

Record of Proceedings, Including Reasons for Decision

In the Matter of

Proponent Atomic Energy of Canada Limited

Subject Environmental Assessment Guidelines for the
Proposal to Decommission the National
Research Experimental (NRX) Ancillary
Buildings at Chalk River Laboratories

Hearing Date October 24, 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 Proposal to Decommission the National Research Experimental (NRX) Ancillary Buildings at Chalk River Laboratories

Application received: July 17, 2006

Date of hearing: October 24, 2008

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

Members present: M. Binder, Chair

Secretary: K. McGee

Recording Secretary: P. Reinhardt

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Introduction

1. Atomic Energy of Canada Limited (AECL) has notified the Canadian Nuclear Safety Commission¹ (CNSC) of its intention to proceed with the decommissioning of eight buildings once associated with the operation of the National Research Experimental (NRX) reactor at Chalk River Laboratories (CRL) in Chalk River, Ontario. The buildings have been brought to a safe shutdown state following the permanent shut down of the NRX reactor facility in 1992. The buildings are currently maintained in storage with surveillance (SWS) state and are managed by the Waste Management and Decommissioning Operations Division at CRL.
2. The proposed removal of structures and land remediation is the third, final, phase of the NRX ancillary buildings decommissioning project and will be carried out over several years, with one or two structures decommissioned in any given year. Some buildings may be decommissioned to a final end-state involving complete removal and site remediation; others may be partially removed and taken to an interim end-state and below grade concrete basement will be removed at the same time as other large concrete structures on the site. It is planned to return the land occupied by those buildings to the CRL site landlord by 2025.
3. The decommissioning of the NRX ancillary buildings is an undertaking in relation to a physical work. Therefore, there is a project as defined in section 2 of the *Canadian Environmental Assessment Act*² (CEAA). The decommissioning, if accepted, would be authorized by the Commission by an amendment to the CRL operating licence pursuant to subsection 24(2) of the *Nuclear Safety and Control Act*³ (NSCA). Since the amendment of a licence is listed in the *Law List Regulations*⁴ established under the CEAA, there is a “trigger” for this project pursuant to the subsection 5(1)(d) of the CEAA. There are no identified exclusions for the project, pursuant to the section 7 of the CEAA and Schedule I of the *Exclusion List Regulations, 2007*⁵ under the CEAA.
4. CNSC and Natural Resources Canada (NRCan) are the Responsible Authorities (RAs) for the EA⁶. In Accordance with subsection 12(1) of the CEAA, it was agreed that CNSC will assume the lead for the conduct of this assessment.

¹ 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. 1992, c.37.

³ S.C. 1997, c. 9.

⁴ S.O.R./94-636

⁵ S.O.R./2007-108

⁶ Responsible Authority in relation to an EA is determined in accordance with subsection 11(1) of the CEAA.

5. The draft EA Guidelines entitled “*Proposed EA Guidelines for the Proposal by Atomic Energy of Canada Ltd. To Decommission the National Research Experimental Ancillary Buildings Located at Chalk River Laboratories, Ontario*” is presented in the CNSC staff’s document CMD 08-H135 and contains recommendations for the approach to be used in completing the EA, including instructions for the conduct of further public and stakeholder consultations.

Issues

6. In considering the EA Guidelines, the Commission was required to decide, pursuant to subsections 15(1) and 16 (3) of the CEEA respectively on:
 - a) the *scope of the project* for which the EA is to be conducted; and
 - b) the *factors and the scope of the factors* to be taken into consideration in the conduct of the EA.
7. The Commission has considered whether it would, at this time, recommend to the federal Minister of the Environment, pursuant to section 25 of the CEEA, to refer the project to a mediator or a review panel.
8. The Commission also considered whether it would, pursuant to subsection 17(1) of the CEEA, delegate the conduct of technical studies to AECL and the writing of the Screening Report to CNSC staff or the proponent.
9. Furthermore, the Commission undertook to decide whether or not it will consider the completed EA Screening Report in a public hearing or in a closed session.

Hearing

10. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to hear this matter.
11. In making its decision, the Commission considered information presented for a hearing held on October 24, 2008 in Ottawa, Ontario. The hearing was conducted in accordance with the Commission’s process for determining matters under the CEEA. During the hearing, the Commission has considered written submissions from CNSC staff (CMD 08-H135) and AECL (CMD 08- H135.1).

Decision

12. 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 attached “*Proposed EA Guidelines for the Proposal by Atomic Energy of Canada Ltd. To Decommission the National Research Experimental Ancillary Buildings Located at Chalk River Laboratories, Ontario*” presented in the CNSC staff document CMD 08-H135.

13. 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.
14. The Commission decides that, pursuant to subsection 17(1) of the CEAA, the conduct of technical support studies will be delegated to AECL.
15. Furthermore, the Commission decides that the completed EA Screening Report will not be considered by the Commission for approval at a public hearing but in a closed session.

Issue and Commission Findings

Type of Environmental Assessment Required

16. The proposed project is not of the type identified in the *Comprehensive Study List Regulations*⁷ of the CEAA; therefore, no comprehensive study is required. At this time, CNSC staff is not aware of any potential environmental effects or public concerns associated with this project that would warrant referral to a mediator or review panel pursuant to section 25 of the CEAA.
17. Therefore, pursuant to subsection 18(1) of the CEAA, the CNSC is required to ensure the conduct of a screening EA and the preparation of a screening report before amendments related to NRX ancillary buildings decommissioning proposal can be considered under the NSCA.

⁷ S.O.R./94-638.

Consultations on the Draft EA Guidelines

18. To review the adequacy of the draft EA Guidelines and to assess the level of public concern about the project, the Commission considered if the public and other stakeholders had been provided with adequate opportunity to become informed and express their views about the EA during the consultations carried out thus far by CNSC staff and the proponent.
19. CNSC staff reported that a public registry had been established for this EA in the Canadian Environmental Assessment Registry (CEAR) under identification number 07-01-27095. The public was provided with an opportunity to comment on the draft EA Guidelines from July 16, 2008 to August 15, 2008. Notices of the consultation period were placed on the CEAR on-line and on the CNSC Web Site.
20. CNSC staff reported that, in accordance with the *CEAA Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements*⁸, it had started consultations with the relevant Federal Authorities: Health Canada, Environment Canada and Natural Resources Canada.
21. CNSC staff stated that the Ontario Ministry of the Environment (OMOE) was also consulted and confirmed that the Ontario *Environmental Assessment Act*⁹ did not apply to the proposed project.
22. The Commission is of the opinion that the consultations with the public and other stakeholders during the preparation of the draft EA Guidelines have been conducted in a satisfactory manner.

Environmental Assessment Studies and Screening Report

23. CNSC staff recommended that, pursuant to Subsection 17(1) of the CEAA, the required technical studies be delegated to AECL. AECL would be provided with the guidelines to carry out the EA studies and would have to submit to CNSC staff a detailed Environmental Impact Statement report. The report would be reviewed by all Federal Authorities before CNSC staff prepares a draft Screening Report and submits it for public consultation. After the consultation, a final EA Report would be prepared by CNSC staff and would be submitted to the Commission for consideration.
24. Based on the low level of public concern observed during the consultation for the EA Guidelines, CNSC staff recommended that the final EA Screening Report be considered by the Commission in a closed session.

⁸ S.O.R./97-181.

⁹ R.S.O. 1990, c.E18.

25. The Commission decided to accept the recommendation of CNSC staff, that is to delegate the EA studies to AECL and to consider the EA Screening Report in a closed session.

Scope of the Project

26. Pursuant to section 15 of the CEAA, CNSC staff and NRCan have determined that the scope of the project will include the following physical work:
 - Eight ancillary buildings to be decommissioned; and
 - The waste material to be generated from the decommissioning activities.
27. CNSC staff also included in the draft EA Guidelines specific decommissioning activities to be carried out, based on AECL's project description.
28. Based on the information received, the Commission accepted CNSC staff's recommendations concerning the *scope of the project* and approved the definition of the project scope as set out in the draft EA Guidelines.

Scope of the Assessment Factors

29. CNSC staff included in the draft EA Guidelines a list of factors and scope of these factors to be considered, pursuant to subsections 16(1) and 16(3) of the CEAA, to assess the effects on the environment of the project including effects of malfunction, accidents and cumulative effects. The guidelines also identify specific information requirements and the methodology to be used in the assessment.
30. CNSC staff recommended that the follow-up program be based on the regulatory principles of licensing and compliance, reporting and analysis already in place at AECL.
31. The Commission is of the opinion that the *scope of the assessment factors*, as described in section 3.3 of the draft EA Guidelines, is appropriate for the purpose of the EA of the proposed project.

EA Structure and Approach

32. CNSC staff has included in the EA Guidelines an instruction for preparation of the EA Screening Report, with the report structure and table of contents. CNSC staff stated that the Screening Report would present a conclusion as to whether the project is likely to cause significant adverse environmental effects, taking into account the appropriate mitigation measures. CNSC staff will make recommendations to the Commission related to the project when the EA report is available, consistent with section 20 of the CEAA.

33. Based on the CNSC staff recommendation, the Commission is satisfied with the structure, approach, and other instructions for conducting the EA, as described in the EA Guidelines attached to CMD 08-H135.

Public Concern on the Project

34. No concerns from the public were raised during the public consultation on the EA guidelines.

Conclusion

35. The Commission has considered the information and submissions of AECL and CNSC staff as presented in the material available for reference on the record.
36. The Commission approves the "*Proposed EA Guidelines for the Proposal by Atomic Energy of Canada Ltd. To Decommission the National Research Experimental Ancillary Buildings Located at Chalk River Laboratories, Ontario*" presented in the CNSC staff document CMD 08-H135.
37. The Commission decides to delegate the conduct of technical EA studies to AECL.
38. Based on CNSC staff's recommendation, the Commission decides that the completed EA Screening Report will be considered in a closed session.
39. The Commission 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.



OCT 31 2008

Michael Binder
President,
Canadian Nuclear Safety Commission

Date