



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

November 6, 1989

Lawrence M. Ward
Deputy Assistant Secretary
Toxics, Environmental Science and Health
Department of the Environment
2500 Broening Highway
Baltimore, Maryland 21224

Dear Mr. Ward:

Thank you for your letter of September 6, 1989 to Joel Lubenau concerning lessons learned from the Neutron Products, Inc. experience.

At the outset, I wish to tell you that your concerns are mine. When we enter into a Section 274 Agreement with a State under the terms of the Atomic Energy Act, as amended, NRC's authority is discontinued and "For the duration of the agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards."

To become an Agreement State, the first step for a State is a request from the Governor for an Agreement which includes a certification by the Governor that the State's program is adequate to protect the public health and safety and compatible with the Commission's program. The proposed State program is reviewed by NRC technical and legal staff, and the staff's assessments are published in the Federal Register for public comment. The Commission must then make a finding that the proposed State program is adequate and compatible. The Agreement is normally signed by the Governor and the Commission Chairman. Subsequent to the Agreements, the State programs are reviewed annually by NRC against Commission Policy guidance. NRC staff is provided full opportunity to participate in these reviews. Written reports of the reviews are furnished to the State, in the case of Maryland to the Secretary of the Department of the Environment. State capability in the area of emergency response is specifically covered in these reviews and if significant problems are found, this would be cause for withholding of a finding of adequacy and compatibility. In Maryland, NRC staff has not withheld such a finding on account of problems in the area of emergency response.

The established principal channel of communications between Agreement States and the NRC is through the Region, specifically the Regional State Agreements Officer. To divert to other communication channels, including different contacts, during an emergency response is an obvious invitation to trouble and misunderstandings. In our view, during emergencies the same communication channels should be used, since the people involved know each other and, equally important, are knowledgeable about each others' capabilities. Off-hours calls can be routed through our 24-hour Operations Center Telephone (202-951-0550), but the Region should remain the primary point of contact for the State.

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It is important for the State to provide timely information to NRC on developing emergencies. Timely contacts in such cases enable us to promptly inform technical staff who can be made available if necessary for technical assistance and to inform our public affairs staff and appropriate high level officials. Awareness by NRC staff of events in Agreement States and of State responses enables us to respond knowledgeably and positively to inquiries. For our part, NRC staff must and will recognize that State management and staff need adequate time to respond to incidents, to collect data and to evaluate the data. A continuous cascade of requests for information such as you encountered ill serves an Agreement State which is in the midst of a response to an emergency.

This important lesson has been shared with our Regional Offices and NRC Headquarters Offices.

I appreciate the positive manner in which you expressed your concerns. I am glad that you chose to bring them to our attention so that they could be addressed. I agree with you that NRC's relationships with the States has been, overall, superb. Our ability and willingness to speak frankly about problems that concern us is an essential key to this success. Please be assured of our continuing support and cooperation.

Sincerely,

original signed by Carlton Kammerer

Carlton Kammerer, Director
State, Local and Indian Tribe Programs
Office of Governmental and Public Affairs

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