



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 10, 1999

MEMORANDUM TO: Stuart A. Treby, Assistant General Counsel
for Rulemaking and Fuel Cycle
Office of the General Counsel

Martin J. Virgilio, Deputy Director
Office of Nuclear Material Safety and Safeguards

FROM: Frederick C. Combs, Deputy Director
Office of State Programs

SUBJECT: THE ADOPTION OF TRANSPORTATION REGULATIONS
BY AGREEMENT STATES

This memorandum is to request your review and comment on the policy issue of whether Agreement States should be required to adopt regulations equivalent to 10 CFR Part 71, "Packaging and Transportation of Radioactive Material." A copy of the Office of State Programs (OSP) Internal Procedure SA 200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements," rule chart for 10 CFR Part 71 is attached. This chart contains the compatibility designations for Part 71, and should assist you in your review and comment on this issue.

The policy issue concerns the dual regulatory aspect of transportation regulations in Agreement States. If an Agreement State adopted the portions of Part 71 as set out in the attached tables, the U.S. Department of Transportation (DOT) regulations would also apply and would have preeminence over any State regulations adopted as equivalents to 10 CFR Part 71. Consequently, the fundamental question is raised as to whether Part 71 should be required for compatibility by NRC at all. Put another way, should an Agreement State be forced to incur the expense of promulgating mirroring regulations for activities when DOT has parallel, superseding regulations?

We would appreciate your comments by November 23, 1999. If necessary, following receipt of your comments, we will hold a meeting to discuss this matter further.

Attachment:
As stated

cc: John R. Cook, NMSS/SFPO/SLID

- If no NRC, DOT rules would apply
- DOT rules apply Part 71 over a more states justified in some cases, but not all - not facility specific
- And DOT rules, what covers of...? DOT specifically wants to make...
Part - 100
- ... require 25 programs for radioproggers, etc.

3/29/01

Part 71 - PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

REGULATION SECTION	SECTION TITLE	COMPATIBILITY CATEGORY	COMMENTS
§71.0	Purpose and Scope	D	
§71.1	Communications and Records	D	
§71.2	Interpretations	D	
§71.3.	Requirements for license	D	
§71.4	Definitions		
	A ₁	B	
	Carrier	B	
	Certificate holder	D	This term is not used in any section requiring Agreement State adoption.
	Close reflection by water	D	This definition may be adopted by an Agreement State for purposes of clarity and communication. Changed from NRC to D to avoid confusion over which provisions related to exclusive NRC jurisdiction could be adopted by States.
	Containment System	D	This term is not used in any section requiring Agreement State adoption.
	Conveyance	D	This term is not used in any section requiring Agreement State adoption.
	Exclusive use	B	
	Fissile material	B	

REGULATION SECTION	SECTION TITLE	COMPATIBILITY CATEGORY	COMMENTS
	Licensed material	[D]	This definition also appears in 10 CFR 20.1003. For purposes of compatibility, the language of the Part 20 definition should be used and is assigned to Compatibility Category D.
	Low Specific Activity (LSA) material	B	
	Low toxicity alpha emitters	B	
	Maximum normal operating pressure	B	
	Natural thorium	B	
	Normal form radioactive material	B	
	Optimum interspersed hydrogenous moderation	D	This definition may be adopted by an Agreement State for purposes of clarity and communication. Changed from NRC to D to avoid confusion over which provisions related to exclusive NRC jurisdiction could be adopted by States.
	Package	B	
	Fissile material package	B	
	Type B package	B	
	Packaging	B	
	Special form radioactive material	B	
	Specific activity	B	
	State	D	

REGULATION SECTION	SECTION TITLE	COMPATIBILITY CATEGORY	COMMENTS
	Surface Contaminated Object (SCO)	B	
	Transport Index	B	
	Type A quantity	B	
	Type B quantity	B	
	Natural Uranium	B	
	Depleted Uranium	B	
	Enriched Uranium	B	
§71.5	Transportation of Licensed Material	B	
§71.6	Information collection requirements: OMB approval	D	
§71.7	Completeness and accuracy of Information	D	
§71.8	Specific exemptions	D	
§71.9	Exemption for physicians	D	
§71.10	Exemptions for low level material	B	
§71.12	General license: NRC-approved package	B	

REGULATION SECTION	SECTION TITLE	COMPATIBILITY CATEGORY	COMMENTS
§71.13	Previously approved package	B - paragraphs (a) and (b) NRC - paragraphs (c) and (d)	Paragraphs (c) and (d) address transportation package approvals areas reserved to the NRC
§71.14	General license: DOT specification container material	B	
§71.16	General license: Use of foreign approved package	B	
§71.18	General license: Fissile material, limited quantity of package	D	This provision is not required for purposes of compatibility because the transportation of these packages in Agreement States is already covered under existing Department of Transportation (DOT) regulations. .
§71.20	General license: Fissile material, limited moderator per package	D	This provision is not required for purposes of compatibility because the transportation of these packages in Agreement States is already covered under existing Department of Transportation (DOT) regulations. .
§71.22	General license: Fissile material, limited quantity, Controlled Shipment	D	This provision is not required for purposes of compatibility because the transportation of these packages in Agreement States is already covered under existing Department of Transportation (DOT) regulations. .
§71.24	General license: Fissile material, limited moderator, controlled shipment	NRC	

REGULATION SECTION	SECTION TITLE	COMPATIBILITY CATEGORY	COMMENTS
§71.31	Contents of Application	NRC	
§71.33.	Package description	NRC	
§71.35	Package evaluation	NRC	
§71.37	Quality Assurance	NRC	
§71.38	Renewal of a certificate of compliance or quality assurance program approval	NRC	This section was inadvertently omitted from the original tables.
§71.39	Requirements for additional information	NRC	
§71.41	Demonstration of Compliance	NRC	
§71.43	General Standards for all packages	NRC	
§71.45	Lifting and tie-down Standards for all packages	NRC	
§71.47	External radiation Standards for all packages	NRC	
§71.51	Additional Requirements for Type B packages	NRC	
§71.52	Exemption for low-specific-activity (LSA) packages	NRC	
§71.53	Fissile material exemptions	NRC	
§71.55	General Requirements for fissile material packages	NRC	

REGULATION SECTION	SECTION TITLE	COMPATIBILITY CATEGORY	COMMENTS
§71.57	Reserved		
§71.59	Standards for arrays of fissile material packages	NRC	
§71.61	Special requirements for irradiated nuclear fuel shipments	NRC	
§71.63	Special requirements for plutonium shipments	NRC	
§71.64	Special requirements for plutonium air shipments	NRC	
§71.65	Additional Requirements	NRC	
§71.71	Normal conditions of transport	NRC	
§71.73	Hypothetical accident conditions	NRC	
§71.74	Accident conditions for air transport of plutonium	NRC	
§71.75	Qualification of special form radioactive material	NRC	
§71.77	Qualification of LSA-III material	NRC	
§71.81	Applicability of operating controls	B	
§71.83	Assumptions as to unknown properties	NRC	
§71.85	Preliminary determinations	B	
§71.87	Routine determinations	B	

REGULATION SECTION	SECTION TITLE	COMPATIBILITY CATEGORY	COMMENTS
§71.88	Air Transportation of plutonium	B	
§71.89	Opening instructions	B	
§71.91	Records	D	
§71.93.	Inspection and tests	D	
§71.95	Reports	D	
§71.97	Advance notification of shipment of irradiated reactor fuel and nuclear waste	B	
§71.99	Violations	D	
§71.100	Criminal penalties	D	
§71.101	Quality assurance requirements	D	
§71.103	Quality assurance organization	D	
§71.105	Quality assurance program	D	
§71.107	Package design control	D	
§71.109	Procurement document control	D	
§71.111	Instructions, procedures, and drawings	D	
§71.113	Document control	D	
§71.115	Control of purchased material, equipment, and services	D	

REGULATION SECTION	SECTION TITLE	COMPATIBILITY CATEGORY	COMMENTS
§71.117	Identification and control of materials, parts, and components	D	
§71.119	Control of special processes	D	
§71.121	Internal Inspection	D	
§71.123	Test control	D	
§71.125	Control of measuring and test equipment	D	
§71.127	Handling, storage, and shipping control	D	
§71.129	Inspection, test, and operating status	D	
§71.131	Nonconforming materials, parts, or components	D	
71.133	Corrective action	D	
§71.135	Quality assurance records	D	
§71.137	Audits	D	
Appendix A	Determination of A1 and A2	B	