



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

April 20, 1997

Mr. Paul A. Giardina, Chief
Radiation & Indoor Air Branch
U.S. Environmental Protection Agency
Region 2
290 Broadway, 28th Floor
New York, NY 10007-1866

Dear Mr. Giardina:

I am responding to your letter dated March 12, 1997, concerning our response to Mr. Joseph J. Natale of NIMCO Shredding Co. Your letter indicates the need for further discussion and study, between our agencies on a number of issues concerning the Federal Radiological Emergency Response Plan (FRERP) and each agency's response to incidents that may, or may not, apply to the provisions of this plan. As you may know, Mr. Michael Mobley, from the State of Tennessee, raised similar issues to the Nuclear Regulatory Commission in a letter dated July 9, 1996. Mr. Mobley's letter was in reaction to what the State felt was an inadequate Federal response to an incident in the State of Arkansas, where Federal assistance was requested under the provisions of the FRERP. A copy of this letter had previously been provided to Mr. Richard Wilson of the Environmental Protection Agency (EPA), Office of Air and Radiation, Washington, DC, in a letter dated October 16, 1996. Copies of Mr. Mobley's letter and the NRC's reply are enclosed for your information.

We, in close coordination with the Office for Analysis and Evaluation of Operational Data, are in the process of pursuing the issues raised in your letter, Mr. Mobley's letter, and other issues we have identified concerning the FRERP, and the response of Federal agencies to requests for assistance with radiological incidents, and plan to request a meeting with the EPA Headquarters office to discuss these issues further. These issues include the level of Federal assistance under the FRERP for events which are not radiological emergencies and agreeing on Federal roles for various radiological events. We suspect that these issues are not limited to a particular EPA regional office, and should be raised at the EPA Headquarters office level to ensure consistency across all regional offices (NRC and EPA) and to ensure all EPA regional offices are made aware of the issues. We will relay your interest in participating in these discussions to the EPA Headquarters office when a meeting date and location is arranged.

The issue raised in Mr. Mobley's letter was discussed by NRC, EPA, and Federal Emergency Management Agency presenters at an Agreement State meeting held September 17-19, 1996. In addition, NRC's response to Mr. Mobley indicated that this and other related issues would be discussed with the Federal Radiological Preparedness Coordinating Committee (FRPCC) at their next meeting. However, to date, this committee has not reconvened. Therefore, it may be more appropriate to discuss these types of issues between our respective agencies to determine if additional guidance or clarification is necessary. These discussions should result in a better understanding of the issues and potential resolutions. We will brief FRPCC on the FRERP implementation issues we have experienced and request their involvement, should it become necessary. In addition, it is our understanding that a FRERP workshop will be held in June of this year. This could provide another opportunity to discuss these various issues, and potentially provide a consensus position at the workshop.

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Mr. Paul A. Giardina

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april 20, 1997

We appreciate you bringing to our attention the issues raised in your letter. We look forward to discussing these issues further with EPA. If you have any additional questions or concerns on this matter, please call me at (301) 415-7800, or Mr. Douglas Broaddus at (301) 415-5847.

Sincerely,

(ORIGINAL SIGNED BY)

Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: Richard Wilson, EPA
Craig Conklin, EPA

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P. Giardina

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Sincerely,

Carl J. Paperiello, Director
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Chairman Jackson

July 9, 1996

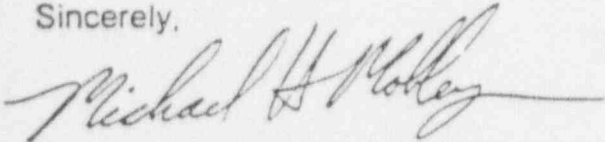
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little ability to effect the return of imported scrap and with no dependable federal assistance, the situation could be grim.

I believe the NRC should investigate this situation and provide for a better mechanism than currently exists to handle these problems. In the case of the material in Arkansas, it could have easily been (and still may be) components of a nuclear device from the old Soviet Republic.

In this specific incident in Arkansas, Tennessee, working with one of its licensed radioactive material processors, was able to provide assistance to Arkansas; but that may not always be possible. There needs to be a better mechanism to assure this material is not imported and if the federal agencies are going to tout their emergency response capabilities, they are going to have to produce results when a request for assistance is needed.

Sincerely,



Michael H. Mobley
Director

MHM:sk



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 16, 1996

Mr. Michael H. Mobley, Director
Division of Radiological Health
Department of Environment
and Conservation
State of Tennessee
3rd Floor, L&C Annex
401 Church Street
Nashville, TN 37243-1532

Dear Mr. Mobley:

In your July 9, 1996, letter to Chairman Jackson, you expressed concern about this Country's current position regarding unintended importation of radioactive material in scrap and/or products. I can appreciate the burdens which are imposed on a State when a local company finds that it has inadvertently received radioactive material in scrap or other products which it has imported from a foreign country, whether or not a radiological emergency has been created. In such cases, we can agree that it is usually best if the shipment can be returned to the foreign supplier. To this end, companies which import scrap and other susceptible products may need to require take-back provisions in their purchase contracts. This approach is considered more appropriate than to request governmental assistance for non-emergency situations, especially in an era of declining budgets. However, because the NRC does not have a primary role in this area, I have forwarded your letter to the U. S. Customs Service and the Environmental Protection Agency for their consideration. Both of these agencies have been working to resolve the unintended importation of radioactive materials issue you raise.

You also raise a second concern regarding the adequacy of Federal response to a request by a State radiation control agency for assistance. As you know, the Federal Radiological Emergency Response Plan (FRERP) provides a foundation for Federal response for those incidents that pose an actual, potential, or perceived threat of radiological consequences. However, the definition of those incidents is purposefully broad, as discussed in the response to Comment 73 regarding the draft FRERP. The May 8, 1996 Federal Register contains the responses to all the comments on the draft. This broad and general definition allows flexibility for the State and Federal governments to jointly develop the appropriate level of response for the specific incident being addressed.

In the Arkansas incident to which you refer, the Arkansas State radiation control and emergency management office and EPA Region VI agreed that the incident did not constitute a radiological emergency. Nevertheless, EPA and DOE provided the State of Arkansas non-emergency assistance in the form of the names of companies that could assist NUCOR Steel in disposing of the contaminated steel.

We believe that the Federal response to the NUCOR event in Arkansas was appropriate and that the State correctly called the EPA. Likewise, any Federal agency contacted for assistance should be able to refer the caller to

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the correct agency. Should similar future requests for assistance be made to the NRC Operations Center, we will refer the caller to the appropriate Federal agency for assistance and information.

We felt that the topic of defining appropriate levels of Federal and State response to a radiological incident was important and added it to the agenda of the recent Agreement State meeting on September 17-19, 1996. This discussion forum, which included representatives from FEMA and the EPA, provided an opportunity to exchange views on the issue of Federal/State response. We plan to broach this topic with the Federal Radiological Preparedness Coordinating Committee to determine if further guidance is required to more clearly define Federal and State responsibilities, particularly in situations that do not represent radiological emergencies.

Sincerely,

Original copy
James M. Taylor

James M. Taylor
Executive Director
for Operations