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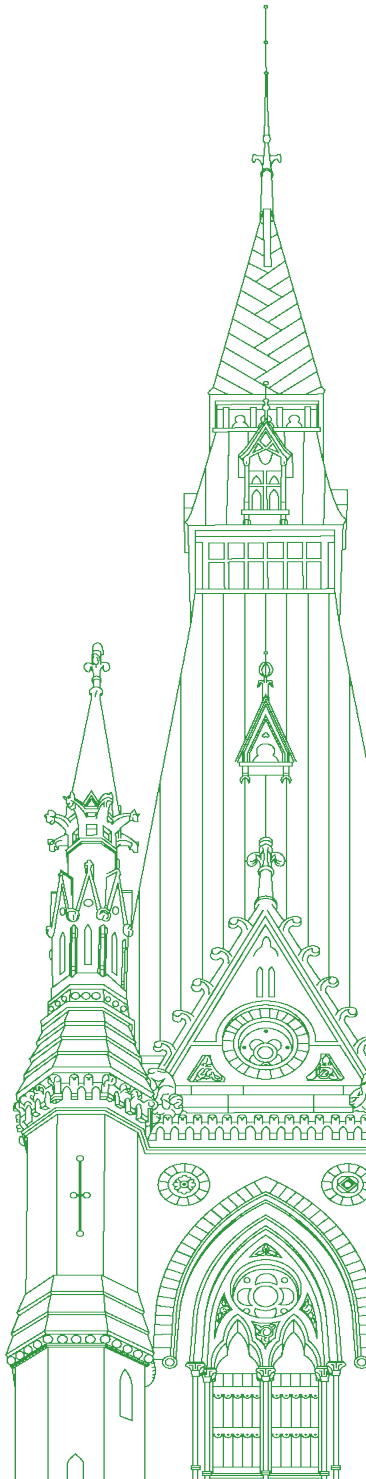

Chair: Mr. Francis Scarpaleggia

Standing Committee on Environment and Sustainable Development

Friday, December 2, 2022

● (1305)

[*Translation*]

The Chair (Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.)): Good afternoon, everyone.

I think everyone is very familiar with the procedure for hybrid meetings, so I won't repeat it.

We have the pleasure of welcoming Minister Guilbeault this afternoon. He will have 10 minutes to make his opening remarks.

Mr. Minister, the floor is yours.

Hon. Steven Guilbeault (Minister of Environment and Climate Change): Thank you very much, Mr. Chair.

[*English*]

Honourable members, thank you for the invitation to discuss Bill S-5, the Strengthening Environmental Protection for a Healthier Canada Act, which proposes amendments to the Canadian Environmental Protection Act.

[*Translation*]

To begin, I'd like to acknowledge that we are on the ancestral lands of first nations, Inuit and Métis peoples, either physically or virtually. These aren't just words; it's an essential recognition as we work every day to build new relationships with indigenous peoples.

[*English*]

The bill you have before you strengthens the act in two key areas: It recognizes a right to a healthy environment, as provided under CEPA, and it strengthens the management of chemicals and other substances.

[*Translation*]

When I presented my opening remarks to the Senate committee this past spring, I invited senators to study and seek ways to improve the bill. I thank the Senate for its important work and repeat this offer to members of the House of Commons.

The government supports many of the Senate's amendments and will propose that some be modified so they are more workable. There are a few, which I will return to later, that are not in keeping with the principles of the Canadian Environmental Protection Act or are premature, in light of ongoing consultations.

Let's begin with the issue of recognizing a right to a healthy environment as provided under CEPA.

[*English*]

This bill is the first time that a right to a healthy environment will be recognized in a federal statute.

The bill also includes a number of requirements to ensure this right is meaningful and taken into account when decisions are made under CEPA. It requires the government to develop, within two years, an implementation framework describing how this right will be considered in the administration of the act. This framework will explain, among other things, how principles of environmental justice, non-regression and intergenerational equity will be considered under CEPA.

[*Translation*]

Canadians will have an opportunity to participate in the development of the framework. The minister must report annually to Parliament on the framework's implementation.

The framework will define a thoughtful, meaningful and evolving approach to the right to a healthy environment. The implementation framework will clarify the right to a healthy environment lens for all programs under CEPA, including the clean air agenda and the chemicals management program.

Amendments related to the right include confirmation of the government's commitment to implement the United Nations on the Rights of Indigenous Peoples and the importance of considering vulnerable populations and cumulative effects in risk assessment.

The bill will also require research, studies or monitoring to support the protection of this right. These new research requirements could help address, for example, the need for information about how pollution affects some groups of people or communities more than others.

[*English*]

These changes build on a robust regime of procedural rights in CEPA that provide for public participation, investigation of offences and environmental protection actions. CEPA has requirements to publish information and maintain the CEPA online registry, which we continuously improve. It allows anyone to ask for the investigation of an alleged offence.

If the request is not dealt with in a reasonable manner, the person can bring an environmental protection action in the courts to enforce compliance. As well, any person who has suffered loss or damage as a result of a contravention of CEPA can bring a civil action to recover those damages.

[*Translation*]

The bill provides the public with more ways to participate in the decision-making process, making it more transparent and accessible. For instance, there will be opportunities to participate in developing the implementation framework and the Plan of Chemicals Management Priorities. The bill adds a mechanism for the public to request an assessment and strengthens the list of substances that can reasonably be considered toxic if their use changes.

[*English*]

The second set of key changes proposed in this bill relates to the modernization of chemicals—

[*Translation*]

The Chair: Excuse me, Mr. Minister, but I'm told that the interpreters are having a little difficulty hearing you. Perhaps the microphone is too high.

Hon. Steven Guilbeault: Is it better now?

The Chair: No, not yet.

[*English*]

Mr. Damien Kurek (Battle River—Crowfoot, CPC): I have a point of order.

There was no translation on your French. I'm not sure if it goes both ways.

[*Translation*]

The Chair: So there's a second problem: the French interpretation isn't working at the moment.

I'm told the problem is now resolved.

[*English*]

Mr. Damien Kurek: It's good now.

[*Translation*]

The Chair: As for the minister's microphone, could someone let me know if everything is okay?

Okay, everything seems to be working fine.

Hon. Steven Guilbeault: Do I need to repeat part of my remarks?

The Chair: No, I don't think so. You may continue, Mr. Minister.

Hon. Steven Guilbeault: Thank you.

[*English*]

The second set of key changes proposed in this bill relates to the modernization of chemicals management. Canada is recognized as a world leader, being the first and only country to have categorized and prioritized for assessment all of the substances that were in commerce in our economy at the time the original CEPA was enacted in 1988. By the end of 2022, the government will have completed the assessments for almost all—98.5%—of the 4,636 substances that were identified as priorities when the chemicals management plan was launched in 2006. This is progress.

● (1310)

[*Translation*]

Now we need a new process.

[*English*]

Bill S-5 requires the government to consult and to produce a new plan for chemicals management priorities. This will show Canadians a multi-year plan for assessing substances in the future. It would also describe the activities, such as research and monitoring, to better support that effort.

The bill sets out a new regime for substances of highest risk. These include persistent and bioaccumulative substances, as well as certain carcinogens, mutagens and substances that are toxic to reproduction. When considering how to manage such substances, the bill requires that priority be given to prohibiting them. The Senate made improvements to these provisions; in my view, modest changes to the Senate amendments would make this regime even more effective.

I think we can all agree on the importance of acting quickly in assessing and managing those risks. CEPA already prescribes timelines, often referred to as the CEPA “time clock”. The government must propose a risk management instrument for addition to schedule 1 within two years after the substance has been proposed and finalize that instrument within a further 18 months. Bill S-5 proposes to go further and adds a requirement for the government to communicate the timelines for subsequent risk management instruments.

The bill also adds a watch-list as a tool to improve transparency by consolidating a list of substances whose inherent properties are of concern, but whose current use does not pose a risk that needs to be managed. There will be consultation on the criteria for adding and removing substances. This work will begin once the bill is in force.

[*Translation*]

Continuing with the theme of transparency, note that confidential business information was discussed a great deal. Bill S-5 includes more requirements to improve transparency. I would, however, insist on the need to maintain the right balance between transparency and protection of Canadian business interests, which the bill delivers.

[*English*]

Finally, the bill now includes substantive requirements to accelerate efforts to replace, reduce and refine animal testing. The three Rs are ordered to reflect that the priority is to replace animal testing, with the aim of eliminating it as soon as feasible and scientifically justified alternative methods are available. The government is committed to promoting non-animal test methods and will engage with stakeholders and experts to provide advice on this issue.

[*Translation*]

CEPA hasn't been significantly updated for 20 years. I say again that this is not our final effort to modernize CEPA.

While the legislative reform takes place, the government is undertaking several activities to tackle several issues linked to CEPA.

Over the last year, we held two consultations on labelling. The first sought to determine which measures could improve supply chain transparency. Consultations ended earlier this fall, which led to last month's publication of a notice of intent for labelling toxic substances in consumer products. The results of both initiatives support a broader strategy, which we will publish in 2023.

[*English*]

The Senate also commented on the transparency of assessments of new living organisms. As such, the Government of Canada launched consultations in October 2022. These consultations will examine how the new substances notification regulations could make the risk assessment and regulatory decision-making process more transparent, while encouraging the development of biotechnology innovations that benefit Canadians.

The Senate made amendments creating a requirement to determine the need for new organisms. This proposed approach would be near impossible to implement.

The results of these consultations will feed into our improvement to the regime for new organisms and our government's approach to labelling. Nevertheless, I understand that these are matters of interest to you, and I will listen to your deliberations to inform the regulatory actions that will follow our consultations. I call on you to maintain the enabling and risk-based nature of the legislation that has made Canada a leader in chemicals management in the world.

[*Translation*]

Fellow members, I am counting on your support to enact this bill and ensure that the government has all the required tools to better protect all Canadians' health and environment.

The work doesn't stop here. Once the bill passes, we will launch regulatory and implementation initiatives, which include developing the implementation framework for the right to a healthy environment, the priority substances plan and regulations on high-risk substances. Furthermore, we will proceed with a review of other potential legislative changes to CEPA to ensure it remains relevant in the context of today's challenges.

Thank you very much.

I will be pleased to answer your questions.

● (1315)

The Chair: Thank you, Minister.

I want to highlight that we also have Mr. Greg Carreau, from the Department of Health, as well as three representatives from the Department of the Environment, Mr. John Moffet, Ms. Laura Farquharson and Ms. Jacqueline Gonçalves. Welcome to the committee meeting.

We will start with the first round of questions.

Mr. Deltell, you have the floor.

Mr. Gérard Deltell (Louis-Saint-Laurent, CPC): Thank you very much, Mr. Chair.

Welcome to all of my colleagues, as well as everyone currently listening to the debate. I'd like to seize the opportunity to apologize profusely for delaying the start of the meeting by a few minutes because I had some technical difficulties.

First and foremost, I want to welcome you, Minister. This is the first time we have had the opportunity for a direct conversation on the subject, which is very important for the future of Canada and the future of the planet, that is to say the environment. I had the opportunity and privilege to be appointed as a minister of the shadow cabinet. In other words, I am the Official Opposition Critic for Environment and Climate Change. I am very honoured to have my party leader's trust in this.

I'm very pleased to have the opportunity to debate with the minister. In Quebec, he is a well known figure, and for good reason. He was very active in the environmental movement. That makes him an activist, and I am not using the word pejoratively. Quite the contrary, it is a word that suits him well. When a person as active as he is in civil society decides to leap into active politics, everyone wins, but the walk has to follow the talk.

Over the last few months, we found ourselves in a situation where the minister greenlighted the Bay du Nord development project, which put him directly at odds with his former activist friends. However, we considered it the right thing to do for Canada and welcomed the decision.

Of course, other decisions raise concerns for us, and we will have the opportunity to debate them over the coming months.

For the next few minutes, let's focus on Bill S-5.

I want to reassure the minister and everyone else: Conservatives support the principle of living in a healthy environment. We noted, however, like many others, that senators submitted a large number of amendments. In general, they consist of minor amendments that we can deal with. However, there are nine amendments which are of serious concern to us, and that is what I would like to talk to the minister about.

Essentially, we worry that in certain cases, the amendments could duplicate responsibilities, efforts and bureaucracy. Moreover, we think that some situations lack clarity.

I'd like to draw the minister's attention to amendment No. 10, passed by the Senate, which introduces a new designation, that of a vulnerable environment. In our view, it is very difficult to define what is vulnerable and what is not. Some think that everything is vulnerable, and others think that nothing or very little is vulnerable. Adding this designation in amendment No. 10 adds a layer of confusion, because it's not fully explained.

I'd like to hear the minister's opinion on the matter.

Hon. Steven Guilbeault: First of all, thank you for your kind words, sir. It is a pleasure to work with you and to have you as minister of the shadow cabinet, or rather, opposition critic, as you so eloquently put it.

To quickly answer your question, I would say that the concept of a vulnerable environment would indeed be difficult to define. However, the concept of a vulnerable population is much easier to define, in our opinion. There is a vast body of scientific literature on the issue of pollution exposure. A great deal of data demonstrates that certain populations, be they in Canada or elsewhere, are more exposed to pollution than the rest of the population, for all kinds of reasons, some geographic, some socioeconomic.

There is therefore a distinction to be made between the concepts of a vulnerable environment and a vulnerable population. I agree with you to say that one of these concepts is harder to define. But the other can be defined a great deal more easily.

Mr. Gérard Deltell: The problem that we see is that industry will be struggling with this reality. When a company tries to set up in a location, some will say that the environment is vulnerable and others will say the opposite. At the end of the day, the company is the one who will try to find what constitutes a good location. This problem crops up when we introduce a term without a precise definition to guide us. When a company wants to set up somewhere, but we're unable to define what is vulnerable and what isn't, they are left to struggle with it, which delays investments and development.

Don't forget that Canada is a world leader when it comes to development. We have to maintain very high standards. If the process gets slowed down by these kinds of vague concepts, then what is not done in Canada could be done in other countries, which are a great deal less concerned about determining whether certain situations are vulnerable or not.

So why not accelerate the process?

● (1320)

Hon. Steven Guilbeault: As I was saying, the concept of a vulnerable population is increasingly shaped by scientific literature on environmental health and environmental impact assessments.

Over the last several years, we have reformed the environmental assessment process in Canada to make it both more transparent and more predictable. Earlier, you mentioned the Bay du Nord project. The decision about the project was not easy for me, especially on a personal level, but also on a professional level. Nevertheless, this decision was made within legislated timelines.

I think that we can chew gum, walk and maybe even text at the same time. We then have to make sure that introducing the concept of a vulnerable population does not slow down the environmental assessment process and, ultimately, the approval of certain projects.

Mr. Gérard Deltell: I'd like to talk about Senate amendments No. 17 and No. 18, which focus on living organisms. According to these amendments, both the minister—meaning you—and industry have to hold consultations. If that's not duplication, I don't know what is. If people say something to you, in theory, wouldn't they say the same thing to industry?

Why do the work twice?

Hon. Steven Guilbeault: As I said, we're still reviewing many amendments passed in the Senate. In several cases, they are not a problem for us. In other cases, we will probably want to change the proposals to make them easier to implement. We certainly want to be sure that nothing is duplicated and that the process doesn't lead to excessively burdensome administration. However, as you said so well, it will have to remain a rigorous process. That is the balance we are trying to strike.

The Chair: I will have to stop you there. I found the conversation so interesting that I let Mr. Deltell go over his time. I'm sorry.

It is not your fault, Mr. Deltell. You unexpectedly gained a little time.

Ms. Thompson, you have the floor.

[*English*]

Ms. Joanne Thompson (St. John's East, Lib.): Thank you, Mr. Chair.

Welcome to the committee, Minister.

I will begin by asking you a very broad question: What is the "right to a healthy environment"?

Hon. Steven Guilbeault: Thank you very much, MP Thompson.

As I said earlier, it is the first time that we would include this under Canadian statutes, specifically in CEPA. We're not the first jurisdiction in the world to do that. It's not something that has been done a lot around the world. We're not the first, but we're certainly among the first to do that.

The meaning of the "right to a healthy environment" will be elaborated through the implementation framework. This framework will be developed within two years from the date of royal assent, based on consultation with Canadians: Canadian experts, non-governmental organizations, provinces and territories and indigenous partners, as well as the private sector. The implementation framework would set up how the right to a healthy environment would be considered in the administration of the act.

The framework would also elaborate on principles such as environmental justice, meaning avoiding adverse effects that disproportionately affect vulnerable populations, and issues of "non-regression", for continuous improvement of environmental protection.

The Senate amendment on Bill S-5 requires that the implementation framework also elaborate on the principle of intergenerational equity, the reasonable limits to which the right is subject and mechanisms to support the protection of this right.

Basically, applying the lens of a right to a healthy environment would support and encourage strong environmental and health standards now and going into the future, robust engagement with Canadians and new thinking about how to protect populations that are particularly vulnerable to environmental and health risks.

As I was telling your colleague MP Deltell earlier, and as you well know, the scientific knowledge on these issues is in constant evolution, so I think what we're trying to do is build in a process whereby our regulations can evolve as well.

● (1325)

Ms. Joanne Thompson: Thank you.

Could you provide more detail on how you enforce this right to a healthy environment?

Hon. Steven Guilbeault: Yes. Thank you for the question.

We already have existing mechanisms under CEPA, which would continue to be available to individuals to address concerns regarding environmental harm. CEPA, under part 2, has a robust regime relating to public participation, investigation of offences and environmental protection actions. There are also actions to prevent or compensate loss that could arise from conduct that contravenes the act—for example, against a defendant causing environmental harm.

The recognition of a right to a healthy environment will establish a new lens for decision-making under CEPA, which will ensure there is a continual progressive improvement in protecting all Canadians and the environment.

The meaning of the right and how it will be considered in the administration of the act will be developed through the consultation, as I said earlier, but we will continue using the mechanisms under CEPA to enforce this right.

Ms. Joanne Thompson: How will CEPA reform help to protect vulnerable populations, including racialized communities?

Hon. Steven Guilbeault: Thank you.

As I said earlier, vulnerable populations, and including racialized communities, may be disproportionately exposed to or negatively impacted by harmful substances due to factors such as health status, socio-economic status, geography and cultural practices.

In order to address these issues, it is important to understand actual exposure from multiple substances from different sources, to which Canadians are exposed daily. As introduced, Bill S-5 proposed amendments to CEPA that would require the government to consider vulnerable populations and cumulative effects when assessing risks where information is available.

Senate amendments added a requirement to consider vulnerable environments. Gathering authorities under CEPA would allow the government to obtain information on vulnerable populations and cumulative effects if additional information is needed to inform risk assessment.

Amendments to CEPA would also require the government to conduct research in biomonitoring, which may relate to vulnerable populations. Research in biomonitoring would facilitate generating additional data on how exposure to harmful substances impacts vulnerable populations.

Ms. Joanne Thompson: Thank you.

I think I have a couple of minutes left.

The Chair: No. You have just about 15 seconds, unfortunately.

Ms. Joanne Thompson: I'll pass. Thank you.

The Chair: I'm sorry about that.

[*Translation*]

Ms. Pauzé, you have the floor.

Ms. Monique Pauzé (Repentigny, BQ): Thank you very much, Mr. Chair.

Minister, thank you for being here, as the COP15 is getting underway and you surely have a lot to do.

My questions are on the right to a healthy environment.

As you certainly know already, the UN called on all states to take bold measures and recognize the legal right to a healthy environment. The bill we are studying today introduces this right, to a certain extent, in the Canadian Environmental Protection Act. However, the bill includes it in the legislation's preamble, which does not carry the same weight as including it in the body of the text. For example, in the Quebec Charter of Human Rights and Freedoms, this right is specifically included in one of the articles.

Do you think that adding this right to the legislation's preamble corresponds to what the international community is currently calling for?

● (1330)

Hon. Steven Guilbeault: Thank you very much for the question, Ms. Pauzé.

I'm very happy to be here with you today, even though COP15 is imminent.

As I said in my opening remarks, including this right in the Canadian Environmental Protection Act is a first. I think the fact that it's included in the preamble takes nothing away from the scope of this right. As I was saying to your colleague, Ms. Thompson, all of the tools available under the Act will serve to implement this right.

Once the bill passes, we will allow a two-year period to really hammer out its implementation. That's not at all unusual. The bill defines the scope, and then regulations define its implementation or execution. It's not unusual to proceed this way.

Ms. Monique Pauzé: Minister, not only the Bloc Quebecois, but also many other organizations think that this right will have a great deal less weight if it's included in the preamble. Furthermore, in a 1991 study, the Library of Parliament proposed an idea to make this right quasi-constitutional. Ms. Paule Halley, an environmental law expert, also raised this idea more specifically, suggesting that this right have quasi-constitutional scope. However, Bill S-5 proposes a different approach.

Don't you think that it would have been much more worthwhile for the public to have a meaningful right to a healthy environment?

Hon. Steven Guilbeault: Ms. Pauzé, the public will truly have the right to a healthy environment once Bill S-5 is passed. Let me reiterate that all the tools currently in the CEPA will serve to implement the right to a healthy environment.

In my opinion, the amendments you and, in some cases, the Senate, proposed allow for a number of significant improvements. Earlier, we talked about vulnerable populations with your colleague Ms. Thompson. That is an extremely important improvement to environmental law in Canada.

I said it earlier and let me reiterate it now: we are entirely prepared to examine all the amendments that you and your colleagues propose to make the bill as effective as possible.

Ms. Monique Pauzé: We will indeed have a few amendments to propose.

I was very pleased to hear you say in your opening remarks earlier that teams were already at work reforming the law and that some things were in progress. We also talked about this at a meeting in December 2021.

You also explained why this had to come from the Senate, and that was very relevant. Senators started reviewing the bill in February and I believe they finished in June. After weeks of study, testimony and reflection, the Senators were nonetheless unhappy with how quickly they had to work. While a rigorous process is what is needed, a number of observers have trouble understanding the committee's timelines right now.

Before me I have written communications from Prevent Cancer Now, from Mr. Castrilli, who appeared before your committee, and from the head of Canadian Educators for Safe Technology. They urge us to take the time needed, 20 years later, to make sure the process is rigorous. Right now, though, we are being pushed to work fast.

What do you have to say to all the people calling us and sending us emails to say the process is moving too quickly?

● (1335)

Hon. Steven Guilbeault: I think the Senate has heard from a number of those organizations. I imagine that you have before you, as do I, the list of all the organizations and individuals heard by the Senate. It appears the timelines are different for the House, for procedural reasons. Honestly, I think the Senate took its time making these amendments...

The Chair: I have to stop you there, unfortunately.

Ms. Collins, you have the floor.

[*English*]

Ms. Laurel Collins (Victoria, NDP): Thank you, Mr. Chair, and thanks to the minister for being here.

I would argue that your comments about the robustness of the current enforcement mechanisms in CEPA are incorrect. We clearly need to update CEPA enforcement.

I did want to ask you specifically about labelling hazardous substances and consumer products. In my opinion, we need mandatory labelling, something that provides information on hazardous substances and products and ensures greater transparency for the right to know for consumers.

I also want to note that I spoke to the executive director of the Women's Healthy Environments Network, who spoke very persuasively about the need to have specific labelling when products have a disproportionate impact on women and other vulnerable populations.

Talcum powder has been linked to ovarian cancer, yet there's no label warning consumers, especially women and people with ovaries, about the potential and disproportionate harm.

I'd love to hear your thoughts on how we could improve this bill to ensure mandatory labelling in order to protect consumers.

Hon. Steven Guilbeault: As I said earlier to MP Pauzé, this is a first iteration in the modernization of CEPA that we want to do, but there are other amendments we would want to bring forward further down the road. I thought that trying to change everything that needed to be changed after 20 years in one bill would be a very perilous operation. Proceeding in stages is more prudent.

As you know, we are in that process. We've held joint consultations on labelling with Health Canada—

Ms. Laurel Collins: I have a short amount of time, and I did want to ask you about safer substitution.

Many Canadians are worried about risk management actions that simply replace one harmful substance with another. Risk management actions should lead to the use of safer or more sustainable alternatives.

Don't you think that this bill should prompt a shift from a reactive chemicals management regime to a more proactive model of protection?

Hon. Steven Guilbeault: We're doing just that, but if you have specific amendments you would like to see brought forward on this particular element, my team and I, and Environment and Climate Change Canada, will be happy to consider them.

Ms. Laurel Collins: I also want to ask about ambient air quality. You mentioned it in your statement, but in the legislation.... Ambient air quality is one of the things that impact vulnerable populations the most. We've heard from first nations leaders and folks in Chemical Valley about the horrific impacts of excessive levels of toxic substances in our air.

Can you speak to the reason it wasn't included in this bill?

Hon. Steven Guilbeault: I would disagree with your characterization of the amendments we're proposing.

We're proposing, for the first time ever, to look at vulnerable populations. We're proposing to look at cumulative effects. As you know, the air quality management system is a collaborative system that was set up in 2012 under which federal, provincial, and territorial governments all agreed to specific roles and responsibilities.

We are operating within this framework, but I think that the amendments proposed by either the government or the Senate will represent significant progress on the issue of air quality and air quality management.

● (1340)

Ms. Laurel Collins: Reading through it, it isn't very clear, in my mind, whether that is the case. I hope the implementation framework will clarify that, but I don't see this in the bill itself.

I also want to ask about subclause 2(6).

Nature Canada has been adamant that unless we change the current rules—that is, both the act and the regulations under it—we're going to see more genetically engineered organisms escaping into the wild. In their words, “With nature already on the ropes, wild species do not need this new threat to their survival.”

They have proposed a number of amendments. I want to highlight a couple of these. One of them is around consultation with indigenous communities.

Given that Canada was the first country to have genetically modified salmon eaten by consumers, sometimes without their knowledge, and the importance of salmon to so many first nations—especially where I live, on the west coast of the Salish Sea—do you agree we need to update subclause 2(6) to ensure that this kind of consultation is happening and that there is an opportunity for the public to participate in these assessments more broadly?

Hon. Steven Guilbeault: In fact, consultations are already under way on the regulatory update regarding this, so we're not waiting for the—

Ms. Laurel Collins: Just so the minister knows, the new substance notification regulations do not provide for regulations respecting public involvement in these assessments or decisions that allow the manufacture, use or import of new living organisms. That review won't actually address these concerns.

The Chair: You have 15 seconds.

Hon. Steven Guilbeault: I disagree with your characterization.

As I said, we are holding consultations, including with indigenous people, on this issue and others. I was talking about labelling a few minutes ago. We are looking at many aspects to improve this—

The Chair: Thank you.

The minister has a hard stop.

I'm going to what I'll call the 20% discount on the second round, which is four minutes and two minutes.

We'll start with Mr. McLean.

[*Translation*]

Mr. Greg McLean (Calgary Centre, CPC): Thank you, Mr. Chair.

Hello, Minister Guilbeault.

This is the first time you have appeared before the committee since the recent change in membership among my Conservative colleagues. We are here to acknowledge your efforts and to see if we agree with what you are saying.

[*English*]

First, I want to talk about what you addressed in your opening comments.

You talked about the amendments made in the Senate and how they don't fulfill what's required in the bill. Can you quickly give us some examples of what you think we might need to change in order to make sure this bill works well?

[*Translation*]

Hon. Steven Guilbeault: First of all, thank you for your remarks in French.

[*English*]

This is the first time I've had the pleasure of meeting some of you. It's obviously not the first time I've given testimony at the environment committee.

During my opening remarks, I made a specific reference to some Senate amendments that propose creating requirements to determine the need for a new organism. That is one example of myself and the department having a difficult time seeing how one would ever operationalize something like that.

As I said earlier, I think we agree on many amendments. We would like to change some, but that's something—

Mr. Greg McLean: Okay. We'll get to that further on. Thank you, Minister.

I am curious about one thing. Clause 9 expands your information-gathering powers, as set out under subsection 46(1), to include "products that contain" or "may release...into the environment" a "substance that is toxic" or capable of becoming toxic, and "activities that may contribute to pollution; hydraulic fracturing; [and] tailings ponds."

Minister, speaking frankly, you and your government—you in particular—have made several efforts to move into provincial jurisdiction. Is this another attempt to move to regulate provincially, or—

● (1345)

[*Translation*]

Ms. Monique Pauzé: A point of order, Mr. Chair.

[*English*]

The Chair: I'm sorry. We have a point of order, Mr. McLean.

[*Translation*]

You have the floor, Ms. Pauzé.

Ms. Monique Pauzé: I'm sorry, but the interpreters are having a lot of difficulty understanding our colleague.

The Chair: Yes, the communication is poor.

Ms. Monique Pauzé: I don't know if it is because of the height of the microphone.

The Chair: I don't know.

[*English*]

I think, Mr. McLean, your microphone isn't in the proper place. There might be a connection problem. I don't know. Let's keep going and see what happens.

Mr. Greg McLean: Minister, did you hear my question?

Hon. Steven Guilbeault: I did.

Mr. Greg McLean: Okay, so it's clause 9, this bill's attempt to move into regulating hydraulic fracturing and tailings ponds, which I don't think your department is involved with at this point in time. Is it another attempt to regulate interprovincial jurisdiction, as you've demonstrated in other manners?

Hon. Steven Guilbeault: I would disagree with your characterization of our actions. In fact, the Supreme Court, when it came to carbon pricing—

Mr. Greg McLean: I'm sorry. It's not a characterization. It's a question.

Hon. Steven Guilbeault: There was a characterization and then the question. I disagree with your characterization.

As you know, environment is a shared jurisdiction, and no, it's not an attempt to try to intrude on provincial jurisdiction. The federal government has a recognized jurisdiction when it comes to issues such as water quality, for example.

Mr. Greg McLean: Okay, thank you.

Do I have a little more time here because of the interruption there, Mr. Chair?

The Chair: I did stop it when we were having....

Anyway, go ahead. Just keep going.

Mr. Greg McLean: I know that some of my colleagues talked about the definitions here on what we're talking about—environmental equity, environmental justice—but we also talked about harm versus benefit. When we talk about intergenerational equity, is this balance in what contributes to benefit and what contributes to harm going to be there going forward?

I know it is two sides of the same ledger. Are we going to provide these definitions for judges ahead of time, or are we going to leave it open for somebody else—

The Chair: Answer briefly, please, Minister, maybe in 10 or 15 seconds. It's whatever you can do in 10 or 15 seconds.

Hon. Steven Guilbeault: That's a really good question.

As a legislator, I think the issue of balance is a really important one. Earlier this week, I approved a mining project for palladium that will have significant local impacts and will generate benefits down the road because it will help us to electrify many of our industries.

That's a very good question.

The Chair: Thank you.

We have to go to Ms. Taylor Roy now—no, we don't have to: It is with pleasure that we go to Ms. Taylor Roy.

Ms. Leah Taylor Roy (Aurora—Oak Ridges—Richmond Hill, Lib.): Thank you, Mr. Chair, for that.

[*Translation*]

Hello, Minister Guilbeault. Thank you for being here today and for taking our questions.

Thank you also for your leadership in implementing the right to a healthy environment.

[*English*]

The Chair: I'm sorry. There is an Internet problem again. I'm just going to stop for a second.

Are we looking into that problem?

We'll just pause for two seconds while we look into the Internet connection issue. We will suspend.

● (1345)

_____(Pause)_____

● (1350)

The Chair: We'll try again. There seems to be a problem regarding video and audio prioritization.

Let's see, and if it doesn't work properly, we'll stop again. Sorry about that.

Go ahead.

Ms. Leah Taylor Roy: Thank you, Mr. Chair.

I'll continue in English because my French is probably more difficult to hear with a bad Internet connection.

You talked a lot about the new plan of chemicals management, how that's a priority and what's happening with that. However, before I get to my question, I also want to thank you and your department for the leadership on reducing the need for animal testing and for trying to make progress in that area. I think it's very important and I'm very grateful.

My question has to do with the assessment and reassessment of chemicals. I'm assuming they're covered under the higher standards of Bill S-5. I would just like you to comment on what they are and what specific benefits you see coming from that improved chemicals management plan

Hon. Steven Guilbeault: Thank you for your kind words, and thank you for the important question.

One of the proposed changes in this bill relates to the modernization of the management of chemicals and other substances. I don't tend to use the word “leader” lightly, but as I said earlier, we are recognized as a world leader when it comes to the management of chemicals. In fact, I often have meetings with some of my peers in different countries who want to learn from Canada's experience.

We've completed, as I said earlier, 98.5% of the more than 4,600 substances that were identified, and I'm pleased to confirm that the reassessments will also be held at this level of stringency in the evaluation process going forward once Bill S-5 is adopted.

It is a clear environmental benefit for Canadians by ensuring that chemicals that are assessed under the act will be held to the highest environmental standards both when they are originally assessed and when they are reassessed. This is clearly progress.

Ms. Leah Taylor Roy: Thank you.

I have a quick question. There's been a discussion about the involvement of indigenous people in the process. How does strengthening CEPA enhance reconciliation and environmental and health protection for indigenous peoples and communities?

Hon. Steven Guilbeault: That's a good question also.

I think we are trying to fundamentally change the way we do things in Canada when it comes to our relationship with indigenous people, whether it is to include indigenous knowledge in an impact assessment that's by the Impact Assessment Agency of Canada or whether it is to develop our international priorities by going to meetings like COP27 or COP15. I think this is another in a number of different attempts at reconciliation by ensuring the concerns and priorities of indigenous people are taken into account in the elaboration of the modernization of CEPA and also in its implementation.

The Chair: Thank you.

The time is up, so we'll go to Ms. Pauzé for two minutes.

[*Translation*]

Ms. Monique Pauzé: Thank you, Mr. Chair.

Mr. Guilbeault, I would like to go back to the matter I raised earlier. I am referring to the current schedule for MPs, not for the Senate. The Senate had its own schedule; I want to talk about our schedule, as MPs on this committee.

On October 29, the department published a notice of intent regarding the labelling of products containing toxic substances. As it is important to consult Canadians, people were asked to respond by January 12. A consultation was also launched on the New Substances Notification Regulations (Organisms), which pertain to part 6 of the Environmental Protection Act. We will get the results of that consultation when it ends on December 5, and yet we have to submit our amendments by December 6.

What do you have to say to all those observers who do not understand the current schedule?

Hon. Steven Guilbeault: I would say two things, Ms. Pauzé.

First, the House spent more time studying this bill at second reading than it spent adopting the budget. I think that says a lot. We gave MPs a lot of time to state their views on it.

Secondly, you say some people find things are moving too quickly. When it comes to consultations, we can never win: it's always too fast or too slow...

● (1355)

Ms. Monique Pauzé: Mr. Guilbeault...

Hon. Steven Guilbeault: You are talking about the number of people telling you it is going too quickly. For my part, I have received emails, letters and calls, probably just as many...

Ms. Monique Pauzé: Mr. Guilbeault, what I am saying is that ongoing consultations will continue beyond the deadline for MPs to voice their opinions.

Moreover, as we know, it is not at second reading in the House of Commons that amendments are debated. We do that work here, in committee, as MPs. That is what is...

Hon. Steven Guilbeault: What I am saying is that a lot of people are putting pressure on us to get the bill passed and implemented as quickly as possible.

[*English*]

The Chair: We'll go to Ms. Collins now, please.

Ms. Laurel Collins: I want to follow up on the conversation we were having at the end of my time last time, reminding the minister that a regulation cannot do what its authorizing statute does not allow. Section 114 of CEPA would be what allows for public consultation.

I would also echo Nature Canada's comments that the government should not be using a review of the regulations for which they have had 23 years to undertake to postpone action in the act when it's finally before Parliament.

I also want to ask about confidential business information. I'm curious why there is not a presumption of non-confidentiality and why the government isn't requiring some kind of audit when companies are requesting confidential business information.

Hon. Steven Guilbeault: Maybe on the first part of your question, perhaps I could turn to John or Laura if you want more specific—

Ms. Laurel Collins: We will have time with the officials after, so I'd love to hear from you.

Hon. Steven Guilbeault: As I said earlier, I don't think that what we're proposing in Bill S-5 will help us to update everything that needs to be updated under CEPA. The amendments being proposed are significant progress.

Ms. Laurel Collins: Okay. Thank you.

I would like to ask about timelines, because I only have 30 seconds left.

Many stakeholders have been asking for strict timelines for priority planning, public requests for assessments and toxic substance assessments. I'm curious if the minister would support those kinds of amendments.

Hon. Steven Guilbeault: Please bring those amendments forward. The team and I will be happy to look at them with you.

The Chair: Thank you.

Go ahead, Mr. Kurek.

Mr. Damien Kurek: Thank you very much, Chair.

Thank you, Minister, for coming before the environment committee. Likewise, it's the first chance that I've had to be engaged in this way since being appointed to the committee.

Regarding proposed section 9 specifically, and the possible effects that could be had on some oil field activities, such as hydraulic fracturing and whatnot, can you provide some comment as to whether or not that is something that is specified in this bill?

Hon. Steven Guilbeault: I'm not sure I understand your question.

Mr. Damien Kurek: It's about the chemicals related to what's known as fracking in the oil patch. Is there an effect in proposed section 9 of this bill related to how those substances would be classified?

Hon. Steven Guilbeault: You're asking if the amendments that are being proposed would have an impact specifically on chemicals that are used for hydraulic fracturing. Is that your question?

Mr. Damien Kurek: Yes.

Hon. Steven Guilbeault: As you know, the chemical management.... The proposed reform that is in Bill S-5 would help us to identify chemicals and assess them.

For the sake of giving you a clearer answer, I could turn to John or Laura on this.

Mr. Damien Kurek: I'll be sure to ask that question in the follow-up round.

Minister, you talked in your opening statement about the risk-based versus hazard-based approach. We've heard from a number of witnesses that we need to make sure we keep that strong risk-based approach.

Can you provide further comment as to whether any of the amendments particularly move away from risk and toward hazard, and why they may be problematic?

● (1400)

Hon. Steven Guilbeault: Problematic in what sense? The CEPA takes a risk management approach to many of these issues, but it's not exclusively a risk management approach.

As you may recall, when the bill was introduced, it was saluted by both industry and environmental groups alike.

Mr. Damien Kurek: Yes. Thanks.

I want to acknowledge that former environment minister Leona Aglukkaq, in the Harper years, did quite a bit of work, I think, in terms of some of the initial work that both you and your predecessors inherited.

I want to ask something that is—

Hon. Steven Guilbeault: I'm not familiar with her work on this.

Mr. Damien Kurek: I'm sorry?

Hon. Steven Guilbeault: I'm not familiar with her work on this.

Mr. Damien Kurek: Okay. She was a great minister. I can assure you of that.

Minister, we heard specifically from stakeholders within the agricultural community about some of the other acts related to pharmaceuticals and agriculture food and safety that take guidance from CEPA.

I'm wondering if you can provide comment as to whether, internally, the work put into the background of this bill has included ensuring that the wide, sweeping effects that are somewhat indirectly related to impacts have been included in the drafting of this legislation.

Hon. Steven Guilbeault: One would have to define what you mean by “wide, sweeping effects”, but I can assure you that we've worked on the proposed bill with many different departments, including health, agriculture and a number of government departments. In fact, we have some of those colleagues on the line here with us.

The Chair: You're pretty much out of time.

Go ahead, Mr. Longfield.

Mr. Lloyd Longfield (Guelph, Lib.): Thank you, Mr. Chair.

Thank you to the Minister for being with us and for hanging on for a few minutes with us.

I think it is important that we maintain the risk-based approach to our decision-making and keep science as a foundation of what we're working on.

You mentioned in your comments avoiding the call for a demonstrable need for new living organisms. I think of the work that the University of Guelph does in research using CRISPR technology and other gene-editing platforms to improve life through genetic streams. The antimicrobial CRISPR-Cas9 system they're using is an example of trying to improve the life of animals and defending against antimicrobial resistance in their genes, since we consume animals when we're eating.

Given the complexity of this issue, as well as some of what Ms. Collins brought forward, how is the government addressing the issues relating to genetically modified organisms?

Hon. Steven Guilbeault: Part 6 of CEPA provides a framework to regulate the assessment and management of new living organisms, including genetically modified organisms. As you know, on October 13 of this year, Environment and Climate Change Canada and Health Canada launched consultations to help determine how the new substance notification regulations for organisms can better protect human health and the environment through increased openness and transparency in both risk assessment and the regulatory decision-making process.

In the face of what is clearly a rapidly evolving biotechnology sector, I think that the public engagement process will really help to modernize the regulations and encourage innovation in the biotech sector while we ensure that human health and the environment are protected from harmful substances. That's the balance that we try to strike in section 6 and in the overall CEPA amendments that we're proposing.

Mr. Lloyd Longfield: Thanks.

It will be interesting to see how that public engagement process rolls out. I know that there will be a lot of attention on that pertaining to CEPA.

We've also heard testimony about creating a second list of items of concern with no actions associated with these items, that so-called watch-list, and how the connections to other parts of the act create some redundancies. I'm wondering about that watch-list. You mentioned it in your speech. Could you expand on how that list is going to be managed?

Hon. Steven Guilbeault: Currently departments publicly explain findings related to substances of potential concern, hazards associated with a substance, for example, and track any follow-up actions taken on that substance; however, there is no easy-to-access public list of substances of potential concern that consolidates the follow-up actions for these substances.

The watch-list is intended to address this information and transparency gap. The watch-list will increase transparency and facilitate informed substitution by clearly communicating to stakeholders and Canadians, generally speaking, about substances that could meet the CEPA toxic criteria in the future, for example, if new uses of the substance emerge or if the potential for exposure increases. It will allow stakeholders and the public to make informed decisions regarding which substances they may choose to avoid—

● (1405)

The Chair: Thank you. I think we're going to have to more or less stop there.

Thank you, Minister, for making the time today and even giving us a little bit of extra time. We appreciate that and we'll see you again in the future, no doubt.

Hon. Steven Guilbeault: Thank you very much.

[*Translation*]

Thank you to the MPs.

The Chair: Thank you, Minister Guilbeault.

We will take a short break and then begin the second hour of the meeting, when we will have the opportunity chance to ask departmental officials some questions.

Thank you.

● (1405)

_____(Pause)_____

● (1405)

[*English*]

The Chair: The minister has left, and we have opportunities to question the ministry's representatives.

We'll start with Mr. Benzen for six minutes.

Mr. Bob Benzen (Calgary Heritage, CPC): Thank you, Chair.

Thank you, witnesses, for being here today.

That was a really good hour with the minister. He answered a lot of the questions that I was going to ask. I think I'll ask them again to see if the witnesses here can elaborate a little bit on them.

Let's start with the watch-list. Can you briefly explain how new substances are put onto the watch-list?

The Chair: I don't know who that's for.

Mr. Bob Benzen: I guess it's for anybody.

The Chair: It's for whoever wants to jump in.

Ms. Laura Farquharson (Director General, Legislative and Regulatory Affairs, Environmental Protection Branch, Department of the Environment): Perhaps I'll go. Maybe John is not available right now, so I can start.

The watch-list is one of the options at the end of having assessed a substance to determine whether there is a harm to the environment or to human health. There are four options after that.

It can be put on schedule 1, and one of the options in there is that it could be put on the watch-list. The idea there is that this would be one of the ways the watch-list would be used. If after assessment it is determined that the properties of the substance are hazardous but that the exposure is such that there is no risk at this time such that it would be put on schedule 1 to be managed formally, then that could be put on the watch-list. The watch-list is a consolidated list of substances basically giving the notice that these substances are not toxic at this time but may be reassessed and be found to be toxic if, for example, exposure changes.

● (1410)

Mr. Bob Benzen: In the future, after some research has been done and new data has been collected, is there going to be an off-ramp for some of these substances to be removed from the watch-list when they would not be a concern anymore?

Ms. Laura Farquharson: Yes, I think that would be the idea. We would keep that list current.

If, for example, the substance was reassessed and was put on schedule 1, you would take it off the watch-list. If it were reassessed and found to not be of concern—although I'm not sure that happens—then yes, it would come off the watch-list too.

Policy will be developed to be clear about the criteria.

Mr. Bob Benzen: The minister was talking about how we've looked at 98% of the chemical substances and we're almost at 100%. It seems that process has been taking a long time. It's very slow.

With the changes we're making now to have this schedule 1 in two parts, is this new process going to be an improvement over the existing system for we assessment?

Mr. John Moffet (Assistant Deputy Minister, Environmental Protection Branch, Department of the Environment): Maybe I can answer that.

I am John Moffet, the ADM at the environmental protection branch at Environment and Climate Change Canada.

There are two parts to your question. One is with respect to the 98% and the second is with respect to what we are improving.

First of all, in fact we're not slow. We are the fastest country in the world with respect to having assessed all of the substances in commerce in the 1980s. No other country has come close to our record.

We looked at all the substances in commerce and said that we don't have a regime to say that we can't use it until we prove they're safe because they're already here, so what are we going to do? Every country in the world has wrestled with the same issue. As I said, we have moved farther and faster than any other country in reviewing that stock of substances.

Notwithstanding the fact that we are almost all the way through that list, we recognize that the job is not done. It's not just because we have a small number of those substances left but because lots of new substances are being introduced and developed all the time. Some of them are being introduced and used in different manners.

We also know, as a result of evolving science, that substances can have different synergistic impacts when they're used together and when they're combined with other substances in the atmosphere, in the body or in products. We are now moving towards that more complex type of science. We're not just looking at individual substances, but a combination of substances and different uses of substances.

We're also, as the minister explained, putting much more emphasis on not just generic impacts, but on impacts across Canada and across different populations and peoples so that we pay close attention to the most vulnerable members of society.

Mr. Bob Benzen: Thank you for that answer.

I apologize if I meant “slow”. It sounds like we're very fast compared to other countries. I was only sort of thinking about “slow” in the sense that we have a lot of chemicals we're using, and if it takes a long time to assess them, there could be damage done because we haven't assessed them sooner. I just meant that in the general sense that we want to get it—

The Chair: Thank you. We'll stop on that clarification.

Mr. Weiler is next for six minutes.

[*Translation*]

Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Thank you very much, Mr. Chair.

I would like to thank the officials for being here and for their vital work.

[*English*]

The first question I'd like to ask is related to timelines, so this question might be for Ms. Gonçalves.

I understand from speaking with many stakeholders that they are concerned about the delta between when preliminary risk assessments are completed and when final risk assessments are completed.

I am hoping you could explain to this committee what some reasons are, typically, for these risk assessments to be delayed. What would it take to ensure that these final assessments are done in a consistently timely way?

● (1415)

Ms. Jacqueline Gonçalves (Director General, Science and Risk Assessment, Science and Technology Branch, Department of the Environment): Thank you for the question.

As many of you know, the development of risk assessments is a very data-intensive type of process, and of course we do all assessments in collaboration with our colleagues at Health Canada.

Examining health and environmental data to determine risk takes time. When we do publish a draft, there are times when the public consultation period on those draft assessments delivers new information to us. It's sometimes new data or new studies. It's information we need to consider. Depending on the feedback we receive from the public, there may be times when we have to re-examine how we've conducted our exposure models and things of that nature.

Sometimes other jurisdictions are also conducting similar studies or assessments on similar substances, and sometimes we need to consider the new information that is being generated in those other jurisdictions before we can finalize our assessments to ensure that we've done a complete enough study of the subject before we conclude. There are a number of different reasons that the time frame between the draft and the final assessment can sometimes take some time.

I hope that answered your question.

Mr. Patrick Weiler: Definitely. Thank you very much for the answer. That certainly answers the first part of the question. Maybe you could explain from your experience and expertise in this space what you would expect a reasonable time would be from a preliminary assessment being completed to when a final risk assessment is completed.

Ms. Jacqueline Gonçalves: Generally, when there are very few comments between the draft and the final, the period can be reasonable. It may take 18 months to two years to finalize something. When we do receive additional information and we have to conduct additional information gathering, it can take quite a bit of time. It really is dependent on the particular situation.

Mr. Patrick Weiler: Great. Thank you very much. That's quite helpful.

The next question I have will be to Ms. Farquharson.

Clause 58 of Bill S-5 removes the list of toxic substances from the title of schedule 1. We have heard conflicting testimony on the impact of this. I'm curious whether Environment and Climate Change Canada is confident, based on the legal advice it has received, that the removal of the title, the list of toxic substances, will not impact the constitutionality of CEPA as a criminal law power.

Ms. Laura Farquharson: Yes. The quick answer is the government is satisfied that the bill is constitutional.

Mr. Patrick Weiler: Great. Thank you very much.

On my next question, Bill S-5 proposes changes to the planning process for priority substances to assess whether or not they're going to be toxic. Again, this may be a question for Ms. Gonçalves. There is an interest to ensure that this is done in a timely way. I'm wondering if introducing timelines for these chemicals to be assessed would pose a significant challenge for the ministry.

Mr. John Moffet: Maybe I can jump in—sorry, Jackie—and then we can turn to Jackie and Greg.

First of all, it's probably important to recognize the context here. I described in response to a previous question that close to 15 years ago we developed a plan to look at the many thousands of substances that had been in commerce in the 1980s and that had not gone through the new substances regime. That plan was strictly a policy-based one we put together. We published timelines five years out, and then repeated those every five years.

What we're now saying in this bill is that because we're moving forward into a different regime and looking at different substances from different perspectives, let's have a provision in the law that requires ministers to publish a plan. They will be required to publish that plan within two years of the bill being passed, and then they'll be required to report on its implementation and to renew it from time to time. There will be a very clear obligation to have a plan. That plan will need to include expectations and timelines.

That said, coming back to Ms. Gonçalves's earlier point, it is the government's view that it would not be appropriate to prescribe timelines that would apply to every risk assessment, given the wide range of complexity associated with each different assessment.

● (1420)

The Chair: We're going to have to stop there and go to Madame Pauzé.

[*Translation*]

Ms. Monique Pauzé: Thank you, Mr. Chair.

Like my colleagues, I want to thank all the officials who are here with us this Friday afternoon.

This is not for anyone in particular, but I would like to go back to my earlier question to the minister.

There is already a consultation on substances that would be included in the animate products of biotechnology, covered in part 6 of the Canadian Environmental Protection Act. That consultation ends on December 5.

I would like to return in particular to the notice of intent on the labelling of toxic substances in certain products. This notice states that “Canadians deserve to know what substances are in the products they purchase and use in their everyday lives, whether at home or at work, especially if these substances can have impacts on the environment or human health.” The public has until January 12 to provide input.

What follows is even more interesting, in my opinion. It states that after the consultation has ended, a strategy will be published on transparency in the supply chain and in the labelling of products containing toxic substances. This strategy will include measures to improve access to information on chemical substances, in the interest of consumers, companies and government. Those measures could include legislation or regulations, as well as voluntary and collaborative measures.

This notice clearly pertains to the bill before us, and our current study of the bill is in addition to the efforts made by the Department of the Environment.

How can we gather public input until January 12 and complete our study of Bill S-5 in committee before we even see the results of those consultations? Why exactly was that notice published? It seems rather irresponsible to me that the committee has to study Bill S-5 quickly, when the notice published on October 29 pertains directly to the provisions of the bill. So I would kindly ask you to clarify the process in writing. In my opinion, that would show respect and consideration for all those who have worked on Bill S-5.

We have heard from witnesses who were in favour of deregulation. Those were people from industry, of course. They were quick to praise CEPA's strengths and to make somewhat erroneous statements about the REACH regulatory process in Europe. I would point out that the generic approach under the REACH regulation in Europe was described in the spring of 2022 by the newspaper *Le Monde*, roughly translated, as follows:

> A major change that will make it possible to impose bans by substance group, without having to demonstrate an unacceptable risk for each substance, as is now the case. [...]
>
> [...] The European Environmental Bureau (EBB), which brings together more than 140 organizations throughout the [European Union], estimates [...] [that between] 4,000 and 7,000 substances should be banned by 2030.

So there is truly an accelerated process to ban substances that could be harmful to health or the environment.

Why is the same approach not taken here, in Canada?

[*English*]

The Chair: Who's going to take that?

Mr. John Moffet: Maybe I can start.

There are essentially two questions there. One is with respect to labelling and the other is with respect to what we would call a class approach.

We think there is no contradiction between the consultation process that's under way on labelling and the amendments to the bill, because CEPA already actually authorizes the use of the imposition of labelling requirements. Indeed, we have already imposed labelling requirements with respect to various substances in various products.

The real issue is, in what circumstances should we require labelling going forward? For what substances in what products can we be more—

● (1425)

[*Translation*]

Ms. Monique Pauzé: Sorry to interrupt you, but time is running out. I would rather you talk to us about what is being done right now in the European Union.

[*English*]

Mr. John Moffet: The basic question there is.... The assertion is that in Europe, under REACH, there will be the ability to take action on broad classes of substances. Again, we already have that authority in CEPA. We've just issued, for example, a description about a proposed approach for perfluoro-carbonated substances. My colleagues can provide you with more detail. We've been very clear that this approach will enable us to address potentially thousands of substances at one time.

[*Translation*]

Ms. Monique Pauzé: You are talking about the future. So that is not currently the case, in Canada. That is what I understand.

[*English*]

Mr. John Moffet: No, sorry. That's my mistake. We actually already have that authority and we're taking that action now.

[*Translation*]

Ms. Monique Pauzé: Can you truly say that, since the 1980s, we have reached the peak in the evaluation of substances? Shouldn't we be talking about how slowly chemical substances are evaluated?

[*English*]

The Chair: You have about 20 seconds, please, Mr. Moffet.

Mr. John Moffet: The traditional approach in Canada has been primarily substance by substance, but that has not always been the case. Some of the earliest assessments were of effluent from pulp and paper and effluent from metal mining, for example, which comprised multiple substances. We've alway had that authority.

As I explained in response to an earlier question, we are now moving from a commitment to look at 4,300 individual substances to increasingly looking at combinations of substances or classes of substances using existing authorities.

The Chair: Thank you.

Go ahead, Ms. Collins

Ms. Laurel Collins: Thank you, Mr. Chair.

I want to thank the officials who have been working on this bill. This is a large bill, and it has already gone through the Senate. I know that you folks have been working really hard.

I have a number of questions. The first one is on the right to a healthy environment.

This is a historic and important development in Canada. It's one of the reasons it's so important that we get this right. We've heard from stakeholders. We've heard from a number of witnesses who appreciate the Senate's amendment that fixed some of the problematic language in the original formulation, but a similar change is needed to the requirements for the implementation framework.

I would love to hear your comments. In particular, this is what these witnesses are arguing: “The legislation should not presuppose that consideration of social, health, scientific and economic factors will always justify limiting the right.”

Mr. John Moffet: I'll start, but maybe Laura can jump in.

It's our opinion that the language in the act—and we're certainly looking forward to the discussion in committee—does not specify that those factors must always be taken into account. Indeed, the provision does not stipulate that those factors will always trump—perhaps that's an inappropriate use of a word—or always supersede the right to a healthy environment. The language enables decision-makers to take those factors into account.

Ms. Laurel Collins: I asked the minister about ambient air quality. We've heard from witnesses who are recommending an explicit requirement for the implementation framework to specify how the government is going to uphold this right in relation to ambient air quality standards as well as in relation to substance assessments. They argue that this would provide a measure of certainty in the law that the framework will address these two critical pieces that have potentially the greatest potential for saving lives.

Mr. John Moffet: The bill is very clear that the right applies to the entire act. As written, it currently applies to every decision taken under the act. One of the potential downsides to listing one or two of the many decisions that are taken on a regular basis under the act is the possibility of an unintended legal interpretation that in fact the right or the implementation act applies only in those areas.

Again, we look forward to discussing this further. We absolutely expect and intend the implementation framework to include the discussion of issues, including air pollution, but again, there are some legislative considerations associated with specifically identifying some but not all of the many decisions that need to be addressed in the implementation framework.

● (1430)

Ms. Laurel Collins: You already spoke a bit about timelines. We've heard from witnesses, specifically around priority planning under proposed section 19, that it's very similar to the chemicals management plan, but that there is no requirement within priority planning to set timelines and to update the plan.

Can you speak to why that's the case? Would it be beneficial to require timelines and plan updates to ensure that the plan remains current and is updated, ideally, at least every five years?

Mr. John Moffet: I think we see a benefit in having a plan outline and expected timelines for broad categories of activities, but also in providing an expected time frame within which the overall plan might need to be revisited and renewed.

The main concern we have is with respect to any obligation to specify timelines for discrete activities, such as an individual risk assessment.

Ms. Laurel Collins: I also asked the minister about confidential business information, the idea of the presumption of non-confidentiality and the potential of having audits to ensure that the requests companies are putting in have a justifiable rationale for making this information confidential.

I'd love to hear from the witnesses.

Mr. John Moffet: Laura, can you address that, please?

Ms. Laura Farquharson: Yes, for sure.

Under CEPA, if there's a need to release confidential business information, the claim is scrutinized. If it needs to be released, it will be released, if it's in the public interest to do so.

In terms of requiring scrutiny and reversing the presumption, I think we have to separate.... It wouldn't make sense in a lot of situations. The department receives a lot of confidential business information, but not all of it is published right away. We wouldn't want a process that, at the beginning, requires us to set up some kind of bureaucracy to examine every single claim.

Ms. Laurel Collins: What about the idea of auditing a certain portion?

The Chair: Your time is up. I'm sorry.

If we could all stay back from the microphones, it would be appreciated by the interpreters.

We're out of time.

We'll go to Mr. Deltell for five minutes.

[*Translation*]

Mr. Gérard Deltell: Thank you very much, Mr. Chair.

Hello to all the departmental officials appearing before this parliamentary committee.

From the outset, let me say that I have always had tremendous respect for all the officials who appear before parliamentary committees. They are asked to provide neutral and objective explanations in a forum that is ultra-partisan, since it brings together people of all political stripes.

I would like to take this opportunity to salute all the public servants who serve our country and the federal government with dignity and honour, regardless of the party in power.

[*English*]

Earlier, during the testimony by the minister, I highlighted some concerns we have about the duplication, the red tape and the lack of clarity of certain amendments tabled by the senators.

[*Translation*]

Ladies and gentlemen, I would like to repeat the questions I asked the minister earlier about certain amendments proposed by the Senate.

First of all, let us consider amendment 10, which refers to a vulnerable environment.

To your knowledge, does this term require further explanation, with details and figures, to clarify its meaning, rather than leaving it vague and open to interpretation?

● (1435)

[*English*]

Mr. John Moffet: Thank you for raising that question.

You'll see that we are on record in the Senate as explaining that this term would be a novel term and that it would require definition. If not, it's our view that it would be difficult to define in a.... Because it's a new term, it might be difficult to define in legislation. It may be a term that needs to evolve over time.

It would certainly need some policy work so that Canadians and companies affected by the legislation and activities undertaken under the act have some certainty and predictability about how we would use the term.

Again, I think the easy answer is that we look forward to further discussion of the term and the appropriateness of including that term in the bill.

Mr. Gérard Deltell: When you talk about further discussion, you're talking about adopting or not adopting this bill as soon as possible, as the minister said. Do you think we have the time frame necessary to clarify it, or is it too late and we shall put it aside?

Mr. John Moffet: I think I need to defer to the chair on questions about timing that the committee has available to it. I apologize.

The Chair: I think that was maybe more of a rhetorical question, Mr. Deltell.

Mr. Gérard Deltell: I quote the minister, who said he would like to see it sooner, that sooner is better. That's my thought on his testimony.

I would like to address another issue now and talk about amendments 17 and 18.

[*Translation*]

In accordance with those amendments adopted by the senators, consultations will be conducted by the department and by industry. In our view, that is duplication.

What do you think?

[*English*]

Mr. John Moffet: I apologize. I did not understand the question.

[*Translation*]

Mr. Gérard Deltell: In adopting amendments 17 and 18, the senators created new obligations: public consultations will have to be held for each new living organism developed in Canada. They will have to be conducted first by the department, and then by industry. In our view, that is one consultation too many. Why not just do one?

In your opinion, are two consultations necessary, as stipulated in these amendments? Could we not just do one in order to save time and improve efficiency?

[*English*]

The Chair: You have 25 seconds.

Mr. John Moffet: Our overall view on the approach to living organisms is that we have just launched a broad-reaching discussion on the overall approach to assessing and managing living organisms. We have broad authority in CEPA, so let's not jump straight to legislative fixes. Let's talk to Canadians and experts about the current regime: whether there are improvements or changes to the current regime and what those are and whether they're policy, regulatory or legislative.

The Chair: Thank you.

We have Ms. Thompson for five minutes, please.

Ms. Joanne Thompson: Thank you, Mr. Chair

Thank you to the officials.

Mr. Moffet, if I could begin with you, how does strengthening CEPA address the recommendations of past parliamentary committees?

Mr. John Moffet: That's a very important question.

This bill clearly addresses some of the recommendations of previous committees. As the minister explained, it has two focuses: one, introducing the right to a healthy environment and, two, improvements to the provisions related to the management of chemicals in Canada.

We fully acknowledge that committees identified areas for improvement in other parts of the bill. The government has been clear from the first introduction of the bill that this bill does not address those, not because the government is disinterested in those but because the government chose to introduce a relatively small, manageable package.

The government has also expressed its intention to follow up this package with additional sets of amendments in the future. I think it will be incumbent on us to package those so that they're thematically based and can be discussed, debated and considered as such. There is no pretense that this is the full sum of amendments that the government supports or that are needed, but these are important and can be addressed now.

● (1440)

Ms. Joanne Thompson: Thank you.

I'm not sure, Mr. Moffet, if you're the best one to answer this or if Mr. Carreau is, but could you briefly speak to the Food and Drugs Act—to what it is and then to why is it being amended—to capture that for the record?

Thank you.

Mr. John Moffet: I'll turn to Greg.

Mr. Greg Carreau (Director General, Safe Environments Directorate, Department of Health): Thank you very much for the question.

The amendments proposed in Bill S-5 around the Food and Drugs Act reconcile the current regime, wherein assessments are being done under both the Food and Drugs Act for pharmaceuticals and certain chemicals and also under CEPA for the environmental assessment.

The proposal is to reconcile the potential duplication to enable the full assessment, both from human health and environmental considerations, under the Food and Drugs Act, and that will result in efficiencies for both industry and the government.

Ms. Joanne Thompson: Thank you.

This is a question for both Mr. Carreau at Health Canada and Environment Canada.

We have heard at the committee some concerns from witnesses on whether there are sufficient internal resources to be able to implement what's in this bill.

Could you speak to that from your departmental lens, the ability around staffing and triaging resources needed to be able to ensure that what is contained in this bill can be implemented in a timely, efficient and effective manner?

Mr. John Moffet: This is an ongoing issue for the management of all departments, including environment and health.

The amendments in the act are largely—not exclusively, but largely—enabling. There are some new mandatory requirements, such as the requirement to develop a plan for chemicals management and an implementation framework for the right to a healthy environment.

Essentially what happens is that once legislation is passed, we look internally at our existing resources and develop an assessment of the adequacy of resources. Then, if needed, we make an approach to the Department of Finance for new resources.

That's something that happens on an ongoing basis, and it's certainly something that will happen once this bill gets implemented. At the moment, I don't think we're in a position to give a formal opinion about the need for new resources.

Ms. Joanne Thompson: Thank you.

Do I have time for one quick question, Mr. Chair?

The Chair: You have 25 seconds. That's time for a 25-second question but no answer.

Ms. Joanne Thompson: I'll pass. Thank you.

[*Translation*]

The Chair: Ms. Pauzé, you have the floor for two and a half minutes.

Ms. Monique Pauzé: Thank you, Mr. Chair.

I have two questions for you.

First, we know that Canada and the United States have chosen a risk-based approach, while the European Union's approach is based on danger. Can you please explain the difference between the two?

[*English*]

Mr. John Moffet: I don't think there's a big difference among developed countries in the approach that they take.

The terms that you will hear as we continue to discuss this bill are “risk-based” and “hazard-based”.

A purely hazard-based approach looks at a substance or a group of substances and considers whether, in the abstract, the substance has characteristics that could, in some circumstance, pose a harm to the environment or to human health.

A risk-based approach starts with the hazard assessment, but then asks how the substance is used. Based on how it's used, is there an opportunity or a likelihood of exposure occurring? If there is no exposure occurring, then there is no risk, and that's a risk-based approach. It combines the hazardous characteristics of a substance with its current and possible uses.

● (1445)

[*Translation*]

Ms. Monique Pauzé: Thank you.

My second question is similar to what my colleague Ms. Collins asked.

Industry has fears about confidential commercial information. Are those fears justified?

Isn't there a way to respect the public's right to know without potentially hurting innovation in Canada?

Ms. Laura Farquharson: Regarding confidential commercial information, a balance must be struck between transparency and the protection of information in order to encourage innovation. With the current act and the amendments proposed in the bill, I think we strike that balance.

The Chair: Thank you.

Ms. Collins, you have the floor for two and a half minutes.

[*English*]

Ms. Laurel Collins: Thank you, Mr. Chair.

Mr. Moffet, you said in response to one of the other questions not to jump to legislative fixes when it comes to the living organisms, part 6, and I wouldn't characterize the government having 23 years to undertake a review of these regulations, a 23-year wait, as jumping to legislative fixes.

I'm concerned that the government is using this review to avoid fixing this piece of legislation, and I think a lot of stakeholders are worried about this aspect. I'm curious about how you respond to the concerns, especially when it comes to public involvement in the assessment and decisions.

Mr. John Moffet: I don't want to respond directly to government intentions about hiding or otherwise from public concern. I can tell you that both departments have collaborated in launching a broad-ranging review of the new substances regime for living organisms. I think it is also important, however, to maybe spend a little time—perhaps not today, but in subsequent meetings—in actually digging into exactly how the living organisms regime works—

Ms. Laurel Collins: I'm sorry. I only have a minute left.

The new substances notification regulations for organisms don't provide for regulations respecting public involvement in the assessment and decisions. A regulation can't do what its authorizing statute does not allow; that's section 114. Wouldn't you agree that we should be fixing the legislation now to allow for that kind of public involvement?

Mr. John Moffet: We do allow for public involvement. Indeed, current practice does include public involvement and—

Ms. Laurel Collins: No, section 114 doesn't currently grant authority for including these elements in the NSNR. Is that not correct?

Mr. John Moffet: We do provide for public involvement, and my colleague, Jacqueline Gonçalves, can explain the current procedures.

The Chair: We're out of time.

Ms. Laurel Collins: Do I have 10 seconds if she wants to jump in?

The Chair: You can have 10 seconds, but please hold it to 10 seconds.

Ms. Jacqueline Gonçalves: Just very quickly, to reiterate, we do currently, for higher living organisms, allow for a period of public consultation within the time period prescribed for the risk assessment to occur.

The Chair: Mr. Kurek, you have five minutes.

Mr. Damien Kurek: Thank you very much, Mr. Chair.

Thanks to all the officials for joining us here today.

We've heard some talk about the watch-list. One of the concerns.... I know that a previous answer referred to the classification of substances going on and off the watch-list. However, when looking through the legislation and hearing witness testimony, there is concern that there's not a clearly defined off-ramp for this so-called watch-list. I am wondering if I could get some clarity around why there's a bit of disparity in understanding.

● (1450)

Mr. John Moffet: I think the answer we gave was that, as a matter of policy, we would.... Well, we are committed and on record as saying that we will develop a policy about how to implement the watch-list.

That said, as we proceed into clause-by-clause study, there is openness on the part of the government to maybe providing some clarity with regard to the authority to add or remove substances from the watch-list to address the concern that you identified.

Mr. Damien Kurek: I appreciate that, because the work the committee is trying to do is to tighten up some of what could be seen as problematic aspects of the bill. If there is any further information that any of you could provide, it would certainly be helpful.

Could you describe for me some of the characteristics of a substance that would be of the highest risk?

I ask this because the Senate has provided some defining characteristics of what this would look like. One of the things I've heard concern around is that if it's defined in the act as a substance of highest risk, it doesn't necessarily allow the latitude for the experts within your department to ensure that it is defined properly on an ongoing basis. Could you provide some feedback on that?

Mr. John Moffet: Mr. Chair, again, maybe I could start.

I think there are two sets of issues there.

One is what kind of substances we would think about adding to the watch-list. That goes back to the answer I gave to MP Deltell about the difference between a hazard-based and risk-based assessments. If a substance has hazardous characteristics but at the moment there is no use that is problematic, we identify that in our risk assessments, but we then say that it is not toxic, that it doesn't test for toxic—

Mr. Damien Kurek: I'm sorry. I'm talking about some of the higher-risk categories—not just the watch-list, but some of the higher-risk categories. I know the Senate offered to define it by providing a few characteristics as the definition as opposed to simply talking about the risk-based analysis.

Mr. John Moffet: For the substances of highest concern, the regime we are proposing is that specific actions would have to be taken for those substances. In order to define what those substances are, the bill provides authority for the government to develop a regulation to define those.

At the moment, the bill says essentially, at a minimum or for example, that group needs to include virtual elimination, carcinogenicity, mutagenicity, etc. That isn't a problem so long as the actual definition and criteria can be further explicated in a regulation, which in turn can be amended from time to time as science evolves.

Mr. Damien Kurek: Thank you.

I have a quick final question. I'd asked the minister about how CEPA provides pretty significant guidance to some other periphery acts, including things like pharmaceuticals and acts pertaining to agriculture and food safety.

Could you quickly outline if work has been done to make sure that, although this is very much an ECCC issue, there has been consultation across the whole of government?

The Chair: You have 20 seconds.

Mr. Greg Carreau: Thanks for the question.

Indeed, there has been a lot of consultation and engagement across the federal family.

The Canadian Environmental Protection Act and more particularly the chemicals management plan are billed as the federal approach to chemicals management. There is an active dialogue across the health portfolio, including the PMRA in terms of intersections of pesticides, the Food and Drugs Act, as well as the intersection of other federal families such as Agriculture and Agri-Food Canada.

The Chair: Thank you.

We'll go now to Mr. Weiler for the last round.

Is it Mr. Weiler?

Mr. Patrick Weiler: Yes. Thank you, Chair. I'll end up splitting time with Mr. Duguid.

The Chair: Okay.

Mr. Patrick Weiler: Clause 5 of Bill S-5 lays out the implementation framework for a right to a healthy environment. Originally, this would just elaborate on things such as the principles to be considered in the act, research studies and monitoring activities. The Senate, I think, made a very important change, which would include mechanisms to support the protection of that right.

Could the officials speak to what some of those mechanisms would be to support the protection of that right? Why it is important to have that in the implementation framework?

● (1455)

Mr. John Moffet: Laura could comment.

Ms. Laura Farquharson: I think the minister outlined some of them in his speech.

In part 2 of CEPA, there are already opportunities for the public to bring actions and ask for investigations, so it would be asking the minister for an investigation when someone thinks that an offence has been committed under the act. If the person can say that the minister has not answered reasonably, then they can basically go forward to pursue that contravention of the act.

There are other provisions in that part that would let someone bring a civil action for damages if they have suffered damages as a result of the contravention, or an injunction, as well.

Those are some of the mechanisms that exist to enforce the act and thus the right to a healthy environment.

I want to add that in addition to what we think of as those court-like mechanisms, there are also transparency and other accountability mechanisms. The fact that the implementation framework is public and that its implementation has to be reported on are what really help to encourage compliance and get the shift in thinking and decision-making.

Mr. Patrick Weiler: I agree. That's a very important part of it.

I'll turn the remainder of my time over to Mr. Duguid.

Mr. Terry Duguid (Winnipeg South, Lib.): Thank you, Mr. Weiler.

I've asked a number of questions of our delegation on the confidential business information provisions of the act and on increasing public confidence. Do any of the officials have any suggestions on improving that?

Ms. Collins didn't get a complete answer to her question on select auditing. Would there be a role for the commissioner of the environment and sustainable development?

How can we increase confidence that it is indeed confidential business information? I think we all agree that this is very important for protecting innovation and IP and to ensure societal progress.

Ms. Laura Farquharson: It is an important issue.

I would say there are some amendments that were brought in Bill S-5 to make the regime run more smoothly and balance that transparency with the protection of the confidentiality. Now, if the bill is adopted, suppliers of information who claim confidentiality would be required to provide reasons for that confidentiality. Having those will make it easier for departments to determine the validity and release the information.

There are also changes to the provisions that allow for masked names. Sometimes even the name of the substance is masked to allow for innovation and to protect competitive advantage. Now with the amendments, there will be a presumption, which could be rebutted, that after 10 years the name could be unmasked. If it goes on schedule 1 and if it's found to be toxic, it could be unmasked, or if it's being risk-managed, it could be unmasked.

Those are the examples.

Mr. Terry Duguid: I have about 40 seconds for one last question.

The department is doing consultations on part 6 and labelling. What happens after those reviews? Could the actions that would potentially come out of those reviews be defined in regulation? Do you have to wait until the next round of CEPA?

What happens after those reviews?

The Chair: Be brief, please.

Are we pleading the fifth here?

● (1500)

Mr. John Moffet: This is a standard process whereby we identify issues that various stakeholders have addressed and that officials have addressed. We then go out and talk to Canadians and we commit to follow up.

Exactly what the follow-up will be will depend on what we hear and what decisions the government makes. At a minimum, there will be a follow-up explaining what the next steps will be. As I said in response to an earlier question, those could be procedures, policies or regulatory amendments.

The Chair: Thank you to everyone.

Thank you to the officials for allowing us to benefit once again from your expertise.

We look forward to seeing you at the committee often in the future.

Thank you, colleagues. Have a very good weekend. Stay safe. Be good. We'll see you next week.

The meeting is adjourned.