April 17, 2008

Mr. Dennis Burke
Chief of Staff
Office of the Governor
1700 West Washington St.
Phoenix, AZ 85007

Dear Mr. Burke:

I am writing to discuss the results of the March 10-14, 2008, Integrated Materials Performance Evaluation Program (IMPEP) review, which evaluated the Arizona Agreement State Program (the Program). The Agreement between the U.S. Nuclear Regulatory Commission (NRC) and Arizona, which was signed in 1967, requires that Arizona adequately protect public health and safety from the potential hazards associated with radioactive materials and maintain compatibility with NRC's program.

During the IMPEP review, a number of significant program performance concerns were discovered. As a specific example, the review team determined that 77 percent of Priority 1, 2, 3, and initial inspections were conducted overdue during the review period. The review team also identified significant issues with licensing actions. For example, the review team found that verification of training and experience requirements for medical authorized users and radiation safety officers is inconsistent with current State regulations. Medical material users have been authorized without providing proper documentation of training and experience. Overall, the review team identified program funding, inadequate training, and management oversight as root causes for issues related to staff retention, inspection timeliness, and quality of licensing actions. These program performance concerns and the review team's preliminary findings were discussed with Ms. Tracy Hannah, Policy Advisor, Office of the Governor, on the last day of the review. The review team's draft IMPEP report, which was transmitted to you on April 10, 2008, detailed these program performance concerns. The draft report is provided for the State's review and comment prior to submitting the report to the Management Review Board (MRB). The MRB, which is composed of NRC managers and an Agreement State program manager, who serves as a liaison to the MRB, will ultimately make the final decision on the status of the Program. The MRB meeting is tentatively scheduled for the week of May 26, 2008.

NRC believes that the review team's preliminary findings, along with those from our 2006 IMPEP review and 2007 periodic meeting, indicate a significant negative program trend and warrant prompt attention by the State. Therefore, NRC requested a meeting with you on April 24, 2008. Martin Virgilio, the Deputy Executive Director for Materials, Waste, Research, State, Tribal, and Compliance Programs and Chair of the MRB, Leonard Wert, the Director of Region IV's Division of Nuclear Materials Safety, and I will attend the meeting. The meeting will give you an opportunity to address issues presented in the draft report and to discuss any corrective actions you wish to present during the MRB meeting. We have enclosed a proposed agenda of discussion topics for our meeting.

The review team will recommend to the MRB that the NRC initiate a period of Heightened Oversight for the Program until a fully adequate and compatible program is re-established. The State's actions and formal response to the draft IMPEP report may influence the final MRB decision. The MRB could adopt the review team's recommendation or find that previous issues have gone unresolved for a sufficient period of time to warrant placing the State on Probation.

Your support in ensuring that the Program has the necessary resources and support to continue to manage an effective program is crucial. I want to assure you that the NRC supports the objectives of the Program. We thank you for your commitment to this effort and look forward to our meeting with you and appropriate staff prior to the MRB meeting.

Sincerely,

/RA/

Robert J. Lewis, Director
Division of Materials Safety and State Agreements
Office of Federal State Materials and
Environmental Management Programs

Enclosure:
Draft Agenda of Discussion Topics

Cc w/encl: Tracy Hannah, Policy Advisor
Office of the Governor

Aubrey Godwin, Director
Arizona Radiation Regulatory Agency

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Office of the Governor

Aubrey Godwin, Director
Arizona Radiation Regulatory Agency

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DRAFT AGENDA OF DISCUSSION TOPICS
MEETING WITH ARIZONA'S OFFICE OF THE GOVERNOR
State Capitol
1700 West Washington Street, Executive Tower 8th Floor
Phoenix, AZ 85007
April 24, 2008
2:00 – 3:00 p.m. MST

NRC Participants:

Martin J. Virgilio,
Deputy Executive Director for Materials, Waste, Research, State, Tribal, and Compliance Programs
Office of the Executive Director for Operations, and
Chair of Management Review Board

Robert J. Lewis, Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and Environmental Management Programs

Leonard D. Wert, Jr., Director
Division of Nuclear Materials Safety
Region IV

Arizona Participants:

Dennis Burke, Chief of Staff
Office of the Governor

Tracy Hannah, Policy Advisor
Office of the Governor

Aubrey Godwin, Director
Arizona Radiation Regulatory Agency

a) Introductions

b) Overview of March 10-14, 2008 IMPEP Review Team Findings

c) Discussion of Root Causes of Program Performance Weaknesses

   i) Program Funding

   ii) Inadequate Training

   iii) Management Oversight

d) NRC Assistance

e) Discussion of Possible Corrective Actions

f) Next Steps