

**ATTACHMENT:** October 5, 2022  
**Provincial Advice Record: Designation Request under IAA**  
**Response requested by October 25, 2022**  
**Small Modular Reactor Demonstration Project**

Department	New Brunswick Department of Environment and Local Government
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1. In general terms, please confirm and describe your department's role (if applicable) in the review of the Project.

*The proposed ARC-100 Small Modular Reactor (SMR) project will have to undergo a provincial Environmental Impact Assessment (EIA) review as it is considered an undertaking under items (b) (all electric power generating facilities with a production rating of three megawatts or more) and (w) (all facilities for the processing of radioactive materials) of Schedule A of the EIA Regulation. The New Brunswick Department of Environment and Local Government will therefore coordinate the review of the project by a Technical Review Committee (TRC) comprised of representatives of federal, provincial, and municipal agencies who have either a mandate or expertise related to the project. Public and First Nations consultation/engagement will also be required as part of this review.*

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2. Please provide the contact information of the person or persons responsible for managing your department's oversight of the Project (if different from lead contact above).

*Same as above.*

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3. Describe the provincial legislative or regulatory process or approvals administered by your department that may assess or manage the potential adverse effects of the Project. For each mechanism or approval, please provide information regarding the following:
- Name of the process or authorization (e.g. certificate, licence, permit or approval) and the associated legislative framework;
  - Whether (for each) the authorization would set conditions and if yes, what issues would those conditions address;
  - Whether (for each) the authorization would require public and/or Indigenous consultation and if yes, provide information on the approach to be taken; and

- Whether (for each) your ministry has guidance material that would be helpful to the Proponent or the Agency (please provide these as attachments or hyperlinks in your response).

*A Certificate of Determination (CoD) would have to be issued by the Minister of Environment and Climate Change under the EIA Regulation – Clean Environment Act. If it is determined by the Minister that a Comprehensive EIA would be required, an EIA Approval would have to be issued by the Lieutenant-Governor in Council. Depending on the specific project location, it is possible that a Watercourse and Wetland Alteration (WAWA) Permit would be required under the WAWA Regulation – Clean Water Act if there were going to be any ground-disturbance activities within 30 m of either a watercourse or a wetland. Other downstream authorizations might also be required from other provincial departments who would be represented on the TRC, and this would be identified during the EIA review.*

*Both potential EIA authorizations and the WAWA Permit would set conditions. The EIA authorization conditions could address any of the wide range of issues that could be raised during the EIA review, while the WAWA Permit conditions would be limited to impacts on the watercourses and/or wetlands impacted by the project.*

*Proponent-led public consultation would be required for a CoD and an EIA Approval, but the latter would also require government-led public consultation activities. At a minimum, First Nations engagement would be required for both EIA authorizations, the exact nature of which would depend on whether or not the Crown Duty to Consult First Nations was triggered. There are no public and/or indigenous consultation requirements for WAWA Permits.*

*Information on the provincial EIA review process can be found here: [https://www2.gnb.ca/content/gnb/en/departments/elg/environment/content/environmental\\_impactassessment.html](https://www2.gnb.ca/content/gnb/en/departments/elg/environment/content/environmental_impactassessment.html). More specifically, the Guide to EIA in NB can be found here: <https://www2.gnb.ca/content/dam/gnb/Departments/env/pdf/EIA-EI/GuideEnvironmentalImpactAssessment.pdf>. Information on WAWA Permits can be found here: [https://www2.gnb.ca/content/gnb/en/services/services\\_renderer.2935.html](https://www2.gnb.ca/content/gnb/en/services/services_renderer.2935.html).*

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4. Confirm whether any authorization listed above would contemplate the following matters and if yes, discuss, in general, the benchmarks or standards to which a project of this nature may be held (be specific in relation to each point below that may be applicable to your department's mandate):
- Protecting Indigenous Rights
  - Impacts to Fish and Fish Habitat
  - Impacts to Species at Risk
  - Impacts to Migratory Birds
  - Effects to Lands Outside of New Brunswick
  - Impacts of Accidents and malfunctions
  - Impacts to Bay of Fundy rural coastal lands, communities and local industries and enterprises (e.g. fishing, wild blueberry farms, tourism)
  - Cumulative Effects
  - Alternatives to and Alternative Means of Carrying out the Project
  - Long-term Management of Nuclear Waste
  - Non-proliferation of Nuclear Weapons

*All of the matters listed above (and potentially more) would be expected to be addressed as part of the provincial EIA review. Any specific benchmarks and/or standards would be established based on the requirements and recommendations provided by the appropriate members of the TRC. This would include input from both provincial and federal representatives of the TRC for many of the matters, although some of them would rely heavily (if not exclusively) on federal input, such as long-term management of nuclear waste and non-proliferation of nuclear weapons.*

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5. Have you received public comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your department intends to address (or would normally manage) these matters.

*Yes, some public comments have been received regarding the project. To date, they have mostly been multiple versions of a form letter centred on the need for the project to undergo an EIA review and have not yet focused on any specific concerns related to the actual construction and/or operation of the project, other than noting that Treaty and Indigenous rights need to be considered as part of an EIA, along with the fact that the project would be located in a coastal region with*

*important fishing, tourism, and wild blueberry industries, and near the Musquash Estuary Nature Reserve and the UNESCO Biosphere Reserve on the Bay of Fundy. The comments have generally been directed to the Premier, who has been responding by confirming that a provincial EIA review will indeed be required before the project can proceed. As previously mentioned, public consultation will be a requirement of the provincial EIA review of this project.*

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6. Have you received Indigenous community comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your department intends to address (or would normally manage) these matters.

*Project-specific comments have not been sent to the New Brunswick Department of Environment and Local Government by Indigenous communities. However, as previously mentioned, First Nations engagement and/or consultation will be a requirement of the provincial EIA review of this project. It will be through that process that it will be identified exactly how any issues raised by First Nations will be addressed.*

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7. Do you have any other information about the Project in relation to potential adverse effects or impacts to the public, or Indigenous peoples and their rights as protected under section 35 of the *Constitution Act, 1982*?

*No. The purpose of the provincial EIA review will be to identify any such potential adverse effects and have the proponent identify how they propose to address them appropriately.*

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*Crystale Harty*

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Name of responder

*Director, EIA Branch*

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Title of responder

*October 28, 2022*

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Date