

From: [Shawn-Patrick Stensil](#)
To: [Consultation \(CNSC/CCSN\)](#)
Subject: Comments on 1.1.5
Date: November-21-18 1:14:32 AM
Attachments: [Final -GPFeedbackonREGDOC115.pdf](#)

Salut,

Please find attached Greenpeace's feedback on comments received regarding REGDOC-1.1.5.

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November 20, 2018

Canadian Nuclear Safety Commission
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Re. Greenpeace comments on REGDOC-1.1.5

To whom it may concern,

Thank you for this opportunity to provide feedback on comments received regarding *REGDOC-1.1.5, Licence Application Guide: Small Modular Reactor Facilities*.

Insufficient Transparency to Proceed

Greenpeace continues to be concerned that the development of this guide has been tainted by the CNSC's desire to protect the economic interests of the nuclear industry.

As noted in our preliminary comments, the draft regulatory document states there will only be an environmental review of a Small Modular Reactor (SMR) if it is required under the proposed *Impact Assessment Act* (IAA). However, the guide fails to mention that the CNSC has been advocating for the majority of SMR designs to be exempted from a review under the IAA. This omission raises questions about what other SMR related activities or lobbying the CNSC has failed to mention.

Greenpeace believes it is unfair to public stakeholders to request comments on a Regulatory Guide on SMRs when the CNSC has already taken a position that such reactor designs should not be subject to environmental assessments. We're left with the impression that the CNSC's approach to SMRs is already a *fait accompli*.

For this reason, Greenpeace requested in our initial comments that "...the development of *REGDOC 1.1.5* be put on hold until the CNSC has released all correspondence with federal Ministries outlining its recommendations and reasons for excluding SMRs from impact assessments."

Unfortunately, the CNSC has continued developing this guide without responding to this request. This means that public is at an unfair disadvantage in submitting comments on *REGDOC-1.1.5*. It also raises questions whether our comments will be seriously considered, given the CNSC decided the need, social, economic and environmental impacts of SMR proposals should not be assessed through the *Impact Assessment Act*.

Since the initial draft guide was released, Greenpeace's concerns related to the CNSC's bias toward SMR developers has intensified. The CNSC participated in the development of the

“Canadian Roadmap for Small Modular Reactors “, which was released on November 7, 2018. Civil society groups were not invited to participate in the development of this policy roadmap, but the CNSC participated as an “observer”.

Greenpeace feels evidence suggests that the CNSC’s participation in this process went beyond simply being an observer. In fact, it appears the CNSC has been acting as an advocate for industry’s request to remove so-called regulatory barriers to SMR development. This undermines the credibility of the current consultation.

The SMR Roadmap states: “Stakeholders made specific recommendations to the federal government through the consultation process for the Impact Assessment Act with the goal of ensuring the Impact Assessment Act and the Roadmap work together.”¹ It also makes the following recommendation: “SMRs equal to or below an electric capacity of 300 MWe should be excluded from the Project List, on the basis of having a low risk for potential adverse environmental effects in areas of federal jurisdiction.”²

In light of the CNSC’s participation in development of the SMR roadmap, the coincidental similarity between the CNSC and industry’s requests for SMRs to be exempted from review under the *Impact Assessment Act* leads Greenpeace to conclude that there is a reasonable apprehension of bias by the CNSC in favour of its licencees.

Request: Greenpeace encourages the CNSC to consider how participating in the closed-door development of the SMR Roadmap, advocating for industry positions outside of public consultations, could reasonably be seen as ground for bias by public stakeholders.

Notably, the SMR Roadmap makes the following misleading comment: “A complete list of all submissions can be found on the Canadian Environmental Assessment Agency’s website.”³ This is incorrect because the CNSC’s submission does not appear on the government’s website. The CNSC has also refused to release it in response to Access to Information requests. Evidence suggests, however, that the CNSC’s submission echoes the demands made by industry.

Request: Greenpeace requests the CNSC release as soon as possible all submissions it has made to government related to the *Impact Assessment Act* and its supporting regulations.

Access to Information

As noted in our previous comments, Greenpeace recommended the guide include a section on transparency and public disclosure. This section would clarify that SMR developers and operators are expected to operate within a culture of openness and transparency.

Notably, industry has requested that future drafts provide “...contextual information on the Access to Information Act regarding pre-licensing submission applicability and opportunities for applicants to protect/remove sensitive information. This would be most beneficial to new applicants.”

¹Canadian Small Modular Reactor Roadmap Steering Committee (2018). *A Call to Action: A Canadian Roadmap for Small Modular Reactors*. Ottawa, Ontario, Canada. Pg. 30.

² Ibid, pg. 56.

³ Ibid, pg. 56.

This industry request raises two concerns: First, what information is currently available on pre-licensing reviews through Access to Information requests? And second, how have developers and licencees processed Access to Information or Freedom of Information requests historically?

Approximately a decade ago, Greenpeace attempted to obtain information the Pre-licensing Vendor Design Reviews for reactors under consideration such as the Advanced CANDU reactor. The CNSC refused to release any information or correspondence related to these reviews. Greenpeace did not challenge these decisions at the time, but feels such secrecy is neither legitimate nor unacceptable.

Recommendation: The guide should clarify that documents and correspondence related Pre-licensing Vendor Design Reviews will be released through Access to Information with only limited and specific redactions.

Given the CNSC is proposing a risk-informed approach to SMRs, which may allow for a loosening of safety standards, it is imperative that supporting evidence and staff decisions related to risk-related decisions be intelligible and traceable. In Greenpeace's view, this requires the Commission to ensure industry decisions and documents detailing staff analysis are publicly accessible with minimal redactions. Tracing such decisions is important because even industry acknowledges that commercial SMRs will not be available until approximately 2029. It is thus necessary to ensure future host communities can evaluate decisions made at pre-licensing a decade hence.

Recommendation: Greenpeace requests the guide be revised to state that the CNSC will make a registry of all correspondence and documents related to the Pre-licensing Review of SMR designs available to members of the public upon request.

It has been Greenpeace's experience that reactor operators, such as Ontario Power Generation (OPG), only respond to information requests in an open fashion if instructed by the CNSC. Approximately a decade ago, OPG informed the CNSC's Access to Information staff that requests for its licensing submissions should be filed through the provincial *Freedom of Information and Privacy Act*. In Greenpeace's experience, OPG exercises its discretion to censor information in an overly broad manner under the provincial Act compared to the CNSC. OPG will also often request significant processing fees for information. These are all barriers to public scrutiny and participation in CNSC proceedings.

Greenpeace has filed a number of appeals of OPG's decisions to withhold information under the *Access to Information Act*. A number of these appeals noted that the CNSC releases equivalent information under the *Access to Information Act*. OPG has argued in these appeals that, unless prescriptively required by the CNSC, it had no obligation to release such information even if the CNSC released similar information.

In this light, the CNSC needs to provide clear direction in *REGDOC-1.1.5* that the CNSC values openness, transparency as a means to foster critical and construction commentary on industry submissions and CNSC decision-making. Such transparency builds trust with the public and leads to better decisions.

In Greenpeace's view, industry's request for guidance on how to "remove sensitive information" from pre-licensing information shows industry has a secretive mindset and wishes to put up barriers to public disclosure. While there may well be information that is indeed sensitive, such information can be redacted as needed during the processing of Access to Information requests. This is why exemptions exist in legislation.

In Greenpeace's view, the CNSC needs to send a signal to industry that transparency and openness are values of doing business.

Recommendation: Greenpeace suggests the following text be added to the document:

SMR developers should be encouraged to shift from a protective mindset to a culture of openness in information disclosure. A culture of openness should be based on the principles that information should be available to the public in timely manner, and that necessary exemptions from access should be limited and specific. Exemptions should not simply be claimed because they are technically plausible, but only be claimed if they genuinely apply to the information at issue. Security exemptions may be applied to information pertaining to the specific fault sequences and vulnerabilities of a facility.

The Definition of "Small Modular Reactor"

All of the submissions made by industry raised concerns related to the definition of "Small Modular Reactor".

Greenpeace believes that most SMRs are repackaged reactors designs. For example, industry wishes the definition of SMRs to be all designs up to 300 MW. Notably, the CNSC in the early 1990s reviewed a proposal for the CANDU-300. This reactor design, which was simply a smaller CANDU reactor, would have met the industry's definition of SMR. Slowpoke reactors, which are already operating in Canada, would also meet industry's definition of SMR.

In Greenpeace's view, this repackaging of reactors that have already been licenced by the CNSC shows that the current licensing guide may be unnecessary. Indeed, the drive for special SMR guidance is arguably an attempt by industry to loosen regulatory requirements for industry.

Truly,

A handwritten signature in black ink, appearing to read "S. Stensil", enclosed within a hand-drawn oval.

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