

2014 July 30

Mr. Brian Torrie
Director General, Regulatory Policy Directorate
Canadian Nuclear Safety Commission
280 Slater Street
P.O. Box 1046, Station B
OTTAWA, Ontario K1P 5S9

Dear Mr. Torrie:

Atomic Energy of Canada Ltd. (AECL) Comments on REGDOC-2.9.1 Environmental Assessments

AECL wishes to thank the CNSC for the opportunity to review the draft REGDOC-2.9.1. We have reviewed the document and we are submitting this letter to communicate our feedback on the draft document.

Our main concern is that the process appears as onerous as the pre-CEAA 2012 era and is very bureaucratic. The proposed REGDOC lacks clear guidance in a number of areas.

Attached to this letter is a table containing our specific comments on draft REGDOC-2.9.1.

AECL appreciates the opportunity to provide feedback on the draft REGDOC-2.9.1. If you or your staff require further clarification on any of the comments, please do not hesitate to contact me as below.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'T. Arthur'.

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Attachment

c	C. Carrier (CNSC)	Consultations (CNSC)		
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Attachment A**Comments on REGDOC-2.9.1 Environmental Assessments**

#	Document Section/ Excerpt	Issue	Suggested Change <i>(if applicable)</i>	Major Comment/ Request for Clarification	Impact, if major comment
1.	General	<p>The REGDOC lacks clear guidance in a number of areas. The process appears as onerous as the pre-CEAA 2012 era and is very bureaucratic. Essentially, the CNSC approach has not changed, but is following the same process as before. This goes against the intent of the changes that lead to CEAA 2012.</p> <p>Part A as written is a mini-CEAA exercise, or almost a screening decision under old CEAA: Project description, timelines, discussion of significance, potential intervener funding, etc.</p> <p>The intent of CEAA 2012 was to eliminate these types of exercises, as Parliament through CEAA 2012 directed that efforts be focussed on major projects. As written, Part A is effectively undoing the efforts of CEAA 2012 with no basis.</p>	Suggest CNSC convene a workshop with stakeholders to address stakeholders' comments on REGDOC 2.9.1.	MAJOR	Significant increased cost to Licensees and lack of clarity.

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2.	General	<p>The CNSC intends to combine this document with the current REGDOC 2.9.1. This is a separate issue/topic from environmental programs and should be a separate document.</p> <p>This is a significant policy change from other CNSC safety and control areas.</p> <p>There is a lack of clarity on path forward on the existing REGDOC 2.9.1 for EMS.</p>	<p>Make this document REGDOC 2.9.2 – Environmental Protection: Environmental Assessments.</p>	MAJOR	<p>For licensing purposes it will be confusing to have this document lumped into the same requirements document as environmental programs.</p>
3.	General	<p>There is no term “Environmental Assessment” defined in the NSCA. How can the CNSC develop a process that is not covered by the Act or regulations?</p> <p>It appears that the CNSC is reinventing the screening level EAs under the NSCA. This seems to be contrary to the Red Tape Reduction directive and upcoming Act. This is unacceptable to the industry.</p>	<p>Reformat or reword Part A to define how to meet the requirements for environmental protection that are already covered in the <i>General Nuclear Safety and Control Regulations, Class I Facility Regulations</i> and other associated NSCA regulations.</p>	MAJOR	<p>The use of environmental assessment especially in part A is misleading for both the public and the licensee.</p> <p>This has potential to greatly increase costs for licensees with no apparent benefit.</p>

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4.	General	<p>The statement “The EA under the NSCA is a component of the CNSC licensing process (see Appendix A) and is carried out as part of the CNSC’s review of all licence applications” greatly expands the trigger for an EA well beyond the original CEEA legislation. This seems to be contrary to the Red Tape Reduction directive. This is unacceptable to the industry. For example licence applications for administrative actions or activities such as transporting radioactive materials should not require a technical study for protecting the environment.</p> <p>For small projects, licensees expect no additional studies beyond those required by the licence, to address protection of the environment.</p>	<p>The trigger criteria in Part A need to be narrowed and properly defined.</p> <p>Define projects that would be captured under Part A as is done under CEEA.</p>	MAJOR	This has potential to greatly increase costs for licensees with no apparent benefit.

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5.	Page 1 to 6, Part A	<p>A separate process for an Environmental Assessment under the NSCA as described in Part A is not required.</p> <p>The stated purpose of improving the transparency of the CNSC’s regulatory process could be better achieved by a document that outlines the environmental technical requirements to support the licence application so that the environmental studies can be submitted as part of the licence application process. This should also address how the environmental requirements are integrated with the timeline for other licence requirements. For example REGDOC 2.4.1 indicates that the safety analysis is performed to identify the effects on the environment and human health. The CNSC needs to assist licensees understand how the various aspects of the application relate to each other.</p>	<p>Revise Part A to include aspects such as:</p> <ul style="list-style-type: none"> the environmental content that is required to support a licence application. define the relationship of this document to other application requirements such as the safety analysis report which is required to evaluate potential effects on the environment per REGDOC 2.4.1. timing of environmental studies with respect to other application requirements requirements for consultation specific to environmental protection. 	MAJOR	<p>As written this document will produce a redundant process for environmental submissions that is separate from the process for other licence application requirements. It also does not provide the clarity required to prepare the environmental content required for a licence application. There is no regulatory certainty without defined criteria. Licensees cannot properly plan for projects that do not trigger a CEAA 2012 EA. The uncertainty around the cost could result in the licensee not doing projects that could have benefit to safety or the environment. There is also the possibility of ineffective use of resources; unanticipated EA costs may make a project uneconomic.</p>

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6.	Part B	<p>The timelines in Part B should be aligned with those of CEAA 2012. CEAA 2012 is where CNSC gets its mandate, and CNSC should be aligned with the intent and basic objectives of CEAA – focus on major projects, with clear timelines and predictable process.</p> <p>Duration of CNSC lead activities listed in Table 4 ranges from 272 to 730 days. Environmental Assessments lead by the Agency must be completed within 365 days (Agency lead activities).</p>	Align timelines with CEAA 2012	MAJOR	Longer period of regulatory uncertainty and cost. Inconsistent with CEAA
7.	Page 11, Section 6, step 2, “Applicant submission of a licence application and project description”	The conduct of the EA technical studies will provide information which will direct the project and thus contribute to the licence application. The licence application should occur after EA studies are complete	<p>Rename step 2 to “Applicant submission of a written notification and project description”.</p> <p>After step 10 add “Applicant submission of licence application”</p>	MAJOR	Increases timelines, creates regulatory uncertainty and process inefficiencies.

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8.	Section 6, steps 10 to 12.2	There is a lot of duplication in these steps: the proponent writes a study, CNSC paraphrases it in their EA report and summarizes the whole thing in a CMD. This also introduces delays caused by the external review of the technical study and of the EA report.	Streamlining is required. It may also help reduce the overall timelines.	MAJOR	Additional cost and increased timelines.

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9.	App B, Table 6, 7 and following	App B (EA Determination form, Table 6, 7 and following) but is subjective. For example, there are assessment factors but there are no examples what constitutes "Very Low", "Low", and "Moderate" and "High"	<p>Incorporate specific details: e.g. reference "Existing Environmental Assessment Approval", Compliant with CSA 288 requirements, etc.</p> <p>Include a rating system for the "Public and Aboriginal Interest Criteria" and "Environmental Characterization and Impact Criteria" and include examples of very low, low, moderate and high.</p> <p>A table similar to Table 3 on page 13 which provides examples should be developed for criteria for rating Public and Aboriginal Interest Criteria. This would ensure greater consistency.</p>	MAJOR	Lack of clarity leads to uncertainty, and demands for additional studies every time licence renewal is required.

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10.	Section 3	Part A does not include an EA determination step to confirm that an EA under CEAA is not required.	Revise Part A to add the following to step 1 for clarity: If the applicably of CEAA is uncertain, the applicant may issue a letter of intent to the CNSC requesting a CEAA determination. The CNSC will respond to any such written request confirming their determination that CEAA does not apply or requesting a project description as described in Part B.	Clarification	