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DOCKET NUMBER
PROPOSED RULE PR-73
E45 FR 81060

Secretary of the Commission
U. S. Nuclear Commission
Attention: Docketing Branch
Washington, DC 20555



Dear Sirs:

The Vermont Public Interest Research Group is a non-profit public interest organization with approximately 800 members. We have reviewed the proposed Nuclear Regulatory Commission regulations for the prenotification of governors of shipments of low level radioactive waste and spent fuel which appeared in the Federal Register on December 9, 1980, and are opposed to many aspects of the proposed regulations. Since many aspects of our criticisms apply to both sets of regulations, our comments are combined here.

In summary, we feel that the proposed regulations inadequately protect the public; loose requirements for notice of low level waste shipments and unnecessarily strict access to information regarding spent fuel shipments will reduce the efficacy of the proposed regulations to near worthlessness.

As the NRC is undoubtedly aware, Vermont has its own prenotification regulations which, in the past, have governed our sole operating nuclear power plant without undue burden. Nor have shipments of other radioactive materials been unduly restricted. In light of the fact that Vermont's regulations have worked well in the past, it is disconcerting that the federal government would now move to undermine our state's efforts to protect its citizens. The NRC's final regulations should be at least as strict as our state's, and where they are not, should allow for flexibility at the state level. We note that there is nothing in the Nuclear Regulatory Commission Reauthorization Act of 1980 that prohibits stricter regulation at the state level, and therefore we do not view the prenotification regulations as a vehicle for preemption of state's efforts. Thus, stricter state regulations, as long as they are in line with the intent of the federal regulations, should be permitted.

We believe that an adequate rule will include all of the following points:

1. Notification of all shipments of radioactive waste, including Type A packages, except for very small quantities of low activity waste.

Any shipment of radioactive waste constitutes some hazard to the public. Admittedly, the lower the activity of the waste, the less significant the hazard. The NRC has indicated it would like to equate the risk involved

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with the burden of notification. Since the burden of notification is not great, yet there is a large benefit to the public from complete notification, as well as a great desire on behalf of the public for complete notification, it behooves the NRC to require notification of all radioactive waste shipments. We would exempt the smallest quantities of low activity wastes, i.e. those that could be shipped in ordinary commerce along with other materials.

All shippers of radioactive wastes, including Agreement State licensees should be required to give prenotification.

2. Notification requirements for low level waste shipments should include the precise route of the shipment, regardless of radioactivity, and specific times and dates for the shipments.

The proposed rule for the low level waste shipments give wide latitude for notification. A shipper is only required to give the governors notice four days before a seven day period of waste shipment. This is entirely unsatisfactory. Local police should be alert to all waste shipments. They will not be aware of shipments with such a vague notice period, and the benefits of prenotification will be mitigated by the lack of specificity. The benefits of more complete notification are obvious. Without adequate prenotification, local emergency response personnel will be unable to properly deal with the consequences of an accident involving radioactive cargoes. Proper notification includes more than just an indication of the week of a shipments, it should include the precise route, date and time.

3. Notification restrictions for spent fuel shipments are unnecessarily stringent. Information regarding spent fuel shipments should be readily available to local police and emergency response personnel, and should not be classified as secret.

In its proposed rule, the Commission would require that information on the date, time, and route of a spent fuel shipment be forwarded to the governors, and that the information would be available only to certain designees of the governor. The information would be secret, and would have to be guarded. The reason for this requirement, according to the NRC, is the need to protect spent fuel shipments from sabotage.

However, secrecy requirements are unlikely to protect spent fuel shipments from any well-organized terrorists, who would be likely to find access to the information anyway. Furthermore, the trucks would be placarded and therefore would be easily identifiable from the roadside. The real effect the safeguarding of the information would have is to prevent the local emergency response personnel from fully understanding the nature of an accident they might be called upon to handle. This rule would reduce benefits to the public of safe radioactive waste transportation. There is not an offsetting increase in benefits of protecting a shipment.

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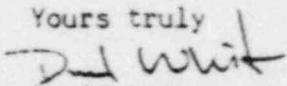
It is telling that the NRC should be moving towards further restricting the rights of Americans to an open government. It would appear that nuclear power is less compatible with freedom than we have been told. If nuclear power presents no threats to civil liberties, there should be no reason for these secrecy requirements.

We are not asking that the information on spent fuel shipments be advertised far and wide, but only that the normal channels of communication between state and local officials be left open.

4. Governors should be able to alter shipping schedules for reasons that would enhance the protection of the public health and safety.

Common sense dictates that governors be given some leeway in controlling the transportation of radioactive wastes through their states. From time to time, but likely only infrequently, it may be necessary to delay a shipment, or to alter its route, for reasons of weather, road conditions, etc. If a road is icing up badly, as has happened in Vermont on occasion radioactive waste should not be shipped; the probability of an accident is much greater under these conditions. Since it is unlikely that the governors will need to alter shipping plans very often, but the times they do would increase the protection of the health and safety of the public so significantly, the latitude should be there.

Enclosed is a copy of Vermont's rule on radioactive waste transportation. The NRC rule should be at least as strict, or, as an alternative, should not preempt our rule in any way.

Yours truly

David White
Associate Director

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- (A) Persons transporting or shipping radioactive materials into, out of, through, or within the state shall provide notification to the Director of Occupational Health prior to such shipment or transport if such shipment or transport meets any of the following criteria:
- (1) Any shipment or package containing a large quantity of radioactive material as defined in Code of Federal Regulations Title 49, Part 173, 389(b), and Title 10, Part 71.4(f).
 - (2) Fuel elements which have been utilized in a nuclear reactor.
 - (3) Any Fissile Class I, Class II, or Class III package as defined in Code of Federal Regulations, Title 49, part 173.
 - (4) Any carload, boatload, plane load or truckload lots of radioactive waste material for disposal.
- (B) The shipper shall supply the following information in writing or by telephone to the Director of Occupational Health at least two working days prior to shipment. Schedule changes or additional information must be provided no later than two hours prior to shipment. To avoid undue hardship the Director may approve other reporting schedules requested by the shipper.
- (1) Name of shipper.
 - (2) Name of carrier.
 - (3) Type and quantity of radioactive material.
 - (4) Date and time of shipment.
 - (5) Starting point, scheduled route, and destination.
 - (6) Other information required by the Director of Occupational Health.
- (C) Shipments shall be made throughout the state with due regard to public health and safety. The Director of Occupational Health may require changes in dates, routes or time of shipment if necessary to maximize protection to public health and safety. Where possible, the Director shall coordinate such changes with his counterparts in adjoining political jurisdictions.