

Fall 2012



Report of the Commissioner of the Environment and Sustainable Development

CHAPTER 5

Environmental Petitions



Office of the Auditor General of Canada

OAG

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CHAPTER 5

Environmental Petitions

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Part I—Environmental Petitions Annual Report

Introduction

Highlights

5.1 The highlights of this annual report include the following:

- **Issues raised by petitioners.** The report provides details on some of the issues raised by Canadians in environmental petitions in the past year. These issues include the federal government’s action and plans related to climate change, the government’s preparation of its position for **Rio+20**, and concerns about pesticides (including their registration, labelling, and use).
- **Departmental performance.** The report summarizes departmental performance in responding to petitions. We are pleased to report that departments responded on time to all petitions this year.
- **Petitioner feedback.** Recent petitioner feedback received indicated that petitioners continue to be dissatisfied with departmental responses, though some improvement was noted since we last reported on petitioner feedback in 2010. Nevertheless, three quarters of the petitioners who provided feedback rated their experience with the petitions process as satisfactory, a substantial improvement from 2010.
- **Use of petitions and responses.** The Office continues to use petitions and departmental responses in carrying out its work.

Rio+20—The United Nations Conference on Sustainable Development that was held in Rio de Janeiro, Brazil, in June 2012. It brought together governments, international institutions, and major groups to agree on a range of smart measures that can reduce poverty while promoting decent jobs, clean energy, and a more sustainable and fair use of resources.

Focus of the annual report

5.2 The purpose of this annual report is to inform Parliament and Canadians about the number, nature, and status of petitions and responses received between 1 July 2011 and 30 June 2012, as required by section 23 of the *Auditor General Act*. The report also highlights good practices in the petitions process, discusses petitioners’ feedback about departmental responses, and explains how petitions and ministerial responses can inform the work of our Office.

5.3 More details are provided in **About the Annual Report and the Petitions Process** at the end of this chapter.

Petitions and Responses

Petitions received

Petitions catalogue—The petitions catalogue contains petitions received under Section 22 of the *Auditor General Act*, and the ministerial responses to those petitions. It is available on the Office of the Auditor General website (www.oag-bvg.gc.ca).

Social media—A video on the environmental petitions process is available on the OAG YouTube channel (<http://www.youtube.com/user/OAGBVG>). In addition, you can follow us on Twitter at [CESD_CEDD](#).

Follow-up petition—A petition submitted after receiving the response to an initial petition. It can be submitted immediately to ask additional questions or to seek clarification, or in the future to determine the status of the issue and progress made by departments and agencies against any commitments made.

5.4 During this year’s reporting period (1 July 2011 to 30 June 2012), the Office of the Auditor General of Canada received 23 environmental petitions, compared with 25 last year and 18 the year before. The Appendix presents an overview of petitions activity during the reporting period, including petition summaries. After tabling the petitions in Parliament and with the consent of the petitioners, the Office posts the petitions and responses in the **petitions catalogue** on our website.

5.5 Petitions represent a snapshot of the wide range of environmental issues, including those “close to home” and those of national interest. The issues raised in environmental petitions and the related departmental responses solicit interest, as indicated by the number of visits to the online petitions catalogue (about 50,000 visitors during this year’s reporting period). The Office’s petitions team continues to use a variety of outreach activities to inform Canadians about the process. These include **social media**, such as Twitter and YouTube, as well as online webinars and public presentations in various parts of the country.

Groups, including environmental organizations, submitted the majority of petitions

5.6 About half the petitions received this year (Exhibit 5.1) originated in Ontario (10 petitions plus 2 submitted jointly with residents of other provinces). Residents of British Columbia (8 petitions), Quebec (2 petitions plus 1 submitted jointly), Nova Scotia (1 petition), and Manitoba (1 submitted jointly) accounted for the rest.

5.7 In contrast to previous years, community associations, environmental organizations, and other groups of Canadian residents submitted about two thirds of petitions this year—15 of this year’s 23 petitions. The remaining petitions came from individuals. Past petitioners submitted about half of this year’s total; these included 2 **follow-up petitions**.

Petitions dealt with a diversity of topics, most often related to toxic substances, health, fisheries, and water issues

5.8 This year’s petitions dealt with 23 different topics. Summaries are provided in the Appendix. The topics included questions about environmental assessment of a highway expansion project in Ontario

Exhibit 5.1 Petitions came from five provinces (1 July 2011 to 30 June 2012)



Petition No.	Topic
301D	Follow-up petition on the alleged misinterpretation of exclusion list conditions under the <i>Canadian Environmental Assessment Act</i> related to the construction of a communications tower in Pontiac, Quebec
310B	Follow-up on the health and environmental impact of endocrine disrupting substances in cosmetics
319	Potential impact on amphibians and fish due to the application of pesticides in the shoreline and wetlands of the Great Lakes
320	The pesticide evaluation process under the <i>Pest Control Products Act</i>
321	The impact of pesticides on the health of farm workers and their families
322	Regulatory requirements for developmental toxicity testing of new and existing chemicals
323	Environmental assessment of finfish (salmon) aquaculture in Nova Scotia
324	Concerns about the re-evaluation of the pesticide dimethoate
325	Use of the Cosmetic Ingredient Hotlist to manage potentially toxic and carcinogenic substances in cosmetics
326	Effectiveness of pollution prevention aspects of the St. Lawrence Action Plan
327	Environmental assessment of a project to deliver jet fuel to the Vancouver International Airport
328	Implementation status of the <i>Wastewater Systems Effluent Regulations</i>

Petition No.	Topic
329	Government of Canada actions and plans for climate change, environmental accounts, fossil fuel subsidies, fair trade procurement, and public consultation in preparing the government's position for Rio+20
330	Federal environmental assessment of a highway expansion project in Ontario
331	Funding for endangered freshwater fish under the Habitat Stewardship Program
332	Alleged perfluorocarbon contamination at the Hamilton International Airport
333	Federal support to facilitate a Property Assessed Payments for Energy Retrofits program
334	Environmental effects monitoring information and reports related to the <i>Metal Mining Effluent Regulations</i>
335	Energy efficiency standards for domestic gas water heaters
336	Federal policy, regulation, and approval regime for oil tankers in British Columbia
337	Progress in completing the Bowie Seamount Marine Protected Area management plan and in establishing a national system of marine protected areas
338	Alleged discharge of contaminated water into a drainage ditch that empties into Lake Ontario
339	Potential impact on the environment of an animal-based diet, and potential health and environmental benefits of moving to a plant-based diet

Source: Petitions submitted to the Auditor General of Canada. Summaries appear in the Appendix.

(Petition 330), funding for projects in support of endangered freshwater fish in British Columbia (Petition 331), and the federal policy, regulation, and approval regime for oil tankers off the southern coast of British Columbia (Petition 336).

5.9 In addition to the specific topics addressed, a few petitions explored issues from different points of view. For example, four petitions were received on different aspects of pesticides, including their registration, labelling, and use (Petitions 319, 320, 321, and 324). We also received two petitions related to potentially toxic substances in personal care products. One was on Health Canada's Cosmetic Ingredient Hotlist (Petition 325), and the other was a follow-up petition on **endocrine disrupting substances** in cosmetics (Petition 310B).

Endocrine disrupting substances—External agents that interfere with the production, release, transport, metabolism, binding, action, or elimination of the natural hormones in the body responsible for the maintenance of internal equilibrium and the regulation of developmental processes.

5.10 Petition 310B was one of the follow-up petitions received on topics raised in the previous year. The petitioners claimed that Health Canada's response to the original petition was not accurate because it took into account only the first of four European studies on this subject, and they asked for an updated answer. Health Canada's response addressed this concern. In another example, Petition 301D, concerning an alleged misinterpretation of exclusion list conditions for communications towers under the *Canadian Environmental Assessment Act*, the petitioner claimed that while Industry Canada had responded to his previous petitions, it had not answered his specific question about the size of the antenna footprint. In its response to the follow-up petition, Industry Canada provided the specific information requested.

5.11 When petitions are received, we review them to identify the key issues. To help Web users with their searches, our online catalogue lists petitions by number, responding federal institution, and issue.

5.12 Based on our review, the issues covered most frequently in petitions this year were the following:

- **Toxic substances.** Petitions with this issue as the primary focus included a petition on the government's oversight of toxic substances in cosmetics through the use of the Cosmetic Ingredient Hotlist as a management tool (Petition 325), and another on an alleged **perfluorocarbon** contamination near the Hamilton International Airport (Petition 332). Petitions with toxic substances as a secondary issue included several on pesticides (Petitions 319, 320, and 321), one on environmental monitoring information related to the *Metal Mining Effluent Regulations* (Petition 334), and one on a project to deliver jet fuel to the Vancouver International Airport (Petition 327).

Perfluorocarbons—A group of human-made chemicals composed of carbon and fluorine only. Perfluorooctane Sulfonate (PFOS), part of this chemical group, was used for fighting fuel fires.

- **Human and environmental health.** Petitions concerning this issue included many of those that raised concerns about toxic substances. They also included a petition on the health and environmental benefits of moving from an animal-based diet to a plant-based diet (Petition 339).
- **Fisheries and water.** Petitions with fisheries and water issues included one on completing the Bowie Seamount Marine Protected Area Management Plan (Petition 337), another on the effectiveness of pollution prevention aspects of the St. Lawrence Action Plan (Petition 326), one on the environmental assessment of finfish aquaculture in Nova Scotia (Petition 323), and one on the status of the *Wastewater Systems Effluent Regulations* (Petition 328).

The most common theme this year was due process

5.13 Among petitions that deal with different topics and issues, there are often common themes. The most common theme again this year was due process, which is the manner in which the federal government applies its policies and procedures. Petitioners have raised this concern in petitions that dealt with environmental assessments as well as in petitions requesting information about the status of program or policy implementation. Petitioners asked questions about the interpretation of assessment criteria and about whether full consideration is given to all potential issues, the extent of public consultation, and decision-making processes. The following examples describe some of these concerns.

5.14 Funding of projects for protection of endangered aquatic species in British Columbia. In Petition 331, the petitioner inquired about the federal government's decision to discontinue funding for its projects to protect endangered aquatic species in British Columbia. The petitioner sought information on its funding request, asking, "What was the ranking of the funding proposal within Pacific–Yukon Region overall and within the pool of applicants concerning aquatic species?"

5.15 In its response, Fisheries and Oceans Canada said that with respect to the project "relating to the Nooksack dace and Salish sucker, the proposal was ranked 18th out of the 40 recommended Habitat Stewardship Program projects (both aquatic and terrestrial) from Pacific–Yukon Region for fiscal year 2011–12. Among the applications concerning aquatic species, this project received the second highest score, with two other proposals receiving the same

score. This particular project was recommended for funding by the Habitat Stewardship Program National Steering Committee.” The Department also explained that “the final decision on whether funding should be granted to a given Habitat Stewardship Program proposal falls under the authority of the Minister of the Environment.”

5.16 Public consultation for the government’s position for Rio+20. In Petition 329, the petitioners inquired about the public consultation process for the government’s preparation of its position for Rio+20. They asked, “why did the government of Canada not consult the Canadian public before making its submission to the UNCSD [United Nations Conference on Sustainable Development] 2012 Zero Draft Document...?”

5.17 Foreign Affairs and International Trade Canada replied that the national submission was “the result of extensive consultations across the federal government on how best to promote Canada’s interests at Rio+20 and make a significant contribution to the Conference. In 2010, Environment Canada submitted the Government’s Federal Sustainable Development Strategy (FSDS) to the Canadian public for review and comment over a period of 120 days. As well, the Minister of the Environment appointed a Sustainable Development Advisory Council made up of representatives of every province and territory who represented the interests of Aboriginal people, environment non-governmental organizations (NGOs), labour and business. The FSDS articulates Canada’s environmental sustainability priorities and our progress in achieving them. The inputs received during this process continue to inform the government’s approach to sustainable development, including [its position] for Rio+20. This process is replicated at least every three years as a new FSDS is developed. The next consultation period is scheduled for 2013.”

Other common themes were transparency and public access to information

5.18 Petitioners also inquired about government openness in decision making and about the availability of environmental information. Examples include Petition 334, in which the submitting organization asked about public access to information on environmental effects monitoring (EEM) of metal mining, and Petition 324, which discussed the re-evaluation of a pesticide, as described below.

5.19 The organization that submitted Petition 324 provided its comments on Health Canada’s re-evaluation of the pesticide dimethoate as part of the Pest Management Regulatory Agency’s (PMRA) normal public consultation process. The petitioner also

submitted the same document as an environmental petition because the petitioner “would appreciate receiving a response to the points raised in these submissions, and this approach will ensure such a response.”

5.20 While addressing the public’s desire for openness and transparency of government decisions by requiring a response from the department, using the environmental petitions process in this manner presented some challenges. One of these was the timing of the petition response compared with the timeline for processing comments on the pesticide re-evaluation. As Health Canada explained in its response, “the review of [comments and data] will not be completed before the response to this petition is due ... therefore, the response to the petition may be limited in certain respects given that the proposed decision is still subject to change....” Petitioners who may wish to use a similar approach should be aware of this potential constraint to receiving a complete response.

The majority of petitions were national in scope

5.21 This year, unlike last year, the majority of petitions (12) focused on national issues, such as those dealing with government policy, regulation, and the overall implementation of government programs. Examples include petitions related to the regulation, labelling, and use of pesticides (Petitions 320, 321, and 324), government action and plans on the preparation of its position for Rio+20 (Petition 329), and energy efficiency standards for domestic gas water heaters (Petition 335).

5.22 Petitions with a local or regional scope are those that focus on environmental impacts of specific projects and events or on environmental issues that may affect a broader area of the country. They often deal with concerns about environmental assessment of specific projects, such as a project to deliver jet fuel to the Vancouver International Airport (Petition 327). They also deal with local events, such as the alleged discharge of contaminated water into a drainage ditch that empties into Lake Ontario (Petition 338), or with a particular region, such as the petition on the St. Lawrence Action Plan (Petition 326).

5.23 There are also petitions that use examples of local cases to raise broader questions about policy or program implementation at the national level. For example, in Petition 332, the petitioner asked about the environmental impact of alleged perfluorocarbon contamination at the Hamilton International Airport, where the substances had been

used as a fire-fighting agent, and also asked the government about the potential for such contamination at other federal sites across the country.

Responses received

5.24 The *Auditor General Act* requires responsible ministers to consider each petition and reply in writing within 120 calendar days after a petition is received. As a result, some of the responses covered in this report were for petitions received in the previous reporting period. This reason accounts for the difference in the number of petitions submitted (23) and the number of petitions for which responses were due this year (24, which includes 9 petitions from the previous year). Responses for the 8 petitions received toward the end of this reporting period will be covered in next year's report.

5.25 Since most petitions were directed to more than one responsible minister, 17 departments and agencies provided a total of 64 responses to the 24 petitions for which responses were due this year. Environment Canada typically ranks first in the number of petitions received; this year it responded to 18 of the 24 petitions. Health Canada ranked second, responding to 12 petitions, followed by Fisheries and Oceans Canada, responding to 11 petitions.

Departments responded on time to all petitions this year

5.26 We are pleased to report that departments responded on time to all petitions this year (Exhibit 5.2). This number compares to last year's on-time response rate of 92 percent and the previous year's rate of 93 percent. For the three departments responsible for the largest number of responses, Environment Canada had a 100 percent on-time response rate for the third year in a row, and both Health Canada and Fisheries and Oceans Canada were on time the past four years.

5.27 Although departments and agencies have a statutory obligation to respond within 120 days, the response is not considered to be late if the responsible minister sends a written notification of delay within this period. No notifications of delay were sent this year.

Most responses were complete and relevant

5.28 The 24 petitions that departments responded to this year contained about 275 questions. Questions and responses varied considerably in length and level of detail. Paragraphs 5.40 to 5.58, which describe some of the environmental issues raised in petitions and the federal government responses, provide examples of the types of questions and responses.

5.29 As part of its monitoring role, the Office's petitions team routinely reviews each petition response. We have two primary considerations in our reviews:

- **Completeness.** Is every question addressed?
- **Relevance.** Are the responses relevant to the questions?

5.30 We also look for clarity in responses. For example, if the responding department disagrees with information or views that are central to the petition, we consider whether its response includes a clear explanation of the reason for the disagreement. This is the type of observation we may raise with departments when we meet periodically to discuss the petitions process.

Exhibit 5.2 Departments and agencies responded on time to all petitions

Department or Agency	Number of responses due	Number of late responses	Percentage on time (%)	Notifications of delay*
Aboriginal Affairs and Northern Development Canada	2	0	100	0
Agriculture and Agri-Food Canada	1	0	100	0
Atlantic Canada Opportunities Agency	1	0	100	0
Canadian Heritage	1	0	100	0
Environment Canada	18	0	100	0
Finance Canada	1	0	100	0
Fisheries and Oceans Canada	11	0	100	0
Foreign Affairs and International Trade Canada	1	0	100	0
Health Canada	12	0	100	0
Industry Canada	3	0	100	0
Justice Canada	1	0	100	0
National Defence	1	0	100	0
Natural Resources Canada	2	0	100	0
Parks Canada	1	0	100	0
Public Works and Government Services Canada	1	0	100	0
Transport Canada	6	0	100	0
Treasury Board of Canada Secretariat	1	0	100	0
Total	64	0	100	0

* A response is not considered to be late if the petitioner is notified of an expected delay before the due date.

Developmental toxicity—Occurrence of adverse effects on the developing organism that may result from exposure before conception (either parent), during prenatal development, or during postnatal development up to the time of sexual maturation. Adverse developmental effects may be detected at any point in the lifespan of the organism.

5.31 As in past years, this year we found that the majority of responses were complete and relevant. Moreover, some petition responses included considerable depth and detail—for example, the responses to petition 330 (see paragraphs 5.56 to 5.58) and petition 322. In the latter petition, the petitioners were seeking information about Canadian regulatory requirements for **developmental toxicity** testing. Health Canada provided a joint response (with Environment Canada) that was informative and well structured. While the response used technical language, it was appropriate given the technical nature of the questions posed by the petitioners.

5.32 We noted that Fisheries and Oceans Canada had stopped its past practice of providing petitioners with the names and telephone numbers of departmental contacts in case the petitioners require additional information. We had previously reported that we believed this to be a good practice that demonstrated openness and transparency. In September 2012, Fisheries and Oceans Canada informed us that it will provide a contact name when appropriate. We encourage other departments and agencies to consider adopting a similar practice.

The feedback process reveals petitioners' views about the quality of responses

5.33 Petition responses reflect the government's policy and program objectives, and the responding departments' implementation and management of these objectives. These may not align with the views of petitioners.

5.34 In 2009, we implemented a process to solicit petitioner feedback, including petitioners' views on departmental responses to petitions and on the petitions process itself. We send a feedback questionnaire to petitioners once all departmental responses to their petition have been received. In 2010, we reported our analysis of the 25 feedback replies we had received by that time (a response rate of one third of the questionnaires sent to petitioners). This year, we provide an update of petitioner feedback based on the 20 replies received since our last analysis (a response rate of one half of the questionnaires sent since our 2010 analysis). Petitioner feedback is important to us as it can provide information that is useful in helping to identify strengths and areas that could be improved in the petitions process.

5.35 Reasons for submitting petitions. Three quarters of the petitioners who replied to the feedback questionnaire since 2010 indicated that they had previously contacted the federal government about the petition issue before they submitted their petition; this result

compared with the approximately two thirds we reported in 2010. In about three quarters of the more recent replies, the petitioners were not satisfied with the outcome of that contact, and in almost all of those cases, this dissatisfaction was a motivation for using the petitions process.

5.36 In addition, about four fifths of new respondents indicated that their petitions were submitted to obtain specific information and formal commitments, to establish a public record of the government's response to environmental issues, and to request action from the federal government. This result was consistent with what we reported in 2010. In our discussions with petitioners, we remind them that the process requires departments only to respond to the petitions; it does not require them to take action to deal with the issues.

5.37 Petitioners' views on departmental responses. In addition to asking petitioners for feedback related to their petition submission, we ask them to provide their views on each of the individual departmental responses to their petition. Since more than one department may provide a response to a petition, we received 37 new replies from petitioners noting their degree of satisfaction with the individual departmental responses to their petitions. While over two thirds (26 of 37) of these replies indicated that petitioners found the departmental responses to be somewhat or very unsatisfactory, this result represented an improvement from the approximately four fifths we reported in 2010. In addition, the proportion of very unsatisfactory departmental responses decreased to about two fifths (14 of 37), compared with about two thirds (16 of 24) in 2010. Petitioners also found more responses to be somewhat or very satisfactory (11 of 37) compared with 2010 (2 of 24).

5.38 Petitioners consistently rated some specific aspects of the government's response, such as taking action or making specific commitments, as poor. Several petitioners expressed their disappointment that, in their view, the petitions process does not include a mechanism to ensure that departments take action on issues or provide responses that meet petitioners' expectations. One half of new respondents believe that their petition had not had any effect and that none is anticipated.

5.39 Satisfaction with the petitions process. Contrary to petitioners' low level of satisfaction with departmental responses, about three quarters of the petitioners who provided recent replies to the questionnaire rated their experience with the petitions process as satisfactory. This feedback represents a substantial improvement from

our 2010 analysis. In addition, most petitioners indicated that they would consider submitting another environmental petition.

Environmental issues raised in petitions

5.40 In 2012, 190 governments, including Canada, met in Brazil for Rio+20, the United Nations Conference on Sustainable Development (UNCSD), which focused on the themes of a transition to a green economy and the institutional framework for sustainable development. In addition, 2012 represents the end of the first commitment period under the Kyoto Protocol, which set out an agenda for reducing global greenhouse gas emissions, in addition to bringing ongoing attention to mitigating those emissions. Domestically, the federal government introduced significant changes to federal environmental legislation through the *Jobs, Growth and Long-term Prosperity Act*; these changes included the new *Canadian Environmental Assessment Act, 2012*, and major changes to the *Fisheries Act*.

5.41 Environmental petitions submitted by Canadians in the past year reflect many of these significant environmental issues. For example, as described in paragraph 5.12, the health and environmental impact of toxic substances was frequently raised as an issue.

5.42 Part II of this annual report provides an update on the federal government's action related to its response to Petition 317. In this petition, the petitioners expressed concerns about toxicity of the chemicals used in hydraulic fracturing and the lack of public disclosure about the chemicals used in hydraulic fracturing.

5.43 Petitioners have also raised questions about issues such as climate change, biodiversity and fish habitat, and environmental assessment.

5.44 Climate change. Canadians are concerned about the causes and effects of climate change and its potential impact on their lives. For example, in Petition 329, on government action and plans regarding climate change and the government's preparation of its position for Rio+20, the petitioner claims that "by abandoning the Kyoto Protocol, Canada has demonstrated that the Environment Minister did not go to Durban to negotiate in good faith, and sends a message to the world that our country does not care about the effects of climate change that are experienced in other countries and even in regions of our own." The petitioner asked, "bearing in mind that the decisions to ratify the Kyoto Protocol and to adopt domestic legislation—the *Kyoto Implementation Act*, which received royal assent in 2007—were discussed in the House of Commons, why was the decision to withdraw from Kyoto not similarly debated and voted upon in the House?"

5.45 The Minister of the Environment replied that “withdrawal is a legal provision under the Kyoto Protocol itself under Article 27, and can be exercised unilaterally by a Kyoto Party at any time. Withdrawal is a policy decision to be made by the government of the day. It is not a legislative act to be made by Parliament. To effect withdrawal, a notification of intention to withdraw must be transmitted to the Secretary-General of the United Nations. Within Canada, the Minister of Foreign Affairs was authorized to submit this notification of withdrawal by an order-in-council signed by the Governor General of Canada.”

5.46 Biodiversity, ecosystems, and fish habitat. As described on the federal–provincial biodiversity website, biological diversity refers to the variety of species and ecosystems on Earth and the ecological processes of which they are a part. It encompasses all living species on Earth and their relationships to each other. In their petitions, petitioners often make the link between human activity, such as the use of pesticides, and its potential impact on habitat, both aquatic and terrestrial, and on specific species. Petitioners also question how those impacts could affect biodiversity and ecosystems.

5.47 In Petition 315, the petitioner asked questions about a convention centre development project near the Ottawa International Airport and its potential impact on fish habitat, endangered species, and wetlands. The petitioner claimed that the development would destroy over 12 hectares of wetland and the headwaters of Sawmill Creek. The petitioner asked Fisheries and Oceans Canada to explain “how a peripheral ditch that will receive storm water and snow melt and accompanying pollutants—for example, salt and oil from a 2,000 car parking lot—[can] be approved as compensation for the obliteration of two water channels that bore clean water.” The petitioner also asked Environment Canada “why [it] has not invoked the Blanding’s Turtle recovery strategy on these federal wetlands, as outlined in the *Species at Risk Act*.”

5.48 In its response, Fisheries and Oceans Canada indicated that “the Rideau Valley Conservation Authority [RVCA] reviewed the proponent’s plan to realign a watercourse and to establish fish habitat features in the realigned watercourse as mitigation. Mitigation such as a low flow channel for fish access, pools and runs, and gently sloped vegetated banks were proposed. According to the [RVCA’s] review, the realigned channel will provide quality fish habitat to satisfy the life processes of the indigenous fish found in the upper reaches of Sawmill Creek.”

5.49 Regarding the question about the recovery strategy for Blanding’s turtles, Environment Canada replied that “under the federal *Species at Risk Act*, critical habitat has not yet been identified for the Blanding’s turtle. At present, critical habitat criteria are being drafted for this species, and the available information on Blanding’s turtle locations and populations will then be assessed against these criteria. ... Subsequently, critical habitat will be identified in a final recovery strategy for the Blanding’s turtle.” The Department added that “critical habitat prohibitions under the Act do not currently apply, given that critical habitat has not yet been identified for this species in a final recovery strategy.”

5.50 In Petition 319, the petitioner expressed concern about the use of pesticides on the shoreline of the Great Lakes and the potential impact on amphibians and fish. In particular, the petitioner noted that a study published through the University of Pittsburgh had pointed out that “it is temporary, shallow bodies of water—depressions only a few inches deep and 10 or 20 feet long—that produce most of the amphibians in the country. Anyone spraying pesticides ... would probably not avoid such puddles because they appear to be inconsequential.” The petitioner added that the research noted that “many species breed only in temporary wetlands.” The petitioner asked Fisheries and Oceans Canada whether “some water [could] be identified as ‘temporary’ yet fit the definition of Sensitive Aquatic Habitat as per the [herbicide product] label or Fish Habitat as per the *Fisheries Act*.”

Amended definition of fish habitat

In June 2012, the *Jobs, Growth and Long-term Prosperity Act* amended the definition of fish habitat in the *Fisheries Act* to mean “spawning grounds and any other areas, including nursery, rearing, food supply and migration areas, on which fish depend directly or indirectly in order to carry out their life processes.”

5.51 In its response, Fisheries and Oceans Canada said that “fish habitat is defined in section 34 of the *Fisheries Act* as ‘spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes’. ‘Fish habitat’, as defined under section 34 of the *Fisheries Act*, does not differentiate between ‘sensitive aquatic habitat’ and does not distinguish between ‘temporary’ or ‘permanent’ water bodies. The determination of what constitutes fish habitat under the *Fisheries Act* is independent of the Pest Management Regulatory Agency’s habitat and water classification scheme. Although it is unlikely that a water body that is identified as ‘temporary’ by the Pest Management Regulatory Agency provides fish habitat, it is possible that it could be considered fish habitat as defined by the *Fisheries Act*. The characteristics and circumstances of each site will determine if a temporary water body fits the definition of fish habitat under the *Fisheries Act*. It cannot categorically be stated that temporary waters are or are not considered fish habitat under the *Fisheries Act*.”

5.52 Environmental assessment. According to the Canadian Environmental Assessment Agency, environmental assessments support sustainable development by helping to eliminate or reduce a project's potential impact on the environment before it begins and ensuring that mitigation measures are applied once the project is initiated. Environmental assessments support informed decision making. Petitioners raise concerns about the way the federal government carries out its environmental assessments, including the extent of public consultation, the full consideration of all potential issues, harmonizing federal assessments with those of provinces, and the timeliness of assessments.

5.53 In Petition 327, the petitioner expressed concerns about how the environmental assessment was carried out for a project to deliver jet fuel to the Vancouver International Airport. In particular, the petitioner asked “why the federal government seems to have allowed such a development to be proposed without a ‘proper’ review under the federal *Canadian Environmental Assessment Act*, and, above all, why it allowed delegation of federal responsibilities to the [Vancouver Fraser Port Authority] and the British Columbia Environmental [Assessment] Office.”

5.54 Environment Canada responded that “pursuant to the *Canada Port Authority Environmental Assessment Regulations* under the *Canadian Environmental Assessment Act*, the Vancouver Fraser Port Authority is required to ensure that a screening is conducted for the project. The project is also subject to the environmental assessment requirements of the Government of British Columbia. The Vancouver Fraser Port Authority is conducting the federal environmental assessment cooperatively with the provincial process in a way that is consistent with the principles of the Canada–British Columbia Agreement for Environmental Assessment Cooperation.”

5.55 In its response, Fisheries and Oceans Canada states that “as a federal authority, Fisheries and Oceans Canada is providing input into the environmental assessment in the form of advice on appropriate mitigation measures to be applied during construction to prevent impacts to fish and fish habitat. This advice is given in accordance with the *Fisheries Act* and the Department of Fisheries and Oceans Policy for the Management of Fish Habitat. Fisheries and Oceans Canada retains its legal responsibilities under the *Fisheries Act* when a harmonized environmental assessment with the Province of British Columbia, or any other province or territory, is taking place....”

5.56 In Petition 330, the petitioner wanted to know why the federal government chose to assess the entire expansion of Ontario Highway 69 as a single project, rather than by phase, and asked why the federal government had not been able to make a decision on the environmental assessment.

5.57 In the joint response, Transport Canada explained that “the Ontario Ministry of Transportation’s proposal to four-lane 102 kilometres of Highway 69 from approximately Nobel to Estaire was originally to be the subject of several federal environmental assessments, based on various federal interests. ...As a result of [the Supreme Court of Canada’s 21 January 2010] decision, in June 2010 Transport Canada, Fisheries and Oceans Canada and Aboriginal Affairs and Northern Development Canada, the federal responsible authorities, commenced a single federal environmental assessment of the entire 102 kilometres.... With the federal environmental assessment considering the entire 102 kilometres, and the Ontario Ministry of Transportation detail design process proceeding in distinct segments, coordination of information requirements presented a significant challenge. As a result, the Ontario Ministry of Transportation made multiple requests for federal responsible authorities to consider a phased approach.”

5.58 Transport Canada added that “On 21 October 2011, after full consideration of all studies and consultation activities conducted and available at that time, federal responsible authorities indicated in a letter to the Ontario Ministry of Transportation that they did not have adequate information on which to base a determination on the current environmental assessment for the entire 102 kilometres. In the same letter, federal responsible authorities indicated that they were willing to consider the Ontario Ministry of Transportation’s request for a phased approach upon receipt of necessary information....”

Petitions and the Office’s work

5.59 The Office’s work can be shaped by issues raised in petitions, including specific petition topics, broader environmental issues, and common themes. Recent work in our Office has benefited from knowledge gained through petitions and responses. For example, in the 2012 Fall Report of the Commissioner of the Environment and Sustainable Development, Chapter 3, Marine Protected Areas, we examined the federal government’s action regarding the development of the Bowie Seamount Marine Protected Area. This was the subject of Petition 337, in which the petitioner asked Fisheries and Oceans Canada about the status of the Bowie Seamount Marine Protected

Area's management plan, as well as about the Department's commitment to establish a national system of marine protected areas.

5.60 In addition, as part of its monitoring role, the Office may follow up on issues raised in federal government responses to environmental petitions. Since 2010, we have received three petitions (307, 308, and 317) in which the petitioners expressed concerns about toxicity of the chemicals used in hydraulic fracturing and the lack of public disclosure about the chemicals used in hydraulic fracturing. The Minister of the Environment and the Minister of Health responded to these petitions. In his October 2011 response to Petition 317, the Minister of the Environment indicated that the Department was exploring options to help it gain a better understanding of the substances contained in hydraulic fracturing fluid, and that the Department was already reviewing the reporting requirements of the National Pollutant Release Inventory (NPRI) for the oil and gas sector to consider changes that would capture more information on oil and gas activities.

5.61 Part II of this annual report provides an update on developments since the Minister of the Environment's response to Petition 317. We interviewed and obtained documentation from Environment Canada and Health Canada officials to follow up on

- the status of the National Pollutant Release Inventory review that Environment Canada indicated was under way in its October 2011 response to Petition 317, and
- actions taken by the departments to better understand substances used in hydraulic fracturing.

Conclusion

5.62 The environmental petitions process remains a unique way for Canadians to present their concerns to federal ministers. Through the process, they can also request information and ask for commitments to action.

5.63 The Office of the Auditor General of Canada received 23 petitions this year, compared with 25 last year and 18 the year before. There continues to be a diversity of topics and issues in the petitions received.

5.64 We are pleased to report that departments responded on time to all petitions with responses due this year. This compares with last year's

on-time response rate of 92 percent and the previous year's rate of 93 percent. For the three departments responsible for the largest number of responses, Environment Canada had a 100 percent on-time response rate for the third year in a row, and both Health Canada and Fisheries and Oceans Canada were on time the past four years.

5.65 We found that while most responses were complete and relevant, recent petitioner feedback received indicated that petitioners continue to be dissatisfied with departmental responses. However, some improvement was noted since we last reported on petitioner feedback in 2010. Nevertheless, three quarters of the petitioners who provided feedback rated their experience with the petitions process as satisfactory, a substantial improvement from our 2010 feedback analysis.

5.66 We will continue to work to promote high-quality petition responses. We will also continue to consider information from petitions and responses when we plan audits and studies. These actions, among others, are designed to help petitions play their part in informing the federal government's management of environmental issues.

Part II—Update on Government Responses to Petitions on Hydraulic Fracturing

Background

5.67 Since 2010, the Commissioner of the Environment and Sustainable Development (CESD) has received three petitions (307, 308, 317) that express concerns about toxicity of the chemicals used for hydraulic fracturing and the lack of public disclosure about the chemicals used for hydraulic fracturing (see the petitions catalogue on the Office of the Auditor General website (www.oag-bvg.gc.ca)). As required, the ministers of Environment and Health have responded to these petitions. The Minister of the Environment's October 2011 response to petition 317 indicated that the Department was exploring options to help it gain a better understanding of the substances contained in hydraulic fracturing fluid, and that it was already reviewing the reporting requirements of the **National Pollutant Release Inventory (NPRI)** for the oil and gas sector to consider changes that would capture more information on oil and gas activities.

National Pollutant Release Inventory (NPRI)—A publicly accessible database that is managed by Environment Canada. It contains information on annual on-site releases of specific substances to the air, water, and land, as well as disposals and off-site transfers for recycling that originate from industrial and institutional sources.

5.68 This is not an audit report. The following summary is intended to provide parliamentarians and petitioners with an update on developments since the ministers of the Environment and Health responded to the petitions.

5.69 We interviewed and obtained documentation from Environment Canada and Health Canada officials to follow up on

- the status of the NPRI review that Environment Canada said was under way in its response to the 2011 petition (317), and
- actions taken by the departments to better understand substances used in hydraulic fracturing.

5.70 In addition, we spoke to officials at the National Energy Board, provincial officials responsible for permitting oil and gas activities, industry associations, and experts in Canada and the United States.

Hydraulic Fracturing in Canada

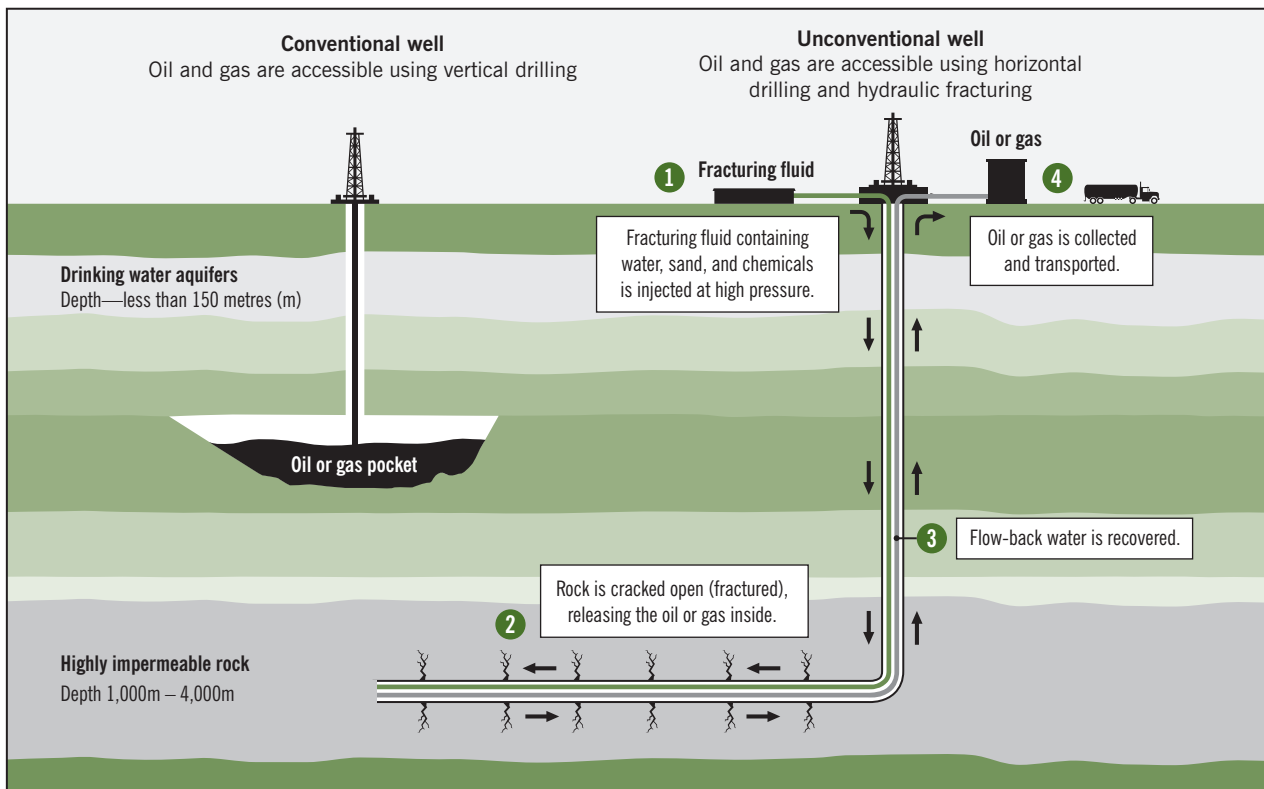
The hydraulic fracturing process

Unconventional oil and gas resources— Unconventional oil and gas are found in highly impermeable rock formations, which may require hydraulic fracturing to enhance their permeability. Tight gas, shale gas, and coal-bed methane are all forms of unconventional gas.

5.71 Hydraulic fracturing is a process that uses very high pressure to inject large volumes of fluid containing chemicals and agents, such as sand, into rock formations. This process fractures the rock and releases trapped oil and gas. The agents used in the process keep the formations open after fracturing to allow the oil or gas to flow to the well head.

5.72 In Canada, hydraulic fracturing dates back to the 1950s. In 2005, new technologies, including multi-stage fracturing and horizontal drilling, have made **unconventional oil and gas resources** commercially viable to recover. These new technologies have raised concerns because hydraulic fracturing for unconventional resources uses much larger volumes of water and chemicals than processes used for extracting conventional resources (Exhibit 5.3).

Exhibit 5.3 The hydraulic fracturing process



Note: Not to scale, and typical depths are indicated.

5.73 Fracturing fluid consists of water, sand, and chemicals that include friction reducers, biocides, solvents, surfactants, scale inhibitors, and acids (Exhibit 5.4). Waste (or flow-back water) from the process contains the substances injected into the well together with minerals and salts released from the fractured rock formation. The flow-back water may also include heavy metals and radioactive isotopes.

5.74 On average, fracturing a shale gas well requires 11 million litres of water. The chemicals make up between 0.5 percent and 2 percent of the fluid, or between 55,000 and 220,000 litres of chemicals per well. Between 50 and 80 percent of this fluid returns to the surface, where it can be reused or stored before being disposed of.

Exhibit 5.4 The role of various substances in the hydraulic fracturing process

Friction reducers—Minimize friction in the well.

Biocides—Eliminate bacteria that produce corrosive by-products.

Solvents—Extract impurities from natural gas and are used for clearing and de-icing.

Surfactants—Increase the viscosity of the fracturing fluid.

Scale inhibitors—Prevent deposits from forming in the well and surface equipment.

Acids—Dissolve minerals and initiate cracks in the rock formation.

**Production of
unconventional resources**

5.75 Estimates of the number of wells that have been fractured in Canada vary widely. The National Energy Board told us that since the 1950s, over 200,000 wells have been hydraulically fractured in western Canada. While comprehensive data is not available for each province, the British Columbia Oil and Gas Commission told us that more than 7,300 wells have been fractured in British Columbia since 2005, and that between 500 and 1,000 new wells are being permitted in the province each year, the majority of which will use hydraulic fracturing.

5.76 Deposits of shale gas exist in many regions of Canada (Exhibit 5.5). Current production is concentrated in Alberta and in British Columbia. Quebec and Nova Scotia are not permitting new hydraulic fracturing activities for shale gas pending reviews of the environmental impacts and the identification of best management practices.

Growth in the production of unconventional natural gas

5.77 Natural gas is one of the main sources of domestic energy in Canada—about 30 percent of Canada’s energy needs are met by natural gas—and it represents an important export industry. Natural gas provided \$15 billion in export revenue to producers in 2010. According to Environment Canada, the supply portfolio for North American natural gas is shifting from being primarily made up of conventional sources to being dominated by unconventional sources. Shale gas is being referred to as a “game changer” or the “next big oil sands.” According to National Energy Board published data, within the next 10 years, unconventional gas production is expected to increase by more than 50 percent and almost double over the next 20 years (Exhibit 5.6).

Exhibit 5.5 Shale gas in North America



Source: Adapted from National Energy Board, *A Primer for Understanding Canadian Shale Gas*, 2009

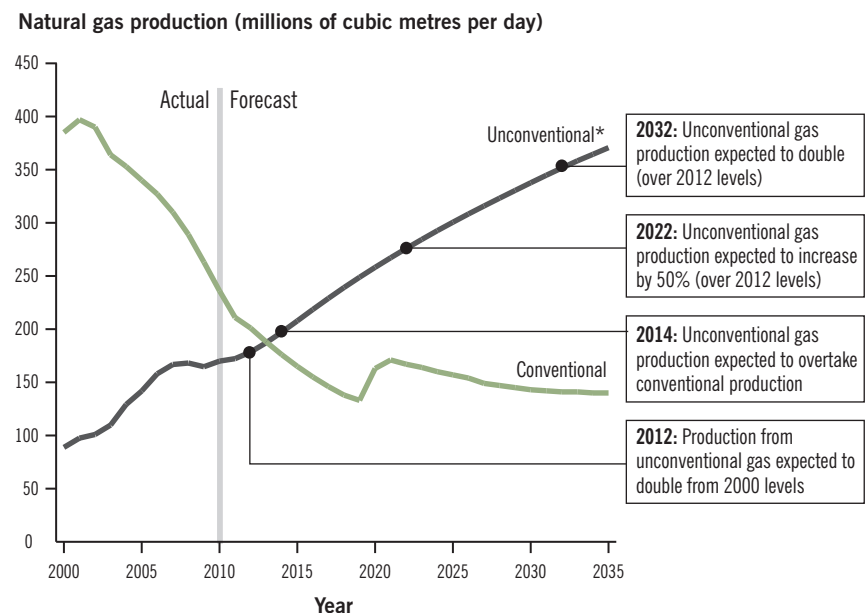
Industry guiding principles

5.78 In September 2011, the Canadian Association of Petroleum Producers (CAPP), which represents member companies producing more than 90 percent of Canada's natural gas and crude oil, issued guiding principles for hydraulic fracturing. These principles are intended to guide water management and improve reporting on the use of water and fluids in unconventional gas resource development in Canada. In January 2012, CAPP announced six operating practices covering issues such as

- public disclosure of hydraulic fracturing substances,
- baseline groundwater testing, and
- well construction and quality assurance.

5.79 CAPP members developed the hydraulic fracturing practices voluntarily. According to the Association, these practices were developed to inform and complement regulations, not as a substitute for regulatory oversight.

Exhibit 5.6 Projected growth of unconventional natural gas production in Canada



* Unconventional natural gas production is calculated using the National Energy Board's projections for shale gas, tight gas, and coal-bed methane production.

Source: Based on National Energy Board projections for natural gas production

Federal roles and responsibilities under the *Canadian Environmental Protection Act, 1999*

5.80 Under the *Canadian Environmental Protection Act, 1999* (CEPA 1999), Health Canada and Environment Canada share the mandate for assessing whether substances used in Canada are toxic to human health or the environment. According to CEPA 1999, a substance is toxic if it is entering or may enter the environment in a quantity or concentration or under conditions that

- (a) have or may have an immediate or long-term harmful effect on the environment or its biological diversity,
- (b) constitute or may constitute a danger to the environment on which life depends, or
- (c) constitute or may constitute a danger in Canada to human life or health.

5.81 CEPA 1999 requires Environment Canada and Health Canada to develop control measures for substances determined to be toxic or capable of becoming toxic. Environment Canada also maintains the National Pollutant Release Inventory, which, as stated earlier, is a legislated, publicly accessible inventory of pollutant releases, disposals, and transfers for recycling.

5.82 In addition, under the *Pest Control Products Act*, Health Canada has the mandate to prevent unacceptable risks to people and the environment from the use of pest control products, such as biocides and antimicrobials. These chemicals are also used in fracturing fluid. Such products must be registered prior to import, sale, or use in Canada.

Follow-up on Petition Responses

Status of the National Pollutant Release Inventory review

5.83 We asked Environment Canada for an update on the status of its review of the National Pollutant Release Inventory (NPRI) that the Department said was under way in October 2011.

5.84 According to Environment Canada, the NPRI is a “major starting point for identifying and monitoring sources of pollution in Canada and in developing indicators for the quality of our air, land, and water. NPRI information also helps to determine if regulatory or other action is necessary to ensure pollution reductions, and if so, the form that action should take.”

5.85 The Minister of the Environment has discretion regarding industry reporting requirements. Environment Canada told us that oil and gas exploration and drilling activities are exempt from reporting to the NPRI.

5.86 According to Environment Canada, in order to consider whether changes to NPRI reporting requirements are warranted, the Department needs to know specifically what substances are used for hydraulic fracturing as well as their volumes and concentrations. Environment Canada and Health Canada told us that while a partial list of substances that are likely to be used in hydraulic fracturing has been developed, a complete list of substances used in Canada is not known.

5.87 Environment Canada informed us that it has initiated internal discussions on the NPRI review, but that official stakeholder engagement and consultations have not been initiated. Both Environment Canada and Health Canada told us that they consider hydraulic fracturing to be an emerging global issue that they are beginning to investigate. Environment Canada told us that it expects to complete the review and determine whether changes are warranted by March 2014.

Actions to date

Responding to emerging risks

5.88 We asked Environment Canada and Health Canada what they have done to identify and assess the risks posed by hydraulic fracturing substances. They told us that, under the *Canadian Environmental Protection Act, 1999* (CEPA 1999), they are able to consider new information and, if appropriate, assess and manage identified risks to protect human health and the environment. The departments informed us that they are following a three-step approach for responding to emerging issues, such as hydraulic fracturing:

- identifying the substances being used,
- assessing risks to the environment or human health, and
- establishing control measures to manage the risks posed by substances determined to be toxic or capable of becoming toxic.

5.89 Step 1: Identifying the substances used for hydraulic fracturing in Canada. Environment Canada and Health Canada indicated that they are currently gathering information to develop a path forward for hydraulic fracturing substances, which may or may not include proceeding with risk assessments and risk management.

5.90 The departments told us that they are considering a voluntary survey of companies engaged in hydraulic fracturing to gather information on the substances and how they are being used. They expect to receive responses by the end of March 2013. Depending on the outcome of the survey, additional information may need to be gathered.

5.91 Step 2: Assessing the risks of substances used in hydraulic fracturing. The departments have developed a partial list of more than 800 substances known to be used or suspected to be used for hydraulic fracturing in the United States and parts of Canada. Officials told us that although the departments have not carried out risk assessments on the use of these substances for hydraulic fracturing, 33 of the substances on the list had previously been assessed as toxic in other applications (for example, benzene in gasoline).

5.92 According to officials, 190 of the substances known to be used or suspected to be used for hydraulic fracturing are also used in other applications in Canada. These applications are scheduled for risk assessment between now and 2020. However, the departments have not yet decided whether to carry out risk assessments of the substances when used for hydraulic fracturing. The departments informed us that a risk assessment typically requires a minimum of 18 months per substance, assuming that sufficient data is available and the necessary methodologies exist.

5.93 The substances being used for hydraulic fracturing represent a subset of the many substances being used in Canada. Health Canada and Environment Canada have committed to assessing about 4,300 substances currently used in Canada by 2020.

5.94 Step 3: Controlling the risks associated with toxic substances. Under CEPA 1999, Environment Canada and Health Canada are required to develop control measures for substances determined to be toxic or capable of becoming toxic. Control measures, such as regulations and pollution prevention plans, are intended to reduce the risks associated with the use and release of toxic substances. Environment Canada informed us that it takes about three years to establish control measures.

5.95 Officials also told us that these timelines could be accelerated where there is evidence of a significant emerging risk to human health or the environment. CEPA 1999 states that “the Government of Canada shall exercise its powers in a manner that protects the environment and human health [and] applies the precautionary

principle [such] that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation [...].”

New substances

5.96 Under CEPA 1999, companies intending to bring new substances into Canada must notify Environment Canada and Health Canada. The departments must assess new substances within a specific time frame.

5.97 Environment Canada and Health Canada informed us that they have carried out 27 such assessments related to industry notifications of new substances used for hydraulic fracturing. As a result of these assessments, the departments imposed restrictions on the manner in which two substances can be disposed of.

Other activities

5.98 The departments told us that they have undertaken a number of research projects to assess the impacts of hydraulic fracturing. For example, in November 2011, Environment Canada completed a report identifying the potential impacts of natural gas production on groundwater quality as well as scientific gaps, and in May 2012, Health Canada completed a report identifying the potential health hazards related to drinking water and ambient air.

5.99 In October 2011, the federal government commissioned the **Council of Canadian Academies** to assess the state of knowledge of potential environmental impacts from the exploration, extraction, and development of Canada’s shale gas resources, as well as the state of knowledge of mitigation options for environmental impacts. The results of the assessment are expected in mid- to late 2013.

Council of Canadian Academies—An independent, not-for-profit corporation that supports science-based, expert assessments (studies) to inform public policy development in Canada.

Conclusion

5.100 Environment Canada and Health Canada told us that they are still working toward gaining a better understanding of the substances contained in hydraulic fracturing fluid and the risks associated with the hydraulic fracturing process. This information is expected to inform Environment Canada’s review of the reporting requirements of the National Pollutant Release Inventory for the oil and gas sector.

About the Annual Report and the Petitions Process

Objective

The objective of this annual report is to inform Parliament and Canadians about environmental petitions. In accordance with section 23 of the *Auditor General Act*, Part I of the report describes the number, nature, and status of petitions received, and the timeliness of responses from ministers. Part II of the report provides an update on the federal government's responses to petitions on hydraulic fracturing.

Scope and approach

The annual report on environmental petitions summarizes the monitoring of the petitions process by the Commissioner of the Environment and Sustainable Development within the Office of the Auditor General of Canada.

Period covered by the report

This annual report on environmental petitions covers the period from 1 July 2011 to 30 June 2012. The work for this report was completed on 17 September 2012.

The environmental petitions process

The environmental petitions process was created in 1995 through an amendment to the *Auditor General Act*. The process is a formal yet simple way for Canadians to obtain responses from federal ministers to their questions, concerns, and requests related to environmental issues that are within the federal government's mandate. There are 27 departments and agencies currently subject to the process. Under the Act, the Commissioner of the Environment and Sustainable Development administers the process on behalf of the Auditor General, and is required to present to Parliament an annual report on petitions and responses, covering the 12-month period from 1 July to 30 June of the following year.

Any Canadian resident may submit an environmental petition, acting alone or on behalf of an organization, business, or municipality. Since the launch of the process in 1995, the Office has received more than 400 petitions. Topics have varied widely, from the impact of a development on a local stream to the right of all Canadians to a healthy environment. Petitioners have used the petitions process to ask for information, investigations, specific actions, and policy changes.

When a petition is received by the Office, the petition is forwarded to the federal ministers responsible for the issues raised. The ministers must reply in writing to the petition within 120 calendar days. Ministers are required to notify the petitioner before the end of this period if they do not expect to be able to meet the timeline. These requirements are clearly specified in the *Auditor General Act*, which states that ministers must respond to each petition. While ministers must answer a petitioner's questions in a timely manner, they have discretion with respect to taking action on the issues raised. The following table outlines the petitions process.

The environmental petitions process and the role of the Commissioner of the Environment and Sustainable Development

Environmental petitions process			
Starting a petition	A Canadian resident submits a written petition to the Auditor General of Canada.		
Reviewing a petition	<p>The Commissioner reviews the petition to determine whether it meets the requirements of the <i>Auditor General Act</i>.</p> <table border="1"> <tr> <td> <p>If the petition meets the requirements of the <i>Auditor General Act</i>, the Commissioner will</p> <ul style="list-style-type: none"> determine the federal departments and agencies responsible for the issues addressed in the petition; send it to the responsible ministers; and send a letter to the petitioner, listing the ministers to whom the petition was sent. </td> <td> <p>If the petition does not meet the requirements of the <i>Auditor General Act</i>, the petitioner will be informed in writing.</p> <p>If the petition is incomplete or unclear, the petitioner will be asked to resubmit it.</p> </td> </tr> </table>	<p>If the petition meets the requirements of the <i>Auditor General Act</i>, the Commissioner will</p> <ul style="list-style-type: none"> determine the federal departments and agencies responsible for the issues addressed in the petition; send it to the responsible ministers; and send a letter to the petitioner, listing the ministers to whom the petition was sent. 	<p>If the petition does not meet the requirements of the <i>Auditor General Act</i>, the petitioner will be informed in writing.</p> <p>If the petition is incomplete or unclear, the petitioner will be asked to resubmit it.</p>
<p>If the petition meets the requirements of the <i>Auditor General Act</i>, the Commissioner will</p> <ul style="list-style-type: none"> determine the federal departments and agencies responsible for the issues addressed in the petition; send it to the responsible ministers; and send a letter to the petitioner, listing the ministers to whom the petition was sent. 	<p>If the petition does not meet the requirements of the <i>Auditor General Act</i>, the petitioner will be informed in writing.</p> <p>If the petition is incomplete or unclear, the petitioner will be asked to resubmit it.</p>		
Responding to a petition	<p>Once a minister receives a petition, he or she must</p> <ul style="list-style-type: none"> send a letter, within 15 days, to the petitioner and the Commissioner acknowledging receipt of the petition; and consider the petition and send a reply to the petitioner and the Commissioner within 120 days. 		

Ongoing petitions activities			
Monitoring	Reporting	Posting on the Internet	Auditing
The Commissioner monitors acknowledgement letters and responses from ministers.	The Commissioner reports to Parliament on the petitions and responses received.	The Commissioner posts petitions, responses, and summary information on the Internet, in both official languages.	The Office of the Auditor General considers issues raised in petitions when planning future audits.

Source: Adapted from the *Auditor General Act* and Getting Answers: A Guide to the Environmental Petitions Process

To assist petitioners, the Office has produced Getting Answers—A Guide to the Environmental Petitions Process. The guide, available on the Office of the Auditor General website (www.oag-bvg.gc.ca), describes the process in more detail and includes information on

- what kinds of requests can be made,
- how to write and submit an environmental petition,
- what the role of the Commissioner is, and
- what petitioners can expect from departments and agencies.

We also suggest a maximum of 5,000 words and no more than 20 questions or requests. While petitions exceeding those limits are acceptable and will be sent to departments for response, the Office reserves the right to not publish on its website petitions exceeding those limits. Since petitions remain the property of

petitioners, they are free to publish their petitions and the government responses in any manner they see fit. However, we recommend that they wait until the petition has been formally accepted and sent to the departments for response.

Petitions team

Principal: Andrew Ferguson

Directors: David Willey (Part I) and Doreen Deveen (Part II)

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For information, please contact Communications at 613-995-3708 or 1-888-761-5953 (toll-free).

Appendix Petitions activity (1 July 2011 to 30 June 2012)

This appendix includes a summary of the petitions (follow-up and new issues) received during the activity period noted above. To access the full text of petitions and responses from the creation of the environmental petitions process in 1995 to 30 June 2012, go to the petitions catalogue on our website. If necessary, paper copies of the catalogue can be obtained on request.

Petition 301D: Follow-up petition on the alleged misinterpretation of exclusion list conditions under the *Canadian Environmental Assessment Act* related to the construction of a communications tower in Pontiac, Quebec

Date received: 30 December 2011

Petitioner: James Riordan

Summary: Following up on departmental responses to his previous petitions, the petitioner asks Industry Canada to provide the actual size of the project’s “footprint” and to explain why the footprint does not include the land occupied by the project. The petitioner also asks Justice Canada about the interpretation of “footprint” under the *Canadian Environmental Assessment Act’s Exclusion List Regulations*.

Issues: Environmental assessment, and science and technology

Federal departments responsible for reply: Industry Canada, Department of Justice Canada

Status: Completed

Petition 310B: Follow-up on the health and environmental impact of endocrine disrupting substances in cosmetics

Date received: 30 November 2011

Petitioners: David Suzuki Foundation and Réseau des femmes en environnement

Summary: In this follow-up petition, the petitioners allege that Health Canada’s response to Petition 310 regarding the presence of endocrine disrupting substances in cosmetics did not take into account the full priority list of suspected endocrine disrupting substances developed by the European Union in a series of studies since 2000. The petitioners also inquire whether the Department actively monitors international developments in endocrine disruption science and policy.

Federal department responsible for reply: Health Canada

Issues: Human and environmental health, and toxic substances

Status: Completed

Petition 319: Potential impact on amphibians and fish due to the application of pesticides in the shoreline and wetlands of the Great Lakes

Date received: 13 July 2011

Petitioner: Nancy Moysiuk

Summary: The petitioner is concerned about the application of pesticides to control invasive plants in the shoreline and wetlands of the Great Lakes and its potential impact on amphibians and fish. The petitioner asks whether “temporary water” could also fit the definition of “sensitive aquatic habitat” under the Pest Management Regulatory Agency’s classification of water bodies. The petitioner also asks whether the *Pest Control Products Act* and the *Fisheries Act* are being contravened by applying pesticides in and around such water bodies.

Issues: Biological diversity, pesticides, toxic substances, and water

Federal departments responsible for reply: Fisheries and Oceans Canada, Health Canada

Status: Completed

Petition 320: The pesticide evaluation process under the *Pest Control Products Act*

Date received: 26 July 2011

Petitioner: West Coast Environmental Law

Summary: The petitioner seeks to understand how the Pesticide Management Regulatory Agency evaluates and approves pesticides, including which health effects are assessed and how user compliance with label requirements is taken into account. The petitioner also asks the Agency how it monitors the extent to which label requirements are being followed and how it determines the “acceptable value” of pesticides used primarily for cosmetic purposes.

Issues: Compliance and enforcement, human and environmental health, pesticides, and toxic substances

Federal department responsible for reply: Health Canada

Status: Completed

Petition 321: The impact of pesticides on the health of farm workers and their families

Date received: 26 July 2011

Petitioner: West Coast Environmental Law

Summary: The petitioner seeks to understand the efforts of Health Canada’s Pesticide Regulatory Management Agency to protect farm workers and their families from the impact of pesticides. The petitioner inquires whether the Agency considers both occupational and non-occupational exposure when assessing total exposure for farm workers. The petitioner also asks about Health Canada’s research on the incidence of pesticide-related illnesses in infants and children of farm workers in Canada. In addition, the petitioner asks whether Health Canada provides translation of pesticide usage labels based on the language needs of migrant agricultural workers to minimize the risk of applying pesticides incorrectly.

Issues: Human and environmental health, pesticides, and toxic substances

Federal department responsible for reply: Health Canada

Status: Completed

Petition 322: Regulatory requirements for developmental toxicity testing of new and existing chemicals

Date received: 29 August 2011

Petitioners: Learning Disabilities Association of Canada and Canadian Institute of Child Health

Summary: The petitioners are concerned about regulatory requirements for developmental toxicity testing in Canada. The petitioners claim that the policies and regulations under the *Canadian Environmental Protection Act, 1999* fail to adequately address the special vulnerabilities of children and fetuses in health risk assessments for new and existing chemicals. The petitioners ask the federal government about its plans for updating developmental test guidelines. The petitioners also ask about its research priorities for identifying effects from these substances, including endocrine disrupting chemicals.

Issues: Human and environmental health, and toxic substances

Federal departments responsible for reply: Environment Canada, Health Canada

Status: Completed

Petition 323: Environmental assessment of finfish (salmon) aquaculture in Nova Scotia

Date received: 22 September 2011

Petitioner: St. Mary's Bay Coastal Alliance Society

Summary: The petitioner raises concerns about the environmental assessment of finfish (salmon) aquaculture in St. Mary's Bay, Nova Scotia. In particular, the petitioner is concerned about the quality of the cumulative effects assessment, the extent to which the precautionary principle was applied, and a lack of information to assess the impact on lobster fisheries in the area. The petitioner also asks about the socio-economic impacts of salmon aquaculture in the region.

Issues: Environmental assessment, fisheries, and water

Federal departments responsible for reply: Atlantic Canada Opportunities Agency, Environment Canada, Fisheries and Oceans Canada, Transport Canada

Status: Completed

Petition 324: Concerns about the re-evaluation of the pesticide dimethoate

Date received: 14 October 2011

Petitioner: West Coast Environmental Law

Summary: The petitioner is concerned about Health Canada's re-evaluation of the pesticide dimethoate. In particular, the petitioner is concerned about the data used to evaluate dosage risks, health risks to agricultural workers, environmental risks to aquatic and terrestrial biodiversity, and the potential cumulative effects when dimethoate is used with other pesticides. The petitioner is also concerned about the uncertainty in the post-application assessment of dimethoate use on crops, the clarity for pesticide use labelling, and the nature of consultations with agricultural workers.

Issues: Agriculture, biological diversity, human and environmental health, and pesticides

Federal departments responsible for reply: Health Canada

Status: Completed

Petition 325: Use of the Cosmetic Ingredient Hotlist to manage potentially toxic and carcinogenic substances in cosmetics

Date received: 25 October 2011

Petitioners: Canadian Environmental Law Association and Chemical Sensitivities Manitoba

Summary: The petitioners are concerned about the use of potentially toxic and carcinogenic substances in cosmetic and personal care products, as well as the effectiveness of Canadian regulations and policies related to the management of those substances. The petitioners ask Health Canada about its decision-making process related to the Cosmetic Ingredient Hotlist, which restricts or prohibits certain toxic substances in cosmetics that may be harmful to human health. The petitioners also ask about the compliance of cosmetic manufacturers, importers, and distributors with notification requirements, and they raise concerns about public access to information.

Issues: Compliance and enforcement, human and environmental health, and toxic substances

Federal departments responsible for reply: Environment Canada, Health Canada

Status: Completed

Petition 326: Effectiveness of pollution prevention aspects of the St. Lawrence Action Plan

Date received: 20 December 2011

Petitioner: A Canadian resident

Summary: The petitioner seeks information about federal funding in the various phases of the federal–provincial St. Lawrence Action Plan earmarked to decrease water pollution in the St. Lawrence River. In addition, the petitioner inquires about the pollution reduction results achieved by the plans, as well as the proportion of pollution coming from sources upstream of the St. Lawrence River. The petitioner also inquires about the effectiveness of action plans that aimed to reduce the impact of the agricultural use of pesticide and fertilizer on the river. Further, the petitioner asks about the criteria that the federal government uses to determine whether it is more effective to invest in one province or another for the optimal protection of aquatic ecosystems.

Issues: Agriculture, fisheries, and water

Federal departments responsible for reply: Agriculture and Agri-Food Canada, Environment Canada, Fisheries and Oceans Canada

Status: Completed

Petition 327: Environmental assessment of a project to deliver jet fuel to the Vancouver International Airport

Date received: 21 December 2011

Petitioner: Vancouver Airport Pipeline Opposition Richmond (VAPOR)

Summary: The petitioner is concerned about the environmental assessment of a project to deliver jet fuel to the Vancouver International Airport by ships and a pipeline. The petitioner expresses concern about the potential environmental impact that such a project could have on the Fraser River Estuary's ecosystems and on the municipality of Richmond, British Columbia. The petitioner asks why projects of this type do not trigger a public review under the *Canadian Environmental Assessment Act* and why, under harmonization agreements, the

federal government appears to allow its statutory responsibilities to be assessed by its provincial counterparts. The petitioner also asks why other delivery options have not been considered.

Issues: Environmental assessment, federal–provincial relations, toxic substances, transport, and water

Federal departments responsible for reply: Environment Canada, Fisheries and Oceans Canada, Transport Canada

Status: Completed

Petition 328: Implementation status of the *Wastewater Systems Effluent Regulations*

Date received: 28 December 2011

Petitioner: Anthony Bratschitsch

Summary: The petitioner seeks information on the implementation status of the federal government's proposed *Wastewater Systems Effluent Regulations*. In particular, the petitioner inquires about changes to the regulations resulting from the consultation process and asks how the training, performance measurement, and enforcement aspects of the proposed regulations will be implemented. The petitioner also asks whether the federal government has compiled public health information for the purpose of establishing wastewater effluent standards.

Issues: Compliance and enforcement, human and environmental health, waste management, and water

Federal departments responsible for reply: Environment Canada, Health Canada

Status: Completed

Petition 329: Government of Canada actions and plans for climate change, environmental accounts, fossil fuel subsidies, fair trade procurement, and public consultation in preparing the government's position for Rio+20

Date received: 29 December 2011

Petitioner: One Earth Initiative Society

Summary: The petitioner asks about the Government of Canada's consultation with the public and provinces in preparing its position prior to the 2012 United Nations Conference on Sustainable Development (Rio+20). The petitioner also seeks clarification about Canada's withdrawal from the Kyoto Protocol, about its future plans and regulations to reduce its greenhouse gas emissions, and about its reporting on reductions. The petitioner asks the government about its carbon pricing plans and how it measures financial assistance to the oil and gas sector. In addition, the petitioner asks whether the government intends to develop and use alternative measures, such as well-being indicators, in addition to traditional measures of economic activity, such as gross domestic product, and if it plans to integrate fair trade concerns into public procurement.

Issues: Climate change, federal–provincial relations, governance, international cooperation, and natural resources

Federal departments responsible for reply: Environment Canada, Department of Finance Canada, Foreign Affairs and International Trade Canada, Industry Canada, Natural Resources Canada, Public Works and Government Services Canada, Treasury Board of Canada Secretariat

Status: Completed

Petition 330: Federal environmental assessment of a highway expansion project in Ontario

Date received: 18 January 2012

Petitioner: Ryan Minor

Summary: The petitioner seeks clarification on how the federal government carried out an environmental assessment of the Highway 69 expansion project in Ontario. The petitioner is concerned that the federal government was unable to make a decision on the environmental assessment of the project as a whole and that it now plans to assess the highway expansion as five separate projects. The petitioner asks the federal government to explain its policy for determining the scope of highway projects under the *Canadian Environmental Assessment Act*.

Issues: Environmental assessment, and transport

Federal departments responsible for reply: Aboriginal Affairs and Northern Development Canada, Fisheries and Oceans Canada, Transport Canada

Status: Completed

Petition 331: Funding for endangered freshwater fish under the Habitat Stewardship Program

Date received: 20 January 2012

Petitioner: A Canadian organization

Summary: The petitioner is seeking information about a funding decision under the Habitat Stewardship Program for Species at Risk (HSP). The petitioner has received HSP funding for projects related to the conservation of two endangered freshwater fish since the 2001–02 fiscal year, but did not receive funding for the 2011–12 fiscal year. The petitioner asks the federal government to explain the rationale behind its funding decision for these specific projects as well as the overall ranking and allocation of funds within the region and for projects on aquatic species. The petitioner also requests a list of all funded projects and the amount of funding allocated since the launch of the HSP.

Issue: Biological diversity, and fisheries

Federal departments responsible for reply: Environment Canada, Fisheries and Oceans Canada

Status: Completed

Petition 332: Alleged perfluorocarbon contamination at the Hamilton International Airport

Date received: 27 March 2012

Petitioner: Joe Minor

Summary: The petitioner is concerned about high levels of perfluorocarbons found in waters near the Hamilton International Airport and their potential impact on the environment and on human health. The petitioner believes that the contamination may be related to the prior use of fire-fighting foam that contained perfluorooctane sulfonate (PFOS) at the airport, which is upstream of the Welland River and Lake Niapenco. The petitioner seeks information on the historical use of PFOS at the Hamilton International Airport and requests investigative action into possible infractions of the *Fisheries Act*. He asks the government to review the *Perfluorooctane Sulfonate Virtual Elimination Act* and to review scientific literature to establish safe exposure limits. The petitioner also asks the government to identify other sites that may be potentially contaminated with PFOS.

Issues: Fisheries, governance, human and environmental health, and toxic substances

Federal departments responsible for reply: Environment Canada, Fisheries and Oceans Canada, Health Canada, National Defence, Public Health Agency of Canada, Public Works and Government Services Canada, Transport Canada, Treasury Board of Canada Secretariat

Status: Replies received but not yet posted

Petition 333: Federal support to facilitate a Property Assessed Payments for Energy Retrofits program

Date received: 28 March 2012

Petitioners: David McRobert, Legal Consultant; William E. Johnston M.A., LL.B.; Janet Gasparini; Love Energy Consultants; Sustainable Alternatives Consulting Inc.

Summary: The petitioners request a review of federal policies, legislation, regulations, and technical guidance to facilitate municipal implementation of a Property Assessed Payments for Energy Retrofits (PAPER) program. The petitioners describe potential benefits of a PAPER program for the federal government, including achieving targets for reductions in energy use and greenhouse gas emissions, as well as potential economic stimulus through job creation.

Issues: Climate change, federal–provincial relations, governance, and other

Federal departments responsible for reply: Environment Canada, Department of Finance Canada, Natural Resources Canada, Public Works and Government Services Canada

Status: Replies received but not yet posted

Petition 334: Environmental effects monitoring information and reports related to the *Metal Mining Effluent Regulations*

Date received: 10 April 2012

Petitioner: Mining Watch Canada

Summary: The petitioner is concerned about public access to environmental effects monitoring data related to metal mining. The petitioner also expresses concern about the extent of government reporting on the monitoring program overall. The petitioner asks Environment Canada whether the monitoring program results to date have led to site-specific remediation measures. In addition, the Department is asked how it implemented recommendations from a multi-stakeholder environmental effects monitoring review team in 2007.

Issues: Compliance and enforcement, fisheries, governance, and toxic substances

Federal department responsible for reply: Environment Canada

Status: Reply received but not yet posted

Petition 335: Energy efficiency standards for domestic gas water heaters

Date received: 13 April 2012

Petitioner: Tom Gibeault

Summary: The petitioner raises concerns about energy efficiency standards for domestic gas water heaters. The petitioner asks Natural Resources Canada about the process for updating the standard, including how stakeholder and public comments were dealt with. He also requests information about the decisions made regarding projects that were submitted under the ecoEnergy Innovation Initiative.

Issues: Climate change, and science and technology

Federal department responsible for reply: Natural Resources Canada

Status: Reply received but not yet posted

Petition 336: Federal policy, regulation, and approval regime for oil tankers in British Columbia

Date received: 16 April 2012

Petitioner: Ecojustice

Summary: The petitioner seeks clarification of federal policies, regulations, and the responsibilities of a number of departments for approving oil tanker operations in waters on the south coast of British Columbia. The petitioner is concerned about the potential risk of an oil spill and how it could affect the commercial, recreational, and ceremonial fisheries, as well as tourism in the Gulf Island communities. The petitioner also expresses concern about the risk such a spill could pose to Southern Resident Killer Whale populations and their habitat, which are protected under the *Species at Risk Act*.

Issues: Compliance and enforcement, governance, transport, and water

Federal departments responsible for reply: Environment Canada, Fisheries and Oceans Canada, Natural Resources Canada, Public Safety Canada, Transport Canada

Status: Replies received but not yet posted

Petition 337: Progress in completing the Bowie Seamount Marine Protected Area management plan and in establishing a national system of marine protected areas

Date received: 17 April 2012

Petitioner: WWF Canada

Summary: The petitioner asks Fisheries and Oceans Canada about the status of the Bowie Seamount Marine Protected Area management plan, which the federal government planned to complete within two years of its April 2008 designation as a marine protected area. The petitioner is also seeking information on the federal government's commitment to establish a national system of marine protected areas.

Issues: Biological diversity, compliance and enforcement, fisheries, and water

Federal department responsible for reply: Fisheries and Oceans Canada

Status: Reply received but not yet posted

Petition 338: Alleged discharge of contaminated water into a drainage ditch that empties into Lake Ontario

Date received: 14 June 2012

Petitioners: Alexander and Olivera Davidoff

Summary: The petitioners allege that contaminated water is discharging into a drainage ditch located behind a commercial building in St. Catharines, Ontario. The petitioners claim that the drainage ditch empties into Lake Ontario and are concerned about the potential impact of this discharge on the natural environment, including fish, fish habitat, and groundwater. The petitioners ask Environment Canada and Fisheries and Oceans Canada to investigate and to ensure that cleanup is carried out in a timely manner.

Issues: Fisheries, toxic substances, and water

Federal departments responsible for reply: Environment Canada, Fisheries and Oceans Canada

Status: Replies received but not yet posted

Petition 339: Potential impact on the environment of an animal-based diet, and potential health and environmental benefits of moving to a plant-based diet

Date received: 29 June 2012

Petitioner: Elena Gramma

Summary: The petitioner claims that livestock is a significant contributor to climate change and seeks information on the government's actions to educate Canadians on the potential impact of livestock on the environment. In addition, the petitioner asks about the government's actions to research the potential health and environmental benefits of plant-based diets and to inform Canadians on the matter.

Issues: Agriculture, climate change, and human and environmental health

Federal departments responsible for reply: Agriculture and Agri-Food Canada, Environment Canada, Department of Finance Canada, Health Canada, Public Health Agency of Canada

Status: Replies pending

