

March 30, 2006

Docket Management System
U.S. Department of Transportation
400 Seventh St, SW, Nassif Bldg., Room PL-401
Washington, DC 20590-0001

SUBJECT: COMMENTS ON NOTICE OF PROPOSED RULEMAKING (RIN 2137-AD98)

The U.S. Nuclear Regulatory Commission's (NRC's) Office of Nuclear Security and Incident Response is providing comments on your notice of proposed rulemaking published January 27, 2006, (71 FR 4544) under Docket No. PHMSA-2005-23141 (HM-215F). We have two comments for your consideration.

1. Proposed § 171.27 states that material being imported into, exported from, or passing through the United States may be offered for transport or transported in accordance with IAEA Regulations, provided the requirements in § 171.22 are met. However, the proposed § 171.23(b)(12)(i) contains additional requirements for radioactive material shipments, e.g., requirements that 49 CFR 173.22(c) must be met, including consignee notifications and security plans for irradiated reactor fuel shipments. It is not clear why these additional requirements in § 171.23 are not included under this section.

Comment: Revise the ending phrase in § 171.23(b)(12)(i) to read: "...provided the requirements in §§ 171.22 and 171.23 are met."

2. Proposed § 171.23(b)(12)(i) requires, in part, that highway route controlled quantities must be shipped in accordance with 49 CFR 173.22(c). However, while § 173.22(c) does require certain actions for highway route controlled quantity packages, it also requires these same actions for fissile package shipments and for Type B package shipments. Since § 173.22(c) applies equally to fissile, HRCQ, and Type B package shipments, it is not clear why § 171.23(b)(12)(i) only applies to HRCQ shipments.

Comment: Revise § 171.23(b)(12)(i) to be consistent with the scope of § 173.22(c).

Thank you for your consideration of our comments.

Sincerely,

/RA/

Richard Rasmussen, Chief
Security Rulemaking Branch
Division of Security Policy
Office of Nuclear Security and Incident Response

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- Proposed § 171.27 states that material being imported into, exported from, or passing through the United States may be offered for transport or transported in accordance with IAEA Regulations, provided the requirements in § 171.22 are met. However, the proposed § 171.23(b)(12)(i) contains additional requirements for radioactive material shipments, e.g., requirements that 49 CFR 173.22(c) must be met, including consignee notifications and security plans for irradiated reactor fuel shipments. It is not clear why these additional requirements in § 171.23 are not included under this section.

Comment: Revise the ending phrase in § 171.23(b)(12)(i) to read: "...provided the requirements in §§ 171.22 and 171.23 are met."

- Proposed § 171.23(b)(12)(i) requires, in part, that highway route controlled quantities must be shipped in accordance with 49 CFR 173.22(c). However, while § 173.22(c) does require certain actions for highway route controlled quantity packages, it also requires these same actions for fissile package shipments and for Type B package shipments. Since § 173.22(c) applies equally to fissile, HRCQ, and Type B package shipments, it is not clear why § 171.23(b)(12)(i) only applies to HRCQ shipments.

Comment: Revise § 171.23(b)(12)(i) to be consistent with the scope of § 173.22(c).

Thank you for your consideration of our comments.

Sincerely,

/RA/

Richard Rasmussen, Chief
Security Rulemaking Branch
Division of Security Policy
Office of Nuclear Security and Incident Response

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* See previous concurrence

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