

Maryland  
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## NEUTRON PRODUCTS inc

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February 11, 1992

Mr. Roland G. Fletcher, Administrator  
Radiological Health Program  
Department of the Environment  
2500 Broening Highway  
Baltimore, MD 21224

VIA FAX 410-631-3198

Dear Mr. Fletcher:

Your letter of January 30, 1992, on Mr. Turkian's concerns issues that I received we resolved by registering as a general licensee for the possession of Depleted Uranium for Industrial Products (DU-IP); and it imposes a dilemma that is the purpose of this letter to resolve.

It is our policy to take no knowingly deliberate actions or actions that on a level of care used or poorly considered we may be held responsible for. However, there is no issue of radiation safety, health or environmental protection to be resolved here, only the interpretation, under the circumstances, of the MDE nor Neutron justify the disruption of a safe and sound activity that provides us with revenues and raw materials and helps reduce the cost of medical care. Moreover, we are reluctant to suffer in silence what we consider an unwarranted, perhaps illegal, restraint of trade.

In an effort to resolve the matter, I personally sought to understand RHP's unexplained reasons for reversing what we had understood to be a mutually agreeable program (now substantially completed) that was designed both to upgrade Neutron's management of DU-IP, and cure licensing inconsistencies.

I first requested from NRC, received and read background information relating to the development and issuance of the General License for DU-IP. I also queried persons who were likely to have first hand knowledge of the development of the General License. This effort confirmed my earlier understanding that the General License was intended to facilitate the use of DU-IP for shielding and to simplify regulation by distinguishing DU fabrication, which continues to require specific licenses, from possession and use, which require only registration and inventory control.

As suggested in your letter, I then called Mr. Flynn who explained RHP's position. That position seems to conflict with the logical purpose and stated intent of Part 40, and I believe that the conflict will render a written statement of RHP's oral position difficult to defend. I asked Mr. Flynn for his source, and he referred me to Lloyd Bolling at NRC, whose

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I perceived between his stated position and the intent of Part 40; and he seemed interested in resolving them. However, he was removed from the case, and he referred me to Mr. Vandy Miller for further guidance. After a reasonable effort to either resolve the conflicts or identify a precedent, Mr. Miller advised that a legal opinion would probably be required.

Both Mr. Bolling and Mr. Miller noted that the 999 kilo limit of our specific license derived from NRC restraints that were no longer in effect, and they suggested that we resolve the matter by requesting an increase in the limit of our specific license to a level that would satisfy our needs.

Although we believe that the General License applies to our situation, we are willing to resolve the immediate issue by amending our specific license if that is MDE's preference. Either way, there is no issue before us that could justify disadvantaging a program that helps contain the cost of health care while increasing Neutron's material resources. In order to obviate any delay or deterioration, we propose the following course of action:

1. We should try to resolve the issue. Neutron believes that, as a matter of law and logic, it is entitled to receive, possess and use tonnage quantities of DUFP pursuant to the General License promulgated in 10 CFR Part 40. RHP believes that Neutron has no such right.
2. As an interim measure, pending resolution of the issue set forth in Item 1, RHP agrees that Neutron may continue to receive, possess and use DUFP in the normal course of business conducted pursuant to its "-03" license; and Neutron hereby applies to increase, to 12,000 kilos of DUFP, the possession limit under Condition 10 of said license.
3. Neutron and RHP agree to work with NRC to define the logical extent, if any, that NRC Part 40 and the comparable provisions of COMAR, were intended to (or should in hindsight) apply to Neutron's possession and accrual of DUFP received in the course operations under its "-03" license.

If the course of action suggested above is acceptable, please acknowledge in writing. If not, we are willing and able to respond to your concerns and to consider practical alternatives; but one way or another, it is in the public interest that we not play "dare" over this issue, that we resolve it quickly, and that normal commerce continue while the matter is pending.

Very truly yours,

NEUTRON PRODUCTS, INC.

J. A. Ranschoff, President

cc Sen L. Levitan  
Vandy Miller, NRC  
Lloyd Bolling, NRC

Charles Flynn, MDE  
Brooks Bowen, Esq.  
Others as Required