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ILUKA RESOURCES LIMITED

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29 June 2000

RSPA-99-6283-40

U.S. Department of Transportation
Dockets Management System
400 7th Street, S.W.
Washington, D.C. 20590-0001

Re: Comments on Advanced Notice of Proposed Rulemaking ("ANPR"):
Compatibility With the Regulations of the International Atomic Energy
Agency; RSPA Docket RIN 2137-AD39

Dear Sir/Madam:

The following comments on the above captioned ANPR are respectfully submitted by Iluka Resources Limited. We are concerned that DOT's contemplated harmonization with IAEA ST-1 could dramatically increase the transportation costs for industrial minerals by extending the Class 7 (radioactive) hazardous materials to enormous quantities of materials without justification. DOT should consider the following as it contemplates harmonizing its rules with IAEA ST-1:

1. Incorporate in any future rulemaking the IAEA ST-1 exemption for ores and natural materials of Paragraph 107(e), which exempts:

(e) natural material and ores containing naturally occurring radionuclides which are not intended to be processed for use of these radionuclides provided the activity concentration of the material does not exceed 10 times the values specified in paras 401-406.

2. Incorporate in any future rulemaking the clarifications in Paragraph 107.5 of the *DRAFT ADVISORY MATERIAL FOR THE REGULATIONS FOR THE SAFE TRANSPORT OF RADIOACTIVE MATERIAL (1996 Edition) IAEA Safety Standards Series No. ST-2* (Feb. 19, 1999) that:

107.5. The scope of the Regulations includes those natural materials or ores, which form part of the nuclear fuel cycle, or which will be processed in order to use their radioactive properties. The Regulations do not apply to other ores which may contain naturally occurring radionuclides, but whose usefulness does not lie in the fissile, fertile or radioactive properties of those nuclides, provided that the activity concentration does not exceed **10 times** the exempt activity concentration values. Natural material and ores containing natural occurring radionuclides which are processed are also exempt from the Regulations (up to 10 times the exempt activity concentration values) where the physical and/or chemical processing is not for the purpose of extracting radionuclides, e.g., washed sands, tailings from alumina refining etc.,

Were this not the case, the Regulations would have to be applied to enormous quantities of material that present a very low hazard. However,

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there are ores in nature where the activity concentration is much higher than the exemption values. The regular transport of these ores may require a consideration of radiation protection measures. Hence, a factor of 10 times the exemption values for activity concentration was chosen as providing an appropriate balance between the radiological protection concerns and the practical inconvenience of regulating large quantities of material with naturally occurring low activity concentration.

3. Consult with NRC on harmonizing transportation of radioactive materials.

We recommend that DOT engage in consultation with NRC regarding harmonization of existing U.S. transportation rules with IAEA to avoid inconsistent regulation governing transportation of radioactive materials.

4. DOT should consider IAEA's justification for exemption thresholds.

If DOT considers revising the current 70 Bq/g exemption level, DOT should consider whether IAEA's technical basis for its numbers justifies the increased costs and burdens to transporters of materials that are currently exempt under DOT's existing rules.

In addition, we support the comments submitted to DOT on behalf of the Zirconium Environmental Committee and incorporate those comments by reference. Should DOT have any questions or require further information regarding these comments, please direct inquiries to Charles Simmons at (202) 508-5806.

Sincerely,

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Manager: Marketing Product Development

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