

REGDOC-2.2.4, *Fitness for Duty* – Impact Statement

Introduction

Under the *Nuclear Safety and Control Act* (NSCA), the CNSC has the authority to regulate the development, production and use of nuclear energy and the production, possession and use of nuclear substances, prescribed equipment and prescribed information in Canada. The regulations under the NSCA set out obligations of licensees, as well as information requirements for all types of licence applications.

The CNSC's regulatory documents provide greater detail and clarity to licensees and applicants on how to meet the requirements set out in the NSCA. The benefits of having a comprehensive suite of regulatory documents in place to address all areas of CNSC responsibility include:

- clearly documented CNSC regulatory expectations
- greater regulatory certainty for licensees
- greater consistency in the information applicants and licensees provide to the CNSC
- transparency for the Canadian public and international community about the standards and expectations the Canadian nuclear industry must meet.

In keeping with its commitment to stakeholder engagement, the CNSC consults with stakeholders prior to and during the development of a regulatory document. The CNSC considers the impacts of its proposals on all stakeholders and welcomes feedback on potential impacts throughout the consultation process.

Background

The *General Nuclear Safety and Control Regulations* require that licensees ensure the presence of a sufficient number of qualified workers. To satisfy this requirement, workers must be competent and fit for duty.

REGDOC-2.2.4, *Fitness for Duty*, provides fitness for duty requirements and guidance for workers at "high-security sites" as defined in the *Nuclear Security Regulations*. The regulatory document incorporates an updated and expanded set of requirements and guidance from RD-363, *Nuclear Security Officer Medical, Physical, and Psychological Fitness*. Medical, psychological and occupational fitness requirements are now also required of workgroups outside of nuclear security. Building upon discussion paper DIS-12-03, *Fitness for Duty: Proposals for Strengthening Alcohol and Drug Policy, Programs and Testing*, which was published for public consultation from April to August 2012, the regulatory document also includes provisions to prevent, deter, detect, and remediate potential alcohol and drug use.

Feedback received during this public consultation will be considered. As appropriate, improvements will be incorporated into a subsequent draft that will be presented to the Commission for approval to publish. All comments received will become part of the public record.

Objectives

The objectives of this regulatory document are to:

- ensure that the fitness for duty of workers is managed for the purpose of nuclear safety and security commensurate with the risk of the licensed activity
- establish a clear public record of the CNSC's expectations for managing the fitness for duty of workers, including the amalgamation of current requirements and guidance
- enhance the CNSC's oversight of fitness for duty.

Regulatory approach

REGDOC-2.2.4, *Fitness for Duty*, applies to high-security sites, as defined in the *Nuclear Security Regulations*: “a nuclear power plant or a nuclear facility where Category I or II nuclear material is processed, used or stored.”

REGDOC-2.2.4, *Fitness for Duty*, includes a graded approach with programmatic requirements and guidance applying to a broad population of workers who when unfit could pose a risk to nuclear safety and security. As part of the programmatic requirements, licensees must establish, implement and maintain fitness for duty-related policy statements, programs, and processes.

The regulatory document also includes a requirement for licensees to identify safety-sensitive positions through a documented, risk-informed analysis. For a smaller subset of workers who fill safety-sensitive positions, licensees must establish implement and maintain a process for identifying medical, psychological, and occupational fitness requirements that are appropriate to the worker's job performance requirements. Some assessments and tests are also specified for certain workgroups including alcohol and drug testing.

Potential impacts on licensees

Currently licensees are required to have fitness for duty programs in place for certified staff and are recommended to have fitness for duty programs for workers filling minimum staff complement positions. Licensees also are required to meet specific fitness for duty requirements and guidance for nuclear security officers and nuclear response force members. Therefore, licensees already have many of the programmatic elements in place. During the transition stage, licensees may have to modify existing programs and make them applicable to a broader set of workers.

The regulatory document designates several workgroups as safety-sensitive and requires licensees to identify any additional safety-sensitive positions through a documented, risk-informed analysis.

Presently, licensees have limited alcohol and drug testing programs. REGDOC-2.2.4, *Fitness for Duty* will require licensees' alcohol and drug testing programs to be expanded. Both licensees and unions have expressed concerns that labour agreements may need to be revised following the publication of REGDOC-2.2.4, *Fitness for Duty*, and legal challenges may be raised.

Modifying existing programs and conducting additional documented analyses will impose immediate and longer-term financial costs on licensees. However, the CNSC believes the benefits of establishing regulatory clarity, strengthening the fitness-for-duty regulatory framework, and ensuring that workers'

fitness for duty is managed for the purposes of nuclear safety and security justify the associated transitional impacts and costs on stakeholders.

Implementation

REGDOC-2.2.4, *Fitness for Duty*, is intended to form part of the licensing basis for a regulated facility or activity within the scope of the document. It is intended for inclusion in the licensing basis, either as part of the conditions and safety and control measures in a licence, or as part of the safety and control measures to be described in a licence application and the documents needed to support that application.

High-security site licensees will be given a transition period to become compliant with the requirements of this regulatory document. The CNSC will confirm the implementation timeframe with each licensee. Associated licence conditions handbooks will be amended as soon as practical following publication to reference REGDOC-2.2.4, *Fitness for Duty*.

Feedback requested:

The CNSC welcomes comments and additional information on the potential impacts of this regulatory document.

Comments or feedback may be submitted to the CNSC no later than January 22, 2016, in one of the following ways:

Email: consultation@cnsccsn.gc.ca

Fax: 613-995-5086

Mail:

Canadian Nuclear Safety Commission
280 Slater Street, P.O. Box 1046, Station B
Ottawa, Ontario K1P 5S9

How this information will be used by the CNSC

In fulfilling its mandate as a federal regulator, the CNSC must give consideration to values and principles that are difficult to quantify in a dollar value, such as the need to clearly document its regulatory expectations for all Canadians. It must also give consideration to fulfilling its responsibility under the *Nuclear Safety and Control Act* to disseminate objective scientific and regulatory information. For these reasons, the CNSC does not intend to conduct a strict quantitative assessment of the costs and benefits associated with the implementation of this regulatory document. However, careful consideration will be given to any information provided by stakeholders on the impacts of this regulatory document or on alternative approaches that may be used to meet its safety objective.

If providing cost estimates, stakeholders are encouraged to be transparent and to ensure benefits and costs are clearly attributed. Assumptions made when calculating costs should be clearly stated, and enough detail should be provided to allow an independent observer to understand how the cost estimate was derived.