

MEMORANDUM

To: Rick
From: Jennifer
Date: January 4, 2006
Re: Provincial EA applicability to nuclear power undertakings

Introduction and Summary of Findings

You asked that I review provincial environmental assessment legislative and regulatory framework for Quebec, New Brunswick and Saskatchewan, to determine if other provinces that have or are contemplating developing nuclear power plants require a provincial EA of nuclear power undertakings.

The results vary. New Brunswick regulation specifically requires a provincial EA to be done on nuclear power facilities, while Quebec regulation specifically excludes them. Saskatchewan legislation and regulation does not directly refer to nuclear power developments, however they may fit under two subsections of the legislative definition of 'development'.

The Applicability of Provincial Environmental Assessments to Nuclear Power Plant Undertakings

1) New Brunswick

Provincial environmental impact assessment of nuclear power plants is required by the Environmental Impact Assessment Regulation¹ made pursuant to the *Clean Environment Act*.²

Schedule A of the regulation lists undertakings and includes:

- (b) all electric power generating facilities with a production rating of three megawatts or more
- (w) all facilities for the processing of radioactive materials

In 2002, New Brunswick Power released Draft EA Guidelines for the proposed Point Lepreau Solid Waste Modifications. The assessment was undertaken by the Canadian Nuclear Safety Commission as the federal responsible authority, New Brunswick Power as the proponent, and the New Brunswick Department of Environment and Local Government per the Environmental Impact Assessment Regulation.

¹ N.B. Reg 87-83

² R.S.N.B. 1973, c. C-6

2) Quebec

Regulation specifically excludes provincial environment assessment from applying to nuclear power undertakings:

Regulation respecting environmental impact assessment and review of the *Environment Quality Act*, R.S.Q. c. Q-2.³

Division II

Projects Subject to the Environmental Impact Assessment and Review Procedure

2. (l) the construction, reconstruction and subsequent operation
 - of a hydroelectric generating station or fossil fuel-fired generating station with a capacity that exceeds 10 MW, except a nuclear generating station contemplated by subparagraph (m)
- (m) the construction or extension of a nuclear fission or fusion establishment, of a plant that manufactures, processes or reprocesses nuclear fuel, or of a disposal or storage site for radioactive waste

3) Saskatchewan

Saskatchewan's *Environmental Assessment Act*⁴ states that the proponent of a development shall conduct an environmental impact assessment (section 9) and in section 2 defines development as:

- (d) "development" means any project, operation or activity or any alteration or expansion of any project, operation or activity which is likely to:
 - (i) have an affect on any unique, rare or endangered feature of the environment;
 - (ii) substantially utilize any provincial resource and in so doing pre-empt the use, or potential use, of that resource for any other purpose;
 - (iii) cause the emission of any pollutants or create by-products, residual or waste products which require handling and disposal in a manner that is not regulated by any other Act or regulation;
 - (iv) cause widespread public concern because of potential environmental changes;**
 - (v) involve a new technology that is concerned with resource utilization and that may induce significant environmental change; or
 - (vi) have a significant impact on the environment or necessitate a further development which is likely to have a significant impact on the**

³ R.Q. c. Q-2, r.9

⁴ S.S. 1979-80, c. E-10.1

environment;

Nuclear power undertakings may be seen to fall under various subsections, most notably subsection (iv) or (vi). A search revealed that there are no regulations passed pursuant to the *Act* that further address, define or list included undertakings/developments. This was confirmed by a Project Manager with the Environmental Assessment Branch of the Saskatchewan Provincial Government named Brent W. Bitter.