

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION MANAGEMENT ADMINISTRATION
RADIOLOGICAL HEALTH PROGRAM**

FACSIMILE TRANSMITTAL SHEET

TO:

Fred C. Combs
Deputy Director

FROM:

Roland Fletcher

MDE-ARMA - Radiological Health Program
2500 Broening Highway - Baltimore MD 21224
(Phone) 410- 631-3300 410-631-3198 (fax)
or 1-800 633-6101 (in Maryland only)

Date:

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COMMENTS:

Doc.1- letter to Congresswoman Morella

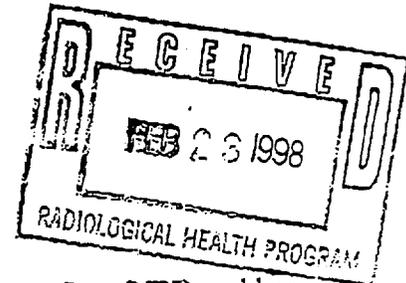
Doc 2 - Summary

Doc 3 Inspection Staff (2) year Plan

Doc.4 Letter to Delegate Cryor

Doc.5 Letter to Ms. Oberdorfer

FYI ...

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(clpn)**MDE****MARYLAND DEPARTMENT OF THE ENVIRONMENT**2500 Broening Highway • Baltimore Maryland 21224
(410) 631-3000 • 1-800-633-6101 • <http://www.mde.state.md.us>Parris N. Glendening
GovernorJane T. Nishida
Secretary**FEB 23 1998**The Honorable Constance A. Morella
United States House of Representatives
51 Monroe Street, Suite 507
Rockville MD 20850

Dear Congresswoman Morella:

Secretary Nishida received your letter regarding Neutron Products, Inc. (NPI) and has asked that I respond to you directly. We acknowledge Ms. Rae's concerns about NPI. This facility handles a significant amount of radioactive materials, and we have long recognized the potential risk the facility could pose to the general public if proper operation is not maintained. Accordingly, the Department has taken a number of actions over the years to ensure that NPI complies with all applicable regulatory requirements. Several of the more important actions, which we believe address the concerns of Ms. Rae, are presented below.

In April 1974, a leak was found in the main storage pool at NPI. Presumably, this was the daily release of radioactive waste mentioned by Ms. Rae. At the direction of the Department of Health and Mental Hygiene's (now MDE) radiation control staff, NPI repaired the leaks and installed a stainless steel liner equipped with a leak detection system. The storage pool has not leaked since and cobalt-60 has never been identified in subsequent analyses of the potable water supply in Dickerson, Maryland.

Ms. Rae also referenced a 1989 incident in which the MDE found radioactive contamination off the plant property. It was determined by the MDE that NPI's radiation safety equipment and procedures were not adequate to prevent low-levels of contamination from leaving the plant. On March 3, 1989, the MDE ordered NPI to cease operations involving cobalt-60 source manufacturing and issued a license amendment which limited NPI's licensed activities to possession and storage only. During the month of March 1989, the MDE surveyed nineteen residential properties in the Dickerson community and identified cobalt-60 particles on the grounds of two of them. These were in the three microcurie range and found on properties adjacent to the plant. This level is not expected to cause any adverse health effects from external exposure.

Ms. Rae alleges that NPI has been allowed to operate for years in violation of its license

The Honorable Constance A. Morella

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conditions. This is not true. The Department has periodically made changes to NPI's license which have been contested by NPI as provided by the rules of procedure governing licensing of sources. For example, on March 23, 1989, the MDE issued a comprehensive license amendment (#33) delineating corrective actions required for the restart of cobalt-60 manufacturing operations. These regulatory actions were contested by NPI and a hearing was held from July 17-24, 1989. On July 25, 1989, NPI and the MDE signed a consent agreement which required NPI to implement certain radiation safety changes and comply with the MDE amended license requirements. The Department then allowed NPI to resume licensed activities.

In January 1996, the MDE again revised NPI's license. The conditions of this license renewal are the subject of yet another appeal filed by NPI before the State Office of Administrative Hearings. A decision is currently pending. The contested case hearing in that appeal took place over the period of October 1, 1997 to January 22, 1998. Representatives of the Concerned Citizens of Dickerson, including Ms. Heather Rae, were recognized as intervenors by the Administrative Law Judge and allowed to participate in the hearing that was held. Led by Dr. Michael Oberdorfer, the group's questions and comments appeared to fully support the terms and conditions of this license renewal as issued by the Department. The hearing ended on January 22, 1998, and a proposed decision is expected in April 1998.

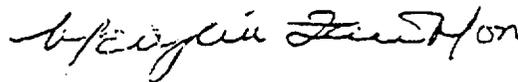
Another pending action involving NPI began in January 1994 when, as a result of an enforcement action brought by the MDE, NPI was ordered by the Montgomery County Circuit Court to build a structure which will enclose the courtyard area of the plant. This structure is expected to reduce and possibly eliminate releases of radioactive material. The NPI has not obtained the permits required by the Montgomery County Department of Permitting Services (DPS) necessary to begin construction. As a result of an additional action brought by the MDE, NPI was ordered by the Montgomery County Circuit Court to curtail licensed activities until the courtyard enclosure is completed. The Court also placed a March 1, 1998 deadline for NPI to obtain all approvals from DPS. Continuous coordination with county staff will be maintained by the MDE to ensure that there are no further delays.

Since 1971, when the State of Maryland assumed the responsibility from the Atomic Energy Commission (currently the United States Regulatory Commission or NRC) for licensing and regulating in-state facilities, such as NPI, that use radioactive materials, the Department has implemented several regulatory and license requirements. These requirements have reduced radiation levels, improved contamination control procedures and raised the compliance status of this licensee substantially. The Department has evaluated the radiation exposure to the residents of Dickerson and compared the data gathered from the evaluation to applicable medical and scientific data. At the levels detected, there is no immediate hazard to the general public, NPI employees or the environment, and no long-term adverse effects are expected.

The Honorable Constance A. Morella
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Please rest assured that the MDE maintains a more thorough oversight of this licensee than any other in Maryland. All applicable requirements have been and will continue to be enforced against NPI, as demonstrated by the current court action and license proceedings, cited above. If you have any question, please feel free to contact me at (410) 631-3255, or Mr. Roland G. Fletcher, Manager of our Radiological Health Program, at (410) 631-3300. You may also reach our offices toll-free by dialing 1-800-633-6101 and requesting the appropriate four digit extension.

Sincerely,



Merrylin Zaw-Mon, Director
Air and Radiation Management Administration

RGF:adj

cc: Jane Nishida, Secretary, Maryland Department of the Environment

SUMMARY OF MDE RECORDS ON ENFORCEMENT ACTIONS AND PERMIT ADJUDICATIONS WITH NEUTRON PRODUCTS

December 1973 to December 1974: contaminated water leaked from Neutron's storage canals and main pool and seeped into soil beneath the facility. A corrective order was issued to Neutron on July 31, 1975 requiring it to line the canals and main pool with stainless steel. Neutron complied.

November/December 11, 1980: a millicurie of cobalt-60, a significant and hazardous quantity of licensed radioactive material, was found in the public domain on the railroad tracks behind the Neutron facility. Neutron removed it.

June 20, 1986: the Department issued two administrative orders to Neutron regarding management and training deficiencies identified following an employee overexposure in the hot cell and the shipment of depleted uranium to a machine shop not authorized to possess radioactive material. In response to the employee overexposure, the Department identified management and training deficiencies and ordered training for all employees working in the hot cell. In response to Neutron's shipment of depleted uranium to the machine shop, the State ordered the clean up of the contaminated facility, the evaluation of personnel exposures, and other corrective actions. Neutron complied.

May 1988 to June 1988: On May 25, 1988, Frank Schwoerer, a Vice-President of Neutron, set off radiation monitors at the Rochester Gas and Electric Ginna Nuclear Power Plant in Ontario, New York. Mr. Schwoerer was found to be contaminated with Cobalt-60 as a result of routine activities conducted at the Neutron facility. Following the May 25, 1988 incident, the Department discovered Cobalt-60 in a secretary's personal vehicle, in employees' homes (in bedding, clothing, washing machines, and vacuum cleaners), and in unrestricted areas of the plant. The Department also found that food and beverages were being consumed in radioactive material contaminated areas, increasing the risk that employees would ingest radioactive material. On June 23, 1988, the Department, having determined that Neutron had inadequate equipment to evaluate personnel radioactive material (Cobalt-60) contamination, issued an administrative order to Neutron identifying violations and requiring certain remedial actions. Neutron complied.

January 1989 to June 1989: On January 27, 1989: the Department found that there was contamination in a former Neutron employee's home. On February, 1989, Mr. Schwoerer again set off radiation monitors at the Rochester Gas and Electric Ginna Nuclear Power Plant in Ontario, New York. Mr. Schwoerer was found to be contaminated with Cobalt-60 as a result of routine activities conducted at the Neutron facility. On March 3, 1989, MDE took emergency action to modify Neutron's license to manufacture sealed sources, limiting it to possession and storage only. On March 13 and 14, 1989, the United States Nuclear Regulatory Commission and the Maryland Department of the Environment jointly inspected the Neutron facility and operations and discovered that Neutron had lost control of Cobalt-60 because there was: a) radioactive material contamination of facility personnel; b) radioactive material contamination in unrestricted areas of the facility; and c) radioactive material contamination, through effluent releases, to unsecured Neutron properties outside

the facility and to adjacent railroad properties. On May 23, 1989, MDE issued Amendment #33 to Neutron's 01 license. This amendment outlined extensive changes required to correct deficiencies in Neutron's technical oversight specific to the control of the release of radioactive material to the public domain, training of occupational workers and overall management oversight of licensed activities. The amendment addressed; a) the acquisition of a state-of-the-art personnel contamination monitor; b) procedures for and training of personnel operating the monitor; c) the hiring of an independent health physics expert to evaluate facility problems; d) the establishment of a radioactive clean room; e) the establishment of a more comprehensive personnel training program; f) the establishment of a management random inspection program; g) the evaluation of radioactive material released to the community via wind borne release from the facility; h) the evaluation and clean up of radioactive material contaminated soils outside of the facility; and i) the evaluation and clean up of radioactive material in unrestricted areas of the facility. A hearing on the agency's action commenced in July 18, 1989 and a consent agreement was signed on July 25, 1989. The hearing was therefore discontinued and Neutron was allowed to resume normal operations.

October 30, 1989: the Department issued an order to modify Neutron's respiratory protection program because the Department considered it inadequate to protect the health and safety of Neutron's occupational workers. Key operations were suspended until the order was implemented. The order included requirements to assure the safe use of respiratory protection. Neutron complied.

November 9, 1990 and December 6, 1990: the Department issued to Neutron notices of violations, indicating numerous regulatory violations, and a failure to fully implement portions of amendment #33. These alleged violations included: occupational overexposure; multiple significant and willful violations of amendment #33; violations of reporting requirements; violations of license procedures; storage of licensed radioactive material at an unauthorized facility; and exceeding its possession limit for the specifically licensed radioactive material depleted uranium. After Neutron failed to correct these violations, the Department filed Civil No. 76639 in Montgomery County Circuit Court in 1991. On December 29, 1993, Judge Pincus of the Circuit Court issued a Memorandum Opinion and Order granting summary judgment on 17 counts, finding 5,820 violations. The Court also ordered Neutron to comply with Amendment 33 requirements and depleted uranium possession limits. In January of 1994, Civil No. 76639 was resolved by a Stipulation and Settlement. This agreement provided that Neutron pay the Department \$75,000 and pay an additional \$125,000 if it failed to perform certain conditions.

January of 1996: Neutron's 01 manufacturing license was renewed by the Department. Neutron requested a contested case hearing on the new license. An administrative hearing was held in October 1997 and February 1998 and a proposed decision was issued on June 26, 1998 in which Administrative Law Judge Judith Finn Plymyer upheld the license as written by MDE. Exceptions were taken by Neutron on August 10, 1998 and the Department issued a final decision on August 24, 1999. Neutron appealed the decision but did not seek a stay from the Circuit Court for Montgomery County.

September 1996 to February 1999: As a result of inspections occurring in 1997, 1998, and 1999, the Department has brought two administrative penalty actions. OAH #99-MDE-ARMA-047-004 was brought for violations identified with the 01 manufacturing license. These included the failure to: a) conduct management audits in accordance with amendment 33 requirements; b) maintain appropriate written historical documentation pursuant to decommissioning requirements; c) secure licensed radioactive material to prevent unauthorized removal; d) secure licensed radioactive material to prevent unauthorized removal; and e) appropriately label licensed radioactive material. OAH #99-MDE-ARMA-047-239 was brought for violations identified with the irradiators operated under Neutron's 04 and 05 licenses. The violations alleged included delays in the installation of required fire suppression systems, an operator deliberately bypassing an irradiator safety system, failure to calibrate safety equipment at the license-required frequency and failure of operators to follow licensed irradiator operating procedures. Summary judgment was granted as to liability for a total of 3617 violations on February 15, 2000. Hearing in these consolidated actions will be April 3, 2000.

June 25-26, 1998: A radiation occupational overexposure occurred as a result of a failure of Neutron employees to conduct required radiation surveys and follow established license procedures. The Department brought administrative penalty action #99-MDE-ARMA-047-357 for these alleged violations, which are identified with Neutron's 03 teletherapy servicing license. A hearing is now scheduled for June 12, 2000.

November 9, 1999: Judge Nelson Rupp of the Circuit Court for Montgomery County granted summary judgment as to liability in State of Maryland v. Neutron Products, Case No.199036, finding that Neutron products had failed to comply with Maryland's financial assurance requirements for decommissioning. A trial on MDE's complaint for permanent injunctive relief is scheduled for September 2000.

January 1985 to present: the Radiological Health Program has conducted approximately 43 inspections and 20 investigations of Neutron Products.

1989 through 1996: approximately 150 radioactive particles of Cobalt-60 were found within one kilometer of the Neutron plant.

March 4th and 5th, 1999: A MDE inspection of the NPI facility (teletherapy servicing license) identified violations in the areas of failure to maintain adequate inventory of depleted uranium, failure, failure to adequately label radioactive material, failure to label an area containing radioactive material, failure to conduct annual review of radiation safety program, failure to conduct leak test of all sealed radioactive material sources, failure to evaluate overall yearly occupational doses for two teletherapy engineers and failure to maintain all calibration records for self-reading dosimeters (SRDs) for teletherapy engineers.

March 16, 18, and 19, 1999: A MDE inspection of the NPI facility (manufacturing license) identified violations in the areas of failure to clean up radioactive contaminated soils, failure to maintain public dose ALARA, failure to adequately survey and clean up radioactive material debris in courtyard, failure to submit all monthly Health Physics Consultant reports to MDE, failure to conduct all monthly unrestricted floor surveys, failure to conduct all monthly random inspection surveys of the LAA, failure to conduct all monthly one kilometer radioactive material contamination surveys of community residents, failure to conduct all required leak tests for sealed sources and failure to comply with the 500 mRem facility boundary license criteria.

November 16, 18 and 19, 1999: MDE inspection of the NPI facility identified additional violations in the areas of failure to have all occupational workers attend required training sessions, failure to conduct adequate radiation surveys to define contamination off sight, failure to cleanup radioactive contaminated soils, failure to submit adequate radioactive material waste disposal plan, and failure to have an written emergency procedure for response to an abnormal water loss from an irradiator.

MARYLAND DEPARTMENT OF THE ENVIRONMENT RADIOLOGICAL HEALTH PROGRAM

INSPECTION STAFF TWO (2) YEAR STRATEGIC INSPECTION PLAN FOR NEUTRON PRODUCTS INC. (MD-31-025-01)

PURPOSE AND SCOPE: It is the intent of the inspection staff to implement a performance-based inspection plan at NPI which emphasizes the achievement of quality in all facets of NPI's operations. These inspections will emphasize direct observation and surveillance of licensed activities and will stress the licensee's most significant activities dealing with radiation safety and reliability. Inspectors will observe activities that are important to NPI's performance and evaluate observed results based on improving performance. As a result, a series of limited inspections will be conducted for indepth review of certain radiation safety program aspects. Certain key subjects, when possible, will be reviewed by the inspection team every time an inspection is conducted. Also included is a list of inspection areas which will be reviewed, if possible, before July, 1998. This two (2) year plan includes:

1. Projected inspection frequency.
2. Specific areas of review during every inspection.
3. Additional areas for greater detailed review.
4. Inspection areas to be reviewed prior to October, 1998.

PROJECTED INSPECTION FREQUENCY: Given inspection staff workloads attempts will be made to maintain a quarterly inspection frequency.

PRIOR TO INSPECTION: Prior to each inspection the inspection staff will analyze and review NPI's recent health physics consultant reports. Inspections will be conducted under a team approach with a lead inspector responsible for developing an inspection plan written in a format convenient to the inspection staff.

SPECIFIC AREAS OF REVIEW

1. Personnel monitoring.
2. Current projects by the licensee requiring ALARA reviews.
3. Incidents since the previous inspection.

4. NPI management random audit results and follow through.
5. Review of the Radiation Safety Committee.
6. Daily implementation of the radiation safety program.

ADDITIONAL AREAS FOR GREATER DETAILED REVIEW

1. Hot cell cleanup.
2. Radioactive material waste management.
3. Sealed source manufacture (sealed source and device sheets)
4. Quality assurance.
5. Environmental monitoring (effluent evaluation).
6. Major modifications to the L.A.A.
7. Contaminated area remediation.
8. Radioactive material shipment control (Part 71 and DOT's).
9. Radiation work permits.
10. Respiratory protection program.
11. Employee training program.
12. Bioassay program, Helguson whole body counter-internal uptake.

INSPECTION AREAS TO BE REVIEWED PRIOR TO OCTOBER, 1998:

1. Personnel monitoring.
2. General operations in LAA.
3. Personnel training.
4. Random management audits.

5. RSO (general oversight of program).
6. Evaluation function of Radiation Safety Committee.
7. Status implementation of new license.
8. Status implementation of settlement agreement.
9. RAM waste management (handling & shipping).
10. RAM inventory.
11. Hot cell melts and cleanups.
12. Implementation of new regulations
13. Leak test of sealed sources.
14. Pool maintenance.
15. Calibration of meters.
16. Contamination control.
17. Respiratory protection program.
18. Radioactive effluent monitoring.
19. Air handling in the LAA.
20. Posting of hazard signs.
21. Environmental surveys (on-site and off-site).
22. Evaluation whole body monitoring.
23. Release into sanitary sewerage.
24. Unrestricted floor surveys.
25. Internal review committee.
26. Quality assurance of manufacturing.

27. Radiation work permits.
28. Review of specific procedures.
29. RHP community sampling.
30. Private interviews with employees.



MARYLAND DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway • Baltimore Maryland 21224
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Parris N. Glendening
Governor

Jane T. Nishid
Secretary

FEB 28 2000

The Honorable Jean Cryor
Maryland General Assembly
219 Lowe House Office Building
Annapolis MD 21401-1991

Dear Delegate Cryor:

This letter refers to concerns that were brought to our attention at the meeting with the Dickerson Citizens Association on February 17, 2000 at the Monocacy Elementary School in Barnesville, Maryland. Specifically, Dickerson residents were concerned about the adequacy of existing notification procedures if radioactive contamination is detected in the community, particularly on residential property. Currently, both Neutron Products Incorporated (NPI) and State personnel are conducting random radiological surveys of residential properties located within a one-kilometer radius of the facility.

License condition 22.B of NPI's current radioactive materials license requires in part:

- for NPI to contact each property owner, within the one-kilometer radius, in writing and invite them to participate in the random radiological survey program as described in Procedure R 1004 titled, "Environmental Surveillance Plan" dated July 6, 1989;
- that the concentration limit for cobalt-60 soil contamination is 8 picocuries per gram and all soils exhibiting radioactivity above this level, wherever found, shall be removed and properly stored/disposed of as radioactive waste by NPI; and,
- that NPI shall provide the Department with documentation of the discovery, survey dates and disposition of such radioactive material found off-site on a monthly basis.

The Department has reviewed the status of compliance with these requirements during two of the radioactive materials inspections conducted during the calendar year of 1999 and determined that NPI personnel had obtained permission from the property owners prior to conducting these surveys. NPI personnel notified the property owners promptly, usually the same day, regarding the results of the surveys. NPI personnel removed the contaminated soil and replaced it with clean fill-dirt and sod when necessary. Although it is not required, NPI provided written notification to the property owners when radioactive contamination was found. Copies of these correspondences were maintained in NPI's records' room and reviewed by State inspectors.

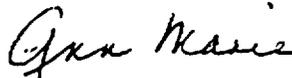
Currently, State personnel conduct environmental monitoring of soils within the one-kilometer radius on an annual basis. In addition, the State conducts radiological surveys of residential properties upon request. State personnel obtain permission from the property owner prior to conducting these surveys. Property owners are notified as soon as possible, usually the same day, regarding the radiological survey results.

The Honorable Jean Cryor
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The Department acknowledges your concern that the existing procedures rely on NPI to provide notification to the property owner when radioactive contamination is found on residential property. In the future, the Air and Radiation Management Administration (ARMA) agrees to provide written notification to each Dickerson property owner after radioactive contamination is identified on their property. If the contamination is identified by State personnel, the property owner will be notified as soon as possible, preferably the same day, and also in writing within 10 business days. ARMA will also provide written notification to the property owner within 10 days of receiving notification that NPI personnel identified radioactive contamination on residential property. Specific information regarding the volume, activity, location and date found will be sent to the property owner by certified mail. Copies of each correspondence will be maintained in NPI's radioactive material license file at the Maryland Department of the Environment's headquarters in Baltimore, Maryland.

I hope that this procedure adequately addresses your concerns about notification. Should you have any questions regarding this letter, please feel free to contact me at 410-631-3255, or Messrs. Roland Fletcher or Alan Jacobson at 410-631-3302. You may also reach our office by dialing toll-free at 1-800-633-6101 and requesting extension the appropriate four-digit extension.

Sincerely,



Ann Marie DeBiase, Director
Air and Radiation Management Administration

cc: Jane Nishida, Secretary, Maryland Department of the Environment
Diane Shaw, Legislative Liaison, Maryland Department of the Environment



MARYLAND DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway • Baltimore Maryland 21224
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Parris N. Glendening
Governor

MAR 28 2000

Jane T. Nishida
Secretary

Carol Oberdorfer, President
Dickerson Community Association
22030 Big Woods Road
Dickerson MD 20841

Carol
Dear Ms. Oberdorfer:

Thank you for your letter of February 21, 2000 expressing appreciation for attendance by Department of the Environment representatives at a community meeting in Dickerson, Maryland on February 17, 2000. I agree that continued dialogue with area residents is very important and we look forward to more meetings in the future. I regret that people left the meeting feeling uneasy about our regulation of Neutron Products, Inc. (NPI) and I would like to take this opportunity to provide some clarifying information.

One area of concern seemed to focus on Alan Jacobson's report of the violations that were found during the Department's inspections of NPI over the last year. Mr. Jacobson stated that there were numerous violations, but he did not have the opportunity to explain fully the nature of the violations or the implications of those violations for the community. Most importantly, although a total of 42 violations were cited against NPI, none of those violations indicated an imminent hazard to public health and safety. The majority of the violations involved NPI's failure to conduct required surveys or audits, perform required employee training, adhere to established radiation safety procedures and maintain proper records. While serious, those violations did not pose any danger to the surrounding area and they have since been corrected. Three unresolved violations concern longstanding disputes between NPI and the Department over financial assurance for decommissioning a plan for waste disposal and removal of contaminated soil. These issues will be addressed in the context of the ongoing litigation and, again, they do not represent an immediate public health risk.

A second area of concern was the report that the exposure level, as indicated in a dosimeter located on the property of a nearby resident, was close to the 100 millirem public exposure limit contained in the State's regulations. There seemed to be a belief that exceeding the 100 millirem limit would result in adverse health effects. Preliminarily, it is important to realize that the 100 millirem limit is set at a very conservative level from a health standpoint. It is 1/50 of the occupational dose limit for employees, which is 5000 millirem. Both of those limits are far below the radiation levels where health effects would be expected. They are set conservatively because one overall goal of the regulations is to minimize any exposure to radiation to the extent practicable. To put these limits in context, 100 millirems is the average annual radiation dose per capita in the United States from background radiation. The actual background reading at any given location varies due to geological formation, soil content and elevation. For example, Maryland background levels are typically 80 to 100 millirems while background levels in Colorado can be as high as 500 millirems.

Ms. Carol Oberdorfer

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Because of the very conservative nature of the exposure limit, the fact that measurements were close to the limit should not be a cause for alarm. In addition, we believe that radiation levels will be reduced substantially in the coming year due to changes and improvements in shielding made by NPI in the waste storage rooms, which are the primary source of radiation in the community. We will monitor the situation closely in the forthcoming months.

I hope that this information clarifies the discussion that took place at the meeting on February 17th. I look forward to the opportunity to meet with you and members of the community in the future. Please contact me at 410-631-3255 if you have any questions. You may also reach our office toll free by dialing 800-633-6101 (in Maryland only) and requesting extension 3255.

Sincerely,



Ann Marie DeBiase, Director
Air and Radiation Management Administration

AMD:dpn

cc: The Honorable Jean Cryor