



Department of Energy

Washington, DC 20585

December 9, 2003

Mr. Timothy Runyon
Division of Nuclear Safety
Illinois Emergency Management Agency
Chair, CSG Midwestern Radioactive Materials
Transportation Committee
641 East Butterfield Road, Suite 401
Lombard, Illinois 60148-5651

Dear Mr. Runyon:

Thank you for your letters of September 8, 12, and October 2, 2003, providing input on several important issues involving the Office of Environmental Management's (EM) spent nuclear fuel activities, including training, escorts, security, consistency with the relevant Nuclear Regulatory Commission (NRC) standards, and the West Valley lessons learned document. EM has been working closely with the states to complete the spent nuclear fuel shipments in calendar year (CY) 2003. I wanted to provide a response to your letters and since some of the information is overlapping, I will cover the major topics you raised in the three letters in the enclosed document. Issues raised specifically about the West Valley draft lessons learned document will be addressed as we develop a single document that encompasses the CY 2003 shipments and the lessons learned.

Thank you for the input that you have provided. I look forward to a continued dialog on these important issues at the joint Council of State Governments meeting being held in Chicago in December. If you have any questions, please do not hesitate to contact me at (202) 586-5151 or Kent Hancock, Director, Office of Transportation, at (301) 903-2102.

Sincerely,

A handwritten signature in black ink that reads "Patrice M. Bubar".

Patrice M. Bubar
Associate Deputy Assistant Secretary
for Integration and Disposition
Office of Environmental Management

Enclosure

cc w/enclosure:

Lisa Sattler, Council of State Governments
William Mackie, Western Governors' Association
Phil Paull, Council of State Governments
Chris Wells, Southern States Energy Board



Regional Planning

The Office of Environment Management (EM) will continue to use the regional groups for the planning for its shipping activities. We agree this has been an effective avenue for coordinating many issues surrounding the calendar year (CY) 2003 spent fuel shipments and it is advantageous to brief the States, conduct readiness checks, and review lessons learned from a completed shipment at regularly scheduled regional meetings. We will continue with the Department of Energy (DOE) Regional planning process for future spent nuclear fuel shipments under EM. In the case of the West Valley shipment, we felt it was important to bring as many people involved in the actual shipment together to develop the lessons learned. The report that was provided to you was a draft, and we will review your comments and address them in the final consolidated document. Since we have made quite a few shipments this year, we will be developing a single document that encompasses all the shipments and the lessons learned.

Emergency Response Planning and Preparedness

In light of EM's declining budget, and in an effort to be cost effective, EM continues to look for innovative ways to assist State, tribal, and local authorities along transportation corridors prepare for response to a transportation incident involving the DOE shipments of radioactive material. Internally, in 2001, EM evaluated its own radiological training programs and recognized the need for the merger of the Waste Isolation Pilot Plant (WIPP) States and Tribal Education Program (STEP) and the Modular Emergency Response Radiological Transportation Training (MERRTT) training programs. This merger allowed for a more cost effective and standardized approach to training first responders along the DOE transportation routes. The merger of the two programs has resulted in a single program that addresses the DOE shipments of radioactive material and eliminates the need for campaign specific training. As you are aware, DOE has also been working with FEMA for the past three years in an effort to identify overlap in existing federal radiological training and to create new first responder training materials. This partnership satisfies the requirements outlined in 44 CFR, part 351 and takes advantage of the synergistic effect realized by combining the resources of the two agencies. This combined effort has resulted in development of the Compendium of Federal Radiological Training and other responder training products. The Compendium provides a mechanism for states to identify and reduce redundancy in existing radiological training thereby saving training dollars. The result of this partnership is a more cost-effective approach to developing and providing radiological training. In an effort to continue to seek cost effective training options, EM has undertaken the initiative to work with the recently-established Department of Homeland Security (DHS) in an effort to further streamline federal radiological training. As a part of this process, we will assist the states in identifying DHS funding sources that can be utilized for emergency planning and first responder training.

In order to fulfill the Transportation Emergency Preparedness Program (TEPP) mission, DOE has developed the resources needed to prepare emergency responders. Several states have already implemented the TEPP planning and training process to varying degrees: from customization and inclusion of MERRTT into the state program to adoption and delivery of

MERRTT as written. The DOE will work closely with the states to ensure that TEPP planning and training resources are in place.

TEPP will continue to work with the states to identify upcoming shipments using the Prospective Shipments Module in conjunction with the site shipping contacts. A shipment schedule following the recommendations outlined by the Midwestern States has already been sent to the sites.

EM will be working with the Department of Homeland Security on the issue of hospital training and funding for training. We will keep you apprised of our efforts on these two issues.

Nuclear Regulatory Commission (NRC) Standards

As a matter of policy, EM ships spent fuel and other radioactive material in a manner that provides a level of protection at least equivalent to that provided by NRC regulations, including the Interim Compensatory Measures (ICM). In particular, DOE Manual 460.2-1, *Radioactive Material Transportation Practices*, provides for consistency with relevant NRC standards on transportation of spent fuel.

Planning Cooperatively and Ensure Homeland Security/Safeguards Information

On August 12, 2003, I issued guidelines for releasable information to the field and Headquarter staffs involved in spent fuel shipments on safeguarding information. This was in response to concerns that had been expressed about providing too much information over open telephone lines, e-mails, etc. A copy of that memo is enclosed. We regret the Federal Railroad Administration (FRA) sent an electronic message about the arrival of the West Valley shipment in Idaho. While EM has no authority over the FRA, we will ensure that the need to safeguard certain information is made known to all those involved in our shipping activities. As a lesson learned from the West Valley shipment, we have identified a need to work with our security offices to clarify the classification of information as well as the dissemination of that information. We will keep you apprised of this effort.

Points of Contact and Advance Notifications

During the planning for a shipment, there are many points of contact that we need to identify and work with. In accordance with DOE Manual 460.2-1, we are putting together a points-of-contact list that will reside on the TEPP web site. We are coordinating this list with the Conference of Radiation Control Program Directors and we will work with the regional groups and the TEPP regions to update this contact list on a quarterly basis. For the West Valley shipment, there was a great deal of detailed planning that required a significant amount of direct interface with individual States and even individual agencies within states. Better coordinating and, if possible, streamlining this planning should be a benefit to all involved parties.

We are in agreement that advance notification should be sent only to the governor's designee. We have often times been put in a difficult situation during the planning for our shipments by states asking for additional notifications. EM plans to issue a policy that we will only notify the governor's designee for all future shipments and we will ensure that an adequate description of the shipment is provided, along with a copy of the security plan. We will work with the MW-CSG to establish a process for handling discussions during the planning calls that do not get into safeguarded information. EM staff will work with you in establishing this process.

For the West Valley shipment, there were extenuating circumstances that prevented the shipping site from providing the 7-day notification. As you indicated, the regulations do allow for a 4-day notification by messenger. There were three states that were provided a fax copy of the notification letter: New York, Pennsylvania, and Ohio. In each case, we spoke with the Governor's designee to verify they would accept a fax notification. We followed up the fax with a copy of the notification delivered by Federal Express, even though these states said they did not require a second copy. The other states along the corridor were provided with a notification sent to them by Federal Express, which served as the messenger for the delivery of the notification. Given the amount of planning that was invested into the West Valley shipment, by the states, railroads, and DOE, it seemed prudent to work with the states on the notification in order to complete this one-time shipment. The DOE remained within the regulatory limits, with the states offering some flexibility. This is the type of partnership we are striving to attain.

Secure Communications

Secure communications is, indeed, an area that we all need to improve upon. Using secure phone lines may not be the most practical solution. We are currently working to make schedule information available through TRANSCOM. This may be the best way to provide the shipping schedules for safeguarded shipments to only those with access to the system and a need to know. This should simplify the planning calls when we are discussing schedules, dates, etc. We will continue to work with the states on this issue.

We have reviewed the NRC practice for communications with drivers and escorts. The NRC does endorse the use of citizen band radios, portable phones, etc. as a backup means to TRANSCOM or other tracking system. In discussions with our security personnel, they generally do not feel the information that is being communicated between drivers and escorts during the shipment are of a sensitive nature. The information normally transmitted by the drivers and escorts are shipment status. We will continue to review this practice and, as necessary, provide guidance to our shipping sites.

Escorting Shipments

EM will continue to require the use of escorts for spent nuclear fuel shipments during CY 2003. As you are aware, a decision was made to use the Transportation Safeguard Couriers (TSC) for the Oak Ridge and the upcoming Foreign Research Reactor shipments. This was necessary to ensure consistent coverage for all states. There was some duplication of effort with this

approach. When not using the TSC for escorts, we will continue to follow the Manual on the use of escorts. Our transportation plans will reflect the roles and responsibilities of the various entities involved, including the state escorts. As you point out, there may be areas of clarification in the roles of the TSC escorts versus the state and local law enforcement. We look forward to working with the states in providing the clarity necessary and reducing duplication to continue our shipments and to provide an adequate level of safety and security.