

June 30, 2015

NK21-CORR-00531-12197  
NK29-CORR-00531-12619  
NK37-CORR-00531-02433

Mr. B. Torrie  
Director General, Regulatory Policy Directorate  
Canadian Nuclear Safety Commission  
P.O. Box 1046  
280 Slater Street  
Ottawa, Ontario  
K1P 5S9

Dear Mr. Torrie:

Bruce Power Comments on Discussion Paper DIS-15-01:  
Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations

The purpose of this letter is to provide the CNSC with Bruce Power's feedback on Discussion Paper DIS-15-01: *Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations*. Bruce Power believes that there is an opportunity to improve the clarity and consistency of the *Nuclear Non-proliferation Import and Export Control Regulations* (NNIECR) that has been largely achieved through the proposed amendments.

The proposal is very much in line with the Government of Canada's Red Tape Reduction Action Plan. The proposed amendment to the *General Nuclear Safety and Control Regulations* in section 2.5, for example, removes the needless administrative burden associated with intangible technology transfers. These transfers currently require the presentation of an import or export licence to a customs officer when importing or exporting prescribed information and for every transaction under the licence.

That said, the NNIECR overlap with the "Group 3: Nuclear Non-Proliferation List" and "Group 4: Nuclear-Related Dual-Use List" in the Export Control List that is included in *A Guide to Canada's Export Controls* and administered by the Department of Foreign Affairs, Trade and Development (DFATD). DFATD's General Export Permit numbers GEP-43 and GEP-44 provide some relief from the duplication, but it is unclear how having two regulatory agencies regulating the same items for import and export satisfies the Red Tape Reduction Action Plan.

Furthermore, the items listed in the schedules under the NNIECR are required to have both an export permit number from the DFATD and an export licence number from the CNSC. Items imported under the NNIECR also require both an import permit number from DFATD and an import licence number from the CNSC. However, the licensee only provides annual reports to the CNSC under the export licence. Regardless, there are clearly some opportunities for further streamlining.



Bruce Power would also caution that there is the potential for the trans-boundary duplication of regulatory permitting and approvals processes between Canada and the United States. When transporting radioactive materials across the border, licensees must obtain approvals for the export and import of such materials from the responsible agencies in each of the respective countries. The approvals or permitting processes are separate and different processes and have a number of inconsistencies. Bruce Power encourages the United States – Canada Regulatory Cooperation Council to continue their efforts to align the two regulatory approaches.

Finally, Bruce Power would like to draw your attention to the list of suggested amendments to the NNIECR in Attachment A, Section 2 and 9 of Reference 1. As noted, some of these recommendations will be addressed through the proposed amendments in DIS-15-01.

If you require further information or have any questions regarding the recommendations, please contact Maury Burton, Manager, Nuclear Regulatory Affairs, at 519-361-5291.

Yours truly,

Frank Saunders  
Vice President Nuclear Oversight and Regulatory Affairs  
Bruce Power

Attach.

cc: CNSC Bruce Site Office - (letter only)  
K. Lafrenière CNSC – Ottawa  
B. Howden CNSC – Ottawa  
United States – Canada Regulatory Cooperation Council  
CNSC - Consultations

Reference:

1. Letter, F. Saunders to B. Torrie, "Bruce Power Comments on Discussion Paper DIS-14-02: Modernizing the CNSC's Regulations", May 29, 2015, NK21-CORR-00531-12127 / NK29-CORR-00531-12538 / NK37-CORR-00531-02417.

**Attachment A**

**Bruce Power Comments on Discussion Paper DIS-15-01:  
Proposal to Amend the Nuclear Non-proliferation Import and Export Control  
Regulations**

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**Bruce Power Comments on Discussion Paper DIS-15-01:  
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Regulations**

**2. General Nuclear Safety and Control Regulations**

GNSCR s.18 requires the licensee to present the import or export licence to a customs officer when importing or exporting a nuclear substance, prescribed equipment or prescribed information. With respect to electronic transactions involving prescribed information, this requirement is being met (with CNSC agreement) by submitting the licence to Canada Border Services Agency in advance of the first import or export transaction, but not for every transaction under the licence.

Bruce Power recommends that s.18 be amended to be less prescriptive in how these communications are carried out, or to exempt all electronic transactions involving prescribed information from the requirement. For example, GNSCR s.18 could be revised to exempt electronic import and export transactions involving controlled nuclear information under the *Nuclear Non-proliferation Import and Export Control Regulations* and other prescribed information under the NSCA.

The GNSCR or the NSRDR should also be revised to provide a clearer process for the application for a licence to export a nuclear substance. There is currently no clear process for a one-off licence to export nuclear substances (also see Section 9 of Attachment A). The regulations do not adequately address standalone licences for the import or export of nuclear substances. There should be some specific instructions for obtaining a licence of this type under the GNSCR or possibly the NSRDR. The requirements in Section 3(1) of the GNSCR are onerous for a licence of this type and an exemption should be included in subsection (2), or a standalone nuclear substance import or export licence should be established.

**9. Nuclear Non-proliferation Import and Export Control Regulations**

S. 26(a) of the *Nuclear Safety and Control Act* establishes the following: “26. Subject to the regulations, no person shall, except in accordance with a licence, (a) possess, transfer, import, export, use or abandon a nuclear substance, prescribed equipment or prescribed information.” However, Bruce Power has encountered a situation where the import and export of prescribed information related to a Class IA nuclear facility was not subject to the security measures and requirements of the *Nuclear Non-proliferation Import and Export Control Regulations* (NNIECR). Consequently the licence application requirements for these import and export licenses defaulted to the requirements of the GNSCR s.3. The GNSCR s.3 requirements are inconsistent with the information, which we understood was required by the CNSC to process the applications.

The NNIECR licensing requirements are limited to the import and export of controlled nuclear information as defined in s.1(1) of the NNIECR. Bruce Power recommends that the scope of the NNIECR be expanded to include the import and export of all prescribed information under the NSCA so that the licence application requirements are consistent for all such import and export activities.

Bruce Power has also encountered situations concerning the import and export of nuclear substances that exceeded the exemptions established in s.5(1) of the NSRDR and where the requirements of the NNIECR and INFO-0791, Control of the Export and Import of Risk-Significant Radioactive Sources, did not apply. Consequently the licence

application requirements for these import and export licenses defaulted to the requirements of GNSCR s.3 and NSRDR s.3. GNSCR s.3 and NSRDR s.3 do not establish requirements consistent with the information required by NNIECR s.3, which the CNSC requires to process the applications.

Bruce Power recommends that the scope of the NNIECRs be updated to include the import and export of all nuclear substances for which there are no exemptions available under NSRDR s.5 and that the NNIECR licence application requirements to be updated accordingly. Alternatively, the NSRDR could be updated to include the additional information required by the CNSC in respect of applications involving the import or export of non-exempt nuclear substances that are not subject to the NNIECR.

INFO-0791 establishes requirements for licence applications that are inconsistent with and/or exceed the requirements of GNSCR s.3, NSRDR s.3, and go beyond the scope of the NNIECR. Bruce Power believes that it is inappropriate for an INFO document to establish requirements, particularly requirements that are inconsistent with or beyond the requirements outlined in the regulations. According to s.26 (a) of the NSCA, "26. Subject to the regulations, no person shall, except in accordance with a licence, (a) possess, transfer, import, export, use or abandon a nuclear substance, prescribed equipment or prescribed information."

Bruce Power recommends that the scope of the NNIECR be amended to include the import and export of risk-significant radioactive sources and that the licence application requirements in the NNIECR be updated accordingly. Alternatively, the NSRDR could be updated to include the additional information required by the CNSC in respect of applications involving the import or export of risk-significant radioactive sources (i.e., non-exempt nuclear substances) that are not subject to the NNIECR.