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PROPOSED RULE PR 71
(65FR 44360)



Rodney D. Slater, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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Attention: Rulemaking and Adjudications staff

US Department of Transportation
400 7th Street SW
Washington, D.C. 20590-0001

Attention: Dockets Management System

RE: **REQUEST TO US NRC AND US DOT FOR EXTENSION ON TRANSPORT COMMENT PERIODS AND FOR PROVISION OF APPLICABLE DOCUMENTATION**

US NRC:

10 CFR Part 71, **Major Revision to 10 CFR Part 71: Compatibility With ST-1--The IAEA Transportation Safety Standards--And Other Transportation Safety Issues, Issues Paper, and Notice of Public Meetings; Proposed Rule.** Federal Register: July 17, 2000 (Volume 65, Number 137 Pages 44359-44397.)

US DOT:

1) *Hazardous Materials Regulations; Compatibility with the Regulations of the International Atomic Energy Agency; Advanced Notice of Proposed Rulemaking. Docket No. RSPA-99-6283 (HM-230) RIN 2137-AD39. Federal Register December 28, 1999 (Volume 64, Number 248, Pages 72633-72636.), and*

2) *portions of the notice of proposed rulemaking (internal Docket Number HM-215D) that pertain to radioactive materials and exemptions and exemption levels for radioactive materials. Before ST-1 is incorporated, in full or in part(s), by the US, for international shipments and consistency with ICAO and IMO and IAEA, the American public must be afforded significant time and understanding of the implications.*

Gentlemen:

I REQUEST a 6-month extension on public comment periods beginning with public access to documents:

I am formally requesting a 6-month extension on the comment periods for the Nuclear Regulatory Commission and Department of Transportation proposed adoption of all or part of the UN IAEA ST-1 standards, and additional proposals in addition to the IAEA issues. NIRS and BREDL made these requests at the August 10, 2000 meeting and the September 20, 2000 meeting.

I am also requesting that clear (plain language) information and documentation of the proposals and the basis for their adoption be provided to the public, immediately, and that the extended comment period be restarted once the relevant materials are publicly accessible.

Such provisions as those in ST-1 should by no means be incorporated by reference, especially when the referenced document(s) are so inaccessible. The DOT and NRC should publish what they intend to adopt and make it clear to the public. It has taken weeks for other individuals to obtain a copy of ST-1 from the contractor listed in the Federal Register announcement and it cost \$80. The backup documents took longer to obtain and are not readily available to the *general public*. Multiple issues are being listed by NRC and DOT but neither is providing a comprehensive publication of the proposed

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regulations. *Citizens in a democracy have the right to know and impact the regulations that affect them (us). Provide the proposals, the materials and opportunity to review and comment for all members of the public that have the interest and concern to do so.*

"Harmonization" is the justification given by both agencies (NRC and DOT) for the adoption of some or all of ST-1, the "International Atomic Energy Agency (IAEA) Safety Standards Series: Regulations for the Safe Transportation of Radioactive Material, 1996 Edition, Requirements No. ST-1." There is no urgency here because the world community is already harmonized in using the previous IAEA regulations, SS-6.

United States agencies should not adopt recommended international standards without the public's full knowledge and consent. The public has the right to know and affect the regulations in this country. We have the right to know how we are being represented by our federal agencies internationally and to be represented in a democratic way when they participate in development of international standards. Neither DOT nor NRC has the authority to encourage reduction in public protection on an international level, which could result in preemption or superceding of more protective existing national standards.

The full scope of the proposed regulations has not been made public. The implications have not been fully assessed or determined.

For example, it appears that DOT and NRC plan to adopt new standards that will facilitate the "clearance" or exemption of radioactive materials from regulatory control, despite the clear mandate by the United States public against "BRC" (below regulatory control) deregulation of radioactive materials.

The Nuclear Regulatory Commission proposes reducing the already-inadequate requirements for Type B transport containers (used for irradiated fuel) without fully informing or involving all of the communities along the potential transport routes for irradiated fuel, the very communities that will be most directly impacted.

The NRC also proposes to weaken the requirements for containment of plutonium at the very point in time that we face major increases in the amount of plutonium transport.

Other individuals, organizations and numerous other groups are not sufficiently aware and familiar with the proposed changes and need adequate time to obtain, consider and comment on them.

Based on the extensive scope, the lack of clarity and justification for the proposed changes in transportation regulations, I respectfully request that the public be afforded more time and more precise, straightforward information on the regulatory changes and their implications for public policy.

Sincerely,



Laurence W. Tobin

cc:

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