

Date: July 31, 2015.

To: Members of the Canadian Nuclear Safety Commission

Re: A New Approach to Nuclear Regulation in Canada

A Democratic Approach to Upgrading Nuclear Regulation

Those of us who have worked in radiation protection and nuclear regulation for most of our lives come to understand that regulation of materials is really regulatory control over the people who use those materials. Consequently, regulation is a form of governance.

In democratic societies, the people control their government, and any discussion of how to improve the nuclear regulatory process in Canada should first look at how the regulator operates within the democratic framework that Canadians support and expect.

Unfortunately, in the case of the nuclear regulator, the CNSC has been allowed to operate outside of Canada's nuclear laws. It's disturbing that Canada's nuclear regulator is not subject to the large inventory of regulations and constraints that apply to all other groups that are licensed to use nuclear materials. While the CNSC argues that, with the exception of one or two small licences, it does not own or use nuclear materials, it has usurped the propriety rights of 1800 licencees because it has been given full legal control over them by Parliament. They may not directly own significant quantities of nuclear material, but they do control Canada's entire national inventory of nuclear materials at all levels. The CNSC controls: which nuclear materials may be acquired, where and how they're used and disposed of (cradle to grave), and even who may use them. Though this control mechanism it shares the propriety rights of licencees, and its members should be personally subject to the same nuclear laws, ie: regulatory controls and legal consequences that it applies to all licencees. More disturbingly perhaps, the CNSC operates the national radiation protection program outside of nuclear laws. The national radiation protection program is in fact an umbrella program under which all other nuclear programs are controlled, yet the national program is not subject to Canada's nuclear laws. There is no legal obligation on the part of the CNSC to undergo annual audits by aggressive inspectors the way each Canadian licencee is annually. There is no legal obligation for the CNSC to investigate safety and security failures, or lack of diligence within its own organization.

Step 1

I believe that the first meaningful step toward improving nuclear regulation in Canada, and making it safer and more competent is to licence the CNSC organization, and hold each member accountable the same way each worker is held accountable within a licensed organization.

Step 2

The CNSC should be legally bound to consult the nuclear industry before it drafts its regulations. My 40 years of experience solving radiological problems in the nuclear industry informs me that in some cases licences create and operate nuclear programs that are far superior to the CNSC

performance on the national level. For example, the CNSC imposes a Shippers Declaration for Dangerous Goods that carries important safety information, but unfortunately that information is rendered unreadable for most Canadians that could respond to a roadside nuclear accident involving nuclear gauges because that vitally important safety information is written in TDG code. Some RSOs protect the Canadian public at a much higher level by providing another shipping document written in plain English, that not only gives clear information, but also explains the risks to a Canadian driver that stops to help an incapacitated driver in the case of roadside nuclear accident.

Step 3

The CNSC claims that it has become legally bound to international agreements, and must impose certain transport documents on the Canadian public. When those documents are deemed to be unsafe by RSOs who have a direct obligation to protect the public, then we are caught in an ethical dilemma created by inappropriate regulation. Local safety needs should have priority over any international obligations that do not recognize and respect Canadian safety needs. In its eagerness to appear cooperative with its international counterparts, I believe the CNSC has not been a good agent for Canadians, and has failed to protect our interests.

Step 4

Transparency and Accountability – Civilian Oversight is Needed

In 2010 I asked the CNSC for an accounting of what went wrong in 2008 when the PMO intervened in the business of the CNSC, and fired its CEO. I asked repeated how the CNSC had improved its performance since then, and I was provided were links to documents that gave the new regulatory position, but there was no attempt by the regulator to explain how things went wrong, to provide a before and after picture. That period became the most toxic regulatory period in Canada's history as millions of North Americans were deprived of important medical isotopes.

These are only a few of the real issues facing the CNSC as it begins another round of evaluating the national radiation protection program. I would be happy to provide more.

Steve Staniek, RSO