



July 30, 2014

Mr. B. 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:

**Re: Comments regarding draft REGDOC 2.9.1 - Environmental Protection:
Environmental Assessments**

NB Power appreciates the opportunity to provide comments to the CNSC on the draft Regulatory Document 2.9.1 - *Environmental Protection Environmental Assessments* (Reference 1). We have reviewed the proposed document in light of existing CNSC legislation (*Nuclear Safety and Control Act*) and supporting policy documents (existing Regulatory Document 2.9.1), as well, as the *Canadian Environmental Assessment Act* (2012) (CEAA 2012) and related regulations.

Based on our review, our understanding of the proposed document is that Part A is essentially a licensing tool, under the authority of the NSCA, while Part B defines how the CNSC will carry out its mandate under the authority of CEAA 2012. As such, we have a number of comments and suggestions that we feel would improve the overall regulatory guidance provided by the CNSC.

1. It is not clear to NB Power how this proposed document relates to the existing version of Regulatory Document 2.9.1 - *Environmental Protection: Policies, Programs and Procedures*. The existing version of 2.9.1 identifies expectations for licensee environmental management programs and reflects a well-established understanding that appropriately implemented environmental programs consistent with CSA guidance are adequate to ensure protection of the environment as required by the NSCA. The proposed 2.9.1 document is entirely different in nature, and should not be combined with the existing 2.9.1.
 - a. *Recommendation: If any new document is required, assign a different document number and do not combine it with the existing RegDoc 2.9.1.*
2. Fundamentally, the terminology used in the proposed document confuses two historically technically and legally separate processes. Environmental assessments, per both CEAA and the history of environmental assessments, are supposed to be a planning tool, conducted prior to significant planning decisions. Environmental

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2. assessments are not supposed to be tool used as part of ongoing licensing requirements. Though the use of environmental assessment terminology in Part B is appropriate (i.e. is related to CEAA 2012), the use of environmental assessment terminology is confusing and misleading in Part A which supports a licensing decision under NSCA.
 - a. *Recommendation: remove Part A since licensing requirements are already covered in regulation*
 - b. *If Part A remains, remove all reference to environmental assessment in Part A, and replace with reference to "protection of the environment" per NSCA and associated regulations.*

3. As written, Part A of the proposed document reintroduces many of the elements of the old CEAA act and regulations, establishing an onerous 9 step process for all applications. As written, this 9 step process appears to be independent of the licencing process, potentially requiring:
 - a. a completely separate set of studies based on guidance to be provided by the CNSC,
 - b. public participation
 - c. first nations consultation
 - d. potential intervener funding
 - e. external review of any technical studies
 - f. preparation of an EA summary report (separate from the licensee documentation).

This process has no defined timelines, lacks clarity, and lacks predictability.

This is essentially the same an environmental assessment under the old, repealed version of CEAA. As such it fundamentally undoes the intent of Parliament which, through the passage of CEAA 2012, wanted a focus on larger more complex projects.

- a. *Recommendation: remove Part A of the proposed document.*

4. 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 CEAA legislation. This is problematic for a number of reasons.
 - a. Applying environmental assessments (even as outlined in Part A) to all license applications appears contrary to the Red Tape Reduction directive. For example, license applications for administrative actions or activities such as transporting radioactive materials should not require a technical study for protecting the environment.
 - b. Licensees have existing environmental management programs consistent with CNSC guidance and regulatory requirements. The adequacy of these programs is already reviewed as part of the licensing process, and the Commission has deemed this process adequate for protection of the environment (per NSCA requirements) by issuing licences. However, Part A of the proposed document does not adequately reflect this. It is open ended, lacks of clarity and introduces considerable confusion into the licensing expectations.

- c. The existing licensing framework has proven more than adequate over many years to allow the Commission and staff to ensure the protection of the environment (per NSCA mandate).
 - i. *Recommendation: Remove Part A of the proposed document.*
 - ii. *If Part A is retained, define exactly which licence applications are captured under Part A.*
 - iii. *If Part A is retained, more clearly define what documentation is adequate to demonstrate protection of the environment.*
5. The authority for Part B of the proposed document comes from the *CEAA 2012*, however the timelines outlined in Part B do not fall within the expectations laid out by Parliament through *CEAA 2012* and its related guidance. This is particularly troubling as the intent of *CEAA 2012* was to a) focus on larger projects, and b) to bring clarity and predictability to the process.

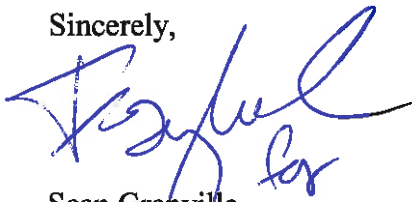
As proposed CNSC's application of *CEAA 2012* could take up to 730 days, almost twice as long as the *CEAA 2012* expectations of having an assessment completed in 365 days. In part, this is because the CNSC guidance in Part B does not align with the guidance prepared by the Canadian Environmental Assessment Agency.

- a. *Recommendation: Align the timelines in the proposed document to align with the enabling legislation (CEA 2012) and related guidance from the Canadian Environmental Assessment Agency.*
- b. *Utilize Canadian Environmental Assessment Agency guidance as opposed to developing new guidance.*

NB Power has highlighted a number of the major issues with the proposed document that we feel need to be addressed. We would encourage the CNSC to initiate a stakeholder workshop to discuss these issues in a fashion that will lead to a recognition of the excellent work done by both staff and licensees to ensure the past, present and future protection of the environment, and which could help identify areas where additional regulatory guidance would improve the protection of the environment.

If you have any questions or require any clarification concerning this subject, please contact Charles Hickman, Director Environment and Emergency Planning, at 506 458 3117 or cnhickman@nbpower.com.

Sincerely,



Sean Granville
Site Vice President and Chief Nuclear Officer

SG/CH

cc. Ben Poulet, Pierre Bélanger, Lisa Love-Tedjoutomo, Bruno Romanelli (CNSC - Ottawa),
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CNSC Site Office
Charles Hickman, Al MacDonald (NBP)

Reference:

1. Canadian Nuclear Safety Commission, Environmental Protection: Environmental Assessments, REG DOC 2.9.1, April 2014.