



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Canada



SOME NUCLEAR LAW DEVELOPMENTS – 2018

Lisa Thiele, Senior General Counsel, Canadian Nuclear Safety Commission
Canadian Nuclear Law Organization
Annual General Meeting
June 18, 2018 – Toronto



Overview



Recent developments

- Changes at the Commission
- Bill C-69, proposed *Impact Assessment Act*
 - consultation papers on *Regulations Designating Physical Activities* (the Project List) and *Information and Time Management Regulations*
- Sixth Review Meeting of *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*

Status updates and what's on the horizon

- Consultation and reconciliation
- OPG's proposed Deep Geologic Repository (DGR) – Ministerial environmental assessment (EA) decision making, licensing, judicial review applications
- EAs for waste projects – Chalk River Laboratories Near Surface Disposal Facility, Whiteshell, Nuclear Power Demonstration
- CNSC's regulatory framework developments



Changes at the Commission



The Commission



Nuclear Safety and Control Act, s.10

- Not more than seven permanent members, appointed by Governor in Council (GIC) – no minimum
- In addition to permanent members, GIC may appoint temporary members
- GIC designates one permanent member to hold office as President
- President must be full time, others are – in practice – part time

PC number: 2018-0527 – effective 9 May 2018, the GIC

- (a) reappointed Michael Binder... as a permanent member of the Commission to hold office during good behaviour for a term of three months
- (b) designated Michael Binder as interim President for a term of three months or until such time as a new President is designated, whichever occurs first





Current Commission Members



**MR. TIMOTHY
BERUBE**

Appointed
March 12, 2018
Four-year term



**DR. SANDOR
DEMETER**

Reappointed
March 12, 2018
Five-year term



**DR. MARCEL
LACROIX**

Appointed
March 12, 2018
Four-year term



**MS. KATHY
PENNEY**

Appointed
March 12, 2018
Four-year term



**MS. RUMINA
VELSHI**

Reappointed
March 12, 2018
Five-year term



The Current Commission



- Six permanent members, one potential “vacancy”
- Some returning expertise, some new perspectives
- Anticipating a new President by August 9, 2018
- Staggering of appointment terms (four or five years) can serve transition in future





Proposed new *Impact Assessment Act*



Bill C-69, new *Impact Assessment Act*



- Introduced in Parliament in February 2018
- Single agency to do assessments – Impact Assessment Agency
- Minister must refer NSCA-regulated designated project to a review panel (s.43)
 - Minister will establish terms of reference for the panel, appoint chair and at least two others
 - at least one but not a majority, and not the chair, to come from roster of Commission members
 - Review Panel report to include “information necessary for the licence” to be issued under NSCA
- Minister refers report to GIC for public interest determination (s.61)
- Minister establishes conditions with which proponent must comply (s.64)
- Minister’s decision may designate conditions to be part of an NSCA licence
- Conditions that are so designated cannot be amended or removed by Minister (s.68(4))

READ THE HANDBOOK



BETTER RULES FOR MAJOR PROJECT REVIEWS



Bill C-69, New *Impact Assessment Act*



NEXT STEPS

- Standing Committee on Environment and Sustainable Development completed the clause-by-clause review of bill on May 22, 2018
- Third reading expected mid-June 2018, referral to Senate thereafter
- Consultation papers on the *Regulations Designating Physical Activities* (the Project List) and the *Information and Time Management Regulations* –
 - public comment period was until June 1, 2018
 - a second set of discussion papers, including a regulatory proposal, to be published Autumn 2018 for public comment/consultation
 - anticipate prepublication of draft regulations in *Canada Gazette*, Part I in early 2019



Sixth Review Meeting of the Joint Convention



Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management



- Joint Convention entered into force in 2001, currently has 78 Contracting Parties (CPs)
- First international legally binding instrument on safety of radioactive waste and spent fuel management
- CPs submit national reports on their work under the Convention; CPs review others' national reports in a peer-review process that aims to encourage continuous improvement
- IAEA is Secretariat for the triennial review meetings of CPs

Objectives

- Achieve and maintain a high level of safety in spent fuel management and in radioactive waste management
- Protect the public and environment from harmful effects of ionizing radiation during all stages of spent fuel management and radioactive waste management
- Prevent accidents and mitigate potential radiological consequences should they occur during any stage of spent fuel management or radioactive waste management

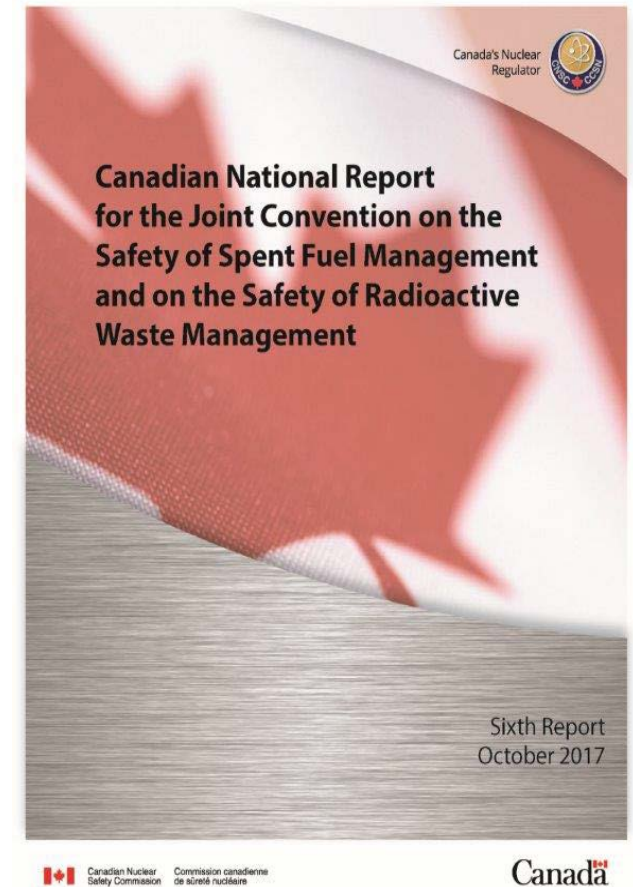


Sixth Review Meeting

Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management



- ~ 850 delegates from 60 CPs at Sixth Review Meeting, May 21–June 1, 2018
- Canada’s National Report was presented to its Country Group, which included Republic of Korea, the Netherlands, Uruguay, Lithuania, Georgia, Ghana, Morocco, Niger and Uzbekistan
- Canada’s responses to questions posed on its National Report are posted at nuclearsafety.gc.ca/pubs_catalogue/uploads/joint-convention-sixth-national-report-responses-eng.pdf
- Canada was recognized for a “**Good Practice**” for “openness and transparency” – “Public involvement in the CNSC regulatory oversight process through reporting on an annual basis independently from any licensing process”
Good Practice is defined as “a new or revised practice, policy or program that makes a significant contribution to the safety of radioactive waste and spent fuel management. A Good Practice is one that has been tried and proven by at least one Contracting Party but has not been widely implemented by other Contracting Parties; and is applicable to other Contracting Parties with similar programs.” –INFCIRC/603/Rev.7





Sixth Review Meeting

Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management



Canada was recognized for three areas of “**Good Performance**”

- Openness and transparency (including participant funding, public hearings, requirement for some licensees to have public information programs)
- Independent Environmental Monitoring Program
- Integrating Indigenous knowledge in the site-selection process for the proposed DGR for high-level waste

Good Performance is defined as “a new or enhanced practice, policy or program for a Contracting Party that is commendable and is being implemented. An Area of Good Performance is a significant accomplishment for the Contracting Party, although it may have been undertaken by other Contracting Parties.” – JC News, Issue No. 6 – Dec. 2017, p. 7

The “**Challenges**” facing Canada, as recognized by the peer review process, are:

- Finding an acceptable site in a willing host community for spent fuel repository
- Develop integrated strategy for non-OPG low and intermediate level waste disposal
- Continued accelerated decommissioning and remediation of AECL sites

Challenge is defined as “a difficult issue for the Contracting Party. It may be a demanding undertaking (beyond day-to-day activities); or a weakness that needs to be remediated.” –INFCIRC/603/Rev.7

- An Extraordinary Meeting of CPs is to be set for 2020, to discuss process toward strengthening the effectiveness of the review process.



On the Horizon...



Consultation and Reconciliation



Cabinet Committee on Diversity and Inclusion looks at initiatives to strengthen relationships with Indigenous Canadians

Working group of six ministers to ensure that Canada's laws, policies and programs protect Aboriginal and treaty rights

United Nations Declaration on the Rights of Indigenous Peoples

– Free, prior and informed consent – Prime Minister's speech February 14, 2018 and commitment to support Bill C-262

CNSC's Indigenous engagement forums – more formal, structured approach – will continue to strengthen relationships with Indigenous peoples in Canada



OPG Deep Geologic Repository For Low- and Intermediate-Level Waste



- Joint Review Panel environmental assessment report – May 2015
- Two judicial review applications in Federal Court
 - *Save our Saugeen Shores, Inc. v. AG Canada, OPG Inc. and CNSC (T-946-15)*
 - *John Mann v. AG Canada and OPG Inc. (T-922-15)*
- Applications have been held in abeyance pending EA decision under the *Canadian Environmental Assessment Act, 2012 (CEAA 2012)* by Minister of Environment and Climate Change
- In November 2015, Minister requested additional information, further studies
- In August 2017, Minister requested additional information on potential cumulative effects of the project on physical, cultural heritage of Saugeen Ojibway Nation (SON)
- CNSC licensing decision-making would follow a positive EA decision



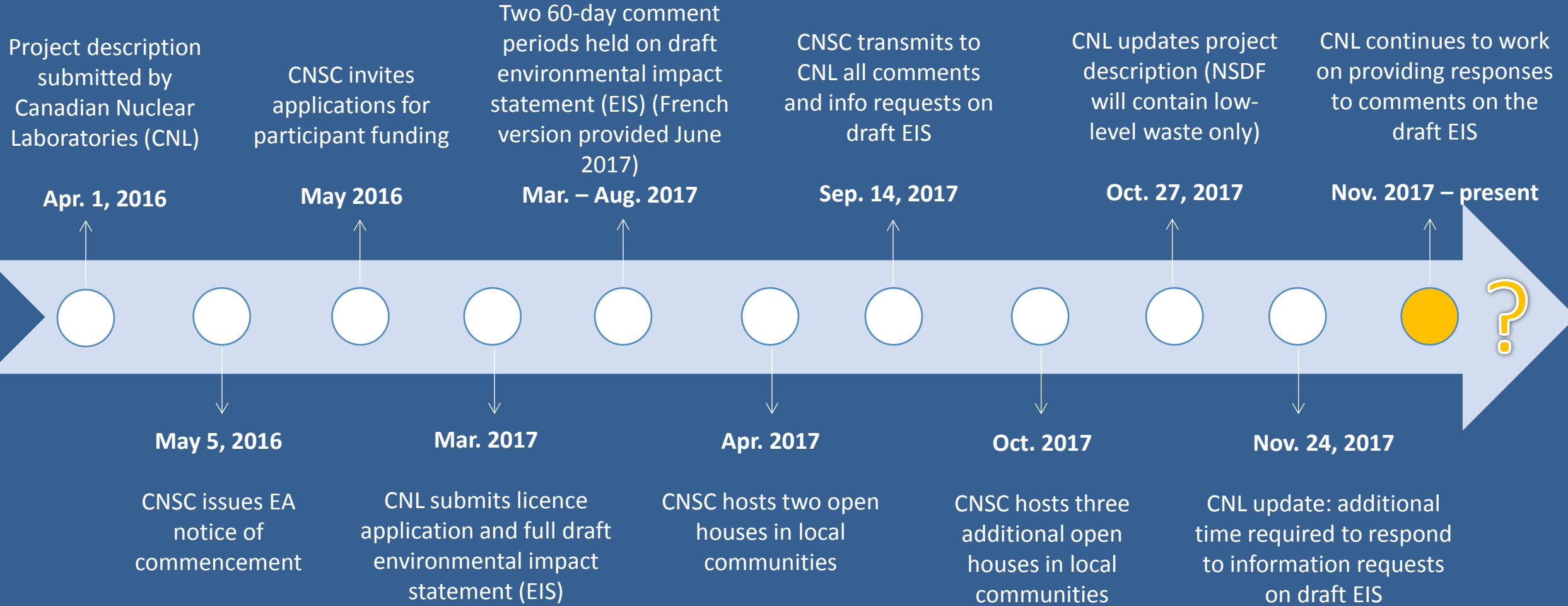
Proposed Near Surface Disposal Facility, Chalk River Laboratories

THREE ENVIRONMENTAL ASSESSMENTS UNDER CEEA 2012 FOR DECOMMISSIONING

- Near Surface Disposal Facility (NSDF) Project (Chalk River, Ontario)
- Nuclear Power Demonstration Closure Project (Rolphton, Ontario)
- Decommissioning of the Whiteshell Reactor #1 (Pinawa, Manitoba)



NSDF EA – Review and Public Involvement



Timelines dependent on quality and completeness of information



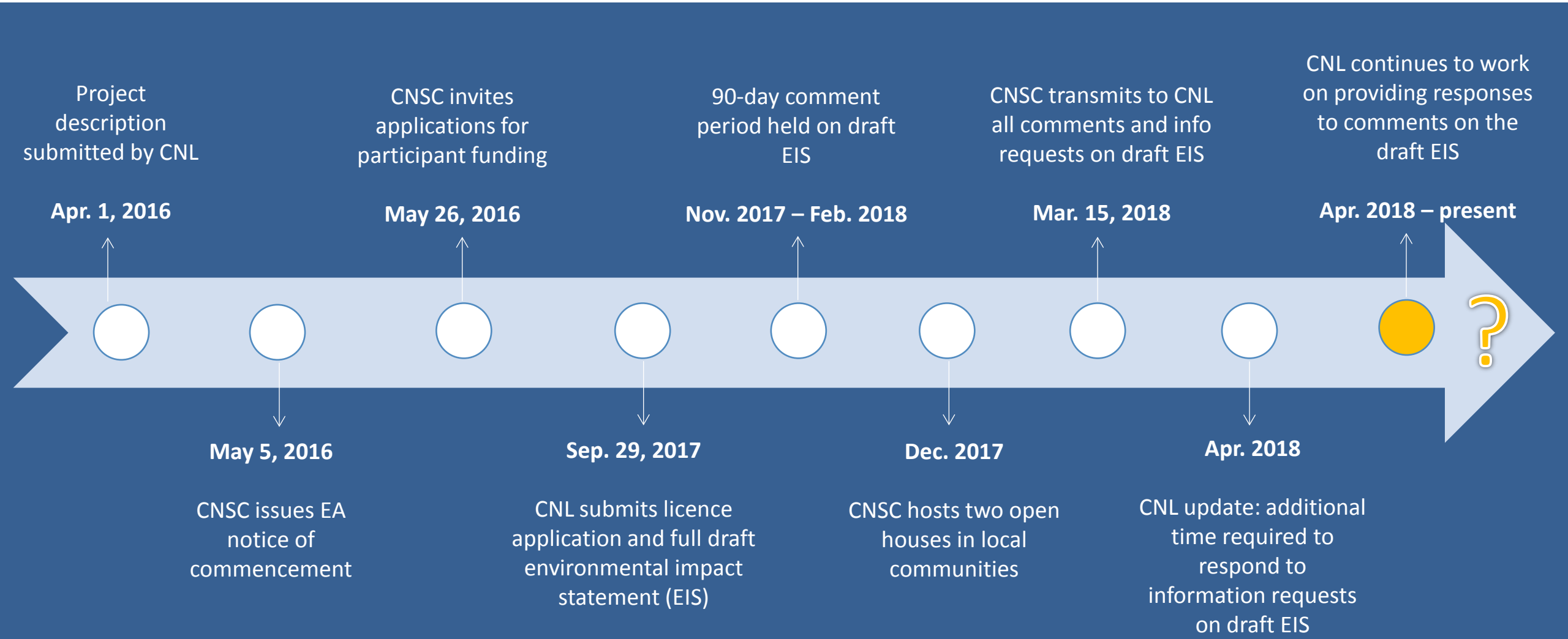
Nuclear Power Demonstration (NPD) Closure Project



**Proposed *in situ*
decommissioning
project**



NPD EA – Review and Public Involvement



Timelines dependent on quality and completeness of information



Whiteshell Laboratories



Nuclear laboratory site that is being decommissioned to achieve closure

- Whiteshell Reactor #1 is proposed to be decommissioned *in situ*
- Radioactive waste and used fuel would be shipped to the Chalk River site for interim storage or final disposal (over 2,000 trucks, over 2,000 km)



Regulatory Framework Developments



Fukushima Action Plan — Regulations SOR/2017-199

- ***Class I Nuclear Facilities Regulations*** – application requirements respecting management system / safety culture and human performance, including fitness for duty; periodic safety review mandatory for nuclear power plants
- ***Radiation Protection Regulations*** – dose limits applicable to those controlling / responding to an emergency
- ***Uranium Mines and Mills Regulations*** – application requirements respecting management system / safety culture
- ***Administrative Monetary Penalties Regulations (Canadian Nuclear Safety Commission)*** – amendments reflecting the above changes

Regulatory modernization — Regulatory documents

- **Discussion paper DIS-16-04, *Small Modular Reactors*** – What We Heard Report published September 2017
- **Discussion paper DIS-16-03, *Radioactive Waste Management and Decommissioning*** – What We Heard Report published December 2017
- **Discussion paper DIS-17-01, *Framework for Recovery in the Event of a Nuclear or Radiological Emergency*** – Public comment period closed in January 2018
- **REGDOC-2.2.4, *Fitness for Duty, Volume II: Managing Drug and Alcohol Use*** – Published December 2017
- **REGDOC-2.1.2, *Safety Culture*** – Published April 2018
- **REGDOC-2.11.1, *Waste Management, Volume II: Assessing Long Term Safety of Radioactive Waste Management*** – Published May 2018
- **REGDOC-1.1.5, *Licence Application Guide: Small Modular Facilities*** – Publication forthcoming



Notable Activities Under Way



Small modular reactors (SMRs)

- Expression of interest from ten vendors for vendor design reviews
- The CNSC completed the Phase 1 review for Terrestrial Energy's 400-thermal-megawatt Integral Molten Salt Reactor in late 2017
- The CNSC participating in the pan-Canadian SMR Roadmap and associated workshops
- Draft *Licence Application Guide: Small Modular Reactor Facilities* will be released for consultation soon

Regulatory safety oversight culture assessment

- Report completed and shared with staff in February 2018
- Compared the CNSC against the NEA's *The Safety Culture of an Effective Nuclear Regulatory Body*
- Includes five recommendations as well as management responses to each

Peer review missions

- Canada will host an IAEA Emergency Preparedness Review (EPREV) Service Mission in early 2019
- The CNSC to request an IAEA review mission for radioactive waste and spent fuel management, decommissioning and remediation programs (ARTEMIS) to review the safety cases for CNL's proposed major projects



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