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# CNSC's Environmental Assessment Process

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Commission canadienne  
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Canadian Nuclear  
Safety Commission

Canada

## **CNSC's Environmental Assessment Process**

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Canadian Nuclear Safety Commission  
280 Slater Street  
P.O. Box 1046, Station B  
Ottawa, Ontario K1P 5S9  
CANADA

Tel.: 613-995-5894 or 1-800-668-5284 (in Canada only)

Facsimile: 613-995-5086

Email: [info@cncs-ccsn.gc.ca](mailto:info@cncs-ccsn.gc.ca)

Website: [nuclearsafety.gc.ca](http://nuclearsafety.gc.ca)

Facebook: [facebook.com/CanadianNuclearSafetyCommission](https://facebook.com/CanadianNuclearSafetyCommission)

YouTube: [youtube.com/cnsccsn](http://youtube.com/cnsccsn)

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## CNSC's Environmental Assessment Process

### 1. Background

The Canadian Nuclear Safety Commission (CNSC) regulates the development, production and use of nuclear energy and the production, possession and use of nuclear substances, prescribed equipment and prescribed information. This is done in a manner consistent with Canadian environmental policies, acts and regulations, and with Canada's international obligations.

Under the *Nuclear Safety and Control Act* (NSCA), the CNSC licenses, regulates and establishes technical requirements for all nuclear-related activities in Canada. All those wishing to carry out nuclear-related activities – including activities related to the construction, operation, decommissioning and abandonment of uranium mines and mills – must first obtain a licence from the CNSC. The “Commission”, an independent quasi judicial tribunal, is the CNSC’s decision-making body and makes licensing decisions for all major nuclear facilities in Canada.

To protect the health, safety, security and the environment, the CNSC conducts environmental assessments (EAs) for proposed nuclear projects under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) or the NSCA, as described in sections A and B, respectively. The CNSC also participates in the EA process established under land claim agreements, for example, the *James Bay and Northern Quebec Agreement* (JBNQA) which is described in section C.

### 2. A: Environmental Assessment under the CEAA 2012

Under the CEAA 2012, the CNSC is the sole federal responsible authority (RA) for conducting an EA for designated projects regulated under the NSCA and described in the *Regulations Designating Physical Activities* (e.g., new uranium mine or mill at a site that is not already licensed). The Minister of the Environment may also designate a project not identified in the *Regulations Designating Physical Activities* if the project may cause adverse environmental effects or there are public concerns related to those effects.

When an EA is required under the CEAA 2012, the Commission must make an EA decision before a regulatory licensing decision can be made under the NSCA to allow a project to proceed. In doing so, the Commission must determine whether the proposed project is likely to cause significant adverse environmental effects.

The Commission cannot issue a licence authorizing a project to be carried out, in whole or in part, until the EA process is complete (i.e., an EA decision has been rendered). Applicants may request the EA to be conducted at the same time as the review of the applicant’s licensing

information, or they may wait for the EA process to be completed before submitting the licence application.

The same project may also trigger EAs by other provincial or territorial jurisdictions (e.g., JBNQA). Provincial and territorial jurisdictions determine their potential involvement in the EA process based on their mandates and applicable EA legislation. Where applicable, the CNSC coordinates provincial and territorial involvement to determine if the EA requirements of all jurisdictions can be addressed through a single EA process to reduce duplication and provide regulatory efficiency. Existing agreements provide guidelines for the roles and responsibilities of each government in the assessment of such projects.

The EA process adopted by the CNSC to meet the requirements of the CEAA 2012 is described in Section B of the draft REGDOC-2.9.1, *Environmental Protection: Environmental Assessments* (Attachment 1). This document underwent public consultation between April 30 and July 30, 2014 and is expected to be finalised this fiscal year.

### **3. B: Environmental Assessment under the NSCA**

An EA under the NSCA is a component of the CNSC licensing process and the CNSC has carried out environmental assessments for all licence applications including for projects not included in the *Regulations Designating Physical Activities* of the CEAA 2012. The CNSC considers an EA under the NSCA to be an assessment of information required under the NSCA and its regulations to make a determination whether the applicant will, in carrying out an activity, make adequate provisions for the protection of the environment and the health and safety of persons. No decision is rendered on the EA itself, as the information is intended to support the regulatory decision being sought under the NSCA. The construction of a new uranium mill on an existing licensed area would be an example of project triggering an EA under the NSCA. The proponent would require a licensing action by the Commission for this project to proceed.

The EA process conducted under the NSCA is described in Section A of the draft REGDOC-2.9.1, *Environmental Protection: Environmental Assessments* (Attachment 1).

### **4. C: Environmental Assessment under the JBNQA**

Nuclear projects proposed to be located within the boundaries of the administrative region governed by the JBNQA are subject to both the EA requirements of the CEAA 2012 and the JBNQA.

The JBNQA is a modern land claim agreement that sets out an environmental and social protection regime for the territorial regions of James Bay and Nunavik. Under the JBNQA, the Administrator is the person responsible for determining whether or not to authorize a project, based on the recommendations of the assessment and review committees. This person could be the President of the Canadian Environmental Assessment Agency if the project is federal in nature, or the Minister of the Environment of Quebec if the project is provincial in nature. By agreement, projects that are considered both federal and provincial in nature could be administered by both jurisdictions. The CNSC, as the expert authority on nuclear safety, would provide technical and scientific expertise to support the JBNQA process.

The CNSC, as the federal regulator for nuclear projects, and the RA under the CEAA 2012, must ensure an EA is completed in accordance with the CEAA 2012. To harmonize the JBNQA and the CEAA 2012 EA processes and reduce duplication of effort, the CNSC could delegate to the JBNQA the conduct of the EA or any part thereof, such as the preparation of EA Guidelines, public participation opportunities, and the preparation of the EA Report. In all cases, the CNSC remains legally responsible for ensuring that the applicable CEAA 2012 requirements are met, including the Commission rendering an EA decision under the CEAA 2012 prior to making a regulatory decision under the NSCA. The CNSC cannot delegate the EA decision under the CEAA 2012 to another jurisdiction.

Should the JBNQA require an EA for a project that is not designated under the CEAA 2012, the CNSC would work with the appropriate jurisdictions and administrator(s) to support the EA process while completing the CNSC licensing process.

On a project-by-project basis, project agreements could be developed to clarify the roles and responsibilities of each authority involved in the EA processes and target timelines. An example of a project agreement developed under the repealed CEAA (S.C. 1992) is provided as Attachment 2.

## **5. Attachments**

[1] CNSC, REGDOC-2.9.1, *Environmental Protection: Environmental Assessment*, Ottawa, Canada, 2013.

[2] *Project Agreement for the Matoush Uranium Exploration Ramp Access in Quebec*. October 2010.