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NUCLEAR ENERGY INSTITUTE

July 30, 2013

Ms. Cindy K. Bladey
Chief, Rules, Announcements and Directives Branch
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Industry Comments on Proposed Rule, "Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Requirements," [Docket ID NRC-2008-0198; NRC-2013-0082]

Project Number: 689

Dear Ms. Bladey:

On behalf of the nuclear energy industry, the Nuclear Energy Institute (NEI)[1] appreciates the opportunity to provide comments on the Proposed Rule, "Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Requirements which was published in the Federal Register on May 16, 2013 (78 FR 28988). The industry supports the efforts of the U.S. Nuclear Regulatory Commission (NRC) to harmonize the transportation regulations contained in 10 CFR Part 71 with the International Atomic Energy Agency's Regulations for the Safe Transport of Radioactive Material (TS-R-1). Attached please find two comments on the proposed rulemaking for the NRC's consideration.

If you have any questions concerning these comments, please contact me at 202-739-8018; anm@nei.org.

Sincerely,

Andrew N. Mauer

Andrew N. Mauer

Attachment

c: Mr. James Firth, FSME/DILR, NRC

[1] The Nuclear Energy Institute (NEI) is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

Comments on Proposed Rule, "Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Requirements"

§ 71.4 Definitions.

The definition of "*Special form radioactive material"* would be revised to allow special form radioactive material that was successfully tested using the current requirements of § 71.75(d) to continue to qualify as special form material, if the testing was completed before the date of the final rule. The reference to the version of 10 CFR Part 71 in effect on March 31, 1996, would be corrected by changing 1983 to 1996.

Special form radioactive material means radioactive material that satisfies the following conditions:

(1) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(2) The piece or capsule has at least one dimension not less than 5 mm (0.2 in); and

(3) It satisfies the requirements of § 71.75 of this part. A special form encapsulation designed in accordance with the requirements of § 71.4 of this part in effect on June 30, 1983 (see 10 CFR part 71, revised as of January 1, 1983), and constructed before July 1, 1985; a special form encapsulation designed in accordance with the requirements of § 71.4 of this part in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before [EFFECTIVE DATE OF FINAL RULE] in accordance with the requirements of § 71.75(d) of this part in effect before [EFFECTIVE DATE OF FINAL RULE] may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

The new language being added to the proposed paragraph (3): "… and <u>special form material</u> that was successfully tested before [EFFECTIVE DATE OF FINAL RULE]…" is unclear. The existing language contained within (3) uses the term "special form encapsulation." This terminology is consistent with our understanding of the intent of these changes as discussed in the Federal Register Notice. Using the term "special form material" is ambiguous as to whether the language is meant to apply to special form that is a single solid piece of material only, or whether the rule aims to grandfather special form designs including encapsulations that were designed and constructed after the earlier dates cited in the paragraph. Therefore, as a matter of consistency and clarity, we recommend replacing the term "material" with "encapsulation."

Proposed Change

(3) It satisfies the requirements of § 71.75 of this part. A special form encapsulation designed in accordance with the requirements of § 71.4 of this part in effect on June 30, 1983 (see 10 CFR part 71, revised as of January 1, 1983), and constructed before July 1, 1985; a special form encapsulation designed in accordance with the requirements of § 71.4 of this part in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form encapsulation ~~material~~ that was successfully tested before [EFFECTIVE DATE OF FINAL RULE] in accordance with the requirements of § 71.75(d) of this part in effect before

[EFFECTIVE DATE OF FINAL RULE] may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

§ 71.14 Exemption for low-level materials.

The discussion contained within the Federal Register Notice appears to indicate that natural material that has been processed could qualify for the exemption if it is not included in a manufactured product, such as an article, instrument, component of a manufactured article or instrument, or consumer item. There appears to be a discrepancy between this statement and the language in the proposed rule regarding the intent to be processed for the use of radionuclides. Further, while we recognize that the NRC is performing a comprehensive review of the new IAEA standards for the safe transport of radioactive material "Specific Safety Requirements Number SSR-6," we note that the 2012 edition of SSR-6 does not include the phrase "or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides." Given the length of time it can take to promulgate a rulemaking, we respectfully request that the NRC consider this specific change within the context of this rulemaking, which is consistent with SSR-6.

Specifically, in SSR-6,

> 107. These Regulations do not apply to any of the following:
>
> (f) Natural material and ores containing naturally occurring radionuclides, which may have been processed, provided the activity concentration of the material does not exceed 10 times the values specified in Table 2, or calculated in accordance with paras 403(a) and 404–407. For natural materials and ores containing naturally occurring radionuclides that are not in secular equilibrium the calculation of the activity concentration shall be performed in accordance with para. 405.

Proposed Change

(a) * * *

(1) Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have ~~only~~ been processed ~~for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides~~, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in appendix A, Table A-2, or Table A-3, of this part.

From:	Mendiola, Doris
To:	RulemakingComments Resource
Cc:	Bladey, Cindy
Subject:	FW: Industry Comments on Proposed Rule, "Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Requirements," [Docket ID NRC-2008-0198; NRC-2013-0082]
Date:	Tuesday, July 30, 2013 4:55:36 PM
Attachments:	07-30-13_NRC_Comments on Revisions to Transportation Safety Requirements and Harmonization.pdf 07-30-13_NRC_Comments on Revisions to Transportation Safety Requirements and Harmonization_Attachment.pdf
Importance:	High

FYI

Doris

From: Bladey, Cindy
Sent: Tuesday, July 30, 2013 4:33 PM
To: Mendiola, Doris
Subject: FW: Industry Comments on Proposed Rule, "Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Requirements," [Docket ID NRC-2008-0198; NRC-2013-0082]

From: MAUER, Andrew [mailto:anm@nei.org]
Sent: Tuesday, July 30, 2013 4:32 PM
Subject: Industry Comments on Proposed Rule, “Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Requirements,” [Docket ID NRC-2008-0198; NRC-2013-0082]

July 30, 2013

Ms. Cindy K. Bladey
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