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VIA EMAIL

Mr. Brian Torrie
Director General
Regulation Policy Directorate
Canadian Nuclear Safety Commission
280 Slater Street
Ottawa ON K1P 5S9

Dear Mr. Torrie:

Cameco's Comments on REGDOC 2.9.1, Environmental Protection: Environmental Assessments

Cameco Corporation (Cameco) has prepared the following comments on REGDOC 2.9.1, *Environmental Protection: Environmental Assessments* (the Document). In these comments, we will first discuss Cameco's concerns regarding the Discussion Paper at a high level. We will then outline our specific concerns regarding the proposed regulatory framework and its application, and offer several recommendations for consideration in our more detailed comments set forth in the attached "Schedule A: Cameco's Detailed Comments on REGDOC 2.9.1."

To begin with, Cameco is committed to environmental protection and preventing pollution and this is defined in our corporate Safety, Health, Environment and Quality Policy. Protection of the environment is recognized among our highest corporate priorities during all stages of our activities, and a clean environment is also one of Cameco's four measures of success.

With that context as to our commitments and priorities, Cameco is concerned with the potential scope and application of the process described under Part A of the Document ("Environmental Assessment under the NSCA"). The processes outlined in the Document have the potential to greatly increase the regulatory burden on licensees, without any accompanying increase in environmental protection.

In particular, the process outlined in Part A of the Document appears to not only vary considerably from the Environmental Protection Assessment (EPA) process initially described

by the CNSC staff in CMD 13-M8 (the CMD) in February 2013 without a clear rationale for doing so, but also is unclear in several respects. To begin with, the Document should be clarified to state that the process described in Part A only potentially applies when the proposed change to a facility or its operation does not meet the objective of the licensing basis as defined in the licence condition handbook (LCH). Without this, Cameco is concerned that the increased levels of clarity, consistency, and predictability with respect to regulatory requirements and licence administration that has been achieved through the CNSC licence reform process and implementation of the LCHs could be negatively impacted as a result of this Document.

In addition, Cameco is concerned that the process described in Part A may result in the CNSC conducting a *Canadian Environmental Assessment Act, 2012* (CEAA, 2012)-equivalent environmental assessment (EA) for projects and activities that are not, pursuant to the provisions of CEAA, 2012, required to go through the formal CEAA, 2012 EA process. The requirement for and requirements of an “EA under the NSCA” should be commensurate with the level of risk or complexity associated with the proposed change or request and this graded approach must be acknowledged and set out in the Document.

Cameco is also concerned with components of the EA process to be conducted under CEAA, 2012 contained in Part B of the Document. In particular, Cameco is concerned that the Government of Canada’s effort to improve efficiency and reduce duplication in the federal EA process through the adoption of CEAA, 2012 will be frustrated by the process described in Part B. In particular, Cameco is concerned with the requirement to submit a Project Description for designated projects under CEAA, 2012 that are led by the CNSC, the required production of project-specific EA guidelines, and the regulatory timelines outlined in Part B.

If you have any comments or concerns with respect to the above or the attached detailed comments, 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

c: P. Elder, J. LeClair, M. Rinker – CNSC
S. Hordenchuk – Saskatchewan Ministry of Environment
Regulatory Records - Cameco

Schedule A: Cameco's Detailed Comments on REGDOC 2.9.1

Part A – Environmental Assessments under the NSCA

When is an “EA under the NSCA” Required?

Cameco is concerned with the degree to which the Document varies from the CMD 13-M8 (the CMD) prepared in February 2013 and endorsed by the Commission. The process for triggering an “EA under the NSCA” (described as an “EPA” in the CMD¹) was laid out much more clearly in section 3.2.1 of the CMD. Part A of the Document should be clarified to explicitly state – as the CMD does throughout – that the “EA under the NSCA” process is not triggered when the proposed project or activity is within the objective of the licensing basis for the facility. Table 1 of the Document should be amended to include a step for a person authorized by the Commission determining whether a proposed project or activity is within the facility’s licensing basis and a step for the EPA determination as follows:

1. Applicant conducts pre-project consultation
2. Applicant submission of a request to change the LCH
3. Determination of whether proposed change meets the objective of the licensing basis
4. EPA determination
5. Determination of participation opportunities

In addition to clearly stating that the EPA process does not apply to proposed projects or activities that meet the objective of the facility’s licensing basis, the CMD also contemplates that an EPA may not always be required for projects or activities outside of the facility’s licensing basis, depending on whether a previous EA (including a provincially conducted EA) or EPA has been completed, and whether the activity is low-risk or potentially beneficial to the environment. Cameco is concerned that the Document does not reflect this critical aspect of the CMD, and does not appear to contemplate that an “EA under the NSCA” may not necessarily be required for all proposed projects and activities outside of the facility’s licensing basis.

Projects such as minor facility expansions and small rehabilitation projects, with minimal potential environmental effects should not be required to go through the comprehensive “EA under the NSCA” process, even if these projects or activities are outside of the facility’s licensing basis.

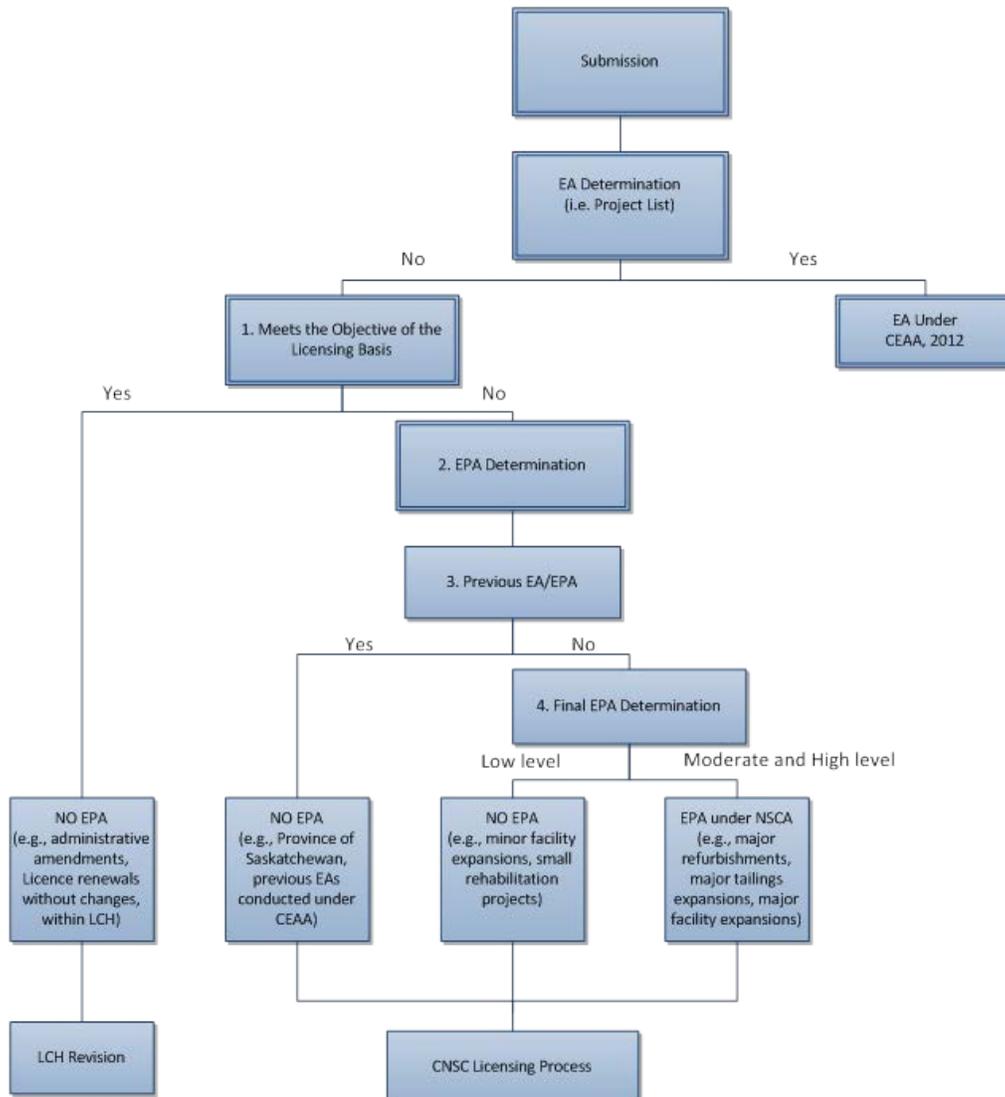
Further, the Document should state that proposed projects that are undergoing a provincial EA will not be required to also go through the “EA under the NSCA” process. As discussed in the CMD, the results of the provincial EA could, however, be used to change the LCH and update the licensing basis for the facility.

¹ The acronym EPA and term “EA under the NSCA” will be used interchangeably throughout this document.

The Document should require CNSC staff to determine whether an EPA/“EA under the NSCA” is required based on the following factors:

- Scope of project
- Technical complexity of project
- Potential environmental effects
- Involvement of other jurisdictions

Cameco’s concerns regarding the triggering process for an “EA under the NSCA” could be addressed with the addition of a flowchart clearly outlining the steps CNSC staff will follow in determining whether a proposed project or activity triggers the “EA under the NSCA” process. The flowchart contained on page 15 of the CMD could, with a few minor modifications, be added into the Document to increase clarity around when an EPA will be triggered as part of the CNSC’s licensing process. The following flowchart greatly increases the clarity surrounding both the application and scope of the “EA under the NSCA” process set out in Part A of the Document:



In addition, Cameco strongly suggests that mining and milling production increases be removed from the list of projects that “would likely include an EA Conclusion Report” in Step 8 of Part A of the Document. Proposed mining and milling production increases could potentially meet the objective of the licensing basis, or alternatively, could result in minimal environmental impacts, such that an EPA would not be required. Including mining and mill production increases in this list of projects unnecessarily predetermines the outcome of this process.

Scope of an “EA under the NSCA”

CEAA, 2012 was substantially amended in 2012 as part of the Government’s Responsible Resource Plan, which set out to make the review process for major projects more predictable and timely.

The amendments to CEAA, 2012 did not remove CNSC-licensed projects from the application of this legislation. Consequently, whether an EA is required, and what is required to complete the EA of a CNSC-licensed project must be determined pursuant to CEAA, 2012. Requiring a project that does not trigger an EA under CEAA, 2012 to go through an equivalent process under the *Nuclear Safety and Control Act* is contrary to both the intent of CEAA, 2012 and the Cabinet Directive on Regulatory Management, which requires the administrative burden of regulations to be monitored and controlled, and that the regulatory process have timelines and policy coherence. Further, the creation of a CEAA, 2012 equivalent process under the NSCA, is also contrary to the Government’s Red Tape Reduction Action Plan, which sets out the Government’s “common-sense approach to cutting red tape so entrepreneurs can focus on doing business and creating jobs” and introduces reforms “that address a broad range of irritants to businesses, as well as the systematic barriers that unnecessarily frustrate and burden Canadian business with additional delays, costs and bureaucracy.” Finally, this goes beyond using existing tools as indicated by CNSC staff when presenting the CMD or formalizing the existing approach as it was endorsed by the Commission in 2013.

Cameco is concerned that the Document has the potential to vastly broaden the scope of the determination that must be made as part of a licensing decision under s. 24(4)(b). Section 24(4)(b) of the NSCA requires that before a licence is issued, renewed, amended or replaced, the Commission must be of the opinion that the applicant will make adequate provision for the protection of the environment and the health and safety of persons while carrying out the activity. Section 24(4)(b) does not require that an “EA” – as the term is commonly understood – be conducted. More specifically, “EA” is a well-defined process under both federal and provincial EA legislation. Federally, EAs are required under, and defined by, CEAA, 2012.

Statements such as “before considering a regulatory decision under the NSCA the Commission must decide if the proposed project is likely to cause significant adverse environmental effects” are concerning. The Commission is only required to decide if designated physical activities undergoing an EA under CEAA, 2012 are likely to cause significant adverse effects. The NSCA does not have a requirement that the Commission decide whether a project is likely to cause significant adverse environmental effects before making a decision under the NSCA.

While the Document states that the CNSC considers an EA to be an assessment of information required under the NSCA and its regulations to determine whether the applicant will make adequate provision for the protection of the environment and the health and safety of persons, the Document’s use of CEAA, 2012 EA terms such as “significant adverse effects”, “cumulative

effects” and “alternatives to the project” suggest that an “EA under the NSCA” may be substantially similar to an EA under CEAA, 2012. The result would be that proposed projects, licence renewals, and licence amendments that do not require an EA under CEAA, 2012, would essentially end up going through a similar process under the NSCA, despite the assertion in the CMD that the EPA process is not intended to recreate the CEAA, 2012 EA process.

Cameco suggests the term “EA under the NSCA” be changed to “Environmental Protection Assessment” (i.e. EPA), as this was the term proposed by the CNSC staff in its February 2013 presentation to the Commission, to ensure that the process under s. 24(4) does not become a duplicate of the EA process conducted under the CEAA, 2012. The Document should set out what information will be required to complete an EPA, how a proponent’s existing Environmental Risk Assessment will be used, and how the relevant CSA standards and existing CNSC Regulatory Documents listed in the Document will be incorporated into the process.

In addition, the Document should state that the level of EPA is commensurate with the level of risk or complexity associated with the proposed change or request. In this regard, the Document should specify, for example, that the requirements of an EPA associated with a relicensing decision (i.e. the relicensing of facilities with mature management systems and programs) should not require as fulsome an EPA as would be required for a licence application for a new facility.

Increased clarity in the Document around the process for determining the trigger for, and scope of, an EPA will alleviate several of the foregoing concerns. In other words, if the Document clearly set out that EPAs will only be conducted for projects, such as major refurbishments, major tailings expansions and major facility expansions, Cameco’s concerns regarding the potential scope of the EPA process described in Part A would be lessened to some degree.

Process for “EAs under the NSCA”

In order to increase the transparency of the CNSC’s regulatory process, timelines should also be provided for the EPA process in Table 1, once the decision has been made to go through the EPA process. Regulatory certainty demands that licensees be able to anticipate how long regulatory approvals will take. In addition, as outlined above, the initial steps of the process should be modified to include a determination as to whether the proposed activity is within the licensing basis, and whether the proposed activity will trigger an EPA.

Part B of the Document states that the CNSC will work with other jurisdictions to determine if the EA requirements of all jurisdictions can be addressed through a single EA process to reduce duplication and increase regulatory efficiency. In Cameco’s view, the same type of regulatory coordination should also be considered during the EPA under s. 24(4) of the NSCA, for projects that are undergoing a provincial EA process.

Public Participation in “EAs under the NSCA”

Cameco has had active public information programs in place for several years at its Canadian operations, and Cameco recognizes the importance of providing relevant information to the public. In addition, one of Cameco’s core values is integrity, which includes commitments to “maintaining positive and open relationships wherever we operate” and to “publicly disclose complete, accurate and balanced information on a timely basis”.

The Document appears to potentially increase the degree of public participation involved in licensing decisions under s. 24(4) of the NSCA. Appendix B sets out the criteria for determining the level of public participation for the “EA under the NSCA” and for the EA process under CEAA, 2012. Appendix B does not require a consideration of whether the proposed activities will be occurring on a disturbed area within the applicant’s existing surface lease. This factor is important, as Cameco may not conduct formal community engagement on these types of proposed activities. Moreover, Cameco does not typically undertake a formal engagement process for activities or projects that are within the licensing basis. The Document could lead to increased community expectations on the level of engagement that will be associated with various licensing decisions. Further, the amount of public participation in an “EA under the NSCA” should not be commensurate with the amount of public participation involved in an EA under CEAA, 2012, as these are distinct processes mandated by two different pieces of legislation.

Finally, neither the Document nor Appendix B address the role of the applicant in determining the level of public participation required. Cameco has extensive experience with consultation and community engagement, and thus should be involved in the CNSC’s determination on the level of public participation.

Part B – EAs under CEAA, 2012

Cameco has the following specific concerns in respect of the process outlined for CNSC-led EAs under CEAA, 2012.

Section 5.3: Environmental Assessment and Licensing

It is not entirely clear what is meant in section 5.3.2 by using an EA to “determine the feasibility of a project” or why that would necessarily determine the EA and licensing process. Cameco suggests that s. 5.3.2 be amended by either clarifying what is meant by using an EA to determine the feasibility of a project, or by removing the use of an EA to determine the feasibility of a project as an example of the type of EA that would go through the sequential process in section 5.3.2.

In addition, section 5.3.2 of the Document states that if there is a “significant time lapse” between the EA decision and the submission of the corresponding licence application during the sequential EA and licensing process, CNSC staff may require the applicant to update the EA. The Document should define a “significant time lapse” as five years, to correspond with the requirement to update a facility’s ERA on five-year cycles in CSA N288.6, *Environmental Risk Assessment at Class I Nuclear Facilities and Uranium Mines and Mills*, 2012. In addition, Cameco suggests that the EA should only require updating if the time lapse has actually resulted in any significant changes to the conclusions of the ERA regarding potential effects, and their significance.

Section 5.4: Aboriginal Consultation

Finally, the third paragraph in section 5.4 on Aboriginal consultation should be clarified to state that “CNSC staff may work more closely with Aboriginal peoples where the potential for more serious adverse effects on *Aboriginal or treaty rights* arising from a Commission decision

appears to be a possibility.” Aboriginal and treaty rights are more clearly defined terms than “Aboriginal interests”.

Step 2: Applicant submission of a licence application and project description

It is not clear to Cameco why applicants will be required to submit a project description that provides the information set out in the *Prescribed Information for the Description of a Designated Project Regulations*. Requiring an applicant to submit this type of project description would impose a costly, time-consuming, and unnecessary burden on applicants.

The *Prescribed Information for the Description of a Designated Project Regulations* apply to EAs being conducted by the Canadian Environmental Assessment Agency, and the information required to be submitted pursuant to these Regulations is used by the Agency in deciding whether the proposed project will require an EA.

None of this information is required for the CNSC to determine whether a proposed project is required to go through a CEAA, 2012 EA, or to meet the requirements under section 80(2) to maintain a summary of the designated project. For CNSC-licensed projects, there is no screening process: all CNSC licensed activities that are designated physical activities pursuant to the *Regulations Designating Physical Activities* are required to go through an EA under CEAA, 2012. The Document should be amended to provide that the information required to be submitted to the CNSC in making its determination of whether an EA under CEAA, 2012 is required is limited to the information the CNSC requires in order to decide whether the proposed project falls within ss. 31 – 38 of the *Regulations Designating Physical Activities*. In other words, the information required should include a description of the project and its location, and a summary of why the project is a designated activity under CEAA, 2012.

Alternatively, if the proponent’s project description is to be used to determine the public participation opportunities in accordance with Appendix B, then the information required to be included in the project description should be tailored so as to provide the CNSC with the information it needs to apply Appendix B.

Finally, this section should clarify that submission of a licence application occurs only during the integrated EA and licensing approach. Table 2 should also be amended accordingly.

Step 8: EA Guidelines

Step 8 of the process states that if the Environmental Impact Statement (EIS) and supporting technical studies have already been completed, the CNSC may deem that project-specific EA guidelines are not required, but does not state what would be required in order for such a determination to be made. In addition, it is unclear to Cameco at what point in the process outlined in Table 2 an EIS could be submitted to the CNSC, in order to avoid the lengthy EA Guideline establishment process. Finally, the Document should describe the role of the proponent in developing EA Guidelines: Cameco is concerned for the potential to have one set of EA Guidelines for an EA under CEAA, 2012 and a separate set of EA Guidelines for the provincial EA process.

Under s. 79(2)(b) of CEAA, 2012, the CNSC is required to post on the Canadian Environmental Assessment Registry a record of a description of the factors to be taken into account in the EA

and of the scope of those factors or an indication of how such a description may be obtained. In order to streamline the EA process, Cameco suggests that the CNSC refer directly to s. 19(1) of CEAA, 2012 and clearly outline what of the s. 19(1) factors will need to be addressed in the particular EA. The applicant can then provide a summary to the CNSC, to be approved by the EA coordinator, outlining how these factors will be addressed.

Step 11: Technical and External Review of the EIS

The CNSC's and any other federal authority's review of the EIS should both be conducted prior to, and not concurrently with, any public review of the EIS. This will ensure that the public is reviewing the final version of the EIS, and will increase both the efficiency of the process, and the public's confidence in both industry and regulators.

Step 13: Commission Hearing on the EA Report

Cameco is concerned that the Document does not include the possibility of an abridged hearing for a Commission hearing on an EA Report. While Table 3 includes the possibility of an abridged hearing for the Commission's consideration of the EA guidelines, it also states that regardless of the public participation level in the EA, CNSC staff will recommend that the Commission consider the EA report in a public hearing with written interventions, and oral interventions if the public participation level is defined as moderate or high. In Cameco's view, an abridged hearing should remain a possibility for EAs with a designated low or very low public participation level.

Appendix D: Environmental Assessment Timelines under CEAA, 2012

While Cameco is pleased to see that the Document includes timelines for an EA under the CEAA, 2012, Cameco is concerned that the timelines allow for the EA process to take a maximum of 730 days, regardless of the complexity of the EA, the amount of public participation in the EA, and the type of hearing for the EA. This is twice the amount of days given to the Agency to complete the EA process under CEAA, 2012, and the Document does not provide a justification for why this extended timeframe is necessary. There are several steps listed in Appendix D that could be either removed, or shortened in duration. For example:

- Steps 8 – 9.1 provide for a possible maximum of 185 days (26 weeks) to establish and finalize the EA guidelines
- Step 11 provides for a maximum of 195 (28 weeks) days for the CNSC to complete its technical review
- Step 12 provides for a possible maximum of 130 days (19 weeks) for the CNSC staff to draft an EA report, and a CMD on the EA report

Appendix B: Criteria for Determining Public Participation

Cameco suggests that the application of Appendix B be clarified. The scope of the appendix is slightly unclear, as the Document states the appendix should be used by CNSC staff upon receipt of a licence application for a proposed project, but then goes on to state that for EAs under the NSCA, the appendix *may* be used to support the determination of participation opportunities. It is not clear in which situations Appendix B will be used to determine the level of public participation in EAs under the NSCA.

In addition, Appendix B could benefit from further clarification of certain terms. For instance, the criterion for determining public and Aboriginal interest criteria in item 2 in Table 6 refers to whether the project is “likely to generate conflict between environmental and social or economic values of concern to the public or Aboriginal groups.” It is not clear how such a “conflict” would be defined, and how the environmental and social values of concern to the public or Aboriginal groups will be defined. In addition, the criterion for determining environmental characterization and potential effects in item 1 in Table 7 refers to a “high degree of environmental and program characterization.” Further guidance on how a site’s degree of environmental and program characterization will be determined would be useful.

Appendix B.3 provides a four-step process for applying the criteria set out in Tables 6 and 7, and states that the score for each criterion will be determined using professional experience and judgment. The Document would benefit from further explanation and details surrounding the application of professional experience and judgment. For instance, will there be multiple reviewers and assessors involved in making the determination? Will the assessor(s) be from the same region the applicant’s project is located in?