Canadian Nuclear Safety Commission

Commission canadienne de sûreté nucléaire

Public meeting

Réunion publique

October 3rd, 2019

Le 3 octobre 2019

Lac du Bonnet Community Centre
Lions Hall
25 McArthur Avenue
Lac du bonnet, Manitoba

Centre communautaire de Lac du Bonnet
salle Lions Hall
25, avenue McArthur,
Lac du Bonnet (Manitoba)

Commission Members present

Commissaires présents

Ms Rumina Velshi
Dr. Sandor Demeter
Dr. Timothy Berube
Dr. Marcel Lacroix
Dr. Stephen McKinnon

M^me^ Rumina Velshi
D^r^ Sandor Demeter
M. Timothy Berube
M. Marcel Lacroix
M. Stephen McKinnon

Secretary:

Secrétaire:

Mr. Marc Leblanc

M^e^ Marc Leblanc

Senior Counsel:

Avocat principal :

Mr. Denis Saumure

M^e^ Denis Saumure

TABLE OF CONTENTS

Lac du Bonnet, Manitoba / Lac du Bonnet (Manitoba)

--- Upon commencing on Thursday, October 3, 2019
at 3:17 p.m. / La réunion débute le jeudi
3 octobre 2019 à 15 h 17

Opening Remarks

THE PRESIDENT: Good afternoon, and welcome to the meeting of the Canadian Nuclear Safety Commission.

Mon nom est Rumina Velshi. Je suis la présidente de la Commission canadienne de sûreté nucléaire.

I'd like to begin by acknowledging that we are in the Treaty 1 territory and the land on which we are gathered is the traditional territory of the Anishinabek and the traditional homeland of the Métis people.

Je vous souhaite la bienvenue and welcome to all those who are joining us via webcast or Webex.

I'd like to introduce the Members of the Commission that are with us for the Commission meeting.

And to my extreme left, I am pleased to introduce Dr. Stephen McKinnon, our newly-minted Commission Member. He was here to observe the two public hearings and he's now participating in his first Commission meeting, so

welcome, Dr. McKinnon. To my left is Dr. Sandor Demeter, and then to my left are Dr. Marcel Lacroix and Dr. Timothy Berube.

Mr. Denis Saumure, Senior Counsel to the Commission, and Mr. Marc Leblanc, Secretary of the Commission, are also joining us on the podium today.

Marc, over to you.

MR. LEBLANC: Yes. Some quick comments.

So we still have simultaneous interpretation, so please keep the pace of your speech relatively slow so that the interpreters are able to keep up. And we will ask the participants to identify almost yourself or themselves before speaking.

And this proceeding is also being webcast live and the archives will be available on our website some time -- for a three-month period some time after the close of the proceedings.

And to you, Madame la Présidente.

Oh, still me. Sorry.

The *Nuclear Safety and Control Act* authorizes the Commission to hold meetings for the conduct of its business.

The agenda for this meeting was published on September 25th.

This will be a relatively short meeting. The first item is to provide to the Members an update on the status of power reactors in Canada. This update is provided at every Commission proceedings.

And the second item is the Report on the Status of the Designated Officer Program for 2017.

Ms Velshi will preside the meeting.

I'd just like to note that we have staff in Ottawa available to answer questions.

President Velshi.

THE PRESIDENT: With this information, I would now like to call for the adoption of the agenda by the Commission Members as outlined in CMD 19-M31.

Do we have concurrence?

For the record, the agenda is adopted.

I also wish to note that the Minutes of the previous meeting held on May 15, 2019 have been approved secretarially and they are available on the CNSC website.

The first item on the agenda is the Status Report on Power Reactors, as outlined in CMD 19-M32.

I believe we have representatives from the nuclear power plants and CNSC staff joining us by videoconference and WebEx. They can identify themselves

later before speaking.

Mr. Frappier, over to you.

CMD 19-M32

Oral presentation by CNSC staff

MR. FRAPPIER: Thank you.

Good afternoon, and thanks again for allowing us to do this via video con. Madam President and Members of the Commission, I'm -- my name is Gerry Frappier and I'm the Director-General of the Directorate of Power Reactor Regulations.

With me today are other regulatory and technical managers and specialists, both here and Ottawa and, as you noted, at the nuclear power plants to answer any questions you may have.

The Status Report on Power Reactors, CMD 19-M32, was finalized on September the 25th and, as normal, I have some updates to bring us up to date, although there's very few of them today. It's very straightforward.

The only facility that has any update compared top what's in the status report is Pickering, where Pickering Unit 1 is now at full power.

That concludes our status report update,

and we are available to answer any questions you may have.

THE PRESIDENT: Thank you, Mr. Frappier.

I'll open the floor for questions from Commission Members to CNSC Staff and licensees.

We'll start with Dr. Lacroix.

MEMBER LACROIX: Yes, I do have a question concerning the delay for the Darlington-2.

I was wondering, could you say a few words on the inspection of the weld? I presume that once you're completed, that must be inspected, so how is it done and what's the reason for the delay?

MR. FRAPPIER: Gerry Frappier, for the record.

And I'll ask our colleagues at Darlington, both OPG personnel if they are there, and our inspector, who's on site and who participates in the overseeing of the refurbishment. But perhaps to OPG first.

MR. ROSE: Good afternoon. It's Gary Rose from Ontario Power Generation, Deputy Site Vice-President for Darlington Refurbishment, for the record.

I will provide a brief update on the lower feeder program.

Currently we have 802 lower feeders installed out of a total of 960, so we're progressing quite

well to be done this program by October 20th to 22nd.

With respect to your question on inspections, each weld is inspected following its installation using radiography techniques, and so as we progress the lower feeders, the production rate was lower than planned. And as we welded some feeders, our weld failure rate was higher than we had originally anticipated.

We have completely rectified that now. We're currently running at a weld failure rate of approximately five percent, and with that comes good production and on schedule for October 20th and 22nd.

And again, each weld is inspected using radiography on a weld-by-weld basis.

THE PRESIDENT: Mr. Rose, is it TSSA that checks each and every weld?

MR. ROSE: Each weld is inspected by a quality control organization under Canada's quality control program. A company called AA Plus does the radiography inspections.

Those records are all available and part of our closure package.

The TSSA will sign off on any non-conformance reports that require -- that come about in the process but do not necessarily sign off on a weld

failure or a pass weld, for that matter. They're certainly doing oversight of the process as a whole.

THE PRESIDENT: And you know, globally, it looks like the nuclear industry's having a lot of problems with welds as we certainly look at France and elsewhere. And is the common problem the same everywhere? I know my counterpart in France says it has a lot to do with not having appropriate expertise available. What was the issue at Darlington?

MR. ROSE: The issue at Darlington, there's a number of different issues, but it's generally to do with the Liburdi, we use Liburdi Orbital Welders. And getting the parameters within the conditions of the vault, considering temperature, weld temperature, air flow, fit-up, et cetera, getting those parameters set in a manner that allows you to have -- we do nine weld passes -- that allows you to have good weld conditions on each of those passes.

And I do not know the complete extent of the welding situation in France; however, I do know that it was a weld on a steam generator system different than the welds we're doing here at Darlington.

THE PRESIDENT: Thank you.

Dr. Berube? Dr. Demeter?

MEMBER DEMETER: Thank you.

I'm just noting I'm pleased to see the progress of the KI pill working group and look forward to reading minutes and other documents that come forth when they're posted on the website.

THE PRESIDENT: Dr. McKinnon?

MEMBER McKINNON: Yes. A general question. Is there an overall coordination of the timing of the shutdowns for the different reactors? And what would happen if any of these planned actions take much longer than anticipated? How do you react to that?

THE PRESIDENT: Mr. Jammal, do you want to have a go at that?

MR. JAMMAL: It's Ramzi Jammal, for the record.

I will start with -- from a safety perspective. If the reactors are tripped or shut down, they are required to restart safely. So that safety will be the paramount.

With respect to coordination and production of power, I will pass it on to OPG to provide that answer.

THE PRESIDENT: OPG or Bruce Power? Do you want to comment on how the Province oversees the

coordination of these outages?

MR. GEOFROY: It's Richard Geofroy, director of Operations and Maintenance for Pickering, for the record.

So need to understand the question a little bit further, but --

THE PRESIDENT: I'm sorry, we couldn't hear you.

MR. MALEK: Imtiaz Malek, Regulatory Affairs manager, for the record, for OPG.

Madam President, Members of the Commission, was that question aimed at Darlington or Pickering?

MEMBER McKINNON: No, it was a more general question in the context of you probably want to avoid multiple reactor shutdowns at any given moment. And whatever action you need to for maintenance or refurbishment, it takes a certain time. And you probably want to avoid overlap of the risk of prolonged shutdowns. So I was more curious about is there an overall plan for the sequencing of these refurbishment and maintenance activities, and what actions do you then take if things take longer than anticipated.

MR. MALEK: Imtiaz Malek, Regulatory

Affairs manager for OPG Darlington.

Yes, indeed, what we have is one of the charts that we often show not only internally in use and to the CNSC is the overlap of Darlington reactors along with Bruce reactors also. And we have sequenced the reactor shutdown and restart based on the life of the pressure tubes and calandria tubes and so on and so forth. And in that, there is consideration of what power's available when we do the outages and so on and so forth.

If there are delays, I think it's a question that I'll pass on to Mr. Gary Rose here. Perhaps he can talk of that.

MR. ROSE: It's Gary Rose again, for the record.

We have a set schedule with our three remaining units. Bruce Power has a set schedule for their six remaining units based on a set of plans and a set of assumptions on the durations. We've set those schedules in a manner to minimize overlap of certain critical functions. As things unfold and either Bruce Power's outages go long or ours, we would just continuously collaborate on the best way to deal with those.

Bruce Power and OPG collaborate on a routine basis now on our experience on unit 2 and the

planning for our unit 3 and their unit 6. In fact, we were up there last week, face-to-face meetings, talking about our experience and different risks that we -- might occur and how to manage those. One of those biggest risks of course, is the trades capacity within the province and how we get equivalent training to be able to move trades from our site to their site to deal with those peaks and valleys and deal with coordination and schedules delayed as we execute each program.

THE PRESIDENT: Mr. Jammal, a question for you on the advisory committee and the working group for the KI pill distribution. The report says there was a letter sent to the Indigenous communities, offering them an opportunity to have further discussions on this. Were there any takers?

MR. JAMMAL: It's Ramzi Jammal, for the record. I will pass it on to Mr. Lee Casterton with respect to the precision on the letters to the Indigenous groups.

MR. CASTERTON: Thank you, Mr. Jammal. Good afternoon, Members of the Commission. My name is Lee Casterton. I am a senior regulatory program officer with the Directorate of Power Reactor Regulation, and I'm also the chair of the KI pill working group.

So we sent nine letters to different Indigenous communities, and we have received two responses so far for additional engagement, and we are scheduled to meet with one of the groups in November to discuss the project further. And we are to keep the other group informed as we approach the comment period on the phase one report.

We will also be following up with the other seven groups once we've conducted the workshop and have a better idea of the timelines moving forward to give them a good idea -- a better idea of the -- when the comment period will commence.

THE PRESIDENT: Thank you for that, and thank you all for the status report.

The next item on the agenda is the status of the Designated Officer Program for 2017 and 2018, as outlined in CMD 19-M25.

Ms. Monica Hornof is making the presentation. Over to you.

CMD 19-M25

Oral presentation by CNSC staff

MS HORNOF: Thank you. Good afternoon

President Velshi and Members of the Commission.

My name is Monica Hornof and I'm the Lead Commission Technical Officer with the CNSC Secretariat. Today I'll be presenting the report on the status of the designated officer program for 2017 and 2018.

Available today in this room and also via teleconference and WebEx to answer any questions you may have are designated officers, shortened to DOs, from various directorates of the Regulatory Operations Branch and the Technical Support Branch.

The DO program was first established in 2000 with the coming into force of the *Nuclear Safety and Control Act*, or the NSCA. The NSCA allows the Commission to designate certain CNSC staff to carry out specific authorities or lower-risk statutory powers. The implementation of the DO program is a collaborative undertaking between the Regulatory Operations Coordination Division, Legal Services, and the CNSC Secretariat. DOs may be authorized to carry out licensing decisions for lower-risk activities, such as the use of nuclear substances and radiation devices, the operation of a Class II nuclear facility, or the import and export of controlled nuclear substances, equipment, or information.

The Commission has not authorized DOs to

carry out licensing activities for Class I nuclear facilities, such as nuclear power plants and Class IB facilities or for uranium mines and mills. This authority remains solely with the Commission.

DOs may also be authorized to carry out Class II prescribed equipment and personnel certification authorities. The certification of prescribed equipment includes the certification of transport packages, teletherapy machines, and lower energy medical and linear accelerators. Personnel certification includes the certification of exposure device operators, Class I nuclear facility personnel, and Class II radiation safety officers. Finally, compliance decisions include those related to inspector orders, making DO orders, and notices of violation and associated administrative monetary penalties or AMPs.

Although the Commission carries out Class I licensing, DOs may be authorized to carry out compliance-related authorities for Class I nuclear facilities and uranium mines and mills.

In making decisions, DOs have the same responsibility as the Commission in respect of independence in the decision-making process without any external influences and in regard to procedural fairness

considerations.

The Commission has 31 CNSC staff positions by title of office to make DO decisions. Twenty-two DO positions are in the Regulatory Operations Branch, and nine DO positions are in the Technical Support Branch. As can be seen in the chart in this slide, the Directorate of Nuclear Substance Regulation has the most DOs at 13. This directorate carries out many of the licensing and compliance activities for medical and research facility licensees, for nuclear substance and radiation device licensees, and transport licensees. In fact, the Directorate of Nuclear Substance Regulation DO activities make up a large part of the DO program, making it a key component of the CNSC's licensing and compliance framework.

As shown by the graphic in this slide, DO powers are allocated in a pyramid style to ensure the continuity of operations. DO authorities are aligned with the DO's position and operational responsibilities. Vice-presidents have all the authorities of the directors general in their directorate, and so on. And directors have the same authorities, all the authorities of the directors in their directorate. Generally, DOs in more senior positions have a broader scope of authorities than DOs in less senior positions. This structure helps ensure

continuity of operations, since DOs' authorities are not transferable between CNSC staff. With the pyramid style structure, should a DO be unable to carry out their authorities, a DO at the same or higher level in the same directorate or a vice-president could carry out the authority.

Due to retirements and some CNSC staffing changes, there were seven DO position staffing changes in 2017 and eight such changes in 2018. Most of the changes were at the director level.

When a new DO is designated by the Commission, they are required to undertake the DO training and assistance program, which includes a briefing with the CNSC senior general counsel on the legal considerations in DO decision-making and the legal obligations of a DO, a briefing with the Commission Secretariat on the procedural aspects of DO decision-making, and a briefing with a representative from the Regulatory Operations Coordination Division, which coordinates and implements the day-to-day programs for DOs at the CNSC.

In 2018, a reorganization saw the Nuclear Laboratories and Research Reactors Division along with the associated director-level DO position eliminated, and the Canadian Nuclear Laboratories Regulatory Program Division

was established. In December 2018, the Commission designated the director of this division as a DO position with the same authorities as the previous DO position.

There are two sections of the NSCA which form the statutory basis for the CNSC's DO program. Section 37 authorizes the Commission to designate DOs and also outlines the authorities that the Commission may grant DOs. Section 65.01 [sic] of the NSCA is specific to notices of violations and AMPs, and allows for the Commission's authorization to permit DOs to issue notices of violation.

A summary of the Commission-designated positions and their authorities is available in Appendix B to this presentation.

This table provides an overview of the DO authorities carried out under subsection 37(2) and section 65.05 of the NSCA during 2017. Appendix A of this presentation has details about the specific authorities provided for by the NSCA. The data presented in the table is broken down by directorate and by division. In total, DOs carried out 3,769 authorities in 2017.

It should be noted that the Directorate of Nuclear Substance Regulation tracks its DO decisions by division for which the decision was carried out, including

those made by the director general. As such, any decisions that the director general may have made under paragraphs 37(2)(a) to 37(2)(d) of the NSCA would be reflected in the statistics for a specific division. This is marked through the asterisks.

The majority of the authorities carried out in 2017 were licensing and certification authorities. They included 1,737 licence renewals, amendments, revocations, and transfers by DOs in the Directorate of Nuclear Substance Regulation. DOs in this directorate also issued 183 licences, certified 37 Class II radiation safety officers, and carried out 222 prescribed equipment certification activities.

To add context to the number of authorities carried out, licensees within the mandate of the Directorate of Nuclear Substance Regulation held 2,191 licences in 2017. The Directorate of Safety Management certified 390 exposure device operators and 129 persons in specific Class IA positions. The Directorate of Security and Safeguards issued 870 import and export licences. In addition to these licensing and certification authorities, CNSC DOs carried out 56 non-licensing authorities, including compliance authorities, inspector designations, and return-to-work authorizations.

As in previous years, the Directorate of Nuclear Substance Regulation, the Directorate of Safety Management, and the Directorate of Security and Safeguards carried out the majority or specifically 3,739 authorities in 2017.

It is important to recognize that although three directorates carried out the majority of authorities, this should not be taken as an indication that DOs are not required in the other directorates. The DOs in those directorates are authorized to carry out specific authorities that are unique to the expertise of the staff in those directorates, such as return-to-work authorizations by the Radiation Protection Division and compliance activities for facilities within the mandate of the Directorate of Nuclear Cycle and Facilities Regulation.

Now moving on to 2018, this data is also broken down by directorate and division. In 2018, DOs carried out 3,432 authorities. Details on these authorities will be provided in the following two slides. Of the 3,432 authorities carried out in 2018, 3,390 were licensing and certification authorities. These included 1,583 licence renewals, amendments, revocations, or transfers by DOs in the Directorate of Nuclear Substance Regulation. DOs in this directorate also issued 152

licences, certified 34 Class II radiation safety officers, and carried out 93 prescribed equipment certification activities.

Again for context, Directorate of Nuclear Substance Regulation licensees held 2,135 licences in 2018. The Directorate of Safety Management certified 487 exposure device operators and 122 persons in specific Class IA positions. The Directorate of Security and Safeguards issued 780 import and export licences.

CNSC DOs also carried out 42 non-licensing authorities in 2018, including the making of orders, the designation of inspectors, and return-to-work authorizations.

As in 2017, the Directorates of Nuclear Substance Regulation, Safety Management, and Security and Safeguards carried out the majority of the authorities. Specifically, these three directorates carried out 3,411 authorities. The other four directorates carried out 21 authorities.

Now we'll move to the decisions that are required to be reported to the Commission.

Pursuant to subsection 37(5) of the NSCA, certain DO decisions, such as those that may have a substantive impact on licensees and applicants, that deal

with more safety-significant issues, or may give rise to an opportunity to be heard or an appeal need to be reported to the Commission. These DO decisions include licensing refusals; the issuance of a licence that contains the condition that the applicant provide a financial guarantee; the renewal of a licence with a change in licence conditions, or a licence suspension, amendment, revocation, or replacement without a licensee's consent; and the confirmation, amendment, revocation, or replacement of an inspector's order.

The information in the next two slides represents a complete and formal fulfillment of the statutory requirement to report to the Commission on specific DO decisions.

Of note is that the Commissions do receive timely information on the higher risk decisions or decisions that may necessitate the Commission's review through the Commission's Secretariat.

DOs made 134 decisions that were reportable to the Commission in 2017. Specifically, DOs renewed three licences with amended licence conditions for licensees within the mandate of the Directorate of Nuclear Cycle and Facilities Regulation. DOs in the Directorate of Nuclear Substance Regulation and in the Directorate of

Nuclear Cycle and Facilities Regulation confirmed 16 inspector orders, amended one, and revoked one inspector order. More information on these orders is available in Appendix C of this presentation.

Finally, DOs in the Directorate of Nuclear Substance Regulation issued 112 licences with a financial guarantee in 2017. To be noted is that these numbers include only licences that were issued by DOs and not other licensing actions such as amendments and renewals.

In 2018, DOs made 99 decisions that were reportable to the Commission. The Executive Vice-President and Chief Regulatory Operations Officer renewed two licences and amended licence conditions for licensees within the mandate of their Directorate of Nuclear Cycle and Facilities Regulation. DOs in the Directorate of Nuclear Substance Regulation confirmed 11 inspector orders and amended one. More information on these orders is also available in Appendix C.

Finally, DOs issued 85 licences with a financial guarantee in 2018.

Now we'll move on to administrative monetary penalties or AMPs.

Section 65.05 of the NSCA permits DOs to issue notices of violation and associated AMPs to persons

who commit a violation. AMPs can be issued to an individual or a corporation. The Commission has authorized DOs in the positions of director general or higher to issue AMPs.

In 2017, CNSC DOs issued seven AMPS, one by the Directorate of Nuclear Cycle and Facilities Regulation and six by the Directorate of Nuclear Substance Regulation. Recipients of AMPs may request a Commission review of the facts of the violation, the amount of the penalty, or both. The recipient of the AMP issued by the Directorate of Nuclear Cycle and Facilities Regulation requested a review of the facts of the violation.

Following the Commission's review, which included the opportunity for the AMP recipient to present orally to the Commission, the Commission determined that the facts showed that the recipient had committed the violation and was required to pay the AMP. This matter is now closed.

In 2018, three AMPs were issued by the Directorate of Nuclear Substance Regulation. One AMP recipient requested a review of the amount of the penalty.

Following a Commission review during which the licensee was also able to present orally, the Commission determined that the amount of the penalty was

calculated in accordance with the *Administrative Monetary Penalties Regulations* and that the AMP recipient was required to pay the penalty. This matter is also closed.

The CNSC'S public website has a comprehensive "regulatory action" page which provides the public with details in regard to the issuance of AMPs.

In order to support continuous improvement activities, knowledge management and collaboration, the first annual DO Community Forum was held in April 2018.

The forum provided DOs with legal and procedural refreshers, case studies and an opportunity to discuss best practices with one another. Feedback from DOs following the forum indicated that it met its goal to bring DOs together to share knowledge, experience and expertise.

Following up on the success of the first forum and implementing some lessons learned, a second forum was held in May 2019.

The second forum added an additional component, including a practical small group activity which led to valuable and engaging group discussions and exchanges of ideas.

Feedback from the second forum indicated that DOs especially enjoyed the case studies and that future forums should include more time for group

discussions.

The forum organizers are working to organize a third forum, planned for the spring of 2020.

To maintain an effective and efficient DO Program, key program partners, including the Regulatory Operations Coordination Division, Legal Services and the Secretariat, work together to ensure the continuous improvement of programmatic aspects such as training, resources, DO briefings and process documentation.

Specifically, improvements have been made, and continue to be made, to documentation in respect of the issuance of DO orders and also the confirmation, amendment, revocation or replacement of DO orders.

DOs are also provided with in-class training for the issuance of orders and benefit from as-needed support from Legal Services.

On the CNSC's internal website, a webpage specific to the DO community has been established and continues to be updated with resources such as work instructions, templates and references to ensure that DOs continue to have the information needed to effectively carry out their statutory authorities.

Other tools include process documents, case studies reviewed during the DO forums, legal

principles and links to resources that DOs may find useful in the course of exercising their authorities.

To summarize, in 2017 DOs carried out 3,769 authorities. In 2018, DOs carried out 3,432 authorities.

This report also fulfills the DO requirement to report to the Commission on specific decisions made during 2017 and 2018.

Through continuous improvement and collaboration between many areas of the CNSC, the DO Program continues to be an effective and key component of the CNSC's licensing and compliance framework.

This is evidenced by the collaborative nature of DOs at the annual DO Community Forum and through the volume of authorities that are carried out by DOs every year.

Thank you very much. We are available to answer any questions that you may have.

THE PRESIDENT: Thank you very much for that.

We will start with Dr. Demeter. Any questions?

MEMBER DEMETER: Thank you for that excellent report.

I was pleased that the transparency -- you talked about AMPs and event -- not event report, but when I go on the website I can see all the orders, the AMPs and the event reports. So that is very transparent and that is good.

Are the inspection reports ever made public that would give necessarily directions or orders or actions, but not necessarily result in something as high level as an AMP or a reportable event?

MS HORNOF: Monica Hornof, for the record.

At this time inspection reports are not available on the public website, but I believe that Mr. Ramzi Jammal may have some more information on this that he could add.

MR. JAMMAL: It's Ramzi Jammal, for the record.

We do make reference to the inspection reports in our Regulatory Oversight Report, but we do not publish the inspection reports on the site, for, one of the reasons, translation and capacity. I am pretty sure our champion of both languages would not like this answer, but we do make them available upon request and they are referenced in our CMDs, which is the Regulatory Oversight Report.

MEMBER DEMETER: Okay. That makes sense. It's a huge, high volume.

THE PRESIDENT: Dr. Lacroix..?

MEMBER LACROIX: I don't know exactly how to formulate my question, but I have noticed that AMPs are kind of almost last resort available to the DO to obtain compliance to a regulation and I have two questions.

The first question is: Why do some licensees wait until they are penalized with an AMP before they comply to the regulation?

And the second part of my question is: The number of strikes you are allowed before being issued with an AMP, is it different from DNSR to DSS to DSM?

MS HORNOF: Monica Hornof, for the record.

So I will start out the answer and then I'm going to pass it back either to Mr. Ramzi Jammal or Colin Moses in Ottawa.

But to start it out, so CNSC has a regulatory compliance toolbox and we do have a graded approach to compliance activities, which include orders and it can include actions required of the licensee during an inspection, and that graded approach leads up to the AMP.

In respect of the criteria that are required and how this is determined, I will pass this back

to one of the DOs that is authorized to issue the AMP.

MR. JAMMAL: It's Ramzi Jammal, for the record.

Before we pass it to Ottawa for specific examples, from the overall perspective, as Ms Hornof mentioned, it is one of the tools that we use with respect to the graduated approach to enforcement.

Usually the AMPs occur as a result in combination of findings of an inspection to make sure the intent of the AMP is to render the licensee into compliance. And the AMP, everyone who receives an AMP has an opportunity for a review of the AMP and the Commission as a Panel of one on multiple occasions did review the AMP itself.

We struck in place an independent review with respect to quality assurance of the AMPs and there is a division dedicated for -- individuals in the division dedicated for the review to make sure that the process is followed fairly, but the final decision lies with the Designated Officer of the business line in order to determine to issue the AMPs or not.

I will pass it on. If you would like an example, we can pass it on to our colleagues in Ottawa.

Colin, since you issue most of them, over

to you.

MR. MOSES: Thank you, Mr. Jammal.

So Colin Moses. I am the Director General of Nuclear Substance Regulation, for the record, and most likely the most common issuer of AMPs in the CNSC over the use of this tool since we got it about four years ago.

So first of all, I wouldn't qualify an administrative monetary penalty necessarily as a last resort tool, but we do, as Ms Hornof mentioned, apply a graduated approach to enforcement. So our interests aren't in penalizing, they are in choosing the most appropriate enforcement tool that will drive and encourage both the licensee and the industry into compliance. So it is a valuable tool. It is not a decision that we take lightly when we do issue AMPs because it essentially is making a determination of violation. However, it is something that we do leverage where appropriate.

I would also -- just to speak to your specific questions, I wouldn't say necessarily that licensees wait until they get an administrative monetary penalty and that is the only impetus for them to comply. I think there are intangible benefits associated with the program. So even just the threat or possibility of penalties or other enforcement action I think have a strong

deterrent effect on the performance of the industry and, as Dr. Demeter mentioned, the fact that these then get posted up on the website is also a positive deterrent effect for performance.

And similarly, it is not necessarily a number of strikes, but what does help us decide whether an AMP is an appropriate tool, if you look at the *Administrative Monetary Penalty Regulations*, they list out determining factors that are used to decide on the amount of the penalty, but they are also very valuable in determining whether an AMP is an appropriate tool. And those include factors like compliance history, whether the matter was brought to the attention of the Commission, whether the licensee took appropriate response in addressing the consequences of the event and other factors such as that.

MR. JAMMAL: If I may add from staff's perspective, Dr. Lacroix, if the AMPs are recommended by the inspector. It is a finding that is arising from the field. It is not the DO who will do the inspection, it is the inspector who would recommend an administrative monetary penalty and the DO will make that review independently.

MS HORNOF: Can I just wrap that up?

I just wanted to note, too, going back to the potentially punitive nature of an AMP, that that is actually not the purpose of an AMP. In our Act it is actually specific that the purpose of the penalty is to promote compliance with the Act and not to punish. So, as Mr. Jammal mentioned, they are intended to promote compliance.

THE PRESIDENT: Dr. Berube...?

MEMBER BERUBE: Yes. Just to follow up on that. The AMP penalty amount determination, who makes that and do you have a band for that or is it a percentage of whatever? Obviously, some operators have a much higher threshold for financial penalty than others, so how would you go about that?

MS HORNOF: Monica Hornof, for the record.

So we do have the administrative monetary penalties, as Mr. Jammal and Mr. Moses had mentioned, and the *Penalty Regulations* have the list of the types of violations that would qualify for an AMP. They also have ranges of the amount of the penalty. So in determining the amount of the penalty, the DO would follow the guidance in the Regulations.

But I think that Mr. Colin Moses may have some more information on how he does that since he issues

most of them, so I will pass it over to him.

MR. MOSES: Thank you.

So again, Colin Moses, for the record.

So as Ms Hornof mentioned, the *Administrative Monetary Penalty Regulations* essentially have two parts. The first part speaks to how the amount of the penalty is determined and that includes the weighting factors and consideration of those weighting factors, as I talked about earlier, and also has different scales depending on whether the penalty is to an individual or to a person other than an individual or a corporation, as well as the severity of the non-compliance.

And then the Schedule included in the Regulations actually lists for every set of Regulation published by the CNSC the specific requirements which may be subject to a penalty as well as a classification, whether it is an A, B or C classification, and progressive amounts.

That actually -- so the Regulations set out the range and then we have published a REGDOC that speaks to how we determine the amount within the range, assigning ratings to each of the different weighting factors, and that gets applied as a percentage of the total possible penalty.

What we don't look at is the capacity or sort of financial solvency of the recipient in determining whether that amount is reasonable. It really is looking at only those weighting factors and how they are scored and the severity of the non-compliance.

THE PRESIDENT: Dr. McKinnon...?

MEMBER McKINNON: Given the large number of decisions that are made and the availability of the DOs, there could easily be a bottleneck. Do you have in place a periodic review or assessment of the workload?

And secondly, is there any means of projecting forward what the workload could be coming up?

MS HORNOF: Monica Hornof, for the record.

So we did in assessment in 2014 and that assessment actually reduced the number of DOs from 47 to 31 because it was found that the number of DOs was not commensurate with the work that was being carried out by the DOs.

However, since then we did review the program from an order issuance perspective and also a licensing perspective and haven't carried out a full review of the number of DOs since then.

We have had several divisions identify that there were more DOs needed in the past couple of

months due to retirements, knowledge management issues and also due to the bottlenecks that you speak of.

It is not included in this presentation because it covered 2017 and '18, but as the Commission is aware, we have recently approved three additional DOs, two in the Directorate of Nuclear Substance Regulation and one in the Directorate of Safety Management.

So that was a process that was actually initiated by the directors general and the directors in those groups because they had identified that they needed more DOs. But it has also raised the issue that we should do a programmatic review to ensure that enough DOs are in place.

What I will do is pass it back to Ramzi Jammal because I know that they have been looking at the program overall.

MR. JAMMAL: It's Ramzi Jammal, for the record.

Ms Hornof talked to you about the DO itself, the number of DOs, but your question is pertaining to the number of licence issues or decisions issued by the DO.

First, I am going to start with the fact that there are no bottlenecks because the DO will not issue

a licence or a decision is made unless they are satisfied that all requirements have been met.

With respect to the question with respect to the issuing of the -- for example, pertaining to licensing decisions, we have business standards established in the divisions. I can pass it on to Mr. Moses and his directorate. So there are business standards by which for example, based on the risk of the category of the licence, there is a standard business by which the DO must issue the -- I shouldn't say "must" -- when the DO is satisfied with the information being presented, so they issue the licence. So that is made public to the applicant.

And we have regulatory application guides, which we call licence application guides, which provide guidance for the applicant on how to meet our requirement. But we do have business standards in place. We conduct assessment and revision and look at the volume of the work which resulted in appointing -- not appointing, designation of DOs in certain business lines.

But I will pass it on again. The most experienced would be in DNSR. I will pass it on to Mr. Moses if you would like any more information.

Colin, over to you.

MR. MOSES: Thank you.

Colin Moses again, for the record.

So first of all, just for a point of clarification, the Commission recently did approve the addition of some DOs. There was one additional DO provided in the Accelerators and Class II Facilities Division, which is in my directorate, as well as two who were added to the Directorate of Safety Management to reflect the increased work that came with the certification of exposure device operators.

With respect to service standards, Mr. Jammal is correct. We do publish, mainly to ensure transparency in our activities and reasonable expectations on the part of licensees, service standards for all of our high-volume decisions and that lays out a reasonable expectation for licensees and when they could expect a response from us.

But to your question on whether we can become a bottleneck, there are some urgent decisions that may be requested of us, generally in the medical sector, so to allow different applications or new isotopes or other specific techniques that may be needed for specific patient care, and in those cases we expedite those approvals and often issue decisions within a matter of hours or days. And that's why it is important for us to have redundancy in

the designated officers. So that allows if one is off on inspection or on travel or on holidays, then we have backups for those.

And similarly, there have been cases where those decisions have been bumped up to myself or even Mr. Jammal to ensure that we can be expeditious in our decisions.

To speak to your question of projecting forward in our decisions, we benefit from a fairly high volume and so that's where historically the trends we see tend to play out over years, and so we may see gradual increases or gradual decreases in different areas, but they don't tend to be unforeseen or immediate peaks and valleys.

Similarly, when we issue our licensing, we have been working over the past several years to give licence terms that balance the workload on our licensing division so that there's no sort of months where they are significantly overloaded and other months where they have nothing to do.

But there are some areas, so for example in prescribed equipment certifications, about 15, or I guess now 18 years ago, we introduced terms on those certifications and so that created a peak that played out over the last couple of years in prescribed equipment

certifications as a number of old radiation devices expired, their certificates expired and we went through a renewal process.

So there are peaks and valleys, but they tend to be easy for us to anticipate and adapt our work accordingly.

THE PRESIDENT: Thank you.

Are there other federal or even provincial regulators that have a similar program?

--- Pause

MR. MOSES: Colin Moses, for the record. Perhaps I can start.

So for example in the medical sector there are similar processes. They don't necessarily call them certifications, but Health Canada issues device licences for some equipment and that equipment then goes through a CNSC certification. So there are analogous processes, although maybe not under the exact same framework as we have here at the CNSC, in other federal regulators.

THE PRESIDENT: Thank you.

My understanding is that the Canadian Energy Regulator is also looking at setting up a designated officer program.

Anyone with any other questions? No.

Thank you very much for that.

This concludes the meeting of the Commission. Thank you all for your participation.

Marc...?

MR. LEBLANC: I don't think anybody has interpretation devices at this juncture, looking at the room.

Bonne fin de journée. Merci.

THE PRESIDENT: Safe travels everyone.

--- Whereupon the meeting concluded at 4:10 p.m. /

La réunion se termine à 16 h 10