



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

COMM
CORR

July 27, 1979

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This responds to your request for comments on S. 1119, which provides that prior to the granting of any federal authorization to permit the transport of spent nuclear fuel or high-level radioactive waste through a U.S. trust territory or possession, or the storage of such fuel or waste on such territory or possession, the Secretary of the Interior would be required to transmit to the Congress a detailed report on the proposed transportation or storage. Before federal authorization could be given, Congress would be required to enact a statute authorizing the proposed transportation or storage plan.

The Nuclear Regulatory Commission is neutral regarding enactment of this legislation. However, we do believe that the most effective role for Congress is for it to enact generic legislation which would specify criteria governing the use of U.S. trust territories and possessions as repositories for spent fuel and other high-level radioactive wastes. This could be part of comprehensive legislation pertaining to the transportation and storage of foreign spent fuel or specific legislation such as S. 1119 regarding U.S. trust territories and possessions. Following enactment of such legislation Congress would perform its oversight role to assure that the Act is being implemented consistent with the intent of Congress. The day-to-day implementation of the Congressional policy would then be left to the appropriate federal agencies.

We note that some constraints on DOE action on this issue already exist. Section 107 of the DOE Act of 1978 provides that the Secretary of Energy may not "directly or indirectly" use any funds made available to him for the "repurchase, transportation, or storage of any foreign spent (power reactor) nuclear fuel" unless such expenditure has been expressly authorized by the Congress in legislation or a concurrent resolution, or the President has submitted a plan concerning the use of such funds to the Congress and neither House of Congress has approved a resolution of disapproval during a 30-day period of continuous session.

If you have any other questions regarding this matter, please do not hesitate to contact me.

Sincerely,

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Joseph M. Hendrie

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