

June 16, 2005

Ms. Patricia Bloomgren, Director
Division of Environmental Health
Minnesota Department of Health
P. O. Box 64975
St. Paul, MN 55164-0975

Dear Ms. Bloomgren:

I am writing to provide you with information about the current schedule for completion of our review of Minnesota's request for an Agreement. An inquiry received from Minnesota staff subsequent to receipt of Governor Pawlenty's June 6, 2004, request for an Agreement, raised a question relating to possible Federal preemption in an area of State regulation, and its impact on the Agreement request. The inquiry related to a dose standard memorialized in an order by the Minnesota Public Utility Commission applicable to an independent spent fuel storage installation at the Prairie Island Nuclear Power Plant, an area of exclusive NRC regulatory jurisdiction. The inquiry prompted the NRC staff to conduct a more broad based review of Minnesota statutes and regulations to ascertain whether they raise Federal preemption questions.

The staff's analysis of this question has taken considerably more time to complete, given the complexity of the issue, than the routine scheduling timeframes. If the NRC determines that the Federal preemption questions, as they may be germane to the Minnesota Agreement, need to be considered further in its evaluation of the proposed Agreement; additional information from Minnesota will likely be required to assist in understanding the impact on the Agreement and its impact on the schedule for completion of processing of the Agreement. If the NRC determines that the Agreement can be completed separate from the preemption question, we anticipate the Agreement could be effective by January 6, 2006, assuming routine scheduling timeframes. In the latter case, the NRC staff would examine and be committed to do what it can to accelerate these timeframes and complete the Agreement in a shorter timeframe. We will communicate with you and your staff, likely in the mid-July timeframe, when we have a better understanding of this matter.

If you have any questions, or would like to discuss this letter, please call me at 301-415-1705, or Mr. Paul Lohaus at 301-415-3340.

Sincerely,

/RA/

Martin J. Virgilio
Deputy Executive Director for Materials, Research,
State and Compliance Programs
Office of the Executive Director for Operations

cc: Linda Bruemmer, Manager
Section of Asbestos, Indoor Air, Lead, and Radiation
Division of Environmental Health

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Division of Environmental Health

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