



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

August 19, 2004

Mr. William Floyd, Manager
Radiation Control Bureau
Field Operations Division
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502

Dear Mr. Floyd:

A periodic meeting with New Mexico was held on July 21, 2004. The purpose of this meeting was to review and discuss the status of New Mexico's Agreement State program. The NRC was represented by Mark Satorius, Director, Division of Nuclear Safety from NRC's Region IV Office, and Cardelia Maupin (by telephone), Agreement State Project Officer for New Mexico, from the NRC's Office of State and Tribal Programs, and me. Specific topics and issues of importance discussed at the meeting included staffing and training, regulations update, and materials inspection status.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. 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 to mlm1@nrc.gov to discuss your concerns.

Sincerely,

A handwritten signature in cursive script that reads "Linda McLean".

Linda McLean
State Agreements Officer
Region IV

cc:
Paul Lohaus, Director
Office of State and Tribal Programs

Enclosure: Agreement State Periodic Meeting
Summary for New Mexico

William Floyd

bcc: (via ADAMS e-mail distribution):

MSatorius
CLCain
VHCampbell
KSchneider, STP
AMcCraw, STP
CMaupin, STP
OSiurano, STP
MIS System

ADAMS: Yes No Initials: mlm

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NEW MEXICO PERIODIC MEETING SUMMARY

DATE OF MEETING: July 21, 2004

ATTENDEES:

NRC

Mark Satorious, Director, Division of Nuclear Safety, Region IV
Linda McLean, Regional State Agreements Officer, Region IV
Cardelia Maupin, Agreement State Project Officer, STP (by phone)

State of New Mexico

John Parker, Bureau Chief
William Floyd, Program Manager
Stanley Fitch, Environmental Specialist
Margaret Roybal, Environmental Specialist
Sherry Miller, Environmental Specialist
Michael Ortiz, Environmental Specialist
Edward Digil, Environmental Specialist

DISCUSSION:

The New Mexico Agreement State Program is administered by the Radiation Control Bureau in the Field Operations Division of the New Mexico Environment Department. The day-to-day operations are carried out by the Radiation Protection Program (the Program) which reports to the Bureau Chief. The Program is supervised by a Program Manager. The Agreement State Program regulates approximately 200 specific licenses authorizing Agreement materials.

The following is a summary of the meeting held in Santa Fe, New Mexico, on July 21, 2004, between representatives of the NRC and the State of New Mexico. During the meeting, the topics suggested in the letter dated May 10, 2004, from Mrs. McLean to Mr. Floyd were discussed. The discussion pertaining to each topic is summarized below.

The proposed status for each of the recommendations in Section 5.0 of the 2001 New Mexico's final IMPEP report is summarized below. A copy of Section 5.0 of the IMPEP report is attached for reference.

Recommendation:

1. The review team recommended that the State adopt the regulations, or other legally binding requirements, which are overdue for adoption.

Current Status: The State submitted eight rule making packages for NRC review. The NRC had no comments as the result of the review, and the rules became effective on April 15, 2004. The State currently has the following five overdue regulations.

NEW MEXICO PERIODIC MEETING SUMMARY

- "Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State," 10 CFR Part 150 amendment (62 FR 1662) that became effective February 27, 1997.
- "Respiratory Protection and Controls to Restrict Internal Exposures," 10 CFR Part 20 amendment (64 FR 54543 and 64 FR 55524) that became effective February 2, 2000.
- "Energy Compensation Sources for Well Logging and Other Regulatory Clarifications," 10 CFR Part 39 amendment (65 FR 20337) that became effective May 17, 2000.
- "New Dosimetry Technology," 10 CFR Parts 34, 36, and 39 amendments (65 FR 63749 and 66 FR 1573) that became effective January 8, 2001.
- "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Materials," 10 CFR Parts 30, 31, and 32 (65 FR 79162) that became effective February 16, 2001.
It is recommended that this item remain open.

Other topics covered at the meeting included:

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

Strengths: The Program has an experienced and motivated staff, and is fully staffed for radioactive material activities. The State promulgated rules to establish a dedicated fee structure to support the Program. On May 19, 2002, the State's fee schedule was adopted. This has provided the Program with greater opportunities for staff training and for public outreach. The fees have provided adequate money for staff training, better radiation detection equipment and other equipment needed for the Program. In addition, the Program has been able to increase salary levels and travel per diem levels.

Weaknesses: The Program has inadequate administrative support.

3. Status of State Program including:

a. Staffing and Training: Two new staff have been hired in fiscal year (FY)04. The two are being cross trained in X-ray and radioactive materials inspections. Three positions have been approved for the X-ray inspection program: one for FY05 and two for FY06. Each staff member will be able to take at least one training course in FY05.

b. Materials Inspection Program: The Program has no overdue inspections. Also, there is no backlog in licensing actions.

c. Regulations and Legislative changes: This item is discussed above.

d. Program reorganizations: Since the last periodic meeting, a new Bureau Chief has been appointed. (The Radiation Control Bureau's organizational chart is attached.)

NEW MEXICO PERIODIC MEETING SUMMARY

e. Changes in Program budget/funding: This item is discussed under the Program strengths.

4. Event Reporting, including follow-up and closure information in NMED.

It was noted that the Program needs to complete and close out some events in the NMED database. The Program expressed an interest in scheduling an NMED training course in New Mexico. They have talked to the NMED Project Manager about arranging a course. They also contacted other Agreement States to see if they are interested in attending.

5. Response to Incidents and Allegations.

a. Status of allegations and concerns referred by the NRC for action: One allegation was forwarded to the Program. The allegation was appropriately reviewed and closed.

b. The Program has an adequate number and types of survey meters to support the current inspection program as well as for responding to incidents and emergency conditions. The Program followed written procedures for responding to events. The procedures addressed the actions to be taken upon the notification of an event, the event tracking system, event evaluation and investigation, documentation, notification to the NRC Operations Center, and the reporting of events to the NMED.

6. Information exchange and discussion:

a. Self audits/computer tracking: The Program performs routine quality assurance audits of inspection reports and licenses, and also has an on-going process for reviewing the Program to identify needed improvements.

b. Inspector accompaniments: The Program Manager accompanies inspectors on a weekly bases.

c. NRC current initiatives. The NNMSS database was discussed. Lessons learned from the State's perspective are as follows.

i. The Program followed up with its licensees. Some of their licensees indicated that they forwarded the information to the NRC, but that it apparently had been misplaced by the NRC contractor. The Program recommends better controls on receipt of information by NRC contractor.

ii. There were several different contact persons for receipt of the information. The Program recommends one central contact for collection of the database information. This will assist in completing item 1 above.

iii. The Program indicated that the licensee collection form was long and difficult to fill out. The Program recommends that the form be simplified and streamlined.

NEW MEXICO PERIODIC MEETING SUMMARY

iv. The Program indicated that they received many calls from licensees who could not open the "excel" format, and that they had to printout the forms and hand deliver them to licensees. The Program recommends that the forms be available in several different computer friendly formats so that they and their licensees will be able to access the information.

v. The Program noted a problem within their own system regarding serial numbers and the tracking of their licensees. The Program indicated that they were in the process of completing their input to the database for the last outstanding licensee.

7. Schedule for the next IMPEP review: Summer 2005

NRC has not required States to have a program for licensing a LLRW disposal facility until such time as the State has been designated as a host State for a LLRW disposal facility. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, they are expected to put in place a regulatory program which will meet the criteria for an adequate and compatible LLRW disposal program. There are no plans for a LLRW disposal facility in New Mexico. Accordingly, the review team did not review this indicator.

5.0 SUMMARY

As noted in Sections 3 and 4 above, the review team found New Mexico's performance to be satisfactory for all six performance indicators reviewed. Accordingly, the review team recommended and the MRB concurred in finding the New Mexico Agreement State program to be adequate to protect public health and safety and compatible with NRC's program. Based on the results of the current IMPEP review, the next full review will be in approximately four years.

Below is the recommendation, as mentioned earlier in the report, for evaluation and implementation, as appropriate, by the Program.

RECOMMENDATION:

1. The team recommends that the State adopt the regulations, or other legally binding requirements, which are overdue for adoption. (Section 4.1.2)

Attachment 1

5.0 SUMMARY

As noted in Sections 3 and 4 above, the review team found New Mexico's performance to be satisfactory for all six performance indicators reviewed. Accordingly, the review team recommended and the MRB concurred in finding the New Mexico Agreement State program to be adequate to protect public health and safety and compatible with NRC's program. Based on the results of the current IMPEP review, the next full review will be in approximately four years. Below is the recommendation, as mentioned earlier in the report, for evaluation and implementation, as appropriate, by the Program.

RECOMMENDATION:

1. The team recommends that the State adopt the regulations, or other legally binding requirements, which are overdue for adoption. (Section 4.1.2 of the Integrated Materials Performance Evaluation Program (IMPEP) report on the New Mexico Agreement State Program.)

RADIATION CONTROL BUREAU
Organizational Chart
March 2004

