



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-4005

June 3, 2009

Terry O'Clair, Director  
Division of Air Quality  
North Dakota Department  
of Health  
918 E. Divide Avenue, 2<sup>nd</sup> Floor  
Bismarck, ND 58501-1947

Dear Mr. O'Clair:

A periodic meeting with your State office was held on May 5, 2009. The purpose of this meeting was to review and discuss the status of the North Dakota Agreement State Program. NRC was represented by Michelle Beardsley and Lucieann Vechioli from NRC's Office of Federal and State Materials and Environmental Management Programs and me. I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

In addition to the regular 1-day periodic meeting agenda, we included a second day for discussions and training on performance based, well logging, and increased controls inspections.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 860-8116 or e-mail [Linda.McLean@nrc.gov](mailto:Linda.McLean@nrc.gov) to discuss your concerns.

Sincerely,

*/RA/*

Linda McLean  
Regional State Agreements Officer

Enclosure:  
Periodic Meeting Summary for North Dakota

cc w/ encl:  
Mr. Daniel Harman  
Division of Air Quality  
North Dakota Department  
of Health  
918 E. Divide Avenue, 2<sup>nd</sup> Floor  
Bismarck, ND 58501-1947

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NORTH DAKOTA

DATE OF MEETING: May 5, 2009

NRC Attendees	State of North Dakota Attendees
Linda McLean, RSAO	Terry O'Clair, Director
Michelle Beardsley, FSME	Daniel Harman, Program Manager
Lucieann Vechioli, FSME	

DISCUSSION:

The North Dakota Agreement State Program is administered by the Division of Air Quality. The Radiation Control and Indoor Air Branch (the Branch), which administers the licensing and inspection portion of the Agreement State Program, is under the supervision of the Manager of the Branch. The Branch is a part of the Division, which is one of several environmental divisions located within the North Dakota Department of Health. The Branch regulates approximately 69 specific licenses.

The last IMPEP review was conducted during the week of April 17-19, 2007. At the conclusion of the review, the team recommended that North Dakota's performance be found satisfactory, but needs improvement, for the indicator, Status of the Material's Inspection Program, and satisfactory for all remaining performance indicators reviewed. The review team made no recommendations regarding the performance of the Branch; therefore, on June 25, 2007, the Management Review Board (MRB) agreed that the North Dakota Agreement State Program was adequate to protect public health and safety and compatible with NRC's program.

Status of State's actions to address all open previous IMPEP review findings and/or open recommendations:

There were no recommendations from the 2007 IMPEP Review.

Strengths and/or weaknesses of the State's program as identified by the State or NRC, including identification of actions that could diminish weaknesses:

Strengths: Currently, the Branch has no overdue inspections or licensing actions. This achievement can be credited to the staff's strong commitment to maintaining a good safety program.

Weaknesses: Turnover has been a problem for several years. Conducting reciprocity inspections is still a challenge for the Branch. The staff's lack of experience in some types of inspections was also identified as a program weakness.

Staffing and training:

The Branch is currently fully staffed with a total of three positions: the Branch Manager, a senior health physicist (fully qualified), and one health physicist (in position 6 months).

ENCLOSURE

Turnover has been affecting the Branch for several years. Once the Branch has two fully qualified inspectors, two inspectors should be sufficient.

The staff needs additional practice and training in conducting performance based inspections. Currently, staff members use checklists. Ms. Beardsley provided a brief review for conducting performance based inspections.

Program reorganizations:

The Branch has not experienced any program reorganizations since the last periodic meeting in 2008.

Changes in program budget/funding:

The Branch has not experienced any budget or funding changes since the 2007 review.

Materials inspection program:

At the time of this periodic meeting, no inspections were overdue. During the 2007 IMPEP review, it was noted that the inspection program generally performed most inspections between the due date and the overdue date. The Branch Manager indicated that the Branch is currently working to eliminate this practice of routinely performing inspections by the due date. Presently, none exceed the 25 percent overdue limit and nine inspections are within the 0 to 25 percent range.

The Branch continues to complete as many reciprocity inspections as possible, although with some difficulty. Reciprocity licensees frequently perform work a far distance from the location of the Branch offices and often outside the inspectors' normal duty hours.

The Branch is making an effort to inspect well logging and radiography activities in the field.

Feedback on NRC's program as identified by the State, including identification of any action that should be considered by NRC:

The Branch said that the NSTS needs to be improved and suggested that small radiography companies not be required to use the system.

Regulations and legislative changes:

There have been no legislative changes that would affect the Branch's activities. The Branch has decided to adopt NRC regulations by reference and is currently working to separate the X-ray regulations from the currently combined regulations. The Branch is considering regulating TENORM.

Event reporting, including followup and closure information in NMED:

Since the last periodic meeting, the Branch has had two events that were reportable to NRC. All NMED information is up to date.

Response to incidents:

Although, the Branch has few events, the Branch Manager has placed a high emphasis on the Branch's response to incidents and allegations.

Status of allegations and concerns referred by the NRC for action:

No allegations were referred by NRC to the Branch since the 2007 review.

Significant events and generic implications:

A radiography camera source disconnect was investigated and reported to NRC Operations Center. No generic issues were identified.

Current State initiatives:

The State may start regulating TENORM.

State's mechanisms to evaluate performance:

The Branch Manager performs accompaniments of the inspection staff to ensure they are performing at the expected level.

Current NRC initiatives:

In addition to the regular 1-day periodic meeting agenda, a second day was included for discussions and training on performance based, well logging, and Increased Controls inspections. Ms. Beardsley also discussed the status of NRC initiatives regarding web-based licensing, security, and NSTS, along with other current items of interest.

Summary:

Even with having only one qualified inspector, the Branch has continued to maintain public health and safety and continue an effective safety program.

Next IMPEP review:

It is recommended that the next IMPEP review to be held, as currently scheduled, in NRC Fiscal Year 2011.