

6/26/03  
68 FR 37986  
(2)

## **Nuclear Information and Resource Service**

**1424 16<sup>th</sup> Street NW, #404, Washington, DC 20036**

**202.328.0002; fax: 202.462.2183; [nirsnet@nirs.org](mailto:nirsnet@nirs.org); [www.nirs.org](http://www.nirs.org)**

Comments to the  
US Nuclear Regulatory Commission (NRC) and Department of Transportation (DOT)  
on

Proposed Changes as Accepted by the September 2002 Review Panel Meeting for 120  
Day Review by Member States and International Organizations

August 8, 2003

Nuclear Information and Resource Service (NIRS) appreciates that NRC and DOT held a public meeting on the upcoming IAEA meeting that will again change the international recommendations for transportation of radioactive materials.

We request future efforts to be more public, with better explanations of what is being proposed. Specifically, we are disappointed at what appears to have been misleading information provided at the July 22, 2003 meeting that proposed change number 61 does not affect exemption quantities and concentrations. Closer reading of the item appears to clarify that all radioactive materials below the levels given in IAEA Safety Series 115 shall be exempt from transport regulation. Rick Boyle of DOT made the statement but the entire panel of NRC and DOT officials responsible for this issue permitted the statement to stand.

Such misleading information in what is obviously a highly technical document is unacceptable. If the agencies are trying to improve the communication with the American public, this does just the opposite.

Our specific comments were provided to DOT and NRC on the designated sheets for comment but will be summarized here:

Proposed Change Number 47 provides for **exempting additional radionuclides from transport regulatory control**, in addition to the ones exempted in the 2003 version of the TSR-1 transport regulations, still not approved in the US. NIRS continues to oppose the exemption tables in the 2003 version of TSR-1 and for the same reason opposes the exemption of additional unlisted radionuclides. Since the current exemption level across the board is 70 becquerels per gram, we oppose increases in those exempt concentrations. Since there are no exempt quantities now, we oppose the addition of any exempt quantities by consignment or otherwise. We call on DOT and NRC to move to delete the exemption tables and all related provisions from the TSR-1, all versions.

Proposed Change Number 61 (referring to Appendix 4) clarifies that "107. The Regulations do not apply to sources of exposure, or practices, which are either

Template = ADM-013

ERFDS = ADM-03  
All = J. Cook (JRC1)

**excluded from these regulations or exempted from the requirements of these regulations according to the principles of the “International Basic Safety Standards for Protection Against Ionizing Radiation and the Safety of Radiation Sources” IAEA Safety Series 115 [2], and in particular the following are not within the scope of these regulations:...”**

The change provides a reference to generic exemptions which NIRS and the general public (see NRC and DOT comments on this in previous rulemakings and policy discussions and legal challenges) have clearly rejected.

DOT and NRC should reject these changes and reject the exemptions in the 2003 TSR-1 both in US rulemaking and in interactions with the international IAEA meetings and policy groups.

We oppose the adoption and reference to SS No. 115 which has never been approved in the US, or submitted in any public forum in the US for discussion for approval.

NRC and DOT should not assume that the IAEA and ICRP radiation standards are acceptable in the US. This is changing. Those standards are not inclusive of all of us at risk that must be protected. The suggested factors of the ECRR (European Commission on Radiation Risk) must be considered in determining risks and projecting doses. We do not accept the supposed “trivial” dose or one in a million risk estimates made in SS 115, not the logic that is used in that document to make the justification for exemptions.

The existing exemptions in international transport regulations (prior to TSR-1), although objectionable in many ways, should not be made even less protective by the adoption of the Exemption tables in the 2003 TSR-1 draft, or adoption of the proposed changes No. 47 and 61 (for 2005 TSR -1).

Change Number 61 also defines “dose constraints” and proposes to replace dose limits with the constraints. These are even less enforceable than dose limits and rely on calculations that are not expressly defined in the recommendation for regulations. Dose constraints to the critical group are not designed to protect everyone, which the regulations should.

It is interesting that in both the 2003 and the 2005 proposed regulations that photographic film is more protected (stricter exposure limits) than human beings and the genetic material of our species.

Change Number 63 allows some shipments to exceed existing surface contamination levels by 100 times. NRC and DOT attempt to justify this using the highly criticized “risk informing” rather than real, proscriptive regulation.

**Diane D’Arrigo, NIRS Radioactive Waste Project Director**  
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[Proposed Rules] [Page 37986]

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**Comments on Proposed Change to the Regulations for the Safe Transport of  
Radioactive Material and Supporting Documents.**

NOTE 1. Please do not submit comments to indicate agreement with any Proposed Change

NOTE 2: Please complete one Comment Form for each Proposed Change on which comment is provided.

NOTE 3: For all submissions please provide the rationale for response to the Proposed Change (item 6 below).

NOTE 4: The Change Number (item 1 below) for a Proposed Change is found in column 1 of the document entitled, "Proposed changes for 120 day review."

1. Change Number (See Note 4):	47
2. Name of Commenter:	Diane D'Arrigo
3. Contact Information:	Organization: Nuclear Information & Resource Service Address: 1424 16th St NW #404 Washington, DC Tel.: 202 328-0000 x16 Fax: 202 462-2183 E-mail: diane@nirs.org
4. Date of comment:	August 8, 2003 // verbally July 22, 2003
5. Response to the Proposed Change (mark appropriate box) (see Note 1):	<input checked="" type="checkbox"/> Agree subject to the amended Proposed Change in item 6 below: <input type="checkbox"/> Reject
6. Rationale for response to the Proposed Change	TSR-1, NIRS continues to oppose the (as-yet-unapproved in the US) addition of the exemption tables - the exempt quantity + concentration columns to Table 1. Thus, we oppose additional exemptions as provided here, unless the concentrations are lower than the existing 70 Bq/g. Remove the exemption tables for quantities. For concentrations, remove the tables or ② make the existing 70 Bq/g the MAXIMUM total exempt level for <del>each</del> all combined radionuclides present, retaining all lower radionuclide-specific values
7. Amended Proposed Change, if any	Remove the exemption tables for quantities. For concentrations, remove the tables or ② make the existing 70 Bq/g the MAXIMUM total exempt level for <del>each</del> all combined radionuclides present, retaining all lower radionuclide-specific values

exempt level  
70 Bq/g

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NOTE 3: For all submissions please provide the rationale for response to the Proposed Change (item 6 below).

NOTE 4: The Change Number (item 1 below) for a Proposed Change is found in column 1 of the document entitled, "Proposed changes for 120 day review."

1. Change Number (See Note 4):	61
2. Name of Commenter:	DIANE DARRIGO
3. Contact Information:	Organization: NIRS Address: 1424 16th St NW #404 W, DC 20036 USA Tel.: 202 328 - 0002 x16 Fax: 202 462 - 2183 E-mail: diane@nirs.org
4. Date of comment:	Aug 8, 2003; question posed July 22, 2003
5. Response to the Proposed Change (mark appropriate box) (see Note 1):	<input type="checkbox"/> Agree subject to the amended Proposed Change in item 6 below: <input checked="" type="checkbox"/> Reject
6. Rationale for response to the Proposed Change	107, etc. The change adopts the exemptions as defined in IAEA Safety Series No. 115. We oppose these exemptions and call for transport regs to continue to apply to sources of exposure, a practices that would be exempted by IAEA SS15. The levels exempted are unnecessary + not proven harmless. Much more public discussion of doses is needed before any decision that increases doses is made. The European Committee on Radiation Risk has proposed additional factors to ICRP dose calculations. NO exemptions should be made without further discussion.
7. Amended Proposed Change, if any	

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2. Name of Commenter:	Diane DARRIGO
3. Contact Information:	Organization: NIRS Address: 1424 16th St NW #404 WDC 20036 US Tel.: 202 328-0002 x 16 Fax: 202 462-2183 E-mail: diane@nirs.org
4. Date of comment:	8/8/03
5. Response to the Proposed Change (mark appropriate box) (see Note 1):	<input type="checkbox"/> Agree subject to the amended Proposed Change in item 6 below: <input checked="" type="checkbox"/> Reject
6. Rationale for response to the Proposed Change	-Dose Constraints are not necessarily protective enough of all exposed individuals -The BSS Nollis was never approved by the
7. Amended Proposed Change, if any	US public.

\*It was misleading for Rick Bayle to tell me at the July 22 meeting that #61 had nothing to do with exemptions. It relates to the exemption.

DOT/IAEA/transport regulators - all  
121.01's below which <sup>transport</sup> fees do not apply.

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# **Comments on Proposed Change to the Regulations for the Safe Transport of Radioactive Material and Supporting Documents.**

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1. Change Number (See Note 4):	61
2. Name of Commenter:	Diane DARRISO
3. Contact Information:	<p>Organization: NIRS</p> <p>Address: 1424 16th St NW #404 WDC 20036 USA</p> <p>Tel.: 202 328 - 0002 x 16</p> <p>Fax: 202 462 - 2183</p> <p>E-mail: diane@nirs.org</p>
4. Date of comment:	8/8/03
5. Response to the Proposed Change (mark appropriate box) (see Note 1):	<p><input type="checkbox"/> Agree subject to the amended Proposed Change in item 6 below:</p> <p><input checked="" type="checkbox"/> Reject</p>
6. Rationale for response to the Proposed Change	<p>562 a+b replace specific dose limits with unclear dose restraints for workers + the public. It is interesting that firm is more protected than humans in the</p>
7. Amended Proposed Change, if any	<p>Reduce all exposures, Existing + proposed regulations/recommendations</p> <p>Replace with a goal of no exposure.</p>

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1. Change Number (See Note 4): <del>60</del> 63	
2. Name of Commenter: DARRIGO	
3. Contact Information: Organization: NIRS Address: 1424 16th St NW #404, DC 20036 USA Tel.: 202 #328 - 0002 X16 Fax: 202 462 - 2183 E-mail: darrigo@nirs.org	
4. Date of comment: 8/8/03	
5. Response to the Proposed Change (mark appropriate box) (see Note 1): <input type="checkbox"/> Agree subject to the amended Proposed Change in item 6 below: <input checked="" type="checkbox"/> Reject	
6. Rationale for response to the Proposed Change. There is no justification for moving containers that will exceed existing surface contamination levels by 100x times. We oppose this exposure and this increase in exposure.	
7. Amended Proposed Change, if any	NIRS is on record at NRC opposing the whole "risk-informing" method to replace Real, prescriptive regulation.

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[Proposed Rules]  
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From the Federal Register Online via GPO Access [wais.access.gpo.gov]  
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NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Regulations for the Safe Transport of Radioactive Material;  
Public Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

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SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Transportation (DOT) are jointly seeking public views on the proposed changes to the requirements of the 1996 Edition for the Safe Transport of Radioactive Material (TS-R-1). The changes will likely necessitate domestic compatibility rulemakings by both NRC and DOT. To aid in preparing comments, DOT is convening a public meeting as the U.S. competent authority for transportation matters before IAEA. Recognizing DOT's role, in lieu of separate meeting, NRC will participate at the meeting.

DATES: The public meeting will be held on July 22, 2003, from 9:30 a.m. to 11:30 a.m. Written comments will be accepted at the meeting and until August 8, 2003. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: The meeting will be conducted at the Department of Transportation, Nassif Building, 400 Seventh Street, SW., Room 6244, Washington, DC 20590-0001. Details of the meeting can be found at <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-14585.p>

Mail comments concerning the meeting to Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Hand deliver comments to Two White Flint North, 11545 Rockville Pike (Mail Stop T6D59), Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays.

FOR FURTHER INFORMATION CONTACT: John Cook, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: (301) 415-8521; e-mail: [jrc1@nrc.gov](mailto:jrc1@nrc.gov).

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2003, the International Atomic Energy Agency (IAEA)



posted 63 proposed changes to the requirements of the 1996 Edition of the Agency's Regulations for the Safe Transport of Radioactive Material (TS-R-1) on the world wide web (see [http://hazmat.dot.gov/files/IAEA\\_TS-R-1\\_rev\\_prop.pdf](http://hazmat.dot.gov/files/IAEA_TS-R-1_rev_prop.pdf)). IAEA's revision process calls for Member States and International Organizations to have an opportunity for a period of 120 days to provide comments. The objective is publication of revised regulations in 2005, nominally to become effective worldwide in 2007.

The IAEA periodically revises its transportation regulations (referred to as TS-R-1) to reflect new information and accumulated experience. In 2000, IAEA requested proposals for change to ultimately result in a 2005 edition of TS-R-1. Over 200 proposals were submitted to IAEA to change the regulations, guidance material, or identify problems for further work. These were later narrowed down to 63 proposals that were accepted for comment.

Because some of the proposed changes being considered for the 2005 edition of TS-R-1 would, if approved, result in a need to consider a revision of U.S. transport regulations (49 CFR 100-185 and 10 CFR part 71), the DOT and the NRC are jointly seeking public views on the proposed changes. This information will assist DOT and NRC in having a full range of views as the proposals are developed. Note that future domestic rulemakings, if necessary, will continue to follow established rulemaking procedures, including the opportunity to formally comment on proposed rules.

NRC is currently reviewing the proposed changes and will provide comments to DOT. The DOT is the U.S. competent authority before IAEA for radioactive material transportation matters, and will be consolidating U.S. comments to IAEA. On June 10, 2003 (68 FR 34695), DOT published a notice in the Federal Register announcing that DOT will conduct a public meeting to accept comments and answer questions pertaining to the proposed changes on July 22, 2003, at DOT Headquarters. Rather than convene a separate public meeting, as co-regulators for U.S. radioactive material transportation matters, the NRC staff will participate at DOT's public meeting. NRC staff will be available to respond to any technical questions concerning the proposals' potential impacts to Type B or fissile materials regulated in 10 CFR part 71.

Dated at Rockville, Maryland, this 20th day of June 2003.

For the Nuclear Regulatory Commission.  
David W. Pstrak,  
Transportation and Storage Project Manager, Office of Nuclear Material  
Safety and Safeguards.  
[FR Doc. 03-16175 Filed 6-25-03; 8:45 am]

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