



May 29, 2015

VIA EMAIL

Mr. Brian Torrie
Director General
Regulations Policy Directorate
Canadian Nuclear Safety Commission
PO Box 1046, Stn B
280 Slater Street
Ottawa ON K1P 5S9

Dear Mr. Torrie:

Re: AREVA Resources Canada Inc. (AREVA) Comments on the Canadian Nuclear Safety Commission (CNSC) Discussion Paper DIS-14-02, *Modernizing the CNSC's Regulations*

AREVA appreciates the opportunity to comment on Discussion Paper DIS-14-02, *Modernizing the CNSC's Regulations*. AREVA supports the efforts of the CNSC to modernize their regulations in the context of the Federal Government *Responsible Resource Development Plan* that was developed to ensure continued competitive and responsible resource development in Canada. AREVA believes that this review provides the opportunity to ensure the CNSC's regulations are risk-informed, promotes equivalency, minimizes duplication of existing regulatory processes, promotes efficiencies and have a clear purpose and scope. Please find our responses to the consultation questions below.

Responses

1. *Could the CNSC's regulations be changed to make them more efficient and effective in ensuring protection of the health, safety, security and the environment? How?*

Current regulations which govern the mining industry in various mining jurisdictions across Canada are protective of health, safety, security and environment, as demonstrated by the overall good performance of the Canadian mining industry. Under the *Nuclear Safety and Control Act* and associated regulations, the CNSC has been given a broad regulatory mandate befitting the oversight of the nuclear power industry. The CNSC provides unique expertise in the management and control of radioactive material to the uranium mining industry; however, the broad mandate and holistic approach to regulatory oversight by the CNSC results in overlap and duplication with the mandates of

other regulatory bodies governing the mining industry. With an objective of providing consistent oversight to the nuclear industry, the CNSC applies a regulatory approach designed for nuclear power plants (NPPs), which have significantly greater public health risk, to uranium mines and mills. The framework of nuclear safety and control areas designed for oversight of NPPs imposes a significant burden on uranium mining compared to other types of metal mining with limited additional benefit to worker or public safety, environmental performance or risk reduction. Imposing regulatory requirements on uranium mines and mills commensurate with NPPs falsely promotes the public perception that uranium mining and milling has comparable safety concerns as NPPs and has significantly greater risk compared to other mining operations in Canada. With radiological risk well managed, uranium mines have similar risk to other metal mining operations. We believe that the CNSC would improve efficiency and effectiveness by focusing on regulatory oversight of radiological aspects and looking to equivalency or reduction in duplication with other Federal and Provincial authorities. AREVA has numerous examples of reviews of small projects at our operations that are performed by both the Province of Saskatchewan and the CNSC, with the identical scope that are examples of overall duplication and unnecessary increased administrative burden.

2. Is the CNSC striking the right balance between performance-based regulation and prescriptive requirements? Are there specific regulatory requirements that do not seem to have the correct approach?

AREVA strongly supports the continued use and appropriateness of the Licence Condition Handbook (LCH) as an efficient and effective regulatory tool to better describe the expected performance of the licensee. However, AREVA believes there can be further advancements in achieving the right balance between performance-based and prescriptive-based approaches and that advancements towards the correct balance will be best achieved by making risk-informed determinations. *The Uranium Mines and Mills Regulations* contain a set of prescriptive regulations within Sections 9 through 15. An example where regulation is too prescriptive is the requirement under Section 14 to “post signs at all entrances to each area where the gamma dose rate exceeds 25 uSv/h”. Use of signage or other controls could be part of a performance-based obligation for licensees to keep radiation doses ALARA, social and economic factors considered. We believe other examples could be discussed through in depth workshops to review the suite of regulations.

3. Are you aware of opportunities for the CNSC to reduce administrative burden, without compromising safety?

Administrative burden is reduced whenever duplication is avoided. AREVA strongly supports regulatory equivalency through the utilization of existing regulatory processes or standards, when the



existing process is proven to be efficient. Lack of regulatory equivalency increases duplication or overlap of regulatory processes with an increase to cost, oversight and time to complete projects without realized positive benefits on safety and environmental performance.

A clear example of an increase in regulatory and administrative burden is the new environmental assessment process outlined in the CNSC REGDOC 2.9.1. After extensive consultation with the public, the Government of Canada adopted changes to the environmental assessment process, which introduced improvements to the process while remaining protective of the environment. AREVA is supportive of the changes introduced in the *Canadian Environmental Assessment Act 2012* (CEAA 2012) which has targeted reduced duplication of efforts. However, subsequent to CEAA 2012, it appears to AREVA that many of the efficiencies gained by the amended legislation may be lost by the CNSC introducing the intention to create another environmental assessment process within its licensing framework as indicated in REGDOC 2.9.1. As we stated in our comments on the proposed REGDOC, the processes outlined in Part A of REGDOC 2.9.1 have the potential to greatly increase the regulatory burden on licensees and increases the disparity between the environmental assessment requirements of the uranium mines and mills from other resource developers, without specific justification. A second recent example of duplication can be found in the proposed REGDOC 3.2.2 *Public and Aboriginal Engagement*. As expressed in our February 16, 2015 comments, the proposed REGDOC broadens the scope of Aboriginal engagement which heightens expectations and creates additional burden and costs on the licensees that is again without specific justification and is duplicate of existing Federal and Provincial guidance on Aboriginal engagement.

Another example of increasing administrative burden and cost without additional benefit to licensee performance is with the introduction of the CNSC's Independent Environmental Monitoring Program applicable to all Licensees. This additional compliance verification program, for uranium mines and mills duplicates the Province of Saskatchewan's Eastern Athabasca Regional Monitoring Program, which is a comprehensive regional monitoring program initiated in 2011 and the third party community environmental monitoring through the Athabasca Working Group for the Athabasca Basin communities.

Other opportunities to reduce administrative burden is to continue with the trend of longer licence terms. When the McClean Lake Operation's Operating Licence was renewed in 2008, AREVA was the first to ask for a 10 year licence. Although only an 8 year licence was granted, subsequent approvals for other Uranium Mines and Mills granted in 2013 have been for 10 year terms. As AREVA advocated in 2008, we believe that with the cost associated with construction of these facilities balanced by the powers afforded to the CNSC in the *Nuclear Safety Control Act*, including the right to suspend or revoke a licence, the CNSC should continue to consider longer licence terms.



Regarding CNSC's Staff's annual report to the Commission on the performance of uranium fuel cycle and processing facility that was introduced in 2012, AREVA supports this initiative to ensure that the Commission is aware of the activities of its Licensees; however, we request that CNSC monitors the scale of this endeavour, ensuring that the process does not become a large drain on the resources of the CNSC Staff and the Licensees through attendance and public participation.

Lastly, the CNSC could also reduce administrative burden without compromising its obligation for international safeguards through efficiencies introduced in CNSC's licences to import or export by also increasing the term and considering multiple destinations in a single licence. Presently, AREVA is granted an export licence for up to 3 years (at the discretion of the CNSC Nuclear Non-proliferation Officer) for each of its possible destinations. There are several different ways that the administrative burden could be reduced. A single export licence could be issued to AREVA for all of its export destinations; an export licence for the duration of a sales contract with the end user client for each of the customer's destinations; and/or longer licence terms tied either for the length of the sales contract or simply longer similar to Operating Licences (i.e. 10 year terms). Further, administrative burden could be further reduced if the CNSC aligned with the Department of Foreign Affairs, Trade and Development Canada (DFATDC)'s *General Export Permit No. 43 — Nuclear Goods and Technology to Certain Destinations*. DFATDC has created a general export permit where exporters no longer have to apply for one anymore for certain approved destinations.

4. *Is the CNSC making effective use of existing standards? Are there additional opportunities for the CNSC to reference standards in its regulations?*

It is AREVA's view that the CNSC could make better use of existing standards. AREVA is concerned with regulatory documents and planned regulatory documents that mirror existing or proposed standards prepared by the CSA. The CNSC, industry and the public participate in the development of these standards and as such, the CNSC should adopt and reference these standards rather than create duplicate regulatory documents. Attachment A to this letter presents a list of REGDOCs that are currently planned or are being considered for development that, in our view, will duplicate or overlap with the intent of existing or proposed CSA standards.

AREVA supports the use of international standards whenever possible to ensure global consistency within the industry. For example, the CNSC has made good use of the International Atomic Energy Agency (IAEA) *Regulations for the Safe Transport of Radioactive Material* within the *Packaging and Transport of Nuclear Substances Regulations*. However, we would suggest that the CNSC must be cautious in their objective of being a leading regulator by not confusing being best with being most stringent. It is AREVA's opinion that the best regulator achieves the objectives of protection to human

health and the environment with the least burden placed on industry or the taxpayer. The recent discussion paper DIS-12-02: *Process for Establishing Release Limits and Action Levels at Nuclear Facilities* which initially proposed using 0.05 mSv/a as a dose constraint would, if adopted, create additional higher standards for Canadian industry without true benefit to safety or the environment, putting Canada potentially at an economic disadvantage.

5. *Is the relationship between CNSC regulations and the obligations set forth in licences clear and straightforward? Would it be clearer to prescribe some standard licence conditions in regulations rather than in licences? If so, which ones?*

AREVA does not agree with prescribing standard licence conditions within regulations. It is our view that licence conditions belong in licences. As stated above, AREVA finds the Licence Condition Handbook (LCH) an effective and appropriately flexible regulatory tool which adopts a risk based approach and has made CNSC expectations clearer without being unnecessarily prescriptive. The LCH could however be simplified and clarified by removing redundant licence conditions already stated in regulations. While we have found the LCH to be helpful in elaborating on expectations related to license conditions, AREVA cautions that the LCH should not contain prescriptive statements which are not founded in a statutory requirement or licence condition. Prescriptive requirements on licensees must undergo the scrutiny and justification provided by the Regulatory Impact Analysis (RIA) process. RIA is discussed further in response to question 6.

6. *Are there opportunities where the CNSC can provide greater assistance to applicants and licensees understand what they must do to comply with the CNSC's regulatory requirements?*

AREVA does agree that REGDOCs are useful in providing guidance to licensees; however, in our review of the CNSC Regulatory Framework Plan, it is our opinion that the amount of REGDOCs being prepared is excessive, go beyond providing guidance and often overlap or duplicate existing efficient federal or provincial processes and existing standards. It would be clearer for licensees to keep the scope of the REGDOCs to guidance on achieving compliance rather than blending regulatory requirements within a guidance document. Also, seeing the dissimilarity between the risk related to nuclear power plants and uranium mines and mills, AREVA does not see the necessity of a consistent approach across the nuclear industry.

To promote regulatory equivalency and to ensure that the regulation is required to achieve its desired objectives or performance outcomes, the CNSC should conduct a thorough Regulatory Impact Analysis (RIA) as per the Cabinet Directive on Regulatory Management (2012) to evaluate the need of

any new regulatory requirement or REGDOC; properly defining the purpose and scope within the context of the CNSC's mandate of regulating the use of nuclear energy and materials to protect health, safety, security and the environment and to implement Canada's international commitments on the peaceful use of nuclear energy. The RIA should also outline the costs and benefits to the industry and the economy as required for federal regulations. In order to be transparent, the rationalization of the new regulatory requirement should be properly explained to licensees and other stakeholders during an early and meaningful consultation process.

Other Comments

AREVA would like to take this opportunity to provide comments on the CNSC's *Cost Recovery Fee Regulations*. It is our view that the CNSC could improve transparency in terms of cost recovery given that the current invoice format does not describe in detail the activities undertaken by the CNSC or broad categories of spend including research. AREVA recommends that the CNSC adopt an invoicing method that provides greater detail of the activities. This would allow AREVA to better understand and prepare for fee adjustments.

Summary

As discussed in this letter and in previous submissions, AREVA would like to reiterate that the CNSC should strive to avoid regulatory overlap where possible by recognizing current provincial and federal processes, existing standards and ensure a consistent risk-informed approach to the development of any new regulatory requirements or documents is applied. We understand that the CNSC intends this discussion paper to inform the CNSC on its next steps on regulatory reform. AREVA believes that the CNSC and industry would benefit from more opportunities to discuss different perspectives conducted prior to the discussion paper to better inform the CNSC on industry's perspective. AREVA would be pleased to participate in further workshops on this discussion paper DIS-14-02 or a full scale review of the CNSC's regulations.



We would be pleased to further discuss the modernization of CNSC regulations, or respond to any questions regarding this submission. Please contact the undersigned at tammy.vanlambalgen@areva.ca or (306) 343-4569.

Sincerely,

A handwritten signature in blue ink that reads 'Lambalgen' in a cursive script.

Tammy Van Lambalgen
Vice President, Regulatory, CSR & Legal

Enclosure

cc: J. Leclair, CNSC
ummd-dmucu@cnscccsn.gc.ca
consultation@cnscccsn.gc.ca

Attachment A

Table 1. List of REGDOCs that would Duplicate CSA Standards Sufficient for Uranium Mines and Mills

REGDOC	CSA Standard
REGDOC 2.1.1 Management System REGDOC 2.1.2, Safety Culture	N286, Management system requirements for nuclear facilities N286.0.1, Commentary on N286-12, Management system requirements for nuclear facilities N286.7, Quality assurance of analytical, scientific and design computer programs for nuclear power plants N286.7.1, Guideline for the application of N286.7-99 N286.10, Configuration management (in development) N299 QA Programs for Suppliers (in development)
REGDOC 2.8.1 Conventional Health and Safety	N286, Management System Requirements for Nuclear Facilities
REGDOC 2.10.2, Fire Protection	N293, Fire protection for CANDU nuclear power plants N393, Fire protection for facilities that process, handle, or store nuclear substances N1600, General requirements for nuclear emergency management programs
REGDOC 2.11.2, Decommissioning Planning	N286, management system requirements for nuclear facilities N292.1, Wet Storage of Irradiated Fuel and Other Radioactive Materials N292.2, Interim dry storage of irradiated fuel N292.3, Management of low-and intermediate-level radioactive waste N292.5, Guideline for the exemption or clearance from regulatory control of materials that contain or potentially contain, nuclear substances N294, Decommissioning of facilities containing nuclear substances