

TU 06374  
TU 10800

March 29, 2016

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

Dear Mr. Torrie:

**Re: Comments regarding draft REGDOC 2.9.1 - 1 Environmental Policy, Assessments and Protection Measures (draft dated November 2015)**

NB Power appreciates the opportunity to provide comments to the CNSC on the draft Regulatory Document 2.9.1 1 *Environmental Policy, Assessments and Protection Measures*. We understand that this is a new draft of the Regulatory document that was initially issued in April 2014, and we recognize the effort taken to address our comments on the previous version.

As such, this version is an entirely new document, and has a new, much wider scope than the previous draft, and consequently much more extensive implications. It has evolved from a fairly simple document focused on high level policy and the environmental assessment process to an interpretation of almost every environmental management tool available to the CNSC. Due to the very broad scope of the new draft, NB Power strongly re-iterates its previous request that CNSC hold a workshop focused on this draft REGDOC and its place in the CNSC regulatory framework.

Following a detailed review of the draft, NB Power has identified opportunities to build on the positive aspects of this document, and some concerns that we feel need to be addressed prior to finalization. The following are those issues that we feel are the most significant, and we have attached a more extensive list in bullet form (Attachment A).

1. **Reinterpretation of CSA Standards and similar documents.** The draft REGDOC references many of the CSA 288 series of environment standards, some ISO standards and some existing REGDOCs. In doing so the text has often expanded, introduced new terminology, or slightly re-interpreted the requirements of those standards. This has introduced significant confusion, and concern about application of the CSA standards, in turn creating additional regulatory burden. If the CNSC wish to see changes to a Standard, it should be pursued through the well-established and agreed upon CSA revision process.

*Recommendation: remove any paraphrasing/reinterpretation of CSA standards and other regulatory documents.*

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2. **Environmental Assessment terminology.** The draft REGDOC uses the term environmental assessment when referring to the *Canadian Environmental Assessment Act* and when referring to the environmental protection measures under the *Nuclear Safety and Control Act*, and its related licensing process. This was an issue raised in our comments on the previous draft of the REGDOC, and our same concerns remain. Environmental assessments, per both the *Canadian Environmental Assessment Act* and the history of environmental assessments, are supposed to be a planning tool, conducted prior to significant planning decisions. Environmental assessments are not supposed to be tool used as part of ongoing licensing requirements. Furthermore, the Government of Canada in passing CEEA 2012 clearly meant that environmental assessments focus on major projects. The continued use of the phrase “environmental assessment” when referring the NSCA related licensing activities is misleading and sets an inappropriate expectation with CNSC clients.

With recent government announcements related to CEEA, it has, we believe, become even more important to ensure clarity and separation between CEEA related environmental assessment terminology and NSCA licensing terminology.

*Recommendation: remove all reference to environmental assessment in relation of licensing processes under NSCA and replace with reference to “protection of the environment”*

3. **Ecological Risk Assessment (ERA) and Environmental Assessment (EA).** The phraseology used in the draft REGDOC concerning ecological risk assessment and environmental assessment is very problematic, suggesting in several places that the two are essentially synonymous or that an ERA is part of an EA. This is further compounded by the use of EA when discussing licensing processes under NSCA (see previous comment). Although an EA may assist and inform an ERA, the two are separate and distinct processes.

*Recommendation: provide clarity when an ERA is required, and clearly articulate that and ERA is not a defacto requirement of an EA*

4. **New expectations** The Draft REGDOC introduces a number of requirements that are deserving of additional discussion and clarity before being introduced. A notable example is the new requirement that the operators use Best Available Technology Economically Achievable (BATEA). While in some instances this may appropriate, there is no guidance given as to how this requirement would apply or be demonstrated, or how to assess whether the technology is BATEA in the context of a specific facility or location.

*Recommendation: Prior to inclusion of such sweeping policy changes, engage stakeholders and develop better guidance concerning its application.*

We would encourage the CNSC to initiate a stakeholder workshop to discuss these issues in a fashion that will lead to a recognition of the excellent work done by both staff and licensees to ensure the future protection of the environment, and which could help identify areas where additional regulatory guidance would be beneficial.

If you have any questions or require any clarification concerning this subject, please contact Charles Hickman, Director Environment and Emergency Planning, at 506 458 3117 or [cnhickman@nbpower.com](mailto:cnhickman@nbpower.com).

Sincerely,



Brett Plummer  
Site Vice President and Chief Nuclear Officer

BP/CH/ch

cc. Ben Poulet, Pierre Bélanger, Lisa Love-Tedjoutomo, Bruno Romanelli (CNSC - Ottawa), [consultation@cnsccsn.gc.ca](mailto:consultation@cnsccsn.gc.ca)  
CNSC Site Office  
Michael Hare, Charles Hickman, Eric Gardner (NBP)

#### Attachment

1. Comments on Canadian Nuclear Safety Commission REGDOC 2.9.1 - 1 Environmental Policy, Assessments and Protection Measures (draft dated November 2015).

#### Reference

1. Canadian Nuclear Safety Commission REGDOC 2.9.1 - 1 Environmental Policy, Assessments and Protection Measures (draft dated November 2015).

## **Attachment A: Comments on Canadian Nuclear Safety Commission REGDOC 2.9.1 - 1 Environmental Policy, Assessments and Protection Measures (draft dated November 2015).**

- There are many instances where the draft paraphrases other CNSC requirements as opposed to simply referencing those documents (e.g. in relation to aboriginal relations, training and qualifications, risk, cost benefit analysis). The document would be improved by simply incorporating them by reference.
- Similarly, there are many instances where the draft paraphrases other CSA or ISO documents (introducing ambiguity or uncertainty) which would be addressed by incorporating them by reference. Section 4 is particularly notable in this respect, where in many instances the paraphrasing introduces and expands on the requirement of the actual CSA standard.
- Several CSA Standards are incorporated in such a fashion that they become requirements for all licensees. However, some licensees are not required to adhere to all these standards (CSA 288.6 for example). The document can be improved by clarifying the applicability of CSA Standards to different licensees, perhaps through a “table”.
- There is an opportunity to define an interface between the CNSC and provincial requirements. While it is clear that the CNSC has full jurisdiction over nuclear and radiological matters, this document could recognise provincial jurisdiction in non-nuclear areas, where there is often overlap or inconsistent requirements such as duplicative reporting.
- In areas that are primarily provincial jurisdiction (non-hazardous discharges) the document should recognise and accept that the province has likely issued Approvals that establish action levels and discharge limits, independent of CNSC or CSA requirements.
- The draft REGDOC refers to conducting an environmental assessment for all licensing applications. With the caveat that the “environmental assessment” terminology should be changed, the document could be improved by clarifying that this applies to applications that require Commission approval, but does not apply to applications that only require staff approval.
- The document discusses how the environmental processes interact with the NSCA licensing process, and would be improved by providing assurance that the environmental aspects would respect the current licensing timelines.
- The draft REGDOC discusses benchmarking, which is a fundamental aspect of the nuclear industry. However, the draft gives no guidance and sets no expectations about how this benchmarking is to be applied. It is an area that is addressed in licensees management programs, and CNSC should reference those processes to provide clarity of expectations.