Strålsäkerhetsmyndigheten
Swedish Radiation Safety Authority

MEMO

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Terms of Reference for an International Peer Review of SKB's Post-Closure Safety Reporting for a KBS-3 Repository

Background

Legal and regulatory framework

According to Swedish law the owner of a nuclear reactor has the full responsibility for the safe handling and final disposal of spent nuclear fuel and nuclear waste that is produced. To this effect, the owners of the Swedish nuclear power plants have jointly set up the Swedish Nuclear Fuel and Waste Management Company (SKB). The Swedish Radiation Safety Authority (SSM) is the regulatory body responsible for the supervision of nuclear (waste) safety and radiation-protection. SSM was formed by the merger of the Swedish Nuclear Power Inspectorate (SKI) and the Swedish Radiation Protection Institute (SSI) in 2008.

SSM's regulations and guidance on post-closure repository safety can be divided into two parts: radiation protection and safety regulations. The regulations SSMFS 2008:37 comprise basic requirements on the protection of human health (expressed as a risk target), on general environmental protection goals and on the application of optimization and Best Available Technique (BAT). The corresponding guidance gives advice on the reporting of risk, BAT and optimization for different time periods after closure, selection of scenarios, calculation of risk, handling of uncertainty and risk

dilution (Dverstorp et al., 2006). The regulations on repository safety (SSMFS 2008:21) contain requirements on the design of the repository, barrier functions and safety reporting. In addition to these regulations there are several regulations applicable to the construction and operational phases of the repository.

The Swedish post-closure safety regulations are in general not prescriptive but rather set out the general protection and safety objectives and requirements on safety reporting. They are legally binding. The corresponding guidance documents provide more details but are not legally binding.

Swedish program

On the 16th of March 2011 SKB submitted the needed applications for a KBS-3 type spent nuclear fuel repository system. Two applications are needed according to the act on Nuclear Activities for (1) a spent nuclear fuel repository at Forsmark and (2) an encapsulation plant to be co-located with the existing interim storage facility for spent nuclear fuel (CLAB) in Oskarshamn, respectively (see Figure 1). The application for the encapsulation plant was submitted already in 2006, but has been supplemented at this time. Furthermore, SKB submitted a license application for the repository system according to the Environmental Code (EC). Finally, SKB submitted an Environmental Impact Statement (EIS) that is in common for all three applications.

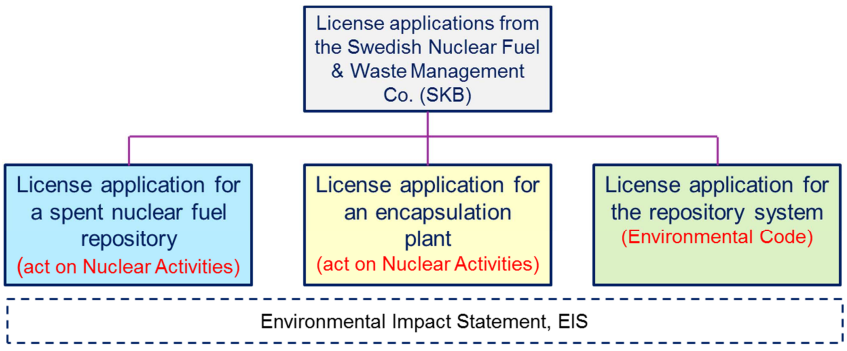

Figure 1. The licensing review procedure

The license applications have been preceded by almost 30 years of development of the KBS-3 disposal method on the part of SKB, starting with the presentation of the KBS-3 safety reports in 1983 (SKBF/KBS, 1983). Significant research and development activities have been carried out at the Äspö Hard Rock Laboratory and, later, at the Canister and Bentonite Laboratories in the Oskarshamn region. SKB has also commissioned research at universities and research institutes. The siting process for the spent nuclear fuel repository has included a national screening of suitable regions (SKB, 1995) and feasibility studies (desktop studies) in 8 municipalities during the 1990s (SKB, 2001). Based on the feasibility studies SKB decided to proceed with surface-based site investigations in Oskarshamn municipality and in two municipalities in the northern Uppland region. Because of negative outcome in a municipal referendum in one of the latter municipalities, SKB eventually carried out two complete site investigations at the Laxemar and Forsmark candidate sites in the Oskarshamn and Östhammar municipalities, respectively, between 2001 and 2007. In June 2009 SKB announced that they had selected the Forsmark candidate site for the further development of the license application for the spent nuclear fuel repository.

Every third year since 1986 SKB has presented completed, on-going and planned research, development and demonstration activities in their RD&D programs, in accordance with the Act on Nuclear Activities. SSM coordinates a national consultation of each RD&D program report and makes its own review report, which includes a review statement to the Government. This duty belonged previously to SKI, the former nuclear power inspectorate. The Government in turn makes the final decision on SKB's RD&D programs. Although SKB's latest RD&D program 2010 (SKB, 2010) describes research and development plans of relevance for the assessment of the license application, all information on plans for resolution of remaining scientific and technical issues related to the KBS-3 repository should be included or at least referenced in the licensing documents.

In parallel with SKB's development, the SSM and its predecessors, SKI and SSI, have prepared for SKB's license applications for more than 25 years by reviewing SKB's work, including eight RD&D programs, four preliminary safety assessments of the KBS-3 repository (SKI, 1984, 1992, 2001 and SSI, 2008) and SKB's site investigations (SSM, 2010). SSM has also conducted an independent research program on a range of scientific and technical topics of importance for the review of post-closure safety. Because the Swedish authorities haven't access to a technical support organization, most of the research has been conducted through a network of international academic

experts and consultants. During the 1990s SKI also carried out two independent safety assessment projects of the KBS-3 disposal method (SKI, 1991 and 1996), one of which was subjected to an international peer review organized by OECD/NEA (SKI, 1997).

During the last 10 years, the former authorities SKI and SSI, have had a series of consultation meetings with SKB, on the scope of the site investigations and the content of the license applications. Given that there are few formal requirements in Swedish legislation on a license application for a nuclear facility, these authority – industry pre-licensing interactions have provided an important forum for SSM and its predecessors to clarify their expectations on the SKB's licensing documentation.

A stepwise licensing process

The upcoming license application to construct, possess, and operate a spent nuclear fuel repository is just the first step of a long decision-making process. Should the Government grant SKB a license, SKB will need another permit from SSM before they can start the actual construction work at the repository site. The latter permit involves SSM's approval of a Safety Analysis Report (SAR), as required for all licensed nuclear facilities according to SSM's regulations SSMFS 2008:1. Additional permits from SSM, and updating of the SAR, will be required before SKB will be allowed to start test operations and eventually routine operations. Nevertheless, the upcoming licensing decision is an important one because it is the last step with a broad societal involvement through the Environmental Impact Assessment process, the municipal veto (see below) and the fact that SSM will submit SKB's license applications for a national consultation (see below). Furthermore, it is at this point that the final decision on both disposal method and site will be made. Hence, the Swedish decision-makers have to be convinced that the proposed repository system is feasible (can be constructed and operated as assumed in SKB's safety assessment) and that SKB will be able to meet applicable radiation protection and safety requirements. Because all issues in SKB's safety case cannot be resolved at this licensing step (SKB is for example not allowed to start underground construction and exploration until they have received a license) it is foreseen that licensing conditions will play an important role in formalizing requests for resolution of remaining issues - should SKB receive a license.

The procedure for the licensing review

The licensing review will be carried out in two parallel processes (see Figure 2), one according to the Environmental Code (EC) and one according to the Act on Nuclear Activities (ANA). As described above, SKB will submit three license applications. The license application for the repository system will be submitted to the Environmental Court in Stockholm. The Environmental Court will make a permissibility assessment according to the EC (chapter 17) that involves a public hearing and a broad assessment of all types of environmental consequences (including radiation protection aspects, selection of site and method and the application of the general precautionary principles). SSM will be an important review body to the Environmental court regarding the SKB's reporting of radiation safety aspects in the Environmental Impact Statement, but will probably also be requested by the court to give statements about other more technical documents.

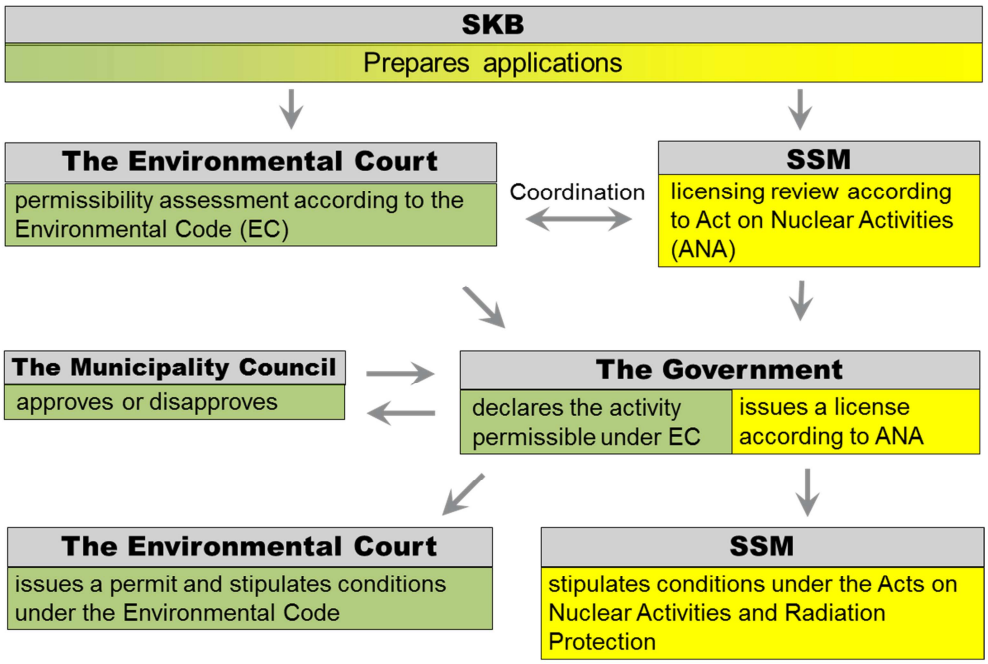

Figure 2. The licensing review procedure.

The license applications for the repository and the encapsulation plant will be submitted to SSM for a licensing review according to the Act on Nuclear Activities. SSM and the Environmental court will both prepare statements to

the Government. Figure 3 illustrates the structure of SSM's delivery to the Government.

Based on the statements from SSM and the Environmental Court, the Government will make its decision, after consulting the concerned municipalities (Östhammar and Oskarshamn). Both municipalities have veto right in the permissibility assessment. If the Government grants SKB the licenses, SSM will stipulate conditions under the Acts on Nuclear Activities and Radiation Protection, and the Environmental Court will issue a license and stipulate conditions under the Environmental Code.

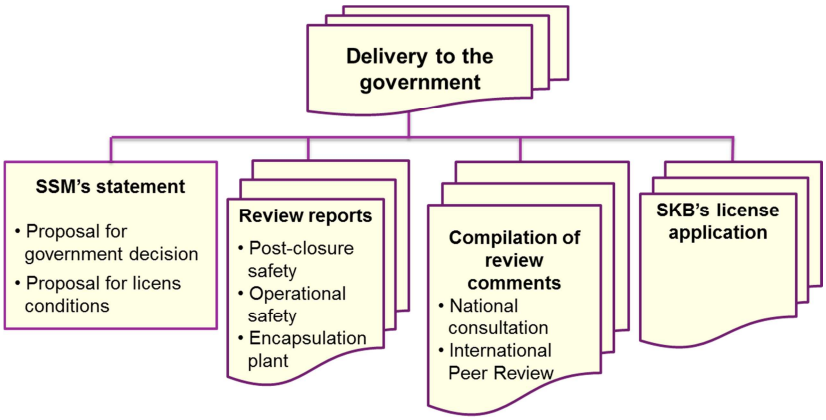

Figure 3. SSM's deliveries to the Government.

SSM will also coordinate a national consultation on SKB's license application, in which society (universities, county boards, the two concerned municipalities, non-governmental organizations and others) is invited to comment on the applications. This is not required by law, but SSM considers it to be an appropriate way to broaden the societal influence and to elicit new insights and viewpoints for the review. The whole SSM review will take at least 2 years, but the time required will depend on how much complementary information SSM will have to request from SKB, and what kind of issues will emerge in the review. Time is also required for the Environmental Court, the municipalities and eventually the Government to make their decisions.

Role of peer review organized by the OECD/NEA

OECD's Nuclear Energy Agency (NEA) has been requested by the Swedish Government to organize an International Peer Review (IPR) of SKB's reporting of post-closure safety in the license application for the spent nuclear fuel repository. The IPR is expected to support the independent review by the SSM and other Swedish decision makers (the concerned municipalities and eventually the Government) by providing an international reference regarding the maturity of SKB's spent fuel disposal program vis-à-vis the best practice in the area of long-term nuclear safety and radiation protection. However, the IPR is not a formal part of the Swedish licensing or decision-making process.

The OECD/NEA has been selected for the organization of the peer review because it is a recognized international leader in the context of the safety case for geological disposal, having formulated the modern concept in the 1990s and still improving on it in concert with the most advanced nuclear waste programs worldwide. Furthermore, the OECD/NEA has a long record of organizing peer reviews on behalf of its member states and it also has a highly-respected international program dealing with societal aspects of radioactive waste management (the Forum on Stakeholder Confidence). Furthermore, SSM has a positive experience from previous peer reviews for the Swedish program, organized by the OECD/NEA (SKI, 1997 and OECD/NEA, 2000).

Remit

The overall objective of the IPR is to provide a statement, from an international perspective, on the sufficiency and credibility of SKB's post-closure radiological safety case for the licensing decision at hand. In developing such statement the International Review Team (IRT) is expected to address the following aspects of SKB's safety case:

Presentation of safety arguments

- Has SKB presented its safety philosophy and safety arguments clearly, and in a well-structured way?
- Are the overall safety conclusions traceable and justified?

Safety assessment methods

- Are SKB's safety assessment methods on par with the international state-of-the-art and sufficiently described?

- Has SKB presented a credible scientific basis in support of their analyses (FEPs, models, data etc)?
- Are SKB's measures for quality assurance of the licensing documentations sufficient?

Completeness

- Has SKB taken the current state of knowledge properly into account?
- Is anything missing or amiss?

Handling of remaining issues

- Are remaining research and technical-development needs properly identified?
- Are there clear plans for their resolution in the continued step-wise development and implementation program?

Selection of site and disposal method

- Is SKB's argumentation for site selection and method development convincing and cogent, taking into account the international experience?

Feasibility

- Is the technical implementation of the KBS-3 disposal method sufficiently described and credible to justify SKB's assumptions on the properties of the repository system after closure (the initial state)?

The findings of the international review team (IRT) ought to be based on the documentation that is provided, on additional inquiries with SKB staff during the review process, and on the understanding that this is one step in the stepwise development and licensing of a spent fuel repository in Sweden. Judgments on compliance with Swedish regulations are the responsibility of SSM and fall outside the scope of the IPR.

The international review team

The International Review Team (IRT) is assembled independently by the OECD/NEA, and it may include experts from the NEA staff. Approximately eight to ten experts will take part of the review. The available amount of working time for the whole mission is about 1 – 1,5 person years.

Competence areas

The areas of competence to be represented by the IRT should include, at a minimum:

- Safety assessment methodology
- Expert knowledge for each of the key components of the KBS3-method; crystalline rock environment and the engineered barrier components (copper canisters and bentonite clay buffer)
- At least one team member should represent a regulatory body or have similar experience

Competence in the societal aspects of repository development would be desirable.

Furthermore, there should be a balance between specialist competence from academia and experts with broad knowledge of waste management and safety assessment.

The IRT may need to consult an expert on Swedish regulatory system and waste management program. To that effect a specific person, identified later in this ToR, will be at the disposal of the team for providing any clarifications as necessary.

Impartiality requirements

In order to preserve independence and to avoid conflict of interest, the experts chosen by the OECD/NEA must not be, and must not have been, involved (e.g. as consultants, employee or expert) either for SKB, or for the Finnish waste management organisation Posiva, in developing the disposal method or safety case. Specifically,

- The chosen expert shall not have been directly, or indirectly through sub-contracting, involved in work for the Swedish Nuclear Fuel and Waste Management Co (SKB), any of its subsidiaries, or the Finnish counterpart Posiva during the last two years.
- The chosen expert should not have made any significant contribution to SKB's (or Posiva's) safety case over the past 4 years.

- If the company or organisational unit where the chosen expert belongs has, or has had, assignments for SKB (or Posiva) during the past two years, the chosen expert should demonstrate his/her independence from that work to avoid conflict-of-interest situations.

Any suspicion of the above or other circumstances that could lead to conflicts of interest should be reported to SSM's contact person prior to the final establishment of the international peer review team. A short statement on conformity with the above impartiality requirements should also be included in the IPR report. SSM should be notified as soon as possible if any of the team members were to become involved in SKB's or Posivas's programme in any way during the review period.

Documents for the review

Appendix 1 illustrates the structure of SKB's license documentation for the license application according to the Act on Nuclear Activities.

The primary documents for the IPR are:

- The main report of the ***SR-Site*** project: "Long-term safety for the final repository for spent nuclear fuel at Forsmark" SKB TR-11-01 (~1000pp)
- The report on site selection: "Siting of the final repository for spent nuclear fuel" (~100pp)
- The report on selection of method: "Evaluation of strategies and systems to manage spent nuclear fuel" (~100pp)

The latter two reports will first be published in Swedish but English versions will be made available by SKB by June 2011. In addition to the above, SKB's top document: "Application for permits under the Nuclear Activities Act" may be of value to inform the IRT about the overall licensing context.

Secondary documents that may be consulted on a ***need-to-know basis*** are the primary references to the SR-Site report:

- **Backfill production report, 2010.** Design, production and initial state of the backfill and plug in deposition tunnels. SKB TR-10-16, Svensk Kärnbränslehantering AB.
- **Biosphere synthesis report, 2010.** Biosphere analyses for the safety assessment SR-Site – synthesis and summary of results. SKB TR-10-09, Svensk Kärnbränslehantering AB.
- **Buffer, backfill and closure process report, 2010.** Buffer, backfill and closure process report for the safety assessment SR-Site. SKB TR-10-47, Svensk Kärnbränslehantering AB.

- **Buffer production report, 2010.** Design, production and initial state of the buffer. SKB TR-10-15, Svensk Kärnbränslehantering AB.
- **Canister production report, 2010.** Design, production and initial state of the canister. SKB TR-10-14, Svensk Kärnbränslehantering AB.
- **Climate report, 2010.** Climate and climate-related issues for the safety assessment SR-Site. SKB TR-10-49, Svensk Kärnbränslehantering AB.
- **Closure production report, 2010.** Design, production and initial state of the closure. SKB TR-10-17, Svensk Kärnbränslehantering AB.
- **Data report, 2010.** Data report for the safety assessment SR-Site. SKB TR-10-52, Svensk Kärnbränslehantering AB.
- **FEP report, 2010.** FEP report for the safety assessment SR-Site. SKB TR-10-45, Svensk Kärnbränslehantering AB.
- **FHA report, 2010.** Handling of future human actions in the safety assessment SR-Site. SKB TR-10-53, Svensk Kärnbränslehantering AB.
- **Fuel and canister process report, 2010.** Fuel and canister process report for the safety assessment SR-Site. SKB TR-10-46, Svensk Kärnbränslehantering AB.
- **Geosphere process report, 2010.** Geosphere process report for the safety assessment SR-Site. SKB TR-10-48, Svensk Kärnbränslehantering AB.
- **Model summary report, 2010.** Model summary report for the safety assessment SR-Site. SKB TR-10-51, Svensk Kärnbränslehantering AB.
- **Radionuclide transport report, 2010.** Radionuclide transport report for the safety assessment SR-Site. SKB TR-10-50, Svensk Kärnbränslehantering AB.
- **Site description Forsmark, 2008.** Site description of Forsmark at completion of the site investigation phase – SDM-Site Forsmark. SKB TR-08-05, Svensk Kärnbränslehantering AB.
- **Spent fuel report, 2010.** Spent nuclear fuel for disposal in the KBS-3 repository. SKB TR-10-13, Svensk Kärnbränslehantering AB.
- **Underground openings construction report, 2010.** Design, construction and initial state of the underground openings. SKB TR-10-18, Svensk Kärnbränslehantering AB.

If needed, even lower-level references (such as SKB's Technical Reports and P-reports) can be downloaded from SKB's webpage (www.skb.se).

Other relevant documents include the Swedish regulations and SKB's program for Research, Development and Demonstration 2010 (SKB, 2010).

Availability of the documents for the review

The main safety report SR-Site, and all reports associated with it, will be available electronically from SKB's website (www.skb.se) as of the 16th March 2011 and from SSM's website (www.ssm.se) as of 24th of March. English translations of the reports on selection of site and method and the top document will be available soon thereafter, and at the latest by June.

Paper copies of any of the reports listed above can be ordered directly from SKB's website. SSM will assist the IRT with procurement of SKB reports (see section on Points of contact below) as needed.

Conduct of review

The international peer review will be organised according to NEA's guidelines for international peer reviews for radioactive waste (OECD/NEA, 2005a). The total review time is expected to be about one year.

The peer review will start with a three-day orientation meeting in Stockholm between the 17th and 19th May 2011. On the first day SSM will present its plans for the licensing review and applicable regulations. During day two SKB will give a presentation of the license application with focus on post-closure safety. The third day will be reserved for an internal meeting of the IRT.

Within approximately two months after the start of the review the IRT will send written questions to SKB. The questions include the standard set of questions developed for NEA-organised peer reviews (OECD/NEA, 2005b) and questions specific to the current review.

After about 6 months after the start of the review, when SKB has provided written answers to the IRT's questions, the IRT will meet for its 5-day main review meeting in Stockholm. During this meeting the IRT will conduct a hearing of SKB, summarise their preliminary review findings and plan for the finalisation of the review report. At the end of the meeting the IRT will give an oral report to SSM on its impression of the review and its likely outcome so far. SSM will participate in this meeting as observers, possibly with a few of its consultants involved in the licensing review.

Before finalising the review report the IRT will submit its draft to the SSM for a factual check. SSM will in turn also invite SKB to make a factual check of the IPR report. The final review report will be delivered to SSM in 12 months after the start of the review.

Follow-on activities

After the completion of the international peer review, representatives of the IRT will give one technical presentation of the IRT's report to SSM and the ministry of the Environment. This meeting will be held in Stockholm.

A second publically open meeting for the concerned municipalities, non-governmental organisations, SKB, the interested public and media will be held either in Stockholm or in the municipality of Östhammar.

It is understood that details of the review, such as the review questions and answers, may be made available to others within the NEA in due course. It is expected that, as part of international co-operation, SSM and SKB will report on the experience of the review, so that others may benefit from it. This, however, is not an obligation, but part of their regular reporting in international fora.

Financial considerations

The Swedish government has indicated to the NEA Steering Committee that the Swedish side will bear all reasonable costs associated with the conduct of the international peer review according to the NEA rules. Appendix 2 provides additional general information.

Other issues

The NEA may bring observers to the peer review after previous discussions with the Swedish side. It is understood that this will not be at the expense of Sweden.

In connection with the IPR start-up meeting in Stockholm, 17-19 May, SSM will set up a press conference to inform about the international peer review. This event is one of several measures on part of SSM to achieve an open and transparent review process.

By the completion of the IPR, communication of the results of the review should be coordinated with SSM. SSM will take initiatives for a press release and communication with media in connection with presentation of the IPR in Stockholm.

The OECD/NEA will publish the final report of the IPR as an OECD/NEA booklet in the number that Sweden may want to have for internal distribution and for international distribution. SSM may also choose to publish the IPR report in its own report series.

The final report will be in English. Special arrangements may need to be made in case of translation of the final review report in Swedish.

Points of contact

Contacts on the NEA side are:

Mr Claudio Pescatore, Deputy Head of the Division for Radioactive Waste Mangament

Contacts on the Swedish side are:

Mr. Björn Dverstorp, Senior advisor at the Department for Radioactive Materials at the Swedish Radiation safety Authority. Tel. +46(0)87994215, E-mail: bjorn.dverstorp@ssm.se. Mr. Dverstorp will be the contact person for questions concerning the Terms-of-Reference, the conduct of the review and any questions concerning the Swedish legal and regulatory system. He will also communicate questions to SKB.

Ms Karin Olofsson, project assistant at the Department for Radioactive Materials at the Swedish Radiation Safety Authority. Tel. +46(0)87994406, E-mail: karin.olofsson@ssm.se. Ms Olofsson will handle all practical arrangements in connection with meetings including financial arrangements.

She will also assist the IRT members in procuring reports from SKB and SSM.

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Dverstorp, B., Wiebert A., and Jensen, M., New Guidance for Geological Disposal of Nuclear Waste in Sweden, in proc. of 11th IHLRWM conf., 30 April – 4 May in Las Vegas, 2006.

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SKB, Feasibility Studies - Östhammar, Nyköping, Oskarshamn, Tierp, Hultsfred and Älvkarleby. Summary Report, SKB TR-01-16, Swedish Nuclear Fuel and Waste Management Co, Stockholm, June 2001.

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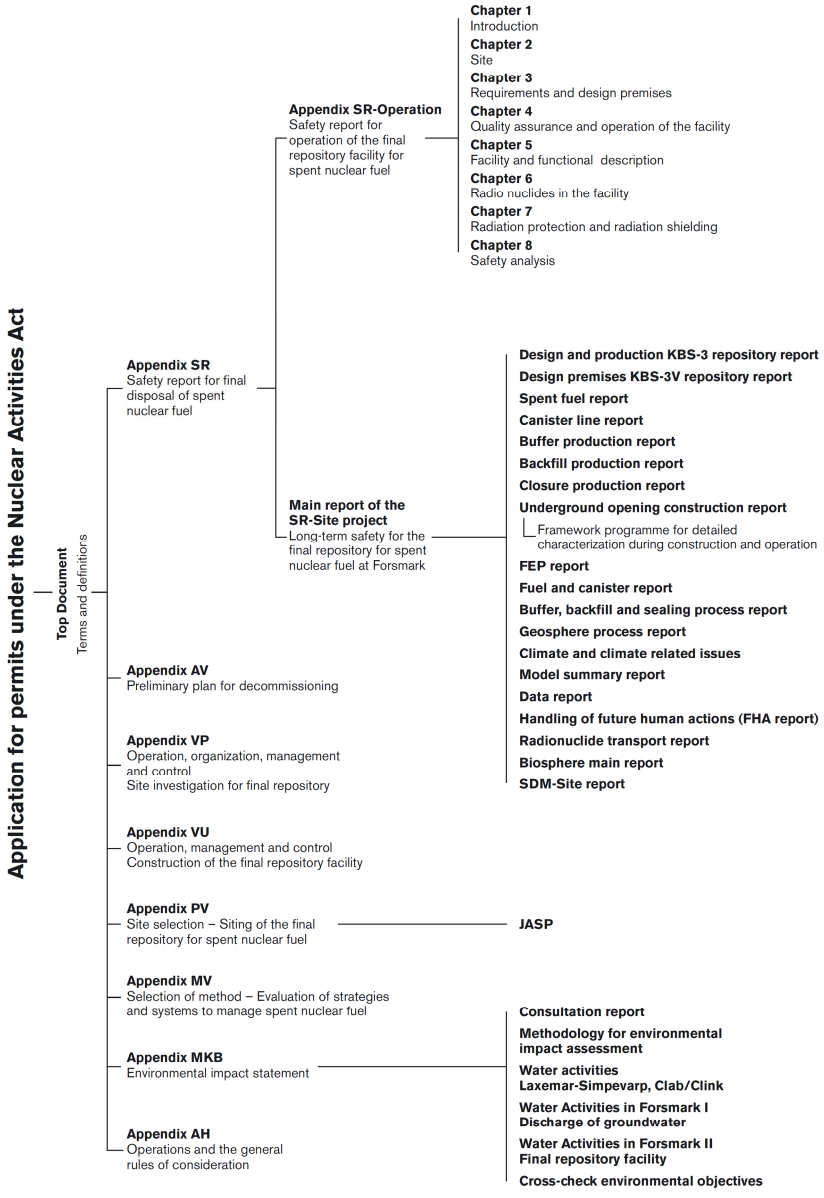
OECD/NEA, International Peer Reviews for Radioactive Waste Management, General information and Guidelines, OECD Nuclear Energy Agency, Paris 2005a.

OECD/NEA, International peer reviews in the field of radioactive waste. Questionnaire on principles and good practice for safety cases, NEA/RWM/PEER(2005)2, OECD Nuclear Energy Agency, Paris 2005b.

Laws and regulations:
Draft translations of applicable laws (the act on Nuclear Activities, the Radiation Protection act and the Environmental Code) and SSM’s regulations will be provided upon request from the International Review Team.

Appendix 1. Preliminary structure of SKB's license application for a spent nuclear fuel repository according to the act on Nuclear Activities.



Jasp = Comparative analysis of safety related site characteristics

Appendix 2. Financial considerations

It is understood that the review should not constitute a financial burden to the NEA and that the Swedish side will bear all reasonable costs associated with the conduct of the international peer review according to the NEA rules. The NEA will propose a budget for the review that will be discussed with the Swedish side. It is understood that the budget may have to cover labor costs for some reviewers and Secretariat and, per diems, if needed, plus costs for special secretarial services, such as preparing the review report for publication and publication of a number of copies for national and international distribution, plus travel for the IRT members. SSM will propose then a grant to the NEA.

In order to assist the team members in connection with meetings in Stockholm, SSM will make a suggestion for hotel and reserve a block of rooms. The IRT members are responsible for making their own travel arrangements and confirm their own coming at the hotel. SSM will cover the costs for all meeting rooms and accommodations, including lunches during the meeting and dinners at the hotel. The NEA will administrate the compensation for all other costs on part of the team members.