

June 15, 2006

The Honorable George V. Voinovich
Chairman, Subcommittee on Clean Air, Climate Change,
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am writing to inform you of the status of NRC's rulemaking efforts to implement Section 656 of the Energy Policy Act of 2005 (EPAct) on "Secure Transfer of Nuclear Materials." Section 656 requires the NRC to establish a system to ensure that radioactive materials, when transferred or received in the United States pursuant to an NRC import or export license, are accompanied by a manifest and that each individual receiving or accompanying the transfer of such material be subject to a security background check. In addition, Section 656 of the EPAct requires NRC to issue regulations not later than 1 year after the date of enactment of the Act (August 8, 2006), including exceptions to these requirements for certain radioactive materials and certain classes of individuals based on public health and safety, and the common defense and security.

The U.S. Department of Transportation (DOT) regulations in 49 CFR Part 172 already contain requirements for manifesting shipments of radioactive materials. DOT requires that shipping papers indicate the basic description of the material, total quantity of material, physical and chemical form of the material, number and type of packages, name of each radionuclide in the material, and activity contained in each package. In addition, each package being transported must be labeled. The Commission believes that the U.S. already has a system in place that meets the requirements of Section 656 of the EPAct related to manifests of shipments. Therefore, the NRC is not planning any additional rulemaking in this area.

The NRC is developing a proposed rule that considers the authority and existing requirements of other Federal agencies in the area of transportation security, including DOT, Department of Homeland Security (DHS), U.S. Coast Guard (USCG), and Transportation Security Administration (TSA) specifically with regard to responsibility for protecting the movement of international trade across U.S. borders and maximizing the security of the international supply chain. To inform the rulemaking process, NRC has asked DOT, DHS, TSA, and USCG to review a draft approach. The NRC staff has also been working with the 34 Agreement States so that they can provide input to NRC's approach in this new area affecting Agreement State licensees. To provide the time needed for these efforts, the NRC plans to publish a proposed rule for public comment during the summer of 2006 and issue a final rule before the end of calendar year 2006.

While the rule is being prepared, the Commission believes that the public health and safety and common defense and security are adequately protected by the system of Orders that NRC has issued to higher risk licensees imposing additional measures for securing licensed materials from unauthorized removal or access, as well as provisions of other Federal agencies for transfer and transportation of material.

The NRC would be pleased to arrange a briefing for you on this matter if you desire.

Sincerely,

/RA/

Nils J. Diaz

cc: Senator Thomas R. Carper

Identical letter sent to:

The Honorable George V. Voinovich
Chairman, Subcommittee on Clean Air, Climate Change,
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator Thomas R. Carper

The Honorable James M. Inhofe
Chairman, Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator James M. Jeffords

The Honorable Ralph M. Hall
Chairman, Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative Rick Boucher

The Honorable Joe Barton
Chairman, Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative John D. Dingell