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June 8, 2015

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

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REFERRED TO	Torrie, B.
REFERÉ À	

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ADMINISTRATION

Dear Mr. Torrie:

Subject: NB Power Comments on DIS 15-01 - Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations (NNIECR)

The purpose of this letter is to provide NB Power's comments on DIS 15-01 Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations (NNIECR) (Reference 1). NBP has collaborated with Chalk River Laboratories, Bruce Power, Ontario Power Generation and Canadian Nuclear Association to review the proposed regulatory discussion paper in detail.

NBP is supportive of this initiative to streamline the process of import/export control regulations. There are some concerns that require further discussion. Comments have been provided (Attachment 1) recommending changes for improving the overall regulatory process.

NB Power appreciates the opportunity to provide comments on this regulatory paper and is prepared to clarify our comments and concerns. If you require additional information, please contact Jason Nouwens at 506-659-6687 or JNouwens@nbpower.com.

Sincerely,

Sean Granville
Site Vice President and Chief Nuclear Officer



SG/JN/sd

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cc. Ben Poulet, Pierre Bélanger, Lisa Love-Tedjoutomo, Bruno Romanelli (CNSC - Ottawa),
consultation@cnscccsn.gc.ca
CNSC Site Office
Al MacDonald, Jason Nouwens, Scott Demmons, Leon Payne, Jennifer Allen, Joe
Valardo (NBP)

Reference:

1. News Release from CNSC, *CNSC invites comments on discussion paper DIS-15-01, Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations*, March 4, 2015.

Attachment:

1. Industry Responses to the Question Posed in Discussion Paper DIS: 15-01, Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations (NNIECR).

Comments on DIS 15-01, Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations (NNIECR)

#	Document section/ excerpt of section	Industry issue	Suggested change(if applicable)	Major Comment/ request for clarification ¹	Impact on industry if major comment
1	<p>Section 1:</p> <p>The NSG Guidelines, including control lists, are implemented by each Participating Government in accordance with its national laws and practices. While the mechanisms vary, there is an understanding that best efforts be made to effect implementation as soon as practicable, in order to avoid discrepancies or differences among export controls and possible proliferation risk. In Canada, implementation is done via incorporation into the schedule of the <i>Nuclear Non-proliferation Import and Export Control Regulations</i>, and into the <i>Export Control List</i> administered by the Department of Foreign Affairs, Trade and Development (DFATD).</p>	<p>The schedules in the <i>Nuclear Non-proliferation Import and Export Control Regulations</i> overlap in their entirety with the Group 3: Nuclear Non-Proliferation List and Group 4: Nuclear-Related Dual-Use List in the Export Control List, which is included in A Guide to Canada's Export Controls.</p> <p>It is unclear how this approach whereby the same items are regulated for export controls by the CNSC and DFATD satisfies the Government of Canada's Red Tape Reduction Action Plan.</p>		Clarification	
2	<p>Section 2.1</p> <p>The CNSC proposes to clarify the description of technology found in A.4.1 and B.3.1 to address</p>	<p>The proposed new definition does not provide a definition of "intangible technology transfer".</p>	<p>Suggest including a note that defines "intangible technology transfer", using the definition from the Export Controls Handbook (E.3.7.3 Intangibles):</p>	Major	

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	intangible technology transfer.		<p>“Certain types of products lend themselves to exportation by intangible means, such as: software and source code, services, and other technology. Exports by intangible means may occur by way of, for example:</p> <ul style="list-style-type: none"> • provision of services or training • downloads or other electronic file transfers • e-mails • faxes • telephone conversations • face-to-face meetings” 		
3	Section 2.5 Prescribed information	Deleting the term “prescribed information” from Section 18 of the General Nuclear Safety and Control Regulations is desirable to address the impracticality of presenting the import or export licence to a customs officer for intangible transfers. However, the proposed change to Section 18 also means that tangible transfers of prescribed information will not be subjected to the same requirements as tangible transfers of nuclear substances or prescribed equipment.	Clarity is required regarding whether presenting the import or export licence to a customs officer is intentionally being dropped for tangible transfers of prescribed information.	Major	
4	Section 2.5 Prescribed information	Section 21 of the General Nuclear Safety and Control Regulations does not specify that prescribed information can include controlled nuclear information from Sections A.4 and B.3 of the <i>Nuclear Non-proliferation</i>	Clarify Section 21 (1)(a) and (1)(b) of the General Nuclear Safety and Control Regulations with respect to controlled nuclear information from the <i>Nuclear Non-</i>	Major	

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		<i>Import and Export Control Regulations.</i>	<i>proliferation Import and Export Control Regulations</i> as prescribed information for the purposes of the General Nuclear Safety and Control Regulations.		
5	Section 2.5 Prescribed equipment	Section 20 of the General Nuclear Safety and Control Regulations does not specify that prescribed equipment includes controlled nuclear substances and controlled nuclear equipment from Sections A.1, A.2, A.3 B.1 and B.2 of the <i>Nuclear Non-proliferation Import and Export Control Regulations</i> .	Clarify Section 20 (d) of the General Nuclear Safety and Control Regulations to refer to controlled nuclear substances and controlled nuclear equipment from the <i>Nuclear Non-proliferation Import and Export Control Regulations</i> as prescribed equipment for the purposes of the General Nuclear Safety and Control Regulations.	Major	
6	General	Section A.3 of the NNIECR has not been revised. This section talks about "parts" for controlled nuclear equipment identified in paragraphs comprising Section A.2. The issue is one of clarification, and is described as follows. Section A.2 lists controlled nuclear equipment that requires an import or export licence. Example: Section A.2.1.7, Primary Coolant Pumps. In practice, if a utility wishes to export a primary coolant pump outside of Canada for refurbishment, an export licence is required. However, if the utility wishes to export a primary coolant pump <u>impeller</u> , the impeller is considered a "part" of Section A. 2.1.7. (The applicable	Are all sub-components of controlled nuclear equipment identified in Section A.2 considered to be a "part" for the purposes of Section A.3? For example, is a pressure gauge that is attached to an item in Section A.2 that can be readily purchased by the public considered to be a "part"?	Clarification	

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		<p>Section of the NNIECR is critical information to be included in the licence application form.)</p> <p>It would be beneficial if there was some guidance as to what constitutes a "part" of a component in Section A.2 – and thereby requiring an import/export licence – and what does not constitute a "part" – thereby not requiring an import/export licence.</p>			
7	2.4	<p>Standardized record retention amongst regulation. Proposal of 6 six year record retention does not align with other regulations (e.g., Class 1 Nuclear Facilities = 10 years; Nuclear Substances & Radiation Devices = 3 years)</p>	CNSC to standardize record retention timeframe between various regulations.	Clarification	Ability to standardize