



Richard J. Codey  
*Acting Governor*

State of New Jersey  
Department of Environmental Protection  
Division of Environmental Safety and Health  
Radiation Protection and Release Prevention Element  
P.O. Box 415  
Trenton, New Jersey 08625-0415  
Phone: (609) 984-5636  
Fax: (609) 633-2210

Bradley M. Campbell  
Commissioner

August 26, 2005

Roy Zimmerman, Director  
Office of Nuclear Safety and Incident Response  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Mr. Zimmerman:

I am writing to point out an area of internal inconsistency with the order which was issued by the U.S. Nuclear Regulatory Commission (NRC) on actions intended to enhance security for the transportation of radioactive materials in quantities of concern. Since this order provides sensitive information, I am writing in reference to statements that are marked (U).

In the Additional Security Measures for Transportation of Radioactive Material Quantities of Concern, Notifications, (page 6), it is required that certain information be provided by the licensee to each State through which the shipment will pass. This is to be provided seven days before the shipment.

On page 8 of the same document, when the shipment does not arrive, the licensee is to notify the local law enforcement agency, the NRC Operations Center, and the appropriate Agreement State regulatory agency, if any.

There is a lack of continuity in notification that will result in a gap. The licensee notifies ALL states 7 days in advance of a shipment on their roads and rails, but the licensee only notifies Agreement States when a shipment is lost.

Your staff has offered to close this gap by referencing procedures used by the NRC Operations Center for notification of states. This is not acceptable to us. The order must be corrected and consistency must be maintained.

In the NRC's response to comment #27 on page 17, the NRC has chosen not to list all State contacts (because they change frequently) but refers to the Office of State and Tribal Programs as the contact to get State contacts. Clearly, the NRC was thinking about the need for States to be notified. It would be a rather easy change for NRC to require licensee notification of ALL appropriate states instead of just appropriate Agreement States when a shipment is lost.

In the NRC's response to comment #33 on page 22, the NRC says that they expect a licensee to develop procedures for investigation when the location of a RAMQC shipment is unknown. Licensees are expected to commence an investigation and contact the appropriate regulatory agencies. It seems that the appropriate regulatory agency in the state where the shipment was lost needs to know so they can assist. However, the response on page 22 and the direction on page 8 are not consistent.

All issues regarding pre-notification (7 days in advance), notification of a missing shipment, and response are subject to a complex regulatory scheme. It is not necessary to further complicate this scheme by making any differentiation between Agreement states and non-Agreement states, since all states would initiate immediate action to try to find a missing source of this size.

Your staff has suggested that they solicit comments from other non-Agreement states before they will make a change to the ASM, however, I would emphasize that in your response to comment #3 and #5, you specifically state how important it is to get this order out quickly. The change that is suggested is minor. Now that this issue has been brought to your attention, I would expect quick action to rectify this problem.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jill Lipoti".

Jill Lipoti, Ph.D.,  
Assistant Director

C: Vonna Ordaz  
Daniel Dorman  
Robert Bores  
Thomas Kerr, CRCPD Executive Director