lakes is coming from farms, is it because these are located closer to those lakes and there's greater interaction between the two ecosystems? In a sense, the 1% or 2% coming from those detergents might actually have an effect of maybe 5% or more on the overall problem of hypereutrophication of lakes.

**Mr. John Carey:** I would answer that by saying that watersheds are different.

**Mr. Nathan Cullen:** Say it again, sir.

**Mr. John Carey:** Watersheds are different, and it's a bit risky to draw on national averages as if they represented individual conditions. What we have heard about the blue-green algae problem is that in areas on the Canadian Shield where agriculture is not a major factor, we still see this enrichment. In those particular areas, or those particular lakes, it's certain that the contribution from these detergents is higher.

**Mr. Nathan Cullen:** Do you mean on the shield itself?

**Mr. John Carey:** In specific watersheds the contribution will be higher where agricultural practices are less important.

**Mr. Nathan Cullen:** Ms. Kenny, I'm trying to imagine. Sometimes when we are considering legislation, we try to have some understanding of the effect it will have on your lives. For instance, you folks have to deal with the chemical manufacturers on the other end.

If such a bill as this becomes legislation, does its passage create a leap of joy from you and make all of your work easier? Does it create a series of consultations that are difficult? What's your perspective on this being a reality and on our moving to 0% from these products?

**Ms. Margaret Kenny:** Based on the consultations we've undertaken so far, we believe there can be a significant reduction in the concentration of these detergents and cleaning products to considerably less than they contain in the marketplace at this time.

When we put forward a regulation like this, we also need to put in a compliance promotion process whereby we would be notifying industry and following up with industry. We'd also put in an enforcement plan, so that we would be testing products and following up on complaints and concerns. That is part of the regulatory process.

There are times as well, such as in an instance like this with laundry detergents, when we revisit and update the regulations.

**Mr. Nathan Cullen:** I think many committee members understand that process. This is more the question whether, when you present a regulation such as this—because you have these consultations going on all the time—the sense from industry is “Forget it, this is absolutely impossible, you're going to take most of the products off the shelves”, or frustration and annoyance, but they'll comply.

**Ms. Margaret Kenny:** The industry has indicated that if they have suitable time to identify alternatives that are safe and effective, they will undertake to comply.

**Mr. Nathan Cullen:** Let me understand that, and this will be my last question. In terms of replacement costs, sometimes we have gone through a chemicals management regime, banned or limited one chemical, and had it replaced by something that in the end turned out to be worse.

Is there any concern or consideration for the replacements we're talking about in this situation? Or are the replacements known and not cost-prohibitive, and such that it's simply a matter of changing the manufacturing process?

• (1720)

**Ms. Margaret Kenny:** Certainly that is an important question to raise with the industry. I believe that with some of the alternatives we have seen, we have not identified issues. It may be that industry also

has proprietary chemicals they're looking at for which I would not have the answer.

At Environment Canada and Health Canada, we have a list of priority substances that we are examining right now. It is readily available on our website. Industry has access to knowing what our priorities are in terms of concerns for certain chemicals.

**Mr. Nathan Cullen:** A last, quick question goes to Mr. Carey. Why have the provincial initiatives been focused on Manitoba and Quebec so far? Why not Ontario, and where is Saskatchewan? Is this just a random sequence, or is it just for reasons of politics? By politics, I mean that those particular provincial councils have decided to take this on; I'm assuming there are blue-green algae outbreaks in those provinces as well. Or are there not nearly as many?

**Mr. John Carey:** The blooms are certainly more obvious in Lake Winnipeg, for example. The blue-greens occur naturally right across the country in virtually every lake. The bloom phenomenon is what's getting folks' attention. It certainly started there first, although Lake Simcoe, for example, and Lake of the Woods in Ontario have the same problems.

**Mr. Nathan Cullen:** Thank you.

**Mr. Daniel Blasioli:** Mr. Chair, for the record, Ms. Kenny's comment that industry has indicated their willingness and ability to comply refers not to the 0% in the proposed bill but to the 0.5% that has been the subject of consultations.

**The Chair:** Thank you.

Mr. Warawa.

**Mr. Mark Warawa:** Thank you for being here.

I have a number of questions. Hopefully we can have short answers, so that I can have a chance to share my time with Mr. Harvey.

I think you were in the room when we heard from Mr. André. He has indicated that there's an appetite to look at exemption for hospitals and also an appetite to consider the 0.5%.

Are there other specific exemptions? Could you make a recommendation to the committee on Bill C-469? What specific exemptions would you like to see? Is it just hospitals? What exemptions would you recommend?

**Ms. Margaret Kenny:** I could quickly say that—based on our consultations—many of these institutional products are used in a variety of settings. They wouldn't just be limited to one type of institution. It may be restaurants, hospitals, bottling plants, etc., and so our sense is that the whole breadth of the use of the product needs to be considered.

**Mr. Mark Warawa:** So it's not just a simple exemption.

**Ms. Margaret Kenny:** It gets more to the industrial and institutional use, yes.

**Mr. Mark Warawa:** Are there currently any products that have been scientifically tested that could replace the detergents containing phosphorus as institutional commercial cleaners, taking into account the health and safety of Canadians? Are there any scientific test results?

**Mr. John Carey:** I'm not aware of any, but we'd have to go back and check to see if anyone else has. I'm not aware of any, no.

**Mr. Mark Warawa:** For my next question, the issue that I don't think we've resolved yet is the date of coming into force. We've heard that Manitoba and Quebec and a number of U.S. states have chosen the date of 2010. Can you share with the committee why July 2010 is the generally accepted date?

**Ms. Margaret Kenny:** We have looked at various jurisdictions, various states within the U.S. We've talked to the industry. There are a good many small manufacturing companies that are involved in this industry in Canada. They have indicated they need a certain amount of time to reformulate, to repackage, to re-source ingredients, etc., and ensure they're working with a safe product. It tends to be a market that moves between Canada and the United States, so right now there are over a dozen states that are also introducing "coming into force" dates of 2010, so it was felt there would be some expediency in having a uniform time for companies to comply.

• (1725)

**Mr. Mark Warawa:** So Bill C-469 is proposing that this take place substantially earlier, and timing is very important. Given the mass production nature of the detergents, is it likely that the implementation of Bill C-469 in Canada alone—if it was just in Canada alone—would limit the industry's ability to reformulate and provide Canadian consumers with safe and effective and affordable products?

**Ms. Margaret Kenny:** My sense is that would be an important question to raise with the industry. As I said, in the consultations that we have had with them, they have stressed the need for them to properly comply with an orderly implementation on a North American-wide basis.

**Mr. Mark Warawa:** Are you recommending the date of July 2010?

**Ms. Margaret Kenny:** We believe that's a date that needs to be fully considered, and will be, in the course of the regulatory process.

**Mr. Mark Warawa:** Thank you.

Mr. Harvey had a question.

**The Chair:** Mr. Harvey.

[Translation]

**Mr. Luc Harvey:** I think the bill presented here today is a bit redundant given the regulations proposed by the government. Do you think it's necessary to change the CEPA? Do you think that would be more effective than to proceed by regulation only, as the government has proposed—regulations on which it is currently working?

[English]

**Ms. Margaret Kenny:** Thank you.

Our normal process for setting product standards—and standards for substances like this—is through the regulatory process. Perhaps Dan Blasioli, from the Department of Justice, could speak to the issue in general.

**Mr. Daniel Blasioli:** I think that's an important issue.

The Canadian Environmental Protection Act is a framework, a piece of legislation. It enables the making of regulations to deal with environmental protection, health protection issues. It's been recognized by the Supreme Court of Canada on many occasions that environmental protection is an area that you can't have completely codified in law. Regulations are the place to do it. By fixing either a prohibition or a limit in the act itself, you tie the hands of what's intended to be a flexible regime and its ability to evolve with changes in scientific information.

I would say that a change to the act itself to crystallize these requirements weakens the regime. It doesn't make it stronger.

[Translation]

**Mr. Luc Harvey:** Do you all have the same position? Ms. Kenny or Mr. Carey, what do you think?

[English]

**Ms. Margaret Kenny:** It's our understanding that this committee will be considering the pros and cons of this bill and take that into context.

[Translation]

**Mr. Luc Harvey:** Phosphate is a substance found in nature, and we know perfectly well that it is not unhealthy. It is neutral. It is good to have a little phosphate. We use phosphates to clean dishes. What is more important than dishes since they are in direct contact with us? If there are traces of phosphate on dishes and on the clothing I'm wearing, I will very likely assimilate a little phosphate as well. Are the replacement products as safe for human health as phosphate? I understand that it's important to reduce phosphate, but have the replacement items that we've found, those that are available, been tested? Are we assured that they won't have any secondary effects and that we won't simply be shifting the problem?

• (1730)

[English]

**Mr. John Carey:** I don't think we now have a full understanding of the replacement products, what they will be, their identities, let alone their toxicology. I would have to say that they have not all been assessed.

[Translation]

**Mr. Luc Harvey:** Would it be wise to wait until 2010? That would give us the time to assess the secondary effects that the replacement products may have.

[English]

**Mr. John Carey:** We will certainly need time to assess this, particularly if there are new substances that would fall within our new substance guidelines. We would have to go through the process. Industry would have to notify us of their intent to begin using them, and we would have to assess them. That takes some time.

[*Translation*]

**Mr. Luc Harvey:** So you think it's wiser to wait until 2010 in order to assess the replacement products.

[*English*]

**Mr. John Carey:** I think we should assess the replacement products as soon as we get their identities. That will take some time. We don't know what all of them are yet. So if some that we have not previously assessed are new substances, we will need time.

**The Chair:** I wonder if you have any idea about the cost of the replacement substances that have been looked at. Are they quite a bit more expensive than phosphate? Is that an issue? This is a problem that's been around for 30 to 40 years.

**Mr. John Carey:** In my experience with laundry detergents back in the seventies and eighties, the first replacements were quite a bit

more expensive, but proprietary products were developed as detergent builders that reduced the cost. It's another process that requires time. The initial products could well be more expensive. I don't think we have data on that. They would have to ask the industry.

**The Chair:** I have a little trouble when we say they need more time. We've known about the problem for so long. It would seem to me that cost may be the issue behind all of this.

I thank you for appearing. On behalf of the committee, we thank you for the information, and we'll carry on.

Thank you.

The meeting is adjourned.

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