

2014 January 17

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

Dear Mr. Dallaire:

Comments on Proposed Regulatory Document 2.2.1 Managing Worker Fatigue and Hours of Work

We have reviewed REGDOC-2.2.1, *Managing Worker Fatigue and Hours of Work* and have met with industry partners (Ontario Power Generation, Bruce Power, New Brunswick Power, CANDU Energy) to discuss issues, challenges, and impact of this proposed regulatory document. We have concerns that the proposed REGDOC is not required from a safety perspective. The requirements as written will not have the intended positive impact on nuclear safety as they focus on hours of work, which is only one aspect of managing worker fatigue which itself is only one factor in ensuring fitness for duty.

AECL has a robust system of managing and reporting of hours of work to ensure we are in line with the Canada Labour Code. We have no documented history of worker fatigue due to excessive hours worked being the root cause of any event. We do recognize the need for constant improvement, but believe the focus needs to be on a holistic approach to ensure that all factors affecting worker fitness for duty, e.g. hours of work, rest periods, stress, mental state, drugs and alcohol usage, illness, physical fitness, etc., are considered. We are continuing to work to advance employee fitness for duty through a comprehensive program that addresses all of these areas. We are looking at best practices from within the nuclear industry in Canada and abroad as well as from other industries to ensure a best in class program.

We are concerned that, should these draft requirements be applied as written, it will adversely impact our industry as follows:

- Contractors and trades people will be unwilling to work in the nuclear industry due to fewer available hours compared to other industries including aviation, transportation and rail.
- There will be an increase in administrative complexities to manage hours of work with no demonstrated additional value to nuclear or public safety.

We have concerns about the additional impact on AECL as the only federally regulated employer to which these regulations would apply. Specifically:

- The regulations are written with a view only to the provincial employment standards, and do not reflect the language and spirit of the Canada Labour Code.
- They would create an inequity in the industry as they would not allow AECL to apply averaging agreements that are available under the Canada Labour Code to increase hours worked per week from 48 to 60. This creates a greater burden unique to AECL.
- Unnecessarily negatively impacts labour relations with our 23 unions as the provincial framework used requires adjustments to previously negotiated shift schedules as well as those awarded by arbitrators.

The REGDOC requirements imply that the existing controls and rest periods are insufficient to maintain safe operations when the evidence demonstrates clearly this is not the case. We strongly believe that focussing on only one area of employee fitness for duty is a disservice to the industry and will not yield the desired effect of continually advancing world class safety. We echo the concerns of our industry peers regarding this REGDOC and do not support it being issued in its present state.

We have attached a table with more detail of our specific concerns for your consideration.

If you require further information or have any questions regarding this submission, please contact me as below.

Yours sincerely,



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TA/mj
Attachment

c	C. Carrier (CNSC)	Consultations (CNSC)		
	A. Bugg	S. K. Cotnam	C. de Vries	J.D. Garrick
	S. Haywood	R.M. Lesco	S. Mistry	S. Needham
	U. Senaratne	K.L. Smith	C.E. Taylor	R. Walker
	>CR CNSC Site Office	>CR Licensing	>SRC	

Attachment A**AECL Comments on REGDOC-2.2.1, Managing Worker Fatigue and Hours of Work**

#	Document section/ excerpt of section	Industry issue	Suggested change(if applicable)	Major Comment/ request for clarification	Impact on industry if major comment
1	General	Favours provincial legislation, ignores federal limitation (no ability for planned work to be deemed 'emergency work or exceptional circumstances' as per provinces)	Reflect Canada Labour Code provisions for averaging to allow federally regulated employers to allow employees to work more than 48 hours in a week.	Major Comment	<ul style="list-style-type: none"> • Increased operating costs and decreased capability • Requirement to hire more employees • Reduced efficiencies • Requirement to train a large number of employees in safety sensitive roles to provide adequate coverage
2	General	Contradicts collective agreements negotiated with our unions		Major Comment	<ul style="list-style-type: none"> • Labour unrest • Many of our 23 Unions will challenge the ability of the CNSC to regulate changes to their negotiated shift schedules via the Canadian Industrial Relations Board.
3	General	AECL has 17 collective agreements that expire between 2014 March 31 and 2015 March 31, we will be in a statutory freeze with a portion of our employees from 30 November 2013 until all agreements are ratified.	Regulations to be introduced with a long time period before required compliance (e.g. Spring 2015)	Major Comment	<ul style="list-style-type: none"> • Differing standards by bargaining local, very hard to manage/ensure compliance • Labour unrest • Inability to implement unilaterally. Would be forced to implement to non-union staff then bargaining unit by bargaining

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4	1.2 Scope	Too rigid – one approach for all positions versus a target approach for specific roles	Regulation to apply to the following occupations only: <ul style="list-style-type: none"> • Minimum Complement Staff • Operations or on-site directing of operations of safety related systems (e.g. certified staff, main control room operators, field operators, fuel handling operators) • Maintenance or onsite directing of maintenance of safety related systems • Industrial fire brigade • Nuclear security officers and nuclear response team members 	Major Comment	<ul style="list-style-type: none"> • Increased operating costs and decreased capability • Requirement to hire more employees • Reduced efficiencies • Requirement to train a large number of employees in safety sensitive roles to provide adequate coverage
5	3.1.1 Roles and responsibilities	Defined hours on contractor organizations	Place the onus of respecting the regulations on the contractor and have them sign a contract with the license holder that they will ensure all resources supplied to the licensed site comply with the regulations	Major Comment	<ul style="list-style-type: none"> • AECL uses contractors that also work at other locations (nuclear and non-nuclear), we have no way of knowing what hours they work at these locations. • Reduced ability to use contractors as they will be too cumbersome to manage • Reduced efficiencies • Increased operating costs and decreased capability • Requirement to hire more employees

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6	3.1.4 Emergencies or exceptional circumstances	Not applicable under the Canada Labour Code	Recognize the inability of federally regulated sites to exceed 48 hours worked in a week without averaging agreements. Averaging agreements allow for work to a maximum of 60 hours per week so long as the average over a 26 week period is less than 48 hours per week.	Major Comment	<ul style="list-style-type: none"> • No access to planned or foreseen emergencies or exceptional circumstances under the Canada Labour Code. Without averaging AECL would be bound to a maximum of 48 hours per week. • Increased operating costs and decreased capability • Requirement to hire more employees • Reduced efficiencies • Requirement to train a large number of employees in safety sensitive roles to provide adequate coverage
7	3.2 Limits on hours of work and recovery periods –	Inclusion of item 2. Industrial fire brigade, our Chalk River fire department has a 24 hour shift entrenched in their collective agreement	Allow for an exemption for industrial fire brigades who work longer shifts but who are allowed to sleep on shift	Major Comment	<ul style="list-style-type: none"> • Unions will challenge the ability of the CNSC to regulate changes to their negotiated shift schedules to the CIRB. • Labour unrest
8	3.2.1 Limits on hours of work	If calculated on a rolling 7 day period versus the federal static calendar week some AECL collective agreement shift schedules exceed 60 hours		Major Comment	<ul style="list-style-type: none"> • Unions will challenge the ability of the CNSC to regulate changes to their negotiated shift schedules to the CIRB • Labour unrest • Increased operating costs and decreased capability • Requirement to hire more employees • Reduced efficiencies • Requirement to train a large number of employees in safety sensitive roles to provide adequate coverage

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9	3.2.1 Limits on hours of work	AECL is under the Canada Labour Code that allows for averaging of hours up to a maximum of 26 weeks so long as no week exceeds 60 and the average is less than 48, this is greater than the proposed 312 hour maximum in a 6 week period (a 52 hour per week average)		Major Comment	<ul style="list-style-type: none"> • Recognize the inability of federally regulated sites to exceed 48 hours worked in a week without averaging agreements. Averaging agreements allow for work to a maximum of 60 hours per week so long as the average over a 26 week period is less than 48 hours per week. • Increased operating costs and decreased capability • Requirement to hire more employees • Reduced efficiencies • Requirement to train a large number of employees in safety sensitive roles to provide adequate coverage