

Mr. Harold R. Borchert, Director
 Division of Radiological Health
 Department of Health
 301 Centennial Mall, South
 Post Office Box 95007
 Lincoln, NE 68509

APR - 1 1994

Dear Mr. Borchert:

Thank you for the letter of February 2, 1994, responding to our comments on your proposed rules, including rules equivalent to 10 CFR Part 20. We appreciate your efforts to provide the information to us. There continues to be a high level of interest in the progress of the Agreement States in adopting these rules.

As discussed by Ms. Joyce Davidson of your staff and Mr. Richard Blanton of my staff in a recent telephone conversation, there are three comments with which we continue to be concerned. Regarding your position on the definition of "public dose," we believe that this is a fundamental definition and that your definition should use the text of the CFR.

In your definition of "sealed source," we are concerned that including matrix binding as an acceptable sealing technique may be inconsistent with the emergency planning rule, which you are adopting in subsection 003.09H. In subparagraph 003.09H1, you effectively exempt applications to possess radioactive materials in sealed sources, yet a matrix bound source could be expected to release virtually all of its radioactive material in a fire. We, therefore, continue to recommend that your proposed definition of "sealed source" be amended. Alternatively, you could amend the emergency planning rule to exclude these sources, along with plated sources and sources sealed in glass, from the exemption for sealed sources.

With respect to your understanding that the Medical Quality Management rule in 10 CFR Part 35 may be amended, NRC currently is not in receipt of any petitions for rulemaking that will affect the rule. NRC is conducting an overall review of the medical materials regulatory program, but in accordance with the review plan, rulemaking would not be started until 1997. We, therefore, continue to recommend that you proceed to adopt the current rule.

If you have any questions regarding the comments or any of the rules reviewed, please contact me or Mr. Blanton.

Sincerely,

Maria Lopez

Paul H. Lohaus
 Office of State Programs

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DCD (SPO1) PDR (YES NO)

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 P. Lohaus*

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