

From: "KILLAR, Felix" <fmk@nei.org>
To: <mtl@nrc.gov>, "Rick Boyle (Rick Boyle)" <Rick.Boyle@rspa.dot.gov>
Date: 7/22/05 11:09AM
Subject: Solicitation of Comments on Proposed Changes to IAEA Regulation for the Safe Transport of Radioactive Materials

Dear Mr. Lesar and Mr. Boyle,

Please find attached comments on proposed changes to IAEA's regulations for the safe transportation of radioactive materials. I realize that the comment submittal date has passed but I hope you will consider these comments if it is practical to do so. In addition to this electronic copy a hard copy will also be placed in the mail.

CC: <jrc1@nrc.gov>

4/27/05
70FR 51684
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Subject: Solicitation of Comments on Proposed Changes to IAEA Regulation for the Safe Transport of Radioactive Materials

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From: "KILLAR, Felix" <fmk@nei.org>

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June 30, 2005

Michael Lesar,
Chief, Rules and Directives Branch
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U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Docket Management System
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REFERENCE: Request for Comments on Proposed Changes "Regulations for the Safe Transport of Radioactive Material; Solicitation of Comments on Proposed Changes" 10 CFR 71, 70 *Fed. Reg.* 21684 (April 27, 2005) and Pipeline and Hazardous Materials Safety Administration, Docket No. PHMSA-05-21019, Notice No. 05-03, Hazardous Materials: Regulations for the Safe Transport of Radioactive Material (TS-R-1) and Advisory Material for the IAEA Regulations for the Safe Transport of Radioactive Materials (TS-G-1.1) 70 *Fed. Reg.* 22756 (May 2, 2005)

Gentlemen:

Ms. Annette L. Vietti-Cook

July 29, 2002

Page 2

The Nuclear Energy Institute (NEI)¹ is submitting the following comments in response to the two referenced request for comments on, "Regulations for the Safe Transport of Radioactive Material (TS-R-1) and Advisory Material for the IAEA Regulations for the Safe Transport of Radioactive Materials (TS-G-1.1)," that may result in amendments to 10 CFR 71 impacting the Nuclear Regulatory Commission (NRC) regulations and 49 CFR 73 impacting the Department of Transportation (DOT) governing the shipments of radioactive materials to be compatible with international regulations.

NEI commends the NRC and the DOT for its outreach and solicitation of public involvement in this rule making. NEI supports the overall intent of the proposed modifications. The nuclear industry is international and the ability to move radioactive materials among countries based on a common set of regulations is very important to the health of the industry. While we support the efforts of the NRC and DOT, we are concerned with the slow actions of the agencies. The international standards were prepared in 1996 and adopted by a majority of the IAEA member countries years ago. The NRC and DOT did not have their rulemakings completed and the implementation until October 1, 2004. As you are aware, with this notice, the IAEA has adopted a two-year review cycle for updating its transportation regulations. This two-year cycle requires both the NRC and DOT to expedite consideration of IAEA proposed revisions, without negatively impacting the opportunity for public input.

The NRC and DOT must recognize that while IAEA standards generally have good technical bases, they are consensus standards that do not necessarily consider the risk-informed, performance-based aspects of USA domestic regulations. Therefore, while most of the IAEA standards should be incorporated into US regulations, the unique aspects of the US regulations need to be considered. The IAEA standards are appropriate for international shipments, but the NRC and DOT regulations should also provide allowance for domestic-only applications. This would include, for example, the grandfathering provision. While the IAEA provisions must apply to international shipments, for domestic-only shipments the grandfathering provision would allow the continued use of the existing A₂ value for molybdenum-99, but shippers need to comply with the A₁ and A₂ values in TS-R-1 for international shipments.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

Ms. Annette L. Vietti-Cook

July 29, 2002

Page 3

The attachment to this letter provides specific comments on Changes; 2, 3, 4, 7, 11, 14, 17, 26, as well as a few on the guidance document. In summary, we encourage the NRC and the DOT to complete in a timely fashion your assessments of the proposed changes and the comments of the industry but be mindful of the timing to complete the review and adopt IAEA standards as appropriate.

We would be pleased to discuss these comments with the NRC and DOT and to respond to any questions that you may have.

Sincerely,



Felix M. Killar, Jr.

Enclosure

c: Rick Boyle – DOT
John Cook - NRC
NEI Transportation Task Force Members