

OCT 29 1996

Robert Schell, PE, Manager  
Radiological Health Program  
State House, Station 10  
151 Capitol Street  
Augusta, Maine 04333-0011

Dear Mr. Schell:

This is in response to the fax dated October 9, 1996 from Mr. Shawn Seeley, Radioactive Materials Inspector, Maine Radiological Health Program. Mr. Seeley's fax responded to a concern raised in my October 1, 1996 letter to Dr. DoraAnne Mills regarding the Binax, Inc. license. In the October 1, 1996 letter, a response was requested concerning how the Maine radiation control program would be addressing the application of the emergency planning (EP) rule to the Binax, Inc., license. The fax (enclosed) from Mr. Seeley provided an amendment to the Binax, Inc. license, which indicated that the possession limit for iodine-125 (I-125) had been reduced to 7.5 curies. The NRC regulations provide that an emergency plan is needed if the authorized possession limit on a license exceeds 10 curies of I-125; thus, an emergency plan is no longer applicable to the Binax, Inc license.

The actions taken by the Maine radiation control program have adequately addressed our earlier comment and recommendation regarding the adoption of the EP rule. In view of these actions and the information provided in letter dated July 23, 1996 from Dr. Philip Haines, NRC agrees with the Maine radiation control program deferral of the adoption of the EP rule since there are no licensees in the State subject to this rule. If a license application subject to the provisions of this rule is received subsequent to this letter, applicable provisions of the EP rule should be incorporated through license condition or through other legally binding means.

We appreciate the prompt action taken by the Maine radiation control program.

Sincerely,

Original Signed By  
RICHARD L. BANGART

Richard L. Bangart, Director  
Office of State Programs

9701300050 961029  
PDR STPRG ESGME  
PDR

Enclosures:  
As stated

cc w/encl: Dr. DoraAnne Mills, M.D., Director of Bureau of Health  
W. Clough Topp, State Liaison Officer  
Shawn Seeley, Radioactive Materials Inspector

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\*By e-mail \*\*See previous concurrence

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Robert Schell

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Richard L. Bangart, Director  
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W. Clough Toppan, State Liaison Officer  
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The actions taken by the Maine radiation control program have adequately addressed our earlier comment and recommendation regarding the adoption of the EP rule. In view of these actions and the information provided in letter dated July 23, 1996 from Dr. Philip Haines, the Maine radiation control program may continue to defer adoption of the EP rule since there are no licensees in the State subject to this rule. If a license application subject to the provisions of this rule is received subsequent to this letter, applicable provisions of the EP rule should be incorporated through license condition or through other legally binding means.

We appreciate the prompt action taken by the Maine radiation control program.

Sincerely,

Richard L. Bangart, Director  
Office of State Programs

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