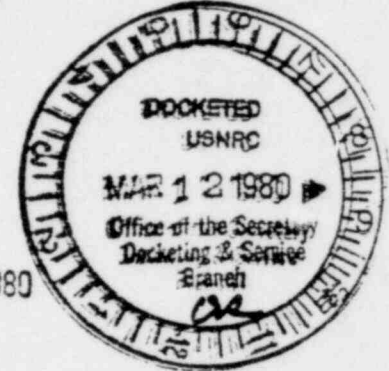




DOCKET NUMBER **PR-73(45 FR 2657)** ⁶
PROPOSED RULE **(45 FR 11503)**

Department of Energy
Washington, D.C. 20545



MAR 5 1980

Mr. Samuel J. Chilk
Secretary
U. S. Nuclear Regulatory Commission
ATTN: Docketing and Services Branch
Washington, D. C. 20555

Dear Mr. Chilk:

This letter amends our February 12, 1980, letter, responding to the Notice of Proposed Rulemaking (published in Vol. 45, No. 9 of the Federal Register), which would add a new subparagraph (6) to Section 73.67(e) of 10 CFR Part 73.

On further consideration of the proposed rule and our February 12 comment thereon, we feel that the language we proposed for the rewording of subparagraph (6) is ambiguous and may be erroneously interpreted to mean that the NRC has authority over DOE shippers, which, of course, it does not.

Our February 12 letter raised a concern that DOE license-exempt shipments in our Category III, which generally corresponds with the NRC definition for material of Low Strategic Significance, might conceivably end up in the same transport vehicle or in-transit temporary storage as an NRC licensed shipment of Moderate Strategic Significance, thereby constituting an aggregate Formula Quantity without corresponding protection. We now realize that our statement of this concern, which was only intended to highlight our concern with concurrent shipment of licensed material, could be subject to misinterpretation. We did not intend, of course, by our statement or proposed substitute language to suggest that NRC has authority, which it clearly lacks, to order actions on the part of DOE shippers.

We believe effectively addressing aggregate quantities in all possible combinations of licensed concurrent shipments (different vehicles) is not justified and is virtually impossible to achieve. The credibility of scenarios involving highly sophisticated simultaneous attacks on different carriers is, in our judgment, low.

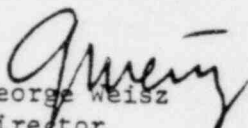
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Mechanisms for NRC to have advance knowledge about all licensed less-than-formula-quantity SNM shipments do not exist. If, however, NRC does pursue the rule, we recommend it be limited to commingling any combination of licensed shipments in the same carrier or in-transit storage facilities.

Sincerely,


George Weisz
Director
Office of Safeguards and Security