

October 27, 1997

SECY-97-254

FOR: The Commissioners

FROM: L. Joseph Callan /s/
Executive Director for Operations

SUBJECT: PILOT PROGRAM WITH THE STATE OF ARIZONA

PURPOSE:

To obtain Commission approval of a draft agreement between the NRC and the State of Arizona to initiate a pilot program which would allow the State to conduct inspections on behalf of the NRC at certain Federal materials licensees in Arizona.

BACKGROUND:

The NRC received a request from Aubrey V. Godwin, Director of the Arizona Radiation Regulatory Agency, formally proposing that Arizona, either by contract or by supplemental agreement, conduct inspections for the NRC at Federal facilities in Arizona under NRC jurisdiction. Given the broad policy implications of the proposal and the commitment of staff resources to negotiate with the State and to conduct the necessary preliminary activities, the staff requested Commission authorization to begin negotiations with officials from the State to implement a pilot program (SECY-96-046). The Commission, in a May 29, 1996 staff requirements memorandum, approved the staff recommendation to begin negotiations with the State. The Commission further directed that the negotiations would apply to Department of Defense or Veterans Hospitals that hold NRC licenses, but would not apply to Part 50 licensees (nuclear reactors) or any other NRC licensee. The Commission also requested the staff to resolve several issues before asking the Commission to reconsider the matter.

CONTACT: Spiros Droggitis, OSP
415-2367

DISCUSSION:

The staff has negotiated the enclosed "Draft Agreement Pertaining to a Pilot Program for State Inspections at Certain NRC-Licensed Federal Materials Licensees Between the U.S. Nuclear Regulatory Commission and the State of Arizona" (Attachment 1). This draft agreement is modeled after the sample memorandum of understanding for State resident engineers at nuclear power plants which appears in Management Directive 5.2, "Memoranda of Understanding With States." Although this pilot program concerns the State conducting inspections for NRC at certain NRC-licensed Federal materials licensees and not nuclear power plants, it is consistent with the key elements of the Commission's Policy on "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" (57 FR 6462; February 25, 1992). For example, the State recognizes the NRC as having the exclusive authority and responsibility to regulate the radiological aspects of these Federal material licensees; the State will conduct these inspections in accordance with Federal standards and regulations; the State will certify that its inspectors meet minimum education, experience, training and qualification requirements patterned after those of comparable NRC materials inspectors; State inspection findings will be transmitted to NRC for disposition; and the State agrees to abide by NRC protocol not to publicly disclose inspection findings prior to the release of the NRC inspection report.

In negotiating with the State officials in the development of this draft agreement, the staff has addressed the specific issues identified in the Commission's staff requirements memorandum. Each issue identified by the Commission has been addressed as follows:

- Whether State inspectors are knowledgeable of NRC regulations, procedures, etc.

During the last program review, the Arizona radiation control program was found adequate to protect public health and safety. The compatibility finding was withheld because the State had not adopted two regulations within the three-year period required by NRC. These regulations concerned the decommissioning rule and notification of incidents. Included in the program review were evaluations of the State's inspector qualifications, training, performance and capability. The program review report stated that "... inspectors have been accompanied by the NRC Regional State Agreements Officer during the last three years. The results of these accompaniments were all positive, and the inspectors demonstrated their competence in evaluating safety and determining compliance with the regulations." The draft agreement requires the Director of the Arizona Radiation Regulatory Agency to certify to the NRC that the State inspectors participating in the pilot program have the required qualifications equivalent to NRC requirements to conduct the materials inspections covered under the pilot. The State further agrees by entering into this agreement that all inspections will be conducted in accordance with NRC regulatory requirements and inspection procedures that apply to NRC materials licensees. In addition, NRC Region IV staff will conduct up to one week of orientation training for the Arizona inspectors participating in the pilot. This orientation will include sessions on preparation of NRC inspection reports; identification and handling of allegations; wrongdoing and related investigative activities; NRC's enforcement process; and requirements for event follow-up. The draft agreement specifies that the State inspector will initially accompany and observe NRC inspections for the first two inspections scheduled in 1998. An NRC inspector will accompany the State inspector on the following two scheduled inspections to review the performance of the State inspector. On the basis

of these reviews, the NRC inspector will make recommendations to the State regarding the preparation, conduct and technical adequacy of the State inspections. The inspections conducted under this pilot are expected to be at the types of materials licensees which the State has experience in inspecting (e.g., medical licensees and moisture density gauges).

The staff believes that the combination of the State's certification of the inspectors' technical capability, experience and training, along with the orientation provided by NRC and the inspection accompaniments, will provide the NRC assurance that the State inspectors are knowledgeable of NRC regulations and procedures. In addition, there is a provision in the draft agreement which allows the NRC to report to the Director of the Arizona Radiation Regulatory Agency any information acquired relating to the ability of the State inspector to perform inspections satisfactorily in accordance with NRC regulations, requirements, standards and procedures.

- Whether State inspectors will have ready access to the Federal facilities to be inspected.

In a letter dated April 10, 1997, the Director, Region IV Division of Nuclear Materials Safety, informed the applicable Federal licensees in Arizona that NRC was considering an agreement with the State of Arizona for the State to inspect their facilities on behalf of NRC. The letter requested comments on the proposal specifically requesting a confirmation that access to the Federal facility would be provided to the State inspector. The three Veterans Affairs licensees responded that State access to their facilities would not be a difficulty. In fact, two endorsed the concept of the State conducting inspections at their facilities. The Department of the Army at Yuma Proving Grounds indicated that site access for inspection of the moisture density gauge would not be a difficulty. However, the Army did indicate that the other license, which authorizes use of natural uranium, depleted uranium, and natural thorium for testing of military material and for shielding, concerns classified information and materials and that access to the classified information requires a security clearance. The draft agreement specifies that the State is responsible for ensuring that the State inspectors comply with all applicable site access requirements. If it is determined that a security clearance is required, the State inspectors will be required to obtain the appropriate clearance.

- Whether there is a need for NRC supervision of State inspectors.

The Director of the Division of Nuclear Material Safety in Region IV will act as the principle NRC senior management contact with the Director of the Arizona Radiation Regulatory Agency in the management oversight of the pilot program. Overall program direction for activities related to inspection under the pilot program will be provided by the Regional Division Director. Regional direction will include the review and approval of inspection itineraries and plans before the inspections are conducted and of all inspection-related correspondence. All written correspondence with the licensees for inspection conducted under this pilot will be made by NRC. Written reports of the results of inspections will be sent directly to the NRC Region IV contact by the Arizona inspector after review by the inspector's management. The State will be responsible for the technical accuracy of the State inspection reports.

- Whether State inspections would complicate the fee structure.

The pilot program with the State of Arizona would have no impact on fee collections. The costs of performing inspections for most Federal materials licensees are included in the 10 CFR Part 171 annual fees assessed to those licensees. As required by the CFO Act, a biennial review is conducted of the costs of performing these inspections, and appropriate annual fee adjustments are made at that time.

If this became a permanent program for the State of Arizona, any impact on the fee structure would be relatively minor due to the small number of licensees involved. The best manner for recovering NRC's costs related to the program would depend on the method chosen for reimbursing the State for conducting such inspections. However, the fee structure would most likely become increasingly complicated if more States and/or licensees were added to the program.

- How inspection procedures and enforcement protocols will be managed.

As stated above, the State agrees to conduct the inspections under this pilot in accordance with NRC regulatory requirements and inspection procedures that apply to NRC materials licensees and under the program direction of Region IV. All Agreement States, including Arizona, are routinely distributed updates of NRC regulations, policy statements, and inspection guidance. Other items will be routinely distributed to the State to ensure that a duplicate docket file is maintained by the State inspection function.

If the NRC identifies potential violations of NRC regulatory requirements as a result of the State's inspection, NRC will take appropriate enforcement action as set forth in NRC's Enforcement Policy. The State inspector will assist NRC in the preparation of enforcement actions (including drafts of any required Notice of Violation) and participate during any enforcement conferences or hearings for those matters that were identified as a result of the State's inspection. The State agrees that any required enforcement action will be taken only by NRC.

- How to ensure inspection consistency.

As stated above, the Director of the Division of Nuclear Material Safety will be the senior NRC management contact for the pilot program and will be responsible for ensuring inspection consistency. This would include periodic NRC accompaniment of a State inspector during a Federal licensee inspection. In addition, the agreement requires a management meeting upon completion of the initial phase of the pilot for any required program modifications, adjustments or redirection.

At the Commission's direction, the pilot program is limited to inspections at Department of Defense facilities and Department of Veterans Affairs hospitals in Arizona. These five licensees are listed in Appendix A of the draft agreement. The staff notes that if approved by the Commission, the pilot would begin with four inspections scheduled for 1998.

During the course of the negotiations, the Arizona State officials underscored the importance of receiving some form of compensation for performing the activities under the pilot program. They

argued that Arizona licensees would receive no benefit from the pilot program activities on the one hand, but Arizona licensee fees would be funding the pay and benefits of the State of Arizona employees receiving NRC orientation and conducting the pilot program inspections. The cost savings to NRC resulting from the pilot program inspections conducted by Arizona would be the ideal basis on which to determine the amount of compensation that the State of Arizona should receive. However, given the few inspections and the NRC costs associated with State inspector orientation and pilot program oversight, we do not anticipate cost savings to the NRC. The pilot program will require some additional attention from Region IV supervisors and managers to provide oversight of the State's inspections and to coordinate communication of inspection findings to the licensees. Arizona indicated that the value of the pilot program should not be measured solely in NRC inspection program cost savings, but also in obtaining information about alternative methods of conducting NRC inspections, such as contracting with an Agreement State to conduct inspections of all NRC materials licensees within that Agreement State. NRC staff agrees this information can be useful for future inspection program planning, especially since the number of NRC's materials program staff will continue to decrease as the number of Agreement States increases. Therefore, to address this issue of compensation to the State, the MOU states that for the duration of the pilot program Arizona will receive priority no-cost, space-available consideration for attendance at those NRC training courses that would otherwise require tuition to attend.

The staff will conduct a formal review of the pilot program. The review will include an evaluation of the implementation, effectiveness and cost-benefit of the pilot and will include recommendations for program modifications or continuance. The staff will develop evaluation criteria in time for the initiation of the inspections in 1998.

As is the Commission practice with first-of-a-kind memoranda of understanding with States under the Commission's policy on cooperation with States, the staff recommends that the draft agreement with the State of Arizona be published in the Federal Register for a thirty-day public comment period. Upon expiration of the comment period, the staff will analyze the public comments and provide the Commission with the analysis and a recommendation on proceeding to enter into this agreement with the State.

COORDINATION:

The Office of the General Counsel has no legal objection to this paper. The CFO and CIO have concurred in this paper.

RECOMMENDATION:

- 1) That the Commission approve the publication of the draft agreement with the State of Arizona for a thirty-day comment period in the Federal Register (Attachment 2).

L. Joseph Callan

The Commissioners

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Executive Director
for Operations

Attachments:
As stated

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NUCLEAR REGULATORY COMMISSION

Draft Agreement Between U.S. NRC and the State of Arizona

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Publication of draft agreement between the U.S. NRC and the State of Arizona for public comment.

SUMMARY: Sections 161f and 274i of the Atomic Energy Act, as amended, allow the NRC to enter into an agreement with a State "to perform inspections or other functions on a cooperative basis as the Commission deems appropriate." The State of Arizona, an Agreement State under the authority of Section 274b of the Atomic Energy Act, as amended, has requested conducting inspections of NRC-licensed Federal materials licensees in Arizona on behalf of the NRC.

The NRC and the State of Arizona intend to enter into an agreement pertaining to a pilot program for State inspections at certain NRC-licensed Federal materials licensees. The draft agreement published in this notice will provide the basis for mutually agreeable procedures whereby the State may conduct these inspections of certain Federal materials licensees in Arizona on behalf of the NRC.

ATTACHMENT 2

DATE: Submit comments by (30 days after publication in the Federal Register) to Spiros

Droggitis, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington,

DC, 20555. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

FOR FURTHER INFORMATION CONTACT:

Spiros Droggitis, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, by telephone at (301) 415-2367 or by Internet electronic mail at SCD@NRC.GOV.

Dated at Rockville, Maryland, this ____ day of ____, 1997.

For the Nuclear Regulatory Commission.

Richard L. Bangart, Director,
Office of State Programs.

DRAFT AGREEMENT
PERTAINING TO A PILOT PROGRAM
FOR STATE INSPECTIONS AT CERTAIN
NRC-LICENSED FEDERAL MATERIALS LICENSEES
BETWEEN THE
U.S. NUCLEAR REGULATORY COMMISSION AND THE STATE OF ARIZONA

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the State of Arizona enter into this agreement under the authority of Section 161f and Section 274i of the Atomic Energy Act (AEA) of 1954, as amended, and Sections 11-951 et. seq. and Section 30-683, Arizona Revised Statutes.

II. Background

- A.** The AEA, and the Energy Reorganization Act of 1974, as amended, authorize the NRC to license and regulate, among other activities, the possession and use of byproduct material, source material, and special nuclear material.
- B.** Section 274b of the AEA, as amended, provides the statutory basis under which NRC can discontinue its regulatory authority over certain activities in individual States. This makes it possible for States to license and regulate the possession and use of byproduct material, source material, and special nuclear material in quantities not sufficient to form a critical mass. The mechanism for NRC to discontinue and a State to assume authority to regulate the radiological health and safety aspects of nuclear materials is an agreement signed by the Governor of the State and the Chairman of the NRC. Before entering into such an agreement, the Governor is required to certify that the State has a regulatory program that is adequate to protect public health and safety. In addition, the Commission, by statute, must perform an independent evaluation and make a finding that the State's radiation control program is compatible with NRC's, complies with the applicable parts of Section 274 of the AEA, and is adequate to protect public health and safety. The State of Arizona signed such an agreement and became an Agreement State on May 15, 1967.
- C.** With a few exceptions such as the regulation of most Department of Energy activities, NRC regulates all AEA activities conducted by Federal agencies. This regulatory responsibility stems directly from a provision in the U.S. Constitution

ATTACHMENT 1

which prohibits States from regulating the Federal government absent a waiver of sovereign immunity. The AEA contains no such waiver. Accordingly, as a general rule, no State, regardless of its Agreement State status, may regulate Federal agencies under the AEA.

- D. Section 161f and Section 274i of the AEA grant the Commission authority to enter into cooperative agreements with States, which would allow the State to perform inspections of NRC licensees, including Federal facilities, on behalf of the NRC. The State of Arizona has requested an agreement to conduct inspections of certain NRC-licensed Federal materials facilities in Arizona.
- E. The AEA was amended in 1978 to require, among other things, that NRC periodically review Agreement State programs to determine the adequacy of the program to protect public health and safety and compatibility with NRC's regulatory program. These reviews include an assessment of the State's inspector qualifications, training, performance and capability. The Arizona radiation control program reviews have resulted in findings that the Arizona inspectors are appropriately trained and qualified and conduct adequate inspections.

III. Scope

- A. This agreement defines the way in which the NRC and the State of Arizona will cooperate in conducting a pilot program for State inspections of certain NRC Federal nuclear materials licensees in Arizona to ensure compliance with NRC regulations.
- B. For the purpose of this agreement, inspection is defined as the examination, review, or evaluation of any program or activity of a licensee to determine the effectiveness of the program or activity in ensuring that the health and safety of the public and licensee personnel are adequately protected and that the facility is operated safely; and to determine compliance with any applicable NRC rule, order, regulation, license or license condition pursuant to the AEA and commitments made to NRC.
- C. Nothing in this agreement is intended to restrict or expand the statutory authority of NRC or the State of Arizona or to affect or otherwise alter the terms of any agreement in effect under the authority of Section 274b of the AEA; nor is anything in this agreement intended to restrict or expand the authority of the State of Arizona on matters not within the scope of this agreement.
- D. Nothing in this agreement confers upon the State of Arizona authority to (1) interpret or modify NRC regulations and NRC requirements imposed on the licensee; (2) take enforcement actions; (3) issue confirmatory letters; (4) amend, modify, or revoke a license issued by NRC; and (5) direct Federal licensees to take or not to take any action. Authority for all such actions is reserved exclusively to the NRC.
- E. For the purpose of this pilot program, the Federal licensees to be inspected by authorized representatives from the State of Arizona are listed in Appendix A.

IV. NRC's General Responsibilities

- A.** NRC is responsible for conducting safety inspections of Federal materials licensees in the State of Arizona to ensure that the licensed activities at these facilities are conducted in accordance with the NRC regulatory requirements. These inspections are conducted in accordance with the NRC Inspection Manual using personnel appropriately trained and qualified to perform the necessary tasks.
- B.** The NRC will cooperate with the State of Arizona by entering into this pilot program to allow the State of Arizona to perform safety inspections of certain NRC-licensed Federal materials licensees on behalf of the NRC. As compensation for performing the activities under this pilot program, the NRC will provide the State of Arizona priority no-cost, space available consideration for attendance at those NRC training courses that would otherwise require tuition to attend.
- C.** Only the NRC may take enforcement actions as a result of inspections conducted under the pilot program covered by this agreement. The NRC agrees to pay travel and per diem costs associated with State inspector involvement in escalated enforcement actions.

V. The State of Arizona General Responsibilities

- A.** The State of Arizona will conduct safety inspections of certain NRC-licensed Federal materials licensees on behalf of the NRC. Such inspections shall be conducted in accordance with NRC regulatory requirements and inspection procedures that apply to NRC materials licensees and under the program direction of an authorized NRC representative.
- B.** The State of Arizona will conduct follow-up or reactive inspections as necessary for the NRC to ensure that licensed activities under this pilot program in the State continue to be conducted without undue risk to public health and safety and the environment.
- C.** The State of Arizona agrees to pay all costs associated with the actual conduct of inspections and any follow-up activity for the duration of this pilot program.

VI. Implementation

The State of Arizona and NRC agree to work in concert to assure that the following staffing, training, inspection and enforcement, communications and information exchange and conflict resolution protocol regarding this pilot program are followed.

A. Staffing

1. The State of Arizona will select its inspectors in accordance with its own procedures and qualifications, patterned after those for comparable NRC materials inspectors.
2. State inspectors will have education and experience equivalent to that required for an NRC materials inspector for comparable inspection activities.

3. The Director of the Arizona Radiation Regulatory Agency will certify to NRC that each State inspector has the required qualifications to conduct the materials inspections to be covered under this pilot program.
4. The State is responsible for ensuring that State inspectors comply with all applicable site access requirements at the Federal facilities.
5. The State will certify to NRC that each State inspector has no financial or other interests that may call into question his or her objectivity or that create a conflict of interest or the appearance of a conflict of interest.

B. Training

1. State inspectors performing inspections under this pilot program will be qualified and certified by the State in accordance with its own procedures, patterned after NRC Inspection Manual 1246 or its equivalent. Such qualification and certification will be made for each inspection activity in which the State inspector will participate under this pilot program.
2. NRC will provide up to one week of on-the-job training and special orientation for the State inspectors. Orientation, which will be conducted at the NRC Region IV office in Arlington, Texas, will include, but not be limited to, sessions on: preparation of inspection reports; identification and handling of allegations; wrongdoing and related investigative activities; NRC's enforcement process; and requirements for event follow-up. The State inspectors will accompany NRC inspectors on several inspections prior to the initiation of the pilot.
3. Information acquired by NRC relating to the ability of the State inspector to perform inspections satisfactorily in accordance with NRC regulations, requirements, standards and procedures will be provided to the Director of the Arizona Radiation Regulatory Agency.

C. Inspections and Enforcement

1. Before the pilot program is initiated, and in order to ensure right of access of State inspectors, NRC will notify the subject Federal facilities of State inspectors who have been designated to serve as agents of the NRC during the conduct of inspections at their facilities. A letter from the Region IV Administrator to the Federal licensees will notify them of this arrangement. Copies of these letters will be provided to the Director of the Arizona Radiation Regulatory Agency and provided to the State inspector. Facility accessibility status may be updated occasionally based upon changes in State inspectors or management changes at the facility.
2. NRC will provide a complete duplicate set of files for the applicable Federal licensees under this pilot program to the State of Arizona. The files will include the applicable license and application, amendments, prior inspection reports and other licensee correspondence. State files maintained to support NRC inspection activities will be subject to Freedom of Information Act requests.

3. Initiation of inspections under this pilot program will begin with the four inspections currently scheduled for 1998. The State of Arizona inspector will initially accompany and observe the NRC inspector for the first two inspections scheduled in 1998. An NRC inspector will accompany the State inspector on the following two scheduled inspections to review the performance of the State inspector. On the basis of these reviews, the NRC inspector will make recommendations to the State regarding the preparation, conduct and technical adequacy of the inspections.
4. Upon satisfactory completion of the initial phase, the State inspector will perform inspections without NRC accompaniment. NRC may accompany the State on any inspection at its discretion.
5. Direction for activities related to inspections of NRC licensees will be provided by the Regional contact. Regional direction will include the review and approval of an inspection itinerary and plan before inspections are conducted and of inspection-related correspondence.
6. Allegations received by the State inspector will be provided to the NRC Regional contact and processed in accordance with NRC procedures. Upon request by NRC, the State inspector may be made available to assist the NRC in addressing allegations.
7. The results of all State inspections will be discussed in a timely manner with the NRC Regional contact (usually within three days of the conclusion of the inspection). Matters that may require action by the licensee will be discussed with licensee management by the NRC Regional contact, or by the State inspector after consultation and approval by the Regional contact, except as may be necessary under Section VI.C.9.
8. If the State inspector identifies situations with immediate safety significance, he or she will immediately communicate this information to the licensee and promptly to the NRC Regional contact. It is essential that this information be discussed with the NRC Regional contact promptly upon discovery so that NRC may take prompt action as dictated by the situation. If the NRC Regional contact is unavailable, the State inspector will transmit the information immediately to the NRC Region IV Duty Officer. Identification of matters involving potential escalated enforcement will also be promptly reported to the NRC Regional contact during the course of the inspection.
9. If an event, issue or allegation at a licensee's facility require immediate onsite response by the NRC, Region IV management will coordinate with the Director of the Arizona Radiation Regulatory Agency to determine whether State and/or NRC staff will be included in the response. This decision will be based on the nature of the event, issue or allegation and the availability of either State or NRC regional personnel to respond.
10. All written communications with the licensee will be made by NRC. Written reports of the results of an inspection will be sent directly to the NRC Region IV contact by the Arizona inspector after review by the inspector's management. Depending upon the circumstances of the inspection, the report may consist of field notes or a formally prepared report as prescribed by NRC Inspection Manual Chapter 2800, "Materials Inspection Program," and NRC Inspection Manual Chapter 0610, "Inspection Reports." The State is responsible for the technical accuracy of the State inspection reports. The

reports must be forwarded to the Regional contact within 15 days of the end of the inspection.

11. After review and concurrence by Regional management, inspection-related correspondence will be sent to the licensee. Similarly, licensees will be instructed to address inspection-related correspondence to the Region IV office. The State inspector may be requested to assist in the preparation of a written response to the licensee which will be issued from the Region IV office.
12. If NRC identifies potential violations of NRC regulatory requirements as a result of the State's inspection, NRC may take appropriate enforcement action as set forth in NRC's Enforcement Policy. The State inspector will assist NRC in the preparation of enforcement actions (including drafts of any required Notice of Violation, Form 591 and associated transmittal letter) and participate during any enforcement conferences or hearings for those matters that were identified as a result of the State's inspection. Any required enforcement action will be taken only by NRC.

D. Communications and Information Exchange

1. The State of Arizona and NRC agree in good faith to make available to each other information within the intent and scope of this pilot program. The NRC will routinely distribute updates of NRC regulations, policy statements and inspection guidance.
2. The State will conform to NRC practices regarding information disclosure. For instance, the State will abide by NRC protocol not to publicly disclose inspection findings prior to the release of the inspection report.
3. To preclude the premature public release of sensitive information, the State and NRC shall protect sensitive information to the extent permitted by the Federal Freedom of Information Act, any comparable State information disclosure laws and other applicable authority. The State and NRC will consult with each other before releasing sensitive or proprietary information related to the inspections conducted under this pilot program.
4. Press releases regarding State activities under this pilot program which are prepared by one party will be provided to the other party before issuance. Press releases are to conform to information disclosure restraints of Sections VI.D.2 and VI.D.3.
5. NRC Region IV management and the Director of the Arizona Radiation Regulatory Agency will meet upon completion of the four inspections scheduled to be conducted in 1998 for an initial assessment of the pilot program and discussion of any required program modifications, adjustments or redirection.

VII. Contacts

- A. The principal senior management contacts for this pilot program will be the Director of the Division of Nuclear Material Safety in NRC Region IV and the Director of the Arizona Radiation Regulatory Agency. These individuals may designate appropriate staff representatives for the purpose of conducting this pilot program.

- B. Identification of these contacts is not intended to restrict communication between NRC and the State of Arizona on technical and other day-to-day activities.

VIII. Resolution of Conflicts

- A. If disagreements or conflicts arise about matters within the scope of this agreement, NRC and the State of Arizona will work together to resolve these differences.
- B. Resolution of differences between the State and NRC staff over the significance of findings will be the initial responsibilities of the assigned Regional contact and the State inspector.
- C. Differences that cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the Director, Division of Nuclear Material Safety, Region IV and the Director, Arizona Radiation Regulatory Agency.
- D. The NRC General Counsel has the final authority to interpret the NRC's regulations and applicable license conditions.

IX. Effective Date

This agreement to perform the pilot program shall become effective upon signing by the the Governor of the State of Arizona and the Chairman of the NRC and shall remain in effect upon completion of the evaluation of the pilot program.

X. Evaluation, Duration, Termination, and Modification

A formal review of this pilot program will be conducted by the NRC. The review will include an evaluation of the implementation, effectiveness and cost-benefit of the pilot and include recommendations for program modifications or continuance. NRC will develop evaluation criteria and provide them in draft to the State of Arizona for review and comment.

The duration of this pilot program will be upon the completion of the inspections and the formal review called for by the pilot program.

Either party may terminate this agreement at any time upon 30 days written notice to the other party.

XI. Separability

If any provisions(s) of this agreement, or the application of any provision(s) to any person or circumstances is held invalid, the remainder of this agreement and the application of such provisions to other persons or circumstances shall not be affected.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION,

Chairman

Date

FOR THE STATE OF ARIZONA,

Governor

Date

APPENDIX A

LIST OF LICENSEES

The staff has been instructed that negotiations will apply only to Department of Defense or Veterans Hospital licensees. Of the eighteen Federal licenses in Arizona, the following five licenses fall within the specified category:

VA Medical Center - Tucson

- Modified broadscope medical license which authorizes animal research
- Radiation Safety Committee is authorized to designate all users
- NRC inspection frequency is 3 years; last inspected August 1995

VA Medical Center - Phoenix

- Clinical nuclear medicine license currently listing nine authorized user physicians
- NRC inspection frequency is 3 years; last inspected July 1996

VA Medical Center - Prescott

- Limited scope nuclear medicine license currently listing one authorized user physician
- NRC inspection frequency is 5 years; last inspected May 1993

Department of the Army - Yuma Proving Ground

- License authorizes use of natural uranium, depleted uranium, and natural thorium for testing of military material and for shielding
- NRC inspection frequency is 3 years; last inspected November 1995

Department of the Army - Yuma Proving Ground

- License authorizes use of Troxler moisture-density gauges on premises
- NRC inspection frequency is 5 years; last inspected March 1992