

POLICY ISSUE NOTATION VOTE

March 2, 2001

SECY-01-0040

FOR: The Commissioners

FROM: Janice Dunn Lee, Director
Office of International Programs

SUBJECT: PROPOSED LICENSE AMENDMENT TO ADJUST SHIPPING
SCHEDULE OF THE HEU TO THE NETHERLANDS FOR USE AS FUEL
IN THE HIGH FLUX REACTOR IN PETTEN (LICENSE NO. XSNM02611-
AMENDMENT NO. 1)

PURPOSE:

To request Commission approval of a license amendment to Transnuclear, Inc. authorizing an adjustment in the shipping schedule of highly enriched uranium (HEU) to the Netherlands for use as fuel in the High Flux Reactor at Petten (HFR Petten). The licensee has requested expeditious handling of this request to meet a scheduled shipment date in March 2001.

BACKGROUND:

In accordance with the Memorandum and Order CLI-00-16, dated August 24, 2000, the Office of International Programs, on August 25, 2000, issued export license XSNM02611 to Transnuclear, Inc., authorizing the export of 125.37 kilograms uranium-235 contained in 134.153 kilograms of uranium enriched to 93.45 percent maximum, in the form of metal. The total quantity authorized for export each calendar year during the four-year term of the license (2000 - 2003) was limited to 37.875 kilograms uranium (or 35.394 kilograms U-235). The annual limits were meant to prevent the undue accumulation of HEU in storage in the Netherlands if projected fuel needs at HFR Petten are less than planned and necessary, prior to conversion to LEU fuel. Additional background information is contained in SECY-00-0174, dated August 17, 2000.

On February 1, 2001, Transnuclear, Inc. submitted a request to amend export license XSNM02611 to increase the year 2001 limit by 14.78 kilograms of U-235. Three Category II

Contact:
Betty Wright, OIP
415-2342

shipments scheduled for shipment in the year 2000 allotment, totaling 14.78 kilograms of U-235, were not exported until early 2001. Two of the shipments had been delayed due to nuclear liability insurance requirements in Europe and one because of the cancellation of an Air France flight. As a result, without a license amendment, the licensee could not export the full amount that had been expected to be shipped in 2001.

The requested increase in the year 2001 allotment would enable Transnuclear, Inc. to proceed with a planned single Category I shipment in March 2001 to include all of the "original" year 2001 allotment of HEU (37.875 kilograms of uranium/35.394 kilograms U-235) without adjusting the amount downward to account for the deferred year 2000 shipments. The material is needed now so that it can be fabricated into fuel on the original schedule so that it will be available when needed. Preparations for the Category I shipment are well advanced. Considerable savings in shipping costs can be achieved if the requested amendment is issued in time to permit the full amount to be included. The February 1 request to amend is at Attachment 1. On March 8, Transnuclear provided updated information regarding the current status of the 2000 "postponed" shipments (Attachment 2). This contains information not known at the time OIP staff briefed Commissioner offices last week.

Executive Branch Views

The amendment request was forwarded to the Department of State for Executive Branch (EB) review on February 7 (Attachment 3). A formal response from the EB has been delayed, however, due to the need to conduct an in-depth review by the Department of Defense and the Department of Energy of the licensee's physical protection plan as required by regulation for all Category I shipments. The State Department has advised the staff informally that favorable EB views are expected to be sent to NRC in the very near future.

In view of the proposed shipment schedule, the staff is forwarding the case to the Commission for its advance consideration with the understanding that no final action can be taken until the EB's favorable views are received.

Request for Expedited Action

Transnuclear has requested that the proposed amendment be issued by March 15 to allow the additional quantity to be added to the planned Category I shipment and avoid additional shipping costs. An amendment issued after that date would require Transnuclear to make separate Category II shipment(s) of the additional HEU, at considerable expense.

International Safeguards and Physical Protection:

Except for the decision to ship the material as a consolidated Category I shipment, international safeguards and physical protection considerations are unchanged from those in SECY-00-0174. NMSS has reviewed this change and has concluded that NRC is not required to perform a separate review of the Category I physical protection plan (in addition to the EB's review) since the material will remain under the control of DOE until delivery to the licensee's shipping agent.

CONCLUSION:

Provided that the EB views on the proposal are favorable, including its consideration of the transportation security aspects, the staff believes that the requested adjustment of the 2001 shipping limit does not raise policy concerns and would not be inimical to the common defense and security of the United States, and is consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and the Energy Policy Act of 1992. OIP emphasizes that the total amount of material licensed for export under XSNM02611 would remain unchanged. The Office of the Executive Director for Operations concurs. The Office of General Counsel has no legal objection.

RECOMMENDATION:

That the Commission, following receipt and consideration of favorable EB views, authorize the issuance of the requested license amendment to Transnuclear, Inc. to allow the three delayed shipments from 2000 to take place in 2001.

/RA/

Janice Dunn Lee, Director
Office of International Programs

- Attachments: 1. 02/01/01 Transnuclear, Inc. License Amendment Request
2. 03/08/01 Transnuclear, Inc. Letter w/updated information
3. 02/07/01 NRC Letter to RDeLaBarre,DOS

DISTRIBUTION:

XSNM02611/01 SECY
T. Rothschild, OGC OIP r/f
C. Emeigh, NMSS J.D. Lee, OIP
M. Satorius, OEDO R. Hauber, OIP
Central Files (IP-3A-16.3a) B. L. Wright, OIP

FILE NAME: G:\EXPORTS\XSNM2611.01COMrev.WPD

*See previous concurrence

OFFICE	OIP	OIP	OIP	OGC
NAME	BLWright	MRPeterson	RDHauber	TRothschild
DATE	03/12/01	03/12/01	03/12/01	03/12/01
OFFICE	NMSS	OEDO	OIP	
NAME	CEmeigh	MSatorius	JDLee	
DATE	03/12/01	03/12/01	03/12/01	

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