



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Canadian Nuclear Safety Commission Annual Report of the Commission Tribunal 2003-2004



The Commission Members

Linda J. Keen
President and Chief Executive Officer, Canadian Nuclear Safety Commission, Ottawa, Ontario
Ms. Keen was appointed a full-time Commission Member, effective November 1, 2000. She assumed duties as President and CEO of the CNSC on January 1, 2001.



Christopher R. Barnes
Director of the Centre for Earth and Ocean Research and of the School of Earth and Ocean Sciences at the University of Victoria, Victoria, British Columbia
Dr. Barnes was appointed a Commission Member on January 23, 1996.



Yves M. Giroux
Engineer, Québec City, Québec
Dr. Giroux was appointed a Commission Member on January 11, 1995.



Alan R. Graham
Businessperson, Rexton, New Brunswick
Mr. Graham was appointed a Commission Member on January 1, 1999.



J. Moyra J. McDill
Professor, Department of Mechanical and Aerospace Engineering, Carleton University, Ottawa, Ontario
Dr. J. Moyra J. McDill was appointed a Commission Member on May 30, 2002.



Letha MacLachlan
Environmental and Resources Law, Calgary, Alberta
Ms. MacLachlan was appointed a Commission Member on January 9, 2001. She ceased to be a Commission Member when her term expired in January 2004.



James A. Dosman
Director of the Institute of Agricultural Rural and Environmental Health, University of Saskatchewan, Saskatoon, Saskatchewan
Dr. James A. Dosman was appointed a Commission Member on May 30, 2002. Commission Member Dr. James A. Dosman left the Commission on December 29, 2003. Dr. Dosman was reappointed as of April 23, 2004.



Please note that the CNSC Annual Report is located on the reverse side of this document.



**Canadian Nuclear Safety Commission
Annual Report of the
Commission Tribunal 2003-2004**

Message from the President

As President of the Commission, I am pleased to report on the 2003-2004 achievements of the Canadian Nuclear Safety Commission's (CNSC) tribunal component. The CNSC is an independent federal government agency and a quasi-judicial tribunal that operate independently to regulate the use of nuclear energy and materials to protect health, safety, security and the environment and to respect Canada's international commitments on the peaceful use of nuclear energy, regulate the Canadian nuclear industry, and report to Parliament through the Minister of Natural Resources Canada. 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.

Under the *Nuclear Safety and Control Act*, the Commission consists of up to seven members, appointed by the Governor in Council. The President is a full-time member while the other members are appointed on a part-time basis. The Commission establishes regulatory policy on matters relating to its mission; makes legally binding decisions and regulations; and makes licensing decisions based on statutory requirements and submissions made at public hearings by proponents (licence applicants), CNSC staff, the public and other stakeholders. The Commission Secretariat supports the tribunal by managing Commission business and offering technical and administrative support to the President and other Commission members.

The difference the Commission makes for Canadians can be illustrated with reference to the CNSC's newly adopted logic model. The model delineates the CNSC's activity areas and desired outcomes, the most immediate of which include:

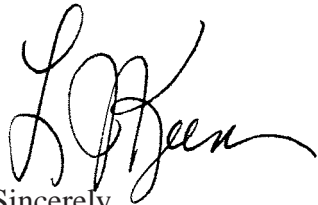
- a clear and pragmatic regulatory framework;
- individuals and organizations that can operate safely and conform to safeguards and non-proliferation requirements;
- high levels of regulatory compliance;
- CNSC cooperates and integrates its activities in national/international nuclear fora; and
- stakeholders' understanding of the regulatory program.

Several Commission and Secretariat activities in 2003-2004 helped the CNSC realize these immediate outcomes, such as: adopting new and amended regulations in the areas of cost recovery and the transport of nuclear material; hearing licence applications from major licensees where past compliance performance was a significant assessment factor; rendering decisions on these licence applications based on solid analysis and with a view to protecting the health, safety and security of Canadians as well as the environment; benchmarking Commission practices against other tribunals; and improving the public hearings process.



In the past year, the Commission also improved upon the CNSC's commitment to openness and transparency by employing technologies such as video-conferencing and web-casting to improve access to Commission proceedings.

These are just a few examples of how Commission and Secretariat activities benefit Canadians. The following report describes these and other activities and their significance for Canadians. It also lists the Commission Licensing and Regulatory proceedings held in 2003-2004. I thank the Commission members for their commitment to carrying out the CNSC's mission. Each member's dedication to Commission business has directly resulted in the progress achieved in 2003-2004.

A handwritten signature in black ink, appearing to read 'L. Keen', written in a cursive style.

Sincerely,
Linda J. Keen, M.Sc.



Canadian Nuclear Safety Commission Annual Report of the Commission Tribunal 2003-2004

The Commission is an independent administrative tribunal that regulates the use of nuclear energy and materials to protect health, safety, security and the environment and to respect Canada's international commitments on the peaceful use of nuclear energy; regulates the Canadian nuclear industry; and reports to Parliament through the Minister of Natural Resources Canada. It consists of up to seven Commission members appointed by the Governor in Council. The President is a full-time member, and other members are appointed as part-time members.

The Commission sets regulatory policy direction on matters relating to health, safety, security and environmental issues affecting the Canadian nuclear industry; establishes legally binding regulations; and makes independent licensing decisions and in doing so, the Commission takes into account the opinions and concerns of interested parties.

With respect to licensing matters, the Commission receives licence applications, considers recommendations prepared by CNSC staff, and then listens to the views of the proponent (licence applicant) and other interested parties (intervenors) before making its decisions. To facilitate openness and transparency, the business of the Commission, to the greatest extent possible, is conducted in public hearings and meetings.

The Commission is supported by a Secretariat that manages the business of the Commission and provides technical and administrative support to the President and other Commission members. With a view to increasing transparency and accessibility, and to facilitate and encourage public involvement in its proceedings, the Commission continues to improve the public hearing and meeting process by standardizing its processes and utilizing technologies to provide better access to Commission proceedings and documentation.

The following provides information on the activities of the CNSC's tribunal component and the Secretariat in support of each of the five desired immediate outcomes of the CNSC Logic Model outlined in the report on the reverse side of this document.



Outcome: A clear and pragmatic regulatory framework

As a public body created by statute, the Commission has only those powers granted by law. The principal source of the Commission's authority is the *Nuclear Safety and Control Act* (NSCA). Secondary sources of authority are the *Canadian Environmental Assessment Act* (CEAA) and the *Nuclear Liability Act* (NLA). The *CNSC Rules of Procedure* and *By-Laws* govern tribunal proceedings.

Section 44 of the NSCA gives the Commission the power to make regulations, with the approval of the Governor in Council, on a wide variety of subjects related to the development, production and use of nuclear energy. The Commission also has the power to create regulations on matters necessary to carry out the purposes of the Act, such as the recovery of costs from licensees. In 2003-2004, the Commission exercised its power to make regulations by adopting new *Cost Recovery Fees Regulations* and revised the *Packaging and Transport of Nuclear Substances Regulations*. Proposed amendments to the *Nuclear Security Regulations* were also pre-published in Part 1 of the *Canada Gazette* for public comment.

With respect to the *CNSC Rules of Procedure* and *By-Laws*, the Commission Secretariat began in 2003-2004 an analysis that will benchmark the Commission's hearing and meeting processes against those of 12 other Canadian federal and provincial administrative tribunals. The analysis will be completed in 2004-2005. The findings will contribute to improving the Tribunal process, benefiting licensees and intervenors alike. Some preliminary findings have already influenced some of the Commission's practices. Stakeholders will be consulted in 2004-2005 on recommendations to amend the *Rules of Procedure* and *By-laws*.

A clear and pragmatic regulatory framework also requires that the Commission make use of every opportunity for "smart regulation". To this end, in 2003-2004, the Commission modified its processes and exercised its authority to vary its *Rules of Procedure* on several occasions to ensure matters are dealt with as informally and expeditiously as the circumstances and the considerations of fairness permitted. For example, the Commission shortened or extended document submission deadlines, allowed interventions via tele- or video-conference, improved the scheduling of hearings, and generally showed increased flexibility to respond to the needs of its stakeholders without compromising the fulfilment of its mission.

During the reporting period, the Commission established a performance standard whereby a comprehensive *Record of Proceedings, including Reasons for Decision* will be rendered and published within six weeks of the close of the hearing 90% of the time. In doing so, the Commission is efficient and responsive to the needs of stakeholders. Based on a comparison with the 12 other Canadian tribunals examined in the above-noted benchmarking analysis, this performance standard is one of the best. In 2003-2004, the Commission achieved this performance standard (publication within six weeks) approximately 70% of the time.



Outcome: **Individuals and organizations that can operate safely and conform to safeguards and non-proliferation requirements**

Individuals or organizations must demonstrate to the Commission that they are qualified to undertake the activities for which they are seeking a licence before they may:

1. site, construct, operate or decommission a nuclear facility;
2. produce, possess or use nuclear substances in excess of prescribed quantities; or
3. possess or use prescribed information or equipment in Canada. (“Prescribed” quantities, information or equipment refers to the quantities, information or equipment set out in the CNSC’s regulations associated with the NSCA.)

Licensees must demonstrate that they have adequate provisions to protect people and the environment, and the measures necessary to maintain national security and international obligations to which Canada has agreed. During a licensing hearing, the Commission hears and considers detailed written and oral submissions from the applicant, CNSC staff, and any individual members of the public and other organizations who choose to intervene in the proceedings.

By directing and implementing a thorough, independent and rigorous licensing and certification process, the Commission plays a key role in ensuring individuals and organizations wishing to use nuclear energy and materials in Canada operate safely and conform to safeguards and nuclear non-proliferation requirements.

In 2003-2004, the Commission conducted 28 licensing hearings (see Commission Licensing and Regulatory Proceedings, p. 11) for major nuclear projects. The Commission improved the scheduling of these proceedings during the reporting period to increase their efficiency. For example, participants are able to plan their attendance by having specific start times to hearings as well as make use of video and teleconferencing options. In addition, the Commission has added hearing dates to deal with time-sensitive matters.

To increase efficiency and effectiveness, the Commission, where warranted, continued to issue licences with longer terms than previously issued. In most cases where longer-term licences were granted, the Commission requested that CNSC staff present interim performance reports at future public proceedings of the Commission to ensure that licensees continue to demonstrate their ability to operate safely. Longer licence periods enable licensees to plan and conduct their affairs with more certainty and allow CNSC staff to focus more on compliance, rather than licensing activities.



In 2003-2004, the President of the Commission continued to establish Commission panels to deal with matters where involvement of the Commission as a whole was not necessary. This practice increased efficiency in the Commission's activities. A Commission panel hears licensing matters and holds the same authority as the full Commission, but is made up of one to three Commission members.

Outcome: **High levels of compliance with the regulatory framework**

The Commission tribunal component also plays a significant role in ensuring that licensees maintain high levels of compliance with the regulatory framework.

During the term of a licence, the Commission frequently requires that CNSC staff present licensee compliance performance reports to the Commission during public proceedings, reports such as annual reports for nuclear power plants. The Commission also requires that CNSC staff report at public hearings on any significant developments at licensed sites.

In this regard, in 2003-2004, the Commission conducted several public hearings on licensing applications where past compliance performance of the licensee was a significant assessment factor. The Commission also considered interim reports on licensee performance. In addition, the Commission heard Significant Development Reports related to various events at licensed sites. This provided an opportunity for Commission members to query CNSC staff and licensees on performance issues (for example, forced outages at a power reactor, the impact of the August 2003 power failure accident at a number of facilities) during a public proceeding.

In all instances of significant non-compliance during 2003-2004, the licensees, under the regulatory oversight of the authorized and delegated CNSC staff, took appropriate corrective actions. As a result, the Commission was not compelled to take any compliance or enforcement action on its own motion in 2003-2004.



Outcome: **CNSC coordinates and integrates its activities in national/international nuclear fora**

In 2003-2004, the Secretariat initiated a comprehensive benchmarking analysis, which compares data against 12 other Canadian tribunals on 11 areas of service delivery. The Commission Secretariat has sought the cooperation of the 12 tribunals and has offered to share all information with the participating tribunals. Feedback to date has been positive and has enhanced the visibility of the Commission and its image as a leader among Canadian administrative tribunals. The President of the Commission is an active member of the “Tribunal Heads,” a group consisting of 22 federal tribunals. In 2003-2004 the Commission President gave a presentation to a meeting of the federal Tribunal Heads Group on the Commission’s numerous improvement initiatives.

The CNSC has also been a key contributor to a Tribunal Committee looking at official languages issues in the conduct of tribunal business. That committee’s focus has been on the significant cost and timeliness implications relating to the translation of decisions, as well as the appointment of bilingual tribunal members by the Governor in Council. The key objective of the project is to develop more coherent and standard practices in these areas by federal tribunals. Significant work was conducted in 2003-2004 that should lead to recommendations in May 2004 to the Tribunal Heads Group.



Outcome: **Stakeholders' understanding of the regulatory program**

The Commission operates separately from the CNSC staff, setting regulatory policy directions on matters relating to health, safety, security and environmental issues affecting the Canadian nuclear industry; establishing legally binding regulations; and making independent decisions on the licensing of nuclear-related activities in Canada. The Commission's operations are transparent and open to public scrutiny.

Commission public hearings and meetings are a key element of the CNSC's outreach activities. To facilitate access to public hearings and meetings, the Commission has made a number of improvements, including increasing the opportunity to participate in the proceedings by tele-conference and video-conference. As well, in 2003-2004, the Commission conducted a successful pilot project to video web-cast public proceedings live on the Internet, a first for a federal tribunal. Intervenors and licensees expressed their appreciation for this form of accessibility to the process and encouraged the Commission to consider permanent web-casting of all its public proceedings. The Commission also held public hearings in Chalk River, Ontario and Saint John, New Brunswick to facilitate access to the public hearing process by local citizens on licensed activities in their communities. There was considerable participation by members of the public and local organizations at the hearings.

During 2003-2004, Commission members' understanding of the regulatory program was increased by enhancing accessibility to CNSC policies, procedures and supporting documentation for Commission members and CNSC employees via secure remote access through the Internet. Specifically, Commission members can remotely access and review Commission documents in advance of Commission hearings. Better access to information gives CNSC employees and Commission members a much more comprehensive view and better understanding of the CNSC's activities and the issues that surround them.

During the reporting period, the Secretary of the Commission also began meeting with stakeholders with a view to considering the needs and addressing the suggestions of stakeholders to improve the tribunal process.



Building Relationships in Canadian Communities

While all of the Commission's activities support the five immediate outcomes of the CNSC's Logic Model, outreach efforts highlight an important aspect of its work. The Commission's public hearings are an effective way for the Commission to interact with various stakeholders such as the public, licensees, etc.

In this view, and in an effort to reach out to communities, especially those directly affected by Commission decisions and regulations, the Commission on a bi-yearly basis plans to hold hearings outside its headquarters facilities in Ottawa, where hearings are commonly held. On April 9, 2003, the Commission held its public hearings in Chalk River, Ontario regarding Atomic Energy of Canada Limited's Chalk River Laboratories, MAPLE reactors and Nuclear Substance Processing Facility. The hearing included the participation of 65 intervenors. And, on June 27, 2003, the Commission held its public hearings regarding the Point Lepreau Nuclear Generating Station in Saint John, New Brunswick, which included 46 intervenors. In both instances, the hearings were observed by many members of the public.

Public participation

The concerns and opinions of those who have an interest in Commission business (intervenors) are a key element in the decision-making process, which is why Commission hearings provide the public an opportunity to be heard. Members of the public are welcome to observe hearings, but are also encouraged to participate through oral or written submissions in the official language of their

choice. However, when hearings held in Ottawa involve licensees from distant communities, some residents find it difficult to participate and be present at the hearing. Holding the hearings in communities such as Saint John and Chalk River is a direct response to that concern. The result has been positive, productive and informative hearings. While residents of affected communities would appreciate that most, if not all hearings be held in their communities, the Commission has to be fiscally responsible and efficient. Therefore it conducts about 20 percent of its proceedings outside of Ottawa.

Openness and Transparency

Holding hearings in affected communities engages citizens and other stakeholders, and reinforces the CNSC's commitment to accountability, transparency and effectiveness. Building and strengthening relationships with communities is an important part of the regulatory business; listening to Canadians is part of the role of the public service.

The Commission's commitment to its stakeholders will go even further in the future with the increasing implementation of technologies such as video-conferencing and web-casting, to increase access to the public hearing process.

To learn more about public hearings and to view the public hearing and meeting schedule for 2004, please visit the CNSC Web site at www.nuclearsafety.gc.ca.



Public Hearing Commission Licensing and Regulatory Proceedings April 1, 2003 – March 31, 2004

April 9 and 10, 2003

- **Atomic Energy of Canada Limited:** Decision to renew Chalk River Laboratories Nuclear Research and Test Establishment Operating licence
- **Atomic Energy of Canada Limited:** Decision to renew the operating licence for the MAPLE reactors
- **Atomic Energy of Canada Limited:** Decision to renew the Nuclear Substance Processing Facility operating licence for the New Processing Facility
- **Ontario Power Generation Inc. and Bruce Power Inc.:** Decisions to amend Nuclear Facility Licences in Ontario to Include Conditions on Decommissioning Plans and a Consolidated Financial Guarantee
- **Ontario Power Generation Inc.:** Decision to accept the Environmental Assessment Guidelines (Scope of Project and Assessment) for the Proposed Pickering Waste Management Facility Phase II

May 21 and 22, 2003

- **Ontario Power Generation Inc.:** Decision to renew the operating licence for the Pickering A Nuclear Generating Station
- **Ontario Power Generation Inc.:** Decision to renew the operating licence for the Pickering B Nuclear Generating Station
- **Dalhousie University:** Decision to Renew the Non-Power Reactor Operating Licence for the SLOWPOKE-2 Reactor
- **École Polytechnique de Montréal:** Decision to renew the Non-Power Reactor Operating Licence for the SLOWPOKE-2 Reactor
- **Royal Military College of Canada:** Decision to renew the Non-Power Reactor Operating Licence for the SLOWPOKE-2 Reactor
- **Saskatchewan Research Council:** Decision to renew the Non-Power Reactor Operating Licence for the SLOWPOKE-2 Reactor
- **University of Alberta:** Decision to renew the Non-Power Reactor Operating Licence for the SLOWPOKE-2 Reactor



June 25, 26 and 27, 2003

- **Cameco Corporation:** Decision to accept Environmental Assessment Guidelines for the proposed construction of a Mining Facility at the Cigar Lake Project
- **Cogema Resources Inc. and Cameco Corporation:** Decision to accept the Environmental Assessment Screening Report for the Cigar Lake waste rock disposal in the McClean Lake mining facility's Sue C pit
- **Hydro-Québec:** Decision to accept the Environmental Assessment Guidelines for the proposed expansion of Hydro-Québec's Gently-2 Waste Management Facility
- **New Brunswick Power Corporation:** Decision to accept the Environmental Assessment Screening Report concerning proposed modifications to the Point Lepreau Solid Radioactive Waste Management Facility
- **New Brunswick Power Corporation:** Decision to renew the waste facility operating licence for the Point Lepreau Solid Radioactive Waste Management Facility

July 16, 2003

- **Cogema Resources Inc.:** Decision to accept the Environmental Assessment Guidelines for the Operation of the McClean Lake Mine and Mill Facility

August 11, 2003

- **Western Inspection Ltd.:** Review of Orders Issued by Designated Officer to Western Inspection Ltd. by Panel of the Canadian Nuclear Safety Commission

September 25, 26 and 27, 2003

- **Cameco Corporation:** Decision to renew the mining operating licence for the Rabbit Lake Operation
- **Ontario Power Generation Inc.:** Decision to accept the Environmental Assessment Screening Report for the Proposed Darlington Used Fuel Dry Storage Project
- **Ontario Ministry of the Environment:** Decision to accept the Environmental Assessment Guidelines for Deloro Mine Site Cleanup Project

November 26 and 27, 2003

- **Cameco Corporation:** Decision to accept the Environmental Assessment Guidelines for the Proposed Blending of Slightly Enriched Uranium and Blended Dysprosium Uranium at the Conversion Facility in Port Hope
- **Hydro-Québec:** Decision to renew the Operating Licence for the Gently-2 Waste Management Facility
- **New Brunswick Power Corporation:** Decision to amend the Waste Facility Operating Licences for the Point Lepreau Solid Radioactive Waste Management Facility



February 4 and 5, 2004

- **Ontario Power Generation Inc.:** Decision to approve a Decommissioning Licence for the Bruce Heavy Water Plant
- **Bruce Power Inc.:** Decision to renew the Bruce A Nuclear Generating Station Operating Licence
- **Bruce Power Inc.:** Decision to renew the Bruce B Nuclear Generating Station Operating Licence

Commission documentation is available on the CNSC Web site at www.nuclearsafety.gc.ca.



