

Rulemaking Comments

From: REED, Joseph [jsr@nei.org] on behalf of KILLAR, Felix [fmk@nei.org]
Sent: Tuesday, September 08, 2009 1:32 PM
Subject: Industry Comments on Proposed Rule on "Export and Import of Nuclear Material and Equipment and Material; Updates and Clarifications," noticed in Federal Register (74FR29614)
Attachments: 09-08-09_NRC_Industry Comments on Proposed Rule on Export and Import of Nuclear Material and Equipment and Material; Updates and Clarifications noticed in Federal Register.pdf

September 8, 2009

DOCKETED
USNRC

September 8, 2009 (4:55pm)

Ms. Annette L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Mail Stop O-16C1
Washington, D.C. 20555-0001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Attn: Rulemakings and Adjudications Staff

Subject: Industry Comments on Proposed Rule on "Export and Import of Nuclear Material and Equipment and Material; Updates and Clarifications," noticed in *Federal Register* (74FR29614)

Project Number: 689

Dear Ms. Vietti-Cook:

On behalf of the nuclear industry, the Nuclear Energy Institute (NEI) submits the following comments in support of the subject proposed rule noticed in the *Federal Register* on June 23, 2009. We appreciate the opportunity to provide comments on the proposed rule and trust that the staff will find them useful as it proceeds to finalize the rule.

We support several aspects of the proposed rule, which are risk-informed and allow for more efficient use of resources by the U.S. Nuclear Regulatory Commission (NRC) and industry. These changes are as follows. First, the proposed modification to allow the importation of Category 1 and 2 quantities of materials under a general license, which thereby aligns the NRC's regulations with the practices of other countries and being responsive to industry comments in the past. We agree that significant enhancements to the NRC's regulatory control program for such higher-risk sources, such as recent implementation of the National Source Tracking System, warrant a modified regulatory posture on certain imports, particularly since the recipient must be licensed by the NRC or an Agreement State to receive the material. Secondly, we appreciate the additional flexibility afforded by the proposed modification to 10 CFR 110.32 to allow export licensees to verify the authorization from the importing country at the time of shipping instead of at the time of license application. This approach is more efficient and will likely result in more accurate and up-to-date information being submitted to the NRC. Third, we applaud the staff's effort to limit the number of routine export applications

requiring Commission review to only those that raise policy issues, as this approach will be more efficient for the NRC and licensees without compromising safety or security, since other checks and balances are in place for this purpose. Fourth, we support the proposed exclusion, from the definition of “radioactive waste,” for radioactive material in sealed sources or devices containing sealed sources being returned to any manufacturer, distributor or other entity that is authorized to receive and possess them.

Of some concern is the proposed modification to 10 CFR 110.50(c), which would require advance notification of imports to be submitted *seven days in advance* of shipment. Currently, notifications are required *at least* seven days before shipment, to the extent practical, but in no case *less than 24 hours* in advance of each shipment. In view of today’s rapid exchange of information electronically, through fixed and mobile devices, it is unclear why the NRC is now implying that it can no longer process required notifications that are submitted less than seven days in advance of a shipment.

Finally, we suggest that the term “recycling” either be removed or further defined to clarify that recycling under a general license, where the recycling provides for beneficial re-use of the material, is authorized at operations licensed by the NRC or an Agreement State and not to be confused with the reprocessing of nuclear fuel.

We trust you will find these comments useful and look forward to reviewing the final rule. Please direct any questions regarding this letter to me or Janet Schlueter (202-739-8098; jrs@nei.org).

Sincerely,

Felix M. Killar, Jr.
Senior Director, Fuel Supply/Material Licensees
Nuclear Generation Division

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13:32:38 -0400

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X-SpamScore: -5

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Subject: Industry Comments on Proposed Rule on "Export and Import of Nuclear Material and
Equipment and Material; Updates and Clarifications," noticed in Federal Register (74FR29614)

Date: Tue, 8 Sep 2009 13:32:28 -0400

Message-ID: <47623505B19EE34A96E8E7F9D2D80BE0032F6965@neiexc01.nei.org>

X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

Thread-Topic: Industry Comments on Proposed Rule on "Export and Import of Nuclear Material
and Equipment and Material; Updates and Clarifications," noticed in Federal Register
(74FR29614)

Thread-Index: AcowqlleXb102USJalgWDKZgKV4Q==

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

Sender: "REED, Joseph" <jsr@nei.org>

To: undisclosed-recipients::

Return-Path: jsr@nei.org



NUCLEAR ENERGY INSTITUTE

Felix M. Killar, Jr.
SENIOR DIRECTOR
FUEL SUPPLY/MATERIAL LICENSEES
NUCLEAR GENERATION DIVISION

September 8, 2009

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

Ms. Annette L. Vietti-Cook

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Page 2

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Felix M. Killar, Jr.

c: Mr. Michael Lesar, ADM
Ms. Brooke Smith, OIP