

A Discussion of the Stigma Issues in CEPA
Background, Options, Opinions and Proposals

By: Michael Teeter, Principal
Hillwatch Inc.

August 19, 2004

©Hillwatch Inc.
suite 200, 334 Maclaren St.
Ottawa, Ontario, Canada, K2P 0M6
Tel: (613) 238-8700; fax: (613) 234-9823
www.hillwatch.com

CONTENTS

1. Executive Summary

2. The Environment for Change

- CEPA Toxic versus Toxic
- Improving Public Understanding
- Application of Regulatory Policy

3. Definition of Substance

4. Stigma Impacts

- Harmonization with the U.S.

5. Hazardous Waste: Another Term with Stigma that needs to be addressed

6. Some of the Listing Options

- Listing in Context
- The CEPA Registry
- Substance to be managed nomenclature
- Human Health Toxicity versus Environmental Health Toxicity
- "Other" category

1. Executive Summary

The stigma of labels within CEPA is increasingly recognized as an impediment to effective national environment management systems. By placing stigma on products in commercial use, scarce resources are dedicated to resolving conflicts. The spirit of cooperation required to effectively implement environmental management systems is lost when bad will creates disincentives to positive change.

What we need is a legislative and regulatory regime where stakeholders focus on what is really important: preventing and managing pollution. For the most part, pollution is created by people; by human activities; and by the use of products or substances in quantities and in environments that cause environmental problems. In a society where there are scarce resources and many problems to address, the solution is for all Canadians and Canadian businesses to endorse and take action in support of proper environmental management.

One of the foundations of CEPA is to catalogue and classify all substances in use in Canada. This is an important objective. However, it is also CEPA 99's need to put substances and products on lists that cause the disputes when it is proposed to call a product toxic or hazardous. This is particularly the case when the reasons for labeling a product this way may have little to do with the common understanding of the toxic or hazardous label.

A necessary Change: Amend the definition of Substance in Section 3

Recognizing that products or substances create environmental problems, only when they are used by people in a certain way, would go a long way to resolve the stigma issue in CEPA. A small amendment to the substance definition in CEPA, to allow for a substance to be clarified by its use, its environment, the species affected, etc., would allow the labels to be applied (if they are applied at all) where they need to be applied- that is, on the circumstances that generate the pollution in the first place.

List and Decision Making Options: There are some excellent ideas on the table

- **Option 1: CEPA Registry and Regulations in Context**

Once substances have gone through a screening assessment or other form of risk assessment, they could be placed on the CEPA Registry. The Registry list could apply to substances in commerce, as well as wastes. As in the current structure, Ministers could be responsible for registry decisions. Flowing from the registry could be voluntary risk management programs, as in this instance regulatory authority would not be required.

If regulations were required, then substances (in context) could be recommended to Governor in Council to be placed on Schedule 1 of CEPA (or the Hazardous Waste Schedules) so that regulations (in context) could be promulgated.

A related approach would be to proceed directly from the CEPA Registry to regulations in context. Governor in Council decision-making authority would be required.

- **Option 2: Create a "Substance to be Managed" Category**

A new schedule (i.e. Schedule 9) could be created where "substances to be managed" could reside. Again, assuming the modification to the substance definition, lists of substances in context could be placed on either Schedule 1 or Schedule 9. The full suite of risk management instruments could apply to substances on either list. The CEPA Registry could be used as proposed in Option 1. Governor in Council would govern the migration to Schedule 1 or Schedule 9, upon the recommendation of Ministers.

- **Option 3: Create an "other category"**

Similar to Option 2, the CEPA Registry could be used for all assessed substances. Two schedules would exist: one would be schedule 1 for toxic substances (with the permitted context) and one would be Schedule 9 for other substances (with permitted context). Governor in Council would govern migration to the Schedules, upon the recommendation of Ministers.

2. The Environment for Change

Draft discussion papers and reports of meetings being held in advance of the formal CEPA review process indicate that the issue of product or "substance" stigma has been identified as something that needs to be addressed in the CEPA review. Disputes that stem from the association with product stigma seriously detract from the more important discussions and energies devoted to risk management or environmental management generally. The time, resources and energies expended in debating the labels and label lists associated with CEPA can be considerable, while the more important work associated with environmental management can be left to languish.

CEPA grants regulatory decision-making powers to the federal Cabinet. This is how it should be as the Governor in Council has the delegative authority granted by Parliament to pass regulations on behalf of the Government. While Cabinet members understand the importance of this role and the need to accommodate interests that are appealing to them, the machinery of government is not well positioned to accommodate cabinet appeals on a large number of regulatory decisions. There are insufficient time and resources to accommodate regulatory disputes at the Cabinet table.

Clearly, there is a need to modify the Statute to provide for processes and results that the majority of stakeholders can agree on.

With 23,000 substances that must be reviewed and catalogued, and where management plans may be required, there needs to be a listing and risk management system in place which is far more efficient and effective than the current situation. Reducing or eliminating the conflicts associated with product stigma will assist in achieving a more efficient and effective national commitment to environmental management.

- **CEPA Toxic Versus Toxic**

Proponents of CEPA, in its current form, are quick to point out that substances or products designated toxic under CEPA are "CEPA-Toxic", not toxic. Many briefings have been given to politicians and others indicating that Environment Canada is doing its best to educate stakeholders and the public of the difference. There is little evidence to indicate that the public or politicians could possibly understand there is a difference.

The Statute itself does not acknowledge the difference. It refers only to "toxic", to lists of Toxic Substances, etc. It does not refer to lists of CEPA Toxic substances, etc.

It is a fact that the dictionary definition of toxic positions the term as synonymous with "poison" or having defining characteristics that are inherently harmful to human life. The Supreme Court judgment, in the Hydro Quebec case, also alluded many times to the misunderstanding created by the definition of toxic in CEPA. Parts of the judgment clarified this confusion by referring to "toxic in the ordinary sense" versus toxic in the sense of CEPA.

Other relevant federal and provincial Statutes and regulations reserve the toxic terminology for those situations and substances that are "toxic in the ordinary sense". The Pest Control Products Act and Regulations are good examples. The Pest Control Products Regulations classify pest control products by "type of Hazard". Categories within the classification system (and the corresponding lists) include: "Acute toxicity", "Chronic Toxic effects", "Embryotoxicity", and "Reproductive toxicity". An educated guess is that you would not find an approved food or life-giving substance on these lists.

- **Improving Public Understanding**

A very good question is: how could the public possibly understand the CEPA approach to the word toxic when it is used in most contexts in the ordinary sense. Try as one might to explain the difference and expend public resources in the process, one would always be faced with the contradiction between common understanding and statutory usage.

CEPA takes the definition conflict even further. Given the risk based focus within the CEPA toxic definition, we end up with CEPA conclusions where substances that are toxic "in the ordinary sense" are not CEPA toxic, while substances that are associated with everyday use, are.

During the public phases of the road salts assessment, Environment Canada attempted to explain to the public the definition of CEPA-Toxic. They also made admirable attempts to point out that road salts were beneficial and essential to public safety. Despite these attempts, national press coverage and the press preoccupation were all around the word toxic. Some headlines read: 'Road salt is poison'. Press crews camped outside salt mines all preoccupied with the "toxic" operations taking place. Organized labour within the facilities made not-so-subtle references to the need to renegotiate collective agreements due to the new hazardous status of the product. U.S. border towns, exposed to Canadian media stories, began the process of outlawing road salts, particularly Canadian road salt, from their jurisdictions.

- **Application of Regulatory Policy**

Regulatory Policy is a serious policy framework that is critical to system fairness, equity and integrity. Without rigorous application and enforcement of regulatory policy, the possibility exists that the Statutory Authority granted to Governor-in-Council will be abused. The possibility exists that without the enforcement of regulatory policy, abuse of authority could take place without the knowledge of the very Cabinet Members responsible for the due diligence of this authority.

Regulatory Policy, now administered and enforced by PCO, is a rigorous system of accountability, put in place to ensure that regulatory decisions are made with the best information and analysis possible. Regulatory Policy requires that alternatives to regulation be considered, that costs and benefits be explored and calculated, and

that regulations are clearly aligned with legislative and policy intent. Not long ago, regulatory policy was administered and enforced by Treasury Board.¹

Environment Canada has always contended that listing substances on CEPA is not subject to regulatory policy. And yet, listing products and substances in CEPA, either as a toxic or as a hazardous waste, is a serious matter. Listing on a CEPA list is a statutory instrument. (The ability to legally label a product as toxic or hazardous waste is given to the federal Cabinet by Statutory Authority.) Parliament grants this authority to Cabinet to make these decisions on its behalf. Delegative statutory authority is always subject to regulatory policy. Regulatory policy forces rational and balanced decision-making. It provokes consultations and the examination of alternatives.

As Parliament delegates authority to Cabinet, a fair question to ask is: what would Parliament say? During the last Parliament, nearly 100 Liberal Members of Parliament are on record as opposing the toxic declaration for road salts and ammonia. The Opposition Parties were not invited, by the industries involved, to comment; however, one can imagine that a majority of Opposition members would also have supported the non-listing outcome. Obviously, the will of Parliament should be closely reflected in Cabinet decision-making, where that decision-making is statutory in nature.

There is another important element to the judicious and proper application of Regulatory Policy. Listing broad categories of products or substances, when there is no clear environmental need to do so, may violate key provisions of regulatory policy. Contingent regulation, or regulatory authority that is imposed in the event it might be needed in the future, seems to be etched into the CEPA framework. And yet this practice conflicts with regulatory policy. It may also be a debatable and questionable use of statutory authority.

3. Definition of Substance

CEPA currently has an inherent and irreconcilable conflict between its need to put substances (or products) on "toxic" lists and the risk-based nature of decision-making within it. Overlay this conflict with the preamble-based commitment to the "precautionary principle", and the conflict becomes even more profound.

Ironically, for CEPA at least, it is frequently not the substance that is deemed to be toxic, it is the way the substance is used or disposed of, its frequency of use or the environment in which it resides. And yet, CEPA requires that substances or products be declared toxic and placed on Lists that legally declare and stigmatize these products regardless of if, where and how they are used.

¹ There may be a conflict between the role of PCO as proponent of regulatory initiatives and secretariat to Cabinet, and the protections of industry and others that are afforded through compliance with regulatory policy. Regulatory policy may be best placed back with Treasury Board, perhaps accountable to the new Comptroller General function.

Leaving the risk based judgments aside, ask the rhetorical question: Is road salt toxic? The answer is NO. You can eat it and in fact humans require salt for life. The same judgment could be made about ammonia.

And yet, as CEPA has to declare a "substance" or product to be toxic, in order to operationalize a regulation or a risk management instrument, and in order for Environment Canada to complete years of work on the assessment of the substance, the end game of toxic listing and associated toxic stigma is deemed by those that administer the Statute to be inevitable and essential.

- **The Politicians understand this conflict and are asking why is it inevitable or essential?**

Politicians do not understand why and how all proposed toxic listings are in the public interest. (They also understand that it is their legitimate role to make the decision as to whether or not a substance should be legally branded as a toxic substance under CEPA.) Environmental management and environmental improvements are in the public interest, but listing something like road salts as a toxic substance may not be. There may be few, if any, societal benefits to be accrued by labeling or stigmatizing some products or substances.

The political understanding of the issue goes even deeper. There is an intuitive and powerful connection to the "guilt by association" argument. Political decision-makers are understandably confused and concerned about fixing a permanent toxic label on a substance or product that is not inherently toxic or toxic in the ordinary sense. Confusion is even heightened when these same politicians are asked to approve a non-toxic finding for substances that are intuitively toxic.

Overlay this confusion and concern with the fact that other levels of government are actually using or approving the substance in question to protect public safety or to provide food for life and the dilemma is compounded.

These facts support the point that amending CEPA in this area is more than just about product and substance stigma. It is also about crafting changes that promote beneficial and efficient environmental decision-making, where these decisions are legitimately made by those individuals elected to make them on our behalf.

- **The "Substance" or product focus to CEPA may conflict with its environmental intent**

It is the context in which a substance is used that will determine its toxicity under the CEPA Section 64 definition of toxic. Context may relate to the extent of use, sensitive organisms affected by the substance, the environment the organism or substance operates in, etc.

Regulations that flow from a toxic listing under CEPA recognize this fact. For the most part, the regulations pertain to an environment, a point source and other specific contexts or human actions that may provoke environmental harm.

Given the intent to create a workable Statute that addresses environmental issues quickly and efficiently, one cannot help but ask the question:

Would it not be appropriate and in the public interest to encourage the listing of substances in context? If so, how can this change best be accomplished?

- **The Definition of "Substance" in CEPA: Does this need to be addressed?**

The debate around stigma really exists because CEPA requires that there be little or no context attached to substances that are listed. While all the focus on reform has focused on lists and nomenclature, it is important to also ask the question: Should the definition of "Substance" in Section 3 be modified to permit and even encourage a listing and CEPA focus on substances in context. If such a change was made, then environmental focus and the listing process would be more efficient and more closely attuned to those environmental remedies and risk management measures that most can agree on.

A good case that demonstrates the "context and substance" conundrum is the debate over the listing nomenclature for ammonia. The PSL listing nomenclature was "ammonia in the aquatic environment". For reasons that probably have something to do with Justice legal opinions (and the section 3 definition of substance) and economy of wording regarding the potential role of atmospheric ammonia as a precursor to smog, Environment Canada proposed that "ammonia" be added to the list of toxic substances. This proposal was made despite the fact that the risk assessment for "ammonia in the aquatic environment" isolated effluent from municipal wastewater treatment plants as the point source of concern.

Environmental action was only required for a specific environment and use, and yet the proposal was to list an entire substance (and product as ammonia is the foundation for fertilizers). Justifications for the broad listing inevitably point to Section 3 legal opinions; however, there are always undertones of "it is nice to have" (a broad listing) on the books so that Environment Canada has the ability to regulate or force risk management instruments on other uses and environments should Environment Canada deem it necessary. In effect, Section 3 in the Act is used to promote contingent regulation with little basis for evidence to support this contingent regulation. Juxtapose this with the political decision-making concerns around CEPA (as expressed earlier) and the conflict between the interpretation of the Statute and political decision-making becomes even more acute.

When a conflict arose between key stakeholders, such as the fertilizer industry, and Environment Canada over the "ammonia" listing nomenclature, new nomenclature options were proposed. Once again, despite the need to list and regulate only one environment and point source, the Section 3 definition of "substance" was used as justification for broad listing outcomes. "Ammonia Dissolved in Water" became the listing nomenclature for the "Ammonia in the Aquatic Environment" risk assessment. "Gaseous ammonia" became the listing nomenclature for the atmospheric ammonia precursor to smog (PM10), over which there was no science assessment.

This unhappy outcome was positioned as a compromise; however, at the end of the day it was an unhappy outcome for the fertilizer industry. The stigma and the "regulations overhang" attached to the toxic label are in place. The fertilizer industry

accepted it on the condition there would be a full review of their "toxic stigma" concerns and the potential to move to a list of substances to be managed.

The question is: what outcome would have been in the public interest? When viewed within the context of a Statute that is under Parliamentary review, the simple answer is: the public interest is to list in context. The list should identify the problem and force a risk management solution to the problem. Contingent regulation through broad listings is surely not in the public interest.

4. Stigma Impacts

Salt and ammonia are both substances and products that are essential to life. In the case of salt, it is an approved food and a significant portion of industry sales are to the food industry and to consumers as table salt. In the case of ammonia, it is a substance in the air we breathe and is a fertilizer that is critically important to providing food to the world. Canada is a major player in these industries and is a significant net exporter. The industries and their thousands of employees believe in what they do as providing beneficial products to the world. The toxic label is a direct contradiction to this valid perception.

An issue that is critical to this debate is product substitution. A toxic or hazardous label on a specific product will by its very nature encourage buyers and consumers to consider alternatives. Presumably, this is one of the reasons why proponents of the Statute wish to retain its current form. Obviously, there will be business impacts of product substitution, hence a business impact connection to the stigma issue.

Throughout the public debate over road salts, some users, particularly small municipalities, concluded that the "people and scientists in the know" at Environment Canada were promoting alternatives to road salts. As a result, some municipalities began the process of purchasing calcium chloride or magnesium chloride erroneously thinking that only sodium chloride was a road salt. Other municipalities examined and purchased CMA (or a de-icer acetate) as an alternative to road salts.

There is scientific evidence in Europe to indicate that the acetate alternative may be environmentally inferior to the chloride de-icers. It is also 5 to 10 times the cost and is far less effective for the protection of public safety. And yet the publicity around the assessment generated a marketplace understanding that sodium chloride was bad, while acetates were good and the other chlorides were benign. And yet, the reality is there is no significant environmental difference between any of the chlorides, while the acetate alternative may be environmentally worse, but yet it was not assessed or considered.

Let's examine the proposal to label treated wood as hazardous waste. Some treated wood is environmentally benign and is preferred by regulators and environmentalists and yet the whole category is proposed to be designated. Alternatives such as cedar may appear to be the solution but it is extremely high cost and there is insufficient supply to meet demand as a substitute for treated wood. The use of treated wood has a significant impact on the preservation of standing timber and sound forest management, surely a key environmental objective. Other alternatives such as steel are also very expensive and the lifecycle impacts of full-scale steel use may be environmentally inferior.

Ammonia is a key fertilizer that is stigmatized by the toxic label. Potassium chloride is also a fertilizer and is ironically proposed to be toxic as a road salt. Both nitrogen and potash fertilizers are essential crop nutrients, and are critical to maintaining the world's food supply by replacing depleted minerals in the soil.

If one of the public policy purposes of stigmatizing a product were to promote alternatives, then good public policy would suggest that science and other benefits support the use of alternatives. Since a discussion of the benefits of substitutes is not a standard feature of CEPA assessment discussions, one assumes that either there is a significant flaw in the process or that there is no public policy intention of stigmatizing substances (and products). The solution is to either significantly amend the process to require the assessment of substitutes or remove the stigma issues from CEPA altogether. Removing the stigma connection seems to be the most logical step.

There clearly are instances where stigmatizing a product or substance, and promoting substitutes, is in the public interest. For these substances or products, the toxic or hazardous label is appropriate. The public should understand that some substances and products are clearly dangerous and either should be avoided altogether or used very carefully. Trivializing the application of the words "toxic" and "hazardous" so that they apply to products or substances that people eat, breathe or use daily would have the effect of diminishing the value of the terms when they are applied to products or substances that should be avoided or very carefully used. Applying the logic of the parable, once you cry wolf too many times, people no longer hear. When they don't hear, they don't take appropriate actions to protect themselves. Surely, the public interest is not served by this outcome.

- **Harmonization with the U.S.**

There seems to be an ethos among the environmental policy community that harmonization with the U.S. has little value. This is completely incorrect. There is critical value in ensuring that the U.S. and Canadian environmental frameworks are harmonized and consistent.

It is a fact that the U.S. is our biggest customer and that many corporate environmental regimes are administered on a North American basis. The waste disposal infrastructure is also harmonized on a North American basis. Cross-border waste and landfill issues are well known to Canadians and to Americans in Border States.

Under U.S. law, labels such as "hazardous" and toxic are reserved for those products and substances that are understood to be such in accordance with the ordinary use of the terms. U.S. law tends towards a multi-staged labeling framework where the toxic or hazard labels are reserved for those substances and those contexts that present serious risk to human life.

The U.S., being the largest economic force in the world, tends to view labels on an ethnocentric basis. In effect, if the Canadian government labels something as toxic or hazardous then U.S. interests tend to judge these Canadian products within the meaning of U.S. law. There will be obvious business impacts as a result. These

range from customers proposing to cancel contracts, to disposal facilities requiring new procedures, higher costs and manifesting, etc.

Canada and the U.S. is one economic zone. Most industrial sectors have intimate cross-border structures and common standards. What positive effect is achieved if Canada harmonizes with a few European countries (where there is little common infrastructure or trade) or where Canada develops its own unique regulatory labels and structures?

Positive effect is created with regulatory and legislative systems that encourage sound environmental management. This cannot be accomplished by the creation of systems that reject cross-border considerations and Canada-U.S. harmonization to as great an extent as possible.

5. Hazardous Waste: Another term with Stigma that needs to be addressed

Just as "toxic" can define a product and cause it to lose favour, despite its beneficial uses, so too can the term "hazardous waste". It has been proposed by Environment Canada that Treated wood be designated as Hazardous waste under CEPA. There is an obvious conflict between the widespread use of this important consumer product and the term being proposed for it once it has surpassed its useful life. Nobody disputes the need to have environmental management plans or to provide for proper re-use, recycling and disposal. The question is: is it in the public interest to label a product as "hazardous"? Does this label do anything to further beneficial environmental ends? Unless a product is toxic or hazardous "in the ordinary sense" and is understood as such by the public, there is absolutely no public policy benefit in attaching this negative and business-threatening label to the product.

The end game that all agree on is sound environmental management. Environmental management for society as a whole requires commitment and the internal efforts of all the businesses involved. There are both costs and benefits to this commitment. Business needs a cooperative and encouraging political and regulatory environment in order to make the environmental commitments and investments necessary. Environment Canada, and other environmental regulators, also need business cooperation and commitment. After all, there are insufficient public and regulatory resources available to achieve the goals of maximizing sound environmental management. The best way to win this overall commitment is to create a cooperative and positive business environment in which environmental ends are internalized and beneficial to business.

6. Some of the Listing Options

- **General Principle: Deal with the substance definition, Allow listing in Context**

If one truly desires a system that is efficient and is focused where the need resides, this alternative has to be considered. An amendment to the Substance definition in Schedule 3 would be required.

Assuming this change was made, then all lists in CEPA would have the ability to relate substances to environment, contexts, quantities, species, etc....In this way, the problem areas would drive the attention and the focus. Environmental management would be the prime purpose of CEPA. This was certainly the approach taken in CEPA, pre- CEPA 99. Why could it not be the approach again?

- **The CEPA Registry Proposal**

An Environment Canada background paper has suggested that the toxic stigma issue could be addressed by a more aggressive use of the CEPA Registry. While the details of this proposal may be deliberately vague, the implication is that all substances deemed to be toxic (or capable of being so as consistent with the Section 64 definition) would be placed on the CEPA Registry. The decision-making process for determining addition or deletion to the registry would be simplified and may not involve Governor in Council at all. (It is debatable whether or not addition and deletion decisions could be legally made without Governor in Council sanction, particularly if addition to the registry also affixed the toxic label to the product or substance.) Migration to Schedule 1 from the CEPA Registry would take place if it were deemed that regulatory powers were required. At this stage, Governor in Council would be required to sanction the migration. Whether or not the toxic label was affixed to either list is up for debate. The nomenclature could simply be: CEPA Registry and Schedule 1.

One variant of this proposal, picked up by some industry groups, is that only substances that require regulation would be placed on Schedule 1. Products or substances that are deemed to be appropriately managed, on a voluntarily basis, could remain on the CEPA Registry.

While there are merits to legitimizing voluntary management programs through this method, this variant doesn't really solve the problem. It misses the point. The real issue around the toxic or hazardous label is the everyday, ordinary understanding of the terminology itself. We could conceivably end up with a framework where products or substances that are understood to be toxic "in the ordinary sense" are on the CEPA Registry, but not listed as toxic, while those that are understood to be safe and even essential are on Schedule 1.

Some positive uses of the registry could be:

- a. Use the Registry in a broad sense, perhaps as currently defined in Section 12 of the Act. Substances listed in the Registry could be any

- substance or "substance in context" that requires environmental scrutiny and management;
- b. Allow substances to be listed on the registry and on other lists in context (e.g. use, environment, etc.)
 - c. Regulations could flow from the registry as and if required. Substances (in context) could be listed on Schedule 1 as required.

Once again, if listing in context was permitted and encouraged, a more aggressive use of the CEPA Registry, while maintaining Schedule 1 and the "List of Toxic Substances in context" might be a viable option.

- **The "Substance to be Managed" Nomenclature and List**

A precursor to the voluntary/regulatory list dichotomy was developed through the many discussions about adding lists and terms to the Statute during the road salts political debate. It was proposed that the appropriate label for road salts and ammonia might be "substance to be managed" as opposed to toxic substances. The idea was to create a second list, call it another schedule and label, as a managed substance list. Schedule 1 or the toxics list would be reserved for those substances that were toxic in the ordinary sense. The assumption is that the "full suite of regulatory and non-regulatory tools", currently enshrined within CEPA, would be available to risk managers, regardless of which schedule or list the substance resided. The real dilemma for this approach would be in defining the most appropriate list for a substance under review. While some might be tempted to link voluntary management only with the second list, this was not the intent. The original intent was to maintain the full suite of regulatory and non-regulatory options.

If listing in context was permitted in CEPA, then this option might have significant potential for further discussion.

- **Human health toxicity versus environmental health toxicity**

Some have proposed segregating into two lists: a toxics list for human health concerns and some other kind of list for environmental concerns. This division might be more understandable to the public. This is an approach that some Environment Canada managers have been advocating for a number of years. It mirrors the divisions within Section 64 itself currently and is reflective of the judgments that are made by risk assessors in respect of the current 64a and 64b classifications.

Should the 64c classification (both human health and environment) apply, then presumably the substance would be on both lists.

Again, one assumes that the full suite of risk management "tools" would be available to risk managers regardless of the list that the substance resides on.

This option may not fully address the product stigma concerns, although having the ability to list in context will assist significantly.

- **Create an "other" category**

Within the context of the ammonia and road salts political debates, it was suggested that there should be another schedule and list for which there was no name. Call it "other" for want of a better term. The decision to place a substance on the toxics list or the "other" list would reside with Governor in Canada, upon the recommendations of Environment and Health Canada Ministers.

Should such an outcome emerge, one can imagine keen lobbying battles over the choice of list. Presumably, over time, criteria and policy frameworks would be developed to give clarity to the list decision and choice.