



CAMECO CORPORATION

Corporate Office
2121 - 11th Street West
Saskatoon, Saskatchewan
Canada S7M 1J3

Tel 306.956.6200

Fax 306.956.6201

www.cameco.com

May 28, 2015

VIA EMAIL

Brian Torrie
Director General
Regulatory Policy Directorate
Canadian Nuclear Safety Commission
280 Slater Street
PO Box 1046, Station B
Ottawa, ON K1P 5S9

Dear Mr. Torrie:

Cameco Response to Discussion Paper DIS-14-02: Modernizing the CNSC's Regulations

Further to Discussion Paper DIS-14-02: Modernizing the CNSC's Regulations (the Discussion Paper), please find comments prepared by Cameco Corporation (Cameco) below.

Before providing our responses to the specific questions posed, we wanted to first make some general observations and comments to provide context to our responses.

To begin with, while some of the questions asked refer specifically to regulations, we believe that Regulatory Documents should also be considered in any discussion or review of the Canadian Nuclear Safety Commission's (CNSC) regulatory regime because of the CNSC's increasing use of these instruments.

Cameco is of the view that regulatory documents are the wrong instrument for introducing a new requirement. It may be permissible pursuant to the federal *Statutory Instruments Act* to use Regulatory Documents for this purpose, but without the benefit of the analysis and scrutiny given to proposed regulations, many Regulatory Documents appear to not only lack any correlation with a clearly defined regulatory gap, but also create unclear and sometimes overlapping requirements.

A requirement has the same effect on licensees regardless of the form in which it is imposed. If Regulatory Documents continue to be used to impose requirements, then regulatory efficiency and effectiveness would be enhanced by abandoning the artificial distinction between these two regulatory instruments and using a similar process for developing all proposed regulatory changes and, in particular, a common consultation process.

1. Could the CNSC's regulations be changed to make them more efficient and effective in ensuring protection of the health, safety, security and the environment?

CNSC regulations could be changed to improve efficiency and effectiveness by better aligning regulatory requirements with the category of nuclear facility affected, reducing inconsistent regulatory requirements, eliminating redundant requirements, and clarifying ambiguous regulations.

At this time, Cameco does not have specific comments but will provide examples in the response to the next question.

2. Is the CNSC striking the right balance between performance-based regulation and prescriptive requirements? Are there specific regulatory requirements that do not seem to have the right approach?

In our view, CNSC is using unnecessarily prescriptive requirements to regulate licensees and this is creating an imbalance between performance-based regulation and prescriptive requirements. We have comments on two aspects of this imbalance.

First, the prescriptive requirements tell us *how* to implement the performance-based regulations even when some nuclear facilities have their own existing systems and processes to meet these requirements. This undermines a licensee's ability to evaluate and implement the most appropriate method to address a safety goal for the specific activities performed at the facility. In the result, the prescriptive requirement may not protect the environment or the health, safety and security of our workers or the public in the most efficient or effective manner.

We understand and appreciate that many licensees may not have, or lack the capacity to develop, a system or process to meet the regulatory goal or safety objective. In our view, however, imposing a mandatory process on licensees who can demonstrate an acceptable solution is inefficient and increases costs. Cameco believes that licensees should be able to determine the most appropriate way to meet general requirements as set out in regulations.

An example is section 2.2.2 of REGDOC-2.10.1, *Nuclear Emergency Preparedness and Response*, which requires all licensees to notify offsite authorities within 15 minutes of an event categorization. Cameco has always made contacting CNSC and federal or provincial regulators a priority and we take the notification requirement seriously. As indicated in our site's Emergency Response Plans, Cameco will report immediately, once accurate event details are determined, thus enabling CNSC and other regulators to react and take further steps in the most efficient and effective manner. The 15 minutes reporting time is overly prescriptive. In our view, given the

context of our mining and milling facilities, the safety and health of personnel and the environment can be achieved with a reporting expectation of “as soon as practicable” for the type of events that may occur at uranium mines or mills.

In some cases, prescriptive requirements specific to one class of nuclear facility are inconsistent with the requirements for another even though the level of protection needed to meet regulatory standards is the same.

An example is Section 13 of the *Uranium Mines and Mills Regulations*, which limits the use of respirators as a tool to comply with the radiation dose limits for mine workers. No such restriction is imposed on licensees regulated by the *Class I Nuclear Facility Regulations* where workers who perform routine and foreseeable work must use respirators to stay within the dose limits. There is no rationale for this additional prescriptive prohibition for uranium mine and mill licensees. In this example, the focus should be on effectively limiting the dose and not on the methods used to stay within the limit.

3. Are you aware of opportunities for the CNSC to reduce administrative burden, without compromising safety?

There are opportunities to reduce the administrative burden without compromising safety. One example we encounter is overly burdensome reporting requirements.

More specifically, three of our operations are safeguarded facilities, which are required to submit the details of uranic shipments in Inventory Change Documents on a daily basis. This same data is submitted again in a General Ledger in a monthly report albeit in a reformatted form.

All of this data is submitted after shipments have occurred and therefore this reporting duplication provides no benefit.

In addition, all these documents must be stored on site and be available on site during inspections for the life of the facility.

Efficiency could be increased by eliminating this duplicative reporting and looking to do the same with other similar information reporting requirements. As well, using electronic submissions and storage for this type of information is clearly less burdensome and offers another opportunity for reducing administrative burden.

Another example is the CNSC’s proposed requirement for licensees to provide copies of their written compliance procedures under DIS-15-01. Many licensees will not have all of the specified procedures in place and there is little benefit in providing these procedures when the CNSC already has the ability to audit licensee compliance with the regulatory requirements.

Cameco will be providing specific comments to that discussion paper but as these proposed requirements will increase the administrative burden for licensees we include our comments here as well.

4. Is the CNSC making effective use of existing standards? Are there additional opportunities for the CNSC to reference standards in its regulations?

In general, we believe that the CNSC makes effective use of existing standards. One example where there is an additional opportunity is in the standards applied to the transportation of radioactive materials.

The CNSC adopted some standards in the *Packaging and Transport of Nuclear Substances Regulations* that differ from the standards set out in the International Atomic Energy Agency's (IAEA) *Regulations for the Safe Transportation of Radioactive Material*, 2012 (the IAEA Regulations) purportedly to address Canadian-specific issues.

For example, the IAEA Regulations use a low specific activity material limit of 10^{-4} A₂/g for LSA-I materials¹ and this includes uranium ores. Section 1.(1) of the PTNSR sets the limit for LSA-I material to 10^{-6} A₂/g. There is no rationale for the application of this different standard in Canada.

Another example is the packaging requirements. The IAEA Regulations permit LSA-I materials to be shipped in Industrial Package Type 1 (Type IP-1) in non-exclusive use transportation. Section 1 of the PTNSR, however, requires Type IP-3 packaging to be used if the materials are shipped in non-exclusive use transportation. This has caused difficulties for foreign consignors who follow the international regulations and use Type IP-1 packages to ship LSA-I samples to Canada in non-exclusive use transportation. Once such packages arrive in Canada, the packaging does not meet the PTNSR standards and the materials cannot be shipped within Canada.

Canada had input into the development of the harmonized international standards. Although these standards are designed to facilitate the regulation of national standards and member states can choose to adopt different standards, in our view, the international standards should be used unless there is a genuine safety concern or other reason to use a different standard.

Cameco understands that the CNSC has undertaken additional work to define the LSA-I limit, but this information has not been published and a safety concern requiring a different limit than the international standard has not been identified.

Canadian licensees are at a competitive disadvantage when national standards are inconsistent with international standards or when CNSC imposes a higher standard, which does not enhance safety. Unless there is a safety benefit that can be clearly articulated, the CNSC should adopt international standards.

¹Advisory Material for the IAEA Regulations for the Safe Transportation of Radioactive Material, Safety Guide No. TS-G-1.1 (ST-2), IAEA: http://www-pub.iaea.org/MTCD/publications/PDF/Pub1109_scr.pdf at paragraphs 226.1-226.5.

5. Is the relationship between CNSC regulations and the obligations set forth in licences clear and straightforward? Would it be clearer to prescribe some standard licence conditions in regulations rather than in licences? If so, which ones?

With the CNSC's recent licence reform initiative, including the introduction of Licence Conditions Handbooks, Cameco is of the view that the licences are working as intended. Further change is not required at this time.

Cameco does not support prescribing licence conditions in regulations. Clarity does not depend on the document in which a requirement is set out. Regulations are less flexible and can cause a disproportionate administrative burden on some licensees. Greater clarity could be achieved by eliminating licence conditions that duplicate regulations.

6. Are there opportunities where the CNSC can provide greater assistance to applicants and licensees to understand what they must do to comply with CNSC's regulatory requirements?

The Regulatory Document process

The different processes used to introduce a new or amended regulation and to introduce a new prescriptive requirement reduce the effectiveness of the regulatory regime. Further, this differentiation does not assist licensees or applicants in complying with requirements.

Practically, a prescriptive requirement is nothing more than regulation by another name. As such, we suggest these requirements should be subject to the same analysis and review as a regulation. Section 7 of the Cabinet Directive on Regulatory Management (Directive) recommends, as a matter of good regulatory practice, that it should be followed by federal entities not under the general authority of Cabinet. The Directive adopts the Regulatory Impact Analysis Statement (RIAS) as the initial step in developing a new regulation. The RIAS considers the overall impact of the proposed regulation on the health, safety, security and the environment and on businesses. It also requires the regulator to assess the quantitative and qualitative benefits and costs when deciding whether and how to regulate.

Although the CNSC Regulatory Framework includes "analyze the issue" as the first step in the Regulatory Document development process, this is not analogous to the RIAS. CNSC states that purpose of this step is to identify the regulatory issue to be addressed and then determine the scope and purpose of the project. There is, however, no systemic framework or defined criteria for evaluating the range of options available to meet a need - including taking no steps or using another regulatory instrument; there is no requirement that a cost-benefit analysis be completed; there is no opportunity for stakeholders to comment on alternate options or to identify more urgent priorities; and, there is insufficient information provided for meaningful consultation.

The Directive recognizes that the publication of the RIAS in the Canada Gazette is not a substitute for meaningful consultation. In our view, posting a draft Regulatory Document for

consultation without allowing participation in the analysis step is contrary to good regulatory practice and it devalues the usefulness of the entire consultation process.

In our view, all proposed requirements, whether regulations or prescriptive requirements in Regulatory Documents, should be subject to a RIAS-like approach and should include early consultation based on a consultation notice. This notice should include:

- why a new requirement is needed or what need it will meet
- the cost-benefit analysis - what will be gained and why the option proposed maximizes net benefits
- how the new requirement fits in with existing regulatory regime and whether any consequential changes are anticipated; and
- proposed alternatives for achieving compliance.

Stakeholders would then have the factual foundation upon which meaningful contributions could be made before significant resources are expended and when contributions from stakeholders can provide the most valuable input.

We also anticipate that identifying how the proposed Regulatory Document affects health, safety, security or the environment and a cost-benefit analysis would delineate unnecessary prescriptive requirements from those that should be incorporated into performance-based regulations.

CNSC's *Interpretation Policy* states that CNSC uses Discussion Papers to engage with stakeholders when CNSC proposes to exercise its authority in a new area or a new way. It does appear discussion papers are used when CNSC proposes new regulations. We have, however, observed that Regulatory Documents are often published without consultation even when CNSC is proposing a significant change and the consequences on the licensees and applicants may be as significant as a change in a regulation.

We are not suggesting that an overly complex process is necessary for all types of proposed requirements. What we would propose is that the level of scrutiny should be proportional to the nature of the requirement proposed. A purely administrative requirement may require a short published statement of intent with a rationale for the requirement and a short comment period. In contrast, an operational requirement that will require licensees and applicants to invest significant resources to achieve compliance or a requirement that signals a significant shift in policy would be at the other end of the process spectrum.

Dual-use Regulatory Documents


Regarding the use of a common document to provide both requirements and guidelines, in our view, the proper scope of a Regulatory Document should be as described in the CNSC Regulatory Framework Overview. That is to "explain to licensees and applicants what they must achieve in order to meet requirements set out in the NSCA and the regulations made under the NSCA." The Regulatory Document, however, is defined by CNSC to be one in which "both requirements and guidance are included in a single document and distinguishes between both

through the use of mandatory (e.g., shall, must) and non-mandatory (e.g., should, may) language.”

Combining requirements with guidelines, recommendations or policies and then relying on mandatory and non-mandatory language alone to distinguish between them in one document can obscure fundamental regulatory changes and create confusion and uncertainty. Licensees and applicants are then left with the task of identifying and extracting requirements from recommendations or guidelines. Cameco would urge the CNSC to clearly separate requirements from guidelines, recommendations or policies – and, in our view, requirements should be left more often to regulations or licence conditions.

Cameco would be pleased to respond to any further questions. Please contact the undersigned at (306) 956-6685 or liam_mooney@cameco.com.

Sincerely,



R. Liam Mooney
Vice-President
Safety, Health, Environment, Quality & Regulatory Relations
Cameco Corporation

c: M. Rinker,, J. LeClair,, UMMD - CNSC
Regulatory Records - Cameco