

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Commission**

In the Matter of:)	Case No. NRC-2017- 0054
)	Docket Nos. 11006248 and
UniTech Service Group, Inc.)	11006249
)	License No. XW023
)	June 12, 2017
)	

REPLY IN SUPPORT OF PETITION TO INTERVENE

Now come Nuclear Information and Resource Service, Beyond Nuclear, the Nuclear Energy Information Service, Tennessee Environmental Council and Citizens for Alternatives to Chemical Contamination, Petitioners herein (“Petitioners”), and reply in support of their Petition to Intervene in this matter.

I. Background

Petitioners demonstrated in their initial Petition that UniTech Service Group (“UniTech”) is in violation of certain bright-line regulatory mandates contained in 10 C.F.R. Part 110. UniTech has inadequately disclosed the radiological contents of the nuclear waste/material it proposes to bring into the United States, and perpetuates its violations by asserting that up to 100% of the waste will be exported back to Canada. UniTech is either notably incompetent in its assay of the regulated material for import and export, because it cannot even estimate how much of the radioactive material coming in will ultimately be returned to Canada; or UniTech is actively deceiving regulators and flouting the rules by refusing to provide information which would allow meaningful assessment of this complicated, sprawling business transaction. Remarkably, even as UniTech castigates Petitioners for supposedly raising an improper challenge

to the general import license regulations, UniTech concedes that it must rely utterly on the information provided in its import license application - an application which the Commission Staff has ruled is superfluous and unnecessary. In an attempt to blunt Petitioners' criticism that the export license application does not characterize the waste in terms of radionuclides or express the quantity of radioactive material in Terabecquerel (TBq), UniTech responded:

The Export Application incorporates by reference the Import Application, which provides a list of radionuclides and maximum total activity (TBq), and the chemical or physical form of the materials are described in both Applications.

“UniTech’s Answer to Petition for Leave to Intervene and Hearing Request Filed by NIRS, Beyond Nuclear, NEIS, TEC & CACC” (“UniTech Answer”) at 14. UniTech’s insistence that the export license application cannot be understood without reference to the application for a specific import license, however, gives the lie to the bulk of its justifications for refusing to provide details of the import-export scheme.

II. Purportedly Lawful Activities Which Risk Exposing The Public To Radiation Can Be Threatened Harms For Standing Purposes

UniTech argues that Petitioners assume that mere proximity to shipping routes is not enough to confer standing. But that is not Petitioners’ claim. They have demonstrated via sworn declarations that their members live, work, recreate and conduct other activities at international borders and interior locations near the sites where UniTech processing or disposal activities will take place. Petitioners stated that the harms and threats, in addition to transport risks, include “exposures from being physically stuck in traffic proximate to, or in chance highway encounters with UniTech cargo trucks; spills and runoff from accidents or leakage from those vehicles; downwind vapors from processing or sorting facilities; possible dumping of irradiated water into local sewage systems from the facilities; the potential that radioactive metals recycled by

UniTech are used in consumer products and other metal uses in civic life; and landfilling in Tennessee landfills of discarded UniTech wastes which contain radiation.” Petition for Leave to Intervene at 3-4. Petitioners assert that “Unitech’s trucks potentially will contain widely-varying levels or amounts of radioisotopes from shipment to shipment, and there appear to be no provisions for protective shielding tailored to the characteristics of individual loads.” *Id.*

These are proper allegations of threatened harms, and they certainly comprise scenarios where the health and safety of members of the petitioning organizations could be impaired - and consequently, they are legitimate underpinnings of legal standing. For one thing, fires at recycling facilities of all types are surprisingly frequent. For the rolling 12 months from May 2016 until April 2017, U.S. and Canadian waste and recycling facilities experienced 267 reported fires (262 in the U.S).¹ Waste and metal top the list of recycled materials involved in the highest percentage of facility fires.² The prospects of fire are of even greater concern because Cesium-137 is one of the listed isotopes UniTech admits will be found in the waste materials. If involved in a fire, surface contamination Cs-137 would quite readily volatilize, and escape with the smoke, driven by the heat. Radionuclides could be inhaled by emergency responders and Petitioners’ members. It could fall out downwind, and could be ingested (as via drinking water, or via contaminated foodstuffs), and then lodge in and attack human muscle tissue, including the heart,

¹“Waste and metal top list of recycled materials involved in the highest percentage of facility fires - Reported By Recycling Product News,” April 1, 2017, https://www.linkedin.com/pulse/how-many-recycling-fires-have-occurred-us-canada-within-ryan-fogelmann?utm_source=newsletter&utm_medium=email&utm_content=See%20The%20Methodology%20&utm_campaign=Peace%20of%20Mind%20

²“Waste and metal top list of recycled materials involved in the highest percentage of facility fires,” Recycling Product News, March 30, 2017, <http://www.recyclingproductnews.com/article/25656/waste-and-metal-top-list-of-recycled-materials-involved-in-the-highest-percentage-of-facility-fires>

as well as the human thyroid gland. Cs-137 must be respected in transport and industrial recycling fires. Certainly, absent a more complete understanding of the imported radioactive wastes, it is difficult to assess the threat of airborne radiation from industrial fires with precision, but that threat cannot be dismissed out of hand.

UniTech proposes several hundred truckloads of imported radioactive waste and if its export license statements are to be believed, up to several hundred truckloads of waste will travel back to Canada, all crossing at five named border crossings. Each such transport raises anew the possibilities of accidental spills, transport fires (especially in Type A containers) that could release radiation to air, of unshielded radiation exposures of members of the public and UniTech or contractor employees, and the prospect that Petitioners' members might unwittingly be exposed to consumer products or construction metals and materials which have radioactive contents. UniTech's assertion that its importation activities fall within general license regulations does not automatically make the conduct of those activities risk-free to the public. If UniTech were denied the export license, there would be a direct effect on its import activity: UniTech would have to reassess whether it should undertake the wholesale delivery of all 10,000 metric tonnes of material to points inside the United States, or to realistically parse out what materials could be recycled and what should be left behind in Canada. UniTech's present faith-based importation practices would be forced to change if there were to be no export license, and to become more selective to avoid the possibility of generating unlicensed radioactive wastes that cannot be exported back to customers in Canada.

It is "well-established . . . that standing will lie where 'a plaintiff demonstrates that the challenged agency action authorizes the conduct that allegedly caused the plaintiff's injuries, if

that conduct would allegedly be illegal otherwise.” *Am. Trucking Ass'n v. Fed. Motor Carrier Safety Admin.*, 724 F.3d 243, 248 (D.C. Cir. 2013) (quoting *Animal Legal Def. Fund, Inc. v. Glickman*, 154 F.3d 426, 440 (D.C. Cir. 1998) (*en banc*)).

Legal standing can be found if the Petitioners show that the NRC’s failures to properly implement export license regulations have caused a traceable concrete and particularized harm to Petitioners’ members that is actual or imminent. *American Petroleum Inst. v. EPA*, 216 F.3d 50, 63 (D.C. Cir. 2000) (Sierra Club must show “that EPA’s alleged failings have caused a traceable ‘concrete and particularized’ harm to their members that is ‘actual or imminent.’” (quoting *Louisiana Envtl. Action Network v. EPA*, 172 F.3d 65, 71 (D.C. Cir. 1999) (*LEAN*)). A petitioning party that challenges an agency’s regulatory failure need not establish that, but for that misstep, the alleged harm certainly would have been averted. Rather, the petitioner need demonstrate only a “‘substantial probability’ that local conditions will be adversely affected, and thus will harm members of the petitioner organization.” *American Petroleum Inst.*, *supra*, 216 F.3d at 68 (quoting *LEAN*). Consequently, allegations of an inadequate or non-protective regulatory agency approach can be a sufficient showing of concrete injury.

The goal of protection through improved regulatory enforcement confers standing on those seeking redress. In *Horsehead Resource Dev. Co. v. Browner*, 16 F.3d 1246, 1259 (D.C. Cir. 1994), the court found as follows:

The environmental groups among the CASE petitioners allege that the BIF Rule is an unlawful interpretation of the Bevill Amendment which exposes their members to greater risks than they would face if all Bevill wastes were regulated under Subtitle C. *If the EPA were required to regulate Bevill wastes as Subtitle C hazardous wastes, those wastes would be subject to a more stringent regulatory regime than the current BIF Rule imposes, providing greater protection to petitioners’ members.*

Because the environmental organizations among the CASE petitioners have standing, we hold that the CASE petitioners as a group also have standing to challenge the BIF

Rule.

(Emphasis added). *Id.* at 1259.

In the instant matter, the five petitioning organizations urge that NRC regulations are not being followed. They seek a more stringent regulatory regime which provides greater protection to their members. Petitioners have detailed multiple omissions by UniTech: insufficient description of the wastes being exported to Canada, related to inadequate description and characterization of the material being imported. Petitioners have alleged noncompliance by UniTech with 10 C.F.R. § 110.32(5) because the export application fails to disclose “the volume, classification (as defined in § 61.55 of this chapter), physical and chemical characteristics, route of transit of shipment, and ultimate disposition (including forms of management) of the waste.” *Petition for Leave to Intervene* at 9. Petitioners also assert a violation of 10 C.F.R. § 110.32(7) in that there is no provision of the “[d]escription of end use by all consignees in sufficient detail to permit accurate evaluation of the justification for the proposed export. . . , including the need for shipment by the dates specified.” *Id.* Petitioners maintain that 10 C.F.R. § 110.7(a)’s mandate has been violated, that the information provided to the Commission by UniTech is not complete and accurate in all material respects. *Id.* at 10. Contrary to 10 C.F.R. § 110.32(f), UniTech’s vague statement that it may export up to the original 10,000 tonnes does not comprise a “[d]escription of the equipment or material including . . . (1) Maximum quantity of material in grams or kilograms (terabecquerels or TBq for byproduct material) and its chemical and physical form.” *Id.* at 10.

Another element of standing is redressability; a party must be able to show that its claimed actual or threatened injury could be cured by some action of the tribunal. *Sequoyah*

Fuels Corp. (Gore, Oklahoma, Site Decommissioning), CLI-01-2, 53 NRC 2, 14 (2001). *See, also*, 10 C.F.R. § 110.84(b). Since improved enforcement of NRC export license regulations by the Staff would provide greater protections to Petitioners' members, Petitioners have demonstrated redressability.

In making a standing determination, a presiding officer is to "construe the [intervention] petition in favor of the petitioner." *Georgia Inst. of Tech.* (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 115 (1995); *also, Progress Energy Carolinas, Inc.* (Shearon Harris Nuclear Power Plant, Units 2 & 3), LBP-08-21, 68 NRC 554, 559 (2008); *and Tennessee Valley Auth.* (Bellefonte Nuclear Power Plant, Units 3 & 4), LBP-08-16, 68 NRC 361, 378 (2008). The Petitioners have provided a plethora of facts and operative legal principles which should suffice for the Commission to confer organizational standing upon them.

III. A Contention Which Results In Provision Of Information Which Is Not In The Public Domain Fulfills The 'Public Interest' Requirement

UniTech insists that Petitioners have not shown, as required by 10 C.F.R. Part 110, the issues sought to be raised, an explanation of why a hearing or an intervention would be in the public interest, and how a hearing or intervention would assist the Commission in making the determinations required by 10 C.F.R. § 110.45. UniTech Answer at 6. To the contrary, Petitioners have identified explicit regulations with which they allege UniTech has not complied. They have also specified factual bases for those allegations. The information that Petitioners claim to be missing indisputably is not in the public domain, for if it were, UniTech would have made that point in its Answer. While documents already in the public domain for some time do not meet the criteria for the grant of a discretionary hearing, *Westinghouse Electric Corporation* (Nuclear Fuel Export License for Czech Republic – Temelin Nuclear Power Plants), CLI-94-7,

39 NRC 322, 334 (1994), the converse - that provision of information outside the public domain via the adjudicative process is in the public interest - is equally true.

Petitioners seek designated information claimed to be missing from the specific export license application. At this juncture, it apparently will be elicited only by subjecting UniTech to the compulsory process associated with a hearing. If the Commission admits the contention for hearing, UniTech will either have to provide the missing information, or to show cause why it is excused from doing so.

In anticipation of having to make this choice, UniTech argues that Petitioners have articulated a “contention of omission,” and that “the Commission now has notice of the alleged deficiencies and can proceed as it sees fit.” UniTech Answer at 13-14. But that is not how contentions of omission are adjudicated. Where a contention alleges the omission of particular information or an issue from an application, the Commission may admit the contention for hearing. The contention is a live controversy until and unless the information is later supplied by the applicant, which renders the contention moot. *Amergen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), LBP-06-16, 63 NRC 737, 742 (2006). It is not whether the Commission may “proceed as it sees fit.” In fact, the Commission has decreed that when a contention of omission has been rendered moot by provision of the missing information, the intervenor – if it wishes to raise specific challenges regarding the new information – may timely file a new contention that addresses the admissibility factors in 10 C.F.R. 2.309(f)(1). *Oyster Creek*, LBP-06-16, 63 NRC at 744; *Entergy Nuclear Vermont Yankee, L.L.C. and Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Plant), LBP-05-24, 62 NRC 429, 431-32 (2005).

If the Commission accepts UniTech's invitation to construe Petitioners' Contention No. 1 as a contention of omission, it should find valid grounds to set the matter for adjudication and to allow Petitioners to pursue it wherever UniTech's response (or lack of response) might lead.

**IV. UniTech's Incorporation Of The Specific Import License
By Reference Into The Export License Application Adds More To
The Proofs Of Noncompliance With 10 C.F.R. § 110.42**

UniTech's injunction to the Commission and Petitioners that "[t]he Export Application incorporates by reference the Import Application, which provides a list of radionuclides and maximum total activity (TBq), and the chemical or physical form of the materials are described in both Applications"³ exemplifies the illogic of its position.

In the Import Application (at 3) appears the statement that the radioactive materials "shall be returned to the *customer*" (not directly to a disposal facility). This expressed intention evidently is meant to ward off claims that the company is trying to avoid the mandates of 10 C.F.R. § 110.42 respecting the disposal of radioactive waste in a 10 C.F.R. Part 61-comparable facility. UniTech's intention is more clearly revealed in a December 20, 2016 email to the NRC (also part of the record of this case), wherein UniTech stated that, "All materials that would require transfer to a land disposal facility subject to 10 CFR Part 61 shall be returned to Canada under the associated export license XW023."

So, UniTech unequivocally will be returning material requiring 10 C.F.R. Part 61 disposal to Canada. UniTech wishes to conceal this admission because it tends to prove that the imported material should be classified as "radioactive waste" under 10 C.F.R. § 110.2 and 10 C.F.R. §110.27(c). Radioactive waste may not be imported under a general license, and it cannot

³UniTech Answer at 14.

be exported without a specific export license which contains details beyond those which UniTech has provided to this time.

UniTech's email admission made in support of the specific import license applications reinforces the discovery of more regulatory omissions. What UniTech calls the return of radioactive waste to the customer is actually the proposed exportation of radioactive waste to a country that has no permanent commercial disposal sites for nuclear power-generated low- and intermediate-level waste (by U.S. definition, both are called "low-level" radioactive waste). The proposed waste will, by UniTech's admission, contain several radioisotopes which do not appear on the NRC's 10 CFR 110 Appendix P list of general license byproduct material. According to the export license application, "incidental" amounts of special nuclear material will be found in the waste. UniTech's specific import license application states that three radioisotopes of plutonium are likely to be found in the waste. Since the material will contain these radioisotopes, regulations require the export material to be characterized and handled as radioactive waste. In these circumstances, the NRC has an obligation to inquire into, and to determine as part of the export licensing decision, what the arrangements for disposition in Canada are, and whether the waste will be responsibly managed, once disposed there.

Specific export license application reviews under 10 C.F.R. § 110.42(d) oblige the NRC Staff to consider these criteria:

- (1) The proposed export is not inimical to the common defense and security.
- (2) The receiving country, after being advised of the information required by § 110.32(f)(5), finds that it has the administrative and technical capacity and regulatory structure to manage and dispose of the waste and consents to the receipt of the radioactive waste. In the case of radioactive waste containing a nuclear material to which paragraph (a) or (b) of this section is applicable, the criteria in this paragraph (d) shall be in addition to the criteria provided in paragraph (a) or (b) of this section.

Then, § 110.42(e) requires the NRC to consider:

- (1) ***;
- (2) Whether the importing country has the appropriate technical and administrative capability, resources and regulatory structure to manage the material in a safe and secure manner;
- (3) For proposed exports of Category 1 amounts of radioactive material listed in Table 1 of Appendix P to this part, whether the government of the importing country provides consent to the United States Government for the import of the material;

And 10 C.F.R. § 110.32(f)(5) requires disclosure as follows:

For proposed exports or imports of radioactive waste, the volume, physical and chemical characteristics, route of transit of shipment, classification (as defined in § 61.55 of this chapter) if imported or exported for direct disposal at part 61 or equivalent Agreement State licensed facility, and ultimate disposition (including forms of management or treatment) of the waste.

It is obvious that “ultimate disposition” as used in the above-cited regulation carries a much more nuanced meaning than does “return to customer.”

There is no evidence in the record that compliance with these regulations has occurred. The NRC Staff must document plans in Canada for the disposition of the waste by the customer. UniTech has pointedly admitted that the export license involves radioactive waste which must be disposed of in a 10 C.F.R. Part 61 “equivalent” facility. In its December 20, 2016 email to the NRC, UniTech acknowledged that some of the imported material should be classified as “radioactive waste” under §§ 110.2 and 110.27, as follows: “Again, materials subject to this specific license application are classified as waste at the time they are imported. Given that UniTech’s processes are effective to render the materials suitable for release and beneficial reuse does not redefine them as non-waste materials at the time they were imported.”

The UniTech application is incomplete because it fails to provide “pertinent documentation that the recipient of the material has the necessary authorization under the laws

and regulations of the importing country to receive and possess the material,” as required in Section 110.32 (g)1. The application fails to show that Canada has approved the import of the UniTech 10,000 tonnes.

V. UniTech’s Admissions Allow The Strong Inference That Radioactive Waste Is Being Imported

UniTech incorrectly maintains that Petitioners are using an outdated definition of “waste,” and that Petitioners may not challenge the as-applied definition of “radioactive waste” as an unpermitted attack on a regulation. UniTech Answer at 21. Worse still, according to UniTech, the Petitioners have completely misread the import and export regulations and fail to understand that NRC regulations expressly allow for radioactive material to be imported for one purpose and exported for another. UniTech Answer at 22. UniTech conveniently ignores elements of Petitioners’ arguments and contentions in order to make such arguments.

Petitioners rely on the exclusion from the definition of “radioactive waste”

Perhaps as UniTech says, the “current definition of ‘radioactive waste’ in 10 C.F.R. § 110.2 hinges largely on the purpose of the import or export.” UniTech Answer at 22. But it was the NRC Staff, not Petitioners, that characterized the UniTech import plan in a February 2017 Federal Register notice. The NRC Staff stated that the “end use” for the 10,000 tonnes of radioactive waste was “land disposal in the originating country, Canada.” 82 FR 10919.

UniTech’s “intention” in the specific import license certainly included the business of radioactive waste disposal.

And it is UniTech that stated in its export license application its intention to return up to 10,000 tonnes of radioactive waste to Canada, yet more recognition of its business of radioactive and allegedly nonradioactive waste disposal. UniTech has reduced a regulatory procedure to a

mere word game, insisting that the use of euphemisms for the business of waste disposal via landfill, incineration, or return to Canada dispenses with the need for truthful disclosure of the possibly dangerous radioactive waste streams created by its sizeable radioactive recycling proposition.

VI. Petitioners May Challenge The Implementation Of The Regulations

Repeatedly throughout its Answer, UniTech claims that the Petitioners are raising improper challenges to NRC regulations. In each instance, Petitioners are legitimately questioning compliance with, or the meaning and applicability of, 10 C.F.R. Part 110 regulations.

On September 8, 2009, Diane D'Arrigo of Nuclear Information and Resource Service, one of the Petitioners in this matter, submitted a comment on the proposed rulemaking which resulted in the present 10 C.F.R. Part 110. Ms. D'Arrigo commented :

It appears to be a clear and objectionable weakening of protection and reduction of public notice to change a required specific license to a general license.

This rulemaking [§ 110.27 General license for import] appears to allow a general license for importing radioactive material that currently requires either a general or specific license (with some exceptions). General licenses could presumably be used for unlimited import without public knowledge.

(Letter attached). And now, in 2017, Petitioners, led by NIRS, are challenging the regulation.

Notably, in the NRC's comment responses to the promulgation of the new Part 110 appears this passage:

The NRC believes that any questions the public may have regarding compliance with exclusion two to the definition of "radioactive waste"⁴ would best be addressed

⁴"Exclusion two" is 10 C.F.R. § 110.2(2), which states:
"Radioactive waste does not include radioactive material that is—

(1) ****;
(2) A contaminant on any non-radioactive material (including service tools and protective clothing) used in a nuclear facility (an NRC- or Agreement State-licensed facility (or equivalent facility)

individually on a case-by-case basis. In accordance with 10 CFR 2.390, the NRC will make examples of recovery activities under exclusion two to the definition of “radioactive waste” publicly available. No changes to the proposed definition of “radioactive waste” were made as a result of these comments.

75 FR 44077 (July 28, 2010).

Because the final agency rules from 2010 are being applied concretely to the interests articulated by Petitioners for the first time, they may be challenged at this point. *See Lujan v. Nat'l Wildlife Federation*, 497 U.S. 871, 891 (1990) (“a regulation is not ordinarily considered . . . ‘ripe’ for judicial review under the APA until the scope of the controversy has been reduced to more manageable proportions, and its factual components fleshed out, by some concrete action applying the regulation to the claimant's situation in a fashion that harms or threatens to harm him”); holding unripe a general challenge to Bureau of Land Management's “land withdrawal review program”). Petitioners are not constrained from challenging the effects of Part 110 because it is only now that the challenge has become ripe.

VII. Conclusion

For all of the foregoing reasons, Petitioners Nuclear Information and Resource Service, Beyond Nuclear, Nuclear Energy Information Service, Tennessee Environmental Council and Citizens for Alternatives to Chemical Contamination should be accorded standing to proceed to adjudication on the matters raised in their original Petition to Intervene.

Respectfully,

or activity authorized to possess or use radioactive material), if the material is being shipped solely for recovery and beneficial reuse of the non-radioactive material in a nuclear facility and not for waste management purposes or disposal; . . .”

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing “REPLY IN SUPPORT OF PETITION TO INTERVENE” were served by me upon the parties to this proceeding via my deposit of the document in the NRC’s Electronic Information Exchange system this 12th day of June, 2017. I further certify that on this date, I served a paper copy via regular U.S. Mail, postage prepaid, upon Executive Secretary, U.S. Department of State, Washington, DC 20520 and via email to Patricia Lacina, Deputy Executive Secretary, Department of State.

/s/ Diane D’Arrigo
Diane D’Arrigo
Nuclear Information and Resource Service

7

Rulemaking Comments

From: Diane D'Arrigo [dianed@nirs.org]
Sent: Wednesday, September 09, 2009 12:06 AM
To: Rulemaking Comments
Subject: RIN 3150-A116
Attachments: import export comment.doc

DOCKETED
USNRC

September 8, 2009 (9:00am)

OFFICE OF SECRETARY
RULMAKINGS AND
ADJUDICATIONS STAFF

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September 8, 2009

Comments to NUCLEAR REGULATORY COMMISSION and Office of Management and Budget

RE: 10 CFR Part 110 RIN 3150-A116 [NRC-2008-0567]
Export and Import of Nuclear Equipment and Material; Updates and Clarifications

Nuclear Information and Resource Service (NIRS) encourages strengthening and opposes all weakening or relaxation of the NRC import and export regulations. We also support full disclosure and public notification and opportunity for input on the import and export of radioactive materials and wastes and the import and export licensing and amendments.

It appears to be a clear and objectionable weakening of protection and reduction of public notice to change a required specific license to a general license.

This rulemaking [[§ 110.27 General license for import]] appears to allow a general license for importing radioactive material that currently requires either a general or specific license (with some exceptions). General licenses could presumably be used for unlimited import without public knowledge.

"§ 110.27 General license for import.

(a) Except as provided in paragraphs (b) and (c) of this section, a general license is issued to any person to import byproduct, source, or special nuclear material if the U.S. consignee is authorized to receive and possess the material under a general or specific NRC or Agreement State license issued by the Commission or a State with which the Commission has entered into an agreement under Section 274b. of the Atomic Energy Act.

(b) The general license in paragraph (a) of this section does not authorize the import of source or special nuclear material in the form of irradiated fuel if the total weight of the material exceeds 100 kilograms per shipment."

The existing notice to the public is inadequate.

This rulemaking makes it worse.

We request additional time for commenting due to lack of resources for full evaluation.

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September 8, 2009

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From: Diane D'Arrigo <dianed@nirs.org>
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