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Update from CNSC Staff

Mise à jour du personnel de la CCSN

Follow up from November 5, 2020
Commission meeting

Suivi suite à la réunion de la
Commission du 5 novembre 2020

**Update from CNSC staff on the
Regulatory Oversight Report for
Nuclear Substances presented in
November 2020: Details related to
enforcement actions per licensee**

**Mise à jour du personnel de la
CCSN sur le Rapport de
surveillance réglementaires sur les
substances nucléaires présenté en
novembre 2020 : renseignements
sur les mesures d'application de la
loi par titulaire de permis**

Commission Meeting

Réunion de la Commission

October 5, 2021

Le 5 octobre 2021



To Marc Leblanc
Commission Secretary

A **CC:**
Ramzi Jammal
Executive Vice-President and Chief Regulatory
Operations Officer

From Karen Owen-Whitred
De Director General
Directorate of Nuclear Substance Regulation

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Subject Response to question on the Directorate of Nuclear Substance Regulation Regulatory Oversight
Objet Reports raised by the Commission during the November 5, 2020 Public Meeting

Background

During the November 5th, 2020 Commission meeting, Canadian Nuclear Safety Commission (CNSC) staff presented the Directorate of Nuclear Substance Regulation Regulatory Oversight Reports: Part I: Use of Nuclear Substances in Canada: 2019 and Part II: Class IB Accelerators in Canada: 2018-2019 [1][2]. The Commission requested details related to enforcement actions per licensee for each sector [3 (page 111)]. CNSC staff committed to answering these questions after the meeting [4].

In 2019, the Directorate of Nuclear Substance Regulation (DNSR) initiated 13 enforcement actions, all of which were orders. Enforcement includes all activities to compel a licensee back into compliance and to deter further non-compliance with the *Nuclear Safety and Control Act* (NSCA), the regulations made under the NSCA, and any licences, decisions, certificates and orders issued by the CNSC. When CNSC staff identify a non-compliance, the CNSC’s graduated enforcement strategy provides staff with the flexibility and discretion to select from a broad spectrum of options to restore compliance as quickly as possible based on the safety significance of the non-compliance.

Comparison of Enforcement Actions per Sector

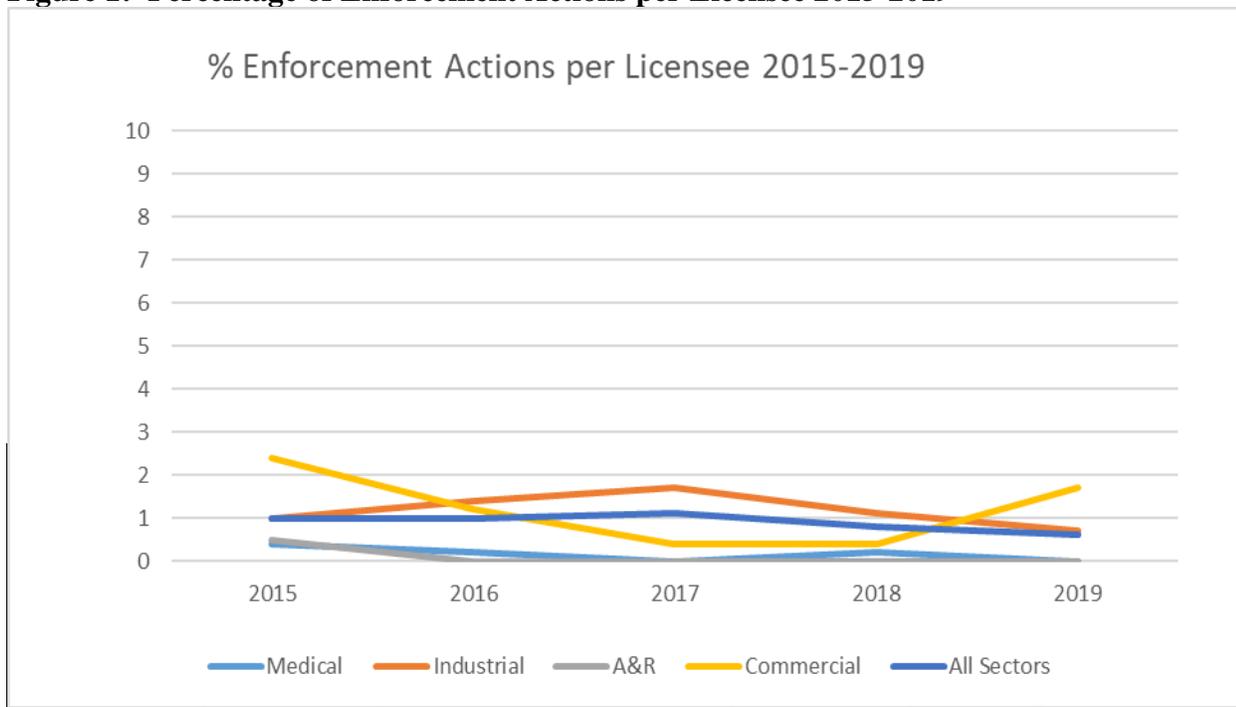
The question raised by the Commission in the November 2020 proceeding related to analysing the number of enforcement actions per licensee within each of the four sectors regulated by DNSR, to see if it is possible to compare trends across sectors. In answering this question, staff calculated the percentage of total licensees that were subject to additional enforcement actions in each sector in 2019. Additionally staff considered the percentage of inspected licensees (a subset of the total) that were subject to additional enforcement actions that year (Table 1).

Table 1: Enforcement Actions per Licensee (2019)

Sector	# of Enforcement Actions 2019	# of licensees per sector 2019	% of enforcement actions/licensee 2019	# inspections per sector 2019	% of enforcement actions/inspected licensee 2019
Medical	0	438	0	201	0
Industrial	9	1228	0.7	516	1.7
A&R	0	187	0	91	0
Commercial	4	237	1.7	55	7.3
All Sectors	13	2090	0.6	863	1.5

Figure 1 shows the percentage of enforcement actions per licensee over five years, including the 5-year average. Similar to 2019, the Commercial and Industrial sectors are the two sectors with the most enforcement actions. The 5-year average for the number of enforcement actions as a percentage of the number of licensees is 1.2% for both the Commercial and Industrial sectors. The Medical and Academic and Research sectors were both very low in comparison. As Figure 1 demonstrates, the variation in the percentage of enforcement actions per licensee over time is minimal and does not demonstrate any clear trends.

Figure 1: Percentage of Enforcement Actions per Licensee 2015-2019



Analysis

Due to the aggregation of data at the sector level and the low number of enforcement actions overall, staff cannot make meaningful conclusions about licensee performance based on the number of enforcement actions taken.

When considering the number of enforcement actions per licensee in a given year, the reality is that year over year, there is a variation between and within sectors as to what types of licences are inspected, which actual licensees are inspected and whether or not enforcement actions are issued. Due to the aggregation of data at the sector and even at the sub-sector level, trending data year over year at these levels is not meaningful.

Staff consider multiple indicators when assessing licensee performance and planning for compliance oversight. While previous enforcement actions are considered in the assessment of licensee performance, due to the small number of enforcement actions each year, this consideration is qualitative rather than quantitative. Other indicators considered when assessing licensee performance and planning for compliance oversight include the risk ranking of the licensed activity, previous inspection ratings, frequency of reportable events and professional judgement.

While looking at the data at the sub-sector level may yield some insight into licensee performance, such an exercise would be labour intensive, since the systems used by CNSC staff to store licensing and compliance data are not automated. As such, the manual effort required to manually compare the data at the sub-sector level outweighs any limited additional benefit from such an assessment.

Conclusion

At the Commission's request, CNSC staff examined the number of enforcement actions per licensee for each sector in order to determine whether it would be possible to compare trends in enforcement across sectors. Overall, the number of enforcement actions per licensee in each sector is consistently low, and is furthermore distributed across disparate subsectors; as a result, the limited data does not lend itself to any meaningful conclusions. Staff do not feel that additional analysis of the limited number of enforcement actions within each sector provides any further insight on the performance of licensees.

REFERENCES

- [REF 1] [CMD 20-M32 Agenda for Commission meeting, November 5, 2020](#) (e-doc #6358950)
- [REF 2] [CMD 20-M23 Directorate of Nuclear Substance Regulation Regulatory Oversight Reports: Part I: Use of Nuclear Substances in Canada: 2019 Part II: Class IB Accelerators in Canada: 2018-2019](#) (e-doc# 6359430)
- [REF 3] [Transcript of the Commission Meeting of November 5, 2020](#) (e-doc# 6454135)
- [REF 4] [Minutes of the Meeting of the Canadian Nuclear Safety Commission held on November 5, 2020](#) (e-doc# 6445637)