

NRCREP - DOT Comments on NRC RAMQC Program

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Date: 02/08/2008 3:12 PM  
Subject: DOT Comments on NRC RAMQC Program

I have attached my comments on your proposed regulations on improving the security associated with the transport of radioactive materials in quantities of concern. Please contact me if you need any further information.

Best regards,  
Rick Boyle

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U.S. Department  
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Chief, Rules and Directives Branch  
Division of Administrative Services  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Re: Transportation of Radioactive Material In Quantities of Concern; Request for Comments**

The Pipeline and Hazardous Materials Safety Administration applauds the Nuclear Regulatory Commission's effort to improve the level of security associated with the transportation of radioactive materials in quantities of concern (RAMQC). The following comments are offered to assist your program development efforts and document many of the comments that we offered at the public meeting held at Nuclear Regulatory Commission (NRC) headquarters on January 23, 2008.

**Comments on NRC's Transport Security Initiative**

- The scope of the transport security program should be limited to those aspects of transportation (transfer) which NRC has clear regulatory authority. Specifically, NRC does not have jurisdiction to regulate carriers and should not attempt to regulate carriers by placing additional requirements on its licensees. Licensees should only be held accountable for transportation functions they perform.
- The objective of the transport security program should be expanded to include securing shipments of RAMQC from the threat posed by sabotage.
- The definition of RAMQC should be reassessed to determine if all radionuclides listed in the International Atomic Energy Agency's Code of Conduct should be included and whether the form of the radioactive material is of concern (i.e. do you wish to secure low specific activity material and surface contaminated objects?).
- Limiting the transport security program to domestic road and rail shipments of RAMQC and the domestic road and rail portion of air and sea shipments of RAMQC requires further explanation and basis. Technical basis should include a discussion of NRC determination that the United States Coast Guard and the Federal Aviation Administration have authority to set transport security provisions but the Federal Railroad Administration and Federal Motor Carrier Safety Administration do not.

- Since NRC has been securing the transport of spent nuclear fuel and high level waste for a very long time and have updated their security requirements for these materials in light of the terrorist attacks of September 11, 2001, the technical basis developed for spent fuel and high level waste should be reviewed for consistency with that used for RAMQC.
- Given the overlapping jurisdictions and authorities, federal participation and partnership in this effort is vital. The Department of Transportation (PHMSA); Department of Homeland Security (Transport Security Administration; Customs and Immigration); and NRC co-regulate transport security and should develop a memorandum of understanding or partnering agreements have been initiated. Government shippers, Department of Energy and Department of Defense, should be consulted to examine their transport security programs and capabilities.
- Greater effort should be expended to ensure that the security measures imposed are truly multimodal (needed and applicable to all modes). Mode specific security measures are preferable to general requirements that restrict commerce to a single mode.
- Security measures proposed for inclusion in the regulations should be economical (cost justified) and demonstrate proven capability to minimum the identified security threat (risk justified). NRC should also determine if these requirements place unnecessary burden on commerce as most, if not all, common carriers cannot meet the requirements.
- Transport Security Administration has made great progress in securing the transport of bulk quantities of toxic by inhalation material. Review of their program, requirements and lessons learned could be of great benefit.

### **Specific Comments on NRC's Categories of Requirements**

#### **Verification:**

- Does NRC maintain a radioactive source database accurate enough to advise whether licensees may receive additional radioactive material?
- If licensees are to report "unusual" purchases, NRC must define "unusual".
- How are licensees to verify the validity of temporary worksites and how are they to demonstrate compliance with this requirement?

#### **Planning and Coordination:**

- Selection of the route is the responsibility of truck carriers under FMCSA regulations and is entirely up to the carrier for rail shipments, how is a licensee to know which States would be passed through?
- Who will designate safe havens for carriers to use while awaiting escorts and inspections prior to entering states?
- Requirements which strictly apply to carriers which cannot be validated by licensees should be removed (i.e. commercial package tracking capability, continuous and active monitoring, constant surveillance)

**Notification:**

- As licensees do not control routing, rerouting or in-transit delays, it will be difficult, at best, for them to provide seven day advance notification of the shipment to the NRC and the States through which the shipment will pass. NRC should also clarify if shipments can be delayed in route due to insufficient advance notice.
- If licensees are to report "lost, stolen and missing" shipments, NRC must define each one of these terms.

**Communications:**

- Requirements which strictly apply to carriers which cannot be validated by licensees should be removed.
- Security measures imposed should be truly multimodal (needed and applicable to all modes). Mode specific security measures are preferable to general requirements that restrict commerce to a single mode.
- Need to clarify if tracking is required for conveyance, shipment, package or source.

**Drivers and Assistants:**

- Requirements which strictly apply to carriers which cannot be validated by licensees should be removed.
- NRC should clarify requirements for communication centers
- NRC should clarify what checks need to be performed to monitor the security of the shipment (safety checks are required by other regulation)

**Procedures:**

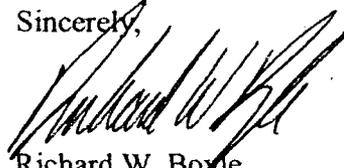
- If licensees are to implement policies and procedures for handling "lost, stolen and missing" shipments, NRC must define each one of these terms.
- Data security requirements should be clarified in light of the number of notifications required by the proposed regulation.

**Portable and Mobile Devices:**

- Are the requirements in this section all that apply to portable and mobile devices or are they in addition to all other requirements?
- Why are these requirements applicable to portable and mobile devices but not applicable to any other sources?
- Has NRC researched all sources that fall under these requirements to determine if individual, source specific requirements are needed?

The intention of our comments is to build on the constructive effort that NRC has undertaken in collecting ideas on the best means to improve the level of security associated with the transport of radioactive materials in quantities of concern. Your workshops demonstrate the need for clear and uniform federal security standards. We appreciate the opportunity to present these comments and look forward to working with NRC to develop the necessary regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard W. Boyle", written over a horizontal line.

Richard W. Boyle  
Chief, Radioactive Materials Transport  
Office of Hazardous Materials Technology