



Canadian Nuclear  
Safety Commission

Commission canadienne  
de sûreté nucléaire

# Record of Proceedings, Including Reasons for Decision

In the Matter of

**Subject**      Licence Amendments under Section 25 of the  
*Nuclear Safety and Control Act* for Affected  
Licences to Refer to the CNSC's Regulatory  
Document REGDOC-2.12.3, *Security of  
Nuclear Substances: Sealed Sources*

**Decision Date**      January 19, 2015

## **RECORD OF PROCEEDINGS**

Purpose: Licence Amendments Under Section 25 of the *Nuclear Safety and Control Act* for Affected Licences to Refer to the CNSC's Regulatory Document REGDOC-2.12.3, *Security of Nuclear Substances: Sealed Sources*

Date of decision: January 19, 2015

Location: Canadian Nuclear Safety Commission (CNSC)  
280 Slater St., Ottawa, Ontario

Members present: M. Binder, Chair

**Licences:** Amended

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## 1.0 INTRODUCTION

1. Following a public meeting of the Commission in February 2013, the Commission approved CNSC REGDOC-2.12.3, *Security of Nuclear Substances: Sealed Sources* (formerly RD/GD-338). During this public meeting, the Commission also considered CNSC staff's suggested phase-in of REGDOC-2.12.3, which would require licensee compliance by May 31, 2015 for Category 1 and 2 sealed sources and May 31, 2018 for all remaining Category 3, 4 and 5 sealed sources. REGDOC-2.12.3 was subsequently published in May 2013.
2. The Canadian Nuclear Safety Commission<sup>1</sup> (CNSC), under section 25 of the *Nuclear Safety and Control Act*<sup>2</sup> (NSCA), is considering amending, on its own motion, all affected licences to include a condition requiring compliance with REGDOC-2.12.3. The licence amendment that CNSC staff proposed would set out the minimum security measures that licensees must implement to prevent the loss, sabotage, illegal use, illegal possession or illegal removal of sealed sources being transported by road within Canada. REGDOC-2.12.3 also provides information and guidance on how to meet minimum security measures, including measures related to transport vehicles, containers, and security plans.
3. The proposed licence condition to require affected licensees to comply with REGDOC-2.12.3 states:  
  
*“The licensee shall implement the security measures for sealed sources as set out in Regulatory Document REGDOC-2.12.3, Security of Nuclear Substances: Sealed Sources, as amended from time to time:*  
*a) by no later than May 31, 2015, for Category 1 and 2 sealed sources, and*  
*b) by no later than May 31, 2018 for Category 3, 4 and 5 sealed sources.*  
*The sealed source categories are specified in REGDOC-2.12.3.”*
4. The Commission agrees with the principles of the document's requirements, as well as with making compliance with REGDOC-2.12.3 a licence requirement. Since this licence amendment would make compliance with REGDOC-2.12.3 a licence requirement for affected licensees, the Commission provided, pursuant to paragraph 40(1)(b) of the NSCA, potentially affected licensees an opportunity to be heard on this matter, via written submissions, prior to making a final decision.

### Issue

5. Pursuant to section 25 of the NSCA, the Commission may, on its own motion, amend a licence under the prescribed conditions. Subsection 8(2) of the *General Nuclear Safety*

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<sup>1</sup> The *Canadian Nuclear Safety Commission* is referred to as the “CNSC” when referring to the organization and its staff in general, and as the “Commission” when referring to the tribunal component.

<sup>2</sup> Statutes of Canada (S.C.) 1997, chapter (c.) 9.

*and Control Regulations*<sup>3</sup> (GNSCR) provides the conditions under which the Commission may, for the purpose of section 25 of the NSCA, on its own motion, amend a licence.

6. Pursuant to section 25 of the NSCA and paragraph 8(2)(h) of the GNSCR, the Commission may amend, on its own motion, a licence when failure to do so could pose an unreasonable risk to the environment, health and safety of persons, and national security. In considering this request, the Commission had to determine whether paragraph 8(2)(h) of the GNSCR was applicable.

#### Panel

7. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review this matter. The Commission considered a written submission from CNSC staff (CMD 15-H102). Pursuant to paragraph 40(1)(b) of the NSCA, potentially affected licensees were provided with an opportunity to be heard, in writing, on this proposed licence amendment. The Commission considered written submissions from six licensees (see Appendix A for a detailed list of licensees who filed submissions). CNSC staff reviewed these submissions and provided its review to the Commission in Appendix A of CMD 15-H102.

## **2.0 DECISION**

8. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*, the Commission concludes that, pursuant to paragraph 8(2)(h) of the GNSCR, failure to amend the 2517 licences could pose an unreasonable risk to the environment, the health and safety of persons or national security. Therefore, the Commission,

pursuant to section 25 of the *Nuclear Safety and Control Act*, amends the 2517 licences listed in Appendix B of CMD 15-H102, to include the proposed licence condition requiring compliance with REGDOC-2.12.3, *Security of Nuclear Substances: Sealed Sources*.

9. The Commission includes in the licence the conditions as recommended by CNSC staff in CMD 15-H102.
10. The Commission also directs CNSC staff to include a reference to REGDOC-2.12.3 in future new licences, as appropriate.

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<sup>3</sup> Statutory Orders and Regulations (SOR)-2000-202.

### **3.0 ISSUES AND COMMISSION FINDINGS**

11. CNSC staff submitted that compliance with REGDOC-2.12.3, via this licence amendment, should be implemented in a two-part phase-in period. CNSC staff also noted that this licence amendment would strengthen CNSC regulatory controls over sealed sources, commensurate with risk.
12. Several licensees noted in their submissions that, due to the size of their operations, compliance with the requirements as set out by REGDOC-2.12.3 should not be required of them. In its review of these submissions, CNSC staff stated that maintaining the security of nuclear substances is the responsibility of all licensees. The Commission agrees with CNSC staff's review and notes that the requirements in REGDOC-2.12.3 shall be applicable to all affected licensees with Category 1 through Category 5 sealed sources, regardless of the size of their operation.
13. In its written submission, All Can Inspection Services (2011) Inc. submitted that the Criminal Records Name Check status of "Cleared" or "Not Cleared" is not detailed enough for a licensee to make an informed decision with respect to allowing unescorted access to nuclear substances or prescribed information, and is an unjust responsibility to place on a licensee. The licensee further provided recommendations on how this requirement could be modified to simplify the determination of trustworthiness and reliability. CNSC staff stated in its review of this submission that all employees granted unescorted access to nuclear substances and prescribed information must have a determination of trustworthiness and reliability, which is the responsibility of the licensee. CNSC staff also noted that the level of investigation needed for employees who have been employed for over five years with the same employer is not the same as that required for new or recently hired individuals, and provided further details on these requirements. The Commission concurs with CNSC staff's review of this submission.
14. In its written submission, Schlumberger Oilfield Services submitted that the background and trustworthiness check requirements in REGDOC-2.12.3 are nicely aligned with the requirements of Natural Resources Canada's Explosives Regulatory Division and that this will assist licensees who also use explosives to streamline their compliance program.
15. In its written submission, Schlumberger Oilfield Services expressed concern over the expectation that licensees shall have regulatory oversight over carriers during the transport of sealed sources. CNSC staff noted in its review of Schlumberger Oilfield Services' submission that licensees are responsible for the security of nuclear substances when using commercial carriers until the nuclear substances have reached their destination, and must ensure that they contract carriers that meet the applicable requirements. Furthermore, if multiple carriers are used, the licensee shall ensure that the authorized carrier is capable of providing physical security measures for sealed sources while they are in transit or being stored during transportation. Schlumberger Oilfield

Services further submitted that licensees can only have control over their own employees and not those of another corporation (such as a carrier). CNSC staff indicated in its review of this matter that the requirement to verify personnel trustworthiness is limited to the licensee's own employees but further noted that, for the transport of Category 1 or 2 sealed sources, it is the responsibility of the licensee to verify that the carrier implements a process to ensure the trustworthiness and reliability of the carrier's employees.

16. In further addressing the submission from Schlumberger Oilfield Services, CNSC staff clarified the requirements for the shipping and transport of sealed sources in REGDOC-2.12.3 and noted that, in accordance with the *Packaging and Transport of Nuclear Substances Regulations*<sup>4</sup>, carriers are required to transport material in accordance with the consignor's instructions. The consignor is a CNSC licensee and is responsible to ensure that it contracts carriers that meet the applicable requirements in these regulations when transporting sealed sources. In addition, through this proposed licence amendment, the licensee will be responsible to ensure that each carrier that it has under contract is capable of providing the physical security measures as specified in REGDOC-2.12.3 when transporting sealed sources or storing them in transit. The Commission is satisfied with CNSC staff's review of Schlumberger Oilfield Services' submission and its clarification on the shipping and transport of sealed sources.
17. In its written submission, Bruce Power submitted that they currently have security measures in place to comply with the *Nuclear Security Regulations*<sup>5</sup>, specific to high security sites such as Bruce A and B, and that these generally meet or exceed the requirements of REGDOC-2.12.3. Bruce Power also noted that CNSC staff recently completed a Type II Security Compliance Inspection at its sites. As such, Bruce Power requested that a decision to include REGDOC-2.12.3 be deferred until after the formal report from the Type II inspection is available and Bruce Power has met with CNSC staff to discuss it. In its review of this submission, CNSC staff stated that, while it recognizes that the security of sealed sources is well controlled by Bruce Power, activities authorized under the licences that are proposed to be amended in this hearing will be subject to compliance with REGDOC-2.12.3 and the proposed phase-in timelines. The Commission is satisfied with and concurs with CNSC staff's review of this matter.

#### 4.0 CONCLUSION

18. The Commission has considered the information and submissions from six licensees and CNSC staff and is satisfied that failure to amend the 2517 licences could pose an unreasonable risk to the environment, the health and safety of persons or national security. Therefore, the Commission amends the 2517 licences listed in Appendix B of CMD 15-H102 to include the proposed licence condition requiring compliance with REGDOC-2.12.3:

*"The licensee shall implement the security measures for sealed sources as set out in*

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<sup>4</sup> SOR-2000-208.

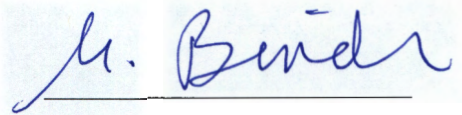
<sup>5</sup> SOR-2000-209.

*Regulatory Document REGDOC-2.12.3, Security of Nuclear Substances: Sealed Sources, as amended from time to time:*

*a) by no later than May 31, 2015, for Category 1 and 2 sealed sources, and*

*b) by no later than May 31, 2018 for Category 3, 4 and 5 sealed sources.*

*The sealed source categories are specified in REGDOC-2.12.3.”*



Michael Binder  
President,  
Canadian Nuclear Safety Commission

JAN 19 2015

Date



## Appendix A – Intervenors

<b>Intervenors</b>	<b>Document Number</b>
SNC-Lavalin Inc.	CMD 15-H102.1
Daryl's Custom Landscapes Ltd.	CMD 15-H102.2
Hunt Inspection Ltd.	CMD 15-H102.3
All Can Inspection Services (2011) Inc.	CMD 15-H102.4
Schlumberger Canada Limited	CMD 15-H102.5
Bruce Power	CMD 15-H102.6