

Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant Mississauga Metals and Alloys Inc.

Subject Environmental Assessment Guidelines (Scope
of Project and Assessment) for the Proposed
Installation and Operation of an Incinerator and
the Continued Operation of a Recycling Facility

Date April 25, 2006

RECORD OF PROCEEDINGS

Applicant: Mississauga Metals and Alloys Inc.

Address/Location: 75 Sunpac Blvd, Brampton, Ontario L6S 5P6

Purpose: Environmental Assessment Guidelines (scope of project and assessment) for the proposed installation and operation of an incinerator and the continued operation of a recycling facility

Application received: N/A

Date(s) of hearing: March 30, 2006

Location: Canadian Nuclear Safety Commission (CNSC), 280 Slater St., 14th. Floor, Ottawa, Ontario

Member present: L.J. Keen, Chair
A.R. Graham
C.R. Barnes

Secretary: M.A. Leblanc
Recording Secretary: P. Bourassa
General Counsel: J. Lavoie

Applicant Represented By	Document Number
• D. Sharpe Sr., Chief Executive Officer	
CNSC staff	Document Number
• R. Jammal	CMD 06-H105
• M. Rinker	CMD 06-H105.A CMD 06-H105.B

Date of Decision: March 30, 2006

Table of Contents

Introduction	1
Decision	2
Issues and Commission Findings	3
Type of Environmental Assessment Required	3
Process for Environmental Assessment Screening Report	4
Scope of the Project	4
Scope of the Assessment	5
Conclusion	6

Introduction

1. Mississauga Metals and Alloys Inc. (MM&A) notified the Canadian Nuclear Safety Commission (CNSC¹) of its intent to seek authorization to install and operate a radioactive waste incinerator and to continue the operation of cleaning and recycling radioactively contaminated zirconium and other specialized metals at its facility located in Brampton, Ontario.
2. Before the Commission would be able to make licensing decisions pursuant to the *Nuclear Safety and Control Act*² (NSCA) in respect of the proposed project, the Commission must, in accordance with the requirements of the *Canadian Environmental Assessment Act*³ (CEAA), make a decision on an environmental assessment (EA) of the proposal. The Commission is the sole responsible authority⁴ for the EA.
3. In carrying out this responsibility under the CEAA, the Commission must first determine the *scope of the project* and the *scope of the assessment*. 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. The draft EA Guidelines (*Proposed Environmental Assessment Guidelines (Scope of Project and Assessment) - Installation and Operation of an Incinerator and Continued Operation of a Recycling Facility*) contains draft statements of scope for the approval of the Commission. The draft EA Guidelines also contain recommendations and instructions for the approach to be used in completing the EA, including for the conduct of further public and stakeholder consultations. The draft EA Guidelines are presented in the CNSC staff document CMD 06-H105.B.

Issues

4. In considering the EA Guidelines, the Commission was required to decide, pursuant to subsections 15(1) and 16(3) of the CEAA respectively:
 - 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.
5. The Commission also considered whether it would, at this time, request the federal Minister of the Environment, pursuant to section 25 of the CEAA, to refer the project to a mediator or a review panel.

¹ In this *Record of Proceedings*, 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.

² S.C. 1997, c. 9

³ S.C. 1992, c.37

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

6. Furthermore, the Commission, in accordance with its internal EA process, undertook to decide whether or not the Commission's consideration of the completed EA Screening Report (Screening Report) would be by way of a public or closed hearing held by the Commission.

Hearing

7. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to hear this matter.
8. The Panel of the Commission (hereafter referred to as the Commission), in making its decision, considered information presented for a hearing held on March 30, 2006 in Ottawa, Ontario. The hearing was conducted in accordance with the Commission's process for determining matters under the CEEA⁵ and Rule 3 of the *Canadian Nuclear Safety Commission Rules of Procedure*⁶. In establishing the process, the Commission determined that it was not necessary to hold a public hearing on the matter. During the hearing, the Commission received written submissions from CNSC staff (CMD 06-H105, CMD 06-H105.A and CMD 06-H105.B). CNSC staff and MM&A were also available to answer questions from the Commission during the proceeding.

Decision

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

the Canadian Nuclear Safety Commission, pursuant to sections 15 and 16 of the CEEA, approves the *EA Guidelines (Scope of Project and Assessment) - Installation and Operation of an Incinerator and Continued Operation of a Recycling Facility*, as presented in CMD 06-H105.B.

10. The Commission also decides that it will not, at this time, refer the project, pursuant to section 25 of the CEEA, 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.
11. The Commission decides that it will consider the completed EA Screening Report (Screening Report) in the context of a public hearing of the Commission.

⁵ The Commission decided (ref. Minutes of Commission Meeting held on March 23, 2005) that, unless otherwise specified, the Commission will not hold public hearings in respect of its decisions on the scope of environmental assessments to be conducted pursuant to the CEEA. The CNSC staff process for engaging the public and other stakeholders in the preparation of the draft EA Guidelines for presentation to the Commission at a non-public hearing is normally sufficient at this early stage in the EA process.

⁶ SOR/2000-211

Issues and Commission Findings

Type of Environmental Assessment Required

Screening vs. Comprehensive Study, Review Panel or Mediation

12. The project is not of a type identified in the *Comprehensive Study List*⁷. Therefore, pursuant to subsection 18(1) of the CEAA, the CNSC is required to ensure that a screening environmental assessment of the project is performed and a Screening Report is prepared.
13. Other available types of assessment under the CEAA are a review panel or mediation appointed by the federal Minister of the Environment. To initiate either of these alternative assessment processes, the Commission would have to refer the project to the Minister pursuant to section 25 of the CEAA. In this regard, CNSC staff stated in its submissions that CNSC staff is not aware at this time of any potential environmental effects associated with this project which CNSC staff considers would warrant having the project referred to a mediator or review panel.
14. 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 for the purpose of considering the aforementioned options for mediation or review panel, the Commission took account of the views of the public and other stakeholders. In this regard, the Commission considered whether the consultations carried out thus far by CNSC staff and the proponent provided the public and other stakeholders with adequate opportunity to become informed and express their views about the EA.
15. With respect to public consultation on the draft EA Guidelines, CNSC staff reported that it had established a public registry for the assessment as required by Section 55 of the CEAA, including the identification of the EA in the *Canadian Environmental Assessment Registry*. CNSC staff further reported that MM&A had initiated consultation activities as part of the planning process for the assessment.
16. CNSC staff reported that, in accordance with the CEAA *Federal Coordination Regulations*, CNSC staff has consulted 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, Natural Resources Canada and Transport Canada).
17. CNSC staff noted that all comments received during the above consultations were taken into consideration in the preparation of the draft EA Guidelines presented to the Commission for approval at this hearing. Information on the disposition of each comment is attached to the draft EA Guidelines (CMD 06-H105.B).
18. CNSC staff indicated that, during the public consultation, it received requests from members of the public for a federal public review panel and from the Brampton Municipal Council for public hearings to be carried out with respect to this project. In this regard, CNSC staff stated its view that the consideration of the Screening Report in the context of a public hearing of the Commission would address these concerns by providing meaningful opportunities for the public

⁷ 50R/94-638

to participate in the EA.

19. The Commission is satisfied that the public and other stakeholders have been adequately consulted during the preparation of the draft EA Guidelines. The Commission is also satisfied that, for the purpose of considering whether to refer the project to the Minister for a review panel or mediation, it had sufficient information to assess the current level and nature of public concern about the project.
20. The Commission further decides that, at this time, it will not refer the project to the Minister of the Environment for mediation or a review panel. The Commission concurs with CNSC staff that the issues and concerns identified to date can be addressed in a screening-level assessment. However, because the Commission may make such a referral at any time, the Commission requests that CNSC staff inform the Commission in a timely manner of any significant issues or public concerns that arise during the conduct of the EA and which may warrant further consideration of the need for a review panel or mediator.

Process for Environmental Assessment Screening Report

21. The Commission also considered the views of the public and other stakeholders to determine the process to be followed with respect to the Screening Report, including whether the Screening Report would be reviewed in the context of a public hearing of the Commission.
22. Based on the above information and considerations regarding public consultation and comments received to date, the Commission concludes that a public hearing on the EA Screening, together with the stakeholder and public consultation plan for the screening EA, will provide adequate opportunity for the public to express their concerns related to the EA for the proposed project and for these concerns to be addressed at various stages of the EA process. The Commission therefore decides that it will consider the Screening Report in the context of a public hearing of the Commission.

Scope of the Project

23. “Scope” under the CEAA is expressed in two parts: the *scope of the project* (i.e., the physical works and activities proposed) and the *scope of assessment* (i.e., the scope of the factors to be considered in assessing the effects of the project). This section addresses only the issues relating to the *scope of the project*. The issues related to the *scope of assessment* are discussed below in the section entitled Scope of the Assessment.
24. The Commission noted that the project includes the building preparation, installation and operation of the incinerator and filter press and the continued operation of cleaning and recycling of radiological contaminated metals. Associated activities include the storage of low level radioactive waste and all associated equipment, systems and services, and the transportation of the material to and from the facility.

25. Based on the information received, the Commission accepts CNSC staff's recommendations concerning the *scope of the project* and approves the definition of the project scope as set out in section 7.0 of the draft EA Guidelines without change.

Scope of the Assessment

26. The other part of "scope" under the CEAA is the *scope of the assessment* – otherwise described in the CEAA as the scope of the factors that will be considered in assessing the environmental effects of the project.
27. The scope of a screening assessment under the CEAA must include the factors set out in paragraphs 16(1)(a) to (d) of the CEAA. Other factors may be included at the discretion of the Commission under paragraph 16(1)(e) of the CEAA.
28. The mandatory factors in subsection 16(1) of the CEAA are: the environmental effects of the project, including as may be caused by malfunctions or accidents and any cumulative environmental effects with other projects; the significance of the effects identified above; comments from the public that are received in accordance with the CEAA and its regulations; and measures that are technically and economically feasible that would mitigate any significant adverse environmental effects of the project.
29. In addition to these factors, CNSC staff recommended that the Commission include, pursuant to paragraph 16(1)(e), the following factors: the purpose of the project and the need for the project; the need for, and requirements of, a follow-up program in respect of the project; and alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means.
30. A summary of the proposed factors is included in section 8.0 of the draft EA Guidelines presented in CMD 06-H105.B. The proposed factors and recommended approach to their assessment are further elaborated in section 9.0 (Assessment Methodology) of the draft EA Guidelines.
31. The Commission sought certain clarifications with respect to the specific information requirements contained in section 9.2 of the draft EA Guidelines to ensure that all relevant factors had been clearly identified and sufficiently detailed. In this regard, the Commission expects that the Screening Report will contain a thorough description of the project, including detailed maps and zoning information for current and planned activities in the surrounding area. Furthermore, the Commission expects that all credible malfunctions and accidents will have been considered in the EA.
32. The Commission also sought assurances that sufficient, relevant information on the proposed project would be available to ensure meaningful public participation during the EA process. In response, CNSC staff indicated that it has developed a consultation plan to allow for meaningful participation, in addition to its recommendation that the Screening Report be considered in the context of a public hearing. CNSC staff noted that the consultations would

include meetings in the Brampton community to inform the public on the process and to discuss the technical aspects of the EA.

33. The Commission sought assurances that MM&A understood the safety requirements with respect to the prevention of criticality accidents and the mitigation of the consequences of such accidents so that MM&A will develop an appropriate assessment of criticality. CNSC staff noted that MM&A understood and accepted this requirement as part of the scope of the EA.
34. In order to evaluate the environmental impacts of the incinerator once in operation, the Commission requests that baseline monitoring be conducted prior to the operation of the incinerator. In this regard, the Commission requests that CNSC staff includes, in addition to the monitoring methodology, baseline data on air and, if relevant, groundwater monitoring in the Screening Report.
35. The Commission is satisfied that the structure, approach, and other instructions for conducting the environmental assessment, as described in the draft EA Guidelines attached to CMD 06-H105.B, are acceptable. In this respect, the Commission accepts the delegation of the technical studies to MM&A under the direction of the CNSC and with the input of other expert government departments.
36. Based on its consideration of the information received, the Commission determined that the scope of the factors will be as stated in section 8.0 of the draft EA Guidelines. The Commission concludes that the scope of the assessment, as described in section 9.0 of the draft EA Guidelines, is appropriate for the purpose of the environmental assessment of the proposed project.
37. The Commission requests that CNSC staff closely monitor the conduct of the studies to ensure that they are being carried out in accordance with the EA Guidelines.

Conclusion

38. The Commission has considered the submissions of CNSC staff as presented for reference on the record for the hearing.
39. The Commission, pursuant to sections 15 and 16 of the CEAA, approves the *Proposed Environmental Assessment Guidelines (Scope of Project and Assessment) - Installation and Operation of an Incinerator and Continued Operation of a Recycling Facility*), presented in CMD 06-H105.B.
40. 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.
41. Furthermore, taking into account the anticipated level of public concern with the project, the Commission decides that the completed EA Screening Report will come before the Commission

for approval at a public hearing of the Commission.

42. The Commission requests CNSC staff to report to the Commission on any issues arising during the conduct of the EA that could warrant the Commission giving further consideration to the above scope and process decisions.

Marc A. Leblanc
Secretary
Canadian Nuclear Safety Commission

Date of decision: March 30, 2006

Date of release of Reasons for Decision: April 25, 2006