

Belyea, Sean

From: Consultation
Sent: Thursday, July 02, 2015 1:08 PM
To: Belyea, Sean
Subject: FW: OPG Comments on CNSC Discussion Paper DIS 15-01 Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations
Attachments: OPG Comments on DIS 15-01 Proposed Amendments to NNIER.pdf

-----Original Message-----

From: MANLEY Robin -NUCLEAR [<mailto:robin.manley@opg.com>]

Sent: Thursday, July 02, 2015 12:25 PM

To: Torrie, Brian; Consultation

Cc: CHACHEL Robert -NUCLEAR; THURSTON Anna -REL EST SRVC; MITCHELL Leslie -NUCLEAR; REYNS Roberta - SUPPCHAIN; TULK Lonny -SUPPCHAIN; HARRIS Elaine -NUCLEAR; 'Keith Garel'

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

OPG Proprietary

CD# N-CORR-00531-06953

Dear Mr. Torrie:

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

The purpose of this email is to provide OPG's comments on CNSC Discussion Paper 15-01, Proposal to Amend the Nuclear Non-proliferation Import and Export Control Regulations. OPG and its industry partners have reviewed the discussion paper and the following point summarizes the major concerns.

- * Clarification is required regarding whether presenting an import or export licence to a customs officer is intentionally being eliminated for tangible transfers of prescribed information.
- * Clarification is required for Sections 20 and 21 of the General Nuclear Safety and Control Regulations with respect to prescribed information and prescribed equipment, respectively, and how they are defined in the Nuclear Non-proliferation Import and Export Control Regulations.

Our detailed comments on DIS 15-01 are provided in the attached pdf file.

Please contact Bob Chachel at 905-839-6746 ext 4052 if you have any questions.

Thank you.

Robin Manley
Director, Nuclear Regulatory Affairs and Stakeholder Relations OPG

OPG 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	Section 1: "The Nuclear Suppliers Group 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)."	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. 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.		Clarification	
2	Section 2.1: The CNSC proposes to clarify the description of technology found in A.4.1 and B.3.1 to address intangible technology transfer.	The proposed new definition does not provide a definition of “intangible technology transfer”.	Suggest including a note that defines “intangible technology transfer”, using the definition from the Export Controls Handbook (E.3.7.3 Intangibles), i.e., “Certain types of products lend themselves	Major	Without a clear definition this could lead to confusion in the future

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			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: • provision of services or training • downloads or other electronic file transfers • e-mails • faxes • telephone conversations • face-to-face meetings”		
3	Section 2.4 Records Retention	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)	CNSC to standardize record retention timeframe between various regulations.	Clarification	Ability to standardize.
4	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	Without a clear understanding regarding presenting the import or export licence to a customs officer for tangible transfers of prescribed information, there could be confusion

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#	Document section/ excerpt of section	Industry issue	Suggested change(if applicable)	Major Comment/ request for clarification ¹	Impact on industry if major comment
					in the future
5	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 Import and Export Control Regulations</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-proliferation Import and Export Control Regulations</i> as prescribed information for the purposes of the General Nuclear Safety and Control Regulations.	Major	Clarify the relationship between prescribed information and controlled nuclear information to avoid confusion in the future.
6	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	Clarify the relationship between prescribed equipment and controlled nuclear substances and equipment to avoid confusion in the future.
7	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	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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		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 Section of the NNIECR is critical information to be included in the licence application form.)	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.		