

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



TRANSNUCLEAR, INC.

February 1, 2001

Ms. Betty Wright
Export/Import Licensing Officer
Office of International Programs
US Nuclear Regulatory Commission
Washington, DC 20555

Re: USNRC Export License No. XSNM02611 dated August 25, 2000.
Refer o/telecon of 1-26-01

Dear Ms. Wright:

The total amount of material authorized for export on USNRC Export License No. XSNM02611 is: 134.153 kg U 125.37 kg U-235 with a maximum enrichment of 93.45% with the restriction that the total quantity authorized for export in any calendar year shall not exceed 37.875 kg U for 2000, 2001, 2002 and 2003.

For the calendar year 2000, we scheduled 7 Category II shipments with two TNBGC-1 packages per shipment containing less than 2.5 kg U235 per package as follows:

Shipment 1	8/31/00
Shipment 2	9/7/00
Shipment 3	9/14/00
Shipment 4	9/19/00
Shipment 5	9/21/00
Shipment 6	9/26/00
Shipment 7	9/28/00

We had to postpone two shipments due to the Nuclear Liability Insurance requirements in Europe and one shipment due to the cancellation of an Air France flight.

Four Category II shipments were performed in September 2000 as listed below:

Shipment 1	9/14/00	5.354 kg U	4.988 kg U235
Shipment 2	9/19/00	5.304 kg	4.942 kg
Shipment 3	9/21/00	5.304 kg	4.942 kg
Shipment 4	9/26/00	5.304 kg	4.942 kg

Total quantity shipped in 2000	<u>21.266 kg U</u>	<u>19.814 kg U235</u>
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Since the package validation, IAEA Competent Authority Certificate No. USA/0492/B(U)F-85, Revision 3 expired on October 1, 2000, we postponed the remaining Category II shipments 5, 6 and 7.

IAEA Competent Authority Certificate No. USA/0492/B(U)F-95, Revision 4 issued on December 12, 2000 expires on April 1, 2001. We received the Canadian validation with over-fly permission on January 22, 2001.

This letter is to request US Nuclear Regulatory Commission to amend the Export License No. XSNMO2611 to adjust the shipment schedule and authorize the export of the postponed material (15.862 kg U) as three Category II shipments in the year 2001 plus to export up to 37.875 kg U in 2001 as a Category I shipment.

The postponed material is now rescheduled as follows:

Shipment 5	1/31/01	5.304 kg	4.942 kg (completed)
Shipment 6	2/07/01	5.254 kg	4.896 kg
Shipment 7	2/14/01	<u>5.304 kg</u>	<u>4.942 kg</u>
		15.862 kg U	14.78 kg U235

The Category I shipment is scheduled for shipment in March 2001.

The authorized quantities for the calendar years 2002 and 2003 are to be shipped as Category I or Category II.

We would appreciate your assistance to amend the above NRC Export License expeditiously to meet the March 2001 shipping schedule.

We understand that the shipment of postponed material in 2001 may proceed without amendment because it falls within the existing license.

Enclosed is check in the amount of 9300 USD.

Sincerely yours,
Transnuclear, Inc.

Mathew George
Mathew George
Traffic Coordinator

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TRANSNUCLEAR, INC.

March 8, 2001

Ms. Betty Wright
Export/Import Licensing Officer
Office of International Programs
US Nuclear Regulatory Commission
Washington, DC 20555

Re: USNRC Export License No. XSNM02611 dated August 25, 2000

Dear Ms. Wright:

This letter is to provide an update to our letter dated February 1, 2001 regarding material shipped since February 1.

As is stated on page 2 in the February 1 letter, shipments 5, 6 and 7 were scheduled to be shipped on 1/31/01, 2/07/01 and 2/14/01. These shipments were completed as scheduled.

We are now in preparation for performing a Category I shipment. Our February 1 request for amendment to license XSNM02611 is to permit a full 37.875 kg U to be shipped in the Category I shipment. If the amendment is not issued within the next days, the amount of material scheduled to be shipped in the Category I shipment will have to be reduced by the amount already shipped in the three Category II shipments to ensure not exceeding the 37.875 kg U permitted for 2001 under the existing license

We appreciate the cooperation and attention being given to our request and we await notification that the amendment will be issued in time to permit loading the containers with 37.875 kg U of material. The empty packagings arrived in the US this week and are at the airport awaiting US Customs clearance and delivery to NFS.

We remain available to respond to any questions you may have on this subject.

Sincerely,
Transnuclear, Inc.

John Mangusi
General Manager - Operations

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FOUR SKYLINE DRIVE • HAWTHORNE, NEW YORK 10532-2176

TELEPHONE: 914-347-2345 • FAX: 914-347-2346

February 7, 2001

Mr. Robin DeLaBarre
Non-Proliferation/Nuclear Energy Affairs (NP/NEA)
Department of State
Washington, D.C. 20520

Dear Mr. DeLaBarre:

Enclosed is a letter from Transnuclear, Inc. dated February 1, 2001, requesting an amendment to license XSNM02611 to adjust the shipment schedule and authorize the export of the material (15.562 kg U) that could not be scheduled for shipment in the year 2000 as three Category II shipments in the year 2001 plus to export up to 37.875 kg U in 2001 as a Category I shipment.

Before taking action on this request, we would appreciate your views, in accordance with established procedures and from the overall perspective of the Executive Branch, as to whether the requested amendment meets the applicable criteria in the Atomic Energy Act of 1954, as amended.

Due to the relatively quick delivery time required by the end user, the licensee has requested expedited review and processing of the request.

Sincerely,

/RA/

Ronald D. Hauber, Deputy Director
Office of International Programs

Enclosure: Ltr. Dtd. 2/1/01
(XSNM02611/01- The Netherlands)

cc w/enclosure: M. Krupa, DOE
A. Scheinman, DOE
W. Witter, DOD
S. Clagett, DOC
EURATOM
T. Rothschild, OGC
J. Cook, NMSS