Canada's Nuclear Regulator

Proposed Amendments to Regulations Made Under the Nuclear Safety and Control Act

Discussion Paper DIS-13-02

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Preface

Discussion papers play an important role in the development of the regulatory framework and regulatory program of the Canadian Nuclear Safety Commission (CNSC). They are made public for a specified period of time, and are used to solicit early feedback from stakeholders on proposed CNSC policies or regulatory approaches. The use of discussion papers early in the regulatory process underlines the CNSC's commitment to proactive and transparent consultations.

This discussion paper seeks feedback from licensees, the Canadian public and other interested stakeholders on the CNSC's proposal to amend several regulations, including the *Class I Nuclear Facilities Regulations,* the *Class II Nuclear Facilities and Prescribed Equipment Regulations,* the *General Nuclear Safety and Control Regulations,* the *Nuclear Substances and Radiation Devices Regulations,* and the *Uranium Mines and Mills Regulations,* as well as the *Canadian Nuclear Safety Commission Rules of Procedure.*

These amendments are proposed in part to respond to recommendations made by the CNSC Fukushima Task Force; other changes are proposed to further strengthen and clarify the CNSC's regulatory framework.

The CNSC actively encourages all stakeholders to submit their views on the perceived impacts of these proposed amendments, including any potential administrative burden or costs, as well any reduction or savings, on small and large businesses. All feedback received from this early consultation will be thoroughly considered in determining the CNSC's regulatory approach.

Should the decision be made to move forward with the amendments proposed in this document, specific regulatory language will be developed, and the public and other stakeholders will have another opportunity to provide feedback and comments, as part of the *Canada Gazette* Part I consultation process.

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Executive Summary

Background
Following the spring 2011 events at TEPCO's Fukushima Daiichi nuclear power station, nuclear regulators around the world launched a comprehensive review of all their major facilities. As Canada's nuclear regulator, the Canadian Nuclear Safety Commission (CNSC) established the CNSC Fukushima Task Force to review the capability of nuclear power plants – as well as other nuclear facilities across the country – to withstand conditions comparable to those that triggered the Fukushima accident.

The Fukushima Task Force reviewed the CNSC regulatory framework and processes, and confirmed that the Canadian regulatory framework is strong and comprehensive. At the same time, the Task Force identified and outlined a series of recommendations aimed at further enhancing the safety of nuclear facilities in Canada. The recommendations included specific proposals to amend the *Radiation Protection Regulations,* as well as the suggestion to review all regulations under the *Nuclear Safety and Control Act* (NSCA).

In response, the CNSC put in place an action plan, part of which included a general review of all CNSC regulations. The review highlighted a number of desirable changes – some drawn from experience and lessons learned from the Fukushima events – intended to further clarify regulatory requirements and enhance nuclear safety in Canada.

This CNSC discussion paper is being issued for public consultation to present a suite of proposed amendments to the *Class I Nuclear Facilities Regulations,* the *Class II Nuclear Facilities and Prescribed Equipment Regulations,* the *General Nuclear Safety and Control Regulations,* the *Uranium Mines and Mills Regulations* and the *Nuclear Substances and Radiation Devices Regulations,* as well as the *Canadian Nuclear Safety Commission Rules of Procedure.*

Proposed amendments to regulations
The CNSC is seeking input on the proposed regulatory amendments outlined below. Follow the links for more information on each amendment.

1. Submission of provincial offsite emergency plans to the CNSC
This proposed amendment to the *Class I Nuclear Facilities Regulations* would require licence applicants and licensees to submit the offsite emergency response plans from their provincial ministry or branch of government, and/or municipal government, to the CNSC. They would also be required to provide evidence of meeting the requirements of those plans. This would be done as part of a licence application or the renewal of a licence to construct, operate or decommission a Class IA or Class IB nuclear facility.

2. Inclusion of human performance and fitness for duty requirements in regulations
This proposal pertains to the inclusion of a requirement within the *General Nuclear Safety and Control Regulations* to ensure that licence applicants and licensees address human performance and fitness for duty in their daily operations. All licensees would be required to have measures in place to support the performance of workers carrying out licensed activities, and to ensure that workers are physically, physiologically and psychologically fit to carry out their duties at the required levels of safety.

3. Inclusion of periodic integrated safety reviews for nuclear power plants
The CSNC is proposing to include a requirement in the *Class I Nuclear Facilities Regulations* for all licensees of Class IA nuclear power plants to carry out mandatory and comprehensive integrated safety reviews, at least once every ten years. It is expected that licensees will provide a proposed implementation plan to address any safety modifications emanating from the integrated safety review.

4. Certification of exposure device operators for a period defined by the Commission or designated officer

It is proposed that a new requirement be included in the *Nuclear Substances and Radiation Devices Regulations* for the certification of exposure device operators (EDOs) to be valid for a specified period of time. Such an interval could be determined through consultation. Additional requirements would be put in place requiring all EDOs to carry their certification credentials at all times while operating a radioactive device, and present this proof of certification upon request by a CNSC inspector.

5. Licensees to inform first responders of the presence and location of radioactive nuclear substances or prescribed equipment

The CNSC is proposing to amend the *Nuclear Substances and Radiation Devices Regulations* to require that all licensees in possession of aggregate quantities of Category I & II nuclear substances[1], or devices containing these substances, inform their local first responder of the presence of these materials on their site, including the hazards they could pose to emergency off-site personnel.

This proposed requirement would not apply to substances, equipment or sources that are in transit. Those safety requirements are covered under the *Transportation of Dangerous Goods Act*.

6. Replace Requirement for a "quality assurance program" for a Requirement for a "management system"

The CNSC is proposing to change the requirement for licensees to have a "quality assurance program" (used in the *Class I Nuclear Facilities Regulations* and the *Uranium Mines and Mills Regulations*) to the requirement for a "management system".

7. Exemption from Class II radiation safety officer certification requirements for Class I certified personnel

An amendment to the *Class II Nuclear Facilities and Prescribed Equipment Regulations* is proposed to ensure that the language used in the section 15.12 "exemption clause" reflects more accurately the fact that Class II certification is not required if a radiation safety officer (RSO) **already possesses** Class I certification and is assigned to a Class II facility.

8. Repeal of obsolete clause regarding radiation safety officer certification

The CNSC is proposing to repeal section 15.06 from the *Class II Nuclear Facilities and Prescribed Equipment Regulations*, as it is a grandfathering clause that no longer applies to any existing RSOs.

9. Clarification of nature and scope of "requests for rulings"

The CNSC is proposing two amendments to rule 20 of the *Canadian Nuclear Safety Commission Rules of Procedure*. The first would clarify how requests for a ruling are to be handled, and also that requests for rulings must be made in writing and, if possible, prior to a hearing. The second proposed amendment refers to when the Commission may rule on a request.

10. Clarification of the concept of "interest in a matter"

The CNSC is proposing an amendment to the *Canadian Nuclear Safety Commission Rules of Procedure* to bring clarification to the concept of "interest in a matter." It is proposed to permit interventions from stakeholders with a "direct interest" or expertise in a matter, or in cases where a proposed project could have a "direct effect/impact" on a person's interest.

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[1]For more information on Category I and II substances or devices, see TECDOC-1344 *Categorization of Radioactive Sources*, July, 2003, published by the International Atomic Energy Agency.

Feedback and next steps

The CNSC is committed to early engagement with stakeholders on its regulatory initiatives, and encourages respondents to give as much detail as possible about the potential impact on business costs and/or the increase in administrative burden on licensees. All feedback received from this consultation process will be thoroughly considered in determining the CNSC's regulatory approach and way forward.

Based on comments and feedback received, the CNSC may decide to prepare a package of regulatory amendments (including specific wording for each amendment), for publication in the *Canada Gazette*, Part I. At this point, stakeholders would have another opportunity to comment.

The draft amendments will then be revised, as appropriate, and presented to the Commission for consideration. Should the Commission decide to make the regulations, those will be submitted to the Governor in Council, and if approved, published in the *Canada Gazette*, Part II, after which they would come into force.

Proposed Amendments to Regulations Made Under the *Nuclear Safety and Control Act*

1. Introduction

The Canadian Nuclear Safety Commission (CNSC) is mandated under the *Nuclear Safety and Control Act* (NSCA) to regulate all nuclear facilities and nuclear-related activities in Canada. Its mission is to protect the health, safety, and security of Canadians, as well as the environment, from the risks associated with the production and use of nuclear energy and substances, and to implement Canada's international commitments on the peaceful use of nuclear energy.

1.1 Project background

Following the spring 2011 events at TEPCO's Fukushima Daiichi nuclear power station, nuclear regulators around the world launched a comprehensive review of all their major facilities. As Canada's nuclear regulator, the CNSC established the CNSC Fukushima Task Force to review the capability of nuclear power plants – and other nuclear facilities across the country – to withstand conditions comparable to those that triggered the events in Fukushima.

The Fukushima Task Force reviewed the CNSC regulatory framework and processes, and confirmed that the Canadian regulatory framework is strong and comprehensive. At the same time, the Task Force identified and outlined a series of recommendations aimed at further enhancing the safety of nuclear facilities in Canada.

In response, the CNSC put in place an action plan and undertook a general review of all CNSC regulations. The review highlighted a number of desirable changes – some drawn from experience and lessons learned from the Fukushima events – intended to further clarify regulatory requirements and enhance nuclear safety in Canada.

This CNSC discussion paper is being issued for public consultation to lay out a comprehensive suite of proposed amendments to the *Class I Nuclear Facilities Regulations*, the *Class II Nuclear Facilities and Prescribed Equipment Regulations*, the *General Nuclear Safety and Control Regulations*, the *Uranium Mines and Mills Regulations* and the *Nuclear Substances and Radiation Devices Regulations*, as well as the *Canadian Nuclear Safety Commission Rules of Procedure*.

1.2 Feedback requested

All stakeholders are actively encouraged to voice their views on the potential impacts of these proposed amendments, including any administrative burden or cost (as well as any possible reduction in burden) on businesses.

Administrative burden includes the planning, collecting, processing and reporting of information, completing forms and retaining data required by the federal government to comply with a regulation. This may apply to activities such as filling out licence applications and forms, as well as finding and compiling data for audits and becoming familiar with information requirements.

Cost includes up-front capital costs, as well as ongoing maintenance and training costs that businesses face when complying with a regulation. These may include signage or notifications (when in material form, such as a road sign), testing, training staff, purchasing new equipment or

software, maintaining equipment and software, renting additional space, purchasing equipment to maintain records (such as secure filing cabinets), etc.

2. Proposed Amendments to Regulations

This section of the discussion paper outlines each of the proposed amendments to the *Nuclear Safety and Control Act* (NSCA) regulations in more detail. The ten proposed amendments aim to strengthen and clarify the CNSC's regulatory framework. Stakeholders are encouraged to provide feedback to the CNSC on these proposed amendments. Further, feedback is sought as to the potential financial or administrative impacts (whether positive or negative) that stakeholders may incur if the CNSC decides to proceed with the amendments proposed in this paper.

2.1 Submission of provincial offsite emergency plans to the CNSC

2.1.1 Background

The CNSC regulates the entire lifecycle of nuclear facilities, to ensure the protection of health, safety, the environment and the security of Canadians. A Class I nuclear facility has five licensing stages: site preparation, construction, operation, decommissioning and abandonment.

Currently, as part of a licence application or the renewal of a licence to construct, operate or decommission a facility, licensees and applicants are required, under the *Class I Nuclear Facilities Regulations,* to submit to the CNSC their proposed measures to prevent and mitigate the effects of an accidental release of nuclear substances or hazardous material on the environment and on the health and safety of persons.

Provincial governments also play a key role in emergency preparedness, by overseeing the health, safety and welfare of their inhabitants, and the protection of the environment, in case of an emergency. For instance, provinces establish emergency plans and procedures to deal with any nuclear emergency impacting the communities outside a CNSC-licensed facility.

2.1.2 Issue

In its report, the CNSC Fukushima Task Force noted that the *Class I Nuclear Facilities Regulations* do not have explicit requirements for the submission of provincial or municipal offsite emergency plans to the CNSC. It is therefore recommended that those plans be part of any application to construct or to operate a nuclear power plant. The CNSC is further proposing that this recommendation also apply for the licence to decommission a facility.

2.1.3 Proposal

The CNSC is proposing to amend the *Class I Nuclear Facilities Regulations* to require that applicants/licensees submit the offsite emergency response plans of their provincial ministry or branch of government, and/or municipal government, to the CNSC. It is expected that evidence supporting how the licensee meets the requirements of those plans would also be provided to the CNSC. This would be done as part of a licence application for the issuance or renewal of a licence to construct, to operate or to decommission a Class IA or Class IB nuclear facility.

2.1.4 Benefit

This amendment would provide the CNSC with a comprehensive view of emergency preparedness throughout the lifecycle of a Class I nuclear facility. The submission of offsite emergency plans would also facilitate dialogue opportunities between the CNSC and provinces or

municipalities. As a result, the CNSC will be in a better position to provide technical advice and support to appropriate responsible authorities, in case of an emergency.

2.2 Inclusion of human performance and fitness for duty requirements in regulations

2.2.1 Background

Human performance is defined as the outcomes of human behaviours and actions associated with the planning, designing, constructing, managing, operating, maintaining, controlling and optimizing of a facility or activity. Fitness for duty includes ensuring that all workers are physically, physiologically and psychologically fit to carry out their duties at the required levels of safety. This is an area that can have a major impact on virtually every aspect of an organization's or licensee's performance.

Other nations have already incorporated requirements for human performance and fitness for duty in legislation or regulations. Some Canadian regulators have fitness for duty provisions embedded in their regulations. For instance, flight crew members have provisions for fatigue and fitness to perform their duties embedded in the *Canadian Aviation Regulations*.

The International Atomic Energy Agency (IAEA) has clear guidance and requirements related to fitness for duty for licensees and regulators. For example, the *Regulatory Inspection of Nuclear Facilities and Enforcement by the Regulatory Body Guide* recommends that regulators inspect a licensee's fitness for duty programs and evaluate their effectiveness. This guide further recommends that regulators ensure that nuclear facility operators have "*guidelines of fitness for duty in relation to hours of work, health, and substance abuse*".

At present, all Canadian nuclear power plants (NPPs), as well as the Chalk River Laboratories, are required to have a human performance program, as a condition of obtaining and maintaining their licence. Some of those licence conditions also require a fitness for duty program.

2.2.2 Issue

CNSC licensees currently have measures in place to address human performance and fitness for duty, but to varying degrees. Implementing requirements in regulation will assist in bringing uniformity to human performance and fitness for duty. It will also closely align Canada with international regulatory frameworks and standards.

2.2.3 Proposal

The CNSC is therefore proposing to include a requirement within the *General Nuclear Safety and Control Regulations* to ensure that licence applicants and licensees address human performance and fitness for duty in a safe and reliable manner, in order to prevent unreasonable risk to the health and safety of persons and the environment.

All licensees would be expected to have measures in place to support the performance of workers in carrying on the licensed activities, and to ensure workers are physically, physiologically and psychologically fit to fulfill their duties at the required levels of safety.

2.2.4 Benefit

Having specific requirements about human performance and fitness for duty embedded in CNSC regulations will ensure a shared understanding, across all applicants and licensees, of the need to address factors that affect human performance. Embedding these requirements into regulations

will improve their profile, broaden their application, provide strong rationale for further CNSC guidance in these areas, and provide alignment with international and domestic nuclear safety requirements.

2.3 Inclusion of periodic integrated safety reviews for nuclear power plants

2.3.1 Background

The CNSC currently requires its licensees to perform integrated safety reviews (ISRs) to assess the safety of their operations, facilities and equipment, prior to either a plant refurbishment or the granting of a life extension to an existing plant. Combined with annual reporting on the safety and performance of NPPs, these ISRs aim to provide the necessary assurance of the continued safe operation of such facilities.

Following the Fukushima events, the Integrated Regulatory Review Service (IRRS) mission of the IAEA recommended that the CNSC consider periodic application of ISRs in its regulatory framework for NPPs. In response, CNSC management committed to introducing periodic ISRs for all Class IA facilities.

2.3.2 Issue

The requirement for licensees to conduct ISRs is not currently included in any regulation. It is generally incorporated as a licence condition, and further defined in regulatory documents. This requirement is therefore somewhat inconsistent in its application across licensees; for instance, there is no common reference as to how often such a review should occur, or a timeframe for completion.

2.3.3 Proposal

The CSNC is proposing to include a requirement, in the *Class I Nuclear Facilities Regulations*, for all NPPs to carry out mandatory and comprehensive ISRs at least once every ten years. It is expected that licensees will provide a proposed implementation plan to address any safety modifications emanating from the ISR.

2.3.4 Benefit

The current proposal serves to formally entrench in regulation the requirement to conduct ISRs at least once every ten years, thereby ensuring consistency of approach across all Class IA NPP facilities. This would add predictability in the processes and reporting requirements for all NPP licensees in Canada. It also ensures that licensees are comparing their facilities against modern codes and standards, and perform upgrades as soon as practicable.

2.4 Certification of exposure device operators for a period defined by the Commission or designated officer

2.4.1 Background

The use and operation of an exposure device has been categorized as a high-risk activity by the CNSC. For this reason, the CNSC requires all exposure device operators (EDOs) to complete appropriate training and obtain certificates for operating such devices.

The CNSC has recognized that the re-certification of EDOs at least once every five years would help improve the safety of workers, the Canadian public and the environment, by ensuring that all EDOs have up-to-date knowledge to perform their duties safely. To assist, the CNSC has engaged

the Canadian Standards Association (CSA) to produce a new certification standard for EDOs. The industrial radiography industry – most notably through the Canadian Industrial Radiography Safety Association, whose membership consists of companies who employ EDOs – has been part of the CSA committee working on the development of this new certification standard.

2.4.2 Issue

At present, while CNSC regulations require that only certified persons can operate an exposure device, they do not define a time period or expiration date for this certification. Furthermore, nothing in the current regulations requires an EDO to carry a certification card, or to show proof of certification when requested to do so by a CNSC inspector. As such, when CNSC inspectors seek to verify that an individual using an exposure device is certified to do so, as part of the CNSC's regular compliance exercises, time is often lost if the EDO cannot immediately produce evidence of certification.

2.4.3 Proposal

The CNSC is proposing to amend the *Nuclear Substances and Radiation Devices Regulations* to require the certification for EDOs to be valid for a specified period of time. This will require EDOs to renew their certification regularly with the interval to be determined through consultation. In addition, all EDOs would be required to have with them their certification credentials when operating a radioactive device, and to present their certification upon request from a CNSC inspector.

2.4.4 Benefits

This proposal will have a positive impact on the health, safety and security of Canadians and the environment by ensuring that EDOs consistently have the up-to-date knowledge, skills and expertise required to operate exposure devices safely. Finally, EDOs will be required to provide proof of certification, and CNSC inspectors will be expressly authorized by law to request proof of certification from EDOs.

2.5 Licensees to inform first responders of the presence and location of radioactive nuclear substances or prescribed equipment

2.5.1 Background

The *Radiation Protection Regulations* require licensees to label radiation devices and to post durable and legible signs in a visible location where radioactive substances are stored or used. This requirement does not include the proactive disclosure of Category I and/or II nuclear substances[2], or devices containing these substances, to offsite emergency responders, such as paramedics, fire and police services. Category I nuclear substances are classified based on the quantities used in devices such as irradiators, gamma knives and teletherapy machines (with cobalt-60 and cesium-137). Category II substances are used in calibration facilities (with cobalt-60, cesium-137), industrial radiography (with cobalt-60, cesium-137, selenium-75) and in high-medium dose rate brachytherapy (with cobalt-60, cesium-137 or iridium-192).

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[2]For more information on Category I and II substances or devices, see TECDOC-1344 *Categorization of Radioactive Sources*, July, 2003, published by the International Atomic Energy Agency.

In case of emergency, local first responders are the first to be called onsite to help manage an event. Every municipality or city has an up-to-date emergency management plan, which takes into consideration plausible and potential hazards and sets out procedures for managing each situation on a risk-informed basis. Currently, on arrival at the scene of an emergency at such facilities, first responders will notice the presence of nuclear substances by the posted signage. However, the safety and security of emergency personnel and other Canadians would be enhanced if first responders were aware, in advance of the existence of these licenced materials.

2.5.2 Issue

At present, the CNSC has no regulatory requirements stipulating that licensees who work with nuclear substances and/or prescribed equipment must disclose their location and potential hazards to offsite emergency responders.

2.5.3 Proposal

The CNSC is proposing to amend the *Nuclear Substances and Radiation Devices Regulations* to require that all licensees in possession of these nuclear substances or devices containing these substances, inform their local first responders of the presence of these materials on their site, including the hazards they could pose to offsite emergency responders.

This proposed requirement would not apply to nuclear substances, equipment or sources that are in transit, since these safety requirements are covered under the *Transportation of Dangerous Goods Act*.

2.5.4 Benefit

Providing this information to first responder agencies will help to enhance their local emergency plans. It will improve the safety of first responders in the unlikely case of an emergency situation as it will allow them to approach the scene of an accident and/or provide treatment in a more knowledgeable and prepared, and therefore, safer manner.

2.6 Replace Requirement for “quality assurance program” with a Requirement for a “management system”

2.6.1 Background

The CNSC has always required that the safe operation of a facility shall be the paramount objective of a licensed organization. Under the CNSC’s safety and control area framework, nuclear facility licensees are currently required (as a licence condition) to implement a management system that integrates the requirements for health, safety, environment, security, economics, and quality. Licensees are also expected to monitor their performance against those safety objectives.

The “management system” concept describes the implementation of a planned and systematic pattern of actions that achieves expected results in accordance with an established set of management system principles. This concept, as described, has evolved and expanded over the last 50 years. Originally referred to as “quality control”, it became “quality assurance”, then “quality management” and it is now known as “management system”. Each iteration saw a deepening and widening of the areas and topics covered.

Today, the International Atomic Energy Agency (IAEA) defines the “management system” for a nuclear facility as a set of interrelated or interacting elements that integrate safety, health,

environment, security, quality and economic factors, to ensure the protection of people and the environment.

2.6.2 Issue

Although most nuclear facility licensees are required to put in place and implement a management system as a condition of their licence, the CNSC's regulations continue to refer to "quality assurance programs". At the same time, the CNSC's regulatory framework refers to "management systems" and not "quality assurance programs" and most licensees of major nuclear facilities have management systems in place.

2.6.3 Proposal

The CNSC is proposing to amend the requirement in the *Class I Nuclear Facilities Regulations* and the *Uranium Mines and Mills Regulations* from "quality assurance program" to "management system".

2.6.4 Benefit

This amendment will bring the CNSC regulations in line with modern international standards. It will also assist in clarifying requirements and promote greater consistency among licensees, for managing nuclear facilities in a safe and secure manner.

2.7 Exemption from Class II radiation safety officer certification requirements for Class I certified personnel

2.7.1 Background

The CNSC defines positions within a Class I facility for which certification from the CNSC is required. Such positions include, but are not limited to, the Senior Health Physicist, the Control Room Shift Supervisors and the Unit O Operators. Individuals who are so certified are also deemed to meet the requirements for a radiation safety officer (RSO) In other words, if a licensee appoints someone as a Class II radiation safety officer within a facility, and that person already possesses Class I certification from the CNSC, there is no need for that person to obtain an additional Class II RSO certification from the CNSC.

2.7.2 Issue

The language used to describe the circumstance described above, found in section 15 of the *Class II Nuclear Facilities and Prescribed Equipment Regulations,* is somewhat unclear. As written it could be interpreted to mean that it is possible to bypass appointing any RSO in relation to a Class II facility altogether – which is not the case.

2.7.3 Proposal

The CNSC is therefore proposing to make an amendment to the *Class II Nuclear Facilities and Prescribed Equipment Regulations,* to ensure that the language used in the section 15.12 "exemption clause" reflects more accurately that Class II certification is not required if an RSO is appointed in relation to a Class II facility **and already possesses** Class I certification.

2.7.4 Benefit

This change would help to clarify the intent of the regulation and remove ambiguity over the purpose of the exemption. Indeed, the exemption is about the certification level of an RSO, not about the requirement to appoint a certified RSO in respect of a Class II facility.

2.8 Repeal of obsolete clause regarding radiation safety officer certification

2.8.1 Background

At the time that section 15.06 of the *Class II Nuclear Facilities and Equipment Regulations* came into force it was intended to be a "grandfathering" clause for radiation safety officers (RSOs) who were already employed by a licensee. Section 15.06 of the regulations stipulated that RSOs working in their field were deemed to be certified, and therefore did not require immediate re-certification at the time the regulations came into effect.

2.8.2 Issue

Today, all RSOs incumbent at the time the regulations came into effect have since been certified. There is no longer a need for a grandfathering provision in section 15.06.

2.8.3 Proposal

The CNSC is proposing to repeal section 15.06 of the *Class II Nuclear Facilities and Prescribed Equipment Regulations*.

2.8.4 Benefit

Repealing this obsolete provision will ensure precision and clarity of requirements. Further, also it ensures that the grandfathering clause is not inadvertently extended each time that an amended version of the Class II regulations comes into force.

2.9 Clarification of nature and scope of "requests for rulings"

2.9.1 Background

Rule 20 of the CNSC's *Rules of Procedure* states that at any time before the start of a public hearing, an intervener may file a request with the Commission for a ruling on a particular issue. This is done by setting out the issue and the reasons for seeking the ruling.

This rule also states that a participant may make an oral request to the Commission for a ruling on a particular issue, at any time during the public hearing, by explaining the issue and the reasons for seeking ruling.

Finally, rule 20 states that the Commission shall give its decision, in relation to a request for a ruling, after the Commission has provided all the relevant persons with an opportunity to present their views on the request.

In recent public hearings, participants have invoked rule 20 during their oral intervention to request a Commission ruling on a matter of substantive nature (such as the outcome of the hearing itself), as opposed to a preliminary or procedural matter.

2.9.2 Issue

The CNSC, to clarify the intent behind rule 20, is seeking to bring greater clarity to the manner in which requests for ruling are to be handled. The current rule seems to deal with preliminary matters differently from those matters arising during a hearing.

2.9.3 Proposal

The CNSC is therefore proposing two amendments to rule 20 of the *Canadian Nuclear Safety Commission Rules of Procedure.*

The first proposed amendment would require that requests for ruling be made in writing and submitted prior to a hearing. Such requests are to be defined as “preliminary requests for rulings”. It is proposed that section 20 (1) and (2) be modified to indicate that the Commission may entertain preliminary motions/requests before a hearing begins, and may provide its ruling before or after the conclusion of the hearing (with the decision), according to the considerations of fairness.

The second proposed amendment is that rule 20(4) be amended to clarify that the Commission may issue a ruling upon a request, when it is fair and expeditious to do so, or may issue its decision at the end of the proceedings, upon consideration of all the evidence.

2.9.4 Benefit

These proposed changes in regulation would clarify how requests for ruling are to be handled. The changes would also help ensure that public hearings and other Commission proceedings continue to be conducted as informally, transparently and expeditiously as the circumstances and considerations of fairness permit.

2.10 Clarification of concept of “interest in a matter”

2.10.1 Background

The *Canadian Nuclear Safety Commission Rules of Procedure* provide discretion to the Commission to allow stakeholders to intervene “in the manner and to the extent that the Commission considers” appropriate, if the person:

- has an interest in the matter being heard
- has expertise in the matter or information that may be useful to the Commission in coming to a decision

Recently, the National Energy Board, as well as the *Canadian Environmental Assessment Act 2012*, introduced more clarity to the concept of “interest in a matter” by defining an interested party as a ”person who is directly affected by the carrying out of the designated project”.

2.10.2 Issue

The Commission has historically accepted interventions from a wide range of stakeholders, provided those interventions were relevant to the matter at hand. However, there has been no attempt to clarify, in regulations, what constitutes “interest in a matter”, or how stakeholders are expected to demonstrate that they have a sufficient interest in a matter being heard by the Commission.

2.10.3 Proposal

The CNSC is therefore proposing to amend rule 19 of the *Canadian Nuclear Safety Commission Rules of Procedure*, to qualify the concept of “interest in a matter.” It is proposed that in addition to persons who have expertise or information that may aid the Commission in coming to a decision, only interventions from stakeholders with a “direct interest” in a matter would be

accepted, or in cases where a proposed project could have a “direct effect/impact” on a person’s interest.

Should this distinction be made in the *Rules of Procedure*, the CSNC would develop criteria to clarify and further define what is meant by a “direct” interest or impact, to ensure clarity for both the Commission and stakeholders.

2.10.4 Benefit

This change, if implemented, will help to clarify a concept that has remained somewhat vague within CNSC rules and regulations. It would also align the specific language being proposed for the CNSC *Rules of Procedure* with terminology that has recently been adopted by some other Canadian regulatory agencies.

3. Conclusion

The CNSC is committed to early engagement with stakeholders on all new regulatory initiatives, including the suite of amendments proposed in this discussion paper to the *Class I Nuclear Facilities Regulations*, the *Class II Nuclear Facilities and Prescribed Equipment Regulations*, the *General Nuclear Safety and Control Regulations*, the *Uranium Mines and Mills Regulations* and the *Nuclear Substances and Radiation Devices Regulations*, as well as the *Canadian Nuclear Safety Commission Rules of Procedure*.

Two of the amendments in this document are in response to recommendations made by the CNSC Fukushima Task Force, but most stem from the careful review of all CNSC regulations, with the aim to further strengthen and clarify the CNSC's regulatory framework.

All feedback received from stakeholders at this early stage of the consultation process will be taken into account and – should any amendment to regulations be further considered – used to develop detailed and specific regulatory wording for each amendment to an existing regulation. Stakeholders are therefore encouraged to provide their suggestions and views on each proposal, as well as the potential impact they could have on their daily operations, activities or interests.

After full consideration of all of the feedback received, should the CNSC decide to pursue any of the proposed amendments to regulations described in this discussion paper, it would pre-publish the draft regulatory amendments in the *Canada Gazette*, Part I. At that time, stakeholders would have another opportunity to provide input. Following pre-publication, all feedback would again be considered, the proposed amendments revised, as appropriate, and presented to the Commission for consideration. Should the Commission make the regulations, they will be presented to the Governor in Council, and if approved, published in *Canada Gazette*, Part II, after which they would come into force.

Feedback

Comments or feedback may be submitted to the CNSC in one of the following ways:

By email: consultation@cnsc-ccsn.gc.ca

By fax: 613-995-5086

In writing: Canadian Nuclear Safety Commission
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Appendix A - Synopsis of Pertinent Regulations

A.1 *General Nuclear Safety and Control Regulations*

The *General Nuclear Safety and Control Regulations* apply to all nuclear facilities and CNSC licensees and applicants. They provide general requirements with respect to licence applications and renewals, licensee obligations and exemptions, prescribed nuclear facilities and equipment, and inspections.

A.2 *Class I Nuclear Facilities Regulations*

The *Class I Nuclear Facilities Regulations* set out general requirements for licence applications to prepare a site, to construct, operate, decommission and abandon a Class I facility. They also set out requirements for personnel certification and record-keeping, and provide timelines for regulatory reviews. These regulations apply to Class 1A (nuclear reactors) and Class 1B (large particle accelerators, nuclear processing plants, fuel fabrication plants and waste disposal facilities) nuclear facilities.

A.3 *Class II Nuclear Facilities and Prescribed Equipment Regulations*

The *Class II Nuclear Facilities and Prescribed Equipment Regulations* provide requirements for licence applications, certification of prescribed equipment, radiation protection and record-keeping. A Class II nuclear facility is a facility that contains Class II prescribed equipment, such as some types of irradiators, radioactive source teletherapy machines, some particle accelerators and brachytherapy remote afterloaders. These regulations apply to all Class II facilities and Class II prescribed equipment licensees and applicants.

A.4 *Uranium Mines and Mills Regulations*

The *Uranium Mines and Mills Regulations* provide requirements for site preparation, construction, operation, decommissioning and abandonment of uranium mines and mills, and also include licensees' obligations with respect to operating procedures, codes of practice, ventilation systems, use of respirators, protection from gamma radiation and record-keeping. Furthermore, they set timelines for regulatory reviews. These regulations apply to all uranium mine and mill licensees and applicants.

A.5 *Nuclear Substances and Radiation Devices Regulations*

The *Nuclear Substances and Radiation Devices Regulations* provide requirements for the licensing and certification of radioactive nuclear substances and prescribed equipment, for the use of exposure devices and for record-keeping. They apply to all Category I and II nuclear substances, sealed sources, and radiation devices that are not covered by other regulations, and apply to all CNSC licensees and licence applicants.

A.6 *Canadian Nuclear Safety Commission Rules of Procedure*

The *Canadian Nuclear Safety Commission Rules of Procedure* define the procedures for public hearings, opportunities to be heard and other proceedings at the CNSC. These include procedures for applications, decisions, participation and interventions, appeals and orders, as well as more administrative requirements for such things as document transmission, filing specifications, etc. These rules of procedure apply to the CNSC.

References

1. *Nuclear Safety and Control Act*, S.C. 1997, C. 9.

2. *Class I Nuclear Facilities Regulations* (SOR/2000-204).

3. *Class II Nuclear Facilities and Prescribed Equipment Regulations* (SOR/2000-205).

4. *Uranium Mines and Mills Regulations* (SOR/2000-206).

5. *Nuclear Substances and Radiation Devices Regulations* (SOR/2000-207).

6. *Canadian Nuclear Safety Commission Rules of Procedure* (SOR/2000-211).

7. *General Nuclear Safety and Control Regulations* (SOR/2000-202)

8. *CNSC Fukushima Task Force Report*, INFO-0824, October 2011.

9. *Human Performance Improvement Handbook: Volume 1: Concepts and Principles*. (pp. 1–20). U.S. Department of Energy (2009). DOE-HDBK-1028-2009.

10. *The management system for facilities and activities: safety requirements.* International Atomic Energy Agency, Vienna (2006). (IAEA safety standards series, ISSN 1020–525X).

11. *Categorization of Radioactive Sources*. International Atomic Energy Agency, Vienna (2003). (ISSN 1011–4289).

12. *Managing Human Resources in the Field of Nuclear Energy*. International Atomic Energy Agency, Vienna (2009). (IAEA nuclear energy series, ISSN 1995–7807).

13. *Recruitment, Qualification and Training of Personnel for Nuclear Power Plants: Safety Guide.* International Atomic Energy Agency, Vienna (2002). (IAEA safety standards series, ISSN 1020–525X).