

DATED: JUN 7, 1995;

SIGNED BY: MARIA LOPEZ-OTIN
FOR RICHARD L. BANGART

Mr. John Kelly
Executive Assistant
Office of the Governor
1700 West Washington
Phoenix, AZ 85007

Dear Mr. Kelly:

This is to transmit the results of the NRC review and evaluation of the Arizona radiation control program. This review, which concluded on March 3, 1995, was conducted by Mr. Jack Hornor, State Agreements Officer, Region IV Walnut Creek Field Office. The results of this review were discussed with Mr. Joe Lane, Executive Assistant, Intergovernmental Affairs, and Mr. Aubrey Godwin, Director, Arizona Radiation Regulatory Agency, on March 3, 1995.

As a result of our review of the State's program and the routine exchange of information between the NRC and the State of Arizona, the staff determined that, at this time, the Arizona program for the regulation of agreement materials is adequate to protect public health and safety. However, a finding that the program is compatible with NRC's program is being withheld because the following regulations have not been adopted within the three-year period required by the NRC:

- "Decommissioning Rule," 10 CFR Parts 30, 40 and 70 amendments which were to be adopted by July 27, 1991.
- "Notification of Incidents," 10 CFR Parts 20, 30, 31, 34, 39, 40, and 70 amendments which were to be adopted by October 15, 1994.

In addition to the two regulations above, the State has not adopted the "Quality Management Program and Misadministrations," 10 CFR Part 35 amendment, which was to be adopted by January 27, 1995. Although the State has not adopted this rule, the delay in the adoption of the Quality Management (QM) rule does not, at this time, affect the withholding of a finding of compatibility. As part of an NRC evaluation of the regulation of radioactive materials used in the practice of medicine, NRC plans to reassess whether the Agreement States need to adopt this rule. Upon completion of that evaluation, we will inform all Agreement States concerning the need for adoption of a compatible QM rule.

During 1994 Arizona adopted three other regulations affecting compatibility, including the equivalent to the new 10 CFR Part 20, "Standards for Protection Against Radiation," and we commend this effort. However, maintaining compatible regulations has been an ongoing problem in Arizona for several years, and we recommend that Arizona's rulemaking be evaluated to identify and implement revisions that will result in rulemaking within the three-year period. Compatibility of regulations is an important part of the Agreement State Program, and we ask that your office support this effort and lend assistance if necessary in order to ensure your regulations are compatible with those of the NRC.

Please note there has been a change in the format of this letter from our previous review letters. This letter summarizes the findings regarding all 30 program indicators as opposed to only discussing those indicators where deficiencies were noted.

Enclosure 1 contains an explanation of our policies and practices for reviewing Agreement State programs. Enclosure 2 summarizes our review findings and recommendations for program indicators which need improvements. We request specific responses from the State on the findings and recommendations in Enclosure 2 within 30 days of this letter.

Enclosure 3 presents a summary of the review findings where the State has adequately satisfied the indicator. A response to the items in Enclosure 3 is not required.

The technical findings and recommendations in Enclosure 2 were discussed during the review with Mr. Godwin. We bring one issue, however, to your attention. Staff continuity is essential to maintain an adequate radiation control program. In Enclosure 2, we point out that two experienced health physicists left the program during this review period. Although we are aware of current budget constraints in all areas of government, we urge you to evaluate the need for salary increases and management alternatives that can provide incentives necessary to retain your qualified professional staff or that are necessary to effectively manage a program that experiences such turnover.

We were pleased to find many improvements in the radioactive materials program. The new Director of the Arizona Radiation Regulatory Agency has initiated new policies and procedures that

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have eliminated the backlogs in licensing and compliance actions while improving the quality of the work.

I appreciate the courtesy and cooperation extended the NRC staff during the review.

Sincerely,

Richard L. Bangart, Director
Office of State Programs

Enclosures:

1. Application of "Guidelines for NRC Review of Agreement State Radiation Control Programs"
2. Status of Previous Findings and Summary of Review Findings and Recommendations for the Arizona Radiation Control Program June 13, 1992, to March 3, 1995
3. Summary of Assessment of Indicators Adequately Satisfied by the Arizona Radiation Control Program

cc w/encl:
Aubrey Godwin, Director
Arizona Radiation Regulatory Agency

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cc w/encl:
 Aubrey Godwin, Director
 Arizona Radiation Regulatory Agency
 bcc w/encl:
 The Chairman
 Commissioner Rogers
 Commissioner de Planque
 Commissioner Jackson

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** By e-mail: *See previous concurrence

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