



NEW MEXICO ENERGY, MINERALS and **ENTERED**
NATURAL RESOURCES DEPARTMENT

GARY E. JOHNSON

Governor

Betty Rivera

Cabinet Secretary

May 9, 2002

*Task to
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MEMORANDUM

To: Radioactive Waste Consultation Task Force
Betty Rivera, EMNRD Secretary & Task Force Chair
Pete K. Rahn, SHTD Secretary
J. Alex Valdez, DOH Secretary
Peter Maggiore, NMED Secretary
Thomas L. English, DPS Secretary
George Chavez, State Fire Marshal
Senator Richard C. Martinez, Advisory Member and
Chair, Radioactive and Hazardous Materials Committee
Representative John A. Heaton, Advisory Member and
Vice Chair, Radioactive and Hazardous Materials Committee

From: Anne deLain W. Clark, Task Force Coordinator

Re: **ADDITIONAL INFORMATION RELATING TO THE UPCOMING FORMAL MEETING OF THE RADIOACTIVE WASTE CONSULTATION TASK FORCE**

Secretary Rivera, Task Force Chair, has requested that I distribute to the Task Force members the attached letter from Secretary English to Dr. Triay dated April 25, 2002.

If you have any questions, please contact me at 476-3224. Thank you for your anticipated cooperation in making this meeting a success.

cc: David McCumber, Governor's Chief of Staff

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DEPARTMENT OF PUBLIC SAFETY

GARY E. JOHNSON
Governor



THOMAS L. ENGLISH
Cabinet Secretary

FRANK R. TAYLOR
Deputy Secretary/Chief

Motor Transportation Division

Office of the Secretary
827-3370

Deputy Secretary/Chief
New Mexico State
Police
827-9002

Special Investigations
Albuquerque
841-8053

Motor Transportation
827-0321

Office of Emergency
Services & Security
476-9600

Training & Recruiting
827-9256

Technical &
Emergency
Support
827-3375

Information
Technology
827-9115

DPS Support
Services
827-9016

April 25, 2002

Dr. Ines R. Triay
Department Of Energy
Carlsbad Field Office
PO Box 3090
Carlsbad, NM 88221

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Dear Dr. Triay:

The Level VI Inspection Program was developed by the Commercial Vehicle Safety Alliance under a cooperating agreement from the U.S. Department of Energy, for inspecting motor carriers, their drivers and cargo of spent nuclear fuel, high-level radioactive waste, and transuranic materials. The inspections are designed to protect the safety of people and the environment by setting and enforcing rigid inspection standards and safeguards for the transportation of radioactive materials.

The Level VI Inspection, as adopted by CVSA, covers all motor carrier shipments of transuranic waste and Highway Route Controlled Quantities (HRCQ) of radioactive materials as defined in 49 CFR Part 173.402, of the U.S. Department of Transportation regulations. If inspected while en-route, the vehicle, driver and cargo **must not** be in violation of any North American Standard Inspection or Level VI Out-of-Service criteria. If found in violation of these criteria, the vehicle is placed Out-of-Service and repair or replacement must be undertaken before the vehicle is allowed to proceed upon New Mexico roadways.

As of April 20, 2002, the New Mexico Department of Public Safety, Motor Transportation Division has conducted Seven-Hundred-Fifteen (715) en-route Level VI inspections of WIPP Shipments. The results of the aforementioned inspections have revealed the following:

- Forty-two (42) shipments were detected with violations (5.87%)
- A total of Sixty-one (61) violations were detected on the Forty-two (42) shipments with violations.
 - Fifty-eight (58) vehicle violations
 - Three (3) driver violations
 - Which represents an average of 1.45 violations per shipment discovered with violations.
- Thirty (30) of the forty-two (42) shipments, discovered with violations, detected resulted in an Out-of-Service condition (71.4%)

Based on the results of the en-route Level VI inspections conducted in New Mexico by the Department of Public Safety, Motor Transportation Division, the WIPP shipments are not considered safe enough to discontinue en-route inspections. The New Mexico Department of Public Safety has a Zero Tolerance rate for shipment violations of transuranic waste to the WIPP Site. Therefore, CVSA Level VI Inspections will continue, as our focus is to protect the safety of the people of New Mexico and the traveling public.

Furthermore, an incident has already occurred in the State of New Mexico with a WIPP shipment that reiterates that mechanical devices such as the trucks used to haul WIPP shipments can breakdown at any time. On October 26, 1999, a WIPP shipment experienced a mechanical breakdown at Vaughn, NM. The vehicle, which was inspected at the Raton POE and along the route by WIPP carriers/drivers, blew a head gasket requiring equipment replacement.

Furthermore, driver violations have been discovered while being inspected by DPS personnel and drivers do not and are not required to attend the level of training that a fully certified CVSA Level VI Inspector. Shipment drivers attend abbreviated familiarization courses and are not required to successfully complete the course in the same manner as a certified inspector, which results in violations not being found and corrected by drivers. Additionally, on November 21, 2000, a team of WIPP drivers failed to exit Interstate 25 at the Lamy exit and proceed south on US 285 towards the WIPP site. Instead the drivers proceeded south on I-25 for approximately twenty-seven (27) miles before correcting their route. In addition on April 17, 2002, the Colorado State Patrol discovered that one of the shipment drivers was not in possession of critical driver documents (driver's license, medical card, training certificate, etc.), which is a violation. DPS/MTD working in-conjunction with the Colorado State Patrol allowed the driver to return to Carlsbad, NM to retrieve her documents. However, these incidents bring into question driver preparedness and accountability.

Furthermore, shipments from INEEL were recently discontinued for a period of time due to the material inside the TRUPACT not being the materials listed on the bill-of-lading. This does not instill confidence in the Department of Energy's safe transportation of transuranic waste.

Additionally you requested that Point-of-Destination inspections be discontinued. The Department of Public Safety, Motor Transportation Division discontinued "point-of-destination" inspections August 2001.

The concern you raise about shipments having to wait or "staging" to enter the Raton Port-of-Entry can be alleviated by changing the dispatch times of shipments. Changing the shipment dispatch times to allow shipments to arrive at different times throughout the day instead of all at one time, will decrease any wait time thereby eliminating any perceived security risk.

The public perception that WIPP shipments are safe is currently enhanced by the fact that all shipments are inspected before being allowed to travel on New Mexico highways, thereby giving confidence to New Mexico citizens and visitors alike that the shipments are safe enough to travel and share the roadway with all concerned.

The safety and well being of the citizens and visitors of the State of New Mexico is the priority of the Department of Public Safety, therefore based upon the evidence of shipment violations your request for a reduction in Level VI Inspections at the Raton Port-of-Entry cannot be granted. If you have any questions of concerns, please contact Mark Rowley, MTD Director at (505)827-0321.

Sincerely,

Thomas L. English
Cabinet Secretary
New Mexico Department of Public Safety

cc: Governor Gary E. Johnson
Betty Rivera, NM EMNRD