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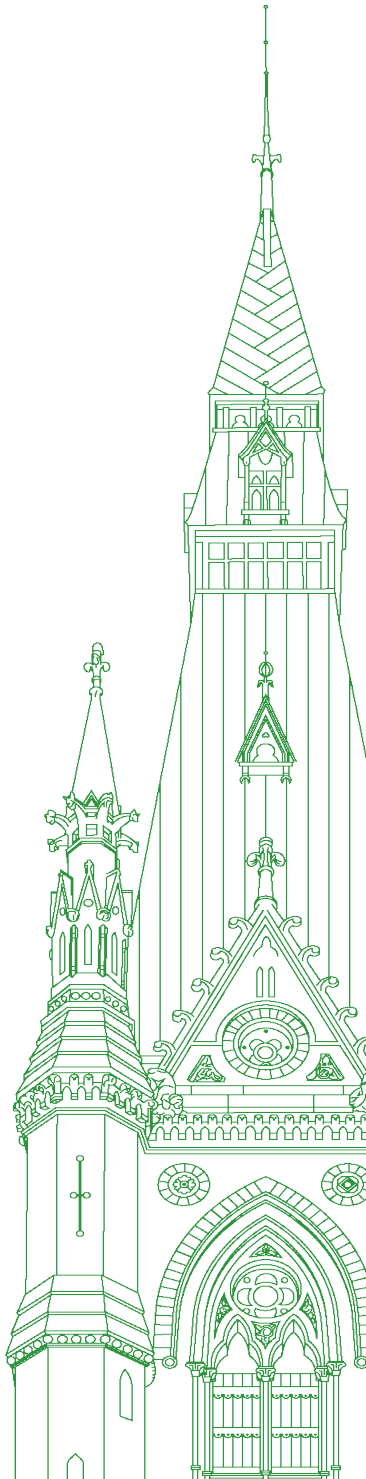

Chair: Mr. Francis Scarpaleggia

# Standing Committee on Environment and Sustainable Development

**Monday, January 30, 2023**

● (1100)

[*English*]

**The Chair (Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.)):** I call the meeting to order.

Good morning, colleagues. It is nice to see everyone back on the Hill, energized and ready to continue our important work reviewing Bill S-5 clause by clause.

[*Translation*]

To protect the hearing of the interpreters, I would remind everyone not to lean in to speak in the microphone. Please keep a reasonable distance from the microphone; we will still hear you.

With us today from the Department of the Environment is Mr. Moffet, the assistant deputy minister, who plays a very important role in guiding us in our work, as well as Ms. Farquharson and Ms. Gonçalves. From the Department of Health, we also have Greg Carreau, the director general of the Safe Environments Directorate.

(Clause 7)

**The Chair:** If I'm not mistaken, we were at clause 7 of Bill S-5 and amendment PV-10, which was deemed to have already been proposed. I would like to point out that if PV-10 is adopted, G-8 can't be proposed due to a line conflict.

Ms. May, I now invite you to present PV-10.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** Thank you, Mr. Chair.

Welcome, everyone. It's a pleasure to see you again.

[*English*]

Substantially, my amendment PV-10 is quite close in content to G-8, but I urge you to carry this one so that it shows some willingness to hear from opposition parties that care about this bill.

In Bill S-5 in current subclause 7(3.1), the sentence ends with "referred to in paragraph 2(1)(a.2)." My amendment would expand that to make it clear that in looking at research studies and monitoring activities in support of protecting the right to a healthy environment, the minister shall be mindful of the wording that is found further up in that paragraph. Obviously, this includes the precautionary principle; principles of environmental justice; the polluter pays principle; and principles for sustainable development, substitution, non-regression and intergenerational equity. Those principles are generally found above in the same paragraph.

I'll stop there, Mr. Chair.

If there are any questions, I'd urge the committee members to give this amendment their support.

● (1105)

**The Chair:** Thank you.

I'm keeping a speakers list. Go ahead, Mr. McLean.

**Mr. Greg McLean (Calgary Centre, CPC):** I really appreciate the amendment, because it defines things that are currently undefined here. I know a lot of what we talk about later in the bill, and the amendments we propose are about defining these so that somebody can refer to them and see what they mean. Having definitions this early in the discussion of the amendments we're making, I think, is very constructive.

Thank you.

**The Chair:** Is there anyone else?

**Mr. Damien Kurek (Battle River—Crowfoot, CPC):** Mr. Chair, if I could, I'd ask the officials if there are any interpretation challenges. It seems to me that making sure that there's some clarity and some definitions is moving in a good direction, but could the officials comment on the application of previously referred to principles in this paragraph?

Would there be any challenges with that in terms of enforcement, the regulatory process and that sort of thing?

**The Chair:** Who would like to take that?

**Ms. Laura Farquharson (Director General, Legislative and Regulatory Affairs, Environmental Protection Branch, Department of the Environment):** I can.

I think the thing is that the amendments have been made under the "duties" section to very clearly connect the principles to the right, to make the principles part of the right, and so the purpose of this proposed subsection 44(3.1) is to require research, studies and monitoring in support of that right, which now, by definition, includes the principles. That's already included, and this proposal would disconnect the principles from the right.

**The Chair:** I've been informed that the livestream video and audio are not functioning at the moment.

We're working on it. We're going to pause and see where we're at.

We're back in business. I don't see any other speakers on this amendment, which means we can proceed—

Go ahead, Mr. McLean.

**Mr. Greg McLean:** I didn't follow the official's analysis of what she means by this. Because it seems to me that we're clearly defining what we're talking about here, I would like to better understand how she feels that this amendment is disconnecting the legislation from what its intent is.

**The Chair:** Ms. Farquharson, would you comment?

**Ms. Laura Farquharson:** Sure.

Under section 2 of the act, which identifies the duties of the government, the committee adopted amendments to say under paragraph (2)(1)(a.2) that there's a duty to

> protect the right of every individual in Canada to a healthy environment as provided under this Act, subject to any reasonable limits;

It then adopted an amendment right under that one, still in the "duties" section, that says in relation to that paragraph I just read about protecting the right, that the government has a duty to uphold principles such as "principles of environmental justice", "the principle of non-regression" and "the principle of intergenerational equity".

Now we come to section 44, which is about "research, studies" and "monitoring activities" to support the government in protecting that right. We know now that the right includes those principles, so adding "research, studies" and "monitoring" to protect the right and apply the principles sort of disconnects the principles from the right. You could say that it's already included in saying that it's "protecting the right".

I hope that helps.

● (1110)

**Mr. Greg McLean:** The amendment I'm looking at here is about defining these so that they're clearly understood by anybody interpreting the act going forward, and by clearly defining these, are we disconnecting it somehow? These aren't previously defined in the legislation, unless I'm mistaken.

**Ms. Laura Farquharson:** Okay. I thought we were on PV-10.

**The Chair:** We are.

**Ms. Laura Farquharson:** I think PV-10 says that section 44 of the act is amended, and under section 44 is subsection 44(3.1), which says:

> The Ministers shall conduct research, studies or monitoring activities to support the Government of Canada in protecting the right to a healthy environment referred to in paragraph 2(1)(a.2).

It then adds—

**Mr. Greg McLean:** That's my mistake. My apologies.

**Mr. Damien Kurek:** I'm hoping to make sure we're all on the same page. We're currently on version 3 of the amendments package at page 40 and we're on PV-10 as put forward by Madam May. That's just to make sure we're clear.

**The Chair:** Are there any more comments or questions?

I guess we can go to a vote, Mr. Clerk.

(Amendment negatived: nays 8; yeas 3 [*See Minutes of Proceedings*])

[*Translation*]

**The Chair:** We'll now go to G-8. Who wants to move it?

You have the floor, Mr. Weiler.

[*English*]

**Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.):** Mr. Chair, it's my understanding that given that they are substantially the same, and given that PV-10 was rejected, by the same token G-8 wouldn't be movable.

**The Chair:** You don't want to move it. Okay.

Go ahead, Ms. May.

**Ms. Elizabeth May:** Mr. Chair, just as a point, I think it is movable, but it may be unwinnable. I do thank Mr. Weiler for trying it.

**The Chair:** Thank you.

Shall clause 7 carry?

Go ahead with the vote, Mr. Clerk.

(Clause 7 agreed to: yeas 11; nays 0)

(Clause 8 agreed to on division)

(On clause 9)

**The Chair:** We have CPC-3. Who would like to present that amendment?

● (1115)

**Mr. Damien Kurek:** On a point of order, Mr. Chair, I'm the one who sent the amendments to the clerk, but this amendment was written by Mr. McLean. Is Mr. McLean able to move it, or am I the one who has to move it?

**The Chair:** It doesn't matter who sent it in.

**Mr. Damien Kurek:** Okay.

**The Chair:** Go ahead, Mr. McLean.

**Mr. Greg McLean:** I move to withdraw proposed paragraphs 46(1)(k.2) and 46(1)(k.3) in lines 10 and 11, “hydraulic fracturing” and “tailing ponds”. These are additions to the act that are currently covered under provincial legislation on the monitoring of environmental activity that's associated with one specific industry, and as far as tailings ponds are concerned in one specific province, much of that has been ameliorated over the last decade.

I think involving the federal government in an overlapping jurisdictional regulation here is adding more bureaucracy into the environmental oversight of one industry in particular. I think it might be opposed by provincial governments across the country if it's put forward this way. I suggest we withdraw it at this point in time in order to make sure that it's something that is clearly done and regulated at the provincial level, where it currently is done very effectively.

**The Chair:** Does anyone have anything to add?

Go ahead, Ms. Collins.

**Ms. Laurel Collins (Victoria, NDP):** I would definitely disagree that tailing ponds are predominantly remediated and that these kinds of issues are being dealt with effectively. It definitely doesn't have to do with only one province. There are tailing ponds and mines across the country. This is an ongoing issue.

I think it would be a tragedy to delete these two lines, so I hope we don't.

**The Chair:** Is there anyone else?

Go ahead, Mr. Longfield.

**Mr. Lloyd Longfield (Guelph, Lib.):** Thanks.

As I recall, tailing ponds are not excluded from the existing legislation. They're already covered in the legislation. I would support taking them out just as a matter of redundancy.

**Mr. Patrick Weiler:** I would agree with Mr. Longfield here. Clearly, hydraulic fracturing and other activities that cause tailing ponds are activities that are covered under proposed paragraph 46(1)(k.1) as “activities that may contribute to pollution”. By removing these two lines, we're removing redundancy, but certainly we should be concerned about the potential for those activities to cause pollution to the environment and affect human health.

**The Chair:** Go ahead, Ms. Taylor Roy.

**Ms. Leah Taylor Roy (Aurora—Oak Ridges—Richmond Hill, Lib.):** Yes. I agree.

I'm quite concerned about these activities as well, but as Mr. McLean said, it's in provincial legislation. I don't think that not specifying them here prohibits the government from looking into them, because if they are causing pollution, they will be included.

I understand what you're saying about the provincial-federal jurisdiction. I don't agree that the federal government shouldn't have any role, but I don't think it's necessary to spell them out here.

**The Chair:** Is there anyone else?

Go ahead, Ms. Collins.

**Ms. Laurel Collins:** I'm a bit confused. If this is something that the legislation is covering, why would people be opposed to specifically naming an instance of environmental pollution that we need to address?

It's surprising to hear my colleagues across the way support the removal of this issue. We should be addressing it and naming it.

**The Chair:** Is there anyone else?

Go ahead, Ms. Taylor Roy.

**Ms. Leah Taylor Roy:** To respond to that, these two specific issues are the ones we're talking about right now, but I think, given that this legislation hasn't been updated for decades and that this is likely to stand for a while, trying to name all of these things in the legislation is problematic, because these things will change over time and there will be other things that come up. If we list things and it's not exhaustive, it's.... They're issues that are important right now, but that may change over time. Perhaps these won't be an issue down the road.

I don't know that we have to put details like this into this legislation when we have the regulations and we have the framework coming up as well.

● (1120)

**The Chair:** Go ahead, Ms. Collins.

**Ms. Laurel Collins:** I love my colleague's optimism that we're going to address these issues quickly.

The government has repeatedly said that it is going to be bringing back this legislation for further updates, so I hope it is genuine in those statements. If that is the case, putting in explicit mention of an instance of environmental pollution—in particular, tailings ponds—that we need to address now shouldn't be a problem, given that the government has promised to bring this legislation back to keep updating it.

**The Chair:** I don't see any other requests to comment.

Shall CPC-3 carry?

(Amendment agreed to: yeas 10; nays 1 [*See Minutes of Proceedings*])

**The Chair**: Shall clause 9 carry as amended?

(Clause 9 as amended agreed to on division [*See Minutes of Proceedings*])

(On clause 10)

**The Chair**: That brings us to clause 10 and PV-11, which is deemed already moved. I'll mention that if PV-11 is adopted, NDP-12 and NDP-13 cannot be moved, because of a line conflict.

Go ahead, Ms. May.

**Ms. Elizabeth May:** Thank you, Chair.

I know that given the strictures of the motion that compels me to be here if I wish to make amendments—which would otherwise be my right at report stage—I have to be brief. This is particularly challenging with this amendment, because it is five pages of content that intends to replace what we find now under Bill S-5. On clause 10 it runs from, basically, what would be subsection 56(1) in the new version of CEPA right through to the beginning of the next section.

The goal here.... Rather than try to walk you through the amendment, for which I obviously won't have time, I'll at least explain the rationale.

The Canadian Environmental Protection Act has had a discretionary approach to the creation of pollution prevention plans. There are basically two strategies under the act: You can have a pollution prevention plan or you can have a pollution abatement approach. If you're going to eliminate toxic substances, particularly those that are carcinogenic, mutagenic, seriously a threat to human health....

Bear in mind that this act is about both environment and human health, and that both ministers—the Minister of the Environment and the Minister of Health—play a role, even though we're before the environment committee.

These are seriously dangerous chemicals for human health and yet, of the 19 substances that have been listed as eligible for this kind of pollution prevention plan, so far, in the experience we've had since 2000, only 25 substances out of 150 have had a pollution prevention plan created—

**The Chair:** This amendment then requires...? Could you just explain what the amendment is?

**Ms. Elizabeth May:** Yes. The purpose of the amendment is to ensure that those chemicals that are significant threats to human health have a mandatory requirement on the manufacturer to move away from them.

There are sections here that allow us to consider.... There's an economic problem with moving to elimination, but in brief—and it is hard to do this in brief—this would make pollution prevention plans mandatory for all schedule 1 toxic substances. It's about eliminating the creation and use of toxic substances.

Thank you.

**The Chair:** That was very clear and succinct.

Go ahead, Mr. Duguid.

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

I wonder if we could hear from officials on this. I know that the folks from CELA brought this up a number of times. I wouldn't mind hearing the officials' perspective.

**The Chair:** Who would like to address this?

Go ahead, Mr. Moffet.

● (1125)

**Mr. John Moffet (Assistant Deputy Minister, Environmental Protection Branch, Department of the Environment):** I don't think we have any objections to the stated goal of promoting pollution prevention, in that the act itself already requires ministers to give priority to pollution prevention when risk-managing substances.

The challenge with this amendment is that it would require a government to require pollution prevention plans with respect to every listed substance. In fact, pollution prevention planning is only one way to promote pollution prevention. It's a bit unfortunate that the term “pollution prevention planning” has become confused with the overall concept of pollution prevention.

When we assess a substance as being toxic and needing risk management, CEPA gives us access to a wide range of risk management instruments, including the authority to require plans, but it also of course authorizes us to regulate, including to prohibit the use of a substance, which is the most effective and powerful way to achieve pollution prevention. It ensures that the substance is not used and therefore never enters the environment.

Requiring the ministers to use this one tool for every substance in fact would be an unnecessary imposition, in that there are more stringent and more immediately effective measures that can be used and have been used to achieve the overarching goal of pollution prevention.

**The Chair:** Thank you.

Is there anyone else?

**Ms. Elizabeth May:** May I respond?

**The Chair:** Yes, and very briefly, please.

**Ms. Elizabeth May:** I'm sure that inadvertently Mr. Moffet has mis-characterized this amendment as requiring a pollution prevention plan for every substance.

As I mentioned, if you look at proposed subsection 56(13) at page 47 of your amendment package, you see the applicant may have the opportunity to convince the minister that socio-economic benefits of an activity outweigh the risks and the analysis of alternatives. There are ways to continue to deal with each substance. This amendment isn't a flat prohibition, but it does give the minister tools that currently are not found in this act and the duty to regulate when substances are extremely dangerous.

**The Chair:** Thank you.

Ms. Collins, you have the floor.

**Ms. Laurel Collins:** I was going to say the same thing. I read through the amendment, and I saw a clear path for the minister to not do this if the situation was as Ms. May has just explained.

**The Chair:** Is there anyone else?

Okay. We can go to the vote on the amendment.

(Amendment negatived: nays 9; yeas 2 [*See Minutes of Proceedings*])

[*Translation*]

**The Chair:** We'll now go to NDP-12.

[*English*]

**Ms. Laurel Collins:** Mr. Chair, I won't be moving this amendment, since it would conflict—

[*Translation*]

**The Chair:** Okay, so the amendment won't be moved.

**Ms. Monique Pauzé (Repentigny, BQ):** Mr. Chair, since this amendment isn't going to be moved, I'd like to move one right now. The clerk already has it.

It concerns the passage in clause 10 of the bill, at lines 33 and 34 on page 7, which I propose to replace with "if he considers, based on scientific grounds and independent evidence from the applicant's provided information, that it is unreasonable or unattainable".

Let me explain. At present, it's the industry that provides the justifications. We know what happens, and I can give the example of Louis Robert in Quebec. The industry has too much influence on decisions. If these decisions were to also take into account independent studies, that would balance things out.

● (1130)

**The Chair:** Thank you, Ms. Pauzé. Before dealing with your proposed amendment, however, we have to deal with NDP-13.

Ms. Collins, you have the floor.

[*English*]

**Ms. Laurel Collins:** Mr. Chair, I'm very interested in Madame Pauzé's amendment as well, but I chose not to move NDP-12 because it would conflict with NDP-13.

The amendment itself is really to incorporate the principle of safer substitution into this act. If my colleagues haven't read through it thoroughly, definitely look at new proposed subsection 56(1.1), which talks about "more sustainable alternatives to the substance", using safer alternatives.

I hope I'll find the committee's support for this.

**The Chair:** I'm sorry. I forgot to mention that the....

Yes. Okay. You can move it.

Who would like to speak to what Ms. Collins has just presented? Would anyone else like to speak?

Go ahead, Madame Pauzé.

[*Translation*]

**Ms. Monique Pauzé:** Mr. Chair, I don't understand why the French version of subclause 10(4) is so different from the English version in NDP-13.

**The Chair:** Give me a moment. I'll check.

**Ms. Monique Pauzé:** It's in NDP-13. It's proposed subclause 10(4).

**The Chair:** What's the difference between the two versions?

**Ms. Monique Pauzé:** NDP-13 proposes "replacing lines 28 to 35 on page 7" of Bill S-5 with a new subclause 10(3), which isn't problematic, and a new subclause 10(4), the French version of which really seems to be missing quite a bit of text compared to the English version.

**Mr. Gérard Deltell (Louis-Saint-Laurent, CPC):** The translation is missing three lines.

**Mr. Jean-François Pagé (Legislative Clerk):** The text is prepared by jurilinguists. We aren't involved in this process.

**Mr. Gérard Deltell:** I understand.

Mr. Chair, obviously my colleague is right. The following words haven't been translated.

[*English*]

> whether the extension is for the preparation or the implementation of the plan, and the duration of the period of the extension.

[*Translation*]

**The Chair:** That's pretty obvious.

[*English*]

**Mr. Gérard Deltell:** It's written in the sky, we could say.

[*Translation*]

**The Chair:** Is there any way to go back to that?

**Mr. Jean-François Pagé:** This provision should be allowed to stand, and we can come back to it at the end.

**The Chair:** I think it's worth it, but can we verify this in the meantime?

**Mr. Jean-François Pagé:** We'll be able to after the meeting, yes.

**The Chair:** Okay.

Since we've already let two amendments stand for the end, we'll add NDP-13.

In addition, and I stand to be corrected, the fate of the amendment that Ms. Pauzé intended to move depends on the decision that will be made on NDP-13. If NDP-13 is allowed to stand, it follows that we will also have to postpone the presentation of Ms. Pauzé's amendment. So we'll come back to it at the end, which will give us an opportunity to check whether there was an oversight, although it seems pretty obvious.

Mr. Longfield, you have the floor.

[*English*]

**Mr. Lloyd Longfield:** To clarify, if we're setting that aside, would we not set the whole section aside as we did before?

**The Chair:** I think so. Yes.

Basically, clause 10 is stood. I don't know if that's the proper term.

[*Translation*]

We're going to take a quick pause so I can check something.

● (1130)

(Pause)

● (1135)

**The Chair:** We're resuming the meeting.

We've cleared up the question concerning clause 10 of the bill.

I have the Canadian Environmental Protection Act in front of me, and subsection 56(4) is similar to what is proposed in NDP-13; it seems to be missing a piece of text, but it isn't. It seems odd when you compare the length of the paragraphs in English and French, but if you read carefully, you'll see that the two paragraphs say the same thing. The French version is simply more succinct, which isn't normally the case.

**Ms. Monique Pauzé:** It's usually the opposite.

**The Chair:** Yes, that's what caught our attention. The French version is more succinct. While the English version of proposed subclause (4) refers specifically and in more detail to the granting of an extension, the French version refers only to a "nouveau délai", which amounts to the same thing. Did I explain that correctly?

**Mr. Gérard Deltell:** I understand, but why does the English text provide details that are summarized in two words in the French text?

**The Chair:** I couldn't answer that, but this wording has been around for many years, and no one has raised any objections.

**Ms. Monique Pauzé:** May I remind you of our discussion on the "precautionary principle"? Mr. Deltell raises things that we could change, just as we previously changed the "principe de prudence" to the "principe de précaution".

I would prefer that we wait, and I suggest that the committee have the translation checked.

**The Chair:** So I'm going to ask the committee members what they think about that and whether they want to wait. Personally, I understand your proposal, Ms. Pauzé, and I accept it, but it's up to the committee members to decide if they want to postpone consideration of this matter to a later date.

Do I have the committee's unanimous consent to proceed in this manner?

**Some hon. members:** Agreed.

(Clause 10 allowed to stand)

(Clause 11)

**The Chair:** We'll now proceed to clause 11 and Ms. May's amendment, PV-12.

**Ms. Monique Pauzé:** If I could interject, Mr. Chair, Ms. May's amendments are so important and so detailed that I would like us to give her the time to present them properly.

**The Chair:** I do my best within the rules that are imposed on us. I must say that Ms. May summed up her ideas superbly, and I encourage all members to do the same.

Ms. May, you have the floor to propose PV-12.

● (1140)

[*English*]

**Ms. Elizabeth May:** Thank you, Mr. Chair.

Again, this is a detailed amendment. I should have credited the expert work of the lawyers at the Canadian Environmental Law Association, particularly senior counsel Joseph Castrilli, for assistance in the drafting of these amendments.

By the way, of course we all know how much the legislative clerks help us. You can imagine that when I ask them for amendments, they're four and five pages long, and they deliver them on time. I'm very grateful. This one is four and a half pages to replace a single paragraph.

What you have in Bill S-5 is subclause 60(1), which has the requirement to submit certain plans. What amendment PV-12 does is ensure that we have content for the components that a pollution prevention plan should consider.

Even though my previous amendment making such work mandatory has been defeated, this would still be very helpful in setting out, in those cases when the minister requires a pollution prevention plan, what the content of that plan should be.

Thank you, Mr. Chair.

**The Chair:** Thank you.

Who would like to speak to this?

Go ahead, Ms. Collins.

**Ms. Laurel Collins:** I just want to thank Ms. May for putting this amendment forward. The principle of moving from prevention abatement to pollution prevention is an important one. I thank her for putting it forward.

**The Chair:** Is there anyone else?

Shall we go to the vote?

(Amendment negatived: nays 9; yeas 2 [*See Minutes of Proceedings*])

[*Translation*]

**The Chair:** The amendment being defeated, we will now vote on clause 11 of the bill itself.

(Clause 11 agreed to: yeas 12; nays 0)

(Clause 12)

**The Chair:** This brings us to clause 12 of the bill, and Ms. May's amendment, PV-13.

[*English*]

**Ms. Elizabeth May:** Thank you, Mr. Chair.

I guess for the purposes of people watching these proceedings, it needs to be said that my amendment replaces one line here, but that one line is highly significant.

We worked hard in the environmental movement—I wasn't in the Green Party then—in the first of many overhauls of the Canadian Environmental Protection Act to include the concept of "virtual elimination" so that substances that were extremely toxic on the list of toxic substances could be scheduled for virtual elimination.

That was a hard-won achievement, and in one fell swoop, in clause 12 of Bill S-5, there's a repeal of that virtual elimination process and the list. I don't think this is justified. I think it weakens the act, as I think overall the Liberal efforts on Bill S-5 weaken what was put in place in 1988 under Brian Mulroney.

This is just to say that my amendment restores the virtual elimination list from the acts of repeal and further clarifies how it can be used in future.

Thank you, Mr. Chair.

**The Chair:** Thank you, Ms. May.

Go ahead, Mr. McLean.

**Mr. Greg McLean:** Perhaps I could have further explanation from the member on how this weakens the act. We've already gone through intergenerational equity, non-regression, etc., and how these terms may weaken what's already there. I thought everything we were doing here was actually strengthening our environmental protection mechanisms.

If I could have clarification on that from the member, and subsequently from the officials involved, I would appreciate it.

● (1145)

**The Chair:** Go ahead, Ms. May. Please be brief.

**Ms. Elizabeth May:** Yes.

The fundamental way in which Bill S-5 weakens environmental protection is in the elimination of a single schedule at the end of the act of a list of toxic substances. Most of my amendments for the rest of my time in this committee will be to try to defend the schedule of toxic substances as a single list. This is the largest weakening, because it undermines the constitutional foundations of the act as determined by the Supreme Court of Canada in the Hydro-Québec case.

In this case, virtual elimination allows for substances to be reduced to such a level that there's a "cessation of the intentional production, use, release, export, distribution", and also a focus on how these products may be created as by-products. I agree that if you ban them altogether, you don't need a virtual elimination list, but the virtual elimination list has been a way in the past of ensuring that toxic chemicals are scheduled for their virtual elimination and are steadily reduced over time.

I hope that helps.

**The Chair:** Mr. McLean, I don't know which official you would like to address this—Mr. Moffet or Ms. Farquharson.

**Mr. Greg McLean:** Whoever chooses to can do it.

**The Chair:** Who would like to jump in?

**Mr. John Moffet:** Perhaps I can start.

The government did adopt a concept of virtual elimination, both in the toxic substances management policy and in the statute when it was amended in 1999. Since then, however, the virtual elimination regime in the act has proven to be unworkable and has had almost no impact on decision-making in the federal government or on actual prevention of risks.

In Bill S-5, the government is proposing to replace that regime for two reasons. The first, as I said, is that it has proven to be not workable for a variety of reasons. Second, the government also intends to expand the underlying obligation. The underlying obligation for virtual elimination is to essentially say that there are a number of substances that are problematic. Those are toxic substances. Some are particularly of concern and need to have particularly stringent risk management actions taken to achieve virtual elimination. At the time the virtual elimination concept was developed, that subset was confined to substances that are persistent, that last a long time and that bioaccumulate in living organisms.

In the last 20 to 30 years, we've identified a number of other sets of substances that are equally of concern. We've already discussed in this committee the concept of mutagenicity, carcinogenicity and so on. Bill S-5 proposes to replace this narrow concept of virtual elimination of persistent bioaccumulative substances with a much broader authority to identify substances of highest concern to give some guidance in the statute and then require the ministers to develop, by means of regulation, the broad criteria to determine the substances that will be on that list and that therefore require more stringent risk management than other toxic substances.

The goal is actually not to weaken but instead to broaden this category and also to avoid some of the unintended challenges that arose with respect to the implementation of the original virtual elimination regime and to give the government broad authority to bring in very stringent protection on that broad subset of substances.

**The Chair:** Thank you.

Next is Ms. Taylor Roy, followed by Mr. Weiler.

**Ms. Leah Taylor Roy:** I think the explanation answered my question. I was concerned about weakening it, but it appears that we're actually broadening it and strengthening it, so I'm fine.

● (1150)

**The Chair:** Go ahead, Mr. Weiler.

**Mr. Patrick Weiler:** Thank you, Mr. Chair.

Separate but related to that was the mention by Mr. Moffet that the virtual elimination system was unworkable due to a number of factors. I was hoping, for the sake of our committee, that he could expand on what those factors were.

**Mr. John Moffet:** I can try to give you a brief explanation.

In fact, previous iterations of this committee have reviewed this issue a number of times. All came to the conclusion that the regime is unworkable. That includes the committee's most recent review of CEPA and a review of a private member's bill about 10 years ago.

Essentially, the notion of virtual elimination, of trying to eliminate the presence of the substance, is not the concern; the concern is that when you introduce a concept like that, you have to define it and you have to require specific actions. In the statute at the moment, you have to develop a particular kind of regulation over and above the section 93 obligation to regulate, so we have this obligation to develop two regulations; however, if you're prohibiting a substance, there's no point adding a second regulation.

We also have defined virtual elimination in a way that refers to the quantification of the substance or the ability to measure the substance. In some cases, we can monitor emissions of the substance and identify what the lowest level of quantification is, but in a lot of cases, substances that we're worried about are used diffusely. In other words, they might be part of the treatment of millions of shirts and come off in the wash. We can't quantify the emissions from the use of the substance, so the way in which we defined virtual elimination meant that we could not comply with the law and we could not develop the regulation that was required by the law.

Rather than adding substances that were persistent and bioaccumulative to a schedule, we simply added them to the regular schedule of toxic substances and then took significant action, such as prohibitions. We achieved the goal, but we were not able to comply with the specific provisions in CEPA in 1999, which is why there are so few substances on this list at the moment.

**The Chair:** Thank you.

Go ahead, Mr. Kurek.

**Mr. Damien Kurek:** Thank you very much.

We heard in testimony that some of the challenges that industry faces, which were also highlighted by environmental groups, are the administrative burden and the need for effective regulations—not just having an additional list with the ability for things to be added—and some of the challenges as science evolves and things change.

I wonder if the officials could comment with regard to this amendment. It talks about creating an additional list, and there's a possible administrative burden associated with that. It has been referenced that it would be taking away from other parts of the act that attempt to deliver on some of the intent here.

Mr. Moffet, would you or one of your colleagues be able to comment on that?

**The Chair:** Is that a question for Mr. Moffet?

**Mr. Damien Kurek:** Yes.

**Mr. John Moffet:** I can comment on the amendment in clause 12, which is to eliminate the whole virtual elimination regime. That requires the creation of a second list. However, as I just explained, in Bill S-5 we are also proposing a second list. If you will, it's a list of substances that, because of certain characteristics to be defined in regulation, need to be identified, put on a list and subjected to very stringent risk management actions.

At the officials level, we have advised that we're not concerned about the administrative burden, either on government or on industry, associated with that list. In fact, what we want to do is define very clearly for government decision-makers and for industry precisely what those criteria would be that would determine whether a substance goes on that list. That would provide certainty to industry. If a substance is on that list, again, there's also certainty about the kind of risk management action that you can expect if you're in the business of using or creating that substance.

It's our view that we'll be providing more certainty to industry about a broader range of substances than is the case at the moment.

● (1155)

**The Chair:** Go ahead, Mr. McLean.

**Mr. Greg McLean:** Mr. Moffet, I need something addressed that Ms. May raised.

The amendments currently in front of us will change the constitutional foundation of the act. You mentioned something about section 93 and its duty to regulate. Is that what we're talking about here? Does this change the constitutional foundation?

Could you give us a quick briefing—in two minutes or less, please—about the Hydro-Québec court case that Ms. May referred to and how this amendment would impact the constitutional foundation of this act?

**Mr. John Moffet:** I need to clarify that I'm not here as a lawyer, nor are we providing legal advice to the committee. However, the Quebec hydro case has been public for decades, and it has been fairly well reviewed and understood.

In its essence, the Supreme Court.... First of all, there were a number of different decisions on the part of different members of the court that led to the court deciding that the particular use of a regulation under part 5 of the act was constitutional. Without getting into all of the details, I think the general thrust of the decisions that supported part 5 were that the act establishes a process that requires the government to identify particularly significant risks, starting with monitoring, information gathering and a formal risk assessment, and then a conclusion goes to the Governor in Council that leads to the listing of the substance and then the development of a regulation to address that risk. There is a gradual process of identifying really significant risks, which then justifies the federal government's stepping in and taking action to prevent those risks to the Canadian environment as a whole and to the health of Canadians as a whole.

Again, it's our view that we're not changing the nature of that process; in fact, we are attempting to refine that process by adding additional authority to identify specific substances that are of particular concern and that merit a particular track of risk management.

**The Chair:** Thank you.

I have Ms. Collins. Did I miss anybody?

I have Ms. Collins and then Ms. May, briefly.

**Ms. Laurel Collins:** I appreciate Mr. Moffet's comments, particularly about the issues around quantification, but my understanding of this amendment is that it fixes that. It reintroduces the concept of virtual elimination, but without some of the problems in the previous act.

I have a question for Mr. Moffet. In particular, he mentioned moving from this regime to the regime of what is highest risk. In particular, he mentioned CMR, which refers to "carcinogenic, mutagenic and a risk to reproduction". I want to hear some clarity around how those concepts are incorporated into the new regime.

● (1200)

**Mr. John Moffet:** The regime established under Bill S-5 would require the ministers to take particular actions to risk-manage substances that meet certain criteria. The act provides authority to articulate those criteria and put them in regulation. The bill provides direction about what those criteria need to include at a minimum. It explicitly references the concepts of carcinogenicity, mutagenicity and risks to reproductive processes.

In addition to the initial approach—which, as I described, focused exclusively on persistence and bioaccumulation—we would now be obliged to develop a regulation that also develops criteria associated with those three other concepts. It would then provide the authority to identify additional criteria that may be identified and that may emerge from domestic or international science over time as being relevant to define a subset of substances that are of particular concern and that merit particular significant risk management actions.

**The Chair:** Thank you.

Go ahead, Ms. May, very briefly—

Sorry; are you through? Do you have more?

**Ms. Laurel Collins:** I have a quick follow-up question for Mr. Moffet, just for clarification.

My understanding is that the regime of highest risk and the use of CMR principles are incorporated in the rest of the bill. I'm confused about why adding "virtual elimination" back in would in any way threaten that, because it would not take out any of the new references to carcinogenic, mutagenic, and risk to reproductive function.

I'm still leaning towards supporting this amendment, because it seems like an important principle that was eliminated in Bill S-5, and this amendment has addressed some of the concerns around quantification of release. It seems as though it would be good to have both of these principles here.

**The Chair:** Go ahead, Mr. Moffet.

**Mr. John Moffet:** I want to be careful not to get into a situation of debating the merits of amendments with members of the committee and I want to respect your role in decision-making.

I think the concern that we as officials might have with this amendment is that it's not.... The bill attempts to create a new list of substances of concern. If in addition we retain the concept of virtual elimination and retain a virtual elimination list, then we actually have three lists. The purpose of the virtual elimination list, and why it is distinct from this new list, is not clear and could add confusion to the intended functioning of the act.

It's not a concern about the notion of persistence by accumulation as indicators of risk, nor is it a concern about the need for the statute to signal the need for more stringent action for some substances, but I think we would be concerned about a proliferation of lists.

**The Chair:** Thank you.

Go ahead, Ms. May, very briefly.

**Ms. Elizabeth May:** It's fascinating that he's concerned about the proliferation of lists through creating two lists instead of one.

If I could go back to the virtual elimination point, everything Mr. Moffet said about this amendment, PV-13, would be true if all we were doing was repealing the line found at line 33 on page 8, but we are replacing the language, the very concepts that Mr. Moffet just explained to us were problematic if you couldn't get out and quantify the environment.

I go back to the original Canadian Environmental Protection Act as amended in 1999 so that committee members will have the language fresh in their minds: "the ultimate reduction of the quantity or concentration of the substance in the release below the level of quantification". That's the language that was problematic.

My amendment replaces that language to focus on virtual elimination by removing the product from commerce. It's straightforward. It does not include anything of the issues that have bedevilled us since 1999.

I don't take away from anything Mr. Moffet said, but since 1999 it's been hard to quantify in the environment, to move towards virtual elimination, which is why my amendment not only restores the virtual elimination act to the Canadian Environmental Protection Act but refines it to eliminate the problems, as Ms. Collins so helpfully pointed out.

● (1205)

**The Chair:** Understood. Okay.

Go ahead, Ms. Taylor Roy.

**Ms. Leah Taylor Roy:** I'm very sympathetic to what this amendment is trying to do and to the arguments being made, but my issue is that since the entire regime was changed and the bill was overhauled, going back and trying to put in one area of this virtual elimination and create this list now, when there's a new approach being suggested, seems to me to not work with what's been done already.

While I hear what you're saying, I also feel that the realities or the problems with actually implementing this concept were considered when they put forward the bill, and they tried to address those in a comprehensive way. If we now go back and say, "Well, we fixed the virtual elimination; let's put it back in", I don't see how that works completely.

I understand what you're saying, but I'm really hoping that we're going to see a lot of strengthening in the regulations as well, which are obviously going to be very important in this case.

I can't support this amendment.

**The Chair:** As there are no other comments, can we proceed to the vote on PV-13?

(Amendment negatived: nays 9; yeas 2 [*See Minutes of Proceedings*])

**The Chair**: Shall clause 12 carry?

**Some hon. members:** On division.

(Clause 12 agreed to on division)

**The Chair**: I've been informed that there was a bit of a computer glitch. After I asked if clause 10 would carry, on my list here there is no mention of clause 10.1. I need to ask whether clause 10.1 can carry. There was no proposed amendment to clause 10.1. Can clause 10.1 carry?

**Some hon. members:** On division.

(Clause 10.1 agreed to on division)

**The Chair**: It's the same thing after clause 11. I should have asked. There should have been mention about clause 11.1. For some reason there was a computer glitch, and clause 11.1 doesn't show.

Shall clause 11.1 carry?

**Some hon. members:** On division.

(Clause 11.1 agreed to on division)

**The Chair**: We just carried clause 12. There is no proposed amendment to clause 13. Shall clause 13 carry?

**Some hon. members:** On division.

(Clause 13 agreed to on division)

(On clause 14)

**The Chair**: This brings us to clause 14 and amendment G-9.

Go ahead, Mr. Duguid.

**Mr. Terry Duguid:** Thank you, Mr. Chair.

I propose this motion, which seeks to clarify the policy intent in clause 14 and associated clause 39.

Recent feedback has made it clear that the bill is vague and open to interpretation, as the intent was to include only those substances that were on the Revised In Commerce List. This amendment would fix that problem.

I move this amendment.

**The Chair:** Is there debate? No?

Can we go to the vote?

(Amendment agreed to: yeas 11; nays 0 [*See Minutes of Proceedings*])

**The Chair**: Amendment G-9 carries. Shall clause 14 as amended carry?

**Some hon. members:** On division.

(Clause 14 as amended agreed to on division)

(On clause 15)

**The Chair**: On clause 15, we have G-10. Who would like to move that amendment?

Mr. Duguid, before you speak to it, I should mention that if G-10 is carried, NDP-14 cannot be proposed, because there is a line conflict.

Go ahead, Mr. Duguid.

● (1210)

**Mr. Terry Duguid:** Mr. Chair, I'm proposing this motion to make a minor revision to proposed new paragraph 67(1)(d). Although the current version of proposed paragraph 67(1)(d) already provides broad enough regulatory authority to prescribe such procedures and practices, the government proposes to support the provision with minor revisions to ensure that the conditions, procedures and practices are described concurrently throughout paragraph (d).

It's a minor revision, Mr. Chair.

**The Chair:** Go ahead, Ms. Collins.

**Ms. Laurel Collins:** While this amendment will mean that my amendment won't be able to be moved, I do support the addition of the word “laboratory” to “practices”. I think spelling out some of these terms is useful, especially given the testimony that we've heard from a number of experts. I appreciate it.

**The Chair:** Okay.

I have Mr. Kurek and then Mr. McLean.

**Mr. Damien Kurek:** In reading through this amendment and some of the other references and seeing how broad it was before, I think this is certainly in line with trying to narrow and define some of the aspects. Looking at it from an agricultural perspective, for example, I think this tightens up some language that otherwise could have been misinterpreted, and certainly it's better to have it clear now, as opposed to having it decided by the courts later.

**The Chair:** Thank you.

Go ahead, Mr. McLean.

**Mr. Greg McLean:** Could we look at how it's going to read in the English paragraph, please? It has “testing conditions, test procedures and laboratory practices to be followed for replacing, reducing or re-”. Is that “remeasuring”?

I'm looking for clarification on the final version when we replace line 23 on page 10.

**The Chair:** Go ahead, Mr. Moffet.

**Mr. John Moffet:** The clerk can confirm, but I believe the intention is that the third “re-” is “refining”, so it would read “to be followed for replacing, reducing or refining the use of vertebrate animals”. That is the sequence that has already been adopted in other amendments that the committee has already discussed. The concept of “replacing, reducing or refining” is just repeated here.

**The Chair:** Does the English wording of the amendment need to be changed, or is it somehow understood or...?

**Mr. Greg McLean:** No. I think it has been addressed.

**Ms. Laurel Collins:** Mr. Chair, if Mr. McLean is interested in doing some kind of subamendment to take out the word “refining”, he will note that NDP-14 did remove that word, so he would have my support in that if he's interested.

**Mr. Greg McLean:** I will leave that to the NDP to modify if they would like to do so.

**Voices:** Oh, oh!

● (1215)

**The Chair:** Okay.

Go ahead, Ms. Collins.

**Ms. Laurel Collins:** Given what I would say is the temperature of the room, my guess is that it wouldn't pass, so I will leave it be.

**The Chair:** Okay. We're now voting on G-10.

Shall G-10 carry?

(Amendment agreed to: yeas 11; nays 0 [*See Minutes of Proceedings*])

**The Chair:** G-10 carries. Therefore, NDP-14 cannot be moved. We'll now go to G-11.

Go ahead, Mr. Duguid.

**Mr. Terry Duguid:** Thank you, Mr. Chair.

With regard to paragraph 67(1)(e), the government side proposes to revert to the original text of the bill as introduced. If enacted unamended, the Senate ENEV committee amendment also risks undermining the risk-based approach to chemicals management under CEPA and the CMP—the chemicals management plan—more broadly. I would place that amendment on the floor, Mr. Chair.

**The Chair:** Is there any debate?

We have Ms. Collins.

**Ms. Laurel Collins:** I understand the government's concern about changing from “highest risk” to “highest concern”, but I think that in addressing this, taking out the specific references to “carcinogenic, mutagenic” and “toxic to reproduction” does a bit of a disservice, especially given the testimony we heard earlier about explicitly referencing these pieces.

I propose a subamendment, keeping the change to “the highest risk” but reading “classification of a substance as a substance that is carcinogenic, mutagenic, toxic to reproduction or poses the highest risk”.

**The Chair:** It would help if you had a copy written down for the legislative clerks.

**Ms. Laurel Collins:** I can email something. It's very similar to the language that this is replacing, except for the “highest risk”.

**The Chair:** Can you email it to the clerk?

**Ms. Laurel Collins:** I will, absolutely.

**The Chair:** We'll just take a moment here.

Do you need us to wait before we debate the amendment? No?

Go ahead, Mr. Duguid.

**Mr. Terry Duguid:** Mr. Chair, in light of the subamendment that has been proposed, I wonder if there are some reflections from officials on both the amendment and the subamendment.

**The Chair:** Ms. Farquharson and Mr. Moffet, who would like to reflect on this?

**Mr. John Moffet:** I'm hoping I can ask my colleague Ms. Farquharson to explain the way in which the bill as proposed already includes the concepts of, as I explained earlier, carcinogenic, mutagenic and toxic to reproduction.

**Ms. Laura Farquharson:** Sure.

Under subclause 21(1) with respect to subsection 77(3), after it's been determined that a substance is toxic, there's a part that says “Mandatory proposal”. It says if the substance is toxic and persistent and bioaccumulative, if it is a danger to human health and is carcinogenic, mutagenic or toxic to reproduction, or it is otherwise of highest risk, then it must be put on part 1 of schedule 1. For all three of those, that provision also says it's as defined in the regulations.

That's where you have the specific mention of CMR substances as being those that should be on schedule 1. That's CMR as defined by the regulations.

If you go to section 67, you see that section 67 about the regulation-making power. It says already that you can make regulations about characteristics of a substance. I want to make sure that I'm right about this. It includes substances that are carcinogenic, mutagenic or toxic to reproduction. This provision you're looking at right now is about the regulation-making authority for substances of highest risk.

Does that make sense?

CMRs are specifically mentioned where it says that you should put them on part 1. Then in this part about regulation-making authority, there are two subsections. One is about defining what CMR means and one is about the highest risk.

● (1220)

**Mr. Terry Duguid:** Then your argument would be that there is some redundancy in the subamendment?

**Ms. Laura Farquharson:** Yes, there's the redundancy about CMR, and then, for the bill to be coherent, it should say “highest risk” and not “highest concern”.

**Mr. Terry Duguid:** Right.

**The Chair:** Go ahead, Ms. Collins.

**Ms. Laurel Collins:** Mr. Chair, I have a point of clarification about the subamendment that I proposed.

It still keeps the principle of highest risk. It did not revert it to "concern". It really just outlines those principles. You'll notice it says "or poses the highest risk", similar to how it's mentioned in other parts of the bill.

Really the concern here, if people were following the Senate committee hearings, is that the Senate had introduced this language to explicitly spell out that CMR—carcinogenic, mutagenic and toxic to reproduction—are critical elements that need to be reinforced throughout this bill. We know that in the previous regime, as we've heard in testimony, virtual elimination wasn't working. It needed to be addressed, in part because these principles weren't incorporated or being reinforced throughout.

I do hope that the committee will support including these terms here as well and will not water down the amendments the Senate put forward on this aspect.

Thanks.

**The Chair:** Okay. We're debating Ms. Collins' subamendment. Would anyone else like to add something? No?

We can vote on the subamendment.

(Subamendment negatived: nays 9; yeas 2 [*See Minutes of Proceedings*])

**The Chair:** The subamendment was defeated, so we go back to amendment G-11. Was there any more to say about that?

It doesn't look like it, so we can vote on G-11 now.

(Amendment agreed to: yeas 9; nays 2 [*See Minutes of Proceedings*])

● (1225)

[*Translation*]

**The Chair:** G-11 being agreed to, we must now vote on clause 15 as amended.

[*English*]

Shall clause 15 carry?

**Some hon. members:** On division.

(Clause15 as amended agreed to on division [*See Minutes of Proceedings*])

[*Translation*]

**The Chair:** Is it the committee's wish to now adopt clause 16 of the bill?

[*English*]

**Mr. Damien Kurek:** On a point of order, I'm just clarifying. There's clause 16, and then it goes on to clause 16.1, etc. I think there are proposed amendments.

**The Chair:** The proposed amendments are to clause 16.1.

Shall clause 16 carry on division?

(Clause 16 agreed to on division)

(On clause 16.1)

**The Chair:** This brings us to clause 16.1 and amendment G-12.

Go ahead, Ms. Taylor Roy.

**Ms. Leah Taylor Roy:** Thank you, Mr. Chair. I'd like to move this amendment.

Basically, instead of putting in a prohibition with exceptions that are very large, it's putting in a positive requirement that the minister look for alternative methods other than animal testing. I, like many others, find that the testing on vertebrate animals should be minimized as much as possible and eventually eliminated.

I would like to propose the following:

> The Ministers shall, to the extent practicable, use scientifically justified alternative methods and strategies to replace, reduce or refine the use of vertebrate animals in the generation of data and the conduct of investigations under paragraph 68(a).

We know that our government is already working on a number of fronts to reduce reliance on animal toxicity testing by investing in research to support the development and use of alternative non-animal methods and developing a strategy on animal testing under CEPA. The government will engage with stakeholders to continue to move forward. We know that Health Canada is already working towards a ban on cosmetic testing on animals.

I think we're all in accord, but I wanted to have a positive requirement that the government look at ways of testing these substances other than using animals.

[*Translation*]

**The Chair:** I would like to point out to the committee that if we adopt the amendment that Ms. Taylor Roy has just moved, NDP-15 cannot be moved due to a line conflict.

Are there any comments on G-12?

Go ahead, Mr. Longfield.

[*English*]

**Mr. Lloyd Longfield:** I'm commenting because I have constituents who are watching this section carefully.

The Guelph Humane Society and the University of Guelph have been working on reducing testing and getting to a better place than where we are right now. I hope that going forward with this legislation—engaging with stakeholders being a part of it—we'll get to a better place.

[*Translation*]

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

Ms. Pauzé, you have the floor.

**Ms. Monique Pauzé:** I would like to clarify something.

As we have seen elsewhere, we're talking about replacing, reducing or refining the use of vertebrate animals.

What is meant by “refine”? Does it mean vertebrate animals will continue to be used for testing if we can find another technique?

**The Chair:** I think that question is for the department's representatives.

Ms. Farquharson or Mr. Moffet, would you be willing to answer that question?

[*English*]

**Mr. John Moffet:** Mr. Chair, we're also joined by Mr. Carreau.

**The Chair:** I apologize. I did mention Mr. Carreau at the beginning.

**Mr. John Moffet:** Mr. Carreau is from Health Canada.

[*Translation*]

**The Chair:** Mr. Carreau, would you like to answer that question?

[*English*]

**Mr. Greg Carreau (Director General, Safe Environments Directorate, Department of Health):** Yes, thank you, Mr. Chair.

As was outlined, the government is actively working to reduce reliance on animal testing, with the ultimate goal of phasing out animal testing over time. However, as it stands currently, alternatives have not been sufficiently developed in order to replace all of the animal testing that's required to ensure the safety of Canadians from chemicals.

The term “refine” is intended to be included in the scope of efforts to reduce animal testing, such that when animal testing is absolutely essential to protect Canadians, it is done in a way that is as humane as possible to the animals during the testing process.

● (1230)

**The Chair:** As I understand it, the idea of “to refine” means to modify the process or procedures in the direction of being less harmful to animals. Okay.

Go ahead, Mr. McLean.

**Mr. Greg McLean:** Going forward, I'm fully in support of not using vertebrate animals for the testing we need. With the amendment—and the spirit of the amendment is very clear and very positive—I'm wondering if there is a gap between the words that are in the legislation right now and the words we're proposing to change them to.

As much as we're hoping for the gaps to be filled, is there a gap between the wordings being proposed in the amendment and the current state of where we are in Canada? Where things are going to be is obviously what we have our eye on all the time. Between that and where we are, are we going to have to fill the gap in the meantime? Is there anything missing here? If you don't mind my saying this, is the amendment a nicer way of saying exactly what's in the current legislation? If not, is there a gap between what's in the amendment and what's in the legislation?

The question is for Mr. Carreau.

**Mr. Greg Carreau:** Thank you for the question.

There are certainly gaps in the sense that alternative methods to replace animal testing aren't fully developed and aren't fully validated with respect to their ability to replace all animal testing currently. However, the proposed amendments we're talking about in amendment G-12 would enable a strong message that alternative methods will be considered and used to the extent practicable, recognizing that the animal testing will still be necessary to protect Canadians and human health.

I hope that's clear.

**The Chair:** Next are Mr. Kurek and then Ms. Collins.

**Mr. Damien Kurek:** Thank you, Chair. I have a further question, just to clarify this issue.

I know the Senate more or less added this part to the bill on some of the concerns we heard in testimony about how it was very much agreed about the need to limit, reduce and ultimately eliminate animal testing. In what seems like a refining of the language here, Ms. Taylor-Roy mentioned that she tried to put it in a positive way, and certainly when I read through this, it looked like a refining of the language to find the right balance that is necessary, as was mentioned, for the health and safety of Canadians when there are not other scientific methods. I'm just wondering if the changes do in fact refine. I'd like to clarify that a bit.

I know that Mr. McLean asked about this as well, but does this clarify and make more definitive exactly what the responsibility of the government is and what the impact is on research and industry? Does this fit within what is required to actually be reasonable while attempting to accomplish the intent to reduce and eventually eliminate animal testing?

That's for whoever is best to answer.

**Ms. Laura Farquharson:** Maybe I can answer that, just on the way it's structured.

I think the way that the amendment came to this committee was that no research and investigation should be done unless it's not reasonably possible to obtain data otherwise, so it's like a test that you have to ask every single time, and it may even extend to past tests.

I think the idea was that everybody has the same goal of eliminating vertebrate animal testing and in the meantime reducing it, and that's the duty on the government. It's to keep moving in that direction, but we don't want an administrative sort of checkpoint for every single action that the researchers are going to be doing. We want a general duty, a way of working, that will move us towards elimination of vertebrate testing, but not an administrative requirement to answer that question in every single case.

● (1235)

**Mr. Damien Kurek:** Thank you for that.

I'm curious. I guess this is probably a bigger question that is not just related to this amendment.

You mentioned the administrative checkpoint. Could you comment on reporting requirements specifically related to this amendment in the bigger picture as well when it comes to the impact this amendment would have specifically on research institutions, on public and private entities that are doing testing currently, whether those are companies or departments of universities?

I'm wondering about the administrative and reporting requirements associated with what's being proposed here.

**Ms. Laura Farquharson:** In this particular section, there are no administrative requirements placed on others.

**Mr. Damien Kurek:** Okay.

**Mr. John Moffet:** Yes, exactly. This is an obligation on government: "The Minister shall, to the extent practicable, use...." This is not an obligation on industry. This is not an obligation on university labs, except to the extent that they are working directly for ministers or the department in conducting risk assessments. As said, there are no reporting obligations either, other than the overarching reporting obligations that the ministers have to provide an annual report of activities under the act.

**The Chair:** My understanding is that animal testing does not generally fall under federal jurisdiction. I'm wondering if that's the reason there's no obligation for entities except when you're talking about cosmetics, which we regulate through the Food and Drugs Act, I guess—or, no, the products act.

Anyway, can I go to Ms. Collins now?

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

Definitely, I appreciate hearing from the officials. What the testimony clarified for me is that the Senate amendment actually created a requirement for the minister. It created a requirement for the minister to answer this question each time; it is a kind of checkpoint. That seems beneficial in my mind, especially given that this government has committed to introduce legislation to end cosmetic testing by 2023—this year—and also to phase out toxicity testing on animals by 2035. If the government is serious about that, there should be some kind of requirement or checkpoint when it comes to addressing these issues.

**The Chair:** That's a statement, not a question.

Go ahead, Madame Pauzé.

[*Translation*]

**Ms. Monique Pauzé:** I will also make a comment. I think that this amendment sets aside clause 16.1 of the bill, which was proposed by the Senate.

Earlier, I raised a question about the word "refine", referring to the use of vertebrate animals. This brings us back to NDP-14, which would have removed that verb. If we were to accept that, wouldn't there be a temptation to find other ways of doing things rather than using vertebrate animals? Otherwise, we're just trying to refine what we do to vertebrate animals.

I would like to point out that there are exceptions in the Senate clause. It states that ministers may not use methods involving vertebrate animals, but provides for exceptions, such as if it's not reasonably possible to obtain the data or conduct the investigation differently. It's much more restrictive. The idea of refining the use is sort of there, but the clause is much more specific, indicating cases in which vertebrate animals may still be used.

For these reasons, I will be voting against G-12. I find that the current clause 16.1 is ultimately comprehensive and more detailed, prohibiting this use, but providing for exceptions. When you use the verb "refine", however, nothing is specified. It says nothing at all.

● (1240)

[*English*]

**The Chair:** Go ahead, Ms. Taylor Roy.

**Ms. Leah Taylor Roy:** Thank you.

I just want to be clear: That was certainly not my intention. With regard to the original amendment that was put in, the exceptions did not require any kind of checklist, and the exceptions are very large. After meeting and talking to many animal rights organizations and organizations that are doing research on non-animal testing, my intent here was to put the onus on the minister to ensure that the minister would support and look at all of these new techniques and ways that are being utilized to do research without using animals. I met with numerous people who are doing amazing things, and there's just not the support of the use of animal testing.

As was said, we don't control all animal testing, but certainly I felt that what the minister engages for research should be trying to look at all of the non-animal testing options that are out there, that are commercially available, even if they're not widely used. That was the intent. I felt that the original exceptions in here were so large that.... It was basically the same thing, except saying now that we want the minister to go out and look for these other alternatives before using animal testing. That was the idea.

**The Chair:** Go ahead, Ms. Collins.

**Ms. Laurel Collins:** I'm curious whether Ms. Taylor Roy would be open to, potentially, a friendly amendment that would have this same language as an addition, rather than replacing lines 3 to 21. That way we would keep the checkpoints and the requirement to answer this question each time, but also have the additional.... What I hear is that her intention is to add a requirement for the minister to have a broader view of these strategies and this movement towards reducing and replacing the use of animals.

**The Chair:** Are you proposing a subamendment?

**Ms. Laurel Collins:** Yes. A subamendment would be to keep the same language but not to delete the rest.

**The Chair:** Could you give me a moment, please?

Ms. Collins, can you explain again what you are proposing? We talked about section 68.1.

**Ms. Laurel Collins:** Right now, the way that amendment G-12 reads is that it would replace a whole section. My proposal is that rather than replacing it, it would be in addition to it. At the beginning of lines 3 to 21, you'd have this paragraph, and then you'd keep lines 3 to 21 as well.

**The Chair:** Okay.

Have the legislative clerks registered that?

[*Translation*]

We're going to take a break because this may be a little more complicated than it seems.

[*English*]

Is this at the beginning or at the end?

**Ms. Laurel Collins:** My proposal is for the beginning, but I'm open to either one. I hear the value in Ms. Taylor Roy's proposal to add a requirement for the minister but to delete the other requirements and the requirements specifically to answer this question each time. Having checkpoints would do a disservice and water down the Senate amendment.

**The Chair:** Can we pause for a minute while the legislative clerks look at this?

● (1240)

_____(Pause)_____

● (1250)

**The Chair:** I call the meeting back to order.

Before we go back to Ms. Collins, I believe Mr. Duguid has a point of order or some kind of—

**Mr. Terry Duguid:** Yes. I have a point of order, Mr. Chair.

I had the opportunity to have a brief word with the legislative clerk, who helped me understand the complexity of the amendment that has been proposed. I know there's been some work done on that.

Mr. Chair, I think members on this side of the House would like to see that amendment in writing. We're almost at the close of our time. It might be good to start fresh at the next meeting, so I would propose adjournment.

**The Chair:** The idea is that Ms. Collins will submit the amendment to us in writing, and then we'll start the next meeting with a discussion. It's a subamendment, basically.

Is everyone in agreement to adjourn?

**Some hon. members**: Agreed.

**The Chair**: The meeting is adjourned.