

# Regulatory Oversight Report on the Use of Nuclear Substances in Canada: 2016

October 12, 2017  
Ottawa, ON



Canadian  
Environmental Law  
Association  
EQUITY. JUSTICE. HEALTH.



An Environmental Review of the  
CNSC'S 2016 Regulatory Oversight  
Report on the Use of Nuclear  
Substances

*Submitted by:*  
Morten Siersbaek, Counsel  
Kerrie Blaise, Counsel

September 11, 2017

CELA Publication Number: 1131  
ISBN: 978-1-77189-837-9

Canadian Environmental Law Association  
T 416 960-2284 • F 416 960-9392 • 55 University Avenue, Suite 1500 Toronto, Ontario, M5J 2H7 • [cela.ca](http://cela.ca)



Canadian  
Environmental Law  
Association  
EQUITY. JUSTICE. HEALTH.

# CELA's Review of the Draft Report

## Who is the Canadian Environmental Law Association?

- A non-profit, public interest organization, funded by legal aid.
- Our objectives include:
  - Protecting the environment + advocating for environmental law reform.
  - Provide access to justice to those unable to afford it.
  - Long-term sustainable solutions to environmental concerns and resource use.
  - Use of precautionary measures to prevent harm to humans and ecosystems.



Canadian  
Environmental Law  
Association

EQUITY. JUSTICE. HEALTH.

# CELA's Review of the Draft Report

## CELA's approach when reviewing the Report

1. Identify environmental issues in the report.
2. Consider both actual and perceived issues.
3. Make recommendations to address these issues.

# CELA's Review of the Draft Report

## Contents of CELA's submission

- Both specific comments, recommendations and requests,
- and more general comments, such as the proposed inclusion of an Environmental chapter.

# Summary of CELA's findings:

# CELA's Findings (1):

## Inspections and reporting:

- Significant drop (12.6 %) in person days spent on compliance verification from 1,790 days to 1,564 days.
- Compliance with operating performance SCA: 87.4 %.
- This suggests a need for increased compliance verification to increase the level of compliance.



# CELA's Findings (2):

## Compliance:

- New compliance rating levels are somewhat misleading.
  - Combining the compliance levels C and D into the new compliance level BE (Below Expectations) may lead to an overly optimistic image of compliance.
- The performance of all licensees are averaged.
  - A certain percentage made adequate provisions, some did better than adequate, while others performed unacceptably.
  - Yet, the Report concludes: overall, licensees made adequate protection provisions.
- CELA finds such averaging to be misleading, as several licensees did not make adequate provisions.



# CELA's Findings (3):

## Compliance (continued):

- New rating levels + averaging of poor and above average protection = conclusions on compliance and protection are too optimistic.

# CELA's Findings (4):

## Protection standards and regulatory requirements:

- Lack of information on environmental protection programs.
  - Mentioned on page 4 of the Report, but no details provided.
- Need for further clarification of some aspects of the use of ALARA.
- Lack of specific references to individual provisions in the NSCA and its regulations.



# CELA's Findings (5):

## Protection standards and regulatory requirements: (continued)

- Worksheets contain little to no mention of environmental protection.
- Lack of detail on page 11 of the Report dealing with how licensees demonstrate protection of the environment.
- **In sum:**
  - The Report should include further information on protection standards and regulatory requirements,
  - and on how these standards and requirements are applied to licensees.



# CELA's Findings (6):

## Environmental Risks and exposures:

- Similarly, there is a lack of detailed information on environmental risks and exposures.
- It is possible that risks and exposures are actually low, but more information is needed to demonstrate this.



# CELA's Findings (7):

## Developments in protection - 2011-2016:

- Little appears to have changed in the review of environmental protection over the past several years.
- The CNSC appears to have found no impact on the environment for the past six years.
- CELA finds that insufficient information is provided to support this conclusion.
  - judgement is reserved for a future version of the Report with hopefully more information on environmental protection.



# CELA's Findings (8):

## Climate change considerations:

- Report should consider climate change and its effects on the integrity of stored and in-use nuclear substances.
- With an increasing frequency of catastrophic weather events, the climate resiliency of licensees should also be considered.

# CELA's Findings (9):

## Transporting nuclear substances:

- One million packages of nuclear substances are shipped on an annual basis in Canada.
- Need to consider how transportation, and shipping documents and emergency plans, can be improved to increase protection of human health and the environment.
- Draft Report should include greater consideration of the human health and environmental ramifications of transport and discuss how procedural improvements can be made, in light of reported accidents.

# CELA's Findings (10):

## CELA recommends an environmental chapter be added:

- S 24(4) of the NSCA requires all licences to “*make adequate provision for the protection of the environment*”.
- Several of CELA’s findings involve a lack of clarity re. environmental protection.
- And, the current Report focus is almost exclusively aimed at radiation protection and safety.

# CELA's Findings (11):

## CELA recommends an environmental chapter be added: (continued)

- A dedicated chapter would provide an opportunity to include an explicit assessment of the Environmental Protection SCA in the Report.
- An environmental chapter would also ensure a focused and more detailed review of environmental issues.
- Would provide an efficient way of addressing many of these issues identified by CELA and help improve the protection of the environment.
- And finally, it would help demonstrate compliance with s24(4).

# What's Next?

We welcome a dialogue about the Implementation of CELA's recommendations.

We look forward to hopefully review a new chapter on the Environment in next years draft Report.