

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

NRC-2016-0179

RIN 3150-AJ85

**Revisions to Transportation Safety Requirements and Compatibility with International
Atomic Energy Agency Transportation Standards**

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issues paper, public meeting, and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering a potential amendment to its regulations that would revise the regulations on packaging and transporting radioactive material. The NRC is gathering information about potential changes that may be proposed in a subsequent rulemaking activity. The NRC is requesting public comment on the issues paper about potential changes that is referenced in this notice. The NRC plans to hold a public meeting to promote full understanding of the issues paper and to facilitate public comment.

DATES: Submit comments by January 20, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date. A public meeting will be held December 5-6, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0179. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Emma Wong, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-7091; Emma.Wong@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2016-0179 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0179.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2016-0179 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into

ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with Commission direction, the NRC has initiated a rulemaking effort that addresses the need to make the regulations in part 71 of title 10 of the *Code of Federal Regulations* (10 CFR), "Packaging and Transportation of Radioactive Material," compatible with the most current revisions of the International Atomic Energy Agency (IAEA) Specific Safety Requirements (SSR) No. SSR-6, "Regulations for the Safe Transport of Radioactive Material," (SSR-6). The regulations in 10 CFR part 71 are based, in general, on the specific safety requirements developed by the IAEA. The IAEA has been revising its requirements on an approximate 10-year cycle, with the last edition of IAEA SSR-6 published in 2012 and the current draft of the new revision of SSR-6 expected to be published in 2018. Further, as described below, the NRC is considering other changes to 10 CFR part 71 that are not related to SSR-6.

To facilitate discussion and public comments, the NRC has prepared an issues paper that describes potential rulemaking issues (IAEA and non-IAEA-related) for the next revision to 10 CFR part 71. The issues paper will be posted at <http://www.regulations.gov/docket?D=NRC-2016-0179>.

The issues paper was developed in coordination with the U.S. Department of Transportation (DOT), because the DOT and the NRC co-regulate transportation of radioactive materials in the United States and have historically coordinated to harmonize their respective regulations to these IAEA revisions through the rulemaking process. Coordination ensures that consistent regulatory standards are maintained between the NRC's and the DOT's radioactive material transportation regulations, and coordinated publication of any final rules and associated regulatory guidance documents by each agency.

III. Regulatory Objectives

The NRC identified changes made in SSR-6 published in 2012 by comparing it to the previous revision of SSR-6 published in 2009, and then identified affected sections of 10 CFR part 71. Based on this comparison, the NRC identified compatibility issues to potentially be addressed through the rulemaking process. The NRC also identified changes based on the current draft of the new revision of SSR-6, which is expected to be published in 2018. These issues are discussed in greater detail in the issues paper that will be posted at <http://www.regulations.gov/docket?D=NRC-2016-0179>. The NRC identified additional potential issues for incorporation in the rulemaking action that are also discussed in the issues paper (i.e., changes related to harmonization with DOT regulations and include administrative, editorial, or clarification matters).

IV. Specific Considerations

The NRC is seeking to gauge perspectives from the public before proceeding to the development of the proposed rule. The NRC is particularly interested in receiving comment and supporting rationale from the public about the potential changes in the packaging and

transportation of radioactive material requirements. The following topics are discussed in the issues paper and will be discussed at the public meeting:

- Aging
- Definitions
- Fissile Materials
- Low Specific Activity (LSA)-III
- NRC-Identified Changes
- Reduced External Pressure Requirement for Type A Package Test
- Solar Insolation
- Surface Contaminated Object (SCO)-III
- Transitional Arrangements
- Type C Package
- UF₆ Package

Specifically, the NRC is interested in public and industry comments related to: 1) quantitative information expressed as a realistic range of estimated costs and benefits for the potential changes described in the issues paper; 2) operational data about radiation exposures (increased or reduced) that might result from implementing the potential changes; 3) whether the potential changes are appropriate; and 4) whether there are any additional changes that should be considered, and if so, the supporting rationale and quantitative information for the additional change. The NRC will consider the stakeholders' comments to help quantify the potential impact of any proposed changes.

The NRC will provide another opportunity for public comment in any subsequent proposed rule that may be developed. Comments received in response to this *Federal Register* notice will be considered in any subsequent rulemaking process.

V. Public Meeting

The NRC will conduct a public meeting to describe the issues paper and answer clarifying questions from the public about the potential changes in the packaging and transportation of radioactive material requirements. The NRC will not be accepting verbal or written comments at the public meeting. All comments must be submitted as indicated in the ADDRESSES section of this document.

The meeting will be held on December 5-6, 2016, at Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738, between 9:00 AM and 5:00 PM in room T02B03. Public access to the meeting room is through the adjacent building located at One White Flint North, 11555 Rockville Pike.

This is a Category 3 meeting. Public participation is actively sought for this meeting to fully engage the public in a discussion of regulatory issues. The purpose of the meeting is for the NRC to present the potential changes to the requirements in 10 CFR part 71.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If reasonable accommodation is needed to participate in this meeting, or if a meeting notice or other information about this meeting is needed in another format (e.g., Braille, large print), please notify the individual listed in the **FOR FURTHER INFORMATION CONTACT** section in this notice. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Individuals should monitor the NRC's public meeting web page for information about the public meeting at: <http://www.nrc.gov/public-involve/public-meetings/index.cfm> where the telephone bridge line and passcode for the meeting will be available. All individuals should register their attendance for the meeting by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section in this notice, or by completing the webinar registration at the NRC's public meeting web page.

The NRC may post additional materials to the Federal rulemaking Web site at www.regulations.gov, under Docket ID NRC-2016-0179. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) Navigate to the docket folder (NRC-2016-0179); 2) click the “Sign up for E-mail Alerts” link; and 3) enter your e-mail address and select how frequently you would like to receive e-mails (daily, weekly, or monthly).

VI. Cumulative Effects of Regulation (CER)

The NRC has implemented a program to address the possible cumulative effects of regulation (CER), in the development of a regulatory basis for a rulemaking. The CER describes the challenges that licensees or other impacted entities (such as shippers, receivers, carriers, and State regulatory agencies) may face while implementing new or revised regulatory positions, programs, and requirements (*e.g.*, rules, generic letters, backfits, inspections). The CER is an organizational effectiveness challenge that results from a licensee or impacted entity implementing a number of complex positions, programs, or requirements within a limited implementation period and with resources which may lack expertise to address a specific issue. The NRC is specifically requesting comment on the cumulative effects that may result from the potential changes in 10 CFR part 71. In developing comments on the potential changes relative to CER, consider the following questions:

1) In light of any current or projected CER challenges, what should be a reasonable effective date, compliance date, or submittal date(s) from the time a final rule is published to the actual implementation of new or revised requirements in 10 CFR part 71 including changes to programs, procedures, or facilities?

2) If current or projected CER challenges exist, what should be done to address this situation? For example if more time is required to implement a new or revised requirement, what period of time would be sufficient and why would such a time frame is necessary?

3) Do other regulatory actions (*e.g.*, orders, generic communications, license amendment requests, and inspection findings of a generic nature) from the NRC, DOT or other agencies influence the implementation of a new or revised requirement?

4) Are there unintended consequences? Does a new or revised requirement create conditions that would be contrary to the requirement's intent? If so, what are the consequences and how should they be addressed?

5) Please provide information on the costs and benefits for a new or revised requirement. The information should be expressed as a realistic range of estimated costs and benefits. This information would be used for the NRC's regulatory analysis of the proposed changes.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883). The NRC requests comment on this document with respect to the clarity and effectiveness of the language used.

VIII. Rulemaking Process

The NRC does not intend to provide formal comment responses for information provided from the public comment period on the issues paper. The NRC will consider comments on the

issues paper in the rule development process. If the NRC develops a regulatory basis sufficient to support a proposed rule, there will be an opportunity for additional public comment when the draft regulatory basis and the proposed rule are published. If supporting guidance is developed for the proposed rule, stakeholders will have an opportunity to provide feedback on it as well. Alternatively, if the regulatory basis does not provide sufficient support for a proposed rule, the NRC will publish a *Federal Register* notice withdrawing this rulemaking activity and addressing the public comments received on the issues paper.

Dated at Rockville, Maryland, this 1st day of November, 2016.

For the Nuclear Regulatory Commission.

/RA/

Mark D. Lombard,

Director, Division of Spent Fuel Management.