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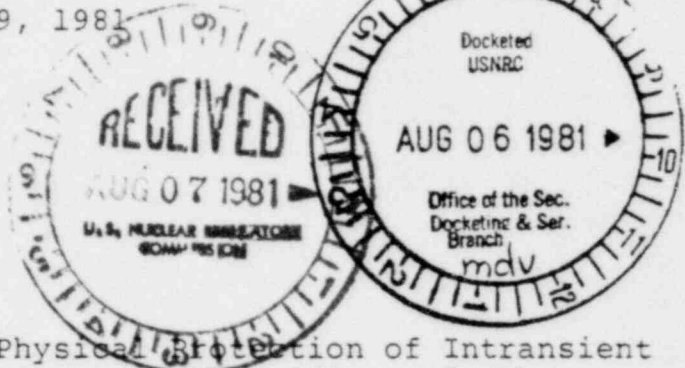
DEPARTMENT OF NUCLEAR ENGINEERING AND ENGINEERING PHYSICS  
REACTOR FACILITY

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DOCKET NUMBER **PR-73** ①  
PROPOSED RULE **(46 FR 31267)**

July 29, 1981

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



ATTN: Docketing and Service Branch

Subject: Proposed rule: 10 CFR 73 "Physical Protection of Intransient Special Nuclear Material of Moderate Strategic Significance" published in Federal Register Volume 46 No. 114 dated June 15, 1981.

Greetings:

The purpose of this letter is to provide comments on the proposed change to 10 CFR 73.67(e) referenced above. While adequate safeguards must be provided, we consider that there are aspects of the proposed rule that are not needed and that their impact has not adequately been considered. Thus, we consider that the proposed rule is not consistent with Executive Order 12044.

1. There does not appear to be a need for the new requirements. The "Supplementary Information" states that the objective of the proposed rule is to prevent multiple thefts of less than formula quantities of SNM. However, in March 1981 the NRC enacted a final rule (10 CFR 73.72) which is intended to preclude multiple shipments of SNM at one time.

Based on the requirements precluding multiple shipments, the present reporting requirements (e.g. 73.71) and security requirements are adequate to provide the prompt notification necessary to prevent multiple thefts. Any need for additional requirements should be specifically justified in light of the existing requirements of 73.72.

2. The requirements of 73.67(e)(1)(vi) should be clarified by deleting reference to exclusive use vehicles since they are not required and any custody transfers should be acknowledged by signature even if exclusive use vehicles are used. In addition, the statement concerning exclusive use vehicles may imply that other items cannot be stored in the locked cargo compartment during shipment. This is not justified.
3. The word immediately in sections 73.67(e)(3)(vi) and 73.71 should be deleted since it is likely to cause problems in enforcement. For example 73.67(e)(3)(vi) requires that a trace investigation be conducted immediately and that the NRC be notified immediately. Thus the licensee would be in violation of these requirements if both calls cannot be made at the same time.

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July 29, 1981

Based on the ban on multiple shipments noted above and the fact that the NRC is not directly involved in immediate actions to trace or recover SNM, some reasonable time should be allowed for notifying the NRC. The length of time should vary depending upon the conditions. For example, if a shipment were delayed for ten minutes by heavy traffic, no notification of the NRC should be required. Even if SNM could not be promptly accounted for, NRC notification within one hour should be adequate. This would allow time for more urgent actions (e.g., initiate trace actions, notify local police, etc.) to be taken.

It is recommended that 73.67 and 73.71 be revised to include tables listing required reporting times to the NRC based on the severity of the event similar to that presently specified in 73.71(c). Other sections (e.g., 73.26 should also be modified to clarify the times required for reporting.

4. The requirement of 73.67(e)(3)(vii) concerning periodic communications should be clarified. For example the supplementary information states that "frequent enroute communications" are required. Does this imply every 30 minutes as specified by 73.26(i)?

Any communications required more often than at intervals of several hours would significantly increase the time required for the shipment and, likely require an exclusive use vehicle. These would greatly increase the cost of the shipment. The required reporting time should be justified based on the need for additional controls and the cost of implementing the requirement.

5. We disagree with the Regulatory Flexibility Statement concerning the economic impact on small entities. While most nonpower reactors are operated by relatively large universities or companies, they do not have a large budget or a large number of employees. In these cases a large increase in the cost of shipping fuel may have a significant impact on these facilities. I am aware of five nonpower reactors which are presently considering shutting down. The increased cost, manpower and complexity in meeting the NRC requirements are a factor in these evaluations. Thus the potential impact of the proposed rules should be evaluated.

Sincerely,

*Bryce R. Shriver*

B. G. Shriver, Chairman  
Test, Research and Training Reactor  
Managers Group

BLS:ph

cc: Mr. James Miller, NRC  
Mr. C.K. Nulsen, NRC