



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 03 2017

Mr. Glenn Mathues
Licensing Engineer for Transportation
AREVA Inc.
7135 Minstrel Way, Suite 300
Columbia, MD 21045

Ref. No.: 16-0141

Dear Mr. Mathues:

This responds to your August 25, 2016 request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they apply to fissile material prepared for transport in accordance with the IAEA's Regulations for the Safe Transport of Radioactive Material, SSR-6, 2012 Edition. You note that in a final rule published January 8, 2015 [(HM-215M); 80 FR 1075], PHMSA incorporated by reference the 2012 Edition of SSR-6 with an additional requirement added in § 171.23(b)(11) that fissile material conform to the requirements of § 173.453. Specifically, you ask if packages containing fissile material prepared in accordance with paragraph 674 of SSR-6, but not meeting any of the fissile material exception conditions in § 173.453, may be offered for shipment to or from the U.S. without a competent authority approval.

The answer to this question is no. As stated in the HM-215M preamble [80 FR 1081], SSR-6 included "several changes to the definition of excepted fissile materials and the requirements for its transport...Under their respective statutory authorities, DOT and the Nuclear Regulatory Commission (NRC) jointly regulate the transportation of radioactive materials to, from, and within the United States. The NRC has not initiated any rulemaking activities to address changes made by the IAEA regarding the transportation of excepted fissile materials. In order to maintain uniform treatment for shippers of excepted fissile materials, PHMSA is amending § 171.23 to require that shipments of excepted fissile materials offered in accordance with the IAEA SSR-6 regulations must also conform to the requirements of § 173.453."

I hope this answers your inquiry. If you need additional assistance, please contact the Standards and Rulemaking Division at (202) 366-8553.

Sincerely,

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

E-46138
August 25, 2016

U.S. Department of Transportation
Attn: PHH-10
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Safety
1200 New Jersey Avenue, S.E.
East Building, PHH-10
Washington, DC 20590

Subject: Request for Interpretation Regarding 49 CFR 171.23(b)(11)

- References:
- [1] Federal Register Notice for January 8, 2015, Docket Number PHMSA-2013-0260 (HM-215M), Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), Hazardous Materials: Harmonization with International Standards, Final Rule.
 - [2] International Atomic Energy Agency (IAEA), Regulations for the Safe Transport of Radioactive Material, Specific Safety Requirements Number SSR-6, 2012 Edition.
 - [3] International Atomic Energy Agency (IAEA), Regulations for the Safe Transport of Radioactive Material, Requirements Number TS-R-1 (ST-1, Revised), 1996 Edition.
 - [4] U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Subchapter C, Hazardous Material Regulations, 49 CFR Parts 171 through 180, Revised October 1, 2015.

Dear Professional:

In rulemaking HM-215M, (Reference 1), the Pipeline and Hazardous Materials Safety Administration (PHMSA) incorporated, by reference, the 2012 IAEA SSR-6 regulations (Reference 2) to replace the TS-R-1 (ST-1, Revised) 1996 Edition (Reference 3) to allow shipments to be offered for transportation or transported under the most recent IAEA regulations. The PHMSA added additional requirements to §171.23 to ensure domestic concerns were addressed. Paragraph (b)(11) of §171.23, (Reference 4) prescribes these additional requirements for shipments of radioactive materials made under authorized international standards or regulations. The PHMSA amended §171.23 to require that shipments of excepted fissile materials offered in accordance with the IAEA SSR-6 regulations also conform to the requirements of §173.453. However, the additional requirements added to §171.23 do not explicitly address packages containing fissile material that are authorized by the 2012 IAEA SSR-6 regulations prescribed in paragraph 674.

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Transport of fissile material not conforming to requirements for fissile exceptions is allowed in 2012 IAEA SSR-6 regulations paragraph 674 in packaging that is not approved by a competent authority. A package containing fissile material may be offered for shipment under paragraph 674 with limited quantities of fissile material and the assignment of a criticality safety index (CSI) to control the accumulation of fissile material in the consignment. The fissile material does not conform to requirements for fissile exceptions and a package offered for shipment under paragraph 674 does not have a competent authority certification to obtain any necessary revalidation.

Based on this review, my question is: Is a shipment of packages containing fissile material offered for shipment into or from the U.S. with contents as authorized by 2012 IAEA SSR-6 paragraph 674 allowed by §171.23 (b)(11)?

If you have questions or require further information, please call me at 410-910-6538.

Sincerely,



Glenn Mathues,
Licensing Engineer for Transportation

cc: Michael Conroy, U.S. Department of Transportation
Peter Vescovi, AREVA TN

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