

March 15, 1995

MEMORANDUM TO: Matthew T. Alessandrino, Special Agent
Office of the Inspector General

FROM: John A. Grobe, Chief
Nuclear Materials Inspection Section 2
Division of Radiation Safety and Safeguards

SUBJECT: ALLEGATIONS REGARDING THE NRC OVERSIGHT OF ACTIVITIES AT THE
ADVANCED MEDICAL SYSTEMS, INC. (AMS) FACILITY

This responds to your e-mail memorandum that included five questions regarding the NRC oversight of the AMS facility located in Cleveland Ohio. I have attached a copy of that memorandum for your reference.

Question No. 1 - AMS does not/did not have an Emergency Preparedness Plan.

Response to Question No. 1 - AMS has had an Emergency Preparedness Plan since 1992 as part of their license requirements for operation of their facility on London Road. During preparation of the Emergency Plan in 1991, AMS solicited and incorporated comments on the Plan from the City of Cleveland emergency responders and the State of Ohio Emergency Management Agency. I have enclosed a copy of the report of our most recent inspection of emergency preparedness at AMS. In January 1995, AMS submitted its license renewal application that included a revision and update of its emergency plan. That updated plan is under review by the NRC staff.

Question No. 2 - AMS replaced the connecting pipe to the NEORSR sewer system located directly beneath the facility to hide the contamination of cobalt-60 being emitted from AMS.

Response to Question No. 2 - We are not aware of any replacement work on the lateral that connects the AMS facility to the NEORSR interceptor sewer located beneath London Road. We are also not aware of any efforts to hide sewer contamination. That lateral is currently contaminated with cobalt-60. Recent NRC testing of that lateral was performed both from the interceptor side, as well as the AMS facility side, revealing the presence of low levels of removable radioactive contamination. A copy of the NRC inspection report documenting the results of that testing has been enclosed for your information. The AMS lateral has been plugged by the NEORSR for the past several months. Consequently, no cobalt-60 has recently been discharged from the facility into the sanitary sewers.

The licensee plans to replace that contaminated lateral with a new lateral in a different location as part of its corrective actions regarding their liquid effluent problems.

Question No. 3 - AMS disposed of the facility contaminated laundry in the municipal trash containers located outside the facility.

Response to Question No. 3 - On March 1, 1995, I discussed Question No. 3 with you. You indicated that the alleged did not provide any further clarifying information regarding the matter. It is not clear from the alleged's statements whether the alleged is referring to laundry equipment or protective clothing that may have required laundering.

We are not aware of any improper disposal of low level dry radioactive waste at the AMS facility. Based on NRC inspector observations, the licensee has not used cloth anti-contamination clothing for at least five years. Industry standard paper and plastic anti-contamination clothing are used regularly at the facility and held for disposal as low level dry radioactive waste after use.

During January 1995, at the request of the Cleveland Fire Department, laundry equipment being held for disposal as low level radioactive waste was moved from the AMS warehouse into the radiologically controlled and restricted portion of the AMS facility. That equipment was previously used to launder cloth anti-contamination clothing and is internally contaminated with radioactive material. NRC staff have observed the laundry equipment in a secure area AMS uses to store radioactive materials.

We would be interested in receiving any information that the Office of the Inspector General has regarding improper disposal of radioactive waste.

Question No. 4 - AMS improperly disposed of cobalt-60 in the sewer system and the NRC failed to identify. NRC inspectors intentionally took clean samples from the sewer near the London Road facility so that tracings of cobalt-60 would not be found.

Response to question No. 4 - Similar allegations of improper disposal have been received by Region III in the past. I have enclosed a copy of the NRC inspection reports where NRC concluded that it appeared AMS improperly disposed of cobalt-60 in the sewers in the past and during 1994. The NRC identified these apparent violations.

Several samples were collected by NRC inspectors disclosing radioactive contamination. Sampling was extended from the source location of highest contamination out to the point where contamination could no longer be detected to establish an envelope bounding the contamination concerns. That testing is described in the enclosed report.

We would be interested in receiving any information that the Office of the Inspector General has regarding improper discharge of radioactive material to the sanitary sewers.

Question No. 5 - AMS falsified logs which represent the ratio between cobalt-60 and water being flushed into the sewer system.

Response to Question No. 5 - We are not aware of records falsification regarding AMS sewer discharge logs. The enclosed inspection reports document that the AMS logs of sewer discharges were incomplete. As documented in the inspection report, NRC working with OI staff performed extensive interviews of former AMS and Picker employees involved in past handling of liquid effluents. Those interviews disclosed poor practices, but did not disclose indication of record falsification.

Region III would appreciate receiving any information that the Office of the Inspector General may have indicating falsification of sewer effluent records.

I hope this additional information regarding our oversight of AMS activities is useful to you in your follow up of these allegations. If there is any other information you need or questions you have, please do not hesitate to contact me at (708) 829-9806.

Docket No. 030-16055
License No. 34-19089-01

- Enclosures:
1. Undated Memorandum from
M. A. Alessandrino to
J. A. Grobe re:
AMS Allegations
 2. NRC Inspection Report
No. 030-16055/94004(DRSS)
dated November 29, 1994
 3. NRC Inspection Report
No. 030-16055/94003(DRSS)
dated December 6, 1994
 4. NRC Inspection Report
No. 030-16055/93003(DRSS)
dated November 7, 1994

SEE OUTGOING
FILE

DOCUMENT NAME: G:\LTRS2LIC\MTLS\030\95316055.L14

To receive a copy of this document, indicate in the box: C = Copy without attachment/enclosure E = Copy with attachment/enclosure N = No copy

OFFICE	RIII	<input checked="" type="checkbox"/>	RIII	<input checked="" type="checkbox"/>	NMSS	<input checked="" type="checkbox"/>	RIII	<input checked="" type="checkbox"/>		
NAME	Slawinski:dp		Berson		Cool		Grobe			
DATE	03/15/95		03/15/95		03/14/95		03/15/95		03/	/95

OFFICIAL RECORD COPY

ATTACHMENT 1

MEMORANDUM TO: John A. Grobe, Chief, Nuclear Materials
Inspection Section 2.

FROM: Matthew T. Alessandrino, Special Agent

SUBJECT: AMS Allegations

The Office of the Inspector General (OIG) has received a number of allegations concerning American Medical Systems, Inc. (AMS). The overall theme of these allegations is that the NRC has failed to properly regulate AMS. The allegers gave OIG five specific incidents that they say back up their claim.

1. AMS does not/did not have a Emergency Preparedness Plan.
2. AMS replaced the connecting pipe to the NEORSO sewer system located directly beneath the facility to hide the contamination of cobalt-60 being emitted from AMS.
3. AMS disposed of the facility contaminated laundry in the municipal trash containers located outside the facility.
4. AMS improperly disposed of cobalt-60 in the sewer system and the NRC failed to identify. NRC inspectors intentionally took clean samples from the sewer near the London Road facility so that tracings of cobalt-60 would not be found.
5. AMS falsified logs which represent the ratio between cobalt-60 and water being flushed into the sewer system.

When I spoke with you last week you mentioned that RIII, NRC has been addressing allegations concerning AMS for some time. OIG needs to know what has been done regarding these five allegations.

If you have any questions I can be reached at (301) 415-5969. The fax number is (301) 415-5091. My e-mail address is MTA1.

NRC PERSONNEL INVOLVED IN ADVANCED MEDICAL SYSTEMS, INC. (AMS) ISSUES

<u>REGION III</u> Fax # 708-515-1259	<u>OGC</u> Fax # 301-415-3725	<u>NMSS</u> Fax # 301-415-5369
Jim Caldwell 708-829-9802	Jack Goldberg (Enforcement) 301-415-1681	Donald Cool 301-415-7263
Jack Grobe 708 829-9806 RIII Contact	Steve Lewis (Enforcement) 301-415-1684	Bill Brach 301-415-7264
John Madera 708 829-9834	Mike Stein (Enforcement) 301-415-1688	Fred Combs 301-415-7265
Wayne Slawinski 708 829-9820	Marian Zobler (Hearings) 301-415-1572 OGC Contact	Cathy Haney 301-415-7844 NMSS Contact
Kevin Null 708 829-9854	Gene Holler (Hearings) 301-415-1520	Joe DeCicco 301 415-7833
Mike Weber 708 829-9825	Bernie Bordenick (Hearings) 301-415-1529	Bob Shewmaker (Civil/Structural) 301-415-6713
	Steve Crockett (Solicitor) 301-415-1820	Bill Ford 301-415-6630

3/1/95

OHIO EMERGENCY MANAGEMENT AGENCY
TRANSMITTAL COVER PAGECOVER SHEET PLUS 7 PAGES.DATE: 3/21/95

TIME: _____

TO: JACK GROVE

TITLE: _____

AGENCY: NRCTELECOPY NUMBER: 708-515-1259

TELEPHONE: _____

FROM: LLOYD BOKMANTITLE: HARMAT PLANNER / NE OHIOAGENCY: OHIO EMATELECOPY NUMBER: 614-889-7183TELEPHONE: 614-799-3679

MR GROVE:

MR. SHIPLEY asked me to fax the sections of OHIO LAW that deal with the SERC's variance powers. I have faxed the sections of the law that Mike Kalstrom referenced in his letter to the SERC chair on Feb 7 and was cc'd to you. I did not include 3750.02 because it deals with SERC rulemaking in general terms. Section .04 deals with planning, .05 deals with identifying facilities, .08 deals with reporting inventory, and .11 (A-C) deals with variances. I called the OHIO EPA and confirmed that the Executive Committee Meeting will be August 27 at 1:30 pm at the OEPA Building, 1800 WATERMARK DR, Room 1B. If you have any questions, please call me. LLOYD BOKMAN

B/107

3750.04 Chemical emergency response and preparedness plan

(A) Within ninety days after the effective date of this section, the local emergency planning committee of each emergency planning district shall prepare and submit to the emergency response commission a chemical emergency response and preparedness plan for the district. The district's plan shall contain all of the following:

(1) An identification of each facility within the district that meets either of the following qualifications:

(a) Has an extremely hazardous substance present at the facility in an amount that exceeds the threshold planning quantity for the substance established in rules adopted under division (B)(1)(a) or (C)(5) of section 3750.02 of the Revised Code;

(b) Is required to participate in the emergency planning process by an order issued under division (A) of section 3750.05 of the Revised Code.

(2) An identification of all facilities within the district that are contributing or subjected to additional risk due to their proximity to facilities identified under division (A)(1) of this section;

(3) An identification of routes likely to be used for the transportation of extremely hazardous substances to and from each facility identified under division (A)(1) of this section;

(4) The methods and procedures to be followed by owners and operators of facilities identified under division (A)(1) of this section and by local emergency response and medical personnel to respond to releases of extremely hazardous substances;

(5) The designation of a community emergency coordinator for the district, identification of the facility emergency coordinator for each facility identified under division (A)(1) of this section, and identification of the heads of the emergency response organizations for designated areas or political subdivisions within the district;

(6) An identification of procedures for reliable, effective, and timely notification and communication among emergency responders within the district and to the public in the event of a release of an extremely hazardous substance from a facility identified under division (A)(1) of this section;

(7) The development of methods for determining the occurrence of a release of an extremely hazardous substance from each facility identified under division (A)(1) of this section and for identifying the geographic area or population likely to be affected by such a release;

(8) A composite statement of specialized equipment, facilities, personnel, and emergency response organizations available within the district to respond to releases of extremely hazardous substances;

(9) The development of evacuation plans including, but not limited to, provisions for a precautionary evacuation and for alternative traffic routes in the event of a release of an extremely hazardous substance from a facility identified under division (A)(1) of this section;

(10) A plan for mutual aid to other emergency planning districts and for the allocation of emergency response facilities, equipment, and personnel for responding to releases of extremely hazardous substances;

(11) A plan for the development or provision of training programs, seminars, and other forms of educational programs for the personnel of facilities identified under division (A)(1) of this section, emergency response personnel of

political subdivisions within the district, and medical personnel;

(12) The development of methods and schedules for exercising the plan;

(13) Such other information as the commission requires by rules adopted under division (B)(2)(a) of section 3750.02.

The committee shall base its plan on information obtained from the commission, the environmental protection agency, emergency management agencies of the state and political subdivisions within the district, and facilities identified under division (A)(1) of this section.

(B) The committee annually shall submit the plan to the commission not later than the seventeenth day of October for review and concurrence. The commission shall review the plan to ensure that it complies with division (A) of this section and rules adopted under divisions (B)(2)(a) and (b) of section 3750.02 of the Revised Code, and to ensure that it is coordinated with the plans of adjoining districts. The commission shall endeavor to review each such plan and provide notice of concurrence with the plan or of recommendations for modifications to it within sixty days after its submission to the commission. The commission may assign the highest priority for review to plans applying to geographic areas having the greatest number of facilities that pose the greatest risk of harm to the public health or safety or to the environment.

If the commission finds that the plan submitted by a committee complies with division (A) of this section and rules adopted under divisions (B)(2)(a) and (b) of section 3750.02 of the Revised Code and is coordinated with the plans of adjoining districts, the commission shall, within sixty days after submission of the plan, issue an order in accordance with section 3750.18 of the Revised Code concurring with the plan. If the commission finds that the plan submitted by a committee does not comply with division (A) of this section and rules adopted under divisions (B)(2)(a) and (b) of section 3750.02 of the Revised Code or is not coordinated with the plans of adjoining districts, the commission shall, by issuance of such an order within that sixty-day period, refuse to concur with the plan and direct the committee to submit a modified plan that complies with those requirements within a reasonable time, not exceeding sixty days, after issuance of the order.

(C) Each committee shall conduct an exercise of its plan at least annually. The committee shall notify the commission at least thirty days before each such exercise, and the commission shall observe each such exercise. The commission shall review each such exercise in accordance with the rules adopted under division (B)(2)(b) of section 3750.02 of the Revised Code; and shall either concur with the conduct of the exercise or direct the committee to make modifications in the exercise of the plan in accordance with those rules.

If the commission finds that the committee's exercise of its plan complies with the criteria established in rules adopted under division (B)(2)(b) of section 3750.02 of the Revised Code, the commission shall issue an order in accordance with section 3750.18 of the Revised Code concurring with the conduct of the exercise. If the commission finds that the committee's exercise of its plan does not comply with those criteria, the commission shall, by issuance of such an order, refuse to concur with the conduct of the exercise and direct the committee to make modifica-

50.05

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tions in the exercise of the plan that comply with these

The committee shall annually, or more frequently if emergency circumstances in the district or at any facility in the district so require, review the plan of the district. The review shall include, without limitation, an evaluation of the need for funds, personnel, training, equipment, and facilities to develop, revise, implement, and exercise the plan and recommendations and requests to the commission regarding any additional funds that may be needed for those purposes and the means for providing them.

HISTORY: 1988 S 367, eff. 12-14-88

Note: 1988 S 367, § 2, eff. 12-14-88, reads in part: (B) Completion of a chemical emergency response and preparedness plan and submission of the plan to the State Emergency Response Commission in compliance with section 303 of that act ("Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1731, 42 U.S.C.A. 11003) constitutes compliance with the requirement of division (A) of section 3750.04 of the Revised Code that the local emergency planning committee of each emergency planning district submit their plans to the Commission within ninety days after the effective date of this act.

Prohibition: 3750.17

PRACTICE AND STUDY AIDS

Baldwin's Ohio Legislative Service, 1988 Laws of Ohio, S 367—LSC Analysis, p 5-1017

3750.06 Applicability; facility representatives; notice of applicability; provision of information; agricultural producer exemption

(A) Each facility that has an extremely hazardous substance present in an amount that exceeds the threshold planning quantity for the substance established by rules adopted under division (B)(1)(a) or (C)(5) of section 3750.02 of the Revised Code is subject to this section and section 3750.04 of the Revised Code. Upon the written request of the local emergency planning committee of the emergency planning district in which a facility is located, the emergency response commission may, by issuance of an order in accordance with section 3750.18 of the Revised Code, designate an additional facility as being subject to the requirements of this section and section 3750.04 of the Revised Code if the commission determines from the request that, due to the size of the facility, the nature of its operations, or its proximity to a residential area or an area where significant numbers of people work or congregate, participation in the emergency planning process under this section and section 3750.04 of the Revised Code is necessary or appropriate to protect the public health or safety or the environment. At least forty-five days before issuance of such an order the commission shall mail written notice to the owner or operator of the facility by certified mail, return receipt requested, and shall notify the public, by the publication of notice in a newspaper of general circulation in the county where the facility is located, of the commission's intention to approve the request and to issue the order and that the public may submit written comments to the commission regarding approval of the request during that time. The commission shall not issue any such order unless at least sixty per cent of the voting members of the commission vote to approve the request and issuance of the order. Designations under this division shall be made on

the basis of individual facilities rather than on a categorical basis.

(B) Within thirty days after the committee of a district is appointed under section 3750.03 of the Revised Code, the owner or operator of any facility located in the district and identified under division (A) of this section shall select a facility representative and provide the name of the representative to the committee. The facility representative is the person who will participate in the district's emergency planning process as the facility emergency coordinator. If the owner or operator changes its facility emergency coordinator, the owner or operator shall promptly provide the name of the new facility emergency coordinator to the committee.

If an extremely hazardous substance first becomes present at a facility on or after the effective date of this section in an amount that exceeds the threshold planning quantity established for the substance in rules adopted under division (B)(1)(a) of section 3750.02 of the Revised Code, or if, after rules have been adopted under division (C)(5) of section 3750.02 of the Revised Code, an extremely hazardous substance becomes present at a facility in an amount that exceeds the threshold planning quantity for the extremely hazardous substance, the owner or operator of the facility shall notify the emergency response commission and the local emergency planning committee of the emergency planning district in which the facility is located that the facility is subject to this section and section 3750.04 of the Revised Code within sixty days after first acquiring the substance. If rules are adopted under division (C)(5) of section 3750.02 of the Revised Code, or if rules adopted under division (B)(1)(a) or (C)(5) of that section are amended, and a facility has present an extremely hazardous substance in an amount exceeding the threshold planning quantity for the extremely hazardous substance established in those rules or amended rules, the owner or operator of the facility shall notify the commission and the local emergency planning committee of the emergency planning district in which the facility is located that the facility is subject to this section and section 3750.04 of the Revised Code within sixty days after adoption or amendment of the rules. If the owner or operator had not previously been required to select a facility emergency coordinator under this division, he shall select one and provide his name to the committee within sixty days after first acquiring the extremely hazardous substance or within sixty days after adoption or amendment of the rule, as appropriate.

(C) Upon the request of the committee having jurisdiction, the owner or operator of a facility identified in division (A) of this section shall promptly provide to the committee the information necessary for developing and implementing the chemical emergency response and preparedness plan for the district.

(D) An agricultural producer who has complied with section 302 of the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1730, 42 U.S.C.A. 11002, and divisions (B) and (C) of this section is not subject to the requirements of sections 3750.07 and 3750.08 of the Revised Code nor to the payment of filing fees under division (A) of section 3750.13 of the Revised Code with respect to his agricultural production activities.

(E) No owner or operator of a facility shall fail to comply with this section or an order issued under division (A) of this section.

HISTORY: 1988 S 367, eff. 12-14-88

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3750.02 of the Revised Code may submit to the commission and the committee and fire department having jurisdiction over the facility the material safety data sheets applicable to those chemicals instead of the list required under division (A) of this section. If an owner or operator who submitted material safety data sheets under this division discovers new information about a hazardous chemical for which a material safety data sheet was so submitted, he shall submit a revised material safety data sheet for the hazardous chemical to the commission, committee, and fire department within three months after discovery of the new information. If an owner or operator who has submitted material safety data sheets for nine or fewer hazardous chemicals under this division obtains a hazardous chemical for which reporting is required under division (A) of this section or, pursuant to division (D) of this section, is first required to report a hazardous chemical identified or listed by rules adopted under division (C)(5) of section 3750.02 of the Revised Code, he shall submit a material safety data sheet for it to the commission, committee, and fire department within three months after obtaining the hazardous chemical or adoption of the rule identifying or listing the hazardous chemical. If an owner or operator who has submitted material safety data sheets for ten hazardous chemicals under this division obtains a hazardous chemical for which reporting is required under division (A) of this section or is first required under division (D) of this section, he shall, within three months after obtaining the hazardous chemical or adoption of the rule identifying or listing the hazardous chemical, prepare and submit a list containing the information required in that division for all of the hazardous chemicals stored, handled, or processed at the facility for which reporting is required under that division.

(F) No owner or operator of a facility where a hazardous chemical is stored, handled, or processed in an amount that exceeds the threshold quantity for the hazardous chemical established in rules adopted under division (B)(1)(b) or (C)(5) of section 3750.02 of the Revised Code shall fail to:

(1) Submit either the list of hazardous chemicals required to be submitted and containing the information required by division (A) of this section or to submit material safety data sheets for the hazardous chemicals in compliance with division (E) of this section;

(2) Comply with a request to provide a material safety data sheet as required by division (B) of this section;

(3) Submit either a revised list of hazardous chemicals or a revised material safety data sheet as required by division (D) of this section or to submit a list, material safety data sheet, or revised material safety data sheet in compliance with division (E) of this section.

HISTORY: 1988 S 367, eff. 12-14-88

Note: 1988 S 367, § 5, eff. 12-14-88, reads in part: (C) Submission of a list of hazardous chemicals or of a Material Safety Data Sheet for each such substance or chemical to the State Emergency Response Commission and the local emergency planning committee and fire department having jurisdiction over a facility in compliance with section 311 of that act ("Emergency Planning and Community Right-To-Know Act" of 1986," 100 Stat. 1731, 42 U.S.C.A. 11003) constitutes compliance with the requirement of division (A) of section 3750.02 of the Revised Code that the owner or operator of the facility submit such list within thirty days after the effective date of this act.

Prohibition: 3750.17

PRACTICE AND STUDY AIDS

Baldwin's Ohio Legislative Service, 1988 Laws of Ohio 5367—
LSC Analysis p 5-1017

3750.08 Emergency and hazardous chemical inventory form

(A) Each owner or operator of a facility who is required to prepare or have available a material safety data sheet for a hazardous chemical under the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended, and regulations adopted under it, or who is required to submit a list under division (A), (D), or (E), or is authorized to submit material safety data sheets instead of that list under division (F) of section 3750.07 of the Revised Code and who had present at the facility during the preceding calendar year an amount of a hazardous chemical exceeding the applicable threshold quantity established by rules adopted under division (B)(1)(b) or (C)(5) of section 3750.02 of the Revised Code shall annually by the first day of March submit to the local emergency planning committee of the emergency planning district in which the facility is located, the emergency response commission, and the fire department having jurisdiction over the facility an emergency and hazardous chemical inventory form containing tier I information as prescribed in divisions (A)(1) to (4) of this section. The owner or operator may instead submit an inventory form containing tier II information as prescribed in divisions (B)(1) to (7) of this section for any hazardous chemical present at the facility. If the commission, committee, or fire department having jurisdiction over a facility has requested under division (B) of this section that the owner or operator of a facility submit an inventory form containing tier II information as prescribed in that division, the owner or operator shall by the first day of March of each year subsequent to that request submit to the commission, committee, and fire department an inventory form containing tier II information as prescribed in divisions (B)(1) to (7) of this section instead of an inventory form containing the tier I information prescribed in this division, until such time as the commission authorizes the owner or operator to resume the annual submission of an inventory form containing tier I information. An owner or operator who has been so required to annually submit an inventory form containing tier II information may, at any time, request the commission to authorize the owner or operator to resume annual submission of an inventory form containing tier I information.

The emergency and hazardous chemical inventory form shall include as tier I information all of the following information with respect to each hazardous chemical that was present at the facility during the preceding calendar year in an amount exceeding the applicable threshold quantity:

(1) An estimate of the maximum amount in pounds of the hazardous chemicals in each category established in rules adopted under division (B)(1)(b) or (C)(5) of section 3750.02 of the Revised Code that were present at the facility at any time during the preceding calendar year. The estimate for each such category shall be provided in the appropriate reporting range established by those rules.

(2) An estimate of the average daily amount in pounds of the hazardous chemicals in each such category that were present at the facility during the preceding calendar year. The estimate for each such category shall be provided in the appropriate reporting range established by those rules.

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(3) The general location at the facility of hazardous materials in each category.

Any other information required by rules adopted under division (B)(1)(e) of section 3750.02 of the Revised Code.

(B) Upon the request of the commission or the committee or fire department having jurisdiction over the facility, the owner or operator of a facility that is subject to this section shall submit an emergency and hazardous chemical inventory form containing tier II information as prescribed in divisions (B)(1) to (7) of this section within thirty days after receiving the request.

An emergency and hazardous chemical inventory form shall include as tier II information the following additional information for each hazardous chemical that was present at the facility during the preceding calendar year in an amount exceeding the applicable threshold quantity:

(1) The chemical name or common name of the hazardous chemical as provided on the material safety data sheet and its chemical abstract service number;

(2) An estimate of the maximum amount in pounds of the hazardous chemical that was present at the facility at any time during the preceding calendar year. The estimate shall be provided in the appropriate reporting range established by rules adopted under division (B)(1)(b) of section 3750.02 of the Revised Code.

(3) An estimate in pounds of the average daily amount of the hazardous chemical that was present at the facility during the preceding calendar year. The estimate shall be provided in the appropriate reporting range established by those rules.

(4) A brief description of the manner of storage of the hazardous chemical;

(5) The location at the facility of the hazardous chemical;

(6) An indication as to whether the owner or operator chooses to withhold information about the hazardous chemical from disclosure as a trade secret and, if so, whether he has filed a claim with the administrator of the United States environmental protection agency for protection of that information as a trade secret pursuant to rules adopted under division (B)(2)(d) of section 3750.02 of the Revised Code or with the commission pursuant to rules adopted under division (B)(5) of that section, as appropriate;

(7) Any other information required by rules adopted under division (B)(1)(e) of section 3750.02 of the Revised Code.

If the commission has not prescribed emergency and hazardous chemical inventory forms, the owner or operator shall submit the information required by divisions (A)(1) to (4) or (B)(1) to (7) of this section to the commission by letter.

(C) No owner or operator of a facility where a hazardous chemical is produced, used, or stored in an amount that exceeds the threshold quantity for the chemical established in rules adopted under division (B)(1)(b) or (C)(5) of section 3750.02 of the Revised Code shall fail to submit:

(1) An emergency and hazardous chemical inventory form containing tier I information as required by division (A) of this section;

(2) An emergency and hazardous chemical inventory form containing tier II information in compliance with division (B) of this section when requested to do so under

that division or when required to do so under division (A) of this section.

HISTORY: 1988 S 367, eff. 12-14-88

Prohibition: 3750.17

PRACTICE AND STUDY AIDS

Baldwin's Ohio Legislative Service, 1988 Laws of Ohio, S 367—
L.S.C. Analysis, p 5-1017

3750.09 Protection of trade secrets

(A) Except as otherwise provided in division (E) of this section, any person who is required to provide information to the emergency response commission, the local emergency planning committee of the emergency planning district in which a facility owned or operated by the person is located, or the fire department having jurisdiction over the facility, under the reporting requirements in sections 3750.04, 3750.05, 3750.07, or 3750.08 of the Revised Code or the rules adopted under division (B)(1)(d) or (e) of section 3750.02 of the Revised Code, may withhold from submission to the commission, committee, fire department, or any other person the specific chemical identity, including the chemical name and other specific identification, of an extremely hazardous substance or hazardous chemical identified or listed by rules adopted under division (B)(1)(a) or (b) of section 3750.02 of the Revised Code on the grounds that the information constitutes a trade secret if either of the following conditions is met:

(1)(a) At the time of submitting the information sought to be classified as a trade secret, the owner or operator of the facility submits a claim for protection of that information as a trade secret pursuant to rules adopted under division (B)(2)(d) of section 3750.02 of the Revised Code and submits a copy of the required report that indicates that such a claim has been filed and contains the generic class or category of the chemical identity in place of the specific chemical identity and that is accompanied by a copy of the substantiation supporting the trade secret claim that was submitted to the administrator of the United States environmental protection agency. The owner or operator may withhold from the copy of the substantiation submitted to the commission, committee, or fire department the specific chemical identity claimed to be a trade secret and information identified as confidential business information in rules adopted under division (B)(1)(h) of section 3750.02 of the Revised Code.

(b) A determination of the claim remains pending pursuant to those rules.

(2) It has been determined pursuant to those rules that a trade secret exists.

(B) Except as otherwise provided in division (E) of this section, any person who is required to provide information to the commission, the local emergency planning committee of the emergency planning district in which a facility owned or operated by the person is located, or the fire department having jurisdiction over the facility, under the reporting requirements in section 3750.04, 3750.05, 3750.07, or 3750.08 of the Revised Code or the rules adopted under division (B)(1)(d) or (e) of section 3750.02 of the Revised Code may withhold from submission to the commission, committee, fire department, or any other person the specific chemical identity, including the chemical name or other specific identification, of an extremely hazardous

(B)(1) Upon receiving the written request of an officer or employee of the state or a political subdivision acting in his official capacity, the commission or committee shall make available to the officer or employee an emergency and hazardous chemical inventory form that contains tier II information. If the commission or committee does not have the requested inventory form containing that information, it shall request the owner or operator of the facility to submit one. The owner or operator of the facility shall submit the requested inventory form to the commission or committee within thirty days after receiving the request to submit it. Upon receipt of the requested inventory form, the commission or committee shall provide it to the public officer or employee who requested it, subject to the restrictions on the disclosure of trade secret and confidential business information established in rules adopted under division (B)(1)(i) of section 3750.02 of the Revised Code.

(2) Upon receiving an application from any person to review or obtain a copy of an emergency and hazardous chemical inventory form containing tier II information that is in the possession of the commission or committee, the commission or committee shall provide the applicant access to review the form or obtain a copy of it in accordance with the policies and procedures established in rules adopted under division (B)(2)(c) of section 3750.02 of the Revised Code, subject to the restrictions under division (B)(5) of this section on the release of information on emergency and hazardous chemical inventory forms designated as tier II information and to the restrictions on the disclosure of trade secret and confidential business information established in rules adopted under division (B)(1)(i) of section 3750.02 of the Revised Code.

(3) If the commission or committee does not have the requested inventory form containing tier II information and if the requested inventory form pertains to a hazardous chemical that was present at the facility in an amount equal to or exceeding ten thousand pounds at any time during the preceding calendar year, the commission or committee shall request the owner or operator of the facility to submit an emergency and hazardous chemical inventory form containing tier II information regarding the hazardous chemical. The owner or operator of the facility shall submit the requested inventory form to the commission or committee within thirty days after receiving the request to submit it. Upon receiving the requested inventory form, the commission or committee shall provide access to review it or a copy of it to the applicant in accordance with the policies and procedures established in rules adopted under division (B)(2)(c) of section 3750.02 of the Revised Code, subject to the restrictions under division (B)(5) of this section on the release of information on emergency and hazardous chemical inventory forms designated as tier II information and to the restrictions on the disclosure of trade secret and confidential business information established in rules adopted under division (B)(1)(i) of section 3750.02 of the Revised Code.

(4) If the commission or committee does not have the requested inventory form containing tier II information and if the requested inventory form pertains to a hazardous chemical that was present at the facility in an amount less than ten thousand pounds at any time during the preceding calendar year, the person's application for access to review or obtain a copy of the inventory form shall contain the person's statement of general need for the information, in addition to the other information required on the applica-

tion form. If the commission or committee finds that the applicant's statement of general need for the information constitutes a valid need for it under rules adopted pursuant to division (B)(1)(g) of section 3750.02 of the Revised Code, the commission or committee shall request the owner or operator of the facility to submit an inventory form that contains tier II information pertaining to the hazardous chemical. The owner or operator of the facility shall submit the requested inventory form to the commission or committee within thirty days after receiving the request to submit it. Upon receiving the requested inventory form, the commission or committee shall provide access to review it or a copy of it to the applicant in accordance with the policies and procedures established in rules adopted under division (B)(2)(c) of section 3750.02 of the Revised Code, subject to the restrictions on the release of tier II information in division (B)(5) of this section and to the restrictions on the disclosure of trade secret and confidential business information established in rules adopted under division (B)(1)(i) of section 3750.02 of the Revised Code.

(5) The owner or operator of a facility may request in writing that the storage location of a hazardous chemical at a facility provided on an emergency and hazardous chemical inventory form containing tier II information submitted under this section or section 3750.08 of the Revised Code not be disclosed to any person who is not an officer or employee of the state or a political subdivision acting in his official capacity. If the owner or operator of a facility has submitted such a request to the commission or a committee, the commission or committee shall not disclose information concerning the specific storage location of the hazardous chemical at the facility to any person who is not an officer or employee of the state or a political subdivision acting in his official capacity.

(C) No owner or operator of a facility where a hazardous chemical is stored, handled, or processed in an amount that exceeds the threshold quantity for the hazardous chemical established in rules adopted under division (B)(1)(b) or (C)(5) of section 3750.02 of the Revised Code shall fail to submit an emergency and hazardous chemical inventory form containing tier II information in compliance with division (A) or (B) of this section when requested to do so under either of those divisions.

HISTORY: 1983 S 367, eff. 12-14-88

Prohibition: 3750.17

PRACTICE AND STUDY AIDS

Baldwin's Ohio Legislative Service, 1988 Laws of Ohio, S 367—LSC Analysis, p 5-1017

3750.11 Enforcement of local rules; emergency response lock box units

(A) Except as provided in division (E) of this section, no local emergency planning committee shall enforce any resolution, rule, or requirement for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored at facilities under the jurisdiction of the committee, for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of extremely hazardous substances, hazardous substances, or oil, that is not consistent with and equivalent in scope, content, and coverage to the

reporting and hazard communication provisions of this chapter and rules adopted under it, unless the committee obtains a variance from the emergency response commission under division (B) of this section.

(B) A committee shall, prior to commencing enforcement of any such requirement, submit a copy of it to the commission along with an application for a variance from division (A) of this section in accordance with rules adopted under division (B)(2)(e) of section 3750.02 of the Revised Code. On or before the date that the committee submits the variance application to the commission, the committee shall mail by certified mail, return receipt requested, notice of the application and a summary of the reporting requirement to the owner or operator of each facility within the emergency planning district that the committee determines would be subject to the reporting requirement. If the commission finds that the resolution, rule, or requirement meets the criteria for issuance of a variance established in those rules, it shall approve the application and issue an order granting the variance in accordance with section 3750.18 of the Revised Code. The commission shall not issue any order approving a variance application unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of the order. If less than sixty per cent of the voting members of the commission vote to approve a variance application, the commission shall issue an order denying the variance.

(C) Except as provided in division (G) of this section, no political subdivision shall enforce any ordinance, resolution, rule, or requirement adopted on or after the effective date of this section, or any amendment adopted on or after the effective date of this section to any such ordinance, resolution, rule, or requirement that was in effect on the effective date of this section, for the reporting or providing the names or amounts of extremely hazardous substances, hazardous chemicals produced, used, or stored, at facilities within the political subdivision; for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of those extremely hazardous substances, hazardous substances, or oil that is not consistent with, equivalent to, and no more stringent than the reporting and hazard communication requirements of this chapter and rules adopted under it, unless the political subdivision first obtains a variance under this division.

A political subdivision that seeks to obtain a variance under this division shall submit a copy of the ordinance, resolution, rule, or requirement to the committee of the district in which the political subdivision is located along with an application for a variance in accordance with rules adopted under division (B)(2)(e) of section 3750.02 of the Revised Code. On or before the date that the political subdivision submits the variance application to the committee, the political subdivision shall mail by certified mail, return receipt requested, notice of the application and a summary of the reporting requirement to the owner or operator of each facility within the political subdivision that the political subdivision determines would be subject to the reporting requirement. If, in the opinion of the committee, the ordinance, resolution, rule, or requirement of the political subdivision meets the criteria for issuance of a variance established in those rules and does not conflict with any resolution, rule, or requirement adopted by the committee, the committee shall, by resolution, approve issuance of the

variance and send a copy of its resolution, of the political subdivision's variance application, and of the ordinance, resolution, rule or requirement, to the commission. The committee shall not approve issuance of a variance under this division unless at least sixty per cent of the voting members of the committee vote to approve it. If the commission finds that the committee has approved issuance of a variance and that the ordinance, resolution, rule, or requirement of the political subdivision meets the criteria for issuance of a variance established in those rules, it shall approve the application and issue an order in accordance with section 3750.18 of the Revised Code granting the variance. The commission shall not issue any order approving a variance application unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of an order granting the variance. If less than sixty per cent of the voting members of the commission vote to approve a variance application, the commission shall issue an order denying the variance.

This division does not affect the validity or enforceability of any such ordinance, resolution, rule, or requirement of a political subdivision adopted prior to the effective date of this section. However, this division applies to any amendment to any such ordinance, resolution, rule, or requirement, which amendment is adopted on or after the effective date of this section and establishes a reporting requirement that is not consistent with, equivalent to, and no more stringent than the reporting and hazard communication requirements of this chapter and rules adopted under it.

(D) No political subdivision shall enforce any ordinance, resolution, rule, or requirement adopted on or after the effective date of this chapter requiring the placement of emergency response lock box units at any facility where an extremely hazardous substance, hazardous chemical, or hazardous substance is produced, used, or stored. The fire department of a political subdivision having jurisdiction over a facility and the owner or operator of such a facility may enter into an agreement under which the owner or operator will place and maintain an emergency response lock box unit at his facility in compliance with rules adopted under division (B)(6) of section 3750.02 of the Revised Code. If the fire department of a political subdivision and an owner or operator of such a facility are unable to enter into such an agreement and if the fire department believes that placement of a lock box unit at the facility is necessary to protect public health and safety and the environment or to protect emergency management personnel responding to a release of any such substance or chemical from the facility, the fire department, in accordance with rules adopted under division (B)(2)(f) of section 3750.02 of the Revised Code, may submit an application to the committee of the district in which the facility is located for issuance of an order requiring the owner or operator to place a lock box unit at his facility that complies with the rules adopted under division (B)(6) of section 3750.02 of the Revised Code. On or before the date that the fire department submits the application for issuance of such an order, the fire department shall mail by certified mail, return receipt requested, notice of the application to the owner or operator of the facility for which issuance of the order is sought. If, in the opinion of the committee, the application meets the criteria for issuance of such an order established in the rules adopted under division (B)(2)(f) of that section, the committee shall, by resolution, approve

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issuance of the order and send a copy of its resolution and the fire department's application to the commission. The committee shall not approve an application for issuance of such an order unless at least sixty per cent of the voting members of the committee vote to approve it. If the commission finds that the committee has approved the application and that the application meets the criteria for issuance of such an order established in rules adopted under division (B)(2)(f) of that section, it shall approve the application and issue an order in accordance with section 3750.18 of the Revised Code requiring the owner or operator to place one or more emergency response lock box units at his facility in accordance with the approved application and rules adopted under division (B)(6) of that section. The commission shall not approve an application for issuance of such an order unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of the order. If less than sixty per cent of the voting members of the commission vote to approve the application, the commission shall issue an order denying the application. No person shall violate an order issued under this division.

(E) A committee may, by resolution, adopt rules requiring the placarding of bulk hazardous chemical storage areas within its district in accordance with rules adopted by the fire marshal under section 3750.12 of the Revised Code and rules establishing such procedures as are necessary to implement and enforce that requirement. The rules may exempt the owner or operator of a facility who, with the approval of the committee, installs and maintains an emergency lock box unit that complies with the rules adopted under division (B)(6) of section 3750.02 of the Revised Code from compliance with requirements for placarding of bulk hazardous chemical storage areas. As used in this division, "bulk hazardous chemical storage area" has the same meaning as in division (D) of section 3750.12 of the Revised Code. No person shall violate a rule adopted under this division.

(F) Except as provided in division (G) of this section, this section shall not be construed to authorize a political subdivision, other than a municipal corporation or county that has adopted a charter in accordance with Sections 3 and 4 of Article X, Ohio Constitution, to adopt or enforce any ordinance, resolution, rule, or requirement for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored at facilities located within their boundaries; for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of extremely hazardous substances, hazardous substances, or oil. Nothing in this section or division (E)(3) of section 3750.03 of the Revised Code shall be construed to authorize a local emergency planning committee, municipal corporation, or charter county to enforce any ordinance, resolution, rule, or requirement that identifies or lists as an extremely hazardous substance any substance that is not so identified or listed in rules adopted under division (B)(1)(a) or (C)(3) of section 3750.02 of the Revised Code, that identifies as a hazardous chemical any chemical, other than a chemical identified in division (G)(3) of section 3750.01 of the Revised Code, that is not so identified or listed in rules adopted under division (B)(1)(b) or (C)(5) of that section, or that identifies as a hazardous substance any substance that

is not so identified in rules adopted under division (B)(1)(c) or (C)(5) of that section.

(G) A political subdivision that owns, operates, or is served by a public water system as defined in section 6109.01 of the Revised Code may establish and enforce requirements that provide for the protection of ground water resources that serve as a source of drinking water for its public water system and that are located within scientifically derived wellhead protection areas.

HISTORY: 1988 S 367, eff. 12-14-88

Prohibition: 3750.17

PRACTICE AND STUDY AIDS

Baldwin's Ohio Legislative Service, 1988 Laws of Ohio, S 367—LSC Analysis, p 5-1017

CROSS REFERENCES

Toxic chemical release, enforcement of local rules, 3751.06

3750.12 Fire marshal rules governing inhaling at bulk storage areas

* The fire marshal, after consultation with the emergency response commission, shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards governing the placement of placards or labels containing specified information at bulk storage areas of hazardous chemicals for the purposes of division (E) of section 3750.11 of the Revised Code. The rules shall, without limitation, do all of the following:

(A) Establish standards that are consistent with those established for this purpose by the national fire protection association or with other nationally recognized standards and stipulate that the owner or operator of a facility may, at his discretion, utilize the system of placarding or labeling established by the national fire protection association;

(B) Provide that if more than one hazardous chemical is present at a bulk storage area, a placard or label concerning only the chemical that is the most hazardous as determined under this chapter and rules adopted under it need be placed at the area;

(C) Stipulate that the information that may be contained on placards or labels is subject to the restrictions on the release of trade secret information and confidential business information under this chapter and rules adopted under it;

(D) Stipulate that any facility whose primary function is to offer a hazardous chemical for retail sale directly to the consumer is not subject to any placarding or labeling requirement established by a local emergency planning committee under division (E) of section 3750.11 of the Revised Code, provided that the facility is one commonly recognized by the general public as a retail sales facility for hazardous chemicals.

As used in this section, "bulk storage area" means any area at which at least ten thousand gallons of a hazardous chemical in liquid form or at least fifty thousand pounds of a hazardous chemical in solid form are stored. The term does not include process vessels.

HISTORY: 1988 S 367, eff. 12-14-88

Prohibition: 3750.17

3/21/95

Jim,

Enclosed is documentation of the results of a telephone conversation that I had with the Secretary of the Local Emergency Planning Commission (LEPC) in Cuyahoga County, Mike Kalstrom, on March 2, 1995.

Kalstrom is an emergency planning specialist who works with chemical hazards. He works under the authority of the Superfund Amendment and Reauthorization Act (SARA), Title III, "Emergency Planning and Community Right to Know," and under the jurisdiction of the State Emergency Planning Commission (SERC). Kalstrom works for the Cuyahoga County Board of Commissioners.

Kalstrom is also a member of the City of Cleveland Ad Hoc Task Force on Emergency Planning at Advanced Medical Systems (AMS). Wayne Slawinski and/or I have attended the meetings of that Task Force. Kalstrom has been a very strong and vocal critic of AMS. I have maintained close contact with the other persons and organizations involved in the Task Force and the other participants are comfortable with the progress being made by AMS. The persons involved that I have been touching base with include the Cleveland Director of the Environment (direct report to the Mayor and assigned as Task Force Chairman), the Cleveland Fire Chief, the Cleveland Law Department, the Ohio Emergency Management Agency, and the Ohio Department of Health. I last personally met with the Task Force Chairman on 2/21. Kalstrom appears to be in a different position from the remainder of the Task Force.

On February 7, Kalstrom on behalf of the LEPC petitioned the SERC to grant a variance from regulations governing the operation of the LEPC to designate AMS as an "additional facility" under the Ohio Revised Code giving the LEPC authority over the hazards assessment and emergency planning at AMS. In that letter, Kalstrom makes sweeping and unsupported harsh criticisms of the NRC's oversight of AMS. Prior to that letter, I had spoken with Kalstrom twice and responded to one letter from him and thought that he had no significant outstanding problems.

After I met with the Ad Hoc Task Force Chairman on 2/21, I intended to meet with Kalstrom to explore and resolve his concerns expressed in the 2/7 letter. Prior to my opportunity to do that, on 2/27 we became aware from the Ohio State Liaison Officer, Jim Williams, of a meeting that Kalstrom scheduled that afternoon with the SERC. We were unable to attend the SERC meeting due to the lack of notice, but shared our observations with Williams. Williams view was that he perceived potential regulatory overlap problems between SERC and NRC if the SERC got involved directly in AMS.

The SERC heard Kalstrom at the meeting on 2/27 but postponed a decision on his petition until a future meeting. Kalstrom had Larry English, an attorney with NEORS, with him at the SERC meeting. This seemed unusual since the sewer district does not have emergency planning responsibilities.

We offered to Williams to meet both with the LEPC and SERC. The meeting was scheduled with the SERC on 3/9, and was subsequently postponed by the SERC to 3/27 due to scheduling difficulties. Kalstrom is scheduled to be in attendance at that SERC meeting.

Because the LEPC is a petitioner for a hearing on the AMS license renewal, WB

3/10/95

decided to proceed any meeting with Kalstrom with a phone call. Enclosed is documentation of the results of that call. As an action item from the call, I agreed to send Kalstrom some guidance and technical documents supporting NRC emergency response regulations and licensing practices on fuel cycle facilities. It was further concluded after discussing the results of my call with DRSS and NMSS management that the best way to prepare the SERC for their decision was to proceed with the meeting directly with the SERC with Kalstrom in attendance, and not schedule a separate meeting with Kalstrom.

If you have any questions, please call me.

Jack

CONVERSATION RECORD

TIME DATE
P.M. 3/2/95☐ VISIT ☐ CONFERENCE ☒ TELEPHONE☐ INCOMING
☒ OUTGOINGNAME OF PERSON(S) CONTACTED OR IN CONTACT
Mike KalstromORGANIZATION (OFFICE, DEPT. ETC.)
Cuyahoga LEPC

TELEPHONE NO.

216-443-7597

SUBJECT
Concerns regarding AMS

SUMMARY

I initiated a call to pursue issues that Kalstrom raised in the 2/7/95 letter from the LEPC to the SERC. I addressed the following issues:

1. I went through a complete description of the facility and the NRC licensing of the facility. Kalstrom expressed that it was his view that the NRC had not provided appropriate oversight of the facility, particularly in the emergency planning area. I pursued with him his knowledge base and whether he was familiar with our licensing guides and regulations. He was not aware of these documents and I committed to send them to him.
2. Kalstrom understood from the sewer district that NRC was causing the sewer district to spend \$40M to deal with the cobalt contaminated ash. I explained to him that the NRC was not planning any further action with respect to the sewer district and it appeared that the \$40M figure was a strategy used to frame the issue to best suit the sewer district.
3. Kalstrom believed that the NRC did not support local emergency planning. I explained to Kalstrom that we require licensees to involve appropriate emergency planning organizations in their formulation of emergency plans and AMS did involve the city and state folks as well as a local hospital in emergency planning for their facility.
4. Kalstrom summarily dismissed the competence of all of the experts who were providing information to the Ad Hoc Committee, including OEMA who did offsite dose projections showing no impact, ODH, NRC and the licensee's staff and consultants.
5. I explored with Kalstrom why he stated in his letter, "Given the NRC's willingness to allow gross inadequacies at this Facility to go uncorrected for years...the NRC will [not] follow through and require the implementation of emergency planning appropriate for this Facility....the LEPC is unconvinced that the NRC will adequately address these issues if the NRC continues to be the sole regulatory agency involved."

I asked Kalstrom for his basis for this statement, since he had never previously expressed these concerns to me or discussed these issues with me. He stated that he did not have any specifics on which to base his statement. I asked him if he had reviewed our recent inspection of emergency planning. He responded that he had not, and stated further that it didn't matter since it was the sewer district that was ensuring that

appropriate emergency planning would take place. I further explained our schedule for inspections and shared the results of our recent emergency preparedness inspection that was issued in November 1994. I expressed concern that he would take such a strong public position without first having the facts or discussing the issue with me.

Kalstrom then stated that he did not understand why I might be concerned by his letter. He stated that the purpose of his letter was clear. He was requesting an unusual variance from the state regulations, one that has not previously been requested, and he had to make it sound good so the state would grant the exception. He then stated, "It's not like I sent this to the Plain Dealer [the Cleveland daily newspaper]."

At that point, I realized that Kalstrom was not responding to the AMS situation from a logic or knowledge standpoint, but from a political standpoint and any further discussion would not be beneficial. I reiterated that I would send him the documentation underpinning our regulations and licensing guidance and terminated the conversation.

ACTION REQUIRED

Send Kalstrom documents.

NAME OF PERSON DOCUMENTING CONVERSATION

John A. Grobe

SIGNATURE

DATE

ACTION TAKEN

SIGNATURE

TITLE

DATE