

**TU 06374  
PICA 14-1802**

April 28, 2014

Mr. Brian 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:

**Subject: NB Power Comments on REGDOC 2.13.2 – Import and Export**

The purpose of this letter is to provide NB Power's comments on REGDOC 2.13.2 – Import and Export (Reference 1). NBPN has collaborated with AECL, Bruce Power and Ontario Power Generation to review the proposed regulatory document in detail.

The main areas of concern are:

1. Additional guidance is required for electronic transfer of controlled nuclear information that is not processed through customs.
2. The need for a single permit/licensing process for import and export.

NB Power has also provided some additional comments that require clarification (Attachment 1). NB Power appreciates the opportunity to provide comments on this regulatory document and is prepared to clarify our comments and concerns. If you require additional information, please contact **Rick Gauthier** at 506-659-6236 or [rrgauthier@nbpower.com](mailto:rrgauthier@nbpower.com).

Sincerely,



Sean Granville  
Site Vice President and Chief Nuclear Officer

SG/RG/sd

cc. Ben Poulet, Pierre Bélanger, Karen Owen-Whitred, Lisa Love-Tedjoutomo, (CNSC - Ottawa), [consultation@cnscccsn.gc.ca](mailto:consultation@cnscccsn.gc.ca)  
CNSC Site Office  
Al MacDonald (NBP)

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**References:**

1. Canadian Nuclear Safety Commission, CNSC Invites Comments on Draft REGDOC-2.13.2, Import and Export, February 28, 2014.

**Attachment:**

1. PLGS Comments on REGDOC 2.13.2, Import and Export.

PLGS 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.	General	The draft REGDOC-2.13.2 does not address the electronic transfer of controlled nuclear information which does not go through the customs.	It is technically feasible for controlled nuclear information to pass across the Canadian border by electronic means, for example, by email. Guidance is required with respect to whether this is an acceptable means of exporting. 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).	Major	Addressing this issue will allow effective and timely communications between the licensees that execute large projects (e.g., refurbishment) and their overseas vendors, and will minimize the risk for potential violation of regulatory requirements.
2.	Section 4.2	The domestic context 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.	There is a need to clarify what technology refers to, i.e., is it design, drawings, calculations, etc.?	Clarification	Certain exclusions (or inclusions) may surprise the industry. It is better to be clear.
3.	Section 4.2	The domestic context The 4 <sup>th</sup> paragraph lists machine tools as an example of items listed in Part B of the Schedule to the NNIECR. This is not clear.	Machine tools has a wide spectrum and needs to be more specific in description and parameters.	Clarification	
4.	Section 5.1	Overview Although this section states that, among other things, the Designated Office makes the decision to revoke a licence, no direction is provided on	It is suggested that clarity be provided on the process to be followed when requesting a revocation of an import or export licence.	Clarification	

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		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.			
5.	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 is required	
6.	Section 5.4	Licence amendments and transfers 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 is 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	
7.	Section 5.4	Licence amendments and transfers Applications to amend licences should be made "well before" the amended licence is required. The	It is suggested to provide more explicit timelines for submitting requests for licence amendments. For example: 15 days.	Clarification	

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		<p>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.</p>			
8.	Section 5.6	<p>The DFATD has implemented General Export Permit 43 to reduce the paper burden for exporters for certain nuclear materials and equipment.</p>	<p>It is hoped that the CNSC can adopt a similar system for Export licenses especially for countries that have a NCA with Canada and have agreed to the IAEA non-proliferation agreement (NPT).</p>		
9.	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>	Major	<p>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</p>

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10.	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.</p>	Major	A common form of export permit obtained by NPPs 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.
11.	6.2 (intangible technology transfers)	Unclear how s. 18 of the GNSCR, which requires licensees to present the import or export licence to a customs officer on importing or exporting a nuclear substance, prescribed equipment, or prescribed information, applies to intangible technology transfers. CBSA's process for this is unclear.	Can the CNSC address how this process is to occur – this would greatly assist licensees.	Clarification	

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		Cameco also agrees with BP's comment on s. 6.2			
12.	Section 6.2	Intangible technology transfers It is not clear how to provide controls, or log of conversations, meetings, etc.	It is suggested that further clarity be provided surrounding the requirements of this section.	Clarification	
13.	8.1 (audits of licence conditions)	Section 8.1 refers to audits of licence conditions and notes that common conditions included in licences relate to action to be taken with respect to the CBSA in relation to s. 18 of the GNSCR. Do these conditions only apply to physical transfers? Or do they also apply to intangible technology transfers.	Can the CNSC include examples of such licence conditions in the document? And clarify whether the conditions apply to physical transfers only?		
14.	Section 8.1	Inspection activities Clarification is required in regard to: 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;  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		Clarification	

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		<p>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>			
15.	Section 8.2	<p>Disclosure of non-compliance It is not clear what the impact or penalty would be for non-disclosure of non-compliance.</p>		Clarification	<p>There may be increased burden on licensees if they are required to maintain logs of telephone calls, meetings, email exchanges, etc., in the event of any follow up due to non disclosure of a non-compliance.</p>
16.	Appendix A	<p>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.</p>	Clarify the document on this point.	Request for clarification.	
17.	Glossary	<p>Acronyms section would be useful so that all users of the document understands what each acronym means.</p>	Add an acronym list with description of each item.	Clarification	