



November 2, 2021

The Right Honourable Prime Minister Justin Trudeau
Office of the Prime Minister
80 Wellington Street
Ottawa, ON K1A 0A2

Dear Prime Minister Trudeau:

Congratulations upon your re-election and best wishes for your next term in office.

We are writing to offer an expeditious win/win solution to a problem that your government faces regarding the credibility of Canada's nuclear safety regulator, the Canadian Nuclear Safety Commission (CNSC). Much of the information set out herein is drawn from a briefing for MPs Greg Fergus and Will Amos earlier this year by colleagues including the undersigned signatories, the Executive Director of the Canadian Environmental Law Association, and representatives of Pontiac Environment Protection and Concerned Citizens of Renfrew County and Area.

For many decades the same Minister of the Crown has overseen CNSC, as well as those responsible for promoting and developing nuclear power. The resulting conflict of interest has been recognized repeatedly by Parliamentary standing committees, expert panels, and civil society. The need to separate regulatory oversight from promotion of the sector is also found in clear guidance provided by the International Atomic Energy Agency (IAEA).

We understand that a mechanism to correct this problem is already provided under existing legislation. A number of years ago, the duty to "promote" nuclear power was removed from the legislation governing the Canadian Nuclear Safety Commission. At the same time, both that Act and the legislation governing AECL enabled the Governor in Council to appoint whichever Minister of the Crown it determines appropriate. Hence there is no longer any legislative obstacle to eliminating the conflict of interest inherent in having the Minister of Natural Resources responsible for both nuclear energy promotion and use including the work of the AECL on the one hand, and oversight of the safety regulator CNSC on the other.

Appointing a separate Minister to oversee the CNSC, such as the Minister of the Environment and Climate Change, who carries a related mandate under the Canadian Environmental Protection Act, would be a straight-forward mechanism to provide the required separation of oversight and avoid the oft competing objectives of nuclear promotion and nuclear safety being housed under the same Department. As noted earlier, this would be consistent with prior recommendations, IAEA guidance, and the current legal framework for federal regulation of the nuclear sector.

Canadian Environmental Law Association

T 416 960-2284 • F 416 960-9392 • 55 University Avenue, Suite 1500, Toronto, ON M5J 2H7 • cela.ca

We urge you to address this matter in the upcoming assignment of Ministerial responsibilities as it is time to act on this long-neglected issue.

Thank you for your consideration of this matter.
With regards,



Canadian Environmental Law Association
Per Theresa McClenaghan

Pontiac Environment Protection
Per Barry Stemshore

Concerned Citizens of Renfrew and Area
Per Ole Hendrickson

cc.: Hon. Minister Steven Guilbeault
Hon. Minister Jonathan Wilkinson
Greg Fergus MP Hull-Aylmer

Briefing Note on Nuclear Regulation Sept 2021

Ten years after an earthquake and tsunami in Japan triggered the worst nuclear accident since Chernobyl highly respected publications *The Economist* and *Nature* set out concerns over the technology's vulnerabilities^{1, 2}. Both focused on the roles of a captured regulator supported by pro-nuclear governments, and argued for better governance of the nuclear sector in developed and developing countries. *Nature* asked: "can the sector ever overcome public disapproval? are its benefits worth the risks and costs?" *The Economist* quoted an NGO: "Trust is not a renewable resource. Once you lose it that's it."

Canada is subject to these problems as set out recently in *The Hill Times*³. The Canadian Nuclear Safety Commission (CNSC) is aware of the issue as evidenced by its request for interested Canadians to complete an OECD survey on trust and has acknowledged that work is needed⁴. Results of the survey have been requested⁵.

Canada is failing to comply with its international legal obligations, including the requirement in Article 8 of the *Convention on Nuclear Safety* for the nuclear regulator to be independent of the industry and its proponents. The Canadian regulator, CNSC, currently reports to Parliament through the Minister of Natural Resources who has responsibilities for AECL and is an active promoter of the sector and controversial investments in small modular nuclear reactors.

This problem can easily be corrected under existing legislation. Section 2 of the *Nuclear Safety and Control Act* says "Minister means the Minister of Natural Resources or such member of the Queen's Privy Council for Canada as the Governor in Council may designate as the Minister for the purposes of this Act."

As a precedent for such action, in 2013 lead responsibilities for the Canadian Food Inspection Agency were shifted to the Minister of Health from the Minister of Agriculture⁶.

¹ *The Economist*:

<https://www.economist.com/asia/2021/03/06/the-fukushima-disaster-was-not-the-turning-point-many-had-hoped>

² *Nature*:

https://www.nature.com/articles/d41586-021-00580-4?utm_source=Nature+Briefing&utm_campaign=7de7a692f7-briefing-dy-20210305&utm_medium=email&utm_term=0_c9dfd39373-7de7a692f7-43796817

³ Reforms needed at Canadian Nuclear Safety Commission, say activists. *The Hill Times*, April 12, 2021
<https://www.hilltimes.com/2021/04/12/reforms-needed-at-canadian-nuclear-safety-commission/292381>

⁴ Theresa McClenaghan personal communication

⁵ Requested from OECD and CNSC contacts May 12/13 2021

⁶ <https://www.ctvnews.ca/politics/responsibility-for-cfia-shifting-to-health-canada-1.1492427>