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OFFICE OF SECRETARY RULEMAKINGS AND ADJUDICATIONS STAFF

DOCKETED USNRC

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Rulemakings and Adjudications Staff

Subject: Comments on a petition for rulemaking and notice of receipt published in the Federal Register on September 13, 1999, Docket No. PRM-73-10

On behalf of the Northeast High-Level Radioactive Waste Transportation Task Force, we are writing to respond to the U.S. Nuclear Regulatory Commission's (NRC) Notice of Receipt of a petition for rulemaking published in the *Federal Register* on September 13, 1999 (Docket No. PRM-73-10). The Task Force appreciates the opportunity to comment.

The Task Force is composed of Governor appointed state officials representing Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania and Vermont. The Northeast states have a substantial interest in assisting the development of rules, policies and procedures which affect the management of spent nuclear fuel.

The Northeastern states have a high concentration of spent nuclear fuel located in the region because of 30 commercial nuclear power plants in the Northeast, including Maryland, currently storing spent nuclear fuel on their sites.

We believe it is not necessary at this time to initiate rulemaking on the safeguards for transportation of spent nuclear fuel. There are a high number of shipments routinely occurring without difficulty. Historically, spent fuel shipments in NRC certified casks have an excellent safety record: approximately 1300 spent fuel shipments have been made since 1971, with no radiological releases to the environment from accidents. Over the past 35 years, there have been an average of 68 spent fuel shipments per year, a total of ~2,380 spent fuel shipments, all accomplished safely.

We do not agree with the petitioner that the nature of a terrorist threat has changed significantly nor do we agree that transportation casks are an attractive target. Spent nuclear fuel is transported by truck or rail in heavy metal casks. The weight of the casks used to transport the spent fuel would discourage most would-be hijackers from attempting to remove the cask from the vehicle. These casks can weigh more than 98

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metric tons and have steel walls up to 30.5 centimeters thick or the equivalent. The cask designs are required to withstand a sequential series of tests to ensure their ability to withstand a range of accidents. They are evaluated for a 30-foot drop onto an unyielding surface, a drop onto a vertical steel bar, a fully engulfing 30-minute fire, and finally, immersion in water - all of which decrease its desirability as a target. The robust nature of the cask would require a great deal of effort by a terrorist with very little result. The U.S. Department of Energy's (DOE) Naval Propulsion Division has reported results of a test where they shot an anti-tank shaped charge projection devices at a 14-inch thick NRC approved shipping cask. The results, as reported, were that the entry hole appeared to resolidify and seal as the high speed. molten projectile from this sophisticated, portable armor-piercing weapon passed through the cask wall. The effectiveness of these anti-tank weapons depend on the availability of fuel and ammunition in a tank to cause an explosion. Neither of those energy sources are available in spent nuclear fuel shipping casks. At worst, there may be a small leak due to cask penetration, which could be handled like any other potential cask leak. In addition, Sandia Laboratories has recently released information on their own high explosive testing. The shipping cask was not breached - it was simply knocked off the railroad car chassis, a transportation accident covered in training offered to first responders.

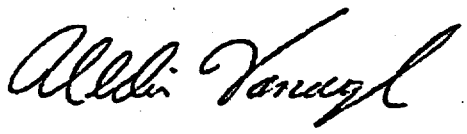
Clearly, transportation casks are not an attractive target, especially when compared to the multitude of more opportune targets, such as government buildings. It is our understanding that law enforcement officials at the Federal Bureau of Investigations (FBI) agree with that conclusion. In addition, there are already in place safeguards, which we strongly support and believe provide adequate protection. High-level radioactive materials are transported under strict regulatory controls established by the NRC and the U. S. Department of Transportation (DOT), including prenotification of the Governor of a State or the Governor's designee, of unclassified spent nuclear fuel and high-level radioactive waste shipments within or through that state. DOE also provides advance notification to tribal governments. DOE monitors its high-level radioactive waste and spent fuel shipments through a satellite-based tracking system.

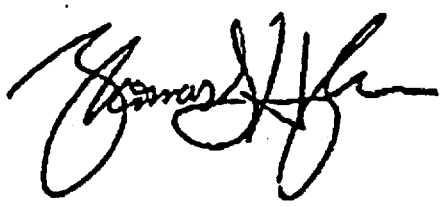
Transportation is only one of a number of public issues that would be affected by any additional, we believe unnecessary, safeguards requirements for transporting spent fuel. The longer spent nuclear fuel is not transported to a federal respository the longer it will remain stored at many sites across the country, including at the 30 commercial nuclear power plants in the Northeast, most which have much more undesirable features with respect to protecting public health and safety than any anticipated federal respository. For example, most reactor sites are located near rivers, lakes, or sea shores. In addition, American consumers of electricity have already paid about $15 billion into the Federal Nuclear Waste Fund to develop a central repository and will have to pay billions of dollars more for on site storage if transportation of spent fuel does not occur within a reasonable time period.

In summary, we believe additional rulemaking on safeguards for spent fuel transportation is not necessary. Spent nuclear fuel shipments occur routinely and without difficulty. Transportation casks are very robust and do not make an attractive target nor a successful target for sabotage. It is important to apply our energy and focus to moving the stored spent fuel from commercial reactor sites to a federal respository and not be diverted into wasteful and unnecessary rulemaking.

We hope you find our comments helpful and thank you again for the opportunity to provide to you our thoughts. If you have questions regarding these comments, please contact Phillip Paull, Council of State Governments, at 802-223-4841.

Sincerely,





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