



Canadian Nuclear  
Safety Commission

Commission canadienne  
de sûreté nucléaire

## Record of Decision

In the Matter of

Licensee  
Subject to  
Decision

Neucel Specialty Cellulose Ltd.

Subject

Licence Revocation under Section 25 of the  
*Nuclear Safety and Control Act*

Decision Date

June 25, 2019

## **RECORD OF DECISION**

Licensee  
Subject to Decision: Neucel Specialty Cellulose Ltd.

Address/Location: c/o Pacific Rim Law Corporation  
405 Rabbit Lane  
West Vancouver, BC V7S 1J1

Subject: Licence Revocation under Section 25 of the *Nuclear Safety and Control Act*

Decision Date: June 25, 2019

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

Panel of Commission: R. Velshi, Chair

**Licence: Revoked**

**Table of Contents**

**1.0 INTRODUCTION..... 1**  
**2.0 DECISION..... 2**  
**3.0 ISSUES AND COMMISSION FINDINGS ..... 3**  
**4.0 CONCLUSIONS ..... 4**

## 1.0 INTRODUCTION

1. Neucel Specialty Cellulose Ltd. (Neucel), a cellulose pulp company based in Port Alice, BC, holds Canadian Nuclear Safety Commission<sup>1</sup> (CNSC) licence number 13919-1-22.0, which expires on May 31, 2022. Under this licence, Neucel is authorized to possess, transfer, use and store nuclear substances and prescribed equipment. Neucel's licence was issued by a CNSC designated officer (DO).
2. On March 22, 2019, a DO issued an order to Neucel to, among other measures, transfer all nuclear substances in its possession to another person who is authorized by the CNSC to possess such nuclear substances.<sup>2</sup> The order was issued pursuant to subsection 35(1) of the *Nuclear Safety and Control Act* (NSCA)<sup>3</sup> after an inspection of Neucel's site on March 20, 2019 showed that Neucel had failed to ensure the safety and security of its eight fixed nuclear gauges, contravening the NSCA and its regulations.
3. Pursuant to subsection 37(6) of the NSCA, the DO referred the order to the Commission for review and the Commission confirmed the order on May 6, 2019.<sup>4</sup> At that time, Neucel had not yet complied with the order, nor had Neucel provided information to the CNSC to the effect that it was planning on complying with the order. The Commission provided Neucel an opportunity to be heard in regard to the order. Neucel did not avail itself of this opportunity to be heard.
4. In its written submission regarding the order issued to Neucel, CSNC staff informed the Commission that the nuclear gauges at the Neucel site presented an unreasonable risk to the environment and the health and safety of persons, as well as an unreasonable risk to national security. The CNSC worked with the local Royal Canadian Mounted Police (RCMP) and the British Columbia Ministry of Environment to ensure security at the site, and the gauges have now been seized following the execution of a warrant obtained by the RCMP. The Commission is now considering the revocation of Neucel's licence on its own motion.

### Issue

5. Pursuant to subsection 25 of the NSCA, the Commission may, on its own motion, renew, suspend in whole or in part, amend, revoke or replace a licence under the prescribed conditions. Subsection 8(2) of the *General Nuclear Safety and Control Regulations*<sup>5</sup> (GNSCR) provides the conditions under which the Commission may, for the purpose of section 25 of the NSCA, renew, suspend in whole or in part, amend, revoke or replace a licence on its own motion.

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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> Letter from S. Faille (CNSC) to K. Lu (Neucel), *Designated Officer Order Issued to Neucel Specialty Cellulose Ltd.*, March 22, 2019, e-Doc # 5852234.

<sup>3</sup> S.C. 1997, c. 9

<sup>4</sup> Record of Decision, *Review by the Commission of the Designated Officer Order Issued on March 22, 2019*, May 6, 2019.

<sup>5</sup> SOR/2000-202

6. In considering the licence revocation, the Commission has to determine, pursuant to section 25 of the NSCA, whether paragraphs 8(2)(a), (c) and (f) of the GNSCR are applicable. Specifically whether
- “*the licensee is not qualified to carry on the licensed activity,*” GNSCR, paragraph 8(2)(a);
  - “*the licensee has failed to comply with the Act, the regulations made under the Act or the licence,*” GNSCR, paragraph 8(2)(c); and
  - “*the licensee no longer carries on the licensed activity,*” GNSCR, paragraph 8(2)(f).

Panel

7. Pursuant to section 22 of the NSCA, I established myself to preside a Panel of one Commission member to review the order. Pursuant to paragraph 40(1)(b) of the NSCA, the Commission provided an opportunity to be heard in writing to Neucel on the proposed licence revocation. Neucel was offered an opportunity to be heard in accordance with the *Rules of Procedure*<sup>6</sup> (the Rules) on June 12, 2019 but did not respond.<sup>7</sup> Accordingly, the Commission, in making its decision, only considered the information submitted by CNSC staff in CMD 19-H107.

**2.0 DECISION**

8. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Decision*, the Commission concludes that Neucel is not qualified to carry on the licensed activity; has failed to comply with the NSCA, the regulations made under the NSCA and its licence; and no longer carries on the licensed activity. Therefore, the Commission,

pursuant to section 25 of the *Nuclear Safety and Control Act* and subsection 8(2) of the *General Nuclear Safety and Control Regulations*, revokes CNSC licence number 13919-1-22.0 issued to Neucel Specialty Cellulose Ltd.

9. The Commission directs CNSC staff to provide the Commission written updates following any major developments in this matter.

<sup>6</sup> SOR/2000-211

<sup>7</sup> Letter from M. Leblanc (CNSC) to K. Lu (Neucel), *Opportunity to be Heard on Licence Revocation*, June 12, 2019, e-Doc #5923354.

### 3.0 ISSUES AND COMMISSION FINDINGS

10. In considering the reasonableness of revoking Neucel's licence, the Commission considered the actions and measures taken by CNSC staff in regard to Neucel's non-compliance with the NSCA and its regulations, and its licence. The Commission also reviewed the actions taken by Neucel since the issuance of the DO order on March 22, 2019 and since the Commission's confirmation of the order on May 6, 2019.
11. On February 28, 2019, CNSC staff was notified by the licensee's radiation safety officer that workers at Neucel's Port Alice, BC site were asked to cease all work and were terminated at the end of the day, leaving eight nuclear fixed gauges mounted on processing equipment unattended and without supervision. Paragraph 12(1)(a) of the GNSCR requires that the licensee ensures the presence of a sufficient number of qualified workers to carry on the licensed activity safely and in accordance with the NSCA and its licence. CNSC staff submitted that Neucel was no longer in operation.
12. CNSC staff inspected Neucel's facility in Port Alice on March 20, 2019 and confirmed that Neucel was in possession of eight fixed nuclear gauges and left the site unattended without any management oversight, supervision or access control. As such, CNSC was of the view that Neucel had failed to maintain the safety and security of its site and of its fixed gauges, contrary to paragraph 12(1)(c) of the GNSCR.
13. CNSC staff's inspection at Neucel's Port Alice, BC site on March 20, 2019 also revealed that the site's perimeter fencing had been compromised in some areas and that the site had no security or management oversight, as required by paragraph 12(1)(c) of the GNSCR.
14. In its written submission, CNSC staff informed the Commission that Neucel failed to implement alerting measures in the event of the illegal use or removal of its fixed nuclear gauges, or in the event of any acts of sabotage or attempted sabotage anywhere at the Port Alice, BC site as required by paragraph 12(1)(g) and 12(1)(h) of the GNSCR.
15. Pursuant to paragraph 40(1)(b) of the NSCA, Neucel was offered, on June 12, 2019, an opportunity to be heard, regarding the licence revocation being considered by the Commission. Neucel did not respond to correspondence from the CNSC in regard to the opportunity to be heard.
16. CNSC staff submitted that, based on Neucel's actions in this matter, it was of the view that Neucel was no longer qualified to carry on the licensed activity. CNSC staff also indicated that the RCMP obtained and then executed a warrant on May 30, 2019 to seize the devices at the request of the CNSC. At this time, CNSC staff accompanied a licensed third party who removed all devices at the location and transported them to a licensed site for secure storage.
17. The Commission notes that the seizure of the nuclear gauges eliminated the risks associated with the nuclear substances formerly at Neucel's site. However, the Commission states that the seizure of the gauges does not address the issue that Neucel has not complied with the order.

18. The Commission notes CNSC staff's submission that Neucel had indicated a desire to reopen in the future but had not submitted any information to the CNSC to suggest that this could be done appropriately. Further, the Commission notes that, to date, Neucel has been either unable or unwilling to comply with the order, the NSCA, its regulations and its licence, and remains in contravention of these requirements.

#### 4.0 CONCLUSIONS

19. The Commission has considered the information and submission by CNSC staff as presented on the record in regard to this matter. The Commission further states that Neucel's actions and CNSC staff's inspections have shown that Neucel
- is not qualified to carry out the licensed activity;
  - has failed to comply with the NSCA, the regulations made under the NSCA and its licence conditions; and
  - is no longer carrying on the licensed activity.
20. Based on the above information, and pursuant to section 25 of the NSCA and paragraphs 8(2)(a), (c) and (f) of the GNSCR, the Commission revokes CNSC number 13919-1-22.0 issued to Neucel Specialty Cellulose Ltd. This decision is effective immediately.
21. The Commission wishes to note its satisfaction with the quick actions taken by CNSC staff in regard to this matter, and CNSC staff's collaboration with third parties in regard to securing the nuclear gauges and site.
22. The Commission, however, wishes to express its great displeasure with respect to Neucel's actions in this matter and its disregard for its licensing and regulatory obligations under the NSCA. Compliance with the NSCA, its regulations and licence conditions is a requirement, and licensees are required to meet licensing and regulatory requirements at all times.
23. The Commission notes CNSC staff's intention to seek an order from the Federal Court of Canada for the ultimate disposal of the seized nuclear substances, with costs potentially covered by the financial guarantee insurance program to which the licensee had been a contributor. The Commission directs CNSC staff to provide the Commission written updates following any major developments in this matter.



Rumina Velshi  
President  
Canadian Nuclear Safety Commission

June 25, 2019

Date