

# Operational Protocol for the Port Hope Project & Environmental Assessment Follow-up Program Activities

Revision 1.0

# **OPERATIONAL PROTOCOL FOR THE PORT HOPE PROJECT & ENVIRONMENTAL ASSESSMENT FOLLOW-UP PROGRAM ACTIVITIES**

## **PREAMBLE**

WHEREAS Canada has entered into a Legal Agreement for the cleanup of radioactive waste in the Port Hope area and, through Natural Resources Canada (NRCan), is responsible for the oversight of and funding for the Port Hope Area Initiative (PHAI);

AND WHEREAS AECL is the licensee on behalf of the Crown;

AND WHEREAS the Canadian Nuclear Safety Commission (CNSC) has regulatory and statutory responsibilities under the *Nuclear Safety and Control Act* (NSCA) and its regulations and is responsible for assessing the licence application and for accepting documents to allow the project to proceed;

AND WHEREAS the Commission Tribunal (the Commission) is a quasi-judicial administrative tribunal;

AND WHEREAS nothing in this Protocol fetters the powers of Designated Officers, Inspectors or the Commission when it comes to making regulatory decisions or taking regulatory action in the public interest, transparently and independent of any undue influence;

AND WHEREAS nothing in this Protocol is to be construed or interpreted as affecting the jurisdiction and discretion of the Commission in any assessment of any application for licensing purposes under the NSCA;

AND WHEREAS all parties to the Protocol understand that there will be no compromise in the protection of the health, safety and security of Canadians, as well as the environment. The parties also recognize the independence of the Commission, as Canada's federal nuclear regulator, will be maintained.

## **1.0 PURPOSE OF THIS PROTOCOL**

The purpose of the Protocol for the Port Hope Project licensing activities is to establish the administrative framework and service standards for the remaining activities of the federal regulatory process in relation to the Port Hope Project, including the submission of the documents referred to in Condition 1.4 of Waste Nuclear Substance Licence No. WNSL-W1-2310.00/2014 and listed in Sections 1 and 2 of Appendix C of said licence, and the regulatory review of these documents.

The Protocol and the attached Annexes establish the milestones and the service standards for each milestone remaining in the licensing of the Port Hope Project. These have been established on the basis of a number of assumptions, some of which relate to activities of participants in this project that are not signatories to this Protocol.

Should events unfold in a manner that is different from what has been assumed, the milestones will have to be revised following the processes outlined in this Protocol.

## **2.0 CONTEXT**

In March 2001, a Legal Agreement was executed between the Crown, as represented by NRCan, and the Municipality of Clarington, the Town of Port Hope, and the Township of Hope for the Port Hope Area Initiative (PHAI). The latter two municipalities subsequently amalgamated to form the Municipality of Port Hope.

The Legal Agreement defines the scope, process, responsibility and timeline for cleaning up historic low-level radioactive waste situated in the Port Hope area. These wastes arose from the activities of a former federal Crown Corporation (Eldorado Nuclear) and its private sector predecessors.

Article 2 of the Legal Agreement laid out the PHAI project in three phases:

Phase 1: The planning phase, involving environmental assessment and regulatory review of the PHAI,

Phase 2: The implementation phase, involving facility construction and contaminated sites remediation, and

Phase 3: The post-closure phase, involving ongoing monitoring and maintenance of the PHAI-built facilities over the long-term.

Funding for the activities identified in this Protocol leading to the end of the Phase 1 activities has been assured by NRCan.

During Phase 1, for the purposes of the environmental assessment and licensing, the PHAI scope was divided along municipal boundaries into two distinct projects: the Port Hope Project and the Port Granby Project. The Environmental Assessment for the Port Hope Project was completed in March 2007. This Protocol focuses on the licence document submission and regulatory review for the Port Hope Project. The federal regulatory process in relation to the Port Granby Project is outlined in a separate Protocol.

An application for a Waste Nuclear Substance Licence for the Port Hope Project was submitted in December 2004. The scope of the application included the construction and operation of a long-term waste management facility (LTWMF) in Port Hope, the clean up of low-level radioactive wastes already existing in numerous locations in the Municipality, and consolidation of these wastes in the LTWMF.

The application for a Waste Nuclear Substance Licence for the Port Hope Project was heard by the Commission at a public hearing on August 26/27, 2009, in Port Hope, Ontario.

On October 16, 2009, the Commission released its decision on the application for a Waste Nuclear Substance Licence for the Port Hope Project. The Commission issued to AECL, Waste Nuclear Substance Licence, No. WNSL-W1-2310.00/2014, for a term of five years.

As per Condition 1.3 of the Licence, the Commission also requested that AECL provide the Commission with evidence that the transfer of lands within the Municipality of Port Hope associated with the “Agreement of Purchase and Sale” between Her Majesty the Queen in Right of Canada and Cameco Corporation and Canada Eldor Inc. have been executed. On transfer of these lands to the Crown, the licence takes effect.

### **3.0 PARTIES & CHAMPIONS**

The parties to the Protocol have the following roles and responsibilities with respect to the licensing and environmental assessment follow-up program activities of the Port Hope Project:

- The CNSC has regulatory and statutory responsibilities under the *Nuclear Safety and Control Act* (NSCA) and its regulations and is responsible for assessing the documents referred to in Condition 1.4 of Waste Nuclear Substance Licence No. WNSL-W1-2310.00/2014, and listed in Sections 1 and 2 of Appendix C of said licence, to allow the project to proceed. The CNSC is also an RA.
- NRCAN, on behalf of the federal Government, provides funding and policy direction for the Port Hope Area Initiative - Port Hope Project. NRCAN, with respect to Annex IV of this Protocol, is a Responsible Authority (RA) and for the purposes of the environmental assessment has assumed the role of lead RA. Generally, the role of the lead RA is to ensure that all appropriate mitigation measures are implemented and that the EA Follow-Up Program is developed and implemented.
- Atomic Energy of Canada Limited (AECL) – is an agent Crown corporation, owned by the Government of Canada and is on behalf of Canada, the designated proponent for the environmental assessment and is the licensee for the Port Hope Project.

Champions of this Protocol representing each party are as follows:

Don Howard

Director, Wastes and Decommissioning Division, CNSC

Marcia Blanchette

Advisor, Uranium and Radioactive Waste Division, NRCAN

Christine Fahey

Project Director, PHAI Management Office, AECL

Each party will identify alternates in the event that the primary Champion is unavailable.

### **4.0 EFFECTIVE LIFE OF THE PROTOCOL**

This Protocol will come into effect upon the date of the signing of the Protocol by all three parties to the Protocol. This Protocol will terminate on the date that all of the milestones defined in the Annexes are achieved.

## **5.0 TIMELINES**

The service standards for the submission, review and revision of the documents to support Commission acceptance of the documents referred to in Condition 1.4 of Waste Nuclear Substance Licence No. WNSL-W1-2310.00/2014, and listed in Sections 1 and 2 of Appendix C of said licence, are detailed in the Annexes. No specific timelines for the submission of the documents are indicated, however, timelines will be inserted as applicable through reporting in the dashboard reports. The service standards, detailed in the Annexes are initiated upon receipt of the documents from the proponent.

The parties agree that the exchange of information on the documents listed in the Annexes, and the review of advanced drafts is encouraged to the extent possible.

In addition to the exchange of submission and response correspondence described in Annexes, the parties agree to meet, as necessary, to clarify intentions and facilitate common understandings, with the aim of achieving the service standards.

## **6.0 REPORTING**

The Champions will jointly produce a dashboard-style report on a quarterly basis demonstrating progress, status of activities and items of concern/risk to completion. The report shall be submitted to the Executive Management Committee (Section 9.0) within 5 working days of the end of each quarter that falls within the life of this Protocol.

## **7.0 EXTERNAL COMMUNICATIONS**

Throughout the duration of this Protocol, all parties agree that external communications will be open and transparent and that information destined for public release will be coordinated through the designated Champions (or alternates, where designated) with support from each party's communications division. Further, these communications will be done in coordination with, and in consideration of, each party's communications protocols.

## **8.0 ISSUES RESOLUTION**

The parties to this Protocol will use their best efforts to resolve any differences of opinion in the interpretation or application of this Protocol in an effective and timely manner.

Issues relating to the submission of the documents to support Commission acceptance of the documents referred to in Condition 1.4 of Waste Nuclear Substance Licence No. WNSL-W1-2310.00/2014, and listed in Sections 1 and 2 of Appendix C of said licence, and the regulatory review will be resolved through direct discussions and collaboration between the Champions. Those that cannot be resolved will be jointly referred to the Executive Management Committee.

In the event that issues remain outstanding after discussion by the Executive Management Committee, they will be referred to the signatories of this protocol.

## **9.0 EXECUTIVE MANAGEMENT COMMITTEE**

The parties to the Protocol have formed an Executive Management Committee comprised of senior management representatives from the three parties to the Protocol. The Executive Management Committee will continue to receive and review the dashboard reports and will also continue to resolve issues. Where an issue cannot be resolved through the Champions, the Executive Management Committee agrees to meet within three working days of notification of the dispute with the intention of expeditiously resolving the impasse.

The members of the Executive Management Committee are set out as follows:

Peter Elder

Director General  
Directorate of Nuclear Cycle and Facilities Regulations  
Canadian Nuclear Safety Commission

Dave McCauley

Director  
Uranium and Radioactive Waste Division  
Natural Resources Canada

Joan Miller

Vice-President & General Manager  
Decommissioning and Waste Management  
Atomic Energy of Canada Limited

Each party will identify alternates in the event that the primary committee member is unavailable.

## **10.0 MAJOR PROJECTS MANAGEMENT OFFICE INITIATIVE**

The Parties to this Protocol acknowledge that the Major Projects Management Office (MPMO), a sector of NRCan, has been engaged to assist with ensuring that the Port Hope Project progresses in a timely and predictable manner.

The MPMO will assist by:


1. Acknowledging that the roles and responsibilities, and milestones and service standards, as defined in this Protocol, provide a framework for monitoring and tracking progress;
2. Ensuring that the information contained in the dashboard reports, prepared by the Champions, is advanced to the MPMO's Deputy Ministers Committee for information purposes; and
3. Facilitating access to the appropriate senior level committee established through the MPMO Initiative if the issues resolution process is unsuccessful. The President of AECL, or his delegate, may participate in committee meetings where the Port Hope Project is to be discussed at the invitation of the Chair of the Committee.

## 11.0 FUTURE REVISIONS OF THE PROTOCOL

Revisions of this Protocol will be coordinated by the Champions. Substantive revisions affecting the main terms of this Protocol must be approved by the parties' who have signed the Protocol. Other revisions may be approved with the joint agreement of the members of the Executive Management Committee.

## 12.0 PROTOCOL AGREEMENT


The parties hereto have signed the Protocol, in counterpart, on the dates indicated below.

  
\_\_\_\_\_  
Ramzi Jammal  
Executive Vice-President and  
Chief Regulatory Operations Officer  
Canadian Nuclear Safety Commission

May 1, 2010  
Date

  
\_\_\_\_\_  
Christine Donaghue  
Assistant Deputy Minister  
Natural Resources Canada

APR 29 2010  
Date

  
\_\_\_\_\_  
Bill Pilkington  
Senior Vice-President/Chief Nuclear Officer  
Atomic Energy of Canada Limited

10/04/19  
Date

## Annex I

### Key Milestones, Descriptions/Activity, and Short Duration Service Standards for the Licensing of the Port Hope Project

Milestone	Description/Activity	Lead	Service Standard
Submission of technical information to support Commission acceptance of the documents referred to in Condition 1.4 of Waste Nuclear Substance Licence No. WNSL-W1-2310.00/2014, and listed in Sections 1 and 2 of Appendix C of said licence	Port Hope Project Radiation Protection Plan	AECL	
	Port Hope Project Site Security Plan	AECL	
	Port Hope Project Radioactive Material Transportation Plan	AECL	
	Port Hope Project Training Plan	AECL	
	Port Hope Project Occupational Health & Safety Plan	AECL	
	Port Hope Project Emergency Plan	AECL	
Review process of technical documents to support application for a Waste Nuclear Substance Licence	Conformity Review	CNSC	3 working days <sup>1</sup> for cursory review
	Review of Submission and Response Issued to AECL	CNSC	10 working days
	Acknowledgment of receipt of CNSC comments	AECL	3 working days for cursory review
	Response or submission of revision to CNSC Comments	AECL	10 working days
	Review of resubmission or response received and Response Issued to AECL	CNSC	5 working days
Process for issues resolution	Review of outstanding issues by Champions	CNSC NRCan AECL	3 working days
	Joint referral to Executive Management Committee of unresolved issues	CNSC NRCan AECL	End of 3 <sup>rd</sup> working day following start of review by Champions
	Executive Management Committee	CNSC NRCan AECL	Convened within 3 working days of notification of dispute with intent to resolve

<sup>1</sup> All working days are intended to be consecutive.

## Annex II

### Key Milestones, Descriptions/Activity, and Medium Duration Service Standards for the Licensing of the Port Hope Project

Milestone	Description/Activity	Lead	Service Standard
Submission of technical information to support Commission acceptance of the documents referred to in Condition 1.4 of Waste Nuclear Substance Licence No. WNSL-W1-2310.00/2014, and listed in Sections 1 and 2 of Appendix C of said licence	Environmental Assessment Follow-up Program <sup>1</sup>	AECL	
	Port Hope Project QA Plan	AECL	
	Port Hope Project Environmental Management and Protection Plan for Construction Activities	AECL	
	Port Hope Project Environmental Management and Protection Plan for Off-site Activities	AECL	
Review process of technical documents to support application for a Waste Nuclear Substance Licence	Conformity Review	CNSC	3 working days <sup>2</sup> for cursory review
	Review of Submission and Response Issued to AECL	CNSC	20 working days
	Acknowledgment of receipt of CNSC comments	AECL	3 working days for cursory review
	Response or submission of revision to CNSC Comments	AECL	20 working days
	Review of resubmission or response received and Response Issued to AECL	CNSC	10 working days
Process for issues resolution	Review of outstanding issues by Champions	CNSC NRCan AECL	3 working days
	Joint referral to Executive Management Committee of unresolved issues	CNSC NRCan AECL	End of 3 <sup>rd</sup> working day following start of review by Champions
	Executive Management Committee	CNSC NRCan AECL	Convened within 3 working days of notification of dispute with intent to resolve

<sup>1</sup> The Environmental Assessment Follow-up Program consists of two components – the Socio-economic Plan and the Bio-physical Plan. The Program and components are addressed in Annex IV of this Protocol

<sup>2</sup>All working days are intended to be consecutive

### Annex III

#### Key Milestones, Descriptions/Activity, and Long Duration Service Standards for the Licensing of the Port Hope Project

Milestone	Description/Activity	Lead	Service Standard
Submission of technical information to support Commission acceptance of the documents referred to in Condition 1.4 of Waste Nuclear Substance Licence No. WNSL-W1-2310.00/2014, and listed in Sections 1 and 2 of Appendix C of said licence	Detailed Design Description Report: Long-term Low Radioactive Waste Management Facility	AECL	
	Detailed Design Description Report: Remediation Sites	AECL	
	Water Treatment Definition	AECL	
	Detailed Design Description Report: Welcome Waste Management Facility – Excavation Plan	AECL	
Review process of technical documents to support application for a Waste Nuclear Substance Licence	Conformity Review	CNSC	5 working days <sup>1</sup> for cursory review
	Review of Submission and Response Issued to AECL	CNSC	35 working days
	Acknowledgment of receipt of CNSC comments	AECL	5 working days for cursory review
	Response or submission of revision to CNSC Comments	AECL	35 working days
	Review of resubmission or response received and Response Issued to AECL	CNSC	10 working days
Process for issues resolution	Review of outstanding issues by Champions	CNSC NRCan AECL	3 working days
	Joint referral to Executive Management Committee of unresolved issues	CNSC NRCan AECL	End of 3 <sup>rd</sup> working day following start of review by Champions
	Executive Management Committee	CNSC NRCan AECL	Convened within 3 working days of notification of dispute with intent to resolve

<sup>1</sup> All working days are intended to be consecutive.

## Annex IV

### Key Milestones, Descriptions/Activity, and Service Standards for the Environmental Assessment Follow-up of the Port Hope Project

Milestone	Description/Activity	Lead	Service Standard
Submission of technical information to support Commission acceptance of the documents referred to in Condition 1.4 of Waste Nuclear Substance Licence No. WNSL-W1-2310.00/2014, and listed in Sections 1 and 2 of Appendix C of said licence	Environmental Assessment Follow-up Program	AECL	
Review process of technical documents to support application for a Waste Nuclear Substance Licence	Acknowledgement of receipt	NRCan CNSC	3 working days <sup>1</sup> for cursory review
	Review of Submission and Response Issued to AECL <sup>2</sup>		25 working days
	Acknowledgment of receipt of RA comments	AECL	3 working days for cursory review
	Response or submission of revision to RA Comments	AECL	25 working days
	Review of resubmission or response received and Response Issued to AECL	NRCan CNSC	10 working days
Process for issues resolution	Review of outstanding issues by Champions	CNSC NRCan AECL	3 working days
	Joint referral to Executive Management Committee of unresolved issues	CNSC NRCan AECL	End of 3 <sup>rd</sup> working day following start of review by Champions
	Executive Management Committee	CNSC NRCan AECL	Convened within 3 working days of notification of dispute with intent to resolve

<sup>1</sup> All working days are intended to be consecutive.

<sup>2</sup>Sub-sections may be submitted separately. The review service standard will commence on receipt of the complete Program.