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# Southern States Energy Board

September 26, 1996

Ms. Corinne Macaluso  
U.S. Department of Energy, RW-45  
Office of Civilian Radioactive Waste Management  
1000 Independence Avenue, SW  
Washington, DC 20585

Dear Ms. Macaluso:

On behalf of the Southern States Energy Board (SSEB) Advisory Committee on Radioactive Materials Transportation, I am pleased to submit the following comments in response to the U.S. Department of Energy's (DOE) Notice of Proposed Policy and Procedures, on "Safe Transportation and Emergency Response Training; Technical Assistance and Funding," that was published in the May 16, 1996, edition of the Federal Register. The Advisory Committee is comprised of gubernatorially-appointed representatives from the following sixteen states: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. Members of the Committee include state emergency response planners, radiological health professionals and other knowledgeable officials who have experience with the transportation of radioactive materials.

We believe it is important to comment on this Notice because this DOE policy will have an impact on each of our states. The disposal of the nation's spent fuel and high-level radioactive waste will necessitate a massive shipping campaign across the United States. Because of the large quantity of spent fuel stored at reactor sites in the southern region, a large number of shipments will likely traverse the borders of most SSEB member states. We appreciate the opportunity to comment on DOE's proposed policies and procedures for providing financial assistance to each state to prepare for this shipping campaign.

The following list highlights the Committee's comments:

- **State vs. Local Training** - Throughout the document, references are made concerning the use of funds for the training of public safety officials of appropriate units of *local* government. Such wording should be revised to ensure that funding is provided for *state* personnel. Inspections at the point of origin and en route inspections, for example, likely would be performed by state personnel rather than by officials of local government. In addition, this funding should be used to increase and maintain the skills of *state emergency response personnel* through initial and refresher emergency response training.



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- **Level of Training for Local Responders** - What is the Department of Energy's expectation of local responders once the familiarization and training program has been completed? If a high-level radioactive waste shipment or a spent fuel shipment is involved in an accident there are two basic possibilities. Either the cask has been breached, or it has not. If it has not been breached, there is no radioactive spill and little specialized training would be needed by local responders. If the cask has been breached, will local responders be expected to do more than to cordon off the area and evacuate anyone involved? How helpful will it be to have one team trained to do this along each 160 miles of highway route?
- **Route Revisions** - A change in the routing of the shipments mandated by the Nuclear Waste Policy Act (NWSA) would have more of an impact than DOE anticipates. Will state or tribal authorities be consulted before the routes are changed? What can the states and tribes expect concerning the consistency of the route selection? Additionally, if the route is changed close to the shipping date, using experienced escorts with more training and equipment might compensate in the emergency response arena, but would not contribute to a jurisdiction's ability to ensure safe routine transportation as defined in the proposal. Since inspector positions would not be fully funded under the proposal, it would be unreasonable to assume that inspectors could be transferred from one part of the state to another if the selected route should change. Training of inspectors along the new route would be required. Also, certain language in the notice implies that DOE will be able to predict two years in advance of Congressional action the year in which Congress will designate the first licensed facility to which shipments may be made. Aside from the fact that the timeline implies that a facility will be ready to receive shipments within two years following selection, such ability to forecast Congressional intent has yet to be demonstrated. Given DOE's history with forecasting, there is no evidence to suggest that their estimates will be reliable. Unless states train and equip emergency response agencies along all potential transportation routes, it is physically impossible to significantly alter a route and insure adequately trained first responders. DOE mentions how a significant route change close to the shipping date could cause "some difficulty in administering Section 180(c)." A "difficulty" in administration of a program is really insignificant to the training time, equipment, and money expended by state and local governments in preparing first responders to safely respond to this type of transportation accident.
- **Funding to Support Shipments to an Interim Facility** - The grant program should allocate funding for training along routes to interim facilities until a NWSA facility is operational.
- **Training Drills and Exercises** - DOE's definition of drills and exercises is contradictory to the one utilized by the Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) which states, in NUREG-0654, that "a drill is a supervised instruction period aimed at testing, developing and maintaining skills in a

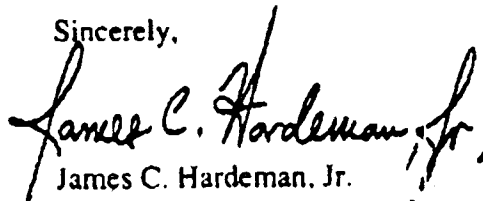
particular operation." DOE's definition in the proposal also contradicts DOE's own definition of a drill as stated in DOE Order 5500.3A: "Planning and Preparedness for Operational Emergencies." Section 11.c.12 states that "drills must be used to develop and maintain personnel skills, expertise, and response capability." The only way to objectively determine levels of training and proficiency of responders is through participation in drills and exercises. Determination of preparedness is accomplished by demonstrating knowledge and skills during simulated response situations. The skills and knowledge gained from training can only be validated through participation in drills and exercises. Regardless of whether drills and exercises are a part of training, experience with other radiological emergency response programs has shown that much of a program's cost is due to preparation for and participation in drills and exercises. It states, tribes and local governments are expected to participate with DOE in drills and exercises, some level of funding must be available to offset this expense.

- **Grant Application Process** - The DOE application process for grants and technical assistance includes one year for the application process and three years for implementation (a four year process). What value is this process when shipments are scheduled to start in two years?
- **Rail Inspection Standards** - DOE has stated that it will not develop rail inspection criteria for the NWPA shipments, but will instead rely on the current enforcement standards followed by the railroad companies and the Federal Railroad Administration for the transportation of spent nuclear fuel and high-level nuclear waste. Without published inspection criteria for rail rolling stock, the public perception will be that DOE does not care about the operational condition of equipment used to transport radioactive waste.
- **Training Standards** - First responders must have more than an "awareness" level of training. They should have a type of training that provides a good working knowledge of dangers and countermeasures before entering a potentially lethal environment.
- **Training-Related Equipment** - The language in the Notice is unclear on the use of 180(c) funds for training-related equipment. In Section III of the Notice, for example, DOE implies that there are no provisions for equipment but also provides that "an applicant would be able to budget up to ten percent of each year's 180(c) funds to purchase appropriate (i.e., training-related) equipment provided the equipment is identified in its application and approved in the grant." Furthermore, this statement reflects a far too stringent limitation on the use of such funds. Since the "applicant" would be the affected state or tribal jurisdiction, it is unreasonable to expect any sort of accuracy in predicting what some unknown number of local jurisdictions along an as yet unidentified route might want or need to purchase. DOE also must acknowledge that *state* as well as local emergency response personnel will need funding to purchase the appropriate equipment to respond. Additionally, the following questions need to be answered with respect to equipment purchases:

- Is the intent to limit equipment purchases to only training-related equipment, a term which is undefined in this document?
  - Does the limit apply to ten percent of the entire allocation to a state or tribal jurisdiction, or does the limit apply individually to each local jurisdiction, state agency or other entity receiving funds from the overall state or tribal grant?
  - What action is expected or required with respect to equipment which is purchased by or provided to a local jurisdiction which is not on the ultimately selected route?
- **Unfunded Mandate:** Funding for "training-related" equipment without a funding mechanism for operational equipment made necessary by shipments crossing a jurisdiction is an unfunded mandate. The result would be that many states and jurisdictions with inadequate funding would have to find some other means of financing a federal program that does not, in all cases, benefit that jurisdiction. Such a scenario would not help the general public to dispel their negative view of DOE.
  - **Support from Other Federal Agencies:** In one of the response sections of the notice, DOE describes how other federal agencies assist states and tribes in the creation of more comprehensive emergency response and safe routine transportation capabilities. Using FEMA and Department of Transportation funds to pay for training and equipment for another federal program is illegal.

Once again, we appreciate your consideration of our comments. Our Committee will be meeting again on October 8-9, 1996, and we plan to further discuss the issues associated with Section 180(c) implementation at that time. In addition to our above mentioned comments, we are requesting the opportunity to provide additional comments on the notice immediately following our meeting, if necessary. Please feel free to contact the SSEB staff person, Ms. Beth Fulmer, at (770) 242-7712 if you have any questions.

Sincerely,



James C. Hardeman, Jr.  
Chairman, SSEB Advisory Committee on  
Radioactive Materials Transportation

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