



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

NOV 2 1978

Docket No. PRM-70-6

Mr. Eric L. Geiger
Technical Director
Nuclear Services Division
Eberline Instrument Corporation
P.O. Box 2108
Santa Fe, New Mexico 87501

Dear Mr. Geiger:

Thank you for your letter dated October 6, 1978 inquiring as to the status of your petition for rulemaking on air transport of calibration or reference sources containing small quantities of plutonium. Your letter was received and docketed on October 16, 1978.

On October 16, 1978, we sent you a letter indicating the current status of your petition (a copy of the letter is enclosed). As explained in that letter, we are now initiating rulemaking action to replace the NRC Order that permits air shipment of plutonium in approved crash-proof containers. Your petition will be considered in conjunction with the rulemaking action.

If you have any further questions, please let me know.

Sincerely,

Robert B. Minogue

Robert B. Minogue, Director
Office of Standards Development

Enclosure: Letter to E. L. Geiger
from R. B. Minogue, dated
October 16, 1978

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Mr. Eric L. Geiger
Technical Director
Nuclear Services Division
Eberline Instrument Corporation
P.O. Box 2108
Santa Fe, New Mexico 87501

Dear Mr. Geiger:

The Nuclear Regulatory Commission has considered Eberline's petition for rulemaking dated July 18, 1977, the substance of which was published in the Federal Register on August 18, 1977 (42 Fed. Reg. 41675) for a 60-day comment period. The only comment received (from Reactor Experiments, Inc. in San Carlos, California) supported your petition. The NRC staff, however, believes that it is inappropriate at this time to either grant or deny your petition pending a broader rulemaking action concerning air shipment of plutonium.

Your petition included as background information correspondence from late 1975 and early 1976 between your corporation, Representative Manuel Lujan, Jr., and the NRC. It was our legal interpretation at that time that the language in Public Law 94-79 prohibits all shipments of plutonium by air (except plutonium contained in a medical device designed for individual human application) until the NRC certifies to the Congress that it has a container capable of withstanding an airplane crash without rupture of the container. On August 4, 1978, the NRC certified to Congress that a package (Model PAT-1) which would fulfill the requirements of Public Law 94-79 had been designed and tested. A certificate of compliance has been issued by NRC which authorizes use of the Model PAT-1 package for air transport of plutonium. A copy of the NRC Order to licensees dated September 1, 1978 on this subject is enclosed.

The NRC is now planning to initiate a rulemaking action which would replace the Order that permits air shipment of plutonium in approved crash-proof containers. The staff is considering, in conjunction with the rulemaking, whether under Public Law 94-79 the Commission could or should authorize air shipment of small quantities of plutonium in a package other than an approved crash-proof container and, if it could, what regulatory requirements should apply.

Mr. Eric L. Geiger

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to such shipments. Your petition for rulemaking will be considered in conjunction with such a rulemaking action by the Commission.

Sincerely,

Original signed by R. G. Smith



Robert B. Minogue, Director
Office of Standards Development

Enclosure: NRC Order dated
September 1, 1978