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# Standing Committee on Environment and Sustainable Development

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**Thursday, May 10, 2007**

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**Chair**

**Mr. Bob Mills**

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Thursday, May 10, 2007

•(1110)

[English]

**The Chair (Mr. Bob Mills (Red Deer, CPC)):** Order.

I have something to explain to members. I guess something was passed yesterday in the House procedurally that when the bells start ringing the committees must suspend. I imagine the reason for that was because most of us would go that extra ten minutes while the bells were ringing. I suppose some people had difficulty getting back to the House. Anyway, we're observing the rules exactly here.

Mr. McGuinty.

**Mr. David McGuinty (Ottawa South, Lib.):** Thank you, Mr. Chair.

We have on today's agenda, under committee business, and I'm glad to see it, the subcommittee's report on the agenda. I don't think it'll take long to consider this, so I want to move immediately that we consider committee business quickly before we get to Bill C-298. I understand this is a mere procedural motion and not a debatable one. I think we would be able to dispose of this very quickly indeed, given our meeting yesterday.

**The Chair:** Normally, these would be dealt with in camera, so we would have to clear the room and turn off the TV cameras. We can do that, or we can simply get Bill C-298 done and get on.

**Mr. David McGuinty:** Mr. Chair, I move the motion that we consider committee business quickly before we go to Bill C-298.

**The Chair:** Yes, Mr. Warawa.

**Mr. Mark Warawa (Langley, CPC):** Chair, we have an agenda. We have the witnesses here and Maria Minna is here. Is it a debatable motion?

**The Chair:** It has to be put immediately, Mark, I'm sorry.

The members have heard the motion that we reverse the order. Then, of course, we would have to clear the room and so on to go in camera.

Those in favour of the motion?

(Motion agreed to)

**The Chair:** I guess we're reversing the order. I would ask that we suspend for a moment while we clear the room.

[Proceedings continue in camera]

•(1110)

(Pause)

•(1130)

[Public proceedings resume]

**The Chair:** We'll begin with our clause-by-clause consideration of Bill C-298, An Act to add perfluorooctane sulfonate (PFOS) to the Virtual Elimination List under the Canadian Environmental Protection Act, 1999, pursuant to order of reference of Wednesday, November 1, 2006.

Pursuant to Standing Order 75(1), clause 1 will be postponed to the end.

I believe, Mr. Warawa, you have a motion regarding clauses 2 and 3.

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

I would first like to make an opening statement, and then we'll be standing clause 2 and moving to clause 3, which is the meat of the change. It would be more logical to approach it that way.

I'd like to begin by thanking Ms. Minna for her efforts and hard work on Bill C-298, dealing with perfluorooctane sulfonate, which is known as PFOS. Her bill would require the government to take action on PFOS, a substance that was at one time used in all kinds of products, such as stain, grease, and water repellants.

The government is in full agreement that action should be taken on PFOS. That's why we moved swiftly last year to put PFOS on the list of toxic substances under CEPA and to publish proposed regulations to prohibit the manufacture, sale, or import of PFOS or PFOS-containing products. We expect to finalize these regulations later this year.

There are two notable time-limited exceptions to the prohibition in the government's regulations. They are a five-year phase-out period for the use of PFOS in fire-fighting foams and electroplating processes—chrome-plating processes. These are consistent with the most stringent actions taken in other jurisdictions. The government also acknowledges that the weight of evidence suggests that PFOS is a substance that can accumulate in the environment and in animals. For that reason, we're supportive of Ms. Minna's efforts to add PFOS to the virtual elimination list, the VE list.

However, adding a substance to the VE list under CEPA comes with a requirement to develop a kind of regulation called a release-limit regulation, which will not, in this case, offer additional protection to the environment or human health. The right kind of regulation for a substance like PFOS is a prohibition—turning off the tap—and that's what we're proposing.

As we heard in the CEPA review, there are issues with the virtual elimination provisions in CEPA. We are proposing the amendments that would allow the government to add PFOS to the VE list without creating the obligation to develop a release-limit regulation. Our amendments would ensure that a number of substances related to PFOS would also be addressed. The government-proposed prohibition regulation would also apply to PFOS salts. This bill currently does not address those PFOS salts, so these additional substances would be added and would be in clause 3.

I'd like to stand clause 2 and move to clause 3, if that's okay.

**The Chair:** Are members in favour of going to clause 3 and then back to clause 2?

**Some hon. members:** Agreed.

**The Chair:** Okay.

Ms. Minna, welcome to our committee.

**Hon. Maria Minna (Beaches—East York, Lib.):** Thank you.

**The Chair:** If you'd like to make a comment, certainly members would appreciate hearing that.

**Hon. Maria Minna:** Thank you very much, Mr. Chair.

Thank you for taking the time to go over this with me, as has Mr. Khatter, who has been very helpful in the work I've done.

This bill was introduced, as the committee knows, prior to the government's introduction of the prohibition, but nonetheless it was welcomed. We have had some meetings with a government representative with respect to the kinds of amendments that would be acceptable, while at the same time having the bill go through.

One of the things that motivated me for putting this forward, Mr. Chair, is the persistence of this particular toxin in the food chain and in the environment, in bodies. In some recent studies that were done, actually very recently, I think it was 2006—and I believe the Department of National Defence was one of them; they were testing other toxins. They did find, in fact, PFOS in the bodies of Canadians, and in particularly higher levels in those of children, which of course is expected, given that children are growing fast and that their cells are also duplicating much faster than those of us who are going in the other direction these days.

Nonetheless, I felt it was extremely important to make sure that this kind of persistent organic pollutant, or this persistent toxin, be removed from our environment. As you know, 3M has stopped producing products with it, voluntarily, because it recognized that it was such a potent toxin that it wasn't going to argue and try to delay its own actions. And that's rare for the private sector, as we all know, to actually act on something as quickly as it did in this case. It has been banned in most other countries in the world, except for some very rare exceptions with respect to some equipment, but apart from that it has.

Now, what I would hope this committee would also address, in addition to supporting the bill today, would be to recommend that the bill to be referenced from this committee to the Stockholm Convention on POPs, to have it listed on the Stockholm Convention as well, as one of the persistent organic pollutants, and also to amend the shortfalls within CEPA with respect to this area.

I want to finish by saying that the kinds of cancers that are caused by this toxin, I don't even want to list to you—but things like the pancreas...and all kinds of other problems. It is quite cumulative; it is one of the worst toxins. There are many others, and hopefully we'll work our way through getting rid of all of them, but I thought I would deal with this one.

Mr. Chair, I thank you for your patience.

● (1135)

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

(On clause 3—*Addition of perfluorooctane sulfonate*)

**The Chair:** We have a government amendment on page 4.

Mr. Warawa.

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

Clause 3 of this bill has a problem. It would require the government to take unnecessary and ineffective regulatory action when effective regulatory action has already been taken. I pointed that out in my opening.

Our proposed amendment would ensure that PFOS can be added to the VE list without creating any obligation for additional release regulations. We agree that adding PFOS to the VE list would have important symbolic value, especially as the world considers what to do with the substance throughout the international process.

Our proposed changes would not, however, result in the government being committed to developing an ineffective regulation.

A level of quantification is the lowest level a substance can be measured. As it stands, the LOQs are developed for emissions and are intended to be the ultimate release limits in release-limit regulations.

So we believe our amendment deals with this, and again, I thank Ms. Minna for her work.

We have our motion. I don't think it's necessary for me to read it out, but I believe it will deal clearly with PFOS in an appropriate manner.

**The Chair:** Other members' comments, questions?

Mr. Bigras.

[*Translation*]

**Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ):** I have a question. If I understand correctly, a notice was already published in the Canada Gazette on October 2, 2004. Therefore, a process was already under way. However, a considerable amount of time elapsed between the publication of the notice and the actual consultation process.

Why did so much time elapse between the actual publication of the notice and the decision-making process and why has perfluorooctane sulfonate, or PFOS, not been added to the list of substances in Schedule 1 of the Canadian Environmental Protection Act? Why the delay?

• (1140)

[English]

**The Chair:** Mr. Van Loon, do you have a comment, as one of our experts?

**Mr. James Van Loon (Manager, Policy and Planning, Regulatory Innovation and Management Systems, Legislative and Regulatory Affairs Directorate, Environmental Stewardship Branch, Department of the Environment):** I'm not one of the risk assessors. However, Robert Chénier, who was a witness here a couple of weeks ago, is. I think he's answered this question in saying that there's a lot of developing science. Ms. Minna was just talking about some that was done last year, and we've been an active part of that science. It's the ongoing research that has led to some time being taken to make this decision.

[Translation]

**Mr. Bernard Bigras:** Why did two or three years elapse before the government came up with a proposal? I believe the parliamentary secretary wants to suggest that we act more quickly. Is the lack of resources the reason for this delay?

There are a number of scientific considerations, but are resource issues the reason why PFOS was not added to the substance list in Schedule 1?

[English]

**Mr. James Van Loon:** I don't think it was a question of resources. I think it was simply a question of wanting to make the right decision as the science evolved.

**The Chair:** Mr. McGuinty.

**Mr. David McGuinty:** I was hoping to hear from Dr. Khatter about this proposed amendment. Are we in a position to hear from him? He's an authority as well in the country.

**The Chair:** I think the question is whether we are going to start calling witnesses to the table. That was a question that was raised, that we've had witnesses for this whole bill. We have our experts from the department.

**Mr. David McGuinty:** Maybe the experts from the department could give me some indication, for example, of opposing views to this series of recommendations.

What might other parties, for example NGOs, say about these government amendments here on page 4?

**Mr. James Van Loon:** I'm not certain.

The committee has looked at virtual elimination. It understands that there are some issues with the release-limit regulations and the LOQs. The bill as it was originally drafted simply adopted the provisions of CEPA as they were. I think this is basically a workaround for PFOS, as we work out what to do with the VE provisions in the act, in response to your report.

**Mr. David McGuinty:** Could we hear from Ms. Minna?

**Hon. Maria Minna:** I was just going to clarify with respect to Mr. Khatter. I had invited him to be here with me this morning. I apologize that I didn't send his name in advance as someone who would be here as part of my team, as opposed to.... That's just to explain why he was here.

**The Chair:** Thank you.

Mr. Warawa.

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

We've had thorough discussions with the sponsor of the bill, Ms. Minna, and also with Mr. Khatter. There were some problems, in a practical sense, with the original bill, but I think we've come to the position that we very much support the principle, the efforts, of the bill, and we've now tried to clean it up so that we have a bill that is constitutional and will deal with PFOS appropriately.

As my opening comments said, it's good to have it on the virtual elimination list. It gives a very strong signal. But the real tool is to prohibit PFOS, so we're doing both: having it on VE and prohibited. Those changes through consultation make the bill I think a constitutional bill and a bill that will appropriately deal with PFOS. I think we met that middle ground.

**The Chair:** Ms. Minna.

**Hon. Maria Minna:** Mr. Chair, I have discussed the amendments with Mr. Khatter and a couple of others, and they are okay with us. Primarily, we have been discussing, as the member said, back and forth. This does get it on the virtual elimination list.

As I said earlier in my remarks, I would also like to see a couple of motions from this committee that would address the issue of the shortfalls within CEPA and also move to put this on the Stockholm Convention. I think this would take it to that other level.

But that I think is something the members would want to do as a separate action, outside the bill that's here in front of you today.

• (1145)

**The Chair:** Are there any other comments?

On the proposed amendment, which you have in front of you on page 4, would those in favour please signify.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 3 as amended agreed to [See *Minutes of Proceedings*])

**The Chair:** We will go back, then, to clause 2.

(On clause 2—*Definitions*)

**The Chair:** We have amendment G-3 on page 3.

Yes, Mr. Warawa.

**Mr. Mark Warawa:** I would like to propose G-2, which is on clause 2.

**The Chair:** I believe it is amendment G-3.

**Mr. Mark Warawa:** Actually, it's amendment G-2. We were just dealing with amendment G-3.

**The Chair:** This is in the package that was handed out to all members.

**Mr. Mark Warawa:** I thought we had stood.... I'm sorry, you're right. I have a different number here. Thank you.

**The Chair:** So we're on amendment G-3, page 3.

**Mr. Mark Warawa:** We're on amendment G-3, according to your package.

The government is proposing a change to the accountable ministers in this act for consistency with the virtual elimination sections of CEPA. In CEPA it's both the Minister of the Environment and the Minister of Health who are accountable for the VE list. That's the logic for the change.

The change to clause 2 brings it into harmony with clause 3. I would move amendment G-3.

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

Are there any comments on adding "and the Minister of Health"?

Yes, Mr. Bigras. Sorry, Mr. Cullen.

**Mr. Nathan Cullen:** I have only one comment. If we proceed—

**The Chair:** You're so quiet today, I forgot your name.

**Mr. Nathan Cullen:** —at this pace we're going to miss lunch. That would be a great misfortune for us all.

I'm kidding. There are no comments. The amendments are fine.

**The Chair:** Okay. How do I answer that one?

**Hon. John Godfrey:** By saying that lunch has arrived.

**The Chair:** Lunch has arrived, so you're okay.

Are there any other comments?

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 2 as amended agreed to [See *Minutes of Proceedings*])

(On clause 1—*Short title*)

**The Chair:** We have amendment G-2, on page 2.

**Mr. Mark Warawa:** Again, Chair, the logic there is that it deals with PFOS and its salts—so those additional substances. It expands the bill, which I think is a good thing.

**The Chair:** Are there any questions or comments about this amendment? We're on G-2

**Mr. David McGuinty:** Then he's not talking about salts.

**The Chair:** Sorry, Mr. Warawa, I think we have a number—

**Mr. Mark Warawa:** Sorry about that.

**The Chair:** We're on amendment G-2, page 2.

Do you have comments about that, Mr. Warawa?

**Mr. Mark Warawa:** No. It's replacing the French version.

**The Chair:** Are there any questions?

(Amendment agreed to [See *Minutes of Proceedings*])

**The Chair:** And now to the title.

There is amendment G-1, page 1.

**Mr. Mark Warawa:** I'll just repeat myself. It is a clearer title of the intent of the bill. It expands to include salts.

**The Chair:** Are there any comments on amendment G-1, page 1?

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 1 as amended agreed to [See *Minutes of Proceedings*])

**The Chair:** Shall the title as amended carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill as amended carry?

**Some hon. members:** Agreed.

**The Chair:** Shall I report the bill as amended to the House?

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill?

**Some hon. members:** Agreed.

• (1150)

**The Chair:** Done! What an agreeable bunch.

Have lunch.

The meeting is adjourned.









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