

NEI

85

NUCLEAR ENERGY INSTITUTE

Steven P. Kraft
DIRECTOR
HIGH-LEVEL WASTE

September 30, 1996

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

Subject: Office of Civilian Radioactive Waste Management Notice of Proposed Policy and Procedure Regarding Safe Transportation and Emergency Response Training, Technical Assistance, and Funding. [61 Federal Register 24772 (May 16, 1996)].

Dear Ms. Macaluso:

The Nuclear Energy Institute (NEI)¹, on behalf of the nuclear utility industry, generally endorses the Section 180(c) policy and procedures proposed in the above referenced notice. It is essential that spent nuclear fuel (SNF) be stored, transported, and disposed in a safe, environmentally sound, and cost-effective manner. Adequate training of public safety officials for safe routine transportation and emergency response situations is an important facet of safe transportation of SNF and high-level waste (HLW). This proposal will help accomplish this objective in a balanced, reasonable, and implementable manner.

As noted in our May 19, 1995, letter to the U.S. Department of Energy (DOE), federal regulation of spent nuclear fuel transport is extremely comprehensive, covering such topics as packaging, prenotification, choice of routes, protection of schedule information from unauthorized disclosure, inspections and driver training. As a result of the nuclear energy industry's dedication to safe transport of nuclear materials and this extensive regulation, the safety record for spent fuel transportation is excellent, and unmatched by that of any other hazardous material routinely shipped in this country. In over thirty years and over 2400 spent nuclear fuel shipments there have been only seven accidents and there has never been an

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear materials licensees, and other organizations and individuals involved in the nuclear energy industry.

accident that has resulted in a release of radiation, and the risk of such an accident occurring is extremely remote. The policy and plans for implementing Section 180(c) must be made acknowledging this remarkable record of safety.

Although NEI and the nuclear industry are supportive of the overall draft policy, the following points deserve special recognition and support:

- DOE should be complimented for the extraordinary and appropriate steps to encourage involvement, and incorporate the views of stakeholders in the development of this draft policy.
- Coordinating all grants at the state or tribal level will help to minimize the time, effort, and cost of administering this policy. This will also provide the maximum amount of flexibility to the state or tribe.
- Breaking the grants into a base amount and a variable amount based upon route miles is an equitable approach to dispensing limited funds. To do otherwise would either provide too little funds to small jurisdictions (based upon route miles only), or too little funds to large states (based upon a flat amount per jurisdiction).
- It is appropriate to discontinue funding if shipping through that jurisdiction lapses for at least three years.
- A ten percent allocation for training equipment is an appropriate limitation on the use of these grants. It is important to ensure that the Section 180(c) grant monies are used largely for personnel training.
- Maintaining the flexibility to ship using escorts over routes with less than three years of advance notice is a critical and important capability that must be maintained.

This last point is by far the most important facet of the proposed policy. It is impossible to predict when natural disasters, road maintenance, other obstacles, or other requirements may dictate transporting SNF over different routes or under different circumstances. It is important that DOE maintain the ability to make changes sooner than three years prior to the time of actual shipments. DOE is strongly encouraged to maintain this important flexibility.

The Federal Register notice states that, "180(c) funds would not be available for the conduct of drills and exercises" [emphasis added]. However, it is our understanding

that funds would be available to conduct drills and exercises.² Conducting drills and exercises is an important and valuable facet of emergency response training and is fully in concert with the plain language of Section 180(c). DOE needs to clarify its intent — i.e., that funds will be available for the conduct of drills and exercises.

More importantly, it is essential that DOE state clearly in its guidelines for grant applications what the training of public safety officials at the state/tribal level is expected to accomplish. The Section 180(c) grants are intended to provide only the incremental increase in funding that may be necessary to augment existing training of public safety officials in the procedures for safe routine transportation and emergency response situations to prepare for the shipment of SNF and HLW. While NEI does not take issue with providing a reasonable level of flexibility to the state or tribe, DOE needs to convey clearly goals, objectives, and expectations for this training augmentation.

It is also important that funding provided for training and technical assistance not be duplicative of other funding provided by DOE, the Department of Transportation, and others. DOE's proposed policy states that the grants "would not be combined with any other Department-sponsored transportation preparedness or training programs, although coordination by jurisdictions would be encouraged" [emphasis added]. This statement does not go far enough. DOE should require that grant applications specify how coordination with other training programs will be carried out to maximize the effectiveness of monies expended. This should include coordination with all federal and state funded programs for hazardous materials transportation training.

In addition, DOE should take another grant requirement one step further. The Federal Register notice states: "[T]he applicant would be required to demonstrate in its plan how the local jurisdictions are benefiting from this program." Because local jurisdictions may also desire to use this grant for 'planning and coordination,' DOE should require that the grant applicant demonstrate how the applicant's plan will provide training for the actual first responder (i.e., the law enforcement officer or fire fighter). This will help assure that the grant is being used for its intended purpose — to ensure that adequate training is provided to public safety officials on procedures for safe routine transportation and emergency response situations.

DOE's policy also needs to address the issue of non-cooperation. If a state or tribe refuses to provide training to its public safety officials in an effort to block shipments through its jurisdiction, how will the transportation of SNF and HLW be

² Statement made during a formal presentation by Ms. Corinne Macaluso at the Transportation External Coordination Working Group in Pittsburgh, PA, July 17, 1996.

Ms. Corinne Macaluso
September 30, 1996
Page 4

affected? A logical alternative would be to utilize Section 180(c) monies to provide for escorts through the non-cooperating jurisdiction. These or some other provisions must be included to ensure that non-cooperation will not in any way hamper the federal purpose for shipping SNF or HLW.

DOE's proposal to suspend funding in the event of a lapse of NWPA shipments for three or more years through any given jurisdiction is entirely appropriate. However, it is not clear why funding would always resume at the 'transportation year minus one' (TY-1) level up to three years prior to the resumption of shipments. Funding for a given jurisdiction should stop if there is a lapse of shipping of three or more years and resume three years prior to the resumption of shipments through the jurisdiction. Therefore, funding should resume at the TY-3 level.

Finally, in keeping with the spirit of Section 180(c) -- to provide for appropriate training of public safety officials -- DOE should consider requiring the grant applicant's plans to include the involvement of national non-profit employee organizations that have the proven ability to train workers. By utilizing national non-profit employee organizations' pre-existing structures, these organizations may be able to help standardize training practices and procedures throughout the nation. This could produce several benefits, including a more uniform response by each state to the transportation of spent nuclear fuel through its borders, increased public confidence, and more efficient training.

The Department of Energy has a responsibility to begin accepting spent nuclear fuel by January 31, 1998, from nuclear power plants across the country as confirmed by the July 23, 1996 decision by the U.S. Court of Appeals.³ The Section 180(c) planning thus far appears adequate to support meeting this obligation.

We hope these comments have been helpful. If you have any questions, or require additional information, please call me or Chris Henkel of our staff on (202) 739-8117.

Sincerely,


Steven P. Kraft

c: Mr. Lake H. Barrett

³ Indiana Michigan Power Company, et al., v. U.S. Department of Energy, U.S. Court of Appeals (DC Cir. 1996), case no. 95-1279.