

Intelligence MEMOS



From: Andrew Dusevic
To: The Hon. Catherine McKenna, Minister of Environment
Date: November 2, 2018
Re: **HOW THE NEW IMPACT ASSESSMENT ACT COULD BLOCK CANADA'S NUCLEAR PROGRESS**

The proposed *Impact Assessment Act* (IAA), now before the Senate as Bill C-69, replaces the Canadian Nuclear Safety Commission (CNSC) with a joint review panel to perform impact assessments of nuclear activities. This change frustrates the CNSC's ability to conduct its regulatory duties and negatively affects the future of Canada's nuclear industry. Despite a nod toward fostering consultation with the CNSC, the IAA ultimately leaves the success of impact assessments at the discretion of the review panel and those who appoint its members.

The act provides the CNSC with little opportunity to impart its expertise to the proposed impact assessment process. The IAA refers the assessment to a review panel comprised of members appointed by the Minister of the Environment, with only one member from the CNSC. The IAA's requirement to offer consultation with the CNSC fails to provide any meaningful participation because it entrusts the scope, content, weight and ultimately the utility of the consultation to the IAA and the minister. As a result, the CNSC is left with uncertain influence in the impact assessment of nuclear activities.

The purported aim of this change is to promote uniformity and impartiality in the administration of impact assessments. However, the approaches taken under the new act are profoundly nonsensical as they do the opposite. Instead of implementing measures to promote uniformity and impartiality, the IAA replaces the CNSC with an ever-changing panel made up of members appointed at the discretion of the Minister. It is unclear how an impermanent and inconsistent review panel will promote uniformity or how its changing members will ensure impartiality. This failure is exacerbated by the potential inexperience of the review panel.

The removal of the CNSC from impact assessments will have significant impacts on the nuclear industry. The inability for the CNSC to impart its knowledge could expose the public and environment to unnecessary risks. Nuclear activities incorporate complicated science, novel processes and unique regulatory challenges comprehended best by the CNSC. This becomes increasingly important as the nuclear industry begins deploying new and complex reactors in Canada. Without a high level of understanding, impact assessments may be deficient.

Furthermore, the review panel's impermanency and inexperience with nuclear systems may affect the consistency with which impact assessments are administered. Such regulatory uncertainty may deter nuclear project development as the proponents' financial risks will increase with their inability to forecast and prepare for impact assessments. This is particularly pertinent for proponents of advanced nuclear reactors and small modular reactors attempting to deploy ground-breaking technology and thus face critical economic hurdles.

Other complications may arise from the maintenance of Canada's international commitments relating to impact assessments. Performance-based objectives employ aspirational criteria such as maintaining radiation exposure "as low as reasonably achievable" (ALARA). ALARA is an aspirational goal common to nuclear regulation that is revealed through experience and practice over several years. Thus, the CNSC is in the best position to ensure that nuclear activities have sufficient measures to ensure that radiation is ALARA when performing impact assessments.

A successful approach to impact assessments would provide a structured process so that the expertise of the CNSC would be maintained while promoting impartiality, consistent application and competency. Click [here](#) for a fuller discussion of the issues.

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