



OFFICE OF THE
CHAIRMAN

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

March 31, 1980

The Honorable Toby Moffett, Chairman
Subcommittee on Environment, Energy
and Natural Resources
Committee on Government Operations
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

On December 4, 1979, the General Accounting Office (GAO) published its report entitled, "Radiation Control Programs Provide Limited Protection" which made three recommendations pertaining to the Nuclear Regulatory Commission's (NRC's) activities. In accordance with Section 236 of the Legislative Reorganization Act of 1970, the following is a statement of the action being taken by the NRC in regard to each of the recommendations:

1. GAO Recommendation

"The NRC and its Agreement States establish follow-up procedures to verify that serious violations identified during inspections of licensees are corrected."

NRC Action

While follow-up inspections are an integral part of NRC's licensee inspection and enforcement programs, NRC does not currently have explicit procedures for detailing the time frame of follow-up inspections. The timing of follow-ups is based in part on an assessment of the seriousness of a violation relative to other outstanding licensee violations in the context of available manpower.

It is standard NRC practice to conduct timely follow-up inspections in those cases where serious violations concerning health and safety have occurred. Other violations of a less serious nature are normally left for follow-up during the next scheduled routine inspection.

Agreement States are also expected to follow the same practice, and comments are made to States when it is not clear this is always being done. We are unaware of any Agreement States which, by policy or by approved practice, deliberately omit follow-up action on violations. In cases where documentation is lacking, we will continue to comment on this to the States. We have brought this matter to the attention

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of the Agreement States by a letter transmitting the GAO report to the States. It should be additionally noted that NRC routinely distributes Information Notices, Bulletins, and Circulars to Agreement States discussing recent licensee events which indicate potentially serious generic problems requiring attention by Agreement State licensees.

Although the NRC and the Agreement States currently follow up violations, the NRC believes that there are benefits to having the procedures explicitly stated. Therefore, we will develop written procedures in the near future.

2. GAO Recommendation

"Copies of NRC evaluation reports be provided to NRC-Agreement States."

NRC Action

Such reports have not routinely been furnished to the States, but we have made available all or portions of evaluation reports to States upon request, notably the appendices on license and compliance file reviews which can be useful to State programs for training and retraining personnel in these areas. We believe that for the most part, evaluation reports contain information already known to the States or which was made known to them during the review by NRC reviewers and in subsequent correspondence to the State. Certain portions of the reports may be sensitive in that comments by reviewers can reflect on the performance of a State employee, and our evaluations are structured to evaluate the overall performance of the States rather than any one individual.

Although Agreement States are routinely advised of NRC's determination of adequacy and compatibility with NRC's program and given general recommendations on how to improve their programs, we agree that the evaluation reports provide a supportive frame of reference for any needed improvements. In this regard, we plan to implement GAO's recommendation that the evaluation reports, minus any sensitive portions, be provided routinely to the Agreement States.

3. GAO Recommendation

"NRC evaluators determine whether licensing and inspection deficiencies identified in previous State evaluations have been corrected."

NRC Action

NRC does determine whether generic licensing and inspection deficiencies identified in previous State evaluations have been corrected. An important part of our license and compliance file reviews and field

evaluations of inspectors, in fact, is to assure that previously noted problems have been corrected. First-time deficiencies are discussed with cognizant State personnel during the NRC review visit and formalized in correspondence following the review. The State's responses to our comments are reviewed in the next routine review meeting. Our file reviews focus heavily on actions taken during the period since our previous review and determine whether previously noted generic deficiencies are still a problem. Additionally, it should be noted that, beginning in late 1979, we began to specifically examine and follow-up license and compliance actions for selected, major Agreement State licensees, such as manufacturers, distributors and licensees having a potential for significant releases of radioactivity to the environment and which have been noted to be deficient in the past.

We do not believe that significant benefit would be derived from specific follow-up actions for minor details which have no major impact on protecting the public health and safety. Our file reviews are a sampling (albeit planned and selected) and not all-inclusive. When we find that comments resulting from individual file reviews become repetitive, they are included in our discussions and correspondence and, as noted before, followed-up. When a major comment or series of significant comments are developed for specific files, we have identified such files in our discussions and correspondence, and the comments are followed-up.

NRC is undertaking or planning several additional activities which will improve Agreement State programs.

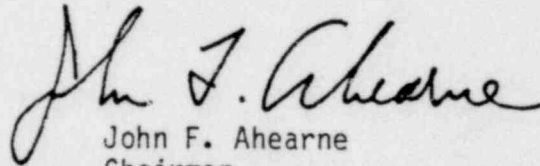
Currently, NRC is undertaking to revise the present criteria for evaluating the adequacy and compatibility of Agreement State programs. The Agreement States have reacted favorably to one aspect of this revision, which categorizes the criteria according to their relative public health and safety import. This will streamline the evaluation process and help ensure the identification and resolution of important program deficiencies. The Commission is requesting public comment on these staff proposals.

The GAO report noted that NRC has no statutory authority to regulate naturally occurring and accelerator-produced radioactive materials (NARM), and can only encourage Agreement States to include NARM in their programs. The report also noted the recent NRC task force study of NARM regulation which concluded that the current regulatory configuration is fragmented, non-uniform, and incomplete at both the Federal and State levels. The Commission concurs that improvements in the regulation of NARM are needed. While NRC could logically regulate NARM if it were given the requisite

legislative authority, the Commission is not currently pursuing that authority because we believe that such efforts should be integrated into the larger effort to properly allocate Federal responsibilities for radiation protection. As you are aware, the President has recently established an Interagency Federal Radiation Policy Council which would be assigned numerous functions, including considerations of basic Federal radiation policy. As we believe that many of the key issues related to NARM could best be addressed by the Council, we intend to bring this matter before the Council when it begins to operate.

Finally, we have enclosed for your information a January 23, 1980 letter from Mr. Charles F. Tedford, Chairman of an Ad Hoc Committee of the Agreement States, which was established during the October 1979, NRC Agreement States meeting. The purpose of the Committee was to develop an affirmative position paper on the future of the NRC/State Agreements Program. This position paper, entitled "A Need To Reaffirm The Agreement State Program," is attached to Mr. Tedford's letter. The position paper is supportive of NRC's Agreement States Program and concludes that the program has proven to be a valued resource to the States' radiation safety program. The paper also notes the need for improvements in specific areas of the Agreement States Program. We plan to incorporate our consideration of these suggestions into the larger effort described above.

Sincerely,



John F. Ahearne
Chairman

Enclosure:
Letter from Chas. F. Tedford
dtd 1/23/80

cc: Rep. Paul N. McCloskey, Jr.