

June 9, 2022

The Hon. George J. Furey
Speaker, Senate of Canada, Q.C.
Ottawa, Ontario, Canada
K1A 0A4

Sent by email: george.furey@sen.parl.gc.ca

Dear Mr. Speaker:

RE: Bill S-5 Amendments in the Senate ENEV Committee

On behalf of the undersigned industries, we are writing to express our shared concern regarding the proposed amendments to Bill S-5, *Strengthening Environmental Protection for a Healthier Canada Act*. The Bill was returned to the full Senate on June 9th, 2022, after the Senate Energy, the Environment and Natural Resources (ENEV) Committee completed its study of the legislation.

The Bill, as introduced, advanced important updates to modernize the *Canadian Environmental Protection Act, 1999* (CEPA) and prepare for the next iteration of chemicals management in Canada. The Canadian approach to chemicals management is heralded as the global gold standard for protecting the environment and human health. Canada's program relies on balancing precaution with a weight-of-evidence approach to risk assessments and risk management, focusing on eliminating exposures to chemical substances of concern. CEPA is a science-based statute.

It is worth highlighting that during the Minister's testimony on the Bill, he specifically lauded CEPA as a world leading program for the management of chemical substances, noting:

"I am looking forward to hearing from Canadians as we develop the plan of chemicals management priorities and continuing the work on what has been recognized as a world-class chemical management program."

In addition to altering the risk-based approach at the heart of the Act, it is our considered view that many of the Committee's amendments may also be outside of the legislative scope of the Bill. These include:

- **RG-S5-3-3-3**: removing "cost" from "cost-effective" measures, despite this language being consistent with the Rio Declaration;
- **RG-S5-5-4-11** (sub-amendment): adding language about undefined "mechanisms" to support the right to a healthy environment;
- **JMD-S5-10.1-10.3-5-37**: creating a prescriptive risk management requirement – mandatory pollution prevention plans – which would force every single business entity to generate significant paper burden in generating these plans when the majority of the information in question is already found in the National Pollution Release Inventory;

- **MJM-S5-15-8-6** (sub-amendment): replacing “highest risk” language with prescriptive, undefined criteria while failing to make antecedent changes throughout the remainder of the bill;
- **MJM-S5-16-8-25** (sub-amendment): adding an undefined term – “vulnerable environments” which is already at the heart of the Act;
- **SK-S5-20-14-3**: providing only one pathway off the watch list (i.e., a listing on Schedule 1), with no pathway for substances that are later proven unharmed;
- **DGP-S5-39.1-28-14, DGP-S5-39.2-28-15, and DGP-S5-44.1-31-18**: adding provisions under the Domestic Substances List related to living organisms that will interfere with confidential business information and set a dangerous course for New Substance Notifications;
- **JMD-S5-50-35-10a**: deleting an important confidential business information exception that would be considered on a case-by-case basis and would be regulation-specific – deleting this provision will lead to additional regulatory complexity, resource expenditure and longer timelines under these exceptional situations;
- **JMD-S5-69-46-15**: removing government discretion on implementation, with unclear implications the 12-month timeline is not met;
- **RG-S5-S1-47-**: adding the previous title of Schedule 1 back in, despite the fact that many of the substances on Schedule 1 are not toxic in the way that Canadians understand the term.

As the Speaker of the Senate, we hope you take the following recommendation under advisement: **To maintain the global gold standard in chemicals management that protects our environment and the health of Canadians, we urge the full Senate to reverse the amendments introduced by the Committee and pass Bill S-5 as it was originally introduced.**

It is also worth noting that the Minister has expressed that Bill S-5 is a big step towards strengthening the protection of Canadian’s health and the health of the environment that we live in. The Minister has twice promised Senators (in Senate Question Period and during the Committee Study) that future amendments that are outside of the scope of this legislation will be addressed by a second Bill in the near future. Similarly, in a speech to the House of Commons, the Prime Minister urged Parliamentarians to pass Bill S-5 into law for Canadians as soon as possible.

Given the urgency of this matter, we would welcome an opportunity to meet with you and provide more detail. In the meantime, if you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,





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cc: Hon. Stephen Guilbeault, P.C., M.P., Minister of the Environment and Climate Change
All Senators