

March 19, 2008

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Re: The Approvals Process for New Reactors in Canada – RD-337 & RD-346

Dear Presidents Binder and Sylvester,

This letter is to state the position of the undersigned organizations in regard to the Canadian Nuclear Safety Commission's (CNSC) request for feedback on the comments received on the CNSC's proposed siting and design guides for the construction of new nuclear power stations in Canada, RD-337, *Design of New Nuclear Power Plants*, and RD-346, *Site Evaluation for New Nuclear Power Plants*.

After observing the non-transparent and *ad hoc* manner by which the CNSC has sought to develop a modernized regulatory framework for licensing new reactors in Canada, it is apparent to the undersigned that the CNSC has acted to prioritize the business interests of the nuclear industry over proper and transparent regulation in the public interest.

For reasons discussed below, we believe the CNSC's proposed approach to managing the risks posed by nuclear stations in Canada is outdated and inadequate. We also feel the way in which regulatory guides RD-337 and RD-346 have been developed renders them illegitimate.

First, it must be noted that the current regulatory guides are based on a multi-year dialogue with the nuclear industry.

At the request of Atomic Energy of Canada Limited (AECL) the CNSC began developing the licensing basis for AECL's proposed Advanced Candu Reactor design in 2002. This culminated in the issuing in 2005 of a draft regulatory guide, *Requirements for the Design of New Reactors*. Without notifying non-industry stakeholders, the CNSC sought input from the nuclear industry on this guide.

The input from the industry shaped the development of the CNSC's proposed regulatory framework for new reactors, including RD-337 and RD-346. It is noteworthy that the CNSC has refused to release its dispositioning of the nuclear industry's comments to non-industry stakeholders.

Given this, the proposed regulatory documents are already weighted towards the business interests of the nuclear industry and not the public interest or environmental protection. The organizations who have submitted comments, including AECL and Canadian nuclear utilities, have already had several years of access to the CNSC's proposed regulatory requirements for building new reactors.

We would like to note that non-industry stakeholders have sought clarity from the CNSC regarding its overall regulatory approach and specific issues in regard to the approval process for new reactors.

Members of Non-Government Organization Regulatory Advisory Committee (NGO-RAC), which was formed by the CNSC in response to the complaint by stakeholders that the CNSC regularly consults the Canadian Nuclear Association (CNA) on regulatory matters, but not public interest groups, asked for clarification of the CNSC's approach to establishing regulatory requirements at the first meeting of the NGO-RAC in November 2006. Staff made a presentation at the second NGO-RAC meeting in April 2007 on the CNSC Regulatory Documents Program, highlighting opportunities for increased stakeholder input.

NGO-RAC members raised significant concerns related to the approvals for new reactors, including the CNSC position on the management of new reactor fuel waste, whether the CNSC considered the comments provided by the public during a public meeting on the licensing process for new reactors in February 2006 and the CNSC perspective on the significance and reasonableness of risk.

Almost a year has passed and the CNSC has failed to organize a follow up meeting to the April 2007 meeting in order to respond to these issues.

Worse, at a meeting of the Commission in September 2007 the CNSC radically changed its regulatory approach, abandoning its former practice of producing regulatory guidance - in the form of policies, standards and guides - and introduced RD-337 and RD-346 as "regulatory expectation" documents. The CNSC did not warn NGO-RAC members of this significant change regulatory approach at the April NGO-RAC meeting. Nor has the CNSC provided an understandable roadmap for how a revised regulatory framework will be produced over the next few years and how and when the public will be able to provide input.

We are deeply concerned by the undue access given to the nuclear industry in developing the proposed siting and design guides. What's more, the abrupt decision to change the CNSC's approach to developing regulatory guidance documents shows that the CNSC is developing a licensing framework on an *ad hoc* basis, probably in order to speed up the development of a regulatory framework to meet the nuclear industry's desired schedules for building new nuclear stations.

The government's recent firing of former CNSC president Linda Keen compounds this concern. Media reports have indicated that a significant motivating factor behind the federal government's replacement of Ms. Keen was to remove perceived regulatory barriers to the construction of new reactors in Canada.

Given our aforementioned concerns, we request that RD-337 and RD-346 be withdrawn, pending a meaningful consultation on the approach and requirements for any modern nuclear standards regime. We also request that the CNSC release all discussions with the nuclear industry that informed the development of RD-337 and RD-346.

In regard to the content of RD-337 and RD-346, we agree with the findings of the Greenpeace Canada report, *Design and Siting Criteria for Nuclear Power Plants in the 21st Century*, which shows that CNSC's proposed approach to managing the risks posed by nuclear stations to society is outdated and fails to consider modern principles of sustainability, such as the precautionary principle.

Both RD-337 and RD-346 are based on guidance documents produced by the International Atomic Energy Agency (IAEA), namely NS-R-1, *Safety of Nuclear Power Plants: Design*, and NS-R-3 *Site Evaluation for Nuclear Installations*.

It must be noted that IAEA standards are "lowest common denominator," meaning such standards can be met by any reactor operating in IAEA member states. We don't believe that any modern Canadian nuclear safety regime should be based on the lowest common denominator of nuclear safety.

We note that the CNSC has claimed new nuclear power plants built in Canada “will meet the highest standards.”¹ We, however, see no evidence of this.

Notably, when the CNSC’s draft regulatory guides deviate from the exact wording provided in IAEA guidance documents, Canada’s nuclear utilities often recommend that the CNSC replace its standards with those provided by the IAEA. For instance, Canada’s nuclear utilities recommend that the CNSC use NS-R-3, the siting guide, as written because “...it has been used as the basis for several recent site evaluations. Revisions to the language will require the applicants to re-scope the evaluations that have been undertaken, resulting in unnecessary delays and costs.”²

As noted, we do not believe that Canada’s nuclear safety standards should be dictated by the economic interests of the CNSC’s licensees. As articulated in the comments by the Canadian utilities, there has been and will continue to be a push from the nuclear industry to water down nuclear safety standards and circumvent meaningful public consultation. This is contrary to the CNSC’s stated objective that new Canadian nuclear power stations “will meet the highest standards.”

For this reason, we believe any future consultation on the regulatory framework for new nuclear stations in Canada must also provide a benchmarking against other nuclear safety regimes for the public to be able to determine whether the CNSC is indeed aiming to meet “the highest standards.”

The siting guide, RD-346, is an example of how the CNSC is by no means meeting the highest standards. As noted in the Greenpeace submission, RD-346 offers no criteria for assessing the merit of a site from a safety perspective.

This is of particular concern given that CNSC has decided to proceed with the environmental assessments on proposals to build new nuclear stations at the Darlington and Bruce sites before it has consulted and established modern safety requirements.

For this reason, we request that the draft terms of reference for the environmental assessment for the proposed new nuclear stations at the Bruce and Darlington sites be put on hold, pending an unbiased consultation on the CNSC’s regulatory approach and criteria for approving new nuclear stations.

In conclusion, RD-337 and RD-346 have been developed in a manner that is both non-transparent and *ad hoc*, with unjustifiably excessive input from the nuclear industry, rendering them illegitimate. Indeed, most of the industry representatives who commented during the initial comment period for RD-337 and RD-346 have already had several years to influence the content of the regulatory guides.

More broadly, we are concerned that the CNSC is basing its regulatory approach on “lowest common denominator” safety standards instead of asking Canadians first what risks they are willing to accept from new nuclear stations. This is where the CNSC should begin its discussion of a modern nuclear regulatory framework.

We request that:

- RD-337 and RD-346 be withdrawn, pending a meaningful consultation on the approach and requirements for any modern nuclear standards regime;
- the CNSC release all discussions with the nuclear industry that informed the development of RD-337 and RD-346;
- the draft terms of reference for new nuclear stations at the Bruce and Darlington sites be put on hold, pending an unbiased consultation on the CNSC’s regulatory approach and criteria for approving new nuclear stations;
- any future consultation on the regulatory framework for approving new nuclear stations in Canada provide a benchmarking against other nuclear safety regimes.

Sincerely,



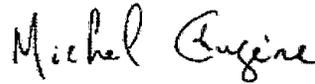
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¹ Canadian Nuclear Safety Commission, *Licensing Process for New Nuclear Power Plants in Canada*, INFO-0756 (Ottawa: CNSC, February 2006).

² See: Attachment B Section by Section comments on RD 346, pg 1, Mr. Mario Deslites, (Chief Nuclear Officer, Hydro Quebec) to Mr. Tom Viglasky (Director of Power Reactor Regulation), "Comments on Regulatory Document 346, "Site Evaluation," January 11, 2008