

June 8, 2016

NK21-CORR-00531-12878
NK29-CORR-00531-13334
NK37-CORR-00531-02568

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

**Bruce Power comments on Discussion Paper DIS-16-01:
How the CNSC Considers Information on Costs and Benefits**

The purpose of this letter is to provide Bruce Power's comments on this discussion paper, which describes the CNSC's expectations for the submission of cost-benefit information. This feedback was developed in consultation with our industry peers at Ontario Power Generation, Cameco, NB Power and Canadian Nuclear Laboratories. Our detailed comments are listed in Appendix A along with responses to specific questions posed by the CNSC and suggestions to help improve guidance in any regulatory document that may result from this paper.

While it offers welcome flexibility on how licensees can calculate and submit cost-benefit implications to the regulator, the paper does not fully recognize the CNSC's own responsibility to gather, analyze and disclose this type of information. Nor does it recognize the true impacts and practical realities licensees face when new regulations and regulatory documents are introduced or existing ones amended.

Rather, it places the onus on industry to calculate cost-benefit impacts to nuclear regulations and regulatory documents, though other federal agencies routinely conduct these analyses to better inform their regulatory proposals. The paper says the CNSC must apply cost-benefit information and estimates to produce a Regulatory Impact Analysis Statement (RIAS), but fails to say how it will perform this analysis. This is significant since impact statements produced to date have been superficial with essentially no details on costs or measurable benefits.

While industry accepts its own role to help analyze cost-benefit implications of regulatory changes, resources have limits, regulatory demands continue to rise and effective cost-benefit analyses are often complex, time-consuming products to create. Faced with these realities, industry is concerned it will have to carry the full burden of producing meaningful cost-benefit analyses. While appropriate for licensing matters, it is not for new or amended regulatory documents and may require licensees to divert key resources from other areas to compile and present these studies.

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To accurately reflect the dual responsibilities licensees and the CNSC have in this area, Bruce Power, and the industry, recommend the CNSC introduce a true RIAS step into its document process in keeping with expectations in government policies and guidelines such as the *Canadian Cost-Benefit Analysis Guide*, 'One-for-One' Rule and the *Cabinet Directive on Streamlining Regulation*.

Industry is also concerned this paper does not provide adequate time for licensees to consider cost-benefit implications or alternative strategies to proposed new or amended regulations and regulatory documents. Experience suggests feedback on impacts is only sought or considered once documents have been issued for public review, which leaves a very narrow window for meaningful analysis. This is a reactive, costly, resource-intensive and error-likely way of fact finding.

Bruce Power, and the industry, recommend the CNSC Introduce a period of time before significant regulatory framework changes are issued for public review so impacted stakeholders can discuss cost-benefit implications of planned documents as part of the process, not in reaction to it. Earlier industry involvement would ease time pressures and increase accuracy/fidelity of cost-benefit analyses. It would streamline approval processes and allow licensees to plan and properly allocate resources to address priority issues. It would also provide an opportunity for licensees to help the CNSC refine proposed regulations or suggest non-regulatory alternatives to address the issue at hand. While recent workshops have helped, experience shows documents issued for public review invariably mean the decision to proceed in some form is irreversible.

In addition to these two major comments, industry feels the paper lacks clarity on what type of decisions would require cost-benefit analysis and how they fit within the CNSC's mandate to protect health, safety, security and the environment. There is a concern, described in Appendix A, that even low-risk licensing decisions made by designated officers would call for a resource-intensive study, which appears contrary to the CNSC's own efforts to streamline bureaucracy.

Finally, industry feels the paper does not fully recognize the disclosure obligations and additional reporting burdens faced by some licensees. While it's appropriate for the CNSC to show how costs have been considered when public funds are used, some licensees are privately-held corporations and bound by disclosure protocols for information deemed material to the investment community. For these licensees, the regulatory burden will increase as they try to provide cost-benefit information in formats that respect CNSC expectations as well as disclosure laws, confidentiality agreements, contracts, etc.

Mr. B. Torrie

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Bruce Power thanks the CNSC for the opportunity to comment on this discussion paper and to share ideas to improve guidance and clarity in a meaningful way. If you require further information or have any questions regarding this submission, please contact Maury Burton, Manager, Nuclear Regulatory Affairs, at 1-519-361-5291.

Yours truly,

Frank Saunders
Vice President Nuclear Oversight and Regulatory Affairs
Bruce Power

cc: CNSC Bruce Site Office (Letter only)
K. Lafrenière, CNSC Ottawa
K. Owen-Whitred, CNSC Ottawa

Appendix

Appendix A

**Bruce Power comments on Discussion Paper DIS-16-01:
*How the CNSC Considers Information on Costs and Benefits***

Opportunities to Improve Guidance and Clarity

**Appendix A: Bruce Power comments on draft DIS-16-01: How the CNSC Considers Information on Costs & Benefits
Opportunities to Improve Guidance & Clarity**

#	Document/ Excerpt of Section	Industry Issue	Suggested Change (if applicable)	Major Comment/ Request for Clarification	Impact on Industry, if major comment
1	General	<p>While this paper offers welcome flexibility on how licensees can calculate & submit cost-benefit implications, it does not fully recognize the CNSC's own responsibility to gather, analyze and disclose this type of information.</p> <p>Nor does it recognize the true impacts and practical realities licensees face when new regulations and regulatory documents are introduced or existing ones amended.</p> <p>Specifically, the paper:</p> <ul style="list-style-type: none"> Places the onus on industry to calculate cost-benefit impacts to nuclear regulations and regulatory documents, though other federal agencies routinely conduct these analyses to better inform their regulatory proposals. While it does say the CNSC must apply cost-benefit information & estimates to produce a Regulatory Impact Analysis Statement (RIAS), the paper fails to say <i>how</i> it will perform this analysis. This is significant since impact statements produced to date, including the one cited in Section 3.4 regarding changes to Fitness-for-Duty regulations, have been superficial with essentially no details on costs or measurable benefits. Nor have they explicitly "requested feedback from stakeholders on the alternatives, costs and other potential impacts associated with new or recently amended draft regulatory documents" as indicated in the paper's Introduction. 	<p>To improve guidance and clarity in a meaningful way, we suggest the CNSC consider the following when it converts this discussion paper into a regulatory document:</p> <ul style="list-style-type: none"> Accurately reflect the dual responsibilities licensees and the CNSC have with regard to cost-benefit implications. This includes introducing a true RIAS step into the CNSC's document process in keeping with expectations in government policies & guidelines such as: <ul style="list-style-type: none"> <i>The Canadian Cost-Benefit Analysis Guide</i>, which requires authorities to show their regulatory approaches are superior to non-regulatory alternatives and "the benefits to Canadian outweigh the costs." The 'One-for-One' Rule, which requires federal departments to monetize the costs of proposed changes & provide feedback on the government's estimates of administrative burden costs or savings to business. <i>The Cabinet Directive on Streamlining Regulation</i>, which expects regulatory agencies to produce accounting statements to show how recommended options maximize "the net economic, environmental, and social benefits to Canadians, business, and government over time more than any other type of regulatory or non-regulatory action." 	<p align="center">MAJOR</p>	<ul style="list-style-type: none"> While industry accepts its role to help analyze cost-benefit implications, resources have limits, regulatory demands continue to rise & effective cost-benefit analyses are often complex, time-consuming products to create. Faced with these realities and the themes within this paper, licensees are concerned: <ul style="list-style-type: none"> They will have to carry the full burden of producing meaningful cost-benefit analyses since the paper is largely silent on the CNSC's own requirements. While appropriate for licensing matters, it is not for new or amended regulatory documents and may require licensees to divert key resources from other areas to compile and present these analyses. They will be required to gather and analyze cost-benefits implications within a short public review window. This is a reactive, costly, resource-intensive and error-likely way of fact finding. Earlier industry involvement in the process would: <ol style="list-style-type: none"> Ease time pressures and increase accuracy/fidelity of cost-benefit analyses. Streamline approval processes. Allow licensees to plan & properly allocate resources to address priority issues. Provide an opportunity for licensees to help the CNSC refine proposed regulations or propose non-regulatory alternatives to address the issue at hand. <ol style="list-style-type: none"> While recent workshops have helped, experience shows documents issued for public review invariably mean the decision to proceed in some form is irreversible

Appendix A: Bruce Power comments on draft DIS-16-01: How the CNSC Considers Information on Costs & Benefits Opportunities to Improve Guidance & Clarity

# Document/ Excerpt of Section	Industry Issue	Suggested Change (if applicable)	Major Comment/ Request for Clarification ¹	Impact on Industry, if major comment
	<ul style="list-style-type: none"> Does not appear to recognize the need to provide adequate time for licensees to consider cost-benefit implications or alternative strategies to proposed new or amended regulations and regulatory documents. Experience suggests feedback on impacts is only sought or considered once documents have been issued for public review, which leaves a narrow window for meaningful analysis. Lacks clarity on what type of decisions would require cost-benefit analysis and how they fit within the CNSC's mandate to protect health, safety, security and the environment. Licensees appreciate cost-benefit information that demonstrates significant risk to any of those elements and accept their responsibility to fund improvements to reduce those risks. However, as currently written, even low-risk licensing decisions made by designated officers would call for a resource-intensive study, which appears contrary to the CNSC's own efforts to streamline bureaucracy. 	<ul style="list-style-type: none"> Introduce a period of time <i>before</i> significant regulatory framework changes are issued for public review so impacted stakeholders can discuss cost-benefit implications of planned documents as <i>part</i> of the process, not in <i>reaction</i> to it. This complements previous industry feedback on discussion paper <i>DIS-14-02: Modernizing the CNSC's Regulations</i>. Clearly describe what type of decision would benefit from a cost-benefit analysis from the CNSC <i>and</i> the impacted licensee and how it fits within the CNSC's mission. Any regulatory document emerging from this paper should recognize that licensees who satisfy the CNSC's health, safety, security & environmental requirements for a particular issue are not obliged to develop an accompanying cost-benefit study, though they may choose to include one to demonstrate compliance. Provide guidance on how licensees can submit meaningful cost-benefit information to the CNSC while protecting commercially-sensitive material and disclosure obligations. Provide more context and qualifiers if examples like those cited in Section 2 are to be included in future regulatory documents. For instance, licensees would benefit from knowing why the CNSC believed costs were relevant to a described issue and how costs fit into its mandate. Examples should also be preceded with a qualifying statement that issues or solutions described may not apply to all facilities depending on design differences or other alternatives implemented. 		<ul style="list-style-type: none"> Efforts such as the red tape reduction action plan may be undone if detailed cost-benefit analysis is required for changes or new activities at operations that are already within the site's licensing basis. The regulatory burden will increase for privately-owned licensees forced to provide cost-benefit information in a format that respects both disclosure laws and CNSC expectations. The paper is unclear how costs and cost projections, which are often commercially confidential, would factor into many CNSC decisions under the Nuclear Safety and Control Act. Nor does it adequately appreciate that some licensees are accountable to shareholders on project costs and unable to disclose certain details of cost-benefit analyses due to confidentiality agreements, contracts, etc.

**Appendix A: Bruce Power comments on draft DIS-16-01: How the CNSC Considers Information on Costs & Benefits
Opportunities to Improve Guidance & Clarity**

#	Document/ Excerpt of Section	Industry Issue	Suggested Change (if applicable)	Major Comment/ Request for Clarification ¹	Impact on Industry, if major comment
		<ul style="list-style-type: none"> Does not recognize the disclosure obligations and additional reporting burdens faced by licensees that are privately-held corporations. While it's appropriate for the CNSC to show how costs have been considered when public funds are used, some licensees are bound by legal disclosure protocols for information in cost-benefit analyses that would be deemed material to the investment community. Does not effectively clarify, through the examples used in Section 2, how the CNSC considered cost-benefit information for decisions under the Nuclear Safety and Control Act. Some examples appear to indicate that effectiveness and cost may be unrelated while others are specific to the applicant and situation described and may not apply to other licensees. 			

Appendix A: Bruce Power comments on draft DIS-16-01: How the CNSC Considers Information on Costs & Benefits Opportunities to Improve Guidance & Clarity

RESPONSES TO CNSC QUESTIONS:

Question 1: Should any elements be added or removed from the draft guidance?

As far as industry is concerned, no additional guidance is needed to help stakeholders provide input to the CNSC. Rather, guidance should be added that clarifies how the CNSC will gather its own cost-benefit information and how it will use inputs provided by stakeholders. Specifically, details should be added that describe how the CNSC will produce meaningful Regulatory Impact Analysis Statements for regulatory documents. Elements should also be added that clarify how and why the CNSC would consider results of a cost-benefit analysis for decisions under the Nuclear Safety and Control Act other than changes to its regulatory framework.

Question 2: Are there other resources the CNSC should include in the draft guidance?

The CANDU Owners Group has produced a 2015 paper entitled *Cumulative Effects of Regulation – Cost Benefit of New Regulatory Requirements* that could serve as another potential resource.

Question 3: Is there a need for further discussion on methodologies or certain aspects of estimating costs in use by the Canadian nuclear sector?

Yes, this could be valuable if the CNSC is interested in engaging in a collaborative review of the relative benefits of potential regulatory changes, or improvement opportunities arising from other avenues. Similar work was done in the US as a pilot project between the Nuclear Regulatory Commission, the Nuclear Energy Institute and several licensees. Similarly, if CNSC would like further clarification from CNSC on any of the points raised by industry in this submission, licensees would be pleased to participate in discussions. However, if the CNSC's intent is as described in this discussion paper, where the decision-making remains entirely with the CNSC, then no additional discussion is needed at this time on methodology for licensees to estimate costs.

Question 4: Are there alternative ways of obtaining information on costs and benefits?

Yes, as described above, the onus should be on the regulator proposing new or revised regulatory requirements to perform a cost-benefit analysis. While the CNSC's regulatory document-making process should seek input from stakeholders, the obligation should not be on the stakeholders to perform the work when the change proposal -- as well as the decision authority -- rests entirely with the CNSC.

Question 5: Should the CNSC identify specific program areas in which the submission of a formal cost-benefit analysis by the applicant should be considered?

No. It is the responsibility of the applicant/licensee to demonstrate they are meeting regulatory requirements. Part of that demonstration may include cost-benefit information, but there should be no obligation for licensees to perform any particular kind or degree of cost-benefit analysis. Industry favours flexible, graded, risk-informed approaches. Besides, areas where costs are fundamental, such as financial guarantees, already have an existing framework to gather this information in a rigorous manner (e.g. Regulatory Guide G-206 Financial Guarantees for the Decommissioning of Licensed Activities).

Appendix A: Bruce Power comments on draft DIS-16-01: *How the CNSC Considers Information on Costs & Benefits* Opportunities to Improve Guidance & Clarity

Question 6: Did we miss anything?

As per question #1, it would be beneficial to include additional information on how CNSC staff use cost-benefit information in the development of new requirements in regulatory documents. The current impact statements indicate there is no cost-benefit information used at all as indicated in the following statements:

- REGDOC-2.9.1, *Environmental Policy, Assessments and Protection Measures* -- "As a result, the CNSC does not expect that significant additional information will be required from applicants or licensees, nor that significant additional cost will be incurred by the applicants or licensees."
- REGDOC-2.2.4, *Fitness for Duty* -- "Modifying existing programs and conducting additional documented analyses will impose immediate and longer-term financial costs on licensees. However, the CNSC believes the benefits of establishing regulatory clarity, strengthening the fitness-for-duty regulatory framework, and ensuring that workers' fitness for duty is managed for the purposes of nuclear safety and security justify the associated transitional impacts and costs on stakeholders."
- REGDOC-2.2.4, *Fitness for Duty: Managing Worker Fatigue* -- "CNSC staff believe the benefits of establishing regulatory clarity, strengthening the fitness for duty regulatory framework, and ensuring worker fatigue is managed for the purposes of nuclear safety and security justify the associated transitional impacts on stakeholders."

It is hard to understand how the impacts of these new requirements can be justified without first understanding the cost of implementation. While the impact statements do state objectives, they do not discuss what issue they are trying to resolve or demonstrate that there is a problem that requires resolution by adding additional requirements. In order to justify any increase in cost to licensees, there should be some demonstration of a need for the new requirements and proof the additional requirements are providing improved safety over the current situation. This is not currently captured by the impact statements issued to date.

It is also apparent from discussions with CNSC Staff that the intent of the impact statement was for the licensee to conduct some cost-benefit analysis of the impacts during the public comment period. This is an unusual, if not unique position as other government departments with which we are familiar, such as Environment and Climate Change Canada, conduct this analysis and industry strongly believes it should be conducted by the CNSC as well. Even if licensees were to conduct the analysis, the public comment periods are insufficient to generate a quality review.