



# CMD 25-M39 - CNSC Staff Status Update to the Commission

## Update on the Compliance Verification Criteria under Licence Conditions 11.1 and 15.4 in the Darlington New Nuclear Project Licence to Construct Licence Conditions Handbook

<b>Classification</b>	Unclassified
<b>Type of CMD</b>	Status Update
<b>CMD Number</b>	25-M39
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<b>Summary</b>	The Commission directed CNSC staff to provide an update on the DNNP CVC for LC 15.4 and 11.1 in paragraphs 19 and 491 of the <i>Record of Decision in the Matter of Ontario Power Generation's Application for a Licence to Construct one BWRX-300 Reactor at the Darlington New Nuclear Project Site</i> .
<b>Actions required</b>	There are no actions requested of the Commission. This CMD is for information only.



## **CMD 25-M39**

# **Update on the Compliance Verification Criteria under Licence Conditions 11.1 and 15.4 in the Darlington New Nuclear Project Licence to Construct Licence Conditions Handbook**

**Signed by:**

X

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Sarah Eaton

Director General, Directorate of Advanced Reactor Technologies



# **Update on the Compliance Verification Criteria under Licence Conditions 11.1 and 15.4 in the Darlington New Nuclear Project Licence to Construct Licence Conditions Handbook**

Canadian Nuclear Safety Commission



## MEMORANDUM

## NOTE DE SERVICE

To Candace Salmon  
A Commission Registrar / Registraire de la  
Commission

CMD# 25-M39  
ccm# 006992  
Fully releasable ATIP : Yes

From Sarah Eaton  
De Director General, Directorate of Advanced Reactor Technologies

Subject: Update on the Compliance Verification Criteria under Licence Conditions 11.1 and 15.4 in the Darlington New Nuclear Project Licence to Construct Licence Conditions Handbook

### Background

The purpose of this information note is to provide the Commission with:

- 1) An update on the engagement with the Michi Saagiig Nations and Saugeen Ojibway Nation (SON) since the Part 2 Hearing regarding the compliance verification criteria (CVC) under licence conditions (LC)s 11.1 and 15.4.
- 2) Update regarding the removal of the proposed working group between CNSC staff, OPG and the Michi Saagiig Nations
- 3) The updated Licence Condition Handbook (LCH) CVC for LCs 11.1 and 15.4, that were included in LCH Revision 0 issued to OPG on April 14, 2025

The Commission directed CNSC staff to provide this information in paragraphs 19 and 491 of the *Record of Decision in the Matter of Ontario Power Generation's Application for a Licence to Construct one BWRX-300 Reactor at the Darlington New Nuclear Project Site (the Record of Decision)*.

### DISCUSSION

LC 15.4 and related CVC in the LCH is an important commitment and accommodation measure by the CNSC to address requests and concerns from the Michi Saagiig Nations. Additionally, the CVC for LC 11.1 was updated with the goal of addressing concerns raised by SON regarding waste management.

In response to the Michi Saagiig Nations request through their DNNP interventions to form an Indigenous Advisory Committee, CNSC staff proposed a formal working group between CNSC



staff, the Michi Saagiig Nations and OPG to collaboratively monitor OPG's implementation of its mitigation measures and commitments included in LC 15.4. As presented at the Commission Proceeding, the draft CVC for LC 15.4 included a requirement for OPG to participate in the proposed working group and the Commission directed CNSC staff in paragraphs 392 and 431 of the *Record of Decision* to implement the proposed working group.

During the oral portion of the hearing, CNSC staff committed to continuing to engage with the Michi Saagiig Nations and SON on the CVC, with the goal of reaching consensus on the content and language.

## UPDATE

### Engagement with the Michi Saagiig Nations on the CVC for LC 15.4

Following the Part-2 public Commission hearing for the DNNP LTC, CNSC staff and the Michi Saagiig Nations had multiple meetings to discuss the approach to the CVC for LC 15.4 and collaborated on updates to the language in an effort to reach consensus. CNSC staff incorporated feedback from the Michi Saagiig Nations and shared an updated version of the CVC to confirm whether there were any additional edits required before providing the updated CVC to the Commission. Both Curve Lake First Nation and the Mississaugas of Scugog Island First Nation confirmed that they did not have any further comments or edits on the CVC. CNSC staff did not receive a response from Alderville First Nation or Hiawatha First Nation. CNSC staff consider the CVC to be final at this time but will continue to engage with the Michi Saagiig Nations and update the CVC if required.

During this engagement, the Michi Saagiig Nations requested that the CNSC remove the requirement for OPG to participate in the proposed working group for monitoring and oversight, that was directed in paragraphs 392 and 431 of the *Record of Decision*. The Michi Saagiig Nations relayed that they were not interested in this type of working group and preferred to engage directly with OPG, and separately with the CNSC, as part of follow-up, monitoring and oversight of OPG's compliance with LC 15.4. Based on this feedback and clarification, CNSC staff have removed the requirement for OPG to participate in the working group from the CVC and will not be proceeding with this working group initiative. CNSC staff are committed to engaging directly with the Michi Saagiig Nations on a regular basis to discuss and collaborate on follow-up, monitoring and oversight of OPG's compliance with LC 15.4.

Appendix A is an excerpt of the LCH CVC for LC 15.4.

### Engagement with SON on the CVC for LC 11.1

the Part-2 public Commission hearing for the DNNP LTC, CNSC staff had two meetings with SON to discuss their concerns and the approach to updating the CVC for LC 11.1. At these meetings, SON reiterated their preference for the CVC to clearly reflect OPG's commitment to store all



DNNP waste on site and SON's preference to not have the wastes managed or stored at OPG's Western Waste Management Facility which is located in SON's territory.

CNSC staff updated the CVC based on SON's feedback and provided the draft CVC to SON for their review. SON indicated that they appreciated the amendments made and that the CVC provided the necessary additional protection of SON's rights and interests. Based on SON's response, CNSC staff finalized the CVC for LC 11.1. CNSC staff remain committed to engaging with SON on the monitoring and oversight of OPG's compliance with LC 11.1.

Appendix B is an excerpt of the LCH CVC for LC 11.1.

## **NEXT STEPS/CONCLUSION**

Through further engagement and collaboration with the Michi Saagiig Nations and SON, the CVC for LC 15.4 and LC 11.1 have been updated and the LCH issued to OPG. CNSC staff note that further edits may be required in the future based on additional feedback from the Indigenous Nations and communities.

Based on feedback from the Michi Saagiig Nations, CNSC staff will not be proceeding with the proposed working group that was outlined in the *Record of Decision*. Instead, CNSC staff are committed to engaging directly with the Michi Saagiig Nations on a regular basis to discuss and collaborate on follow-up, monitoring and oversight of OPG's compliance with LC 15.4.

As directed in the *Record of Decision*, CNSC staff will notify the Commission of any future changes made to the LCH annually. CNSC staff's efforts with regards to engagement and collaboration with the Michi Saagiig Nations and SON will be reported on an annual basis to the Commission through an appropriate reporting mechanism.



# Appendix A: Excerpt of the LCH CVC for LC

## 15.4

### 15.4 Engagement with Indigenous Nations and Communities

#### Licence Condition:

**The licensee shall conduct Indigenous engagement activities, specific to the DNNP, over the lifecycle of the facility.**

#### Preamble:

As per Section 8(2) of the *Nuclear Safety and Control Act*, the Commission is an agent of the Crown. As such, the Commission has the obligation to fulfil the Duty to Consult and, where appropriate, accommodate, Indigenous peoples when the Crown contemplates conduct that might adversely impact potential or established Indigenous and/or treaty rights. In meeting its obligations towards Indigenous Nations and communities, the Commission may rely on Consultation undertaken by CNSC staff as well as the opportunities for Indigenous Nations and communities to make submissions directly to the Commission and to participate in the hearing process. To assist the Commission in meeting its duty to consult and, where appropriate, accommodate, the Commission may also rely on the engagement work of licensees. This includes consideration of measures to avoid or mitigate potential adverse impacts or other measures adopted, or proposed by, licensees for potential accommodation purposes.

A public information and disclosure program is required by the *Class I Nuclear Facilities Regulations*, which requires that licensees describe and maintain a program to inform persons living in the area of the site of the nature and characteristics of the anticipated effects of the activity on the environment, as well as on the health and safety of people. REGDOC-3.2.1 – *Public Information and Disclosure* also specifies that Indigenous Nations and communities should be included as a target audience for the licensee's public information and disclosure program.

As per section 6 of REGDOC-3.2.2 – *Indigenous Engagement*, licensees may be required to continue to engage Indigenous Nations and Communities after an Environmental Assessment or licensing decision. Licensees may also be required to update the CNSC about their ongoing Indigenous engagement activities—for example, the status of the implementation and effectiveness of mitigation and accommodation measures.

The Michi Saagiig of the WTFNs views this licence condition: “The licensee shall conduct Indigenous engagement activities, specific to the DNNP, throughout the period of this licence.”



– to also encompass the concepts below which can serve as examples of future licence conditions which could be proposed to the Commission for potential future licence applications and subsequent consideration and decision by the Commission.

- The licensee shall, provide mitigations, commitments and/ or accommodations as developed during Indigenous engagement activities, specific to the DNNP, throughout the period of this licence.
- The licensee shall fulfill consultation and/or engagement requirements related to Federal and Provincial authorizations and provide updates to the CNSC on the status of these activities.

Through the interventions submitted by the Michi Saagiig Nations (CMD 24-H3.62, CMD 24-H-3.81, CMD 24-H-3.83 and CMD 24-H3.85), the Michi Saagiig Nations have identified the need for further discussions with the CNSC on policy, programs and processes that would encourage meaningful consultation, improved decision-making and a process that seeks to obtain their consent. The CNSC is committed to continuing these discussions. This request is being included here for completeness and is not a requirement on OPG.

**Compliance Verification Criteria:**

OPG shall conduct ongoing engagement specific to the DNNP with the identified Indigenous Nations and communities with Indigenous and/or Treaty rights in the area of the DNNP and those who have expressed interest in the DNNP, throughout the licence period. If an Indigenous Nation and/or community is non-responsive, OPG shall continue to share information and provide opportunities for engagement, unless the Indigenous Nation and/or community specifically declines the engagement opportunities and requests that OPG stop sharing information regarding the DNNP.

The DNNP is located within the Williams Treaties territory. OPG shall continue to collaborate and engage with the Michi Saagiig Nations of the Williams Treaties First Nations on the specific commitments and accommodations made throughout the regulatory review process. This includes, but is not limited to:

1. Scoping the extent, timing, content, and supporting the development and implementation of a regional Indigenous Knowledge Study.
2. Scoping the extent, timing, content, and supporting the development and implementation of a Cumulative Effects Assessment.
3. Scoping the extent, timing, content, and supporting the development and implementation of an Environmental Monitoring Augmentation Program and participation by the Michi Saagiig Nations in OPG's existing and planned environmental monitoring program.





4. Periodic review of international best practices for the management and storage of used nuclear fuel, in relation to the current practices.

The licensee, in collaboration with the Michi Saagiig Nations, shall incorporate the outcomes of these studies, where appropriate, into the OPG's Environmental Monitoring and Environmental Assessment Follow-Up Plan (EA FUP). The licensee shall include an update on any progress made on these specific commitments in its annual Indigenous Engagement Report (as described below). The report shall include any relevant information and context regarding the current status of, timelines, and progress made on the agreed-upon studies and commitments.

CNSC staff will oversee compliance against commitments listed as 1 through 4 above.

#### **Additional Commitments between the Michi Saagiig Nations and OPG**

Additionally, the CNSC acknowledges that OPG and the Michi Saagiig Nations have collaboratively developed and agreed to the following commitments which are being included here for completeness while respecting that these are outside the CNSC's mandate and authorities for compliance and oversight.

- A. Scoping the extent, timing, and content for the comprehensive gap analysis for the DNNP (EAA vs. IAA); thereby informing the scope, timing, and content of the EA FUP.
- B. Scoping the extent, timing, and content of the plan/program for onsite and offsite offsetting and restoration (aquatic and terrestrial) to offset impacts by the project and to protect and enhance lands and waters important to MSIFN, HFN, CLFN, and AFN. This plan/program would also include beneficial action areas (including an instrument to protect such areas). This plan/program would be supported by the potential establishment of a long-term Ecological Restoration Fund.
- C. Scoping the extent, timing, and path forward in regards to provincial authorisations related to the potential issuance of a land easement for the Lake Ontario lake bed.
- D. Scoping the extent, timing, and path forward in regards to mutually-binding agreements that includes, but are not limited to, the preceding list above.

The CNSC does not have the mandate and authority to provide compliance oversight of the commitments listed as A through D above, and these do not form part of the compliance verification criteria.

#### **Requirements for the Annual Indigenous Engagement Report**

OPG shall file with the CNSC annually a report on the engagement activities specific to the DNNP it has undertaken with potentially impacted or interested Indigenous Nations and communities. The deadline for submission of this report shall be the first of May of each calendar year. OPG should also provide a copy of the report to each Indigenous Nation or community engaged in advance or at the same time it is filed with the CNSC. It is acknowledged



that an Indigenous Nation or community may share information with OPG in confidence. OPG is not required to put confidential information in its annual reporting to the CNSC. OPG should work with the Indigenous Nation or community to ensure this information is not disclosed and the Indigenous Nation or community is comfortable with the level of detail communicated within the report.

Each report shall include, at a minimum, and for each Indigenous Nation and community engaged:

- The name of the Indigenous Nation or community.
- The method(s), date(s), location(s), and topics of engagement activities with the Indigenous Nation or community.
- A summary of any issues, interests, or concerns raised, including those in relation to any potential impacts on identified or established Indigenous and/or Treaty rights.
- The measures taken, or that will be taken, to address or respond to the issues or concerns. Alternatively, an explanation as to why no further action is required to address or respond to issues or concerns shall be provided.
- A description of any changes to project activities and/or programs to address and incorporate the measures taken to respond to issues or concerns, or to incorporate knowledge and feedback from Indigenous Nations and communities.
- The status of the implementation of the studies and commitments (see items 1 through 4 under the *Additional Commitments between the Michi Saagiig Nations and OPG* section above) to address concerns raised with respect to the LTC application.
- An update on engagement conducted related to the progress on regulatory hold points
- An update (in an Appendix) related to the status of OPG commitments listed as A through D above.

#### Licensing Basis Publications

Document Number	Document Title	Version	Effective Date
REGDOC-3.2.2	Indigenous Engagement	1.2	[Publish Date]

#### Licensee Documents that Require Notification of Change



Document Title	Document #	Prior Notification
None.		

**Recommendations and Guidance:**

In conducting its engagement activities, the licensee should consider additional guidance provided throughout REGDOC-3.2.2 – *Indigenous Engagement*.



# Appendix B: Excerpt of the LCH CVC for LC

## 11.1

### 11.1 Waste Management for Construction

The Safety and Control Area “Waste Management” covers internal waste-related programs which form part of the facility’s or licensed activities operations up to the point where the waste is removed from the facility or site to a separate waste management facility. The Waste Management SCA also covers the planning for decommissioning.

#### Licence Condition:

**The licensee shall implement and maintain a waste management program.**

#### Preamble:

The [\*General Nuclear Safety and Control Regulations\*](#) require that a licence application contain information related to the in-plant management of radioactive or hazardous wastes resulting from the licensed activities.

The [\*Class I Nuclear Facilities Regulations\*](#) require that a licence application contain the proposed procedures for handling, storing, loading, and transporting nuclear and hazardous substances.

The activities encompassed under the PRCL will not involve the handling of radioactive materials and will not generate any radioactive wastes. Hazardous wastes generated as a result of construction activities will be limited to those used for standard construction projects.

#### Compliance Verification Criteria:

The licensee shall implement and maintain a program for the management of hazardous wastes produced from licensed activities, that shall include strategies for waste minimisation.

This construction licence does not authorise the handling of radioactive materials and will not permit the generation of any radioactive wastes at the DNNP. No radioactive waste is authorised to be transported from the DNNP site.

OPG has committed to further develop its waste management plans and will seek additional authorisations from the Commission related to the DNNP, as required, including the potential construction of a waste management facility at the DNNP site and plans for sorting and processing wastes from the DNNP.

OPG has committed that the DNNP waste management strategy does not include interim storage of DNNP low and intermediate level waste at OPG’s Western Waste Management Facility.



Throughout the licence term, OPG shall continue to engage with the Michi Saagiig Nations (in relation activities that may be proposed at the DNNP site during potential future licensing phases) and the Saugeen Ojibway Nation (in relation to activities that may be proposed at WWMF during potential future licensing phases). The objective of this engagement will be to address issues and concerns regarding OPG's DNNP waste management strategy, including plans for the storage, transportation, and processing.

### Licensing Basis Publications

Document Number	Document Title	Version	Effective Date
REGDOC-2.11.1*	Waste Management, Volume I: Management of Radioactive Waste	1	[Publish Date]

\* CNSC staff note that only Sections 5, Graded Approach, and 6, Waste Management Program, from REGDOC-2.11.1 shall apply for purposes of this licence.

### Licensee Documents that Require Notification of Change

Document Title	Document #	Prior Notification
Environment Health and Safety Managed System	OPG-PROG-0005	No
Management of Waste and Other Environmentally Regulated Materials	OPG-STD-0156	No
Site-Specific Hazardous Materials and Waste Management Plan (HWMP)	DA1-AEC-NN-NN-TPLN-EC-0005	No

In accordance with the *General Nuclear Safety and Control Regulations*, the licensee shall characterise its waste streams and minimise the production of all wastes, taking into consideration the health and safety of workers and of the environment.

If nuclear substances above exemption quantities are encountered during construction activities, appropriate measures such as those described in OPG's W-PROG-WM-0001 – *Nuclear Waste Management* program, shall be put into place to manage any radioactive wastes generated. In addition, appropriate measures for packaging and transport of nuclear substances will need to be put in place.

### Recommendations and Guidance:

None.