



Department of Energy
Washington, DC 20585

September 21, 2018

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Director, Office of Nuclear Material Safety and Safeguards
Washington, D.C. 20555-0001

Dear Sir Madam:

NRC memorandum, *Applicability of Fed. Regulations to NRC Licensees Transfer Radioactive Materials to DOE for Shipment* (ML103440590 and <https://www.nrc.gov/about-nrc/radiation/protects-you/hppos/hppos208.html>) addressed the applicability of 10 CFR 71 to licensees who process licensed material for the Department of Energy (DOE). That memorandum made it clear that NRC licensees may transfer licensed material (onsite) to DOE and DOE then becomes the shipper.

DOE is now requesting similar guidance from NRC with respect to the applicability of the federal regulations to DOE transfer of radioactive material to an NRC or Agreement State licensee for shipment.

We initiated this discussion with our esteemed NRC colleague, Pierre Saverot, who suggested a DOE request be forwarded to the Branch Chief in the Agreement State Program for a detailed evaluation and response to our major concerns listed below:

1. May DOE transfer radioactive material (at the DOE site) to an NRC or Agreement State licensee and the NRC or Agreement State licensee becomes the shipper, given that assumption that the NRC or Agreement state license authorizes them to possess and offer for shipment the specific radioactive material?
2. Does the material become "licensed material" at the site of transfer?
3. Does the NRC or Agreement State license need to explicitly authorize this type of transfer from DOE to the licensee?
4. Can the licensee take possession of the radioactive material from DOE in a State other than from which the license was issued (see example below)?

For example, what federal regulations apply for a transfer of radioactive materials at a DOE facility in Oak Ridge, Tennessee to an Agreement State licensee (WA), for shipment by that licensee to their facility in Washington?

This information is needed by DOE for future mission planning, so your help would be greatly appreciated.

If you have any questions or need more details please call me at 301-903-5513 or email me at james.shuler@em.doe.gov.

A handwritten signature in blue ink that reads "James M. Shuler".

James M. Shuler
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