



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

January 10, 1980

The Honorable Morris K. Udall, Chairman
Subcommittee on Energy and the Environment
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

Under section 274 of the Atomic Energy Act, as amended, the U. S. Nuclear Regulatory Commission is authorized to relinquish to States, through an agreement, regulatory authority over byproduct, source, and special nuclear materials. Before entering into an agreement, the Commission must find that the State has a program which is adequate to protect the public health and safety, and is compatible with the Commission's regulatory program.

This is to inform the subcommittee of the status of the regulatory programs of the Agreement States (Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Texas, and Washington) for calendar year 1978.

With respect to adequacy of the Agreement State programs to protect the public health and safety, the programs of all 25 Agreement States were determined to be adequate for calendar year 1978.

With respect to compatibility, we have determined that twenty-three States have compatible programs for purposes of reporting to the U. S. Department of Labor (OSHA) as follows: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Texas, and Washington.

We deferred a determination of compatibility on Nevada and New Mexico because those States had not completed action to adopt formal regulations during 1978, equivalent to 10 CFR Part 19. We deferred a determination of compatibility on Nevada and New Mexico, as well as some other States in 1976 and 1977. We had previously notified the Agreement States that adoption of these regulations would be considered to be a matter of compatibility. Normally, we expect States to revise their regulations at two- to three-year intervals. Revision and updating of State regulations, however, is

8002200284

an activity that can require significant manpower effort and may depend on outside factors such as line item appropriations by State legislatures. In States where staffing levels have been a problem, priority was properly given to maintaining those parts of the program more directly related to health and safety, i.e., licensing, inspection, and enforcement. Nevada and New Mexico have had such problems. New Mexico adopted its equivalent to 10 CFR Part 19 in November 1979. Nevada expects to adopt an equivalent to Part 19 by January 1980.

Although this report covers calendar year 1978, situations in three States have caused us some concern in 1979. During our regular reviews of the California and Florida programs, we were unable to determine that the programs were adequate to protect the public health and safety. In California, administration and licensing were problem areas. In Florida, salaries and funding were problem areas. Staffing and compliance activities were problem areas in both States. Follow-up meetings were held with both States during 1979 and efforts, by high level State management, are continuing to resolve the deficiencies. We are working with these States to assure that the problems will be satisfactorily resolved.

In Arizona, the American Atomic Corporation, a manufacturer of tritium activated luminous signs and devices, was found to be releasing tritium to the environment in excess of regulatory limits. As a result of subsequent deliberations involving American Atomic, the Arizona Atomic Energy Commission, Governor Bruce Babbitt, and the NRC, American Atomic was ordered shut down. Most of its tritium inventory has been removed. The plant will be decommissioned and the licensee has surrendered its license and does not plan to seek relicensing at this location. The handling of this matter by the State raised a number of questions concerning the State's ability to protect the public health and safety. We have made a number of recommendations to the State, including appropriate change to the State's legislation, and we are continuing to pursue the matter with the State.

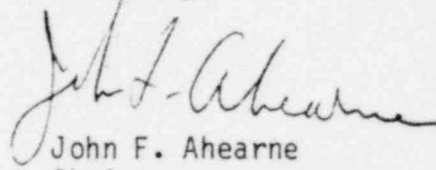
NRC is now in the process of revising its criteria for evaluation of Agreement State radiation control programs and evaluating other actions to improve the performance of the States as well as monitoring their programs.

The Honorable Morris K. Udall -3-

Please note that in determining compatibility, the status of the Agreement States' programs for the regulation of uranium milling activities with regard to the Uranium Mill Tailings Radiation Control Act of 1978 was not a criteria.

Enclosed is a copy of the letter which we sent to the Department of Labor informing the Department of our determination.

Sincerely,

A handwritten signature in cursive script, appearing to read "John F. Ahearne".

John F. Ahearne
Chairman

Enclosure:
Letter to Dept. of Labor

cc: Representative Steven Symms



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

JAN 7 1980

Eula Bingham, Ph.D.
Assistant Secretary for Occupational
Safety and Health
U. S. Department of Labor
Washington, D. C. 20210

Dear Dr. Bingham:

Under section 274 of the Atomic Energy Act, as amended, the U. S. Nuclear Regulatory Commission is authorized to transfer to States, through an agreement, some of its regulatory authority over byproduct, source, and special nuclear materials. Before entering into an agreement, the Commission must find that the State has a program which is adequate to protect the public health and safety, and is compatible with the Commission's regulatory program.

Former AEC Chairman Seaborg's letter of May 2, 1965, to then Secretary Willard Wirtz, informed the Department of Labor of the Commission's plans to make formal annual redeterminations of the adequacy and compatibility of regulatory programs of the Agreement States. The letter also stated that we would keep the Department of Labor advised of compatibility determinations by the Commission as to new Agreement States, and of our annual redeterminations of continuing compatibility.

I am pleased to report to you the review of the regulatory programs of the 25 Agreement States for calendar year 1978 (Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Texas, and Washington).

With respect to the adequacy of the Agreement State programs to protect the public health and safety, we determined that the programs of all 25 Agreement States were adequate for calendar year 1978.

With respect to compatibility, we consider twenty-three States have programs to be compatible for purposes of reporting to the U. S. Department of Labor (OSHA) as follows: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Texas, and Washington.

Dupe of

800+220299

318

DUPLICATE

For calendar year 1977, we deferred a determination of compatibility on four States because they had not acted to adopt regulations equivalent to 10 CFR Part 19. These States were Nebraska, Nevada, New Mexico, and New York. We noted that these States already had requirements in their regulations concerning training and instruction in radiation safety and notices to employees which corresponded to the requirements which were formerly contained in 10 CFR Part 20 prior to adoption of 10 CFR Part 19. We also noted that revising and updating State regulations is an activity requiring significant manpower effort, sometimes requires line item appropriations, and, in some States, is a complex procedure which may include several levels of internal reviews and public hearings. These factors can extend the time necessary to put into effect new regulations. All of the four States had committed to act to adopt regulations equivalent to 10 CFR Part 19.

Two States completed such action in 1978 (Nebraska and New York) and as noted above, those programs have been determined to be compatible. The remaining States (Nevada and New Mexico) began action in 1978 to adopt these regulations. New Mexico adopted an equivalent to 10 CFR Part 19 in November 1979. Nevada has prepared revised regulations including a Part 19 equivalent, and expects to adopt them in January of 1980.

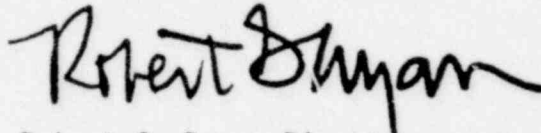
Although this report covers calendar year 1978, situations in three States have caused us some concern in 1979. During our regular reviews of the California and Florida programs, we were unable to determine that the programs were adequate to protect the public health and safety. In California, administration and licensing were problem areas. In Florida, salaries and funding were problem areas. Staffing and compliance activities were problem areas in both States. Follow-up meetings were held with both States during 1979 and efforts, by high level State management, are continuing to resolve the deficiencies. We are working with these States to assure that the problems will be satisfactorily resolved.

In Arizona, the American Atomic Corporation, a manufacturer of tritium activated luminous signs and devices, was found to be releasing tritium to the environment in excess of regulatory limits. As a result of subsequent deliberations involving American Atomic, the Arizona Atomic Energy Commission, Governor Bruce Babbitt, and the NRC, American Atomic was ordered shut down. Most of its tritium inventory has been removed. The plant will be decommissioned and the licensee has surrendered its license and does not plan to seek relicensing at this location. The handling of this matter by the State raised a number of questions

concerning the State's ability to protect the public health and safety. We have made a number of recommendations to the State, including appropriate change to the State's legislation, and we are continuing to pursue the matter with the State.

NRC is now in the process of revising its criteria for evaluation of Agreement State radiation control programs and evaluating other actions to improve the performance of the States as well as monitoring their programs.

Sincerely,

A handwritten signature in black ink that reads "Robert G. Ryan". The signature is written in a cursive, flowing style with a prominent initial "R".

Robert G. Ryan, Director
Office of State Programs