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

May 27, 1982

OFFICE OF THE  
SECRETARY

MEMORANDUM FOR: William J. Dircks, Executive Director  
for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-82-23 - DENIAL OF PETITION FOR RULEMAKING  
CONCERNING EMERGENCY PLANNING AND RESPONSE FOR  
TRANSPORTATION ACCIDENTS INVOLVING RADIOACTIVE  
MATERIALS (PRM-71-6)

The Commission has approved your April 29 request to withdraw the subject SECY paper pending resolution of (1) the New York City/New York State lawsuit against the Department of Transportation (DOT) on Highway Routing, and (2) the proposed rider on the DOT FY 1982 Authorization Bill being considered in Congress which would require DOT, in consultation with the Secretary of Energy and NRC, to develop a methodology for analyzing the comparative risks and costs associated with transportation of large quantity radioactive materials by highway, railroad and barge or vessel.

The Commission requested that it be kept informed of any developments in the two areas noted above.

The Commission also requested:

- (1) the current status of the joint NRC/DOT Study Group recommendations;
- (2) the staff's current position on whether it is more important to avoid densely populated areas or to use a highway. (RES)  
(SECY SUSPENSE: June 25, 1982)

Commissioner Ahearne's separate views are attached for reference.

Attachment:  
As stated

cc: Chairman Palladino  
Commissioner Gilinsky  
Commissioner Ahearne  
Commissioner Roberts  
Commissioner Asselstine  
Commission Staff Offices  
ACRS  
ASLBP  
ASLAP

Reply 7/26/82

5-27-82

Commissioner Ahearne does not object to the staff withdrawing the paper. However, during the interim he believes the staff and Commission should decide whether further action is warranted in the area of emergency response to transportation accidents involving radioactive materials. (He notes the items mentioned in the 4/29/82 memorandum affect only a small part of the issue. The February 1982 initial court decision invalidated the DOT regulations only "insofar as it overrides nonfederal bans on truck transportation of spent fuel and other large-quantity radioactive materials through densely populated areas such as New York City." (p. 119) Similarly, the staff describes the DOT rider as relating to "transportation of large quantity radioactive materials by highway, railroad and barge or vessel.")

The staff's responses to comments (Enclosure 6) suggest there are areas where further action may be appropriate:

"[T]he staff believes an emergency telephone number of the shipper could be added on shipping papers. This is desirable in the event the driver should be incapacitated by the accident. Also, the shipper should be encouraged to include emergency instructions with shipping papers, especially on exclusive-use shipments." (p. 2)

"Although the existing system of rules and regulations provides adequate protection of public health and safety, the staff believes improvements could be made. In the area of emergency response to transportation accidents involving radioactive material, for example, the responsibilities of shipper and carrier might be further clarified." (p. 18)

The staff responses also suggest the NRC should take responsibility for pursuing these items:

"The staff agrees that the NRC should not duplicate the DOT's regulations on highway routing of radioactive materials. However, the NRC has the responsibility to regulate its licensees in emergency planning and implementation." (p. 3)

"The other items in the petition [besides the item related to highway routing] should be addressed by the NRC because these items are related to licensee requirements." (p. 5)

A good starting point is the recommendations of the joint NRC/DOT study group report (briefly mentioned Enclosure 1, p. 6). The report itself stated "the NRC has decided to hold the petition in abeyance until the results of this study have been considered" because the study addressed the topics raised in the petition. (Study, p. 100)

Consequently, Commissioner Ahearne requests the current status of the recommendations of the joint NRC/DOT study group report (attached). He is particularly interested in recommendations 1 through 5. After receiving that information, he believes the Commission should consider whether the NRC should be taking additional steps.

In addition, he would like to know the staff's current position on whether it is more important to avoid densely populated areas or to use a highway.

March 1980

### Recommendations

The Study Group makes the following recommendations concerning emergency response to transportation accidents involving radioactive materials.

1. State and local agencies, such as emergency crews, police, health and environmental departments, should have emergency plans to both advise and assist the carrier and to take appropriate control actions at the scene to protect public health and safety. The FEMA, the NRC and the DOT should foster development of these plans.
2. Carriers of radioactive material should be required by the DOT regulations to prepare, maintain, and in the event of an accident execute an emergency response plan for promptly notifying the shipper and government authorities, controlling the spread of radioactive material in the cargo, segregating the radioactive material from the populace, and cleaning up any spilled radioactive material.
3. Shippers of radioactive materials should be required in regulations to prepare and maintain an emergency plan for promptly conveying hazards information about the shipment to the carrier and government authorities. The information in this plan should be available at all times that the shipper has a shipment in transit so shipper personnel can respond knowledgeably and promptly when they receive notice of an accident and are asked for advice.
4. Shippers of radioactive materials should be required in the DOT regulations to show an emergency telephone number on shipping papers and should be encouraged by both DOT and NRC policies to voluntarily include emergency instructions with shipping papers, especially on exclusive-use shipments.
5. Carriers of radioactive materials should be prepared to assume initial costs for their responsibilities and State and local agencies should be prepared to assume initial costs for protective actions involving radioactive material as with other emergencies where protection of public health and safety is involved.
6. The NRC and the DOT should initiate discussions with States on the merits of advance notice requirements for shipments of radioactive material. If an advance notice requirement is judged necessary, a national requirement is preferred over a conglomeration of State requirements. Precaution against

requirements for advance notice of shipments of quantities and types of special nuclear material protected in accordance with NRC regulations or DOE directives should be taken, however, because such requirements may conflict with certain Federal restrictions related to controlling sensitive information pertaining to such protected shipments.

7. Efforts of the NRC and the DOT to cooperate with the States in the surveillance program to evaluate compliance with the Federal regulations for safe transportation of radioactive materials should be expanded to include more States as monetary constraints allow.
8. Since several Federal agencies must evaluate the environmental impacts of transportation of radioactive materials from time to time and since complete survey information is essential to such evaluations, the NRC should at selected times update its shipment survey, in consultation with the DOT and the Environmental Protection Agency.