



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Record of Proceedings, Including Reasons for Decision

In the Matter of

Subject Licence Amendments under Section 25 of the
Nuclear Safety and Control Act for Nuclear
Substances, Prescribed Equipment and Class II
Nuclear Facilities Licences to Include
Requirements for Financial Guarantees

Decision Date January 19, 2015

RECORD OF PROCEEDINGS

Purpose: Licence Amendments Under Section 25 of the *Nuclear Safety and Control Act* for Nuclear Substances, Prescribed Equipment and Class II Nuclear Facilities Licences to Include Requirements for Financial Guarantees

Date of decision: January 19, 2015

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

Members present: M. Binder, Chair

Licences: Amended

Table of Contents

1.0 INTRODUCTION	1
2.0 DECISION	2
3.0 ISSUES AND COMMISSION FINDINGS	3
4.0 CONCLUSION	5

1.0 INTRODUCTION

1. The Canadian Nuclear Safety Commission¹ (CNSC), under section 25 of the *Nuclear Safety and Control Act*² (NSCA), is considering amending, on its own motion, licences for nuclear substances, prescribed equipment and Class II nuclear facilities in a way that would impose on these licensees a requirement under subsection 24(5) of the NSCA to have a financial guarantee that would cover the safe termination of licensed activities in the event of default on the part of the licensee.
2. Since the NSCA came into force in 2000, the Commission has required financial guarantees for all major nuclear facilities across Canada, including nuclear power plants, uranium mines and mills, research reactors and major waste facilities. In 2011, the Commission published discussion paper DIS-11-01, *Implementation of Financial Guarantees for Licensees*, which stated that, going forward, all other licensees would also be required to have financial guarantees acceptable to the Commission.
3. During a public meeting of the Commission in August 2014, CNSC staff presented to the Commission a technical briefing (CMD 14-M44 and CMD 14-M44.A) which explained the proposed financial guarantee model with respect to CNSC licences issued for nuclear substances, prescribed equipment and Class II nuclear facilities. This new model took into account comments made by stakeholders as part of the consultation phase of discussion paper DIS-11-01.
4. The proposed licence condition to require nuclear substances, prescribed equipment and Class II nuclear facilities licensees to implement financial guarantees states:

“The licensee shall, as of April 1, 2015, maintain at all times a financial guarantee in respect of the activities authorized by this licence of a value set by the Commission and in a form acceptable to the Commission.”
5. The Commission agrees with the principles and structure of the proposed financial guarantee model. Since the proposed licence amendment would be based on this financial guarantee model and make financial guarantees a licence requirement for affected licensees, the Commission provided, pursuant to paragraph 40(1)(b) of the NSCA, potentially affected licensees an opportunity to be heard on this matter, via written submissions, prior to making a final decision.

Issue

6. Pursuant to section 25 of the NSCA, the Commission may, on its own motion, amend a licence under the prescribed conditions. Subsection 8(2) of the *General Nuclear Safety and Control Regulations*³ (GNSCR) provides the conditions under which the

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 Statutes of Canada (S.C.) 1997, chapter (c.) 9.

³ Statutory Orders and Regulations (SOR)-2000-202.

Commission may, for the purpose of section 25 of the NSCA, on its own motion, amend a licence.

7. Pursuant to section 25 of the NSCA and paragraph 8(2)(h) of the GNSCR, the Commission may amend, on its own motion, a licence when failure to do so could pose an unreasonable risk to the environment, health and safety of persons, and national security. In considering this request, the Commission had to determine, pursuant to section 25 of the NSCA, whether:
 - a) subsection 8(2)(h) of the GNSCR was applicable; and
 - b) the financial guarantee model, as presented in CMD 14-M44 and CMD 14-M44.A, is acceptable with respect to nuclear substances, prescribed equipment and Class II nuclear facilities licences.

Panel

8. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review this matter. The Commission considered a written submission from CNSC staff (CMD 15-H101). Pursuant to paragraph 40(1)(b) of the NSCA, potentially affected licensees were provided with an opportunity to be heard, in writing, on this proposed licence amendment. The Commission considered written submissions from six licensees (see Appendix A for a detailed list of licensees who filed submissions). CNSC staff reviewed these submissions and provided its review to the Commission in Appendix A of CMD 15-H101.

2.0 DECISION

9. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*, the Commission concludes that, pursuant to paragraph 8(2)(h) of the GNSCR, failure to amend the 2353 licences could pose an unreasonable risk to the environment, the health and safety of persons or national security. Therefore, the Commission:

- a) approves the financial guarantee model, as presented in CMD 14-M44 and CMD 14-M44.A, as being in a form acceptable to the Commission with respect to nuclear substances, prescribed equipment and Class II nuclear facilities licences; and
- b) pursuant to subsection 24(5) and section 25 of the *Nuclear Safety and Control Act*, amends the 2353 licences listed in Appendix B of CMD 15-H101, to include the proposed licence condition to require licensees to have in place a financial guarantee.

10. The Commission includes in the licence the conditions as recommended by CNSC staff in CMD 15-H101.
11. The Commission also directs CNSC staff to include the requirement for a financial guarantee in future new licences, as appropriate.
12. The Commission notes that no additional financial guarantee would be required for a licensee that is also a Class I or Uranium Mines and Mills licensee as it already has financial guarantees acceptable to the CNSC, but that the financial guarantee condition shall be included in its amended licence.

3.0 ISSUES AND COMMISSION FINDINGS

13. CNSC staff submitted that, during the August 2014 public meeting of the Commission, CNSC staff proposed an economical insurance policy financial guarantee model for nuclear substances, prescribed equipment and Class II nuclear facilities licenses, in place of traditional financial guarantees. CNSC staff noted that the CNSC would be the sole insured party, with licensees contributing to the total premium of the policy. CNSC staff provided the Commission with additional details of this financial guarantee model and noted that, through extensive research and evaluation, total coverage of 1 million dollars was found to be adequate.
14. In their submissions, several licensees submitted that they should not be required to provide a financial guarantee to the CNSC for their licensed activities since their operations are small and do not present a significant risk. Several licensees further submitted that the cost of terminating licensed activities, should a licensee be unable to do so safely, should be paid by the CNSC. In its review of these submissions, CNSC staff noted that a financial guarantee is not associated with the risk presented by licensed activities. Rather, it is related to the safe termination of licensed activities and is proposed to be required for all operations, whether small or large, since the cost of safely terminating licensed activities could be an unforeseen and possibly large expense for the CNSC and, by extension, the Canadian taxpayers. As such, a financial guarantee requirement is specifically provided for under subsection 24(5) of the NSCA. The Commission concurs with CNSC staff's review of this matter.
15. In its written submission, Schlumberger Oilfield Services raised the possibility of an insufficient number of licensees participating in the proposed financial guarantee insurance model. Further to its review of Schlumberger Oilfield Services' submission, CNSC staff stated that the proposed financial guarantee model was designed to be financially attractive to licensees, with approximately 75% of licensees paying, on an annual basis, less than \$125.00. CNSC staff expects that the simplicity of the model and its low cost will attract close to 100% participation. The Commission is satisfied with CNSC staff's review of this matter.
16. In its written submission, Hunt Inspection indicated that, since they are not considered a

major nuclear facility, the financial strain of providing a financial guarantee to the CNSC would have a negative effect on their operations. In its review of Hunt Inspection's submission, CNSC staff noted that it has taken into account the comments about the financial strain that financial guarantees could pose to smaller licensees, which were made during consultation activities related to CNSC discussion paper DIS-11-01. CNSC staff further indicated that, based on these comments, the new proposed financial guarantee model meets the needs of smaller licensees in that it is significantly more cost-effective than the expenses that licensees would incur with having to cover their full liability through a third-party system. The Commission is satisfied with CNSC staff's review of this matter.

17. In its written submission, Cole Engineering noted that they do not own any nuclear substances or radiation devices, but rather rent them. As such, should financial guarantees become a licence condition, they would forego their licence and cover future need for these devices with single-day rentals. In its review of Cole Engineering's submission, CNSC staff noted that, pursuant to paragraph 26(a) of the NSCA, a CNSC licence to use nuclear substances or radiation devices would be required, and as such, a financial guarantee would be required from the licensee. The Commission concurs with CNSC staff's review of this submission.
18. In their written submissions, several licensees noted that the CNSC did not provide sufficient information on the proposed financial guarantee model to licensees prior to this written hearing. In its review of these submissions, CNSC staff noted that the Notice of Hearing published by the CNSC on November 19, 2014 provided information on how to access the full details of the proposed financial guarantee model, and that this allowed licensees to determine their cost of the insurance policy. In addition, CNSC staff noted that the proposed insurance provider is Trisura Guarantee Insurance Company. CNSC staff also clarified that the annual financial contribution by a licensee is based on each licence held by a licensee, up to a maximum liability value of 1 million dollars per licensee. The Commission is satisfied with CNSC staff's review and clarification of this matter.
19. In its written submission, Schlumberger Oilfield Services enquired about why this hearing was being held in writing only, without the opportunity for oral submissions from licensees. In its review of this submission, CNSC staff indicated that significant licensee and stakeholder consultation activities on financial guarantee requirements had been conducted in the past. Furthermore, as provided for under subsection 20(3) of the NSCA, the Commission is considering this matter in an informal and expeditious manner, as the circumstances and consideration of fairness permit, and the Commission provided an opportunity to be heard to all affected licensees through written submissions.
20. CNSC staff submitted that, as discussed at the August 2014 public meeting of the Commission, licensed public institutions would not have to set aside any specific funds or a financial guarantee obligation since it is recognized that they are supported by a federal, provincial or municipal government, which would be expected to assume the cost for safe termination of licensed activities.

21. CNSC staff submitted that licensees with complex activities, facilities and equipment that do not fit the proposed insurance policy financial guarantee model would be able to propose an alternate financial guarantee for their licensed activities. CNSC staff noted, however, that any alternate financial guarantees would have to be accepted by the CNSC.
22. In its written submission, Bruce Power indicated that the financial guarantee for its Class I facility should cover any additional financial guarantees required by its nuclear substances, prescribed equipment and Class II nuclear facilities licences. In its review of Bruce Power's submission, CNSC staff indicated that coverage of the liabilities associated with the activities of any licensee that holds a Class I facility licence would be provided under their Class I financial guarantee.
23. CNSC staff further clarified that, while all nuclear substances, prescribed equipment and Class II nuclear facilities licences would be amended to include the licence condition requiring licensees to have in place a financial guarantee, no additional financial guarantee would be required for a licensee that currently holds a Class I facility or Uranium Mines and Mills licence since those licensees have already provided the CNSC with a financial guarantee for those activities. The Commission concurs with CNSC staff's review and interpretation of this matter.

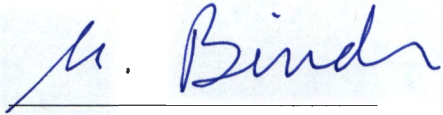
4.0 CONCLUSION

24. The Commission has considered the information and submissions from six licensees and CNSC staff, and is satisfied that failure to amend the 2353 licences could pose an unreasonable risk to the environment, the health and safety of persons or national security. Therefore, the Commission amends the 2353 licences listed in Appendix B of CMD 15-H101 to include the following proposed licence condition to require licensees to implement financial guarantees:

“The licensee shall, as of April 1, 2015, maintain at all times a financial guarantee in respect of the activities authorized by this licence of a value set by the Commission and in a form acceptable to the Commission.”

25. The Commission finds that the financial guarantee model, as presented in CMD 14-M44 and CMD 14-M44.A, is acceptable to the Commission with respect to nuclear substances, prescribed equipment and Class II nuclear facilities licences. The Commission further finds that, should the licensee not propose an alternate financial guarantee acceptable to the CNSC, the proposed financial guarantee model shall be the default method for providing a financial guarantee to the CNSC for the amended licences.
26. The Commission finds that, although their licences will be amended to include the financial guarantee condition, no additional financial guarantee for nuclear substances, prescribed equipment or Class II nuclear facilities licensees that currently hold a Class I

facility or Uranium Mines and Mills licence is required since those licensees have already provided the CNSC with a financial guarantee for those activities.



Michael Binder
President,
Canadian Nuclear Safety Commission

JAN 19 2015

Date

Appendix A – Intervenors

Intervenors	Document Number
Cole Engineering Group Ltd.	CMD 15-H101.1
SNC-Lavalin Inc.	CMD 15-H101.2
Hunt Inspection Ltd.	CMD 15-H101.3
Steve Staniek	CMD 15-H101.4
Schlumberger Canada Limited	CMD 15-H101.5
Bruce Power	CMD 15-H101.6