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**Written submission from the
Manitoba Métis Federation**

**Mémoire de Manitoba Métis
Federation**

**Regulatory Oversight Report on the
Use of Nuclear Substances in
Canada: 2023**

**Rapport de surveillance réglementaire
sur l'utilisation des substances
nucléaires au Canada : 2023**

Commission Meeting

Réunion de la Commission

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Regulatory Oversight Report

Use of Nuclear Substances in Canada

Manitoba Métis Federation

October 3, 2024



Executive Summary

The Canadian Nuclear Safety Commission (CNSC) is responsible for regulating the nuclear industry in Canada, publishing Regulatory Oversight Reports (RORs) to evaluate the safety performance of licensees across various sectors. The Manitoba Métis Federation (MMF), representing the Red River Métis, has engaged with the CNSC, expressing interest in assessing the regulatory performance of the nuclear industry, particularly in relation to the National Homeland of the Red River Métis. This report focuses on the MMF's review of the 2023 ROR on the Use of Nuclear Substances in Canada, highlighting concerns regarding regulatory oversight and safety performance in areas such as packaging, transport, and environmental protection.

The MMF calls on the CNSC and licensees to prioritize a collaborative approach in addressing performance shortfalls and implementing targeted measures when issues arise. Comprehensive evaluation of all Safety and Control Areas (SCA), including environmental protection and emergency preparedness, is essential to maintain transparency and uphold safety standards, particularly in transportation and disposal, which are of significant concern to the Red River Métis.

The MMF further emphasizes the need for a proactive regulatory framework that prepares industries for future changes, particularly in sectors like healthcare, where barriers to adoption of new standards have contributed to declining performance. A structured monitoring feedback loop would not only ensure that regulatory changes are effectively implemented but also position industries to meet evolving safety requirements. In the case of environmental protection, increased vigilance and inspection frequency are crucial to preventing environmental contamination and ensuring that legacy impacts are minimized.

Lastly, the case of Mississauga Metals & Alloys highlights the need for timely and decisive CNSC interventions, especially in scenarios involving financial instability of licensees. Lessons from this case should inform future CNSC actions, ensuring that gaps in securing radioactive materials are promptly addressed to prevent potential risks to public safety and the environment. The MMF remains committed to ensuring that the management of nuclear substances within the National Homeland reflects the highest standards of safety and environmental stewardship. In reflecting our commitment, the MMF have identified the following recommendations:

1. **Strengthen Oversight and Accountability:** The CNSC must increase regulatory oversight, particularly in areas related to the transport and disposal of nuclear substances within the National Homeland. This includes ensuring comprehensive and transparent evaluations of all Safety and Control Areas (SCAs), including environmental protection and emergency preparedness, which are vital for the safety of Red River Métis communities.



2. **Enhance Environmental Protection Measures:** CNSC should implement more frequent and rigorous environmental inspections, especially in areas where nuclear substances are transported, stored, or disposed of. The MMF could recommend expanding CNSC's inspection efforts to ensure potential environmental contamination risks are identified early and addressed to prevent long-term impacts on Red River Métis lands and natural resources.
3. **Promote a Proactive Regulatory Framework:** CNSC should develop and implement a proactive regulatory framework that prepares licensees—especially those in high-risk sectors like healthcare—for future regulatory changes. This would include advance communication and resources to assist licensees in meeting new standards, thereby ensuring the protection of Red River Métis communities from radiation exposure or environmental contamination.
4. **Establish Monitoring and Feedback Mechanisms:** CNSC should create a structured monitoring feedback loop to track the effectiveness of regulatory changes and performance improvement initiatives. This system would allow the MMF to ensure that Red River Métis concerns are being addressed proactively and that industries are well-prepared to implement necessary safety measures.
5. **Ensure Framework for Timely CNSC Interventions:** In light of the Mississauga Metals & Alloys case, the MMF seeks transparency from the CNSC in establishing a framework that ensures for timelier and more decisive CNSC interventions when licensees face financial instability or other operational risks. This would include ensuring that radioactive materials are secured and that there are no gaps in safety protocols that could endanger the Red River Métis or the environment.
6. **Improve Transparency in Assessment of Emergency Preparedness:** The ability to respond effectively to emergencies where nuclear substances are involved is essential to protecting the environment, property, and public health and safety. It is recommended that future RORs on the use of nuclear substances in Canada feature additional information evaluating licensees and emergency responders near licensees or along core transportation routes to be able to respond effectively.

By implementing these recommendations, CNSC will help ensure that the management of nuclear substances within and through the National Homeland of the Red River Métis is conducted in a manner that prioritizes safety, environmental protection, and proactive regulatory compliance.



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1.0 Introduction

The Canadian Nuclear Safety Commission (CNSC) is responsible for the oversight of the nuclear industry in Canada. As part of CNSC's efforts to report out on the regulatory performance of industry in meeting the CNSC's expectations, CNSC publishes a series of regulatory oversight reports (RORs). These reports provide information on the safety performance of licensees who are authorized to produce, refine, use, and dispose of nuclear substances. CNSC produces separate RORs for the following sectors:

- Nuclear Power Plants
- Uranium Mines and Mills
- Use of Nuclear Substances
- Uranium and Nuclear Substance Processing Facilities
- Research Reactors and Particle Accelerator Facilities
- Canadian Nuclear Laboratories

Within each ROR, licensees are evaluated based on 14 Safety and Control Areas (SCAs) grouped into three functional areas Management (management system, human performance management, operating performance) Facilities and Equipment (safety analysis, physical design, fitness for service) and Core Controls and Processes (radiation protection, conventional health and safety, environmental protection, emergency management and fire protection, waste management, security, safeguards and non-proliferation, and packaging and transport).

While the Manitoba Métis Federation, in representing the interests and concerns of the Red River Métis, has been active in engaging with the CNSC regarding the ROR for Canadian Nuclear Laboratories, however, in considering the potential for interaction between the nuclear industry across the National Homeland of the Red River Métis, and the rights, interests, and values of Red River Métis Citizens, the MMF has identified interest in examining regulatory oversight and performance of the entire industry, throughout the entire lifecycle of nuclear materials.

Through the review of the ROR for the Use of Nuclear Substances in Canada, the MMF looks to better understand regulatory performance as it relates to the use and movement of nuclear materials within the National Homeland of the Red River Métis and provide comment and recommendations speaking to the interests of the Red River Métis for consideration by the CNSC.



2.0 Background—The Red River Métis and the MMF

2.1 The Red River Métis

The Red River Métis is an Indigenous collectivity and Aboriginal People within the meaning of section 35 of *the Constitution Act, 1982*. Based on our emergence as a distinct Indigenous People in the Northwest prior to effective control by Canada and the creation of the province of Manitoba, the Red River Métis holds rights, interests, and claims throughout and beyond the Province of Manitoba.

Since 1982, Métis Rights have been recognized and affirmed by section 35 and protected by section 25 of *the Constitution Act, 1982*. These rights were further confirmed and explained by the Supreme Court of Canada (SCC) in *R. v. Powley*, 2003 SCC 43. Manitoba Courts also have recognized Red River Métis Rights in *R. v. Goodon*, 2008 MBPC 59. These decisions have affirmed that the Métis hold existing Aboriginal Rights throughout their Traditional Territories. Our Citizens and harvesters rely on and use the lands, waters, and resources of our Traditional Territory throughout the Province of Manitoba and elsewhere within the historic Northwest to exercise their constitutionally protected rights and to maintain their distinct Red River Métis customs, traditions, and culture.

2.2 Red River Métis' Rights, Claims, and Interests

Based on its emergence as a distinct Indigenous People in the Northwest prior to effective control by Canada and the creation of the province of Manitoba, the Red River Métis holds rights, claims, and interests throughout and beyond the Province of Manitoba consistent with the United Nations Declaration on the Rights of Indigenous Peoples, including the right to self-determination.

The MMF, as the National Government of the Red River Métis is mandated to promote, protect, and advance the collectively held Aboriginal Rights of the Red River Métis. Through this mandate, the MMF engages with governments, industry, and others about potential impacts of projects and activities on the exercise of these rights. In 2007, the MMF Annual General Assembly adopted Resolution No. 8, which provides the framework for engagement, consultation, and accommodation with the Red River Métis. Designed by Métis, for Métis, Resolution No. 8 sets out the process that is to be followed by governments, industry, and other proponents when developing plans or projects that have the potential to impact the section 35 rights, claims, and interests of the Red River Métis. It was unanimously passed by MMF Citizens



and mandates a "single-window" approach to consultation and engagement with the Red River Métis through the MMF Home Office.¹

In engaging the MMF, on behalf of the Red River Métis, the Resolution No. 8 Framework calls for the implementation of five phases:

- Phase I: Notice and Response;
- Phase II: Research and Capacity;
- Phase III: Engagement and Consultation;
- Phase IV: Partnership and Accommodation; and
- Phase V: Implementation.

Future activities associated with Whiteshell Laboratories have the potential to impact Red River Métis Rights, claims, and interests and as such, engagement and consultation with the MMF, through the process set out above, must be followed. The Project is located within the Traditional Territory of the Red River Métis, and in the heart of our Homeland. At one time, this was the "postage stamp province" of Manitoba. This is the birthplace of the Red River Métis and where we currently have an outstanding claim flowing from the Federal Crown's failure to diligently implement the land grant provision of 1.4 million acres of land promised to the Red River Métis as a condition for bringing Manitoba into Confederation and set out in section 31 of the *Manitoba Act, 1870* in accordance with the honour of the Crown.²

Red River Métis section 35 rights are distinct from First Nation's rights and must be respected. The Manitoba Métis Federation is the National Government of the Red River Métis.

Prior to the creation of Manitoba, the Red River Métis had always exercised its inherent right of self-determination to develop its own self-government structures and institutions centred around the Red River Settlement and throughout the Northwest. As described by Louis Riel in his 1885 memoirs, Métis

¹ More information about Resolution No. 8 is available online at: <http://www.mmfmb.ca/docs/2013-Resolution%208%20Booklet-VFinal.pdf>

² *Manitoba Metis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14, [2013] 1 SCR 623 ("MMF Case"). The Supreme Court of Canada recognized that this outstanding promise represents "a constitutional grievance going back almost a century and a half. So long as the issue remains outstanding, the goal of reconciliation and constitutional harmony, recognized in s. 35 of the *Constitution Act, 1982* and underlying s. 31 of the *Manitoba Act*, remains unachieved. The ongoing rift in the national fabric that s. 31 was adopted to cure remains unremedied. The unfinished business of reconciliation of the Metis people with Canadian sovereignty is a matter of national and constitutional import" (para. 140).



self-government was well-established and functioning when Canada came to the Red River Métis in the late 1800s:

When the Government of Canada presented itself at our doors it found us at peace. It found that the Métis people of the North-West could not only live well without it... but that it had a government of its own, free, peaceful, well-functioning, contributing to the work of civilization in a way that the Company from England could never have done without thousands of soldiers. It was a government with an organized constitution whose junction was more legitimate and worthy of respect, because it was exercised over a country that belonged to it.

Métis self-government has evolved and changed over time to better meet the needs of the Red River Métis. Today, the MMF is the recognized, democratically elected, self-government representative of the Red River Métis. On July 6, 2021, The MMF and the Government of Canada signed the Manitoba Metis Self-Government Recognition and Implementation Agreement.

Since 1967, the MMF has been authorized by the Red River Métis through a democratic governance structure at the Local, Regional, and national levels. As part of this governance structure, the MMF maintains a Registry of Red River Métis Citizens.³ By applying for Red River Métis Citizenship, individuals are confirming the MMF is their chosen and elected representative for the purposes clearly set out in its Constitution,⁴ including as related to the collective rights, claims, and interests of the Red River Métis.⁵

The MMF Constitution confirms that the MMF has been created to promote the political, social, cultural, and economic rights and interests of the Red River Métis. The MMF is authorized to represent the Red River Métis' collective rights, interests, and claims. This authorization is grounded in the MMF's democratic processes that ensures the MMF is responsible and accountable to the Red River Métis.

The MMF governance structure includes a centralized MMF President, Cabinet, Regions, and Locals. There are seven (7) Regions and approximately 135 Locals throughout Manitoba (Figure 1). There are more than

³ MMF Constitution, Article III outlines the citizenship definition and application process. This definition ("Metis" is defined to mean "a person who self-identifies as Métis, is of historic Métis Nation Ancestry, is distinct from other Aboriginal Peoples and is accepted by the Métis Nation ") aligns with the definition of what constitutes a section 35 rights-bearing Metis community as outlined by the Supreme Court of Canada in *Powley* at para. 30.

⁴ *Newfoundland and Labrador v. Labrador Metis Nation*, 2007 NLCA 75 at para 47: "Anyone becoming a member of the [Labrador Metis Nation] should be deemed to know they were authorizing the LMN to deal on their behalf to pursue the objects of the LMN, including those set out in the preamble to its articles of association. This is sufficient authorization to entitle the LMN to bring the suit to enforce the duty to consult in the present case."

⁵ *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26 at para 30: "[A]n Aboriginal group can authorize an individual or an organization to represent it for the purpose of asserting its s.35 rights."



three thousand Citizens who live outside of Manitoba. All MMF Citizens are Members of a Local. Locals and Regions work together to authorize and support the MMF Cabinet, and the MMF's various departments and offices. Through elections held every four years, Citizens choose and elect the MMF Cabinet consisting of the MMF President, who is the leader and spokesperson for the MMF, a Vice-President of each Region, and two Regional Executive Officers from each Region. The MMF Cabinet also includes the spokeswoman from the Infinity Women Secretariat.



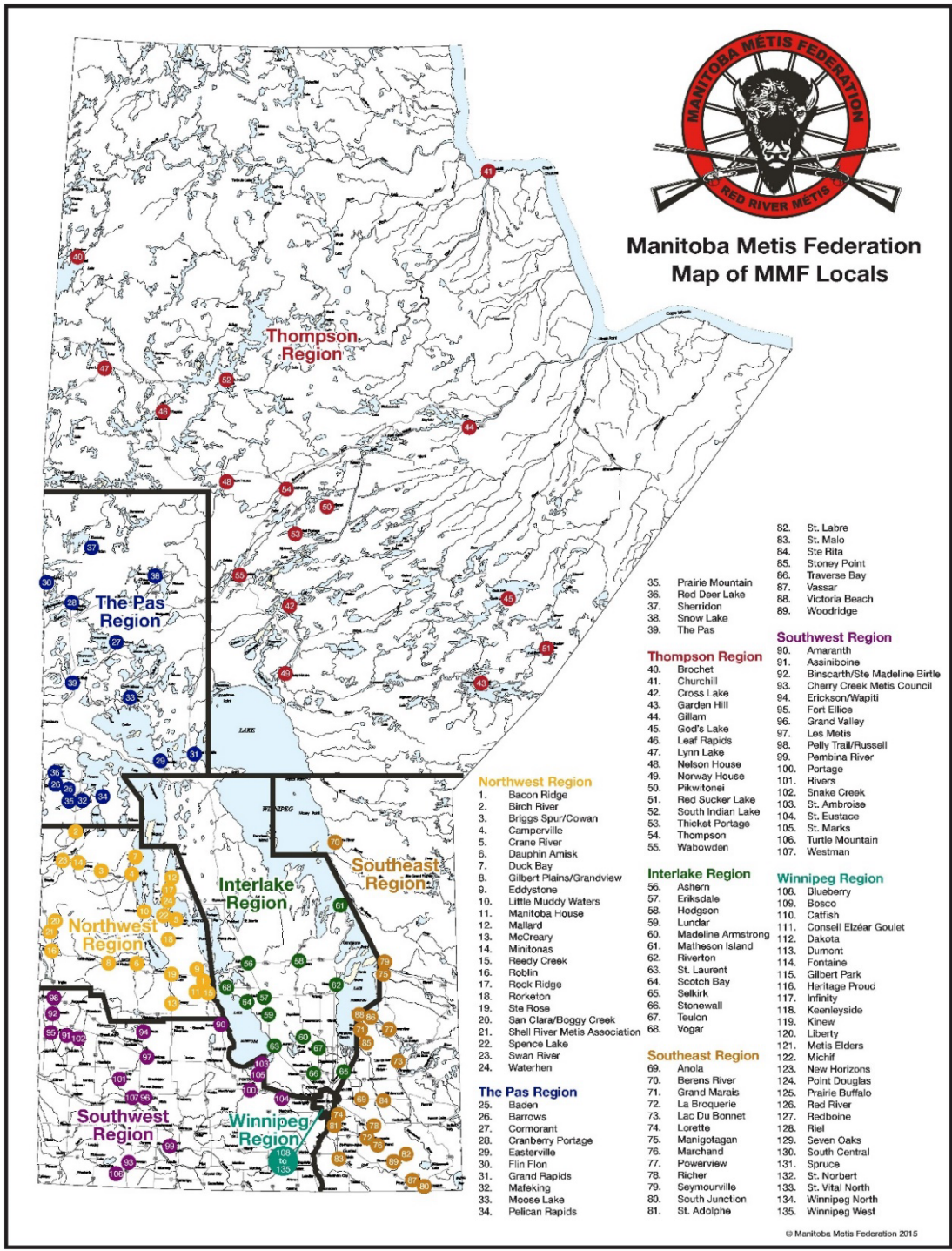


Figure 1 MMF Regions and Locals



The MMF, as the duly authorized representative of the Red River Métis, has been recognized by both the federal and provincial governments in agreements, policies, and legislation. For example, in 2002, *The Child and Family Services Authorities Act* recognized the MMF for the devolution of Manitoba child and family services to a MMF controlled entity institutions. This Act establishes a series of Child and Family Services Authorities to administer and provide the delivery of services to various distinct Indigenous communities in Manitoba. It creates a Métis Child and Family Serviced Authority, the directors of which are appointed by the MMF.

In 2008, the courts in Manitoba further recognized that "[t]he Métis community today in Manitoba is a well organized and vibrant community. Evidence was presented that the governing body of Métis people in Manitoba, the Manitoba Métis Federation, has a membership of approximately 40,000, most of which reside in southwestern Manitoba."⁶ In 2010, the Manitoba Government adopted a Manitoba Métis Policy, and stated that:

*The Manitoba Metis Federation is a political representative of Métis people in Manitoba and represents in Manitoba the Métis who collectively refer to themselves as the Métis Nation... Recognition of the Manitoba Métis Federation as the primary representative of the Métis people is an important part of formalizing relationships.*⁷

In 2012, the *MMF-Manitoba Harvesting Agreement (2012)* negotiated between the MMF, and the Manitoba Government recognized some of the collective section 35 harvesting rights of the Red River Métis and relied on the Citizenship processes of the MMF as proof of belonging to a rights-holding Aboriginal community:

*For the purposes of these Points of Agreement, Manitoba will recognize as Métis Rights-Holders, individuals who are residents in Manitoba and who hold a valid MMF Harvesters Card, issued according to the MMF's Laws of the Hunt. [... and will] consult with the MMF prior to implementing any changes to the current regulatory regime that may infringe Métis Harvesting Rights.*⁸

⁶ *R. v. Goodon*, 2008 MBPC 59 para 52. Note that the number of MMF Citizens (40,000) identified by the Court was as of 2007..

⁷ Manitoba Métis Policy, September 2010 at 4, 12, online (PDF): <https://www.gov.mb.ca/inr/mbmetispolicy.html>

⁸ MMF-Manitoba Harvesting Points of Agreement (September 29, 2012), ss. 3, 6-7.



In 2013, the SCC recognized the “collective claim for declaratory relief for the purposes of reconciliation between the descendants of the Métis people of the Red River Valley and Canada.” It went on to grant the MMF standing as the “body representing the collective Métis interest” in the *MMF Case*.⁹ Additionally, in 2016, the *MMF-Canada Framework Agreement* stated:

the Supreme Court of Canada recognized that the claim of the Manitoba Métis Community was "not a series of claims for individual relief" but a "collective claim for declaratory relief for the purposes of reconciliation between the descendants of the Métis people of the Red River Valley and Canada" and went on to grant the MMF standing by concluding "[t]his collective claim merits allowing the body representing the collective Métis interest to come before the court.

[and that] Canada is committed to working, on a nation-to-nation, government-to-government basis, with the Métis Nation, through bilateral negotiations with the MMF.¹⁰

The MMF signed the *Manitoba Métis Self-Government Recognition and Implementation Agreement* (MMSGRIA) on July 6, 2021. This marked a major step forward in reconciliation between the Red River Métis and Canada. The MMSGRIA, among other things, immediately recognized the MMF as the National Government of the Red River Métis and sets out a path forward towards the completion of a modern Treaty. Consistent with the direction of our Citizens, MMF removed the arbitrary provincial borders that separated Red River Métis who live outside of Manitoba from those within. Today, thousands of Citizens who reside beyond the borders of Manitoba, inside and outside of Canada have chosen to take their Citizenship with the Red River Métis. The MMF has a regional, provincial, national, and international mandate.

Our modern Treaty was ratified by thousands of Red River Métis Citizens in June 2023 and builds upon the important work of the MMSGRIA. The finalization of the Treaty with Canada, and its implementation legislation will enable the Red River Métis to renew its partnership with Canada through its democratically elected representative, the MMF Government.

⁹ *MMF Case*, *supra* note 6 at para 44.

¹⁰ MMF-Canada Framework Agreement on Advancing Reconciliation, November 15, 2016, Preamble.



3.0 The Use of Nuclear Substances in Canada

The MMF recognizes the many benefits which are associated with the use of nuclear substances in Canada. These includes benefits from the use of radio medicine, therapy, and imaging, industrial instrumentation, research, and commercial applications. However, in ensuring devices containing nuclear substances are managed responsibly, the MMF expects that both CSNC as the licensor as well as all licensees, work towards a common goal of 100% satisfactory performance. Where inspections are conducted or incidents occur, indicating performance that is either “below expectations” or “unacceptable”, CNSC and affected licensees must work together to rectify issues, which may include implementing targeted responses or addressing systematic barriers to achieving expected performance.

Based on the MMF’s review of the 2023 ROR on the Use of Nuclear Substances in Canada, the following sections outline observations, concerns, and recommendations aimed to support continued improvement by the nuclear industry and reflect the interests and values of the Red River Métis.

3.1 Compliance Framework and Applicability of SCAs

The MMF sees the need to evaluate the performance of licensees, as well by extension, the regulatory oversight program, through a holistic lens. This means understanding how nuclear substances and radioactive materials are produced, handled and transported, used, stored, and disposed of. While we accept that the duty maintained by licensees, especially where associated with Class II facilities and equipment, may be limited to only portions of the life cycle of nuclear substances, oversight must be provided based on lifecycle management.

The MMF is interested in ensuring nuclear substances are managed and controlled responsibly, minimizing opportunity for environmental release, development of legacy contamination, and dosage to Red River Métis Citizens. We view controlling junctures where nuclear substances are being handled, or disposed of, where substances are concentrated or found in large quantities, or where the environment in which substances are found is inherently riskier, such as during transport from one location to another, as essential to minimizing the potential for release or interaction with humans and biophysical environment.

In reviewing this ROR, we note that while licensees are evaluated based on all 14 SCAs, which includes packaging and transport, emergency management and fire protection, and physical design, the ROR for the Use of Nuclear Substances in Canada only reports on four SCAs: the management system, operating performance, radiation protection, and security, with nominal information provided regarding environmental protection and conventional health and safety SCAs. The MMF finds this approach limits our ability to examine trends in safety and control performance for factors which are of interest to our Citizens. The MMF represents Red River Métis Citizens across the Provinces of Manitoba, Saskatchewan, and Alberta into portions of British Columbia, the Northwest Territories, Ontario, and North Dakota, and



elsewhere around the world. The National Homeland is an important transportation corridor for nuclear materials, which includes mining of low-grade uranium in the Athabasca basin, transport of refined ore to processing plants in Ontario and the United States, and countless traversions of the Homeland as nuclear products and waste are transported. Given this reality, our Citizens have great interest in ensuring that transport, use, and disposal of nuclear or radioactive material within and through the National Homeland is done so in a manner that both minimizes risk of incident and where an incident does occur, enables local agencies tasked with emergency response to prepare and execute appropriate communication and response plans. To this end, while most of the devices containing nuclear substances described by this ROR are of limited quantity and risk, it remains essential in the view of the MMF to ensure that regulatory structure, protocol, and processes are in place to ensure that SCAs addressing packaging, transport, and emergency response, are transparent in their effectiveness evaluations.

3.2 Radiation Protection SCA in the Medical Sector

Since 2020, there has been a steady decline in performance as it relates to the Radiation Protection SCA within the medical sector (Figure 2). CNSC have identified that a contributing factor in the declining performance was a series of amendments which were made to the *Radiation Protection Regulations*, as well as REGDOC-2.7.1, Radiation Protection, and REGDOC-2.7.2, Dosimetry. Barriers within the medical sector, have challenged the adoption of revised radiation protection measures. In recognizing these factors, the MMF suggests that in introducing these new measures, licensees were not proactively prepared to adopt them, requiring reactionary measures from the CNSC to address performance issues only after they were observed.

CNSC outlines a series of efforts made in 2023 to improve performance associated with the Radiation Protection SCA in 2023-24. As noted by CNSC, these efforts were in response to Commission direction following the presentation of the 2022 ROR on the use of nuclear substances and was intended to reverse a declining performance trend. The MMF supports the CNSC's efforts to improve awareness of licensees regarding the obligations they hold in maintaining radiation protection measures, as to minimize, or eliminate both dosage risk to workers handling equipment containing radioactive material, and potential environmental contamination.



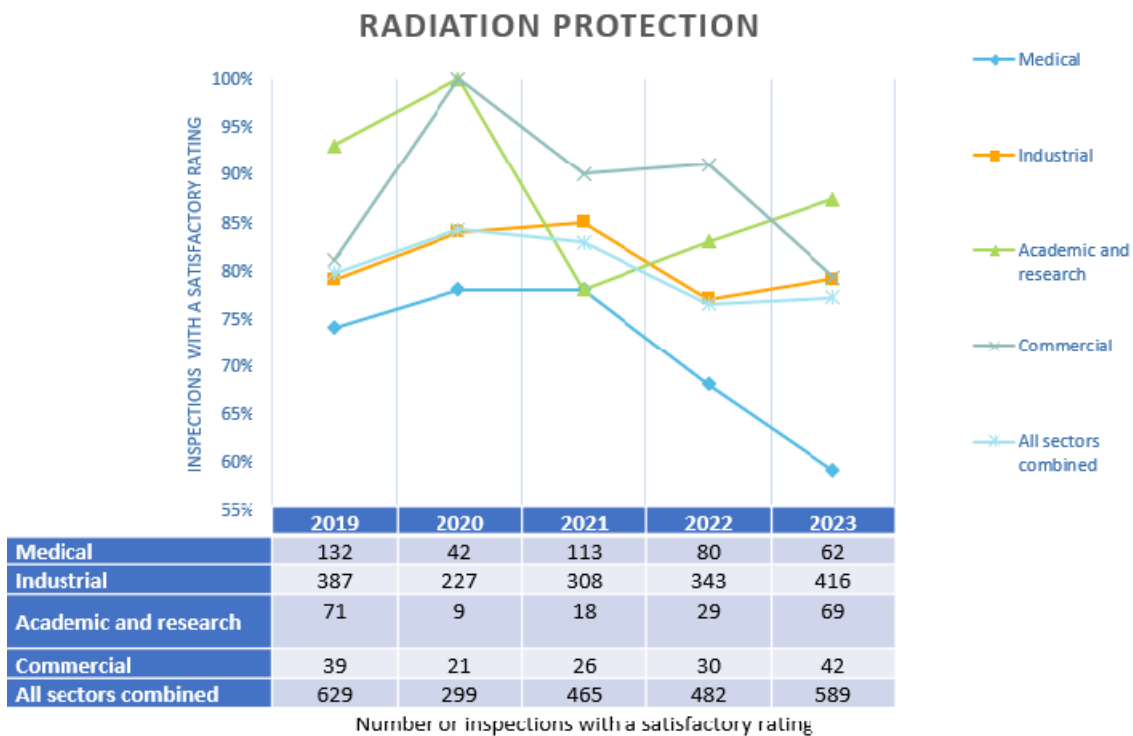


Figure 2. Summary of Radiation Protection SCA compliance inspections. Adopted from CNSC 2023. ROR on the Use of Nuclear Substances in Canada.

With respect to the efforts made by the CNSC to address performance issues within the medical sector following the 2023 directive, the MMF recommends that CNSC establish a monitoring feedback loop to determine the effectiveness of performance improvement initiatives beyond inspections and ROR reporting. This feedback loop would focus on monitoring and evaluating the effectiveness of CNSC initiatives through the examination of licensee engagement with performance improvement initiatives or resources. This monitoring feedback loop should also be used to assess licensee preparedness for regulatory change in advance of regulatory amendment, effectively determining likelihood for success in amendment implementation and industry adoption, as well as guide the need for additional proactive development or support resources.

In considering opportunities for proactive engagement to prepare licensees for regulatory changes, we recommend the CNSC work to develop a framework to proactively understand sector-specific barriers to adopting regulatory change. This framework would aim to identify resources or communications channels aimed at improving changes and address systematic barriers prior to implementation of new regulations.

The MMF believes that regulatory change is essential to ensuring radiation protection measures align with best practice and most recent evidence. However, in implementing regulatory change, the CNSC must position the nuclear industry to succeed in adopting changes and implementing practices to ensure high



performance. In working towards this goal, the MMF strongly supports continued efforts by CNSC and industry alike to continue to engage and identify initiatives to proactively remove barriers for adoption.

3.3 Environmental Protection

Environmental protection is of great importance and interest to the MMF. This includes ensuring that areas where nuclear substances and radioactive materials are produced, used, transported, stored, or disposed of maintain the highest standards for minimizing environmental releases. Upon completion of an activity, the environmental legacy from interaction with nuclear substances and radioactive materials must not impair contemporary or future use. In considering these values, the MMF is disappointed and concerned that CNSC has conducted relatively few inspections as it relates to environmental protection, especially given the challenges observed with respect to the Radiation Protection SCA.

In 2023, CNSC conducted only three inspections with a focus on the environmental protection SCA. The ROR only presents environmental protection compliance data as it relates to Waste Nuclear Substance Licensees (WNSL). It is unclear from the ROR whether CNSC actively inspects the environmental protection SCA for other licensees described within this ROR.

However, regardless of whether CNSC inspects other licensees with respect to the environmental protection SCA, the MMF questions whether CNSC can reasonably draw conclusions from the results of only three inspections. CNSC states as WNSLs "continued to manage and monitor environmental releases related to licensed activities". The MMF is concerned that with the limited information presented, it is unclear whether high performance and compliance is an industry wide-trend or whether releases are going undetected due to a lack of monitoring, observance, and/or reporting. Sixteen of the 184 reportable events across all sectors are identified as WNSL related events. We recognize that while there is limited correlation between reportable events and non-compliance or other performance issues, the number of reportable events relative to SCA focused inspections for WNSL appears high. Further, as no conclusions can be drawn from the applicability or performance of the environmental protection SCA among non-WNSL licensees, there are several outstanding questions on the overall performance of the nuclear industry as it relates to the environmental protection SCA.

The MMF recommends that in future iterations of the ROR, a synopsis illustrating the rationale for leaving SCAs out of the ROR, as well as at a minimum, a list of summary statistics describing the number of licensees for which the CNSC feels SCAs such as environmental protection, are applicable. The MMF believes that given the importance of this SCA to protecting the safety and security of the environment in which nuclear substances reside, it is important to increase transparency related to this SCA, and further better inform the need for increased vigilance in inspecting licensees.



3.4 Implications of Mississauga Metals & Alloys on Future CNSC Intervention

The Mississauga Metals & Alloys Inc. (MMA) is an interesting case study for examining CNSC's ability to intervene in the event of bankruptcy and insolvency by a licensee. This example is found outside of the National Homeland of the Red River Métis but does serve as a reference for how a similar case may be handled elsewhere.

In examining the various orders issued by the Commission and timelines associated with the implementation of these orders, the MMF raises a level of concern with regards to the time lag between MMA's declaration of bankruptcy (August 20, 2021), expiration of MMA's waste nuclear substance licence (February 28, 2022), and issues of the first Designated Officer Order (March 21, 2023). The MMF raises concern that in the period between when MMA declared bankruptcy and when the first Designated Officer Order was issued requiring that MMA take measures to secure the premises against unauthorized access, there may have existed significant gaps in ensuring radioactive materials were secured, both from access by unauthorized persons, as well as in ensuring materials were stored in appropriate facilities to prevent uncontrolled environmental release.

The MMF recognizes the complexity of this file, however, in considering the potential consequences of having uncontrolled or unsecured radioactive materials, we question the ability of CNSC to intervene in a timely manner in the event that a similar instance was to occur where the on-site conditions warranted immediate action.

It is recommended that the CNSC publish a decision framework which provides increased transparency on how the CSNC will approach similar instances in the future, ensuring that actions are taken in a timely manner to ensure the safety and security of the public and environment.

3.5 Emergency Preparedness

Emergency preparedness from the perspective of preventative risk assessment and radioactive control are described by SCAs for Safety Analysis and Radiation Protection, among others. In the event of an emergency, the SCA for Emergency Management and Fire Protection is intended to cover emergency plans and emergency preparedness programs for emergencies and non-routine conditions. The evaluation of this SCA should include an assessment of preparedness and exercises meant to simulate conventional, nuclear, and fire emergencies. While specific programs are in place for larger facilities such as nuclear energy or demonstration facilities, it is unclear from the ROR on the Use of Nuclear Substances how CNSC evaluates emergency preparedness for small-scale facilities that use nuclear substances such as industry, academic institutions, medical and commercial institutions. In many instances, it may be impractical to expect a small-scale licensee which maintains only a small highly controlled amount of nuclear substance to maintain a sophisticated emergency response protocol, however, it would be expected that local emergency responders would be in a position to be aware of substances used at a given location, and



maintain resources to ensure that in the event of a conventional, nuclear or fire emergency, first responders and other emergency response teams can minimize the risk posed to the environment, persons, and property. Further, while there is an overlap in responsibilities between CNSC and Transport Canada for the management and oversight of the safe transport of nuclear substances, considered to be Dangerous Goods, the MMF expects that in evaluating SCAs for the use of nuclear substances, CNSC works with its counterparts at Transport Canada and other applicable agencies to ensure that emergency responders are knowledgeable and resourced to deal with emergencies associated with nuclear substances in transport. This would include assessing emergency response preparedness along key transportation routes, as well as communication protocols between licensees, transporters, emergency responders and the CNSC to ensure appropriate emergency response measures are in place.

The MMF recommends that as part of future ROR reporting, additional information and evaluation be provided regarding the state of emergency preparedness associated with licensees, as well as emergency responders to respond appropriately to emergencies where nuclear substances are involved.



4.0 Conclusions and Recommendations

In conclusion, while the MMF acknowledges the significant benefits of nuclear substances in various sectors across Canada, we stress the importance of stringent oversight and proactive management to ensure the safety of the public and the environment. The MMF calls on the CNSC and licensees to prioritize a collaborative approach in addressing performance shortfalls and implementing targeted measures when issues arise. Comprehensive evaluation of all SCAs, including environmental protection and emergency preparedness, is essential to maintain transparency and uphold safety standards, particularly in transportation and disposal, which are of significant concern to the Red River Métis.

The MMF further emphasizes the need for a proactive regulatory framework that prepares industries for future changes, particularly in sectors like healthcare, where barriers to adoption of new standards have contributed to declining performance. A structured monitoring feedback loop would not only ensure that regulatory changes are effectively implemented but also position industries to meet evolving safety requirements. In the case of environmental protection, increased vigilance and inspection frequency are crucial to preventing environmental contamination and ensuring that legacy impacts are minimized.

Lastly, the case of Mississauga Metals & Alloys highlights the need for timely and decisive CNSC interventions, especially in scenarios involving financial instability of licensees. Lessons from this case should inform future CNSC actions, ensuring that gaps in securing radioactive materials are promptly addressed to prevent potential risks to public safety and the environment. The MMF remains committed to ensuring that the management of nuclear substances within the National Homeland reflects the highest standards of safety and environmental stewardship.

4.1 Recommendations

1. **Strengthen Oversight and Accountability:** CNSC must increase regulatory oversight, particularly in areas related to the transport and disposal of nuclear substances within the National Homeland. This includes ensuring comprehensive and transparent evaluations of all Safety and Control Areas (SCAs), including environmental protection and emergency preparedness, which are vital for the safety of Red River Métis communities.
2. **Enhance Environmental Protection Measures:** CNSC should implement and push for more frequent and rigorous environmental inspections, especially in areas where nuclear substances are transported, stored, or disposed of. The MMF could recommend expanding CNSC's inspection efforts to ensure potential environmental contamination risks are identified early and addressed to prevent long-term impacts on Red River Métis lands and natural resources.
3. **Promote a Proactive Regulatory Framework:** CNSC should develop and implement a proactive regulatory framework that prepares licensees—especially those in high-risk sectors like healthcare—for future regulatory changes. This would include advance communication and



resources to assist licensees in meeting new standards, thereby ensuring the protection of Red River Métis communities from radiation exposure or environmental contamination.

4. **Establish Monitoring and Feedback Mechanisms:** CNSC should create a structured monitoring feedback loop to track the effectiveness of regulatory changes and performance improvement initiatives. This system would allow the MMF to ensure that Red River Métis concerns are being addressed proactively and that industries are well-prepared to implement necessary safety measures.
5. **Ensure Framework for Timely CNSC Interventions:** In light of the Mississauga Metals & Alloys case, the MMF seeks transparency from the CNSC in establishing a framework that ensures for timelier and more decisive CNSC interventions when licensees face financial instability or other operational risks. This would include ensuring that radioactive materials are secured and that there are no gaps in safety protocols that could endanger the Red River Métis or the environment.
6. **Improve Transparency in Assessment of Emergency Preparedness:** The ability to respond effectively to emergencies where nuclear substances are involved is essential to protecting the environment, property, and public health and safety. It is recommended that future RORs on the use of nuclear substances in Canada feature additional information evaluating licensees and emergency responders near licensees or along core transportation routes to be able to respond effectively.

By implementing these recommendations, the CNSC will help ensure that the management of nuclear substances within and through the National Homeland of the Red River Métis is conducted in a manner that prioritizes safety, environmental protection, and proactive regulatory compliance.

