

June 27, 2008

MEMORANDUM TO: Dennis Rathbun, Director  
Division of Intergovernmental Liaison and Rulemaking  
Office of Federal and State Materials and Environmental  
Management Programs

FROM: Patricia K. Holahan, Director/*RA*/  
Division of Security Policy  
Office of Nuclear Security and Incident Response

SUBJECT: USER NEED MEMORANDUM – DEVELOPING RULEMAKING FOR  
THE TRANSPORTATION SECURITY OF SPENT NUCLEAR FUEL

The Office of Nuclear Security and Incident Response (NSIR) requests that the Office of Federal and State Materials and Environmental Management Programs (FSME) conduct a rulemaking to incorporate updated requirements for the secure transport of spent nuclear fuel (SNF) into the Code of Federal Regulations. This request is based on common defense and security concerns and would be compatibility NRC.

The existing requirements for the secure transport of SNF were developed under a different threat environment. As a result of new insights, the existing security requirements that apply during the transportation of SNF need to be updated to further minimize the possibility for radiological sabotage of spent fuel shipments and to further facilitate the location, recovery, and response to spent fuel shipments that may have come under the control of an adversary. Specifically, the requirements for specific security enhancements need to be updated to improve control over the shipment and to allow quick identification and response to any malevolent acts against a shipment. Some of the supporting information for this rulemaking is designated Safeguards Information and, as appropriate, this information will be provided to rulemaking team. The updated security requirements align with our mission to protect public health and safety, and the environment; promote the security of our nation; and, provide for regulatory actions that are open, effective, efficient, realistic and timely.

The goal of this rulemaking is to revise the existing in-transit security regulations for SNF. NSIR staff will, in parallel, develop guidance documents to support implementation of this rulemaking. A separate rulemaking to update the in-transit requirements for Radioactive Materials in Quantities of Concern (RAMQC) is planned concurrently. These efforts should be coordinated to ensure that both rulemakings are consistent and not simultaneously amending the same portions of 10 CFR Part 73. A third separate rulemaking to update the in-transit special nuclear material security regulations is planned in the future.

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The interested stakeholders include the public, Congress, licensees, and other Federal agencies and, by its nature, transportation of SNF is always an area of significant stakeholder interest. The requirements requested in this rulemaking are consistent with security enhancements established throughout the NRC licensed activities since the events of September 11, 2001.

Based on discussions with FSME and the Rulemaking Common Prioritization Table, the rulemaking process should start no later than July 2008. This rulemaking effort falls under RM 459, "Safeguarding Shipments of Spent Fuel," and is designated as high priority. Currently, NSIR has budgeted 0.7 full time equivalents (FTE) in each of the fiscal years (FY) 2009 and 2010 to support the rulemaking and guidance development.

The technical basis is provided as an enclosure to this memo.

Enclosures:  
As stated

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