

NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION
RADIOACTIVE MATERIALS PROGRAM

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INFORMATION NOTICE 2011-11-28
Transportation of Waste
November 28, 2011

Dear Licensee:

Since the NJ Department of Environmental Protection (Department) became an Agreement State, we have been interpreting the regulations as they are written regarding waste collectors. Specifically, as per the definition of waste collector in 10 CFR 20 Appendix G (adopted by reference), we were requiring waste collectors to be licensed or apply for reciprocity.

Because licensees believed that waste collectors were equivalent to common carriers and that no license should be required, we had numerous email and telephone conversations with the Nuclear Regulatory Commission seeking the proper interpretation of the regulations. Because we did not get a definitive answer, we were advised to put our questions in writing to the NRC (letter dated January 4, 2011). We received a letter in response from the NRC on June 21, 2011. Because the NRC letter did not specifically address all of our concerns, we followed up with a conference call on June 28, 2011.

Based on the recommendation from the NRC during that call, the Department will be sending the NRC a petition for rulemaking to address the contradictions in the current regulations between the definition of waste collector and current practices. Because this petition may take several years to be resolved, the Department has decided to defer its requirement for a license or application for reciprocity for a waste collector who picks up pre-packaged waste from a licensee. A waste collector may also package waste without a license or reciprocity if they are operating under the authority of a current New Jersey licensee and if that licensee complies with all applicable regulations for packaging and transportation of radioactive waste.

The New Jersey licensee who chooses to hire an unlicensed waste collector or a licensed waste collector who does not have reciprocity, is responsible for ensuring that the activities conducted by the waste collector meet all applicable federal and state regulations and is responsible for the waste until it reaches the licensed consignee. The New Jersey licensee is also responsible for training and overseeing the waste collector, including, but not limited to training on radiation safety and hazardous material

transportation, and providing dosimetry. This will be verified during Department inspections.

Activities that will still require a license or reciprocity include but are not limited to:

- 1) Companies that are hired to package and transport orphaned sources or wastes that are not associated with licensed activities.
- 2) A company that possesses an NRC or Agreement State license who is hired by a New Jersey licensee to package waste so that it alleviates the New Jersey licensee from the training, dosimetry, and supervision requirements.
- 3) A company that is hired by a general licensee to dispose of generally licensed devices.
- 4) Waste *processors*, as defined by 10 CFR 20 Appendix G, unless they are acting solely as a waste collector provided all the conditions described above are met.

The Department will continue to operate according to the above until such time as our petition for rulemaking is addressed. Depending on the resultant change in NRC regulations (or the lack of change), the Department may again require licenses or reciprocity for waste collectors.