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MEMORANDUM

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December 1, 2004 (4:15pm)

TO: USNRC - email to SECY@nrc.gov

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

FROM: George Moran

SUBJECT: COMMENTS ON PROPOSED IMPORT / EXPORT REGULATIONS
RIN 3150-AH44

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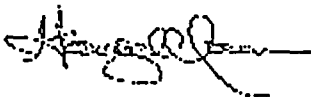
DATE: November 30, 2004

1. Part of the rationale for requiring a specific license for the import and export of high-risk radioactive material is to establish common international guidance for the safety and security of radioactive material. However, the proposed NRC rule imposes much more stringent limitations on domestic licensees than those published in the IAEA's Code of Conduct. Item 25 of the Code of Conduct states that exports should only be authorized if the receiving country has authorized the recipient to receive and possess the material. Requiring a licensee to list every company and country to which it exports material on a specific license is not a practicable way to accomplish this. A more sensible approach would be to require that licensees be generally authorized to ship to companies that are authorized by their own countries to receive and possess the material. The NRC's approval could be sought only for companies for which no such authorization exists and in countries which are not on an approved NRC list. (This list would have to be developed by the NRC and include countries which have a system of approval deemed acceptable by the NRC.) This ensures that sources are only exported to authorized users in countries with adequate regulatory controls.
2. In the conclusion of the proposed rule, it states that the duration of the specific license will be consistent with the expiration date of the recipient's authorization to possess or use the radioactive material. We export to dozens of companies in many different countries. Renewing an export license every time the recipient's import authorization is renewed is neither practical nor cost effective. In fact, it would make it cost prohibitive and would drive the customer to seek non-US products and non-US radioactive material suppliers. This could result in the US having less control over the security of radioactive material.
3. In the 10/19/2004 public meeting, the estimated projected time frame for processing a new or revised license was "one to four months and probably more". Requiring a licensee to wait that length of time every time that they locate a new vendor or customer for radioactive material would constitute a significant impediment to free trade and international business. It would also put NRC licensees at a significant disadvantage when competing internationally.

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4. The projected fee for the initial licenses are \$10,100 for Category I shipments and \$5,900 for Category II shipments. The fee would be assessed for the initial license and for license amendments (adding a customer), and presumably for renewals. It was not clear whether the license is a combined import / export license or separate import license and export license (requiring 2 fees). When additional information was requested from the NRC in this regards we were told that in our case, seven (7) or more separate licenses would be required. We were told that they would expire in 3 - 5 years, and that will probably change if they need to be renewed every time that the company's license expires. These fees would effectively put our company out of the export business of radioactive material.
5. There is no provision to provide relief to small entities. Considering the significant cost of the import / export licenses, and the frequency for renewals and revisions, this cost is out of proportion to the value of the business. It is not reasonable to provide a small business fee structure for reactor, fuel cycle and materials licenses, etc. per 10CFR Part 171 import / export licenses, and not allow the same reduced fees under 10CFR Part 170.
6. The advance notification proposed in this rule do not in fact mirror those contained in the "Additional Security Measures", not do they reflect the practical implementation problems that have been previously reported to NRC. A 24 hour advance notifications of exports is not practical as orders are generally shipped the same day they are ordered. We also receive decayed sources for disposal for which we typically have no notification from the shipper. Also, if we have to also apply for import licenses for customers to whom we offer disposal services at the rates proposed, we would not do so since it would not be economically feasible.. If we didn't offer disposal services, that would result in less control over RAM as they might use some other non-US disposal service under less stringent control.



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Subject: COMMENTS ON PROPOSED IMPORT / EXPORT REGULATIONS

Attached are my comments on the proposed import/export regulations for radioactive material - RIN 3150-AH44

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