



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
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ARLINGTON, TEXAS 76011-4005**

May 31, 2006

Mr. Kenneth Wangler
Division of Air Quality
Radiation and Air Program
North Dakota Department of Health
918 East Divide Avenue
Bismarck, ND 58501-1947

Dear Mr. Wangler:

A periodic meeting with North Dakota was held on May 2, 2006. The purpose of this meeting was to review and discuss the status of North Dakota's Agreement State Program. The NRC was represented by me and William Maier from the Region IV office and Cardelia Maupin from the Office of State and Tribal Programs.

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 email mlm1@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Linda McLean
Regional State Agreements Officer

Enclosure:
As stated

cc w/enclosure:
Janet Schlueter, Director, STP

ENCLOSURE

North Dakota Periodic Meeting
Date of Meeting: May 2, 2006

ATTENDEES:

STATE

Ken Wangler, Manager, Radiation and Indoor Air
Terry O'Clair, Director, Division of Air Quality
James Killingbeck, Environmental Scientist, RAM Licensing and Control
Chris Schmaltz, Environmental Scientist, RAM Licensing and Control

NRC

Linda McLean, Regional State Agreements Officer, Region IV
Cardelia Maupin, Agreement State Project Officer, Office of State and Tribal Programs
William Maier, Regional State Liaison Officer, RIV

DISCUSSION:

The last IMPEP Review was the week of April 22 - 25, 2003. The review team found North Dakota's performance to be satisfactory for all performance indicators. The review team recommended that the State program be found adequate and compatible with NRC's program, and that the next full review should be in approximately four years.

The North Dakota Agreement State program is administered by the Radiation Program (the Program), Division of Air Quality, North Dakota Department of Health (the Department). The Department is the designated radiation control agency. The North Dakota Agreement State program regulates 70 specific licenses authorizing Agreement materials.

Program items discussed:

1. *Status of State's actions to address all open previous IMPEP review findings and/or open recommendations.* The review found North Dakota's performance to be satisfactory for all performance indicators. No recommendations were made.
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 excellent working relationship with the staff; good senior management support for the program; stable management; and good rapport with licensees. The recent relocation of the Department of Health has improved communications since all departments are now co-located.

Weaknesses: One staff member (50% of staff) resigned in the of Summer 2005; the position was filled in December 2005. Consequently, the program is under stress to keep the program from getting behind in inspections and licensing actions. Another significant weakness is the State's salary structure which impacts the ability to retain qualified staff.

3. *Feedback on NRC's program as identified by the State and including identification of any action that should be considered by NRC.*

The State suggested again (RE: 2004 Periodic Meeting summary) that the NRC use more distance education (i.e. video training) similar to the FDA and EPA programs. The State commented on the additional work load due to the increased controls inspection activities, and the large volume of e-mail messages received from STP. Also discussed was the new definition of byproduct material which may cause problems in the future.

4. *Status of State Program including:*

- a. Staffing and training:

- i) *Number of staff in the program and status of their training and qualifications*

- Three of eight department staff members resigned in 2005 or were transferred to another department. One staff was in the radioactive materials program. The program is providing the necessary training to the new staff member so that he can be qualified as soon as possible.

- ii) *Program vacancies:* Two vacancies in another program area.

- iii) *Staff turnover:* Discussed above.

- iv) *Adequacy of FTEs for the materials program:* When fully staffed and trained the program appears to be adequately staffed. However, losing one staff member can cause program problems. It was suggested that the program manager review STP Procedure SA-700 to evaluate the adequacy of the FTEs for the materials program. The evaluation should include the increased controls activities.

- b. Materials Inspection Program:

- Discuss the status of the inspection program including if an inspection backlog exists and the steps being taken to work off backlog:* Currently, the program is overdue on one inspection; however, they expect to have more overdue inspections this year because of the staffing shortage. This is the first time in four years that an inspection is overdue.

- c. Regulations and Legislative changes: All regulations are up-to-date.

- d. Program reorganizations: None pending

- e. Changes in Program budget/funding: A draft rule has been issued requesting increased license fees. License fees fund 75% of the program and 25% comes from general funds.

Another proposed bill in the legislature requests an increase in the department's salary structure. A 2% increase in salaries occurred on April 1, 2006, and a second increase of 4% should occur in July 2006; however, the base level is lower than other State departments. The State said that a letter of support from the NRC could be of value in their pursuit of an increase in pay for the staff.

5. *Event Reporting, including follow-up and closure information in NMED:* There were no reportable events during this review period.

6. *Response to Incidents and Allegations:*

a. Status of allegations and concerns referred by the NRC for action: There were no allegations referred to the State during this review period.

b. Significant events and generic implications: None

7. *Information exchange and discussion:*

a. Current State initiatives: None at this time

b. Emerging technologies: None to report

c. Large, complicated or unusual authorizations for use of radioactive materials, including, (e.g., major decommissioning and license termination actions):

A major decommissioning activity is being discussed. An old Union Carbide site contaminated with uranium coal ash is adjacent to railroad owned property. The site was characterized many years ago. The Department of Energy (DOE) and the State committed to decontaminate the property with DOE funding 90% of the cost and the State 10%. Because fiscal problems, the State pulled out of the transaction. The DOE then took the site off their list. The railroad is wanting to sell their property and is concerned about the contamination. The property is not fenced off and nothing has been done to the land. There is also an old Kerr McGee site in a similar condition.

d. State's mechanisms to evaluate performance (as applicable):

i) *Computer tracking:* The program has a tracking system for licensing actions and inspections. The manager reviews the inspection and licensing data frequently.

ii) *Inspector accompaniments:* All accompaniments have been completed.

8. *Other topics:*

q The State said that a letter of support from the NRC could be of value in their pursuit of an increase in pay for the staff.

The State indicated they had received calls from the U.S. Customs regarding radioactive materials detected at the border of North Dakota and Canada.

NRC discussed the proper handling of Safeguard Information (SGI), including the importance of maintaining a log of the receipt and the final disposition of the material.

The State requested NMED training either in RIV or a nearby State.

9. *Schedule for the next IMPEP review:* FY2007.