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**Written submission from the
Nuclear Transparency Project**

**Mémoire du
Nuclear Transparency Project**

**Regulatory Oversight Report for
Uranium and Nuclear Substance
Processing Facilities in Canada: 2021**

**Rapport de surveillance
réglementaire des installations de
traitement de l'uranium et des
substances nucléaires au
Canada :2021**

Commission Meeting

Réunion de la Commission

December 15/16, 2022

15/16 décembre 2022



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Submitted via email

October 31, 2022

To President Velshi and Members of the Canadian Nuclear Safety Commission,

Re: Canadian Nuclear Safety Commission Staff's Regulatory Oversight Report
on Nuclear Processing Facilities in Canada: 2021

We would like to begin by thanking the Commission for this opportunity to provide comments on this Regulatory Oversight Report (ROR). We would also like to recognize the efforts of Canadian Nuclear Safety Commission (CNSC) staff, multiple Canadian civil society organizations, and Indigenous Nations for their informative publicly available materials and submissions on this matter.

About NTP

The Nuclear Transparency Project (NTP) is a Canadian-registered not-for-profit organization dedicated to supporting open, informed, and equitable public discourse on nuclear technologies. NTP advocates for robust public access to data and other types of information and helps to produce accessible analysis of publicly available information, all with a view to supporting greater transparency in the Canadian nuclear sector.

NTP is comprised of a multi-disciplinary group of experts working to examine the economic, ecological, and social facets and impacts of the Canadian nuclear sector. The organization produces public reports, academic articles, and other publicly accessible resources. It also regularly intervenes in nuclear regulatory decision-making processes. The organization seeks to support youth and early career scholars, especially those from underrepresented communities in their respective disciplines. NTP also recognizes a responsibility to model the transparency and accountability practices for which it advocates. We are committed to interdisciplinary, cross-sectoral, and equitable collaborations and dialogue between regulators, industry, civil society, members of host and potential host communities, as well as academics and professionals from science, technology, engineering and math (STEM) fields, the social sciences, and humanities.

About this intervention

NTP's intervention was made possible by CNSC funding through its Participant Funding Program (PFP). These submissions were drafted by NTP founder and coordinator Pippa Feinstein, JD LLM in collaboration with biologist and PhD candidate Tamara Fuciarelli MSc and Alan Rial, M. Eng. who performed NTP's data analysis.

Our submissions have been divided into three parts: the first part contains a review of the current ROR; the second part contains more general findings and recommendations relating to publicly accessible data on which this ROR relies as part of its evidentiary basis; and a third part which contains recommendations to improve the ROR intervention process for future ROR meeting proceedings.

PART ONE: NTP's review of the ROR

This ROR was clear and informative. Its appendices had a good deal of information (including environmental data) that was helpful for understanding the interactions processing facilities have with the ecosystems in which they are situated. Appendix A to the ROR was a helpful addition with links to all facilities' websites and Annual Compliance Reports (ACRs). Appendix B was also particularly helpful, summarizing the changes to licenses and Licence Conditions Handbooks (LCH) over the last year.

For Appendix G which provided several tables of environmental data for facilities covered by this ROR, it would be helpful to specify the values meant to contextualize reported sampling values. Sometimes, values are reported with reference to Council of Canadian Ministers of the Environment (CCME) guidelines, sometimes provincial Ministry of Environment guidelines, and sometimes with reference to facility licence limits. An explanation for why one is used over another in any given instance would be helpful and ensure greater transparency – especially if more than one standard applies to a given substance. These explanations should accompany the data reported in each table.

Recommendation 1: that CNSC staff explain the contextual values provided with sampling results in data tables in future ROR appendices

The Independent Environmental Monitoring Program (IEMP) is explained in the ROR as a program meant to build public and Indigenous trust in CNSC regulation by sampling publicly-accessible areas around nuclear facilities. The ROR calls it a complementary program to other environmental monitoring efforts by nuclear licensees of their own facilities.¹ This is a reasonable explanation of the IEMP, however, NTP recommends the inclusion of some additional description to better distinguish between the IEMP and other types of environmental monitoring program. In particular, we recommend that CNSC staff:

¹ Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2021, CMD 22-M35, 15 August 2022, online: <https://www.nuclearsafety.gc.ca/eng/the-commission/meetings/cmd/pdf/CMD22/CMD22-M35.pdf>, at p 41.

1. Explain monitoring locations are based on areas of identified community interest rather than independent regulatory or scientific criteria. The CNSC should also further explain that these community-specific interests in a given location are not publicly disclosed along with the collected data;
2. Invite members of the public to contact the Commission if they would like to request a particular area of interest be included in future IEMP sampling. Contact information for the appropriate CNSC contact person or office should be provided as well; and
3. Explain IEMP monitoring frequency is too limited for the IEMP to be able to measure seasonal trends, spikes over time, or other trends and patterns that require more monitoring locations and frequencies. Rather, IEMP results can only provide particular “data snap shots” of a given area at the particular time testing is conducted.

Recommendation 2: that CNSC amend their description of the IEMP in future RORs to specify the program is meant to address specific community concerns and cannot provide a good sense of trends in environmental conditions. Descriptions of the IEMP should also notify the public that they can be in touch with the CNSC to request new monitoring locations for future IEMP sampling.

PART TWO: NTP’s review of publicly accessible data for facilities covered by the ROR

NTP is still in the process of consulting with CNSC staff about the radionuclide release data currently posted to the Open Government Portal. In order to avoid any potential misrepresentations of this data, we will not provide full summaries of preliminary queries and findings at this time. However, NTP does recommend that groundwater and stormwater data be added to the Open Government Portal.

Recommendation 3: that groundwater and stormwater data be disclosed via the Open Government Portal

Further, specific baselines, relevant Derived Release Limits, and Action Levels should be posted in separate columns in data tables reported on the Open Government Portal. This allows for a better contextualized reading of reported data by members of the public and public interest organizations.

Recommendation 4: specific baselines, relevant Derived Release Limits, and Action Levels should be posted in separate columns in data reported on the Open Government Portal.

PART THREE: NTP’s recommendations for future ROR intervention processes

The Commission should reinstitute opportunities for intervenors to present their interventions, ask and answer questions before the Commission on the record during meeting proceedings. This opportunity can be extended for virtual attendance only and thus not require the CNSC to cover any travel costs associated with in-person attendance. With relicensing hearings on a 10-year basis for most facilities, Commission meetings are a particularly important avenue for the public to engage with Commissioners.

Recommendation 5: that the CNSC Registry and Commissioners allow intervenors to virtually attend and present at future ROR meetings.

More transparency is required around the criteria being used to determine who receives funding, how much each intervenor receives, and what kinds of analysis are ultimately funded over others. Funding is a key factor that determines who can intervene, and by extension, which questions and issues are ultimately brought to the Commission. The way “value added” contributions and “expertise” are defined effectively works to scope (in part) the content that can be addressed during Commission meetings. While general guidance is provided to interested members of the public and public interest organizations in the CNSC’s Participant Funding Program Guide² and eligibility criteria³, both these materials are silent on the intersection between funding and the substantive scope of Commission proceedings. NTP encourages the development of more specific funding criteria, in consultation with members of the public and public interest organizations.

Recommendation 6: that the CNSC’s PFP develop more specific intervenor funding criteria, in consultation with members of the public and public interest organizations.

² CNSC, “Participant Funding Guide”, online: <http://www.nuclearsafety.gc.ca/eng/pdfs/participant-funding-program/CNSC-Participant-Funding-Guide-eng.pdf>.

³ CNSC, “Eligibility Criteria”, online: <http://www.nuclearsafety.gc.ca/eng/the-commission/participant-funding-program/eligibility-criteria.cfm>.