



Suite 1900, 736 6th Avenue SW
Calgary, AB T2P 3T7
Canada
www.okc-sk.com

Our ref: 1099-220

May 11, 2022

Julie Mecke
Senior Policy Advisor, Radioactive Waste
Natural Resources Canada, Uranium and Radioactive Waste Division
Government of Canada
580 Booth Street, 17th Floor
Ottawa, ON, Canada K1A 0E4

By email julie.mecke@NRCan-RNCan.gc.ca

Re: Technical Review of the Draft Modernized Policy for Radioactive Waste Management and Decommissioning

Okane Consultants (Okane) was contacted by the English River First Nation (ERFN) to complete a technical review of the Draft Modernizing Canada's Policy for Radioactive Waste Management and Decommissioning document (the draft Policy) and supporting documentation issued by Natural Resources Canada (NRCan). Recommendations in the draft Policy were compared against comparable industry and policy best practices. Okane's response, on behalf of ERFN, has been included below.

Documents Reviewed

The following documents were provided by ERFN for review:

- Modernizing Canada's Policy for Radioactive Waste Management and Decommissioning – Draft for Public Comment
- What We Heard: Modernizing Canada's Policy for Radioactive Waste Management and Decommissioning
- NRCan Engagement Meeting Minutes – Engagement Meeting with ERFN

Feedback

Based on a review of the documents listed above, Okane has the following feedback for NRCan:

- The Draft Policy makes allowances for re-occurring review and update of the policy as research advances knowledge around operation and commissioning of nuclear waste facilities. However, a minimum review period (e.g., every year) is not specified in the Draft Policy as it is in other similar policies. Definition of a minimum period for critical review of the Draft Policy provides measurable accountability to the regulatory bodies governing radioactive waste.
- Minimal impact to traditional lands and territories will extend to country foods as well. Clarity on cumulative effects of radioactive waste disposal on flora and fauna should be provided explicitly in the Draft Policy.
- Under the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), other regulatory processes impacting traditional lands and territories in Canada have increased the influence of First Nations on the approval of projects within their jurisdictional boundaries. We recommend an update to the Draft Policy to allow affected First Nations to refuse projects that contribute to cumulative impacts above a desired risk threshold. This would align with the request for greater involvement and decision-making power from the Engagement Meeting with ERFN completed in May 2021.
- It is not clear how aging infrastructure will be addressed when it reaches end of life, or how existing infrastructure will be replaced when it reaches the end of design life. Procedures should be included in the Draft Policy to address replacement of this infrastructure.
- The Nuclear Waste Management Organization (NWMO) requires storage in a deep geological repository with an “informed and willing host”. The Draft Policy should include information on how information sharing will be completed to ensure that stakeholders without access to technical experts are sufficiently informed.
- The Draft Policy does not clearly indicate the funding vehicle for decommissioning of radioactive facilities and sites, which are anticipated to require monitoring and management beyond seven generations. Institutional control programs exist nationally but are run on a provincial level and are not part of an integrated federal program. Furthermore, where radioactive material is used for energy production, costs for decommissioning or care and maintenance can be transferred to the public in the form of increased costs if up-front funding is not accounted for (i.e., financial assurance). The Draft Policy should clearly indicate a funding vehicle for decommissioning of these sites.
- It is not clear if the process for First Nations engagement is intended to explicitly follow the Impact Assessment Agency of Canada (IAAC) process for engagement during Environmental Assessments, or if the engagement vehicle is somehow different.

- Language in the Draft Policy surrounding the planning of radioactive waste management and decommissioning projects is limited to *input from* Indigenous peoples. We believe there is an opportunity to expand the remit to a *partnership with* Indigenous peoples, and revisions to the Draft Policy could reflect what could otherwise be interpreted as simply a formal consultation exercise.
- Discussion in the Draft Policy of “...partnership with First Nations, Inuit and Métis communities to gain a greater understanding of their Indigenous Knowledge...” seems to limit the relationship to a consultative arrangement, rather than a partnership that could point towards explicit mentions of economic development and capacity building. Indigenous communities have more to contribute than simply input on approaches and giving advice.
- Commitments to “...openness, transparency and inclusive engagement with Indigenous peoples...” are not defined and are open to interpretation. The language in the Draft Policy could be revised to provide a definition that is less vague or could state specifically that the terms will be defined within the body of the legislative Act.

Conclusion

Please do not hesitate to contact me at tkuzyk@okc-sk.com should you have any questions or comments.

Kind regards,

Terryn Kuzyk, M.Sc., P.Eng.
Geoenvironmental Engineer
tkuzyk@okc-sk.com

Lindsay Tallon, Ph.D., P.Ag.
Senior Scientist
ltallon@okc-sk.com

Cc: Haajarah Ahmed
Canadian Nuclear Safety Commission – Policy, Aboriginal, and International Relations Division
Jim Delaney, Director
Natural Resources Canada