

DATED: DEC. 16, 1993; SIGNED BY RICHARD BANGART

F. E. Thompson, Jr., M.D.
State Health Officer
State Board of Health
Felix J. Underwood Building
2423 North State Street
P. O. Box 1700
Jackson, MS 39205

Dear Dr. Thompson:

This is to confirm the discussion Mr. Richard L. Woodruff, NRC State Agreements Officer, held on September 24, 1993 with Dr. B. J. Phillips, Deputy State Health Officer; and Messrs. Joe D. Brown, Chief, Bureau of Environmental Health; and Eddie S. Fuente, Director, Division of Radiological Health, following our review and evaluation of the State's radiation control program.

As a result of our review of the State's program and the routine exchange of information between the Nuclear Regulatory Commission and the State of Mississippi, the staff determined that the Mississippi program for regulation of agreement materials, at this time, is adequate to protect the public health and safety and is compatible with the Commission's program.

We are pleased with the State's efforts to adopt regulations that are compatible with the Commission's regulations for the protection of public health and safety. We commend the State for its prompt adoption of the amendments equivalent to the revised 10 CFR Part 20 which became effective on November 13, 1993 and will be implemented on January 1, 1994.

An explanation of our policies and practices for reviewing Agreement State programs is enclosed as Enclosure 1.

Enclosure 2 contains our summary regarding the technical aspects of our review of the program. There were no major comments developed during the review and the review was summarized with Mr. Fuente and his staff during our exit meeting with him.

We appreciate your continued support of the Radiation Control Program and your regulatory efforts to protect public health and safety. We also appreciate your cooperation with this office and the courtesy and cooperation extended by your staff to Mr. Woodruff during the review.

F. E. Thompson, Jr., M.D.

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A copy of this letter and the enclosures are provided for placement in the State Public Document Room or otherwise to be made available for public examination.

Sincerely,

Richard L. Bangart, Director
Office of State Programs

Enclosures:

1. Application of NRC Guidelines
2. Summary of Assessment
and Comments

cc w/encls:

E. Fuente, Director,
Division of Radiological Health
NRC Public Document Room
State Public Document Room

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bcc w/encls:

Chairman
Commissioner Rogers
Commissioner Remick
Commissioner de Planque

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Application of "Guidelines for NRC Review
of Agreement State Radiation Control Programs"

The "Guidelines for NRC Review of Agreement State Radiation Control Programs," were published in the Federal Register on May 28, 1992, as an NRC Policy Statement. The Guidelines provide 30 indicators for evaluating Agreement State program areas. Guidance as to their relative importance to an Agreement State program is provided by categorizing the indicators into two categories. Category I indicators address program functions which directly relate to the State's ability to protect the public health and safety. If significant problems exist in several Category I indicator areas, then the need for improvements may be critical.

Category II indicators address program functions which provide essential technical and administrative support for the primary program functions. Good performance in meeting the guidelines for these indicators is essential in order to avoid the development of problems in one or more of the principal program areas, i.e., those that fall under Category I indicators. Category II indicators frequently can be used to identify underlying problems that are causing, or contributing to, difficulties in Category I indicators.

It is the NRC's intention to use these categories in the following manner. In reporting findings to State management, the NRC will indicate the category of each comment made. If no significant Category I comments are provided, this will indicate that the program is adequate to protect the public health and safety and is compatible with the NRC's program. If one or more significant Category I comments are provided, the State will be notified that the program deficiencies may seriously affect the State's ability to protect the public health and safety and that the need of improvement in particular program areas is critical. If, following receipt and evaluation, the State's response appears satisfactory in addressing the significant Category I comments, the staff may offer findings of adequacy and compatibility as appropriate or defer such offering until the State's actions are examined and their effectiveness confirmed in a subsequent review. If additional information is needed to evaluate the State's actions, the staff may request the information through follow-up correspondence or perform a follow-up or special, limited review. NRC staff may hold a special meeting with appropriate State representatives. No significant items will be left unresolved over a prolonged period. The Commission will be informed of the results of the reviews of the individual Agreement State programs and copies of the review correspondence to the States will be placed in the NRC Public Document Room. If the State program does not improve or if additional significant Category I deficiencies have developed, a staff finding that the program is not adequate will be considered and the NRC may institute proceedings to suspend or revoke all or part of the Agreement in accordance with Section 274j of the Act, as amended.

ENCLOSURE 1

SUMMARY OF ASSESSMENTS AND COMMENTS
MISSISSIPPI RADIATION CONTROL PROGRAM
FOR THE PERIOD
SEPTEMBER 13, 1991 TO SEPTEMBER 24, 1993

SCOPE OF REVIEW

This program review was conducted in accordance with the Commission's Policy Statement for reviewing Agreement State Programs published in the Federal Register on May 28, 1992 and the internal procedures established by the State Agreements Program, Office of State Programs. The review included discussions with program management and staff, an accompaniment of a State inspector, technical evaluation of selected license files and compliance files (casework) and the evaluation of the State's response to an NRC questionnaire that was sent to the State in preparation for the review.

The 28th regulatory program review meeting with Mississippi representatives was held during the period of September 20-24, 1993, in Jackson, Mississippi. The State was represented by Eddie S. Fuente, Director, Division of Radiological Health; and Robert W. Goff, Health Physicist Administrative, Radioactive Materials Branch. Selected license and compliance files were reviewed by Richard L. Woodruff, Regional State Agreements Officer, and a field accompaniment of one inspector was conducted on September 23, 1993. A summary meeting regarding the results of the review was held with Dr. B. J. Phillips, Deputy State Health Officer; and Messrs. Joe D. Brown, Chief, Bureau of Environmental Health; and Eddie S. Fuente, Director, Division of Radiological Health.

CONCLUSION

The Mississippi program for control of agreement materials is adequate to protect public health and safety, and compatible with the NRC's program for similar materials.

STATUS OF PROGRAM RELATED TO PREVIOUS NRC FINDINGS

The results of the previous review were reported to the State in a letter to Dr. Cobb dated November 22, 1991. Only one recommendation was offered concerning the Status and Compatibility of Regulations indicator. The status of this recommendation is as follows:

Comment

For those regulations deemed a matter of compatibility by NRC, State regulations should be amended as soon as practicable but no later than three years. On February 12, 1988, the NRC regulations on "dosimetry processors" were published and codified and on July 27, 1988 the "financial assurance" regulations were published and codified. These amendments to our regulations

are matters of compatibility. Based upon discussions with your staff and our compliance file reviews, the "dosimetry processor" rule was addressed administratively through the licensing and compliance program until the Mississippi regulations are amended. Mississippi has a "Financial Surety Arrangements for Site Reclamation" rule, 801.C.25(f); however, this rule needs to be revised to remain compatible with the NRC regulations. Also, from our exit meeting, the State's regulations were in the process of being revised in their entirety, and would be offered to the State Board of Health for consideration during their January 1992 meeting.

Recommendation

We would appreciate receiving your comments and plans on the adoption of these rules.

State Response

The State responded in a letter from Mr. Fuente, dated January 3, 1992, that the Mississippi regulations were being revised in their entirety, and that the draft regulations would be provided to the NRC for review and comment.

Current Status

The draft regulations were provided to the NRC in March of 1992. The final version of the regulations was approved by the State Board of Health on October 14, 1992, and became effective on November 15, 1992.

The State revised the regulations in accordance with the 1990 version (eighth edition) of the Suggested State Regulations (SSRCR), and in addition, added new provisions that are required for compatibility with the NRC regulations on "decommissioning", "emergency plans", and "industrial radiography (10 CFR 34.33)." The Mississippi regulations are compatible with the NRC regulations up to the 10 CFR 34.20 regulations (55 FR 843) that need to be adopted by January 10, 1994.

CURRENT REVIEW COMMENTS AND RECOMMENDATIONS

All 30 indicators were reviewed and the State fully satisfies 29 of these indicators. Specific comments on the status on one indicator, and comments and recommendations on the remaining indicator are as follows:

1. Status and Compatibility of Regulations (Category I)

Comment

The purpose of this comment is for information only.

A list of other regulations published and codified by the NRC that are also matters of compatibility were identified to the State. These regulations are identified below with the Federal Register (FR) notice and the date that the State needs to adopt the regulation to maintain compatibility.

- "Safety Requirements for Radiographic Equipment", 10 CFR Part 34 amendment (55 FR 843) is needed by January 10, 1994.
- "Notification of Incidents", 10 CFR Parts 20, 30, 31, 34, 39, 40, and 70 amendments (56 FR 40757) are needed by October 15, 1994.

- "Quality Management Program and Misadministrations", 10 CFR Part 35 amendment (56 FR 34104) is needed by January 27, 1995.

The State equivalent of 10 CFR Part 20, "Standards for Protection Against Radiation" became effective on November 13, 1993.

Recommendation

We recommend that the State continue its regulation amendment efforts to include those rules needed for compatibility. In addition, the State should notify the Region II Office when the rules become effective.

2. Administrative Procedures (Category II)

Comment

The Radiation Control Program (RCP) should have written internal procedures to assure that the staff performs its duties as required and to provide a high degree of uniformity and continuity in regulatory practices. The RCP has established many internal procedures over the years and the staff is currently reviewing the administrative procedures developed by the Conference of Radiation Control Program Directors (E-15 Committee). The staff have all been well trained in the administrative and technical procedures; however, some of the administrative procedures have not been established in writing. In particular, we noted that the State does not have written administrative procedures for the handling, investigating, processing, and documentation of medical misadministrations and incidents; or for allegations. We also noted that the enforcement procedures need to be updated, and a procedure is needed for evaluation and documentation of inspector accompaniments.

Recommendation

We recommend that the RCP review their written administrative procedures for uniformity with their current regulatory practices, and revise as needed, with particular emphasis on enforcement procedures, procedures for medical misadministrations, procedures for handling, processing and tracking allegations, and procedures for the evaluation and documentation of inspector accompaniments.

SUMMARY DISCUSSION WITH STATE REPRESENTATIVES

A summary meeting to present the results of the regulatory program review meeting was held on Friday, September 24, 1993, with Dr. B. J. Phillips, Deputy State Health Officer; Mr. Joe D. Brown, Chief, Bureau of Environmental Health; and Mr. Eddie S. Fuente, Director, Division of Radiological Health. In general, the reviewer discussed the scope of the review, and expressed the staff view that the program was adequate and compatible. In addition, the representatives were informed that we were pleased with the State's support of the RCP and we appreciated the State's cooperation and support to NRC. Dr. Phillips and Mr. Brown were also informed that the details of the review were discussed with the RCP staff and a letter from NRC would be sent to Dr. Thompson with the results of the review. In response, Dr. Phillips related that they were pleased to receive a good report on the RCP, and that the rules needed for compatibility would be submitted to the State Board of Health for their consideration at the October 1993 meeting. The representatives also expressed appreciation for the training opportunities that have been offered to the program's staff in previous years, and related that this type of training was needed to provide the necessary uniformity and continuity with the regulatory programs.