


 Canadian Nuclear Safety Commission / Commission canadienne de sûreté nucléaire

## Public Participation in Canadian Nuclear Licensing Hearings



Marc Leblanc, Commission Secretary  
Regulatory Information Conference  
March 2015

[nuclearsafety.gc.ca](http://nuclearsafety.gc.ca)  
 March 10, 2015  
 e-Docs # 4639004

Canada 




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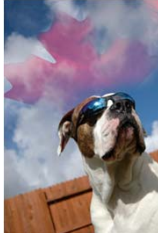
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### Canadian Nuclear Safety Commission

- 
 ✦ Regulates the use of nuclear energy and materials to protect the *health, safety* and *security* of Canadians and the *environment*
- 
 ✦ Implements Canada's *international commitments* on the peaceful use of nuclear energy
- 


 ✦ *Disseminates objective scientific, technical and regulatory information to the public*



*Canada's nuclear watchdog*

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### CNSC Regulates All Nuclear-Related Facilities and Activities

- Uranium mines and mills
- Uranium fuel fabricators and processing
- Nuclear power plants
- Waste management facilities
- Nuclear substance processing
- Industrial and medical applications
- Nuclear research and educational
- Export/import control

*...From cradle to grave*

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### CNSC Staff Located Across Canada

Fiscal year 2014-15  
Human Resources: 804 FTEs  
Financial Resources: \$131.6 million  
(~70% cost recovery, ~30% appropriation)  
Licensees: 2,500  
Licenses: 3,300

HQ in Ottawa  
5 site offices at power reactors  
1 site office at Chalk River  
4 regional offices

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### Independent Commission

- Quasi-judicial administrative tribunal
- Reports to Parliament through Minister of Natural Resources
- Commission members – independent and part-time
- Commission hearings – public and webcast
- Staff presentations in public
- Decisions can only be reviewed by the Federal Court

*Transparent, science-based decision making*

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### The Commission

- Makes independent, fair and transparent decisions on the licensing of nuclear-related activities, with emphasis on larger facilities (nuclear power plants, uranium mines and mills, fuel manufacturing, etc.)
- Establishes legally binding regulations
- Sets regulatory policy direction on matters relating to health, safety, security and environmental issues affecting the Canadian nuclear sector

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### Designated Officers

- Designated officers (DOs) are senior staff members to whom licensing and compliance powers have been delegated by the Commission
- Most of the licensing is done by DOs (all except those under sole authority of the Commission)
- Process is largely paper based, with very limited public participation
- Appeals may be made of many types of DO decisions (e.g., refusals to issue/renew licences)

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### Public Participation - The Canadian Model

- "A court of public complaint"
- Increase transparency and accessibility
- Opportunity to be heard:
  - based on statutory requirements: Act and Rules
  - *Nuclear Safety and Control Act*: Mandatory public hearing to issue, amend, renew or replace Class 1 and uranium mines and mills licences (power plants, mines, etc.)
  - Commission can always (at its discretion) hold a public hearing or provide an opportunity to the public to be heard, if in the public interest (e.g., transport of steam generators)



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**Stakeholders Activism**

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**Hearing Process**

- Notice of hearing is published by the Secretariat at least 60 days before hearing
- Applicant and staff submit Commission member documents at least 30 days before Part 1 of hearing (2-part process)
- Intervenors submit 30–60 days later (hearing Part 2)
- All notices, agendas, minutes, transcripts, decisions posted on the CNSC website

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**Meeting Process**

- Similar to hearings but typically consist of information items; few decision items
- CNSC staff inform members:
  - event initial reports (EIRs) - status reports
  - annual reports on industry sectors
  - technical briefings
- More and more cases offer opportunities for the public to participate in public meetings

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**Commission Decisions**

- Timing
- Ensure participants can see that their submissions have been duly considered
- Licence length (typically 5 years)
- Judicial reviews



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**Procedural Considerations**

- Science-based tribunal
- Few representations by lawyers
- In practice: no sworn evidence and minimal cross-examination (through Chairperson)
- Participation by non-Canadians
- Ruling requests



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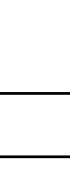
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**Public Participation Challenges**

- Whether to allow interventions – relevance
- Intervention – accepted as oral or only as written
- Impact of social media – what to do when there is a large number of requests to participate
- Participant funding considerations
- Measures to assure safety and security of all participants
- Potential use of judicial review applications (appeals) to delay implementation of licensing or environmental assessment decisions



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### What's New?

- A new code of behaviour for participants at tribunal proceedings
- Licensing information deemed to be publicly available, unless labelled as confidential and accompanied by a senior executive's statement at time of filing
- Tribunal reviews of administrative monetary penalties

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### CODE OF CONDUCT FOR ATTENDANCE AT COMMISSION PROCEEDINGS

The Canadian Nuclear Safety Commission is committed to an open and transparent licensing and regulatory regime that respects the opinions of all participants. As an administrative tribunal, the Commission will conduct its public hearings and meetings in an effective, courteous and respectful manner.

The Commission has the authority to address any procedural matter as informally and expeditiously as the circumstances and considerations of fairness permit.

#### CODE ELEMENTS

- 1. Decorum**  
Participants and members of the public are expected to conduct themselves courteously and respectfully when attending Commission proceedings.
- 2. Time allocations**  
Participants must respect the time allocated by the Chair for their oral presentations. Each presentation may be followed by questions from the Commission members, for which there is no time limit.
- 3. Proper attire**  
Participants and members of the public are expected to be appropriately attired in a manner befitting an administrative tribunal proceeding. Any person who appears inappropriately dressed will not be permitted to enter the Commission proceeding until appropriately attired.
- 4. Security searches**  
The Commission reserves the right to require persons attending a Commission proceeding to disclose and have the contents of pockets, bags and the like brought to be brought into the Commission proceeding. The Commission reserves the right to search all bags, briefcases, portfolios, etc. and to require that be handled and any inappropriate objects, to be taken to give substance to a Commission proceeding.
- 5. Filing, photographing and audio recording**  
Members of the public and media may take photographs, film or record the proceedings. However, they may not do so and may not be permitted to photograph, film or record outside of the designated areas, unless authorized by the Commission.
- 6. Seating arrangements**  
Participants and members of the public are to sit in designated areas. Simultaneous simultaneous presentations on a specific day may be provided priority seating in the hearing room or that day for a specific part of the day, should the room be at full capacity. The Commission reserves the right to limit the number of persons in attendance at a public proceeding to a maximum which is consistent with the proper functioning and decorum of the proceeding. Where possible, an additional room linked by video conference may be set up to welcome members of the public, if the main hearing room is full.
- 7. Food and beverages**  
For safety and security purposes, the consumption of hot food or hot beverages may be restricted during Commission proceedings.
- 8. General**  
The Commission reserves the right to exclude from the hearing room any person refusing to comply with the guidelines or requests outlined above, or with any other request made to preserve the functioning and decorum of the proceeding.

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### Public Participation – Conclusion

- Essential component of Canadian licensing process
- Here to stay but may become more technology based as activism increases
- Need to streamline so that administrative, non-risk matters may exclude or limit public participation
- Need to ensure interventions add value and assist Commission in making its decisions

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### New Issue – Social Licence

Public hearings allow for the public to engage in complex discussions on science and facts

- However, public often uses hearing process to raise policy concerns
  - nuclear vs wind and solar?
  - nuclear waste management vs NIMBY?
  - medical isotopes vs nuclear production?
  - economic benefits vs environmental impacts?

*Social acceptability is not part of our mandate...*

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### Lessons Learned on Social Licence

CNSC bases decisions on evidence and science

- Mandate – dissemination of information
  - public hearings / webcasts
  - Participant Funding Program
  - Aboriginal and public consultation

CNSC recognizes that social licence/acceptability is an issue

- leveraging regulatory tools – e.g., regulatory document RD/GD-99.3, *Public Information and Disclosure*

Social licence is proponent’s responsibility

- garner public support via communications and outreach
- listen and respond to stakeholders – build trust
- connect with all levels of government

*The CNSC cannot be expected to reject a safe project due to lack of social acceptability*

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### We Will Never Compromise Safety ...



It's in our DNA!

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**QUESTIONS?**

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**Thank You**

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