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Canadian Nuclear Safety Commission
P.O. Box 1046, Station B
Ottawa, Ontario
K1P 5S9

Send by email

RE: Comments on REGDOC-2.9.1, Environmental Protection: Environmental Assessments

Dear Sir/Madame:

Rio Tinto Canada Uranium Corporation (RTCUC) is pleased to provide you with comments on the draft regulatory document REGDOC-2.9.1, Environmental Protection: Environmental Assessments.

If you have any questions regarding any of the attached comments, please do not hesitate to contact me at our Saskatoon office at (306) 385-2038.

Sincerely,



Richard Snider
Environment Manager
Rio Tinto Canada Uranium Corporation

**Rio Tinto Canada Uranium Corporation (RTCUC) Comments on the draft document
REGDOC-2.9.1, Environmental Protection: Environmental Assessments**

General Comment on Coordinated EA Process

It is noted on Page 11, Step 4, that the “*CNSC will work with other jurisdiction to determine if the EA requirements of all jurisdictions can be addressed through a single EA process to reduce duplication and provide regulatory efficiency*”. It is agreed that the federal and provincial environmental assessment (EA) processes should be aligned and coordinated as much as feasible.

In late 2012, the Saskatchewan Ministry of Environment (MOE) altered the provincial environmental impact assessment approval process. Table 1 has been prepared to provide a side-by-side comparison of the new provincial process with the CNSC process described in the draft document. As can be observed in Table 1 there are a number of potentially notable procedural differences. Has the CNSC undertaken discussions with the Province of Saskatchewan and/or MOE to discuss/address these procedural differences?

Table 1 CNSC and Saskatchewan Environmental Assessment Processes (A Comparison)

CNSC EA Process ¹	Saskatchewan Environmental Assessment Process ²	Comment
1. Applicant conducts pre-project consultation	Applicant is recommended to conduct pre-project consultation with the Environmental Assessment Branch	No conflict between CNSC and the Saskatchewan process
2. Applicant submission of a licence application and project description	Proponent submits Project <i>Technical Proposal</i>	No conflict between CNSC and the Saskatchewan process
3. EA determination	EA determination	No conflict
4. Federal, provincial and territorial coordination	Environmental Assessment Branch works closely with Federal Agencies to harmonize EA process	Unknown (see potential conflicts below)
5. Notice of EA commencement	<i>Notice of Commencement</i> published on Environmental Assessment Website Proponent may publish <i>Notice of EA Commencement</i> on (on behalf of Environment Assessment Branch) in local Newspapers or leave it to the EA Branch	No conflict between CNSC and the Saskatchewan process
6. Determination of participation opportunities	Environmental Assessment Branch determines and notifies proponent of its responsibility to fulfill certain activities related to the Crown’s Duty to Consult	No conflict between CNSC and the Saskatchewan process
7. Establishment of EA timelines	Not undertaken	No conflict between CNSC and the Saskatchewan process
8. EA guidelines (CNSC prepares)	Proponent prepares <i>Draft Terms of Reference</i> (which includes <i>Consultation Plan</i>) for review by Assessment Branch	Procedure differs significantly between CNSC and Saskatchewan environmental assessment review process.
8.1 Extended review period	Proponent finalizes <i>Draft Terms of Reference</i> (which includes <i>Consultation Plan</i>) to address review comments	
8.2 Drafting and submission of a CMD on EA guidelines	<i>Technical Proposal</i> and <i>Terms of Reference</i> (with <i>Consultation Plan</i>) published on Environmental Assessment Website for public comment. Notice published by Province.	
9. Commission hearing on EA guidelines		
9.1 Finalize and issue EA guidelines		
10. Conduct of EA technical studies	Conduct of EA technical studies	No conflict between CNSC and the Saskatchewan process
11. Technical review (CNSC)	Proponent submits Draft EIS to	Procedure differs significantly between

¹ From Table 4, Appendix D of REGDOC-2.9.1, *Environmental Protection: Environmental Assessments (DRAFT)*, April 2014, CNSC

² Saskatchewan Ministry of Environment implemented significant changes in the environmental assessment process in November 2012

11.1 External review (Aboriginal & Public) 12. CNSC prepares EA report 12.1 External review period for CNSC EA Report 12.2 Drafting and submission of a CMD on the EA report	Assessment Branch Technical Review of <i>Draft EIS</i> by Saskatchewan Environmental Assessment Review Panel , a standing panel of representatives from provincial departments and agencies Proponent provides response to Technical Review Comments on <i>Draft EIS</i> Proponent prepares Final EIS Final EIS issued for public review Environmental Assessment Branch receives public comments on Final EIS	CNSC and Saskatchewan environmental assessment review process.
13. Commission hearing on EA report	Minister of Environment makes determination independent of Executive Council	No conflict between CNSC and the Saskatchewan process
14. Commission decision on the EA	Minister issues “decision” pursuant the <i>Environmental Assessment Act</i>	No conflict between CNSC and the Saskatchewan process

Specific Comments

Page 1 – Background, third paragraph. It is noted that “*As appropriate, the CSNC will provide earlier opportunities for Aboriginal and public involvement in the licensing process*”. It would be useful if more clarification was provided on how this determination will be made, whether the opportunities which are described in each of the EA steps cover this process, or whether additional efforts, not currently described will be involved.

Page 3 – Note at top of page. There is a note which indicates that if the proposed project is subject to the CEAA 2012, the EA process in Part B (EA under the CEAA 2012) is to be referred to. An explanation should be provided on who makes this determination and how, within this note or at the beginning of Part B.

Page 3/4 – Step 3. The document indicates that Aboriginal and public participation opportunities are determined on a case-by-case basis as well as the need for other activities, such as open houses. Does the CSNC intend to make these determinations unilaterally, or will the CNSC involve the proponent in this process, prior to making determinations in order to gain additional information based on the proponents experience in this area? Has the CNSC considered the potential implications and how to respond, if a group/organization decides that they should have been consulted but were not?

It would be beneficial to describe how the subscription list will be developed. In line with the comment above, please indicate whether the proponent will have input or be given the opportunity to review the subscription list, prior to finalization.

Page 5 – Step 7.1. In regard to the external review by other federal departments, does the CNSC have or plan to develop any formal agreements (beyond the MPMO agreement discussed) with other federal departments regarding the scope of timeline of their reviews, in order to ensure timelines outlined in Appendix D are met and comments are appropriate to the department’s mandate/expertise?

Page 5 – Step 8. The examples provided in the last sentence of step 8 include uranium mining and milling production increases, major facility expansions and major site remediation. This raises the concern that uranium mining and milling projects/activities, such as small milling production increases, that do not require EAs under the current CNSC licensing process will now be required to have EAs conducted. The current CNSC licensing and public engagement process is effective and it should be clarified within the document, what projects will trigger the requirement to conduct an EA and whether the CNSC is, as it appears in the document, expanding the scope of what projects/activities require an EA.

Page 10 – last paragraph. With regard to Natural Resources Canada’s Major Projects Management Office (MPMO), it would be beneficial to clarify who makes the determination of whether the MPMO is involved in a project i.e. does the CNSC trigger MPMO involvement, or will all applications go to MPMO for their determination?

Page 11- Step 4. In light of the fact the CEAA 2012 has come into effect, is there a separate, or need for a separate EA “harmonization” agreement with between the Province of Saskatchewan and the CNSC as the RA under the CEAA 2012?

Page 14 – Step 7. The document indicates that the work plan “*may be subject to change and will be updated throughout the process*”. Does this mean that the CNSC may extend the timelines presented in Table 4 after the process has started?

Page 15 – Step 9. There is a description of an abridged hearing within the third paragraph. It would be useful if a definition or description of the abridged hearing was included in the glossary to explain what this is and how is it different than a normal Commission hearing.

Page 17, Step 14. Although the focus of this draft document is the EA process, there is a brief description of the licensing process and how both the EA and licensing processes can be integrated. In light of the potential for projects to have an integrated process, it would be beneficial to also describe the license granting process in Step 14.

Appendix B, EA Determination Form and Table 7. There are several criteria that are used by the CNSC to determine the total environmental characterization and impact criteria score, including the determination as to whether “*the proposed project is to likely to pose any significant adverse effects on the environment or the health of workers and the public, including cumulative effect or effects that may arise as a result of accidents or malfunctions*”. This determination is conducted when the CNSC receives a license application and before the submission and review of an Environmental Impact Statement (EIS).

Having an initial determination made so early in the process may encourage the completion of the options assessment and technical studies in advance of EA process in order for proponents to include information needed to score the criteria. This also raises the possibility that the CNSC will also require information that is normally required in an EIS at the initial stage of the EA process instead, in order for the CNSC to evaluate the project against the referenced criteria.

Under Section 19(1) (g) of the CEAA 2012, the EA of a designated project must take into account “*the alternative means of carrying out the designated project that are technically and economically feasible and the environmental effects of any such alternative means*”. It is also recognized that efforts should be made to involve the public in the identification and selection of alternatives. There is risk that the local or stakeholder involvement in alternatives (options) analysis cannot be adequately incorporated in the process if the level of information required in Table 7 becomes too detailed prior to the completion of the EIS. It is suggested that the level of information required at this stage be further explained and be consistent with the level of information appropriate in advance of the submission of an EIS.

Appendix D, Table 4. Table 2 outlines the key steps in the EA process which are further broken down and explained within the document and Table 4 within Appendix D outlines the EA timelines by task/step as well. However there isn’t clear coordination between the EA steps provided in Table 2 and described in the report with the tasks outlined in Table 4. It would be beneficial to have the steps described in Table 4 consistent with the steps described in the rest of the document.

Appendix D, Table 4. The total number of days shown for the EA process does not match the total when calculated by adding the individual timelines together. For example the EA process total using the

longer EA process ranges, is 785 days, not 730 days. It is recommended that the total EA timeline and timeline totals be reviewed.

Within the footnote it is also noted that the time required to make an EA determination is 5-10 days, but this is not included in the timeline. For completeness the timeline should be included in the table.