



June 1, 2026

Pui Wai Yuen
Director
Uranium and Radioactive Waste Division
Department of Natural Resources
580 Booth Street, 19th Floor
Ottawa, Ontario
K1A 0E4

Delivered via email

RE: CIVIL SOCIETY RESPONSE TO 2026 REVIEW OF THE NUCLEAR LIABILITY AND COMPENSATION ACT

The undersigned environmental and civil society organizations and individuals provide the following comments in response to Natural Resource Canada's (NRCan's) call for comments regarding the 2026 review of Canada's *Nuclear Liability and Compensation Act* (NLCA).¹

These comments will reiterate comments several of us have provided to the department previously, as these issues remain outstanding. We also provide additional comments expressing a high level of concern regarding the proposal to provide for a lower required level of coverage for Small Modular Reactors; the undersigned oppose the proposal to do so.

¹ Natural Resources Canada (2021), "The Nuclear Liability and Compensation Act," online: <https://www.nrcan.gc.ca/our-natural-resources/energy-sources-distribution/nuclear-energy-uranium/nuclear-liability-compensation-act/19224>

I. SUMMARY OF CONCERNS

When the *NLCA* came into force in 2017, it increased the liability limit for nuclear operators from \$75 million to up to \$1 billion.² However, despite this increase in liability, two central and problematic features remain to Canada's liability regime, allowing nuclear proponents to be prioritized over the protection of public rights. First, nuclear suppliers and vendors are shielded from liability in the event of accidents. Second, the maximum liability for the highest risk facilities is capped at \$1 billion, shielding operators from total liability. Other facilities deemed to be "lower risk" have even lower liability limits.³

In the current 2026 consultation, the concern about the channeling of liability is noted, but the consultation paper states that changing it is inconsistent with international norms. We resist this justification. Firstly, Canada can exercise its own sovereignty on this question. There is precedent for doing so as for example, India, which also operates CANDU reactors has done. Secondly in our experience, members of the public do not understand this provision and when it is explained, are truly shocked to find that suppliers and contractors are shielded from liability. Thirdly this shielding provides an unjustifiable protection and subsidy to the supply chain of only this one energy type, which is inconsistent with a modern energy system. Fourthly if the industry remains unwilling to shoulder its own responsibilities in terms of contribution to risk then it is untenable to impose that risk on the surrounding population who has no control over the care, quality control, and actions of the members of that supply chain.

On the topic of quantum, both the existing cap of \$1 Billion and the proposed new cap of 1.2 Billion are wildly inadequate for any severe offsite accident that could occur, particularly in the locations of Canada's operating nuclear power plants.

With respect to Small Modular Reactors, an accident could still quite well massively exceed this arbitrary cap. In particular, we note that the one Small Modular Reactor for which construction is now licensed is located adjacent to operating CANDU reactors and there is the potential for three more to be constructed at that location in the future subject to approvals and other decision making. Multi-reactor accident risk could result in far greater consequences and there should absolutely be no lowering of the requirements under the Act.

In terms of the adequacy of the existing as well as proposed "cap", it is not set based on assessing quantum of damages that may occur from a severe offsite accident at one of Canada's nuclear power plants, nor adequacy of protection and compensation to surrounding communities, landowners, farms, and businesses; it is set only and on nothing else but the stated willingness of the insurance industry and the reinsurance market to provide coverage. The result is that almost all of the "real" exposure is foisted on to the surrounding population and of course as the department well knows, there is no ability for surrounding residents to purchase additional coverage; it is not available, largely because of the structure of this legislation.

² *Nuclear Liability and Compensation Act*, SC 2015, c 4, s 120 [*NLCA*]

³ Nuclear Liability and Compensation Regulations, SOR/2016-88

With respect to the 2026 review of the *NLCA*, we recommend that Canada:

1. Remove the shielding of the nuclear supply chain from liability and claims of negligence
2. Remove the \$1billion liability cap and make liability for negligence unlimited
3. Ensure that at a minimum, liability for the nuclear sector is established in a similar manner with the federally regulated oil and gas sector
4. Subject all reactors, regardless of design, to unlimited liability for negligence
5. Increase the requirement for a minimum of \$1 billion absolute liability for nuclear power plants and other facilities to \$13 billion akin to the coverage provided in the neighbouring US under the *Price Anderson Act*
6. Avoid providing lower coverage to Small Modular Reactors.

II. ABOUT US

(a) Canadian Environmental Law Association

The Canadian Environmental Law Association (CELA) is a non-profit, public interest organization established in 1970 for the purpose of using and improving existing laws to protect public health and the environment. For over 50 years, CELA has used legal tools, undertaken ground-breaking research and conducted public interest advocacy to increase environmental protection and the safeguarding of communities. CELA works towards protecting human health and the environment by actively engaging in policy planning and seeking justice for those harmed by pollution or poor environmental decision-making.

(b) Ontario Clean Air Alliance

The Ontario Clean Air Alliance (OCAA), established in 1997, successfully led the campaign to phase out the use of dirty coal power in Ontario. They are now working to move the province of Ontario to a 100% renewable electricity system.

(c) Concerned Citizens of Manitoba

The Concerned Citizens of Manitoba have been active in environmental affairs for over 45 years.

(d) Ralliement contre la pollution radioactive

The mission of Ralliement contre la pollution radioactive is to act voluntarily and collectively to promote responsible solutions for radioactive waste management that are safe for the

environment and the health of the population.

(e) Coalition for Responsible Energy Development in New Brunswick

The Coalition for Responsible Energy Development in New Brunswick (CRED-NB) is a coalition of grassroots groups and individuals that support a mission to advocate for truly clean renewable energy in New Brunswick to address the climate crisis. They work to increase the percentage of electricity generation from renewable sources such as wind, solar and geothermal, accompanied by rigorous energy efficiency, smart grid and storage capacity. CRED-NB is fighting for a nuclear-free energy future.

(f) Northwatch

Northwatch is a public interest organization concerned with environmental protection and social development in northeastern Ontario. Founded in 1988 to provide a representative regional voice in environmental decision-making and to address regional concerns with respect to energy, waste, mining and forestry related activities and initiatives, Northwatch has a long term and consistent interest in the nuclear chain, and its serial effects and potential effects with respect to northeastern Ontario.

(g) The Coalition for a Clean Green Saskatchewan

The Coalition for a Clean Green Saskatchewan promotes renewable energy for Saskatchewan and Canada.

(h) Citizens Against Radioactive Neighbourhoods

Citizens Against Radioactive Neighbourhoods (CARN) is a nonprofit organization created to stop the manufacturing of uranium oxide pellets in downtown Peterborough, located 25 metres from an elementary school.

(i) Durham Nuclear Awareness

Durham Nuclear Awareness is a volunteer group of concerned citizens dedicated to raising awareness about nuclear issues & risks facing the people & communities of Durham Region, an area home to not just one, but two very large multi-unit nuclear plants. DNA was born out of a need for people in Durham Region to come together, learn & empower themselves after the Chernobyl nuclear accident on April 26, 1986.

(j) We the Nuclear Free North

We the Nuclear Free North is an alliance of people and groups opposing a Deep Geological Repository for nuclear waste in Northern Ontario. We oppose the transport, burial and abandonment of this radioactive waste in our northern watersheds. We seek to engage the public in a discussion of the risks of such a repository. We demand transparency from agencies responsible for the production and management of such wastes.

(k) *M. V. Ramana*

M.V. Ramana is Professor and Simons Chair in Disarmament, Global and Human Security at the School of Public Policy and Global Affairs (SPPGA), University of British Columbia. He is the Director pro tem, SPPGA for the 2025-26 academic year. His research interests are in the broad areas of international security and energy supply. He is the author of *Nuclear is not the Solution: The Folly of Atomic Power in the Age of Climate Change* and *The Power of Promise: Examining Nuclear Energy in India*.

III. COMMENTS ON FIVE-YEAR REVIEW

(a) *Nuclear suppliers and vendors should not be exempt from liability*

Canada's approach to nuclear liability is that it limits liability to operators, meaning manufacturers of nuclear technologies, for instances, are not held liable for accidents that result from design choices.⁴ As a result, suppliers and contractors can engage in the nuclear sector with full immunity from being held liable by the public for any damage.

As logic dictates, when a party is insulated from financial risk, it views various trade-offs differently and by virtue of being indemnified, suppliers may make more risky design choices. We also have examples of this being true, where nuclear reactor suppliers have ignored warnings from scientists and safety officials because it would affect their revenues and profits.

The case of Fukushima and the supplier of the reactors there, General Electric Company (GE), offers a good example. The reactors that melted down at the Fukushima Daiichi Nuclear Power Plant were all of the Mark 1 Boiling Water Reactors (BWR) design from GE. General Electric has been aware of concerns about the Mark 1 containment design's ability to handle a buildup of hydrogen gas pressure if one of the cooling systems were to go down for decades.

In the mid-1980s, a nuclear official had asserted that in Mark 1 designs, the containments "had a 90 percent probability of bursting should the fuel rods overheat and melt in an accident".⁵ During

⁴ NLCA, s 9

⁵ Tom Zeller, 'Experts Had Long Criticized Potential Weakness in Design of Stricken Reactor', *New York Times*, 15 March 2011.

the 2011 Fukushima accident, fuel rods did overheat, melt, and release hydrogen, which exploded and overwhelmed the containment.

(b) Liability should not be capped at \$1 billion as it shields operators from total liability

The second problematic feature of Canada’s policy is the capping of liability at a level that is much lower amount than the actual costs of dealing with catastrophic accidents such as Chernobyl and Fukushima. Going by these experinces, \$1 billion is far too low to provide assurance of the ability to adequately compensate victims of a severe accident.

Estimates of damage from the Fukushima disaster range from nearly \$200 billion to over \$600 billion.⁶ Estimates for the costs imposed by the Chernobyl accident amount to nearly \$700 billion. In 2013, France’s nuclear safety institute estimated that a severe accident could end up costing \$580 billion.⁷

(c) Liability for the nuclear sector should be established in a manner similar to the federally regulated oil and gas sector

Canada’s nuclear liability framework is also less comprehensive than that of other major industries in Canada’s energy sector, namely oil and gas. As Table 1 sets out below, there are striking differences between oil and gas liability when compared to nuclear liability.

Table 1. Comparison of Liability in Energy Sector (existing)

	NUCLEAR	OIL & GAS
Absolute Liability Caps	\$1 billion maximum absolute liability	\$1 billion if no fault (absolute liability)
Damages for Negligence	No claim for negligence permitted	Unlimited if proven fault/negligence
Liability of supply chain (e.g. vendors, suppliers, contractors)	No – supply chain shielded	Yes – supply chain liable

⁶ BBC News (28 November 2016) “Japan Fukushima nuclear power plant ‘clean up costs double’, online: <https://www.bbc.com/news/world-asia-38131248>; The Japan Times (7 April 2017), “Real cost of Fukushima disaster will reach ¥70 trillion, or triple government's estimate: think tank”, online: <https://www.japantimes.co.jp/news/2017/04/01/national/real-cost-fukushima-disaster-will-reach-%C2%A570-trillion-triple-governments-estimate-think-tank/#.Xkh4IRd7mu4>

⁷ Reuters, (6 February 2013) “Major nuclear accident would cost France \$580 billion: study,” online: <https://www.reuters.com/article/us-france-nuclear-disaster-cost-idUSBRE91603X20130207>

First, in case of nuclear operators, the required financial assurance of up to \$1 billion depending on the type of facility is also a cap on operator liability. Thus, there is no possibility of any further liability to third party victims by the operator, even in case of operator or supplier negligence.

Second, unlike the nuclear sector, the oil and gas sector does not have a cap on liability should there be negligence or fault. If harm exceeds \$1 billion in an offshore oil and gas accident, for instance, all negligent parties are still potentially responsible to pay damages. In comparison to the nuclear sector, if harm exceeds \$1 billion in a nuclear accident, the only other potential source of compensation for victims of the accident is from the Canadian government by way of its discretionary decision to set up a taxpayer funded compensation fund.

Third, for oil and gas license holders, other responsible parties may be held liable if they are proven negligent. This joint and several liability can be apportioned among those found negligent by the court in proportion to their respective degrees of responsibility. Thus, suppliers and contractors have potential liability for their negligent actions. This is not the case for nuclear liability, where no other parties other than nuclear operators can be held liable whatsoever, even if their negligence contributed to accident-caused harm to third parties.

(d) All reactors, regardless of design, should be subject to unlimited liability

The 2026 review provides a timely opportunity to ensure unlimited liability within the nuclear sector and the removal of protection for the nuclear supply chain. This is particularly necessary because proposals for new nuclear power plants, like Small Modular Reactors (SMRs), are looking to weaken current liability rules as evidenced in the current proposal.⁸

The 2018 visioning document for SMRs in Canada written by the Canadian Nuclear Association, “A Call to Action: A Canadian Roadmap for Small Modular Reactors,” recommends:

The federal government should review liability regulations ... to ensure that nuclear liability limits for SMRs are aligned with the risks they pose, using a graded scale based on risk informed criteria.⁹

⁸ While there is no one accepted definition for an SMR, it generally refers to a more compact nuclear reactor designed producing 1 – 300 MW of electricity/heat; the term ‘modular’ refers to proponent’s hope that they can be assembled from factory produced modular rather than on site; see Blaise and Stensil (2020), “Small Modular Reactors in Canada: Eroding Public Oversight in Canada’s Transition to Sustainable Development,” online: <https://cela.ca/small-modular-reactors-in-canada-eroding-public-oversight-in-canadas-transition-to-sustainable-development/>

⁹ Canadian Small Modular Reactor Roadmap Steering Committee (2018) “A Call to Action: A Canadian Roadmap for Small Modular Reactors,” online: <https://smrroadmap.ca/>

In the 2021 SMR Action Plan, Canada “accepted” the Roadmap’s recommendation on nuclear liability, noting “based on their risk assessment, appropriate classes and liability amounts for different SMR categories will be made in the regulations of the NLCA.”¹⁰ SMR vendors would like to further lower the cap that is already too low. They also want to reduce the size of the emergency planning zones.

All reactors, including SMRs, are capable of severe accidents. While a smaller reactor could result in lower levels of damage because of the smaller in-core inventory of radioactive material and smaller amount of energy available for release during an accident, SMR vendors are typically not planning to build just one small reactor; they often plan to build a group of SMRs at the same site. In that case, the combined radioactive inventories are sizable, even in comparison with a large reactor.

It is necessary to recall that the Fukushima accident involved reactors that are relatively small. Daiichi 1 was only 440 MW in net power output. The radioactive contamination from those meltdowns extended far, and over 150,000 people had to be evacuated. The damage has been estimated as being at least \$200 billion, and possibly over \$600 billion. Thus, even a single SMR accident could result in damages in excess of \$1 billion. Lowering the liability below \$1 billion for SMRs is not justified.

IV. CONCLUSION

Based on the aforementioned comments, the Canadian Environmental Law Association, Ontario Clean Air Alliance, Coalition for Responsible Energy Development in New Brunswick, Northwatch, Concerned Citizens of Manitoba, Ralliement contre la pollution radioactive, The Coalition for a Clean Green Saskatchewan, Old Fort William Cottagers’ Association, Citizens Against Radioactive Neighbourhoods and undersigned individuals request NRCan to:

- 1. Remove the shielding of the nuclear supply chain from liability and claims of negligence**
- 2. Remove the \$1billion liability cap and make liability for negligence unlimited**
- 3. Ensure that at a minimum, liability for the nuclear sector is established in a similar manner with the federally regulated oil and gas sector**
- 4. Subject all reactors, regardless of design, to unlimited liability for negligence**
- 5. Increase the requirement for a minimum of \$1 billion absolute liability for nuclear power plants and other facilities to \$13 billion akin to the coverage provided in the neighbouring US under the *Price Anderson Act***
- 6. Avoid providing lower coverage to Small Modular Reactors.**

¹⁰ Canada’s Small Modular Reactor (2021) “SMR Action Plan,” online: <https://smractionplan.ca/>

Sincerely,

Theresa McClenaghan
Executive Director & Counsel
Canadian Environmental Law Association

Angela Bischoff
Director
Ontario Clean Air Alliance

Ann McAllister
Representative
Coalition for Responsible Energy Development
in New Brunswick

Brennain Lloyd
Project Coordinator
Northwatch

Dave Taylor
Spokesperson
Concerned Citizens of Manitoba

Ginette Charbonneau
Spokesperson
Ralliement contre la pollution radioactive

Karen Weingeist
Communications
The Coalition for a Clean Green Saskatchewan

Gail Cockburn
Signatory
Durham Nuclear Awareness

Peter Harris
Member
Citizens Against Radioactive Neighbourhoods

Susan O'Donnell
Coalition for Responsible Energy Development
in New Brunswick

We the Nuclear Free North
Wendy O'Connor
Signatory

Dr. M.V. Ramana
Professor