(65)

COMMERCIAL VEHICLE SAFETY ALLIANCE

An Association of State, Provincial and Federal Officials
Responsible for the Administration and Enforcement of Motor
Carrier Safety Laws in the United States, Canada and Mexico

5430 GROSVENOR LANE • SUITE 130 • BETHESDA, MD 20814 • TEL: (301) 564-1623 • FAX: (301) 564-0588

September 15, 1996

Corinne Macaluso
U.S. Department of Energy
c/o Lois Smith
TRW Environmental Safety Systems Inc.
600 Maryland Ave. S. W. Suite 695
Washington, D.C. 20024

Dear Ms. Macaluso:

Enclosed you will find the Commercial Vehicle Safety Alliance's comments and recommendations in response to the Federal Register Vol. 61, No. 96 dated May 16, 1996. This is in regard to the Department of Energy's proposed policy on training under the Nuclear Waste Policy Act 180 (c). We appreciate the opportunity to comment on this important proposed policy and its implications for the safety of future shipments of spent nuclear fuel and other high-level radioactive waste.

Please do not hesitate to contact me if you have any questions or need additional information regarding our comments and or recommendations.

Enclosed you will also find a stamped self addressed envelope to acknowledge your receipt of our comments.

Sincerely,

James E. Daust

James E. Daust
CVSA Program Director
7346 Lombard Ave.
Gaylord, Michigan 49735
Telephone (517) 732 4727

Enclosure

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COMMERCIAL VEHICLE SAFETY ALLIANCE (CVSA)
COMMENTS ON FEDERAL REGISTER Vol. 61, No. 96 Dated May 16, 1996
NUCLEAR WASTE POLICY ACT 180 (c)

EXECUTIVE SUMMARY

The following summary highlights the CVSA recommended changes to the proposed 180 (c) Policy and Procedures as outlined in the above captioned Federal Register. Rationale and comments regarding these recommendations are contained in the attached report.

- CVSA recommends that the Department of Energy's (DOE) Office of Civilian Radioactive Waste Management (OCRWM) take a strong proactive stand regarding the safe transportation of spent nuclear fuel and other designated high-level radioactive waste. We believe further that this position should state that safe transportation is of primary importance in moving these products and as an indicator of their position, the transportation will fall under the Enhanced North American Standard Inspection Procedures and Out of Service Criteria, as developed by CVSA.

- CVSA recommends that OCRWM adopt a more cost effective method of providing the training necessary to conduct uniform and consistent inspections while insuring reciprocity for the motor carrier transporting spent nuclear fuel by using a nationally recognized inspection program and inspector training organization, such as CVSA.

- CVSA recommends that a policy be adopted by OCRWM which requires that the roadside inspection process be funded through the agency responsible for on-highway enforcement of motor carrier regulations.

- CVSA recommends that the CVSA Enhanced North American Standard Inspection Procedures and Out-of-Service criteria as developed for OCRWM for the transportation of spent nuclear fuel and other high-level radioactive waste be adhered to and enforced.

CVSA Response to Federal register Vol. 61, No 96
Executive Summary

- CVSA recommends that OCRWM direct in any policy that inspector training for their radioactive shipments be carried out under the guidelines and criteria as developed and tested by CVSA through the OCRWM Cooperative Agreement. Also, that inspectors attain and remain current in the certification process established by CVSA, as a requirement for funding under NWPA 180 (c).

- CVSA recommends that OCRWM direct what type of refresher training is allowed under the funding arrangements and who is responsible for the training. We further recommend that this refresher training be carried out in the same manner as recommended in the above statement and recommendation regarding training.

- CVSA recommends that OCRWM adopt the stringent driver qualifications and vehicle inspection standards as approved by DOE for the eventual shipments to the Waste Isolation Pilot Plant near Carlsbad, New Mexico.

- CVSA recommends that a system of resource allocation be devised that takes into account the state/tribal population, number of inspections required, number of inspectors, points of entry, total miles and other applicable factors similar to the present policy in calculating the Federal DOT hazardous materials registration program, 49CFR 107.601.

- CVSA recommends that OCRWM cover the cost of the specialized radiological training course, which would be over and above what the state is funding for their regular motor carrier inspection program.

- CVSA recommends that a policy be adopted directing that the survey instruments and other equipment funded under this program for roadside inspections meet the CVSA guidelines and standards.

- CVSA recommends that a subcontractor under CVSA, be designated as the central inspection data collection agency, provide analysis and distribute the statistical information and analysis.

Please refer to the attached report for additional information and rationale for the above recommendations.

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COMMERCIAL VEHICLE SAFETY ALLIANCE (CVSA)
COMMENTS ON FEDERAL REGISTER Vol. 61, No. 96 Dated May 16, 1996
NUCLEAR WASTE POLICY ACT 180 (c)

COMMENTS AND RECOMMENDATIONS

CVSA is a not for profit organization comprised of all 50 states, two U.S. Territories, twelve Canadian Provinces and Territories and Mexico. Members who represent the lead enforcement agencies in their jurisdictions sign a Memorandum of Understanding, and recognize and agree to uniform inspection standards and procedures as developed by CVSA. The organizational structure provides the framework for uniformity of commercial vehicle enforcement and reciprocity in the U.S. Canada and Mexico. CVSA also serves as a focal point for bringing together state, federal government and provincial officials along with the truck/bus industry interests, in a one-of-a-kind discussion and problem solving interchange. The CVSA objectives are to enhance safety of commercial vehicles, improve commercial vehicle operation, minimize schedule delays, ensure effective allocation of resources, and reciprocity of inspections to avoid duplication of effort. It is not in competition with the private training industry, and has expertise not found elsewhere. CVSA, maintains credibility within the states as they are in fact each states spokesperson for uniform, consistent inspections and enforcement of motor carriers regulations

The following are specific segments of the proposed policy we will comment on.

1. Purpose and Need for Agency Action
2. Funding Mechanism
3. Eligibility and Timing of the Grants and Technical Assistance Program
4. Allowable Activities for Funding
5. Basis for Cost of Program

1. Purpose and Need for Agency Action

The Department of Energy (DOE) is responsible for transportation of spent nuclear fuel and high-level waste to the Department's disposal or storage site.

Comments:
The intent of the Nuclear Waste Policy Act is quite clear regarding the DOE responsibility as stated above. It appears from our perspective that there is an effort by OCRWM to diminish this responsibility. This seems evident by not providing clear guidelines or criteria as to what training will be required, who the trainers must be, where the training needs to focus (emergency response and transportation - not one dominating the other) and other aspects of their proposed policy.

CVSA recommends that OCRWM take a strong proactive stand regarding the safe transportation of spent nuclear fuel and other designated high-level radioactive waste. We believe further that this position should state that safe transportation is of primary importance in moving these products and as an indicator of this position, the transportation will fall under the Enhanced North American Standard Inspection Procedure and Out-of-Service Criteria, as developed by CVSA.

2. Funding Mechanism

The proposed policy calls for a OCRWM grant program to individual states and or tribes, with few restrictions.

Comments:
CVSA recommends that OCRWM adopt a more cost effective method of providing the training necessary to conduct uniform, and consistent inspections, while insuring reciprocity for the motor carrier transporting spent fuel by using a nationally recognized inspection program and inspector training organization, such as CVSA. CVSA is not only capable of achieving this goal but is designed for this purpose. A single training source assures uniformity and utilizes a greater amount of the total budget for actual training as opposed to each jurisdiction providing its own training and allowed to spend ten percent of each years budget on equipment and training aids. To allow individual states and or tribes to pick and chose their training requirements and or trainers will dilute and jeopardize the effort by all to insure safe and efficient transportation of radioactive materials.

3. Eligibility and Timing of the Grants and Technical Assistance Program

Comments:
We realize that DOE cannot dictate which lead agency a Governor designates, however, we believe there should be a criteria that must be followed in order to secure funding. A lead agency may be the states Department of Health who conduct certain radiological inspections. They do not however, crawl under a truck to inspect the vehicles under-carriage, brakes etc. or the drivers credentials. We believe this is the primary cause

of accidents and cannot be ignored when ascertaining if the carrier is safe to transport radioactive materials. CVSA recommends that a policy be adopted by OCRWM, which requires that the roadside inspection process be funded through the agency responsible for on-highway enforcement of motor carrier regulations.

4. Allowable Activities for Funding

Comments:
The drafters of this proposed policy apparently are not aware or disregarded the work and effort that has gone into developing the inspection criteria for select DOE transporting of radioactive materials. It is also significant for CVSA, that no mention was made of the inspection standards or training developed by CVSA under the OCRWM Cooperative Agreement. Since 1986 when OCRWM approached CVSA to assist them in developing standards for inspection of spent nuclear fuel and other high level radioactive waste, there has been a considerable amount of OCRWM funding (over $1,560,000.), made available for this project. Also there have been numerous untold hours, both voluntary and at the states expense, working on the standards and procedures, training of inspectors, and conducting inspections under the Pilot Test. as well as the certification process for inspecting radioactive shipments. By this proposed policy, one could question WHY?

CVSA recommends that the CVSA Enhanced North American Standard Inspection Procedures and Out-of-Service criteria as developed for OCRWM for transporting spent nuclear fuel and other high-level radioactive waste be adhered to and enforced.

CVSA also recommends that OCRWM direct in any policy that inspector training for their radioactive shipments be carried out under the guidelines and criteria as developed by CVSA under the OCRWM Cooperative Agreement. Also, that inspectors attain and remain current in the certification process established by CVSA, as a requirement for funding under NWPA 180 (c).

If this policy is followed, the public would be well served, the industry will know what their requirements are, it will expedite the actual time in transit, and the inspection program will remain uniform, consistent and supported throughout the country.

Failure to enact these requirements will in all likelihood cause additional time consuming state/tribal inspections to occur, and will result in significant delays for this transportation effort, as well as distrust and concern for the safety of moving radioactive materials..

CVSA has developed a Refresher training and re-certification program that meets the needs of the individual inspectors and keeps them current in their responsibilities. The proposed policy as outlined in the Federal Register allows for states/tribes to decide who will receive the refresher training, and who conducts the training.

CVSA recommends that OCRWM direct what type of refresher training is allowed under the funding arrangements and who is responsible for the training. We further recommend that this refresher training be carried out in the same manner as recommended in the above recommendation regarding training. CVSA, is presently augmenting the refresher training with a periodic newsletter (RAD Inspection News), bulletins as well as the annually revised Out of Service Criteria. Practical exercises are also part of the Basic and Refresher training program.

We believe that DOE and OCRWM, are sincere in requiring that radioactive shipments be accomplished in a safe and efficient manner. This proposed policy implies that there will not be uniform procedures and practices followed, and that much will be left up to each entity receiving the funds. We believe this will have severe consequences for DOE and be a cause for grave concern by the traveling public and the respective motor carriers.

Note: One of the Department of Energy's Transportation External Coordination (TEC) Committee tasks deals with the request to look at a rail inspection program, similar to what CVSA has developed for the trucking industry. We believe that the majority of the TEC membership recognizes and supports the CVSA inspection program for moving spent nuclear fuel, as is implied with this task, and would not support any watering down or disregarding of the procedures.

CVSA recommends that OCRWM adopt the stringent driver qualifications and vehicle inspection standards titled "The Enhanced North American Standard Inspection Procedures and Out-of-Service Criteria", as approved earlier by DOE for the eventual shipments to the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico. The WIPP project is an example of states working together and developing a project which receives strong state and local support and will insure the safe, efficient and uneventful transportation of radioactive materials. The enhanced standards included in the WIPP criteria were developed by CVSA, under the OCRWM Cooperative Agreement. It was our understanding that they would in all probability be followed in moving future shipments of spent fuel.

5. Basis for Cost of Program

Comments:
The proposed Policy indicates that the training standards the Department intends to use for safe routine transportation are consistent with current practices and the regulatory limitations placed on states and tribes for safe routine transportation activities. The proposed policy also indicates there will be few limitations on how the recipient spends its budget.

It is unclear what the current practices referred to in the Federal Register are, and we believe there is a need to clarify this issue. The movement of spent nuclear fuel, and the public perception of this transportation effort will necessitate treating this differently and with more caution, than the current motor carrier transportation practices.

This also appears to indicate to us that OCRWM is not going to require that the funds available under the NWPA be used in a systematic, efficient and well thought out manner. This type of policy will allow for a variety of different ways in applying the standards and inspections criteria while transporting radioactive materials, which will result in confusion and unsafe conditions.

The proposed policy indicates that three inspectors from each state or tribe may be funded to attend training of their choice in either rail or highway inspection procedures. This may be totally inadequate for some states who have several inspection points or inspectors involved, in others it may be sufficient. CVSA recommends that a system of resource allocation should be devised that takes into account the state/tribal population, number of inspections required, number of inspectors, points of entry, total road miles and other applicable factors similar to the present policy in calculating the Federal DOT hazardous materials registration program, 49CFR 107.601..

The statement referring to jurisdictions that do not have an inspection program may use the funds to coordinate observations of another jurisdiction's inspection, is somewhat ambiguous and not understandable. All states are involved in the Motor Carrier Safety Assistance Program under the Department of Transportation and are conducting some type of motor carrier inspection.

The CVSA Enhanced Inspection program under the OCRWM Cooperative Agreement has negotiated agreements with all the states involved in radiological transportation efforts to date. Some of these states have agreed to accept the CVSA reciprocal decal from another jurisdiction, while others have elected to re-inspect certain carriers.. All of these procedures and arrangements have been accomplished through CVSA.

As indicated above we recommend that the final policy adopted indicates that the CVSA procedures and criteria be followed in order to receive funding.

The training estimate of five days is sufficient, providing that the inspector attending the training class is at a properly trained CVSA certification point. All the states have agreed under a signed Memorandum of Understanding to abide by the CVSA certification standard for inspectors. A new inspector needs to receive 80 hours of training, along with conducting a number of annual vehicle and driver inspections, in order to receive a CVSA LEVEL I-North American Standard (NAS) certification. A second step for an inspector to inspect radiological shipments is to receive and be CVSA certified as a Hazardous Materials Inspector. This is a 40 hour course, along with a requirement that a number of inspections be annually conducted.

Both the Level I, NAS, and basic hazardous material courses require the student pass a rigorous exam with at least an 80% score. The test has been developed and proofed by the University of Missouri. In addition, students in the Level I course are reviewed for practical inspection skills during several days of "hands on" activities.

In order to receive a Radiological Inspection Certification an inspector needs to attend and successfully complete the 32 hour RAD course and conduct a number of annual inspections. A five day total training course would be totally insufficient for new inspectors and they would not be certified to conduct inspections of any type. We are not advocating that OCRWM assume the costs of all requirements to conduct a radiological inspection. CVSA recommends that OCRWM, cover the cost of the specialized radiological course, which would be over and above what the state is funding for their regular motor carrier inspection program.

The Indian tribes represent a significant concern and problem in meeting the training requirements, if they intend to inspect spent fuel and other high level radioactive waste shipments traveling through their reservations. Presently there are no tribal inspectors trained to conduct any type of motor carrier inspection, nor are there any CVSA certified inspectors within the tribes. Funding would have to be secured from some source to train them in Level I and Hazardous Materials inspections, before they could be trained in the radiological inspection procedures. A proposal has been submitted to OCRWM by CVSA, to provide for a complete training program of Indian tribes, including the radiological inspection procedures.

We believe that the proposed policy for equipment purchases for inspectors needs clarification and additional requirements. CVSA has done a considerable amount of work in identifying which type of survey instruments should be used for roadside inspections, as well as other equipment needs. CVSA is looked upon by the states as

having this expertise and is called upon to make recommendations accordingly. It is also important that equipment such as the survey instruments be uniform and consistent with the training the inspectors have received. CVSA recommends that a policy be adopted stating that the survey instruments and other equipment funded under this program for roadside inspections meet the CVSA guidelines and standards.

Inspection monitoring and data collection for the Pilot Program under the Cooperative Agreement is presently the responsibility of a CVSA subcontractor. When the transportation program commences, we believe that each state or tribe will require the recording of their individual activities. On a larger and country wide scale, CVSA recommends that a subcontractor under CVSA, be designated as the central inspection data collection agency, provide analysis and distribute the statistical information and analysis. This will allow for viable statistical information and analysis, expediting changes in the inspection program including the Out-of-Service Criteria and accountability for funding.

The above comments and recommendations represent our views regarding this important and vital topic. We believe by following our recommendations, OCRWM will be making a sincere effort to ensure that the safe transportation of spent nuclear fuel and other high-level waste is accomplished in a safe and efficient manner..