



GENERAL ATOMIC

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DOCKET NUMBER
PROPOSED RULE

PR-73 (45 FR 2657) ^⑦
(45 FR 11503)

Law Department

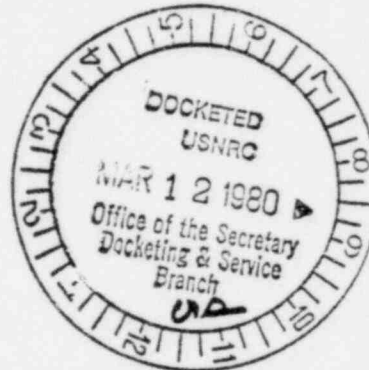
March 4, 1980

Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Attn: Docketing and Service Branch

Re: Proposed 10 CFR 73.67(e)(6)

Gentlemen:



On page 2657 of the Federal Register for January 14, 1980, NRC proposed a new regulation 10 CFR 73.67(e)(6), pursuant to which it might elect to order a delay by one or more of several shippers planning to dispatch SNM shipments of moderate strategic significance. There was no indication of the standards of choice, if any, NRC would use, nor of how it plans to inform itself concerning the effects of delays it might order.

Some licensees may be affected more adversely than others by delayed receipts. Equally, some shippers may be bound by special contract obligations upon which their customers are relying while others are not. For NRC simply to choose among contemporaneous shipments and under 73.67(e)(6) to order delays of one or more without first taking steps to learn the circumstances and giving at least a little attention to the effects consignors and consignees would experience would be arbitrary and capricious. Therefore, if any such regulation is adopted, it should indicate what NRC will do to inform itself and what will influence NRC when it decides which among the shippers and consignees must wait.

Acknowledged by cert. 4/6/80: mdy

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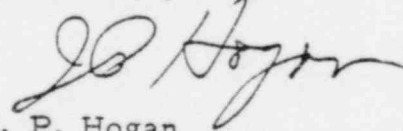
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There has been some debate whether special nuclear material of moderate strategic significance as defined by Subparagraph 73.2(x)(2) could become entangled in proposed 73.67(e)(6), absent enough material of the 73.2(x)(1) variety to aggregate a formula quantity en route. We believe NRC does not intend that result. The debate could be foreclosed, more definitively than the January 14 draft does, by inserting "as defined in 73.2(x)(1)" immediately after "significance". We recommend that be done.

The belief about NRC's intention concerning the relationship of 73.2(x) and 73.67(e)(6) stems in part from consideration of Section 73.72. That section can be understood to require notice in advance of shipping either a formula quantity of strategic SNM or SNM of moderate strategic significance. Alternatively, it can be understood to require notice only if the shipment is to be of strategic SNM in a formula quantity or is to be SNM of moderate strategic significance in a formula quantity. If the former is the interpretation adopted, notice must be given before dispatching 10 Kgs U 235 in U enriched between 10% and 20%. If the latter interpretation is adopted, the "formula quantity" definition excludes such 73.2(x)(2) LEU from 73.72 and includes 73.2(x)(1) material. NRC staff members tell us NRC never intended under 73.72 to require advance notice of 73.2(x)(2) LEU shipments; i. e., they say the second interpretation is correct. That is consistent with our belief that you intended not to reach 73.2(x)(2) material in 73.67(e)(6).

If the recommendation about confining proposed 73.67(e)(6) to HEU, U 233 and plutonium in formula quantities is accepted, it would seem that NRC should also wish to clarify 73.72.

Very truly yours,



J. P. Hogan
Senior Counsel

JPH/lla