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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

PRM-71-13
(72FR20962)



U.S. Department
of Transportation
Pipeline and
Hazardous Materials
Safety Administration

East Building, PHH-23
1200 New Jersey Ave., SE
Washington, D.C. 20590

JUL 26 2007



Secretary, U.S. Nuclear Regulatory Commission
Washington, DC 20555-0011
ATTN: Rulemaking and Adjudications Staff

Subject: Docket No. PRM-71-13

Dear Sir:

The following comments are provided regarding the petition for rulemaking filed by Christine O. Gregoire, Governor of the State of Washington, concerning the need for the U.S. Nuclear Regulatory Commission (NRC) to adopt the use of Global Positioning Satellite (GPS) tracking as a national requirement for mobile or portable uses of highly radioactive sources or, alternatively, to grant the States the flexibility to impose more stringent requirements than those required under current NRC regulations.

Although it is generally agreed that GPS technology is effective, relatively inexpensive and may assist law enforcement in locating missing devices containing radioactive material and the associated transport vehicle, there are many factors to consider before requiring the use of these instruments. Specific elements of concern include:

- 1) The definition of "mobile or portable uses of highly radioactive sources." First, the phrase "highly radioactive sources" would need to be enumerated and quantified, so as not to create an unnecessary burden by imposing unneeded requirements of low consequence radionuclides and/or quantities. Secondly, "mobile or portable" would need to be defined based upon device likelihood and frequency of transport, as well as size and mass.
- 2) Once these terms are defined, an historical incident perspective for specific type devices identified would be beneficial in establishing appropriate requirements.
- 3) Carrier mode (i.e., rail, air, vessel, and road), current security requirements and risk of diversion should be evaluated.
- 4) In evaluating the proposal, one must recognize that many existing devices containing radioactive material devices are too small to accommodate a GPS device; not all losses are transport-related, and any installed GPS device could likely be removed or disabled.

Template = SECY-067

SECY-02

5) Although the U.S. has the right to enact unique security provisions, the impact on international transport must be considered. Requirements for importers and exporters of the radioactive material devices and the consequences for overseas buyers and suppliers of these devices must be analyzed.

6) Any actions undertaken by the U.S. Nuclear Regulatory Commission must consider security related measures being implemented or under evaluation for implementation by Federal agencies such as the U.S. Department of Transportation and U.S. Department of Homeland Security.

7) The proposal's ability to reduce both the probability of theft/diversion and the associated impacts of theft/diversion should be evaluated.

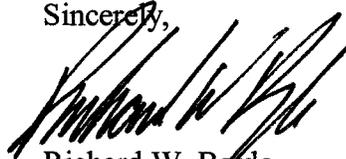
8) The advantages and disadvantages of State-specific regulations in addition to national regulations need to be evaluated. Requirements that vary widely from State to State could have significant impacts on interstate commerce.

9) Although the petitioner cites significant law enforcement efforts were undertaken to recover past devices, there is no quantified data provided for these efforts, nor quantification of potential benefits of the proposal, nor quantification of the impacts for a national or State-by-State GPS requirement.

10) A requirement for a specific technology to be implemented rather than a performance based measure that achieves the same objective may have adverse impacts.

In summary, a risk-informed evaluation should be implemented, taking the factors mentioned above into account, so as to ensure a measured and appropriate final decision on this petition is achieved. Until such an evaluation is completed, it would be premature to speculate on the merits of this proposal.

Sincerely,



Richard W. Boyle
Chief, Radioactive Materials Branch
Office of Hazardous Materials
Technology