Submitted to [[Discussion Paper DIS-24-02 - Proposal to amend REGDOC 2.13.2, Import and Export (letstalknuclearsafety.ca)](https://letstalknuclearsafety.ca/discussion-paper-dis-24-01-proposals-amend-packaging-and-transport-nuclear-substances-regulations-0)](https://www.letstalknuclearsafety.ca/regdoc-2-4-5-nuclear-fuel-safety) on June 6, 2024 (Word file).

Submitted to [consultation@cnsc-ccsn.gc.ca](mailto:consultation@cnsc-ccsn.gc.ca) on June 06, 2024 (PDF file).

| **#** | **Section** | **Industry issue** | **Suggested change** | **MAJOR** | **Impact on industry** |
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|  | Overview | Industry appreciates the opportunity to comment on this discussion paper, DIS-24-02. Our commentary focuses on improving the clarity of the proposed changes for the regulatory amendments and associated regulatory document. We have also taken the opportunity to make recommendations on additional amendments as well as suggesting further revisions and refinements.  Following a collective review by industry personnel knowledgeable in the management of import or export of nuclear items, controlled nuclear substances, equipment and information; licensees have identified several areas requiring clarification as well as several areas of concern. The feedback is broken in to *Major* or requests for *Clarification* comments. Of note, below we highlight two themes, which are of particular importance and supported by the comments identified as Major. These include:   * Streamlining of the Regulation – there remain opportunities to incorporate revisions into the regulation or providing additional information into the associated regulatory document that will greatly reduce administrative burden without increasing risk to nuclear safety, e.g., there are opportunities to streamline the sharing of controlled nuclear information between countries which Canada already has established nuclear cooperation agreements. * Modernization of the Regulation – there remain opportunities to incorporate revisions into the regulation or add additional information into the associated regulatory document that will significantly support and facilitate the undertaking of work practices in the modern interconnected/virtual workplace without increasing risk to nuclear safety, e.g., intangible transfers are not clearly and reasonably defined based on today's realities of work travel requirements where many workers travel with their work phones and computers. These are typically encrypted electronic devices which may contain controlled nuclear information; however, the information is not being shared nor transferred to anyone outside of Canada. When the electronic device is encrypted, it prevents unauthorized users from accessing the information.   Lastly, there are several topics related to the proposed amendments, this discussion paper as well as DIS-24-03 that would benefit from an Industry/CNSC staff workshop prior to proceeding with the draft regulatory documents. We recommend and are willing to participate in such a workshop. | | | |
|  | Section 1.1 | For general consideration: There is a desire to streamline the process whereby we share controlled nuclear information (not prescribed information per GNSCR) where a nuclear cooperation agreement (NCA) has been established or at a minimum with the U.S and U.K.  *For example, the obligation to acquire a license every time we share nuclear system information with a company in the U.S., a country where they have nearly a hundred operating commercial reactors of various designs, is a bureaucratic exercise that doesn’t benefit Canada’s compliance with the CPPNM and its amendment.* | The required practice to comply with the regulations is not commensurate with the risk. Provide general licenses for companies to share controlled nuclear information where a nuclear cooperation agreement (NCA) has been established or at a minimum with the U.S and U.K. | **MAJOR** | We urge the CNSC to take this the opportunity to modernize the import and export control regulations. This is an unnecessary administrative burden that does not reduce risk. |
|  | Section 2.2 | *“Are there other topics that would require additional information or guidance in this section?”*  YES   1. Please clarify if ANY information on a system or part that is exported needs an export licence, or is it a certain quantity or type of information? 2. Where does a “complete nuclear reactor” end with respect to CANDU reactors? Are components of the PHT purification or End Shield Cooling or moderator purification considered parts of a “complete nuclear reactor”? 3. With technology moving at a rapid pace, clarity is required around what an intangible transfer is. Laptops, cell phones, emails, workshops, conferences etc. What about accessing or not accessing information in Canada from outside of Canada? | Please include these topics in this section | **MAJOR** | A clearer understanding of what exports require an export licence will assist industry.  This will decrease regulatory burden so that industry only applies for exports that they need an export licence for.  Furthermore, this also prevents licensees from applying for a licence when one is not required. |
|  | Section 2.2 | The discussion on *intangible items* in REGDOC-2.13.2 is in the wrong section (Section 6.2). The list of *intangible items* should be under Section 5.3 "*What import and export licences authorize*" so industry are aware of what intangible items require an import or export licence. | Move the section on *intangible items* in REGDOC-2.13.2, Section 6.2 "*Assessment of application*" to Section 5.3, "What import and export licences authorize". | Clarification |  |
|  | Section 2.3 | “*What examples of intangible transfers involving controlled nuclear information should the CNSC include in the REGDOC?*”  The way in which industry and regulators work today in the modern, interconnected world is very different than when the regulations were initially developed. With the growth of virtual workplaces and cloud-based systems, the number of potential intangible transfers has increased (for example, Teams calls, spam filters, email servers, etc.). The definition of an *intangible transfer* needs to be properly defined to account for the realities of today's workplace while ensuring the security of information. Industry requests a meeting with the CNSC to discuss this topic further. | The concept of an intangible transfer needs to be further discussed at an Industry-CNSC staff workshop. | **Major** | We urge CNSC staff to take this the opportunity to modernize the import and export control regulations and the supporting REGDOC. If *intangible transfers* are not clearly and reasonably defined based on today's realities, then there will be a significant regulatory burden in maintaining import/export programs to reflect the modern workplace and these programs will not provide any benefit to the security of controlled information. |
|  | Section 2.3 | Today more workers travel with their work phones and/or computers. There is a possibility that these encrypted electronic devices may contain controlled nuclear information, however the information is not being shared nor transferred to anyone outside of Canada. The required practice to comply with the regulations is not commensurate with the risk.  The nuclear industry needs a method or exemption allowing workers to travel with encrypted electronic devices that contain controlled nuclear information and/or to remotely access controlled nuclear information from approved countries outside of Canada if information is not transferred or shared. | Request a provision of an exemption for workers of companies to travel with encrypted electronic devices that contain controlled nuclear information and/or to remotely access controlled nuclear information from approved countries outside of Canada if information is not transferred or shared.  Clarify that the following are not *intangible transfers*:  - workers to travel to travel outside of Canada to approved countries with encrypted electronic devices that contain controlled nuclear information, if information is not transferred or shared; and  - workers to access via an encrypted connection, controlled nuclear information that is stored in Canada from approved countries outside of Canada, if information is not transferred or shared. | MAJOR | We urge the CNSC to take this the opportunity to modernize the import and export control regulations and the supporting REGDOC.  Today more workers travel with their work phones and computers. There is a possibility that these encrypted electronic devices may contain controlled nuclear information, however the information is not being shared nor transferred to anyone outside of Canada. When the electronic device is encrypted, it prevents unauthorized users from accessing the information.  It is important for the CNSC to provide clarity on what is and is not an *intangible transfer*. |
|  | Section 2.6 | The industry needs more guidance on how to determine what is *Especially Designed* or *Prepared for Nuclear*.  There should be a new appendix | Recommend adding a new Appendix that would provide guidance on how to determine if something is *Especially Designed* or *Prepared for Nuclear* | **MAJOR** | This will ensure that the industry is being consistent and aligned with expectations in international standards. |
|  | Section 2.6 | The industry needs more guidance on how to determine if a document contains controlled nuclear information. | Recommend adding a new Appendix that will provide guidance on how to determine if a document contains Controlled Nuclear Information. | **MAJOR** | This will ensure that the industry is being consistent and aligned with expectations in international standards. |
|  | Section 2.6 | “*Appendix G: Guidance to applicants on creating written process for the import/export of controlled nuclear substances, equipment and information*”  There is a need for additional guidance on the new requirement in the NNIECR requiring a written process for the licence application. | Suggest clarifying in the guidance of Appendix G the written process does **not** need to be submitted for every licence application, only if substantial changes occur to the process or upon request. | Clarification |  |