

# Record of Proceedings, Including Reasons for Decision

In the Matter of

Proponent Atomic Energy of Canada Limited

Subject Environmental Assessment Guidelines for the  
Proposed Construction and Operation of a New  
Dry Storage System, at Chalk River  
Laboratories, Chalk River, Ontario

Hearing Date October 14, 2008

## **RECORD OF PROCEEDINGS**

Proponent: Atomic Energy of Canada Limited

Address/Location: Chalk River Laboratories, Chalk River, Ontario, K0J 1J0

Purpose: Environmental Assessment Guidelines for the Proposed Construction and Operation of a New Dry Storage System, at Chalk River Laboratories, Chalk River, Ontario

Date of hearing: October 14, 2008

Location: Canadian Nuclear Safety Commission (CNSC),  
280 Slater St., Ottawa, Ontario

Members present: Michael Binder  
Secretary: K. McGee  
Recording Secretary: P. Reinhardt

**Date of Release of Decision:** October 21, 2008

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## Introduction

1. Atomic Energy of Canada Limited (AECL) has notified the Canadian Nuclear Safety Commission<sup>1</sup> (CNSC) of its intention to construct and operate a New Dry Storage System (NDSS) for used fuel and non-fuel waste at its Chalk River Laboratories. The proposal would require the CNSC to consider an amendment to AECL's Nuclear Research and Test Establishment Operating Licence.
2. Before the Commission is able to make licensing decisions in respect of the proposed project, pursuant to the *Nuclear Safety and Control Act*<sup>2</sup> (NSCA), it must, in accordance with the requirements of the *Canadian Environmental Assessment Act*<sup>3</sup> (CEAA), make a decision on an environmental assessment (EA) of the proposal. The Commission is the sole Responsible Authority for the EA<sup>4</sup>.
3. As a responsible authority under the CEAA, the Commission must first determine the *scope of the project* and the *scope of the assessment for the project*. To assist the Commission in this regard, CNSC staff prepared a draft Environmental Assessment Guidelines document (EA Guidelines) in consultation with other government departments, the public and other stakeholders.
4. The draft EA Guidelines "*Proposed EA Guidelines (Scope of Project and Assessment), Environmental Assessment of the Proposal by Atomic Energy of Canada Ltd. To Construct and Operate a New Dry Storage System (NDSS) at Chalk River Laboratories, Chalk River, Ontario*" contains draft statements of scope for the approval of the Commission. The draft EA Guidelines also contain recommendations for the approach to be used in completing the EA, including instructions for the conduct of further public and stakeholder consultations. The draft EA Guidelines are presented in the CNSC staff document CMD 08-H132.

## Issues

5. In considering the EA Guidelines, the Commission was required to decide, pursuant to subsections 15(1) and 16(3) of the CEAA respectively on:
  - a) the *scope of the project* for which the EA is to be conducted; and
  - b) the *scope of the factors* to be taken into consideration in the conduct of the EA.

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<sup>1</sup> The *Canadian Nuclear Safety Commission* is referred to as the "CNSC" when referring to the organization and its staff in general, and as the "Commission" when referring to the tribunal component.

<sup>2</sup> S.C. 1997, c. 9.

<sup>3</sup> S.C. 1992, c.37.

<sup>4</sup> Responsible Authority in relation to an EA is determined in accordance with subsection 11(1) of the CEAA.

6. The Commission also considered whether it would, at this time, recommend to the federal Minister of the Environment, pursuant to section 25 of the CEAA, to refer the project to a mediator or a review panel.
7. The Commission considered whether it would, pursuant to subsection 17(1) of the CEAA, delegate the conduct of technical support studies to AECL and the writing of the technical Report to CNSC staff or the proponent.
8. The Commission undertook to decide whether or not it will consider the completed EA Screening Report (Screening Report) in a public hearing or in a closed session.

### Hearing

9. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to hear this matter.
10. In making its decision, the Commission considered information presented for a hearing held on October 14, 2008 in Ottawa, Ontario. The hearing was conducted in accordance with the Commission's process for determining matters under the CEAA. During the hearing, the Commission received written submissions from CNSC staff (CMD 08-H132) and AECL (CMD 08-H132.1).

### **Decision**

11. Based on its consideration of the matter, as described in more details in the following sections of this *Record of Proceedings*,

the Canadian Nuclear Safety Commission, pursuant to sections 15 and 16 of the CEAA, approves the *Proposed EA Guidelines (Scope of Project and Assessment), Environmental Assessment of the Proposal by Atomic Energy of Canada Ltd. To Construct and Operate a New Dry Storage System (NDSS) at Chalk River Laboratories, Chalk River, Ontario.*

12. The Commission decides that it will not, at this time, refer the project to the federal Minister of the Environment for his referral to a mediator or review panel. The Commission notes that it may make such a referral at any time during the course of the EA process if warranted.
13. The Commission decides that it will delegate the conduct of technical support studies to the proponent, AECL.
14. Finally, the Commission decides that it will consider the completed Screening Report in the context of a closed session of the Commission.

## Issues and Commission Findings

### Type of Environmental Assessment Required

15. The proposed project is not of the type identified in the *Comprehensive Study List Regulations*<sup>5</sup>. Therefore, pursuant to subsection 18(1) of the CEAA, the CNSC is required to ensure that a screening EA of the project is performed and a Screening Report prepared before a licensing decision to allow the project to proceed in whole or in part can be made by the Commission under the NSCA.
16. The Commission concludes that, pursuant to the CEAA, a screening EA of the project is appropriate.

### Consultations on the Draft EA Guidelines

17. As part of its review of the adequacy of the draft EA Guidelines and, in particular, to assess the level of public concern about the project, the Commission took account of the views of the public and other stakeholders.
18. With respect to public consultation on the draft EA Guidelines, CNSC staff reported that a public registry was established for this environmental assessment, as required by section 55 of the CEAA, and identified in the Canadian Environmental Assessment (CEA) Registry with the following number: 07-01-31052. The public was provided with an opportunity to comment on the draft EA Guidelines from June 18, 2008 to July 18, 2008. Notices of the period for commenting were placed on the CEA Registry on-line and on the CNSC Web Site. No comments were sent from the public.
19. CNSC staff reported that, in accordance with the *CEAA Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements*<sup>6</sup>, CNSC staff started to consult on the draft EA Guidelines, and will continue to consult during the course of the EA, with the relevant Federal Authorities: Health Canada, Environment Canada and Natural Resources Canada.
20. CNSC staff stated that the Ontario Ministry of the Environment (OMOE) was also consulted and confirmed that the Ontario *Environmental Assessment Act*<sup>7</sup> did not apply to the proposed project.
21. Based on the above information, the Commission is satisfied of the adequacy of the consultation with the public and other stakeholders during the preparation of the draft EA Guidelines.

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<sup>5</sup> S.O.R./94-638.

<sup>6</sup> S.O.R./97-181.

<sup>7</sup> R.S.O. 1990, c.E18.

### **Scope of the Assessment (Scope of the Project and Scope of the Factors)**

22. The *scope of the project* was presented in section 3.1 of the proposed EA Guidelines. CNSC staff stated that the physical works involved in this project are to put in place the infrastructure for waste packaging and drying, an above-ground storage and the systems for transferring waste between the packaging/drying and storage areas. CNSC staff noted that a preliminary decommissioning plan for the NDSS will be included in the assessment.
23. AECL described the types of proposed activities that include construction, operational and monitoring activities.
24. The list of factors to be considered in the Screening pursuant to subsection 16(1) of the CEAA was presented in section 3.2 of the proposed EA Guidelines. As allowed by paragraph 16(1)(e) of the CEAA, CNSC staff also recommended that the CNSC require consideration of the purpose of the project, the need for the project, and the need for, and requirements of, a follow-up program in respect of the project.
25. The *scope of the factors* that identifies the geographical, spatial and temporal boundaries of the analysis was presented in section 3.3 of the proposed EA Guidelines.
26. Based on the above information, the Commission concludes that the *scope of the assessment*, as described in section 3 of the proposed EA Guidelines attached to CMD 08-H132, is appropriate for the purpose of the environmental assessment of the proposed project.

### **Environmental Assessment Studies and EA Screening Report**

27. CNSC staff recommended that, pursuant to Subsection 17(1) of the CEAA, the technical studies be delegated to AECL. CNSC staff submitted that AECL would be provided with the EA Guidelines to carry out the environmental assessment studies and would later submit to CNSC staff a detailed Environmental Impact Statement report. The report would undergo CNSC staff and other Federal Authorities review before CNSC staff prepares a draft Screening Report
28. CNSC staff included in the EA Guidelines an extensive structure for the Screening Report and identified specific information requirements and the methodology to be used in the assessment. CNSC staff noted that the draft Screening Report would be available for public consultation. After the consultation, a final EA Report would be prepared by CNSC staff and submitted to the Commission for consideration.

29. CNSC staff recommended that the final Screening Report be considered by the Commission in the context of a closed session of the Commission (with no public participation) based on the nature of the project and the low level of public interest observed during the consultation for the EA Guidelines.
30. The Commission is satisfied that the structure, approach, and other instructions for conducting the environmental assessment, as described in the proposed EA Guidelines, are acceptable.
31. Based on CNSC staff's recommendation, the Commission delegates the EA Screening studies to AECL.
32. The Commission also decides that proposed Screening Report for this project will be reviewed by the Commission in the context of closed session.

#### **Public Concern on the Project**

33. The Commission notes that, as reported by CNSC staff, no concerns from the public were raised during the public consultation on the EA guidelines.

#### **Conclusion**

34. The Commission has considered the CNSC staff and AECL submissions as presented for reference on the record for the hearing.
35. The Commission, pursuant to sections 15 and 16 of the CEAA, approves the *Proposed EA Guidelines* as presented in CMD 08-H132.
36. The Commission also concludes that, at this time, it will not refer the project to the federal Minister of the Environment for referral to a mediator or review panel in accordance with the provisions of the CEAA.
37. The Commission decides that, pursuant to subsection 17(1) of the CEAA, the conduct of technical support studies will be delegated to AECL.
38. Furthermore, the Commission decides that the completed Screening Report will be considered by the Commission at a closed session, without public participation.



Michael Binder,  
President  
Canadian Nuclear Safety Commission

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