

Consultation Document on Regulations under the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2014

In the lead-up to the G20 Summit in Toronto, a regulation (O. Reg. 233/10) was made under the *Public Works Protection Act* (PWPA) to designate an area around the site of the summit as a public work. This regulation and the PWPA more broadly, subsequently became the subject of public concern and media scrutiny.

Two reports, one by the Honourable Roy McMurtry and the other by the Ontario Ombudsman, recommended that the PWPA be repealed and replaced with more modern, focused legislation. Following the reports and recommendations, the government committed to repealing and replacing the PWPA.

On December 11th, the Legislative Assembly of Ontario passed legislation that will repeal the PWPA, and replace it with more modern, focused legislation (Click [here](#) for a link to the *Security for Courts, Electricity Generating Facilities and Nuclear Facilities Act, 2014*).

The new legislation will protect specific types of public infrastructure and its users while balancing civil liberties.

The legislation is divided into three schedules:

- Schedule 1 - Repeals the PWPA on a date to be proclaimed;
- Schedule 2 - Amends the *Police Services Act* to address court security; and,
- Schedule 3 – Enacts the *Security for Electricity Generating Facilities and Nuclear Facilities Act, 2014*.

Regulation Related to Security at Nuclear Facilities

The Ministry of Community Safety and Correctional Services (MCSCS) is currently developing a regulation under the *Security for Electricity Generating Facilities and Nuclear Facilities Act, 2014* related to security for nuclear facilities. The regulation would:

- Prescribe facilities to which the new legislation would apply:
 - The regulation would prescribe the following as “restricted access facilities” for the purpose of the new legislation.
 - Bruce Nuclear Generating Station A.
 - Bruce Nuclear Generating Station B.
 - Chalk River Laboratories.
 - Darlington Nuclear Generating Station.
 - Darlington Waste Management Facility.
 - Douglas Point Waste Facility.
 - Pickering Nuclear Generating Station.
 - Pickering Waste Management Facility.
 - Western Waste Management Facility.

- Govern the appointment of persons to provide security services:
 - The regulation would provide that the following entities could appoint a nuclear security officer (as defined in the *Nuclear Safety Regulations* made under the *Nuclear Safety and Control Act* (Canada)) to provide security services under the new legislation at the premises where the following nuclear facilities are located:
 - Bruce Power at:
 - Bruce Nuclear Generating Station A.
 - Bruce Nuclear Generating Station B.
 - Douglas Point Waste Facility.
 - Western Waste Management Facility.
 - Canadian Nuclear Laboratories at:
 - Chalk River Laboratories.
 - Ontario Power Generation Inc. at:
 - Darlington Nuclear Generating Station.
 - Darlington Waste Management Facility.
 - Pickering Nuclear Generating Station.
 - Pickering Waste Management Facility.

Regulatory Framework for Nuclear Facilities

Under the *Nuclear Safety and Control Act* (Canada), the Canadian Nuclear Safety Commission (CNSC) is responsible for licensing nuclear-related activities in Canada and may attach a wide range of conditions to the licences.

Nuclear Security Regulation, SOR/2000-209 made under *Nuclear Safety and Control Act* (Canada), prescribes the security requirements for nuclear facilities and requires, as a condition of their licence, that every nuclear facility have nuclear security officers, an onsite response force available 24/7, and an agreement with an off-site response force such as a police service.

Background on PWPA

The PWPA was passed by the Ontario Legislature in the fall of 1939, just after the beginning of war in Europe. The legislation was passed in an atmosphere of fear of sabotage of power plants, dams, bridges and other public infrastructure vital to the war effort and to the functioning of Ontario's economy.

The PWPA provides for the appointment of "guards" who have the powers of "peace officers" and who are authorized to exercise special authority in relation to various types of "public works", including transportation infrastructure, energy infrastructure, other public utilities, and provincial and municipal buildings.

Currently, the PWPA is used to provide the legislative authority in relation to security at nuclear power generating stations. The PWPA came to the public's attention during the summer of

2010, when it was used in relation to a security zone set up to protect world leaders attending a G20 Summit Conference in Toronto.

Please submit all comments in writing or by email to the ministry **on or before April 24, 2015**:

Written submissions: Ministry of Community Safety and Correctional Services
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Policy and Strategic Planning Division, 9th Floor
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Electronic submissions: Regulatory Registry