

Canadian Nuclear Safety Commission

# 2004-2005 Annual Report of the Commission Tribunal



Canadian Nuclear  
Safety Commission

Commission canadienne  
de sûreté nucléaire

Canada

# 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**  
*Professor, School of Earth and Ocean Sciences and Project Director for Project Neptune Canada at the University of Victoria, Victoria, British Columbia*

Dr. Barnes was appointed a Commission member on January 23, 1996.



**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. McDill was appointed a Commission member on May 30, 2002.



**James A. Dosman**  
*Director of the Institute of Agricultural Rural and Environmental Health, University of Saskatchewan, Saskatoon, Saskatchewan*

Dr. Dosman was appointed a Commission member on May 30, 2002. Dr. Dosman left the Commission on December 29, 2003. Dr. Dosman was reappointed as of April 23, 2004.



**Michael Taylor**  
*Manotick, Ontario*

Mr. Michael Taylor was appointed a temporary Commission member on August 26, 2004, and was reappointed to the Commission on February 26, 2005 for another period of six months.

Dr. Yves Giroux, Commission member since 1995, passed away in June 2004.

# Message from the President

As President of the Commission, I am pleased to report on behalf of my fellow Commission members on the 2004-2005 achievements of the Canadian Nuclear Safety Commission's (CNSC) tribunal component. The CNSC is an independent federal regulatory agency and a quasi-judicial administrative tribunal that reports to Parliament through the Minister of Natural Resources. The mission of the CNSC is 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.

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

During the reporting year, the Commission held more than 15 public hearings involving significant nuclear facility licensing decisions and during which the Commission heard from intervenors, in some cases, in large numbers. Decisions were rendered on these applications based on the need to protect the health, safety, and security of Canadians and the environment. In addition, the Commission reviewed and approved several key regulatory policies and guidance documents. The Commission was also actively involved, in the context of the public meetings of the Commission, in the review of more than 30 significant development reports regarding events or incidents in a wide range of nuclear activities.

The Commission also revised its process for fulfilling its environmental assessment responsibilities under the *Canadian Environmental Assessment Act* (CEAA) to improve its efficiency, while preserving its effectiveness. Further revisions are being evaluated. Commission practices were also benchmarked against those of other tribunals leading to further enhancements to the public hearing process.

Dr. Yves Giroux, our longest serving Commission Member, passed away during this past year. During his term as Commission Member, Dr. Giroux committed much time and energy to Commission business. His capacity to communicate helped to make him a prominent and well respected Member of the Commission tribunal, and he is greatly missed.

I would like to thank the Commission members for their dedication in helping the CNSC pursue its efforts to become one of the best nuclear regulators in the world.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Keen', with a stylized flourish at the end.

Linda J. Keen, M.Sc.

# Canadian Nuclear Safety Commission<sup>1</sup>

## Annual Report of the Commission

### Tribunal 2004-2005

The Commission is an independent, quasi-judicial administrative tribunal and court of record 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. It regulates the Canadian nuclear industry and reports to Parliament through the Minister of Natural Resources. 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 the protection of health, safety, security and the environment in respect of the Canadian nuclear industry. The Commission also establishes legally-binding regulations and makes independent licensing decisions. In doing this, the Commission takes into account the views of interested parties.

With respect to licensing matters, the Commission hears the applicant's proposal, considers views and recommendations of CNSC staff, and listens to the views of other interested parties (intervenor) before making a decision. To promote 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 communications, technical and administra-

tive 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, holding hearings in affected communities when possible, and utilizing telecommunication and other electronic media technologies to provide better access to Commission proceedings and documentation.

As with the CNSC staff organization, the Commission tribunal component strives to achieve the following five immediate outcomes:

1. A clear and pragmatic regulatory framework;
2. Individuals and organizations that operate safely and conform to safeguards and non-proliferation requirements;
3. High levels of compliance with the regulatory framework;
4. CNSC cooperates and integrates its activities in national/international nuclear fora; and
5. Stakeholders' understanding of the regulatory program.

The following provides information on the activities of the CNSC tribunal and the Secretariat in support of (i) each of the desired immediate outcomes of the CNSC, and (ii) the CNSC's management and enabling infrastructure.

<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.

**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). Under the NSCA, the Commission has the authority to make regulations. Twelve regulations are in place, including the *CNSC Rules of Procedure* and *By-laws* which govern tribunal proceedings. Secondary sources of authority are the *Canadian Environmental Assessment Act* (CEAA) and the *Nuclear Liability Act* (NLA).

In 2004-2005, the Commission approved two important regulatory policies. In April 2004, the Commission approved the Policy on *Managing Radioactive Waste* (P-290), which describes the philosophy that underlies the CNSC's approach to regulating the management of radioactive waste and the principles that are taken into account when making a regulatory decision concerning all phases of radioactive waste management, including the generation, handling, processing, controlled release, storage, disposal and abandonment of radioactive waste. The policy also expresses the CNSC's commitment to consulting and cooperating with provincial, national and international agencies on matters concerning harmonization of the regulation of radioactive waste management in Canada.

In January 2005, the Commission approved the CNSC Regulatory Policy on *Regulatory Fundamentals* (P-299), which sets out the regulatory philosophy of the CNSC and how the CNSC discharges its responsibilities by setting requirements and assuring compliance; by basing regulatory actions on the level of risk; by making independent, objective and informed decisions; and by serving the public interest. The purpose of this regulatory policy is to promote consistency and clarity regarding the way in which the Commission, as a whole, achieves its regulatory objective.

A clear and pragmatic regulatory framework also requires that the Commission make use of every opportunity for smart regulation, which includes transparency (public hearings and published decisions), public consultation, coordination of regulatory efforts across jurisdictions, and integration of international best practices and norms where appropriate to the Canadian context. To this end, in 2004-2005, the Commission modified its processes and exercised its authority to vary the *Rules of Procedure* on several occasions to ensure matters were dealt with as informally and expeditiously as circumstances and the considerations of fairness permitted. For example, the Commission shortened or extended document submission deadlines, adjourned proceedings to allow the introduction of additional information, allowed interventions via video or teleconference, improved the scheduling of hearings, and generally showed increased flexibility in responding to the needs of stakeholders.

With respect to the *CNSC Rules of Procedure* and *By-laws*, the Commission Secretariat began an analysis in 2003-2004 to benchmark the Commission's hearing and meeting processes against those of 12 other Canadian federal and provincial administrative tribunals on 11 areas of service delivery. Areas of comparison include time limits, performance indicators, use of technology, client satisfaction, procedural exceptions and exemptions, drafting and format of records of proceedings (decisions), Governor in Council appointments, official languages, location of proceedings, role of tribunal secretariats, and the hearing process.

The benchmarking showed that the Commission's existing rules and procedures compare favourably with those of other leading tribunals. For example, the Commission's processes are considered best practice in areas such as the timeliness of publication of decisions, the completeness of records of proceedings, and the means for engaging the public and other stakeholder participation in the Commission's proceedings. Since these rules and by-laws shape the way stakeholders interact with the Commission Tribunal, it is important that they be as clear and user-friendly as possible. An analysis of the *CNSC Rules of Procedure* and *By-laws* was completed in 2004-2005 and draft amendments will be proposed in 2005-2006 for legal review and consultation with key stakeholders.

In 2003-2004, the Commission established a performance standard requiring that a comprehensive Record of Proceedings, including Reasons for Decision be published within six weeks of the close of the hearing 90% of the time. In doing so, the Commission is demonstrating efficiency and responsiveness to stakeholder needs. Based on a comparison with the 12 other Canadian tribunals examined in the benchmarking analysis already described above, this standard provides for a considerably shorter turnaround time than other tribunals. In 2004-2005, the Commission achieved this performance standard (release of decision within six weeks) 93% of the time, excluding the records of proceedings (no decisions) for mid-term review hearings held in February 2005 where the average time was 12 weeks.

### **Outcome: Individuals and organizations that 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.

Licensees must demonstrate that they will operate safely and that they have adequate provisions to protect people and the environment, as well as 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.

In 2004-2005, the Commission issued 18 Records of Proceedings, including in most cases Reasons for Decision, for major nuclear projects (see Commission Licensing and Regulatory Proceedings, beginning on page 8). With respect to each licensing hearing, the Commission looks at regulatory aspects such as radiation protection of workers and the public, conventional health and safety, environmental protection, operating performance, quality assurance, emergency preparedness, safety issues, physical security, public information programs, safeguards and non-proliferation, and provisions for future facility decommissioning. Licensing with respect to licences other than those for major facilities has been delegated by the Commission to senior staff, referred to as Designated Officers, for review. In 2004-2005, the Commission reviewed the Designated Officers list, and made changes to the designations to reflect organizational changes and new attributions.

In 2004-2005, a variety of initiatives were undertaken to increase the effectiveness of the Commission Tribunal's licensing role. Specifically, the role of the Commission to approve environmental assessment guidelines and screening reports is being further reviewed to ensure a more focused fulfillment of responsibilities under the *Canadian Environmental Assessment Act* (CEAA); a better integration of CEAA and NSCA provisions in the licensing process and throughout the project life-cycle; and a more encompassing, systems-based environmental protection approach.

In addition, each step of the licensing hearing process is being examined. Inconsistencies and redundancies have been identified and changes proposed. A Tribunal Process Management Manual, including procedural guidelines for all processes, was initiated in 2004-2005 and is scheduled for completion in 2005-2006. This manual will clarify accountability of Secretariat and CNSC staff by allocating responsibility for each step of key processes, and will improve transparency.

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

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

During the term of a licence, the Commission requires that CNSC staff present licensee compliance performance reports during public proceedings, as well as 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 2004-2005 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 more than 30 significant development reports related to events at licensed sites.

This provided an opportunity for Commission members to question CNSC staff and licensees on performance issues. Some significant development reports received media coverage and enquiries, contributing to increased transparency of Commission proceedings.

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

The President of the Commission was active in many international nuclear fora during the reporting period, including the International Nuclear Regulators' Association meetings in Japan, the International Atomic Energy Agency (IAEA) International Conference on Topical Issues in Nuclear Installation Safety in Beijing, the IAEA International Conference on Nuclear Security in London, a visit to the United States Nuclear Regulatory Commission in Washington, D.C., the Global Nuclear Energy Summit 2004 in Toronto, the G8 Heads of Regulators Meeting in Moscow and the Nuclear Energy Agency's Regulatory Forum in Paris. Of particular note, the President was elected in 2004 to chair the Third Review Meeting of the Convention on Nuclear Safety in April 2005 in Vienna. Such high-profile involvement provides the CNSC with an opportunity to influence the international agenda and to learn from other leaders in the field.

The President of the Commission is an active member of the Tribunal Heads, a group consisting of 22 federal tribunals, as well as a member of the Heads of Agencies steering committee and co-chair of the Heads of Agencies Governance sub-committee, as well as the Council of Canadian Administrative Tribunals. The work has enhanced the visibility of the Commission and its image as a leader among Canadian administrative tribunals.

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

Commission public hearings and meetings are a key element of the CNSC's outreach activities. The Commission publishes Records of Proceedings, including Reasons for Decision, to explain the basis of licensing decisions. These Records of Proceedings, and information about the Commission's proceedings, are available on the CNSC's Web site at [www.nuclearsafety.gc.ca](http://www.nuclearsafety.gc.ca). To facilitate access to public hearings and meetings, the Commission has made a number of improvements during the reporting period, including more opportunities to participate in the proceedings through teleconference and videoconference. Although most proceedings are held in Ottawa, more and more affected communities are using videoconferencing as a cost effective way to participate in public hearings.

Web casting is a promising technology for communicating Commission proceedings, and pilots of this technology in 2004 were highly successful. While the CNSC does not have the resources at this time to implement Web casting as a standard communications tool, it will re-evaluate the feasibility of it in 2005-2006. The technology would be consistent with the Government of Canada's Government On-Line objectives, and would benefit Canadians by ensuring that citizens interested in viewing public hearings in real-time could do so via the Internet from their homes or offices.

*The Official Languages Act* requires that documents posted online be in both official languages. Evidentiary documents – i.e., submissions from CNSC staff and hearings participants – are currently available only in the language in which they were received. The Commission continues to explore options for dealing with the issue of access to evidentiary documents via the CNSC Web site.

In another demonstration of the Commission's commitment to increased participation in its proceedings, the Commission periodically holds hearings in the communities where the concerned nuclear facility or activities are located. In June 2004, the Commission held public hearings in Saskatoon and La Ronge, Saskatchewan 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, local organizations and Aboriginal communities at these hearings.

During the reporting period, the Secretary of the Commission also began meeting with stakeholders to address stakeholders' suggestions for improving the tribunal process. Broader consultation with stakeholders, particularly on proposed amendments to the *CNSC Rules of Procedure* and *By-laws*, will be conducted in 2005-2006.



## Presence in the Community

In the 2004-2005 reporting year, outreach efforts continued to be a priority for the Commission, adding strength to its commitment to achieve the CNSC's five outcomes.

On June 4, 2004 the CNSC launched a new Outreach Program to heighten public awareness and understanding of regulated nuclear activities and the Commission's role in protecting public health, safety and security. This new program will build on and support public hearings and visits scheduled in communities to reach the people most affected by the organization's activities.

On June 8, 2004 the Commission members toured the Canadian Light Source Inc. (CLS) particle accelerator facility located at the University of Saskatchewan in Saskatoon. This was followed by a public hearing in Saskatoon and a decision to amend CLS's operating licence to allow for routine operation of the electron synchrotron facility.

On June 9, 2004 a public hearing was held in La Ronge, Saskatchewan concerning the Environmental Assessment for the Production Increase at Cameco Corporation's McArthur River Mine and the Key Lake Mill. This environmental assessment was conducted pursuant to the requirements of the *Canadian Environmental Assessment Act*. There were 35 interventions for the two hearings held in northern Saskatchewan, and at least 100 persons from the general public and Aboriginal communities were in attendance on each of the two days.

In 2004-2005, the CNSC continued its efforts to facilitate access by northern communities in Saskatchewan. The Commission regulates six uranium mines in the northern part of the province, affecting about 30 mainly Aboriginal communities. The Commission provided information about regulatory duties, compliance results and other issues as part of an ongoing commitment to build a relationship of trust in these communities and to further its own strategic objective of being an open and transparent regulator.

### **Serving the Canadian Community**

The Commission welcomes the participation of intervenors that have an interest in Commission business. Their voices are a key element in decision-making. Members of the public can observe hearings, but may also participate through oral or written submissions in the official language of their choice. Scheduling hearings away from CNSC headquarters in Ottawa provides residents in communities with an opportunity to participate directly in the hearing process. The results of these hearings are positive and productive. In keeping with its commitment to be fiscally responsible, the Commission will continue to conduct about 20 percent of its proceedings outside of Ottawa.

### **Open and Transparent**

Visiting communities and meeting with people directly or with the help of modern communications technology 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.

To learn more about public hearings and to view the public hearing and meeting schedule for 2005-2006, please visit the CNSC Web site at [www.nuclearsafety.gc.ca](http://www.nuclearsafety.gc.ca).

# Public Hearing, Commission Licensing and Regulatory Proceedings

## April 1, 2004 – March 31, 2005

Commission documentation is available on the CNSC Web site at [www.nuclearsafety.gc.ca](http://www.nuclearsafety.gc.ca).

### April 28 and 29, 2004

- Ontario Power Generation Inc.: Decision to accept the Environmental Assessment Screening Report on the proposed expansion of the Pickering Waste Management Facility (Phase II)
- Rio Algom Limited: Decision to revoke the Uranium Mine Decommissioning Licences for the former Quirke, Panel and Stanleigh Mines and incorporate the associated uranium mine tailings sites into the existing Waste Facility Operating Licence issued to Rio Algom Limited

### June 8, 9 and 10, 2004

- Canadian Light Source Inc.: Decision to amend the operating licence for Canadian Light Source Inc. to allow for Routine Operation of the Accelerator Facility at the University of Saskatchewan
- COGEMA Resources Inc.: Decision to issue a Decommissioning Licence for the Cluff Lake Uranium Mine Project
- Cameco Corporation: Decision to accept the Environmental Assessment Screening Report for the Construction and Operation of the Cigar Lake Uranium Mine Project

### July 7, 8 and 9, 2004

- Cameco Corporation: Decision to issue a Licence to Construct Surface Facilities at the Cigar Lake Uranium Mine Project
- Shield Source Inc.: Decision to renew the Licence to Operate a Class IB Nuclear Substance Processing Facility in Peterborough, Ontario
- Ontario Power Generation Inc.: Decision to issue a Licence to Construct the Darlington Used Fuel Dry Storage Facility on the site of the Darlington Nuclear Generating Station

### September 15, 16 and 17, 2004

- Cameco Corporation: Decision to accept Environmental Assessment Guidelines (Scope of Project and Assessment) for the Key Lake Uranium Mill and McArthur River Mine production increase
- Cameco Corporation: Decision to renew the Uranium Mine Operating Licence for the Key Lake Uranium Mill
- Cameco Corporation: Decision to renew the Uranium Mine Operating Licence for the McArthur River operation
- Atomic Energy of Canada Limited: Decision to accept the financial guarantee for the decommissioning of the Whiteshell Laboratories

**November 17, 2004**

- Cameco Corporation: Decision to issue a licence for the construction of the remaining mining and support facilities at the Cigar Lake Uranium Mine Project
- Ontario Power Generation Inc.: Decision to amend Ontario Power Generation's Waste Management Operating Licence to permit the construction of the Pickering Waste Management Facility Phase II

**February 23 and 24, 2005**

- Zircatec Precision Industries Inc.: Record of Proceedings on the Interim Report on Zircatec Precision Industries Inc.'s Class IB Nuclear Facility in Port Hope, Ontario
- Cameco Corporation: Record of Proceedings on the Interim Report on Cameco Corporation's Class IB Nuclear Facility in Port Hope, Ontario
- Cameco Corporation: Record of Proceedings on the Interim Report on Cameco Corporation's Class IB Nuclear Facility in Blind River, Ontario
- Cameco Corporation: Decision to revoke the current decommissioning licence and issue a new licence to possess, manage and store nuclear substances at the Beaverlodge site