

# Debunking the myths around Small Modular Reactors

## Nuclear Law and Public Oversight in Canada

With thanks to:

Beyond Nuclear

Coalition for Responsible Energy Development in New Brunswick



Canadian  
Environmental Law  
Association

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# Disclaimer

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This presentation contains legal information about nuclear law and environmental assessment

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The contents do not constitute legal advice or other professional advice and must not be relied on as such

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If legal advice related to specific circumstances is required, please seek competent legal counsel

# About Us

- ▶ The Canadian Environmental Law Association (CELA) is a specialty community legal clinic providing services to low income individuals and disadvantaged communities across Ontario in environmental law matters.
- ▶ CELA was established in 1970, funded as an Ontario specialty legal aid clinic by Legal Aid Ontario since 1978.
- ▶ Ontario's only clinic providing environmental law legal aid services including representation in trial and appellate courts and before administrative tribunals; summary advice and brief services; public legal education and law reform

# Agenda

## 1. Introduction

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What are Canada's plans?

## 2. Implications

Sustainability & Impact Assessment

Intergenerational Equity & Radioactive Waste

Reconciliation & Indigenous Rights

## 3. Scaling Up

Organize & Respond

Outreach & Resources

# 1. Introduction

## What is a Small Modular Reactor (SMR)?

- ▶ No one accepted definition; generally refers to a more compact nuclear reactor designed producing 1 – 300 MW of electricity/heat
- ▶ The term 'modular' refers to proponent's hope that they can be assembled from factory produced modular – rather than on site



# 1. Introduction

## What is the plan for SMR's in Canada?

- ▶ Vision for SMRs authored by industry and promoted by federal government in Canadian Nuclear Association's "A Call to Action: A Canadian [Roadmap](#) for Small Modular Reactors" (Nov 2018)
  - ▶ Roadmap describes SMR technology as 'a source of safe, clean, affordable energy,' presenting an opportunity for a 'low-carbon future'
  - ▶ Roadmap champions suitability of SMRs for (1) remote, off-grid communities; (2) replace on-grid fossil fuel based generation and (3) powering resource extraction projects (i.e. Ontario's Ring of Fire)

# 1. Introduction

## SMR Roadmap Recommendations

SMR Roadmap includes a “concrete set of recommendations ...to guide future actions needed by governments, industry, and other nuclear stakeholders to capitalize on Canada’s SMR opportunity,”

Recommendations include:

1. Restricting the application of federal environmental impact assessment legislation
2. Incorporating new waste streams into existing long-term radioactive waste management plans

## 2. Implications

### Sustainability & Impact Assessment

- ▶ Environmental or impact assessments (IA) is about “looking before you leap” - requires upfront, public examination of ecological, socio-economic, and cultural impacts of a project *prior* to development
- ▶ Impact assessment allows us to:
  - (1) Avoid, minimize, and mitigate adverse impacts of projects/development
  - (2) Prevent disproportionate impacts on vulnerable communities and ecosystems
  - (3) Ensure the public voice is heard and decision-making process is accountable



## 2. Implications

### Sustainability & Impact Assessment

- ▶ Canada's federal *Impact Assessment Act* only applies to projects identified in "Project List" regulation
- ▶ Nuclear reactors less than 200 MW do not trigger IA
  - ✗ Terrestrial Energy (Ontario) – 192 MW
  - ✗ X-Energy (Ontario) – 80 MW
  - ✗ Moltex Energy (New Brunswick) – 150 MW
  - ✗ NuScale Power (Saskatchewan) – 60 MW

**Without inclusion of SMRs in IAA, proponents can make unilateral determinations about the acceptability of a project, its social and economic impacts, without public input and expert review.**

## 2. Implications

### Intergenerational Equity and Radioactive Waste

- ▶ Nuclear Waste Management Organization (NWMO) mandated to develop and implement plan for managing Canada's nuclear fuel waste
- ▶ Its planning, comparison of risks and benefits of management approaches, and mandatory public consultations assumed a finite volume of used nuclear fuel, based on projected inventory from existing CANDU fleet
- ▶ SMR proponents assume NWMO has mandate to accept new waste streams; no public discussion of this matter nor assessment of new waste characterization, composition, etc.

## 2. Implications

### Reconciliation & Indigenous Rights

- ▶ Remote, off-grid applications of SMRs championed by nuclear proponents; First Nation communities could become hosts for the majority of remote SMRs
- ▶ Reconciliation requires respect for Indigenous values and traditional knowledge, and opportunities for equal, effective, and fair participation
- ▶ Duty to consult must be satisfied *prior* to decisions being made which could affect First Nations' constitutionally protected traditional and treaty rights
  - ▶ 2019: Anishinabek Chiefs-in-Assembly unanimously endorsed a Grand Council Resolution opposing the construction and operation of Small Modular Reactors in Ontario
  - ▶ 2005: Nishnawbe Aski Nation passed Resolution 05/57 declaring NAN a nuclear waste free zone

# 3. Scaling Up

## Organize & Respond

- ▶ Replace promotional, industry rhetoric with accountability for environmental debts (mining, accidents, legacy wastes)
- ▶ End discrimination and marginalization experienced by Indigenous peoples in Canada by respecting individual and collective rights (Article 29, UNDRIP)
- ▶ Uphold the best interest of the child – including future generations who will inherit the legacy of previous generation (Article 3, Convention on the Rights of Child)
- ▶ Require legal frameworks which empower the public to access information and have opportunities to participate; strengthen environmental standards to protect human rights
- ▶ Embrace opportunities to transition to a more sustainable, healthier, and equitable economy

# 3. Scaling Up

## Outreach & Resources

- ▶ Email, call, or reach out to your MP, MPP, the Premier and Prime Minister, provincial & federal Ministers with environment, infrastructure and Northern mandates, and the Canadian Nuclear Safety Commission
- ▶ Participate in the *only* SMR environmental assessment: <https://ceaa-acee.gc.ca/050/evaluations/proj/80182>
- ▶ Request an impact assessment for the SMR proposed in your community: <https://bit.ly/3dHGTq3>
- ▶ Visit [cela.ca](https://cela.ca) and subscribe to our monthly e-bulletin for updates: <https://cela.ca/sign-up-stay-informed-cela-bulletin/>



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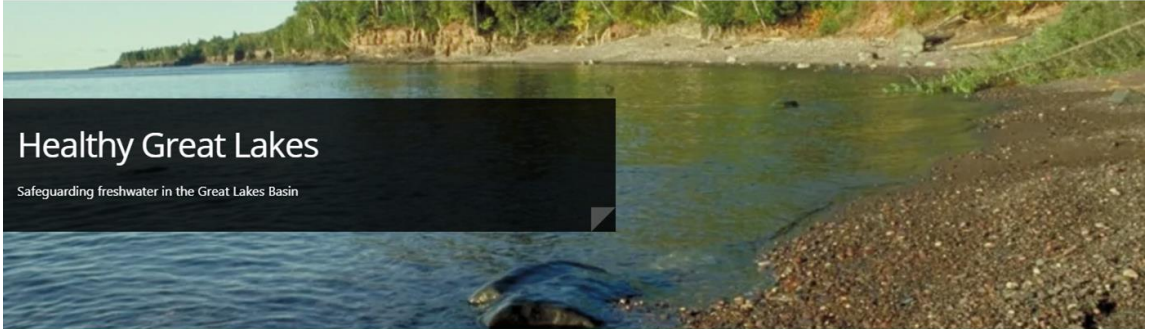
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