



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 8, 2013

Butch Tongate, Deputy Secretary
Office of the Secretary
New Mexico Environment Department
1190 Saint Francis Drive
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502-5469

Dear Mr. Tongate:

On September 5, 2013, the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the New Mexico Agreement State Program. The MRB found the New Mexico program adequate to protect public health and safety, and compatible with the U.S. Nuclear Regulatory Commission's (NRC) program.

Section 5.0, page 10 of the enclosed final report contains a summary of the IMPEP team's findings and recommendations. The review team made one recommendation for improvement regarding staff vacancies. The review team also determined that the recommendation from the 2009 IMPEP review, regarding developing and implementing a process to ensure appropriate notification of reportable events can be closed.

Accordingly, the review team recommended, and the MRB agreed, that the New Mexico Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. Based on the results of the current IMPEP review, the next full review of the New Mexico Agreement State Program will take place in approximately 4 years, with a periodic meeting tentatively scheduled for June 2015.

B. Tongate

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I appreciate the courtesy and cooperation extended to the IMPEP team during the review. I also wish to acknowledge your continued support for the Agreement State program. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

/RA/

Michael F. Weber
Deputy Executive Director for Materials, Waste,
Research, State, Tribal and Compliance Programs
Office of the Executive Director for Operations

Enclosure:
New Mexico Final IMPEP Report

cc w/ encl: Michael Vonderheide, Director
Environmental Protection Division

Michael Ortiz, Bureau Chief
Environmental Protection Division
Radiation Control Bureau

Bill Dundulis, Rhode Island
Organization of Agreement States
Liaison to the MRB



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
REVIEW OF THE NEW MEXICO AGREEMENT STATE PROGRAM

June 24–28, 2013

FINAL REPORT

Enclosure

EXECUTIVE SUMMARY

This report presents the results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the New Mexico Agreement State Program. The review was conducted during the period of June 24–28, 2013, by a review team composed of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Wisconsin.

Based on the results of this review, New Mexico's performance was found satisfactory, but needs improvement for the indicator Technical Staffing and Training, and satisfactory for the remaining indicators reviewed.

The review team made one recommendation regarding program performance by the State regarding staff vacancies. The review team also determined that the recommendation from the 2009 IMPEP review, regarding developing and implementing a process to ensure appropriate notification of reportable events, to ensure submitting information to the Nuclear Material Events Database (NMED), and to promote timely closure of NMED entries, should be closed.

Accordingly, the review team recommended, and the Management Review Board (MRB) agreed, that the New Mexico Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. The review team recommended, and the MRB agreed, that the next IMPEP review take place in approximately four years.

1.0 INTRODUCTION

This report presents the results of the review of the New Mexico Agreement State Program. The review was conducted during the period of June 24–28, 2013, by a review team composed of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Wisconsin. Team members are identified in Appendix A. The review was conducted in accordance with the “Implementation of the Integrated Materials Performance Evaluation Program and Rescission of Final General Statement of Policy,” published in the *Federal Register* on October 16, 1997, and NRC Management Directive 5.6, “Integrated Materials Performance Evaluation Program (IMPEP),” dated February 26, 2004. Preliminary results of the review, which covered the period of July 25, 2009 to June 28, 2013, were discussed with New Mexico managers on the last day of the review.

A draft of this report was provided to New Mexico for factual comment on July 25, 2013. The State responded by letter dated August 19, 2013. A copy of the State’s response is included as an Attachment to this report. A Management Review Board (MRB) met on September 5, 2013 to consider the proposed final report. The MRB found the New Mexico Agreement State Program adequate to protect public health and safety, and compatible with the NRC’s program.

The New Mexico Agreement State Program is administered by the Radiation Control Bureau (the Bureau) which is located within the Environmental Protection Division (the Division). The Division is part of the New Mexico Environmental Department (the Department). Organization charts for the Department and the Bureau are included as Appendix B.

At the time of the review, the New Mexico Agreement State Program regulated 197 specific licenses authorizing possession and use of radioactive materials. The review focused on the radioactive materials program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of New Mexico.

In preparation for the review, a questionnaire addressing the common and applicable non-common performance indicators was sent to the Bureau on March 26, 2013. The Bureau provided its response to the questionnaire on June 4, 2013. A copy of the questionnaire response can be found in the NRC’s Agencywide Documents Access and Management System (ADAMS) using the Accession Number ML13156A047.

The review team’s general approach for conduct of this review consisted of (1) examination of the Bureau’s response to the questionnaire, (2) review of applicable New Mexico statutes and regulations, (3) analysis of quantitative information from the Bureau’s database, (4) technical review of selected regulatory actions, (5) field accompaniments of four inspectors, and (6) interviews with staff and managers. The review team evaluated the information gathered against the established criteria for each common and the applicable non-common performance indicator and made a preliminary assessment of the New Mexico Agreement State Program’s performance.

Section 2.0 of this report covers the State’s actions in response to a recommendation made during the previous review.

Results of the current review of the common performance indicators are presented in Section 3.0. Section 4.0 details the results of the review of the applicable non-common performance indicators, and Section 5.0 summarizes the review team's findings.

2.0 STATUS OF ITEMS IDENTIFIED IN PREVIOUS REVIEWS

During the previous IMPEP review, which concluded on July 24, 2009, the review team made one recommendation regarding the New Mexico Agreement State Program's performance. The status of the recommendation is as follows:

The review team recommends that the State develop and implement a process to ensure appropriate notification to the NRC Headquarters Operations Officer (HOO) for reportable events, to ensure all required information is submitted to Nuclear Material Events Database (NMED), and to promote timely closure of NMED entries. (Section 3.5 of the 2009 IMPEP Report)

Status: The Bureau utilizes a database it created to track all NRC reportable and non-reportable events in response to the recommendation. The database is also being used to ensure HOO reportable and NMED entries are closed in a timely manner. A staff member has been designated as the primary point of contact for the database. In reviewing NMED as part of this IMPEP review, the team found that the State is updating the information appropriately in NMED. This recommendation is closed.

3.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC regional and Agreement State radioactive materials programs. These indicators are (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities.

3.1 Technical Staffing and Training

Considerations central to the evaluation of this indicator include the Bureau's staffing level and staff turnover, as well as the technical qualifications and training histories of the staff. To evaluate these issues, the review team examined the Bureau's questionnaire response relative to this indicator, interviewed managers and staff, reviewed job descriptions and training records, and considered workload backlogs.

During this review period, the Department reorganized, resulting in the Bureau being placed under a newly organized Environmental Protection Division. The Radiation Protection Program within the Bureau executes the daily operations of the radioactive materials program inspection, licensing, incident response, and reporting activities. The Radiation Protection Program also has responsibility for the State's x-ray generation program.

Technical staff is required to have a Bachelor's Degree in a physical, natural, or environmental science, and two years of work experience in public/environmental health or related technical field. At the time of the review, there were four technical staff members with various degrees and involvement in the radioactive materials program, and a contractor, totaling approximately

3.0 full-time equivalents (FTE). Of the four technical staff, three staff are fully qualified and one is midway through the qualification process. In addition, both the Bureau Chief and Program Manager are fully qualified and support the program technically on licensing and inspections. The contractor, whose efforts are concentrated in the area of licensing review, provides approximately 0.9 FTE for the program.

The review team noted that a significant turnover and position vacancy issue existed during the review period. Four staff members left the materials program, while four staff members were hired. The Bureau Chief and Program Manager positions were vacant for 10 months and 9 months, respectively, in the 2010–2011 timeframe. Four technical positions were unfilled at the time of this review, vacant for various lengths of time. Bureau management is currently taking steps to fill the existing vacancies. The Bureau expects to fill one vacancy with an eligible individual in August 2013. The Bureau had a second position posted with a posting closure date of June 27, 2013. This position is expected to be filled in September 2013. The third position is being reclassified; the expected fill-date is December 2013. The fourth staff position is in a hold status, pending a budget analysis. The review team also noted that currently there is no backlog in either inspections or licensing actions. However, the review team recommends, and the MRB agreed, that the Bureau continue to aggressively pursue the hiring of new staff to fill the vacancies in order to ensure the program's continued adequacy and compatibility.

On September 5th, the Bureau updated the MRB on the status of the vacancies. The Bureau reported that one vacancy was filled on August 17, 2013. A second position can be filled in September. The third and fourth positions are on hold pending budget, funding, and reclassification reviews.

The Bureau has a documented training plan for technical staff that is consistent with the requirements in the NRC/Organization of Agreement States Training Working Group Report and the NRC's Inspection Manual Chapter (IMC) 1246, "Formal Qualification Programs in the Nuclear Material Safety and Safeguards Program Area." Current documentation contains dates of training courses and on-the-job training. Staff members are assigned increasingly complex duties as they progress through the qualification process. The review team concluded that the Bureau's training program is adequate to carry out its regulatory duties and noted that New Mexico management supports the Bureau training program. This support will be important in the near future as vacancies are filled by new staff, and to provide refresher training for current staff.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Mexico's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory, but needs improvement.

3.2 Status of Materials Inspection Program

The review team focused on five factors in reviewing this indicator: inspection frequency, overdue inspections, initial inspections of new licenses, timely dispatch of inspection findings to licensees, and performance of reciprocity inspections. The review team's evaluation was based on the Bureau's questionnaire response relative to this indicator, data gathered from the

Bureau's databases, an examination of completed inspection casework, and interviews conducted with the Bureau Chief and staff.

The review team compared the Bureau's inspection frequencies for various types of licenses to those prescribed by the NRC's IMC 2800, "Materials Inspection Program." The Bureau's license categories are similar to those prescribed in IMC 2800; however, most categories of licenses are inspected more frequently, including nuclear pharmacy, mobile Positron Emission Tomography, medical facilities, research and development, and both fixed and portable nuclear gauge licenses. The Bureau does not have any inspection intervals longer than three years, whereas IMC 2800 prescribes inspection intervals of up to five years for several license types.

During the review period, the Bureau conducted 400 inspections, of which 49 were high priority (Priority 1, 2, and 3) licensees, as well as 6 initial inspections. All of the initial inspections reviewed were performed within 12 months of license issuance in accordance with the requirements in IMC 2800. The review team verified that there were no Priority 1, 2, or 3 inspections overdue during the review period or at the time of the review.

The review team also evaluated the timeliness of the issuance of inspection findings to licensees. Of the 30 inspection reports reviewed, only 3 inspection reports were issued to the licensee greater than 30 days after the inspection. In these instances, the letters to the licensee were sent within 23 days after the 30-day requirement. All other inspection reports reviewed were issued promptly, usually within a few days of the inspection date.

The Bureau's questionnaire response indicated that the Bureau issued 200 reciprocity licenses during the calendar years 2009 through 2012. The Bureau places emphasis on high priority (Priority 1, 2, and 3) reciprocity licenses, and performs periodic checks to ensure that inspection goals are reached or are on track to being reached. Using the Bureau's records, the review team determined that the Bureau conducted reciprocity inspections greater than 20 percent of all candidate licensees per the criteria in IMC 1220, "Processing of NRC Form 241 and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20," for calendar years 2009, 2010, and 2011. During 2012, the Bureau reported conducting 17.65% reciprocity inspections of the candidates for inspection.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Mexico's performance with respect to the indicator, Status of Materials Inspection Program, be found satisfactory.

3.3 Technical Quality of Inspections

The review team interviewed Bureau inspectors and evaluated inspection reports, enforcement documentation, and inspection field notes for 17 radioactive materials inspections conducted during the review period. The examined casework included a cross-section of inspections and covered a wide variety of inspection types. These included radiation therapy, nuclear medicine, veterinary nuclear medicine, industrial radiography, portable gauges, fixed gauges, a panoramic irradiator, and a manufacturer and distributor. The casework included routine, reciprocity, and security inspections. Appendix C lists the inspection casework files reviewed.

Based on the evaluation of casework, the review team determined that inspections covered all aspects of the licensees' radiation safety and security programs. The review team noted that the inspections covered the security requirements, and the National Source Tracking System reporting requirements when appropriate. The review team found that inspection reports were thorough, complete, consistent, and of high quality with sufficient documentation to ensure that licensees' performances with respect to health, safety, and security were acceptable. Inspections identified problems that resulted in timely and appropriate corrective actions. Inspection report documentation supported violations, recommendations made to licensees, and unresolved safety issues. All inspection reports were approved and signed by a supervisor. The review team did note a repeat of an observation from the 2009 New Mexico IMPEP review. The 2009 New Mexico IMPEP team observed that the text of the violations that were issued were not always clear. The letters vaguely stated the regulatory requirements and did not always specify which portion of the requirement was violated by the licensee. The current review team made the same observation. The review team provided the Bureau Chief with a standard set of citations, and the Bureau Chief stated that he would review these for program enhancement.

The Bureau has a policy to accompany all staff performing radioactive materials inspections on an annual basis and to document the accompaniments on Supervisory Accompaniment forms. The team noted that three supervisory accompaniments were missed (one in 2011 and two in 2012) during this review period and not all accompaniments were documented on Supervisory Accompaniment forms. The Bureau Chief reported that due to the loss of several inspectors, supervisors had an increased inspection load, and as a result, missed several accompaniments. The Bureau Chief committed to consistently perform and document inspector accompaniments of all inspectors annually.

The review team noted that the Bureau has an adequate supply of appropriately calibrated survey instruments to support its inspection program, as well as to respond to incidents and emergency conditions. Instruments are calibrated annually by an authorized laboratory, and the calibration is traceable to the National Institute of Standards and Technology.

An IMPEP team member conducted accompaniments of four Bureau inspectors during the period June 11–13, 2013. The accompaniments included health and safety and security inspections of a gamma knife, a diagnostic nuclear medicine department, a high dose rate remote after-loader device (HDR), and industrial radiography. The accompaniments are identified in Appendix C. During the accompaniments, the inspectors demonstrated appropriate inspection techniques and knowledge of the regulations, and conducted performance-based inspections. The inspectors were trained and well-prepared for the inspections, and were thorough in their inspections of the licensees' radiation safety programs. The inspectors conducted interviews with appropriate personnel, observed licensed operations, conducted confirmatory measurements, and utilized good health physics practices. The inspections were adequate to assess radiological health and safety and security at the licensed facilities.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Mexico's performance with respect to the indicator, Technical Quality of Inspections, be found satisfactory.

3.4 Technical Quality of Licensing Actions

The review team examined completed licensing casework and interviewed license reviewers for 24 specific licensing actions. Licensing actions were reviewed for completeness, consistency, proper radioisotopes and quantities, qualifications of authorized users, adequacy of facilities and equipment, adherence to good health physics practices, financial assurance, appropriateness of license conditions, and overall technical quality. The casework was also reviewed for timeliness, use of appropriate deficiency letters, reference to appropriate regulations, supporting documentation, consideration of enforcement history, pre-licensing visits, peer/supervisory review, and proper signatures.

The team selected casework to provide a representative sample of licensing actions completed during the review period. Licensing actions included five new licenses, eight renewals, three decommissioning or termination actions, and eight amendments. Files reviewed included a cross-section of license types: broadscope medical, academic broadscope type B, medical diagnostic and therapy (which included HDR, unsealed radioiodine therapy, temporary/permanent implant brachytherapy, and gamma knife), industrial radiography, research and development, accelerator production, nuclear pharmacy, gauges, well logging, panoramic and self-shielded irradiators, and a nuclear laundry. The casework sample represented work from six license reviewers. A list of the licensing casework evaluated with case-specific comments is provided in Appendix D.

Based on the casework evaluated, the review team found that the licensing actions were of a thorough, complete, consistent manner, and good quality with health, safety, and security issues properly addressed. License tie-down conditions were stated clearly and were supported by information contained in the file. Deficiency letters clearly stated regulatory positions, were used at the proper time, and identified substantive deficiencies in the licensees' documents. Terminated licensing actions were well documented, showing appropriate transfer and survey records. License reviewers use the Bureau's licensing guides and/or NRC NUREG-1556 series guidance documents, policies, checklists, and standard license conditions specific to the type of licensing actions to ensure consistency in application and license reviews.

However, the review team identified a weakness concerning the licensing actions for selected HDR license authorizations. The review team noted that the Bureau licensed HDR units with possession limits that exceeded medical use limitations on respective Sealed Source and Device Registry sheets and also existing licensing guidance. The team discussed this matter with the Program Manager who directed staff to promptly amend all of the medical licenses that authorized HDR use, to ensure a high technical quality and adherence to existing licensing guidance.

The Program Manager and the Bureau Chief have signature authority for licensing actions. The Program Manager or the Bureau Chief performs a technical and supervisory review on all licensing actions before issuance to the licensee. Licenses are issued for a five-year period under a timely renewal system.

The documentation of correspondence on some of the selected licensing actions was consistent with few exceptions. The review team concluded from the casework evaluated that the licensing actions incorporated good health physics practices. The review team attributed the

consistent use of templates and quality assurance reviews to the overall quality noted in the casework reviews.

The Bureau's pre-licensing review methods incorporated the essential elements of the NRC's revised pre-licensing guidance to verify that the applicant will use requested radioactive materials as intended. All new licensees received an evaluation of the applicant's radiation safety and security programs by a license reviewer and the Program Manager or the Bureau Chief. Either staff or management then hand-delivered the new license to the applicant.

The review team examined the Bureau's licensing practices regarding the Increased Controls and Fingerprinting Orders. The review team noted that the Bureau used legally binding license conditions that meet the criteria for implementing the Increased Controls Orders, including fingerprinting, as appropriate. The review team analyzed the Bureau's methodology for identifying those licenses and found the rationale was thorough and accurate. The review team confirmed that license reviewers evaluated new license applications and license amendments using the same criteria. The Bureau required full implementation of the Increased Controls prior to issuance of a new license or license amendment that meets the established criteria.

The review team examined the Bureau's implementation of its procedure for the control of sensitive information. The Bureau procedure addressed the identification, marking, control, handling, preparation, transportation, transmission, and destruction of documents that contain sensitive information related to the Increased Controls. The review team noted that the Bureau controls access to all of their licensing and inspection files via keycard access to the office suite of the Bureau, and the file room is locked during non-office hours.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Mexico's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

3.5 Technical Quality of Incident and Allegation Activities

In evaluating the effectiveness of the Bureau's actions in responding to incidents and allegations, the review team examined the Bureau's response to the questionnaire, evaluated selected incidents reported for New Mexico in the Nuclear Material Events Database (NMED) against those contained in the Bureau's files, and evaluated the casework for eight radioactive materials incidents. A listing of the incident casework examined may be found in Appendix E. The review team also evaluated the Bureau's response to one allegation involving radioactive materials received directly by the Bureau. No allegations were referred to the State by the NRC during the review period.

The Bureau has written procedures for responding to incidents and allegations. The procedures address the actions to be taken upon the notification of an incident or allegation, an event tracking system, the method for conducting an incident evaluation or investigation, the requirements for documentation, the process for notifying the NRC Headquarters Operations Officer (HOO) of reportable incidents, and the process for submitting event information to NMED.

For all of the incidents evaluated, the review team found that the Bureau's responses were thorough, complete, and comprehensive. The incidents selected for review included medical events, radiography source disconnect, gauge shutter malfunction, leaking source and a lost source. Initial responses were prompt and well-coordinated, and the level of effort was commensurate with the health and safety significance. The Bureau dispatched inspectors to the site when the possibility of an immediate threat to public health and safety existed. When no immediate threat was present and the Bureau determined that the licensee had qualified, competent individuals investigating the incident, the Bureau generally responded telephonically or with an on-site follow-up at the next inspection.

During the previous review, the team noted administrative weaknesses in the incident and allegation program, primarily because the Bureau did not have a reliable system for tracking the number or status of radioactive materials incidents. The previous IMPEP review team also recommended that the Bureau develop a process that would ensure in part, that the HOO and NMED received timely reports of incidents, and that those incidents reported to NMED be closed in a timely manner.

In response to the recommendation, the Bureau developed a tracking database and assigned an individual to manage it. Incidents are now tracked, helping to ensure that HOO reportable incidents and NMED entries are closed in a timely manner. The review team noted there was an apparent misunderstanding of the function of the NMED database. Over the review period the Bureau only populated the NMED database with those incidents that were concurrently reported to the HOO. The team discussed the issue with staff and management, who agreed to begin reporting other than HOO reportable events to NMED, and to go back over the incidents and place those they believe are appropriate into NMED.

In evaluating the effectiveness of New Mexico's actions responding to allegations, the review team evaluated the casework for one allegation reported directly to the Bureau. The Bureau evaluated the allegation and determined the proper level of response. The casework review indicated that the Bureau took prompt and appropriate action in response to all concerns raised. The allegation was appropriately closed, and appropriate parties were notified of the actions taken. The review team identified no performance issues from the review of the allegation casework. The review team determined that the Program adequately protected the identity of concerned individuals.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Mexico's performance with respect to the indicator, Technical Quality of Incident and Allegation Activities, be found satisfactory.

4.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Compatibility Requirements, (2) Sealed Source and Device Evaluation Program, (3) Low-Level Radioactive Waste Disposal Program, and (4) Uranium Recovery Program. The NRC's Agreement with New Mexico does not relinquish regulatory authority for a sealed source and device evaluation program or uranium recovery program; therefore, only the non-common performance indicators Compatibility Requirements and Low-Level Radioactive Waste Disposal Program applied to this review.

4.1 Compatibility Requirements

4.1.1 Legislation

New Mexico became an Agreement State on May 1, 1974. The statutory authority for the New Mexico program is contained in the Radiation Protection Act, Title 20 Environmental Protection, Chapter 3, Radiation Protection. The Bureau is designated as the State's radiation control agency. The review team noted that no new legislation affecting the radiation control program was passed during the review period.

4.1.2 Program Elements Required for Compatibility

The New Mexico regulations pertaining to radiation control apply to all ionizing radiation, whether emitted from radionuclides or devices. New Mexico requires a license for possession, and use, of all radioactive material.

The review team examined the State's rulemaking process and found that the process takes about 12 months to complete. The Bureau is responsible for drafting and revising the State's regulations pertaining to radiation control. After preparation of a package of draft regulations, the Bureau obtains approval from the Radiation Technical Advisory Council. The Council must approve all rule changes before the process for rule promulgation can proceed. The public, NRC, other agencies, and all potentially affected licensees and registrants are offered an opportunity to comment during the rulemaking process. Comments are considered and incorporated, as appropriate, before the regulations are finalized, approved, and filed. The Environmental Improvement Board is the rule promulgating authority for radiation and all other Department programs. New Mexico's rules and regulations are not subject to sunset laws. The Bureau has the authority to issue alternate legally binding requirements, such as license conditions, in lieu of regulations.

The review team evaluated the Bureau's response to the questionnaire relative to this indicator, reviewed the status of regulations required to be adopted by the State under the Commission's adequacy and compatibility policy, and verified the adoption of regulations with data obtained from the State Regulation Status Sheet that the Office of Federal and State Materials and Environmental Management Programs maintains.

Current NRC policy requires that Agreement States adopt certain equivalent regulations or legally binding requirements no later than 3 years after the effective date of the NRC's regulations. The review team noted one amendment as being overdue. While the Bureau had previously adopted the regulations, they had not submitted them to the NRC for review. This was brought to the Bureau's attention prior to the review team's arrival and the Bureau immediately submitted the regulation package to the NRC. It is currently undergoing the NRC review.

The following amendment was submitted overdue during the review period:

- "Licensing and Radiation Safety Requirements for Irradiators," 10 CFR Part 36 amendment (58 FR 7715), that was due for Agreement State adoption on July 1, 1996.

A complete list of upcoming regulation amendments that will need to be addressed can be found on the NRC website at the following address:

http://nrc-stp.ornl.gov/rss_regamendments.html

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Mexico's performance with respect to the indicator, Compatibility Requirements, be found satisfactory.

4.2 Low-Level Radioactive Waste Disposal Program

In 1981, NRC amended its Policy Statement "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" to allow a State to seek an amendment for the regulation of low-level radioactive waste (LLRW) as a separate category. Those States with Agreements prior to 1981 were determined to have continued LLRW disposal authority without the need of an amendment. Although the New Mexico Agreement State Program has LLRW disposal authority, 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, it is expected to put in place a regulatory program that will meet the criteria for an adequate and compatible LLRW disposal program. At this time, there are no plans for a commercial LLRW disposal facility in New Mexico. Accordingly, the review team did not evaluate this indicator.

5.0 SUMMARY

As noted in Sections 3.0 and 4.0 above, New Mexico's performance was found satisfactory for five of the performance indicators reviewed, and satisfactory, but needs improvement, for the indicator Technical Staffing and Training with one recommendation regarding program performance by the State. The MRB determined that the recommendation from the 2009 IMPEP review should be closed.

Accordingly, the review team recommended, and the MRB agreed, that the New Mexico Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. Based on the results of the current IMPEP review, the review team recommended, and the MRB agreed, that the next full IMPEP review take place in approximately four years.

Below is the review team's recommendation, as mentioned in the report, Section 3.1, for evaluation and implementation by the State:

The review team recommends that the Bureau management continue to aggressively pursue the filling of the current vacancies in order to ensure the program's continued adequacy and compatibility.

LIST OF APPENDICES

Appendix A	IMPEP Review Team Members
Appendix B	New Mexico Organization Charts
Appendix C	Inspection Casework Reviews
Appendix D	License Casework Reviews
Appendix E	Incident Casework Reviews

APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	Area of Responsibility
Joseph DeCicco, FSME	Team Leader Technical Staffing and Training Status of Materials Inspection Program
Randy Erickson, Region IV	Technical Quality of Incident and Allegation Activities Compatibility Requirements Inspection Accompaniments
Randolph Ragland, Region I	Technical Quality of Inspections
Chris Timmerman, WI	Technical Quality of Licensing Actions
Latischa Hanson, Region IV, assisted the team in the review of Status of Materials Inspection Program	

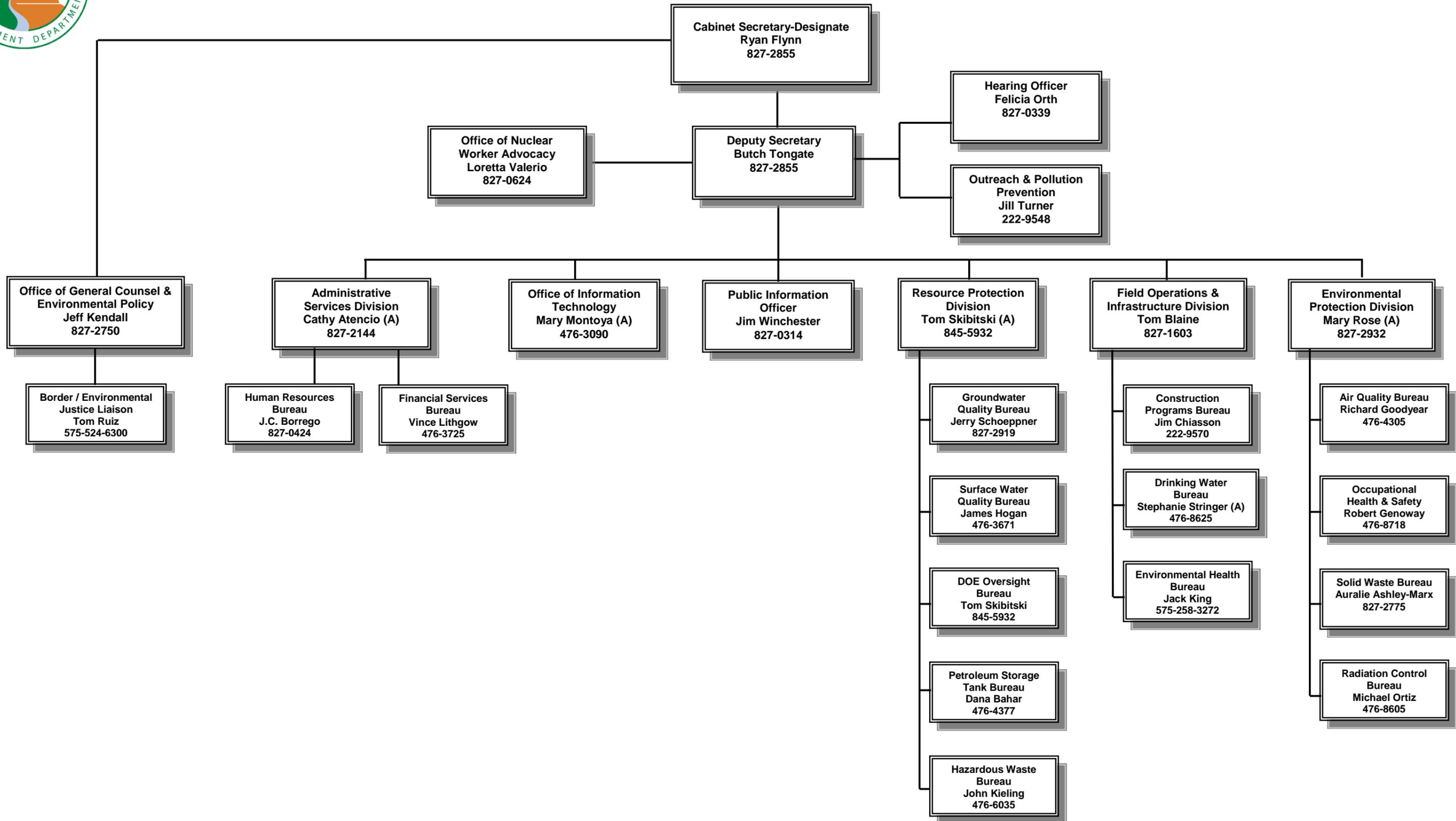
APPENDIX B

NEW MEXICO ORGANIZATION CHARTS

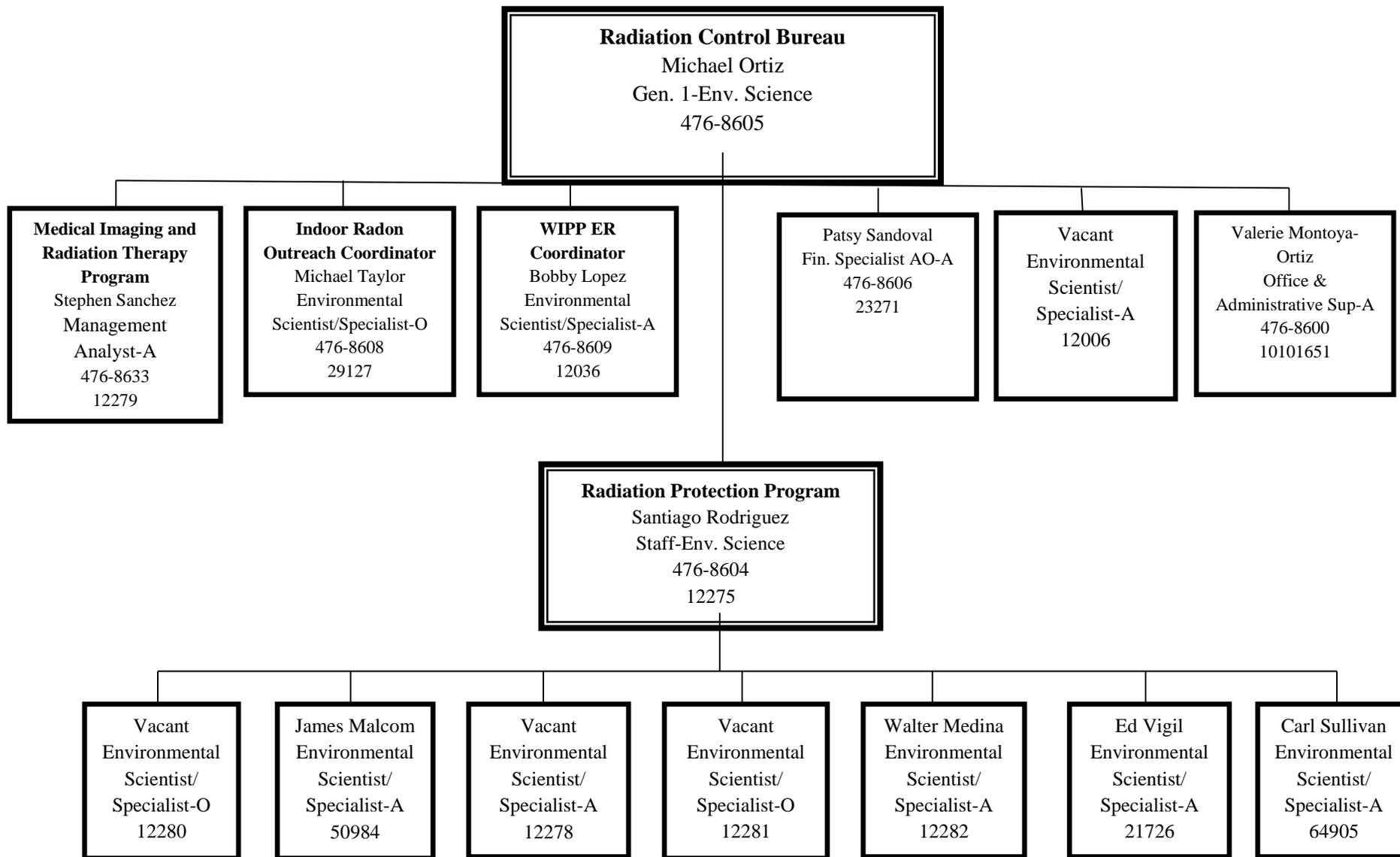
ADAMS ACCESSION NO.: ML13156A034



**New Mexico Environment Department
Organization Chart – Rev. 05/28/13**



* unless otherwise noted, telephone numbers have 505 area code



APPENDIX C

INSPECTION CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS.

File No.: 1 Licensee: Mistras Group, Inc. Inspection Type: Special Inspection Date: 8/9-12/2011	License No.: IR268-32 Priority: 1 Inspector: CS
File No.: 2 Licensee: New Mexico Pipe & Supply Inspection Type: Routine/Unannounced Inspection Date: 6/18/2010	License No.: GA058-13 Priority: 3 Inspector: CS
File No.: 3 Licensee: Advanced Testing & Materials Inspection Type: Routine/Unannounced Inspection Date: 3/22/2010	License No.: DM391-04 Priority: 2 Inspector: EV
File No.: 4 Licensee: Robert A. Graor, M.D. Inspection Type: Routine/Unannounced Inspection Date: 9/27/11	License No.: MD457-02 Priority: 2 Inspector: EV
File No.: 5 Licensee: Premier NDT Services, Inc. Inspection Type: Routine/Unannounced Inspection Date: 5/10/2012	License No.: IR426-10 Priority: 1 Inspector: CS
File No.: 6 Licensee: American X-Ray Inspection Type: Routine/Unannounced Inspection Date: 10/26/2012	License No.: IR448-07 Priority: 1 Inspector: DB
File No.: 7 Licensee: CHRISTUS St. Vincent Regional Medical Center Inspection Type: Routine/Unannounced Inspection Date: 6/9/11	License No.: MI213-53 Priority: 1 Inspector: MO
File No.: 8 Licensee: New Mexico Cancer Center Inspection Type: Routine/Unannounced Inspection Date: 6/20-21/2011	License No.: MI383-01 Priority: 1 Inspector: MO

New Mexico Final IMPEP Report
Inspection Casework Reviews

C.2

File No.: 9

Licensee: High Resolution
Inspection Type: Routine/Unannounced
Inspection Date: 12/30/2011

License No.: MD435-02
Priority: 2
Inspectors: SR, RL

File No.: 10

Licensee: Ethicon Endo-Surgery
Inspection Type: Routine/Unannounced
Inspection Date: 9/28/2012

License No.: GI316-08
Priority: 1
Inspectors: SR, JM

File No.: 11

Licensee: University of New Mexico
Inspection Type: Routine/Unannounced
Inspection Date: 3/7/2013

License No.: RP479-01
Priority: 1
Inspectors: MO, JM

File No.: 12

Licensee: Arroyo Pet Care Center
Inspection Type: Routine/Unannounced
Inspection Date: 9/01/2010

License No.: VT315-05
Priority: 3
Inspector: CS

File No.: 13

Licensee: Presbyterian Hospital Center
Inspection Type: Routine/Unannounced
Inspection Date: 6/07/12

License No.: MI170-73
Priority: 1
Inspector: CS

File No.: 14

Licensee: Best Theratronics, Ltd.
Inspection Type: Reciprocity
Inspection Date: 2/3/2011

License No.: NRC 45-31299-01
Priority: 1
Inspector: EV

File No.: 15

Licensee: Diamond Technical Services
Inspection Type: Reciprocity
Inspection Date: 3/28/2013

License No.: PA1077
Priority: 1
Inspector: WM

File No.: 16

Licensee: New Mexico Cancer Center
Inspection Type: Routine, Unannounced
Inspection Date: 7/20-21/2011

License No.: MI383-29
Priority: 1
Inspector: MO

File No.: 17

Licensee: Lovelace Medical Center
Inspection Type: Routine, Unannounced
Inspection Date: 8/22/2012

License No.: MI210-103
Priority: 1
Inspector: EV

INSPECTOR ACCOMPANIMENTS

The following inspector accompaniments were performed prior to the on-site IMPEP review:

Accompaniment No.: 1

Licensee: Lovelace Medical Center
Inspection Type: Routine/Unannounced
Inspection Date: 6/11/13

License No.: MI210-104
Priority: 2
Inspector: WM

Accompaniment No.: 2

Licensee: Women's Hospital
Inspection Type: Routine/Unannounced
Inspection Date: 6/12/13

License No.: MI211-18
Priority: 3
Inspector: JM

Accompaniment No.: 3

Licensee: Atomic Inspection Labs, Inc.
Inspection Type: Routine/Unannounced
Inspection Date: 6/12/13

License No.: IR022-28
Priority: 1
Inspector: CS

Accompaniment No.: 4

Licensee: MD Anderson Cancer Center
Inspection Type: Routine/Unannounced
Inspection Date: 6/13/13

License No.: MI423-13
Priority: 2
Inspector: EV

APPENDIX D

LICENSE CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS.

File No.: 1 Licensee: PETNET Solutions Inc. Type of Action: New Date Issued: 1/29/10	License No.: AP463-00 Amendment No.: 0 License Reviewer: MR
File No.: 2 Licensee: Wilco NDT, LLC Type of Action: New Date Issued: 7/20/11	License No.: IR470-00 Amendment No.: 0 License Reviewer: MR
File No.: 3 Licensee: E & P Wireline Services, LLC Type of Action: Termination Date Issued: 9/1/11	License No.: WL411-11 Amendment No.: 11 License Reviewer: MR
File No.: 4 Licensee: Rokkon Engineering & Inspection, LLC Type of Action: New Date Issued: 1/12/12	License No.: IR476-00 Amendment No.: 0 License Reviewer: MR
File No.: 5 Licensee: Rokkon Engineering & Inspection, LLC Type of Action: Termination Date Issued: 10/16/12	License No.: IR476-03 Amendment No.: 3 License Reviewer: VRB
File No.: 6 Licensee: URS – Washington Division Type of Action: Termination Date Issued: 2/24/11	License No.: IR367-12 Amendment No.: 12 License Reviewer: DKB
File No.: 7 Licensee: Premier NDT Services, LLC Type of Action: Amendment Date Issued: 10/16/12	License No.: IR399-28 Amendment No.: 28 License Reviewer: VRB
File No.: 8 Licensee: New Mexico State University Type of Action: Amendment Date Issued: 7/16/10	License No.: AB151-41 Amendment No.: 41 License Reviewer: MR

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File No.: 9

Licensee: X-Ray Associates - Farmington
Type of Action: New
Date Issued: 9/18/12

License No.: MD481-00
Amendment No.: 0
License Reviewer: VRB

File No.: 10

Licensee: Christus St. Vincent Regional Medical Center
Type of Action: New
Date Issued: 2/21/13

License No.: MI485-00
Amendment No.: 0
License Reviewer: VRB

Comment: HDR possession limit authorization exceeds SSDR maximum possession limit

File No.: 11

Licensee: City of Las Vegas
Type of Action: Renewal
Date Issued: 4/7/11
File No.: 12

License No.: DM119-07
Amendment No.: 7
License Reviewer: SJM

Licensee: K. Barnett & Sons, Inc.
Type of Action: Renewal
Date Issued: 5/31/11

License No.: DM025-09
Amendment No.: 9
License Reviewer: SR

File No.: 13

Licensee: UNM Radiation Safety
Type of Action: Amendment
Date Issued: 5/15/13

License No.: BM233-85
Amendment No.: 85
License Reviewer: VMD

Comment: HDR possession limit authorization exceeds SSDR maximum possession limit

File No.: 14

Licensee: Atomic Inspection Labs
Type of Action: Renewal
Date Issued: 2/29/12

License No.: IR022-28
Amendment No.: 28
License Reviewer: VRB

File No.: 15

Licensee: Unitech Services Group, Inc.
Type of Action: Renewal (including Financial Assurance evaluation)
Date Issued: 3/6/13

License No.: LA110-25
Amendment No.: 25
License Reviewer: VRB

File No.: 16

Licensee: High Resolution
Type of Action: Renewal
Date Issued: 10/6/11

License No.: MD435-03
Amendment No.: 3
License Reviewer: MR

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File No.: 17

Licensee: Ethicon Enco - Surgery
Type of Action: Renewal
Date Issued: 2/24/11

License No.: GI316-08
Amendment No.: 8
License Reviewer: DKB

File No.: 18

Licensee: Carlsbad Medical Center
Type of Action: Renewal
Date Issued: ending

License No.: MI083-31
Amendment No.: 31
License Reviewer: VMD

File No.: 19

Licensee: TriCore Reference Laboratories
Type of Action: Renewal
Date Issued: 3/10/10

License No.: IV181-13
Amendment No.: 13
License Reviewer: MR

File No.: 20

Licensee: Schlumberger Technology Corporation
Type of Action: Amendment
Date Issued: 5/21/12

License No.: WL197-55
Amendment No.: 55
License Reviewer: VRB

File No.: 21

Licensee: San Juan Regional Medical Center
Type of Action: Amendment
Date Issued: 5/16/13

License No.: MI188-50
Amendment No.: 5 0
License Reviewer: VMD

File No.: 22

Licensee: Energy Matter Conversion Corporation
Type of Action: Amendment
Date Issued: 2/28/12

License No.: RD449-01
Amendment No.: 1
License Reviewer: VRB

File No.: 23

Licensee: New Mexico Oncology
Type of Action: Amendment
Date Issued: 5/14/13

License No.: MI383-33
Amendment No.: 33
License Reviewer: VMD

File No.: 24

Licensee: Christus St. Vincent Regional Medical Center
Type of Action: Amendment
Date Issued: 3/13/13

License No.: MI213-56
Amendment No.: 56
License Reviewer: VRB

Comment: HDR possession limit authorization exceeds SSDR maximum possession limit

APPENDIX E

INCIDENT CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS.

File No.: 1

Licensee: University of New Mexico Hospital

Date of Incident: 7/21/10

Investigation Date: 7/23/10

License No.: BM233-79

NMED No.: 100386

Type of Incident: Medical Event

Type of Investigation: Site

File No.: 2

Licensee: Nor-Lea General Hospital

Date of Incident: 5/15/13

Investigation Date: 5/30/13

License No.: MI466-04

NMED No.: 130001

Type of Incident: Medical Event

Type of Investigation: Phone

File No.: 3

Licensee: Lovelace Medical Center

Date of Incident: 5/4/10

Investigation Date: 7/12-7/14/10

License No.: MI210-94

NMED No.: 100294

Type of Incident: Medical Event

Type of Investigation: Site

File No.: 4

Licensee: Mistras Group

Date of Incident: 6/14/11

Investigation Date: 8/9/11

License No.: IR268-30

NMED No.: 110315

Type of Incident: Source Disconnect

Type of Investigation: Site

File No.: 5

Licensee: Intrepid Potash

Date of Incident: 8/2/12

Investigation Date: 8/22/12

License No.: GA417-05

NMED No.: 120536

Type of Incident: Gauge Shutter Malfunction

Type of Investigation: Site

File No.: 6

Licensee: St. Vincent Regional Medical Center

Date of Incident: 4/22/10

Investigation Date: 7/7-9/10

License No.: MI213-53

NMED No.: N/A

Type of Incident: Other

Type of Investigation: Site

File No.: 7

Licensee: C.R. Sergeant

Date of Incident: 5/23/11

Investigation Date: 5/23/11

License No.: N/A

NMED No.: N/A

Type of Incident: Leaking Source

Type of Investigation: Site

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Incident Casework Reviews

File No.: 8

Licensee: Eastern New Mexico Medical Center

Date of Incident: 9/15/09

Investigation Date: 9/16/09

License No.: MI065-31

NMED No.: N/A

Type of Incident: Lost Source

Type of Investigation: Phone

ATTACHMENT

August 19, 2013 Letter from Butch Tongate
New Mexico's Response to the Draft Report
ADAMS Accession No.: ML13238A056



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

State of New Mexico
ENVIRONMENT DEPARTMENT

Office of the Secretary

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RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

August 19, 2013

Joseph E. DeCicco
Senior Health Physicist
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

RE: NRC IMPEP Review of New Mexico Radioactive Materials Program

Dear Mr. DeCicco:

In response to your letter dated July 24, 2013, we propose no revisions to the Draft IMPEP Report for the New Mexico Agreement State Program. Overall, the report appears to accurately describe the current program capabilities as they relate to the U.S. NRC and New Mexico Agreement.

We appreciate the depth of the assessment conducted by the IMPEP review team as well as the suggestions provided by each team member. The areas of suggested improvement in the Draft IMPEP Report will be carefully addressed by our staff in the next few months to ensure that we continue to protect public health and safety in New Mexico. As new staff is added to the program we will increase our efforts on the common performance indicators, while focusing on improvement to Technical Staffing and Training.

Thank you for your leadership in the development of a very fair assessment of the New Mexico Radiation Protection Program. Please contact me if you have any questions concerning this correspondence at (505) 827-2855.

Sincerely,

A handwritten signature in blue ink that reads "Butch Tongate".

Butch Tongate
Deputy Secretary

cc: Michael Vonderheide, EPD Director
Michael Ortiz, RCB Bureau Chief