

April 17, 2006

Mr. Felix M. Killar, Jr, Senior Director
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, D.C. 20006

Dear Mr. Killar:

I am responding to your letter dated January 5, 2006, requesting that the U.S. Nuclear Regulatory Commission (NRC) extend access to Safeguards Information (SGI) to carriers and contractor communications centers that provide transportation services for Radioactive Materials in Quantities of Concern (RAMQC) for licensees. Additionally, your letter requested that staff review and approve the SGI programs of carriers and contractor communications centers that provide RAMQC transportation services.

The Order issued on November 5, 2004, to licensees that transport RAMQC imposes requirements for the protection of SGI in the hands of any person who produces, receives, or acquires SGI. The Order authorizes the licensee to provide SGI to contractors and other persons who have a "need to know;" i.e., specified individuals whose access has been determined to be necessary in performance of official, contractual, or licensee duties of employment. Licensees must also make a determination that the potential recipients are trustworthy and reliable, as specified in the Order. All licensees and all other persons who now have, or in the future, may have, access to SGI must comply with all applicable requirements governing the handling and unauthorized disclosure of SGI. The NRC does not plan to issue any additional Orders to carriers and contractor communications centers at this time.

You also raised a concern about enforcement actions against licensees if there is a release of SGI by a carrier. The Atomic Energy Act of 1954, as amended, provides the NRC the authority to take enforcement action against licensees, contractors, and individuals for violations regarding the control of SGI. It is the normal practice of the NRC to hold licensees accountable for the acts of their employees and contractors. The NRC determines, on a case-by-case basis, whether it is appropriate to take an enforcement action against a contractor or individual in addition to the responsible licensee. In cases where a violation occurred even though the licensee actions were consistent with NRC expectations, the staff would consider taking an action against a contractor and/or individual without taking a similar action against the responsible licensee.

The staff is considering your request to review and approve the SGI programs of carriers that provide RAMQC transportation services to licensees. The staff is evaluating this request and will notify you when a decision is reached.

The staff also considered your request to review and approve the SGI programs of communications centers. The sensitive information managed by a communications center should pertain to shipment scheduling information and will likely not rise to the level of SGI. However, as noted above, the Order issued to licensees that transport RAMQC imposes requirements for the protection of SGI in the hands of any person who produces, receives, or acquires SGI. The staff does not plan to review and approve the SGI programs of communications centers.

If you have any questions regarding this response, please contact Mr. Michael Layton, Chief of the Materials, Transport, and Waste Security Branch of the NRC's Office of Nuclear Security and Incident Response. Mr. Layton can be contacted at 301-415-5751 or by e-mail mcl@nrc.gov.

Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Nuclear Security and Incident Response

