



## MINUTES OF PROCEEDINGS

OTTAWA, Tuesday, June 7, 2022

(18)

[English]

Pursuant to the order of the Senate of May 5, 2022, the Standing Senate Committee on Energy, the Environment and Natural Resources met this day, in room B30, Senate of Canada Building, and with videoconference, at 6:32 p.m. ET, the chair, the Honourable Paul J. Massicotte, presiding.

*Members of the committee present by videoconference:* The Honourable Senators Anderson, Galvez, Gold, P.C., McCallum and Verner, P.C. (5).

*Members of the committee present:* The Honourable Senators Dalphond, Kutcher, Massicotte, Miville-Dechéne, Patterson, Seidman and Sorensen (7).

*Other senators present:* The Honourable Senator Arnot (1).

*Participating in the meeting:* Maxime Fortin, Principal Clerk, Martine Willox, Legislative Clerk and Louise Martel, Administrative Assistant, Committees Directorate; Jesse Good and Wu DiYing, analysts, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Thursday, April 7, 2022, the committee continued its consideration of Bill S-5, Strengthening Environmental Protection for a Healthier Canada Act.

*WITNESSES (by videoconference):*

*Environment and Climate Change Canada:*

John Moffet, Assistant Deputy Minister, Environmental Protection Branch;

Laura Farquharson, Director General, Legislative and Regulatory Affairs, Environmental Protection Branch.

The committee resumed clause-by-clause consideration of Bill S-5, Strengthening Environmental Protection for a Healthier Canada Act.

The committee resumed debate on the motion in amendment of the Honourable Senator Miville-Dechéne that Bill S-5 be amended in clause 50, on page 35, by replacing lines 10 to 13 with the following:

**“(3)** The Minister shall not take any other action under this Act in respect of any matter subject to a request for confidentiality — and shall not disclose any information subject to that request — until the Minister has

**(a)** decided either to grant or refuse the request; and

**(b)** communicated that decision to the requester.

**(4)** The Minister shall not grant a request for confidentiality unless the Minister is satisfied that the person making the request has demonstrated that the information with respect to the request is confidential.”.

John Moffet and Laura Farquharson answered questions from time to time.

After debate and with leave, the amendment was withdrawn.

The Honourable Senator Miville-Dechéne moved that Bill S-5 be amended in clause 50, on page 35, by deleting lines 10 to 13.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

It was agreed that clause 50, as amended, carry.

It was agreed that clause 51 carry.

It was agreed that clause 52 carry.

It was agreed that clause 53 carry.

After debate, clause 54 was negatived.

The chair asked whether clause 55 shall carry.

The Honourable Senator Patterson moved that Bill S-5 be amended on page 37 by adding the following after line 39:

**“55.1 The Act is amended by adding the following after section 331:**

**331.1 (1)** The Minister may issue an emergency certificate authorizing any activity that does not comply with this Act if the Minister is satisfied that the activity is necessary to deal with an emergency in which there is danger to public safety.

**(2)** An emergency certificate is not a statutory instrument for the purposes of the *Statutory Instruments Act*, and the contents of an emergency certificate may be issued orally, but the emergency certificate shall be issued in writing as soon as possible and the writing is conclusive proof of its content.

**(3)** An emergency certificate may include terms and conditions governing the authorized activity, and if any of the terms or conditions are not complied with in the course of carrying on the activity, the Act and regulations apply to the activity as though the certificate did not exist.

**(4)** An emergency certificate may specify the persons who may carry on the activity.

**(5)** The Minister may revoke an emergency certificate as the Minister considers appropriate.”.

After debate, the question being put on the motion in amendment, it was negatived by a show of hands.

It was agreed that clause 55 carry.

The chair asked whether clause 56 shall carry.

The Honourable Senator Patterson moved that Bill S-5 be amended in clause 56, on page 38,

(a) by replacing line 1 with the following:

**“56 (1) Subsections 332(1) and (2) of the Act are re-;**

(b) by adding the following after line 21:

**“(2) Section 332 of the Act is amended by adding the following after subsection (3):**

**(4)** In addition to any other requirement of this Act, a notice under this Act, a notice of any consultation to be held in relation to a matter under this Act and any decision made under this Act for which a notice is not otherwise required under this Act must be made public to the greatest extent possible, including by being published

**(a)** by the Minister on their departmental website;

**(b)** in a newspaper or other periodical that, in the Minister’s opinion, has a large circulation;  
and

**(c)** in the Environmental Registry and in the *Canada Gazette*.

**(5)** A notice published in accordance with paragraphs 4(a) to (c) must include an indication of any opportunities for public participation that may be available in relation to the content of the notice.

**(6)** In addition to any other requirements of this Act, a notice of a public consultation is to be published in accordance with paragraphs (4)(a) to (c) at least 60 days before the consultation is to occur.”.

The Honourable Senator Galvez moved that the motion in amendment be amended by deleting the words “to the greatest extent possible”, by deleting in the English version the word “and” after the words “large circulation;” and by replacing paragraph “(c)” with the following:

“(c) in the Environmental Registry; and

(d) in the *Canada Gazette*.”.

After debate, the question being put on the subamendment, it was adopted by a show of hands.

After debate, the question being put on the motion in amendment, as amended, it was adopted by a show of hands.

It was agreed that clause 56, as amended, carry.

With leave, it was agreed that clauses 57 to 66 carry.

The Honourable Senator Sorensen moved that Bill S-5 be amended on page 38 by adding the following after line 34:

**“57.1 The Act is amended by adding the following after section 342:**

**342.1 (1)** The Minister shall, five years after the coming into force of this section and every fifth year after that, prepare a report regarding the operation of this Act in respect of the aboriginal peoples of Canada during the preceding five years.

**(2)** The report referred to in subsection (1) must include details on

**(a)** consultations with aboriginal peoples and aboriginal governments in relation to matters under the Act;

**(b)** measures implemented to ensure that the Act is administered in a way that complies with

**(i)** section 35 of the Constitution Act, 1982,

**(ii)** the principle of the honour of the Crown, and

(iii) Canada's treaty relationships with and its fiduciary obligations to the aboriginal peoples of Canada;

(c) any evaluation completed in respect of the effectiveness or implementation of the measures described in paragraph (b); and

(d) any findings or recommendations in respect of the administration of this Act in respect of the aboriginal peoples of Canada.

(3) The Minister must cause the report to be laid before each House of Parliament no later than six months after the conclusion of the five-year period to which the report relates.”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

It was agreed that new clause 57.1 carry.

The chair asked whether clause 67 shall carry.

The Honourable Senator Patterson moved that Bill S-5 be amended on page 46 by adding the following after line 11:

**“Report**

**67.1 (1) The Minister of Industry must, no later than one year after the day on which this Act receives royal assent, cause to be tabled in both Houses of Parliament a report regarding measures to**

**(a) ensure that manufactured goods that come to Canada meet the environmental requirements imposed on Canadian manufacturers; and**

**(b) test imported products for compliance with Canadian standards to ensure that they are safe for Canadian consumers and that Canadian producers are not at a disadvantage.**

**(2) The report must include**

**(a) an evaluation of existing measures and their effectiveness;**

**(b) recommendations for any new measures; and**

**(c) a proposed timetable and cost estimate for the implementation of new measures recommended under paragraph (b).”.**

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

It was agreed that clause 67 carry.

It was agreed that new clause 67.1 carry.

It was agreed that clause 68 carry.

The chair asked whether clause 69 shall carry.

The Honourable Senator Miville-Dechêne moved that Bill S-5 be amended in clause 69, on page 46, by replacing line 15 with the following:

**“69 (1) Subsections 10(1.1) and (2.1) and sections 10.1 and 11.1 come into force 12 months after the day on which this Act receives royal assent or on any earlier day that may be fixed by order of the Governor in Council.**

**(2) Section 64 and subsections 67(2), (5) and (6)”.**

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

It was agreed that clause 69, as amended, carry.

The chair asked whether the schedule shall carry.

The Honourable Senator Galvez moved that Bill S-5 be amended on page 47, by replacing the references below the heading "SCHEDULE 1" in the schedule with the following:

“(Paragraphs 56(1)(a) and (c), section 68, section 68.1, subsection 71(1), paragraphs 77(2)(c) and (d), subsections 77(7) and (9), 90(1) to (2) and 91(1), paragraph 91(2)(a), subsection 93(1), paragraphs 94(1)(a) and (5)(b), subsections 95(1) and (3) and 96(1), paragraph 199(1)(a), subparagraph 199(1)(b)(i) and subsection 317.1(3))”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

The Honourable Senator Galvez moved that Bill S-5 be amended on page 47 by adding the following before the heading “PART 1” in schedule 1 of the Schedule:

**“List of Toxic Substances”.**

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

The Honourable Senator Kutcher moved that Bill S-5, in the schedule, be amended by replacing, in the English version, the second line of the note in Schedule 1 set out in the schedule, on page 47, with the following:

“and “y” refer to the number of atoms.”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

It was agreed that the schedule, as amended, carry.

The committee resumed debate on the motion in amendment of the Honourable Senator McCallum that Bill S-5 be amended in clause 2, on page 2, by replacing line 3 with the following:

“of Indigenous Peoples, including free, prior and informed consent;”.

After debate, the question being put on the motion in amendment, it was adopted by a show of hands.

The committee resumed debate on the motion in amendment of the Honourable Senator McCallum that Bill S-5 be amended in clause 2, on page 2,

(a) by replacing line 3 with the following:

“of Indigenous Peoples, including free, prior and informed consent;”;

(b) by replacing line 17 with the following:

“of science and Indigenous knowledge in the process of making decisions related to”;

(c) by replacing line 20 with the following:

“and timely incorporation of scientifically justified and Indigenous knowledge-based alter-”.

After debate and with leave, the amendment was withdrawn.

At 8:26 p.m., the committee adjourned to the call of the chair.

*ATTEST:*

Chantal Cardinal

*Clerk of the Committee*