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**UNRESTRICTED**

2014 April 29

Mr. Brian Torrie  
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Canadian Nuclear Safety Commission  
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1.01.02

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REFERRED TO REFÉRÉ À	Torrie, B.



Dear Mr. Torrie:

**Comments on Regulatory Document REGDOC-2.13.2,  
Import and Export**

AECL personnel have reviewed REGDOC-2.13.2, *Import and Export*, and have met with industry partners, AREVA-CAMECO, Ontario Power Generation, Bruce Power, and New Brunswick Power to discuss issues, challenges, and impact of this proposed regulatory document.

The comments on REGDOC 2.13.2 are contained in Attachment A. Those items highlighted in bold are considered of major importance to the Industry and need to be addressed to ensure that the document is acceptable.

If you require further information or have any questions regarding this submission, please contact me as below.

Yours sincerely,



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Attachment

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**Attachment A****Industry Comments on REGDOC-2.13.2, Import and Export**

#	Document Section/ Excerpt	Industry Issue	Suggested Change (if applicable )	Major Comment/ Request for Clarification	Impact on Industry, if major comment
1.	Section 4.2	<p><b>The domestic context</b></p> <p>In paragraph 3, one of the examples of items listed in Part A of the Schedule to the NNIECR is: "technology associated with any of the foregoing items." This is not clear. Certain exclusions (or inclusions) may surprise the industry. It is better to be clear.</p>	<p>There is a need to clarify what technology refers to, i.e., is it design, drawings, calculations, etc.?</p>	<p>Clarification</p>	
2.	Section 5.1	<p><b>Overview</b></p> <p>Although this section states that, among other things, the Designated Officer makes the decision to revoke a licence, no direction is provided on the process for doing so. It is not clear if the requirements to revoke a licence as specified in Section 6 of the General Nuclear Safety and Control Regulations applies in this case.</p>	<p>It is suggested that clarity be provided on the process to be followed when requesting a revocation of an import or export licence.</p>	<p>Clarification</p>	

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3.	Section 5.3	The term of the Export License or Import License.	Ideally it could be clearly stated that the term can be up to 5 years or the term of the sales agreement with a particular customer, whichever is longer. Export licenses should also be available for a single customer at multiple destinations in different countries.	Clarification	
4.	Section 5.4	<b>Licence amendments and transfers</b> This section identifies the conditions under which a CNSC import or export licence may be amended. Included in the list of conditions is a change to the recipient address. However, the section is silent with regard to a change in address of the Importer address, i.e., the "sender," not the recipient. Is an amendment to an Import licence required in this case?	It is suggested to identify in the list of conditions for which a CNSC import or export licence is amended, a change in the sender as well as recipient address.	Clarification	
5.	Section 5.4	<b>Licence amendments and transfers</b> Applications to amend licences should be made "well before" the amended licence is required. The timeline of "well before" is somewhat vague, given that Section 5.4, Processing time and service standards specifies explicit times in days for the CNSC to process licence applications, but not amendments.	It is suggested to provide more explicit timelines for submitting requests for licence amendments. For example: 15 days.	Clarification	

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6.	Section 5.6	<p>Non-CNSC export requirements</p> <p>Along with the export authorization required from the CNSC for nuclear and nuclear-related dual-use items, the export of these items may also be controlled by Foreign Affairs, Trade and Development Canada pursuant to the <i>Export and Import Permit Act</i> and its corresponding Export Control List.</p>	<p>Although this is not an issue that can be addressed by this REGDOC, industry would greatly appreciate a single permit/licensing process for exporting and importing Controlled Nuclear Substances, Equipment and Information.</p> <p>We suggest that the CNSC approach Foreign Affairs, Trade and Development Canada to initiate a common process that would link the Import and Export Permit Act to the Nuclear Non-proliferation Export and Import Controls Regulations. It would be our preference that there be one lead agency for this, that being the CNSC.</p> <p>This will ensure a full alignment of the regulatory process.</p>	Major	Having a lead agency that the application goes to and preferably only one permit/licence would greatly cut down the administrative burden of applying for multiple export permits/licences

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7.	Section 6.2	<p>Intangible technology transfers                      Export controls also apply to intangible transfers of controlled nuclear information; for example, in the case of controlled nuclear information (see A.4 and B.3 of the schedule to the NNIECR). Examples of intangible transfers include:</p> <ul style="list-style-type: none"> <li>• emails</li> <li>• face-to-face meetings</li> <li>• telephone conversations</li> <li>• provision of services or training</li> <li>• downloads or other electronic file exchanges</li> <li>• Intangible transfers still require export authorization.</li> </ul> <p>Applicants are encouraged to contact the CNSC to discuss how to obtain the appropriate authorization to proceed with these activities.</p>	<p>This section fails to address how to comply with Section 18 of the GNSCR, which requires the licensee to submit the licence to a customs officer upon the import or export of the substance, equipment or information. This is essentially impossible for electronic information exchange transactions that require a licence. It would be nice to have guidance on this this requirement from the GNSCR.</p> <p>We suggest that it could either be done by submitting the licence to the Canadian Border Services Agency by e-mail or a possible change to the GNSCR to address the electronic transfer of prescribed or controlled nuclear information. Guidance is also required with regard to the resultant issue of presenting a copy of the export licence to customs officers at the border (since transfer by electronic means eliminates any physical interchange with customs officers).</p>	Major	<p>A common form of export permit obtained by Licensees is to send controlled nuclear information in an electronic form (e-mail or by an electronic file exchange [FTP] site) for requests for proposals regarding the procurement of control nuclear equipment. Additional guidance to ensure full compliance would be helpful.</p>

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8.	Section 8.1	<p><b>Inspection activities</b></p> <p>Clarification is required in regard to:</p> <p>a) licensee documents that will be required during CNSC audits of electronic transfers of controlled nuclear information, e.g., the required documents/evidence that will fulfill the role of the shipping-related documents and custom declarations;</p> <p>b) the meaning of “inventory control documents” when a transfer involves only controlled nuclear information. For example, it is not clear what type of documents need to be maintained by licensees, or the documents retention period.</p> <p>c) the process to be used for compliance with the export/import permits for electronic transfer of controlled nuclear information.</p>		Clarification	

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9.	Appendix A	The second bullet point states “The customer is reluctant to provide information about the end use of the item or refuses to provide an end use statement.” However, an “end-use statement” is not mentioned in the document, and thus does not seem to be a requirement of the export licence procedure.	Clarify the document on this point.	Clarification.	
10.	Glossary	Acronyms section would be useful so that all users of the document understands what each acronym means.	Add an acronym list with description of each item.	Clarification	
11.	General	Industry needs guidance on the use of cloud technology - would this be subject to import/export controls?		Clarification	