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VIA EMAIL

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

Dear Mr. Torrie:

Cameco's Comments on REGDOC-2.2.4: Fitness for Duty

Cameco Corporation (Cameco) provides the following comments on the sections of REGDOC-2.2.4 (REGDOC) related to drug and alcohol testing. Although this REGDOC does not apply to any of Cameco's facilities at this time, Cameco has had a highly successful alcohol and substance testing program (Program) in place since 2009 that was put in place after a great deal of work and consultation. It has proven to be effective and is compliant with all legal requirements.

4.6.1 Pre-placement alcohol and drug testing

Cameco's Program does not include pre-placement alcohol testing because this is a legal activity and a positive test would not indicate use in a safety-sensitive activity. We recommend that pre-placement alcohol testing be excluded from the REGDOC as it would create a regulatory burden without any increase in safety.

4.6.3 Follow-up alcohol and drug testing

Cameco's Program requires the frequency and duration of follow-up alcohol and drug testing after a positive for-cause test to be determined by the health professional who is treating the individual for alcohol or drug use. This risk- and evidence-based approach is consistent with the section 5.5 of the REGDOC that requires a substance abuse evaluation to be made by a qualified health professional.

We recommend that the random and unannounced follow-up testing be replaced with the frequency and duration most appropriate for the individual as recommended by the treating health professional.

4.6.4 Random alcohol and drug testing

Random testing for alcohol or drugs was not included in our current Program after careful consideration of the related legal and policy issues. In addition, Cameco does not view random testing as necessary at our operations.

Recently, the Supreme Court of Canada found that random alcohol testing was not justified on the facts in *Irving*,¹ Canadian case law is clear that random alcohol testing may be permissible where it is agreed to in a negotiated collective agreement or where there is evidence of a demonstrated problem in a particular workplace. Otherwise, random alcohol testing is not appropriate.

The jurisprudence is also clear that random drug testing is not appropriate because it does not provide evidence of current impairment. This point was specifically discussed by the New Brunswick Court of Appeal in *Irving Pulp & Paper Ltd v Communications Energy and Paperworkers Union of Canada, Local 30*, and is also made by the Canadian Human Rights Commission in their *Policy on Alcohol and Drug Testing*, revised October 2009. Most recently, in the 2014 policy grievance arbitration between Unifor Local 707A and Suncor Energy Inc., the arbitrator held that the random aspects of Suncor's alcohol and drug testing policy were an unreasonable exercise of the employer's management rights.

We strongly recommend that this section of the REGDOC be removed.

5.4.1 Breath alcohol testing process

The REGDOC's definition of a positive test for a blood alcohol concentration (BAC) is out of step with Cameco's Program. The proposed BAC will likely require further guidance on the position and duties that would be within the scope of "safety-sensitive".

5.4.2 Urine drug-testing process, 5.5 Substance abuse evaluation and Appendix D

Cameco's Program contains appropriate prohibitions related to the possession, use, distribution and the offering and selling of alcohol, illegal or illicit substances and substance paraphernalia, as well as the intentional misuse of medication. Our Program specifically excludes testing for medical conditions and our employees are notified that we do not screen for medical conditions.

Appendix D, table D.2 includes benzodiazepines and methadone in the urine analysis drug panel and both of these drugs are used to treat medical conditions. We have not identified these drugs as a source of misuse at our facilities. In addition, these drugs are not included in the United States Department of Transportation drug and alcohol testing program largely adopted in the drug and alcohol program of the Construction Owners Association of Alberta and generally followed in western Canada.

¹ *Communications, Energy and Paperworkers Union of Canada, Local 30 v. Irving, Pulp & Paper, Ltd.*, 2013 SCC 34 [*Irving*]

No screening can capture all potential intoxicants and many commonly abused substances are not included in the screening. (e.g., cough syrup, solvents, lysergic acid, psychotropic mushrooms). In the absence of an identified risk for a particular drug, we recommend excluding drugs used to treat medical conditions, such as benzodiazepines and methadone from the screening process. If such drugs are the source of a problem, then they can be identified in the same way as other substances not included in the screening panel.

Appendix D, table D.2 also includes opiate subclasses. Cameco's Program includes an initial screening for an opiate class, but does not include the opiate subclasses listed in table D.2. In our Program, if an individual's screening test is positive for the general opiate class, the specific opiate is identified in the confirmation testing stage. In our view, testing for these opiate subclasses increases costs in the absence of any identified risk.

Cameco would be pleased to respond to any further questions. Please contact the undersigned at (306) 956-6685 or liam_mooney@cameco.com.

Sincerely,



R. Liam Mooney
Vice-President
Safety, Health, Environment, Quality & Regulatory Relations
Cameco Corporation

DA:lp

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