

October 24, 2012

The Honorable John F. Kerry  
United States Senate  
Washington, D.C. 20510

Dear Senator Kerry:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of September 7, 2012, forwarding correspondence from your constituent Aridio Sanchez, President of Silicon Radiation Effects Laboratory (Si-REL) LLC. Mr. Sanchez is seeking NRC approval for shipments of radioactive sources from GE-Hitachi (GEH) to J.L. Shepherd and Associates (JLSA) in California, and a special permit from the Department of Transportation (DOT) for shipments of equipment containing Cobalt-60 from JLSA to Si-REL.

In 2004, the NRC and DOT amended applicable transportation regulations. As a result, certain transportation packages were no longer authorized for use after October 1, 2008, at which time they would be known as expired packages. These included packages previously certified by the NRC, as well as standardized DOT specification packages. The GEH package referenced in Enclosure 2 of Mr. Sanchez's letter (the Model No. 1500 package) was among those packages not authorized for use after October 1, 2008. October 2008 was set as the retirement date to allow for a transition in the industry to procure packages certified under current NRC and DOT safety standards. The previously approved classes of packages have not been demonstrated to meet current safety standards for potential transportation accidents.

Some sectors of the radioactive material industry had made little progress in procuring new packages, or were having difficulty certifying new package designs through third parties by the October 2008 deadline. As a result, the NRC issued a Regulatory Issue Summary (RIS-2008-18, "Information on Requests for Extending Use of Expiring Transportation Packages") establishing a process for granting special authorizations for temporary use of the expired packages beyond October 2008 on a case-by-case basis. Similarly, DOT considered and approved special shipment permits for packages. NRC requested specific compensatory measures (e.g., limiting contents, exclusive use shipments, and continuous and active monitoring) to temporarily provide an adequate level of safety for this limited number of shipments. Applicants for special authorization also were required to demonstrate that (1) they were making good faith efforts to obtain NRC-certified replacement packages in a timely manner; and (2) there was no alternative certified package available for their specific isotope configurations and schedule needs.

After eight years, the vast majority of the industry has transitioned to NRC certified packages. However, earlier this year a few remaining licensees were still indicating the need for approvals to use expired packages for several months or years. The NRC advised them that the agency would consider additional requests for special authorization on a case-by-case basis up to December 31, 2012. The staff would consider additional requests for extensions beyond 2012 only for critical needs.

GEH, as a shipper on behalf of JLSA, has requested authorization for additional shipments using the expired Model No. 1500 package. This includes shipments of Cobalt-60 production

sources from the GEH-Vallecitos facility to the JLSA facility in California, consistent with Si-REL's request to you. NRC staff has requested additional information from GEH, and is currently reviewing GEH information against the RIS described above. If the GEH information is adequate, NRC will approve GEH's request for additional shipments with the expired Model No. 1500 package.

For your information, JLSA submitted an application for a transportation package of a new design to replace the Model No. 1500 package in 2012. The NRC identified significant deficiencies in the application, and discussed them with JLSA in September. JLSA estimated that it will take approximately 24 months before a revised application is submitted for the NRC's review. Please note that the JLSA request for a DOT special permit to use the expired DOT specification package is separate from the NRC's decision on authorizing shipments in the expired Model No. 1500 package.

If you need any additional information, please contact me or Ms. Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

**/RA/**

R. W. Borchardt  
Executive Director  
for Operations

cc: Richard Boyle, DOT  
Agreement State Program Directors

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For your information, JLSA submitted an application for a transportation package of a new design to replace the Model No. 1500 package in 2012. The NRC identified significant deficiencies in the application, and discussed them with JLSA in September. JLSA estimated that it will take approximately 24 months before a revised application is submitted for the NRC's review. Please note that the JLSA request for a DOT special permit to use the expired DOT specification package is separate from the NRC's decision on authorizing shipments in the expired Model No. 1500 package.

If you need any additional information, please contact me or Ms. Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

**/RA/**

R. W. Borchardt  
Executive Director  
for Operations

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