

Speaking Notes
For
Denise Carpenter
President and CEO
Canadian Nuclear Association
7-Year Review of the
Canadian Environmental Assessment Act
Standing Committee on Environment and
Sustainable Development
24 November 2011
Check Against Delivery

Good morning Mr. Chairman, members of the Committee and the public.

I am here today to speak on behalf of the 70,000 people who work in Canada's nuclear industry. Everyone who works in our industry – be they managers, scientists, technicians, or construction workers – not only work in the communities that are home to our industry, but live there also. Ensuring the safety of our communities and protecting the environment that we live in, is therefore our first and most important priority.

The Canadian Nuclear Association has about 100 members working in uranium mining and exploration, fuel processing and electricity generation, and the production and advancement of nuclear medicine. As may be expected, many of our projects and activities are subject to the *Canadian Environmental Assessment Act*. In fact our Members have completed many Environmental Assessments in the ~15 year period that the Act has been in effect.

Environmental Assessment's have become an integral part of how we conduct our business and we have gained considerable insights from carrying them out. While we believe that Environmental Assessment is a valuable planning tool that leads to improved decision-making, we also believe that there are areas for improvement, particularly regarding **process efficiency and predictability**.

Our recommended improvements include the goal of “one-project, one-assessment, by the best-placed regulator”, that Environmental Assessments, or EAs, should be effective, that EA requirements should be proportional to the risks, that EA decisions should be consistent with permitting and authorization decisions and that EA processes and decision-making should be timely.

Please allow me to elaborate.

Regarding the principle of “One-project, One-assessment, by the Best-Placed Regulator”, it is our view that to be truly effective, a project should be subject to only one EA and that that EA should be conducted by the jurisdiction, or regulator with the most comprehensive knowledge of the project or industry - **the best-placed regulator**.

For most of our industry that would mean the Canadian Nuclear Safety Commission. The only exception would be within the province of Saskatchewan, where Canada’s uranium mining industry resides. While the CNSC is a knowledgeable regulator, one can never underestimate the value of local knowledge, whether it be local community, Aboriginal, or regulatory knowledge. In either case, our Members would recommend that the agency with the most appropriate authority over a project assume responsibility for the EA, and decision, and that

the one assessment satisfy both federal and provincial requirements.

If the province of Saskatchewan were designated the best-placed regulator for uranium mining, it would be fairly straightforward, as Saskatchewan has one central agency that is responsible for uranium mining EAs. In most situations, where the federal government is the best-placed jurisdiction, responsibility for EAs should be consolidated in a strengthened and appropriately resourced Canadian Nuclear Safety Commission, or CNSC.

The *Jobs and Economic Growth Act* went some distance towards achieving this consolidation by ensuring that where the CNSC is the full life-cycle regulator, their EA and licensing processes will “substitute” for the CEAA process. Recent efforts to establish a Memorandum of Understanding between the Canadian Environmental Assessment Agency and the CNSC, to allow the CNSC’s EAs to substitute for an EA by a Review Panel, also went some distance towards a single assessment process. However, there is an opportunity to build on these efforts, by further consolidating the CNSC licensing process and the EA process into a single process when Screenings are needed.

There is also an opportunity to improve the effectiveness of EAs so that Canadians can have confidence that they are fostering environmentally and socially responsible economic

activity. The intent of the Act is to “promote sustainable development and thereby achieve or maintain a **healthy environment** and **healthy economy**”. However, the focus is often on environmental, rather than economic aspects of projects. Improvements could be achieved through better integration of environmental, social and economic considerations and by increasing the precedent value of EAs. These steps would help ensure that EAs are fostering the environmentally responsible economic activity that underlies Canadian prosperity.

For example nearly 6000 federal EAs are conducted each year, requiring scientific studies and reports, but there is limited allowance for the application of these EAs to similar, or related projects. This situation could be improved by enhancing the precedent value of EAs, which would also increase their cost-effectiveness. Maximum use should be made of the information that has already been collected through previously completed EAs.

The scope of EAs should also be proportionate to the environmental risk. The Act allows for three types of EAs — Screenings, Comprehensive Studies and Review Panels - so that the more likely a project is to cause “significant adverse environmental effects”, the more substantive the process. But, because of overly-inclusive Law List Regulations, and under-

developed Exclusion List Regulations, routine administrative activities, such as approvals made pursuant to a licence – can trigger an EA.

That is because the EA process is triggered for projects involving the listed legal provision without consideration for the extent, or scope of the activity in question. Under the *Nuclear Safety and Control Act*, the process is triggered whenever a licence is issued, amended or an approval is issued pursuant to a licence. Such approvals should not trigger an EA when there are no new risks. The EA scope should instead focus on risks that were not previously addressed.

Known and manageable risks that were previously addressed through EAs and other regulatory processes should not be re-evaluated. It undermines the earlier process and leads to unnecessary duplication. This could be prevented by amending the Exclusion List Regulations to exempt minor approvals for existing facilities from another EA and modifying the Act to exempt activities that improve environmental performance.

Re-evaluation should also be avoided in subsequent authorization and permitting processes. Currently, the Act has no application to permitting, licensing or any of the other authorizations that are required following the EA; that in fact triggered the EA. As a result, these authorizations are not always consistent with the EA conclusions. The absence of

coordination is particularly apparent at the federal level where an authorization under the *Fisheries Act* may not be acceptable under the *Nuclear Safety and Control Act* licensing process.

Ideally, if an EA concludes that a project is unlikely to result in significant adverse environmental effects and the risks addressed by subsequent authorizations were previously addressed, then authorizations should be **certain and timely**.

To increase certainty, CNA members recommend that proponents be able to opt for the review of permits and other authorizations as early in the EA process as they chose. Also, *Fisheries Act* and other authorizations should be maintained as discrete processes, separate from the EA and not delay the EA decision.

Together these recommendations would improve the certainty and timeliness of EA processes. The duration of EA processes can be long and unpredictable. According to the Major Projects Management Office, the typical timeframe for approval of major projects in Canada is four years, not counting the studies carried out by the proponent. In some cases, even minor projects, subject to screenings, can take years.

The Act should be amended to ensure that EAs are conducted according to mandatory timelines, particularly for key steps. Service agreements outlining timelines for key steps would help ensure that they are undertaken within a reasonable

timeframe. Agreed timelines should also reflect the project complexity and be developed with input from the proponent.

In closing, we would like to reiterate that: i) once the best-placed regulator is identified, federal and provincial agencies should accept each other's processes and decisions as equivalent to their own, ii) EA decisions should focus on socio-economic as well as environmental factors as a means of fostering socially responsible economic activity, iii) previously assessed projects and activities should not be re-evaluated, iv) authorizations and permits should be consistent with previous assessments, and v) a formalized agreement should be established to improve the timeliness of the EA process.

At this time, we would be pleased to answer any questions.

Thank you.