



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

December 20, 2002

Mr. William Floyd, Manager
Radiation Control Bureau
Field Operations Division
New Mexico Environment Department
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502

Dear Mr. Floyd:

A periodic meeting was held with you and your staff on December 12, 2002. The purpose of this meeting was to review and discuss the status of New Mexico's Agreement State Program. The NRC was represented by me from NRC's Region IV office and Cardelia Maupin from the Office of State and Tribal Programs. I have completed and enclosed a meeting summary, including any specific actions that will be taken as a result of the meeting.

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 mlm1@nrc.gov to discuss your concerns.

/RA/

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

Mr. William Floyd, Manager

bcc:
SPO1
e-mail DCD
K. Brockman
L.McLean
V.Campbell
K. Schneider, STP
L. Rakovan, STP
C. Maupin, STP
W. Maier
J. Whitten

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**AGREEMENT STATE PERIODIC MEETING SUMMARY
NEW MEXICO**

DATE OF MEETING: December 12, 2002

ATTENDEES:

NRC

Linda McLean, Regional State Agreements Officer, Region IV
Cardelia Maupin, Agreement State Project Officer, STP

State of New Mexico

Darwin Pattengale, Deputy Director
Cecilia Williams, Bureau Chief
William Floyd, Program Manager
Stanley Fitch, Environmental Specialist
Margaret Roybal, Environmental Specialist
Walter Medina, Environmental Specialist
Sherry Miller, Environmental Specialist
David Baggett, Environmental Specialist

DISCUSSION:

The following is a summary of the meeting held in Santa Fe, New Mexico, on December 12, 2002, between representatives of the NRC and the State of New Mexico. During the meeting, the topics suggested in the letter dated October 15, 2002, from Mrs. McLean to Mr. Floyd were discussed. The discussion pertaining to each topic is summarized below.

The status of the recommendation outlined in Section 5.0 of the final IMPEP report was discussed and is summarized below.

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

Current Status of Overdue Regulations

1. Licenses for Industrial Radiography and Radiation Safety - Requirements for Industrial Radiography Operations," 10 CFR Parts 30, 34, 71, and 150 amendments (62 FR 28948) that became effective June 27, 1997.

Current Status: The rule (1) was reviewed by NRC on 6/12/02. Effective date: 5/19/02.

2. "Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act," 10 CFR Part 20 amendment (61 FR 65119) that became effective January 9, 1997;

3. "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;
4. "Deliberate Misconduct by Unlicensed Persons," 10 CFR Parts 30, 40, 61, 70, and 150 amendments (63 FR 1890 and 63 FR 13773) that became effective February 12, 1998;
5. "Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea," 10 CFR Part 30 amendment (62 FR 63634) that became effective January 2, 1998;
6. "Radiological Criteria for License Termination" - Parts 20, 30, 40, 70 ;
7. "Minor Corrections Clarifying Changes, and a Minor Policy Change" - Parts 20, 35, 36;
8. "Transfer for Disposal and Manifests: Minor Technical Conforming Amendment" - Part 20.

Current Status: The proposed rules (2 - 8) were reviewed and approved by the State's advisory board, and are with the State's Environmental Improvement Board for review.

Although the State has indicated that these regulations will be finalized in May 2003, the drafted regulations have not been submitted to NRC for review. In accordance with NRC procedure SA-201, both the drafted and final regulations should be reviewed by the NRC. In addition, it was noted that another regulation will soon be overdue, "Respiratory Protection and Controls," RATS ID-1999-3.

The use of legally binding requirements and adoption by reference as mechanisms to assist the State in maintaining compatible regulations was discussed. The State indicated that they would look into these options.

It is recommended that this item be reviewed at the next Periodic Meeting.

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 State has an experienced and motivated staff with a good internal working relationship. Since the last IMPEP, the State promulgated rules to establish a dedicated fee structure to support the Program. This has provided the Program with greater opportunities for staff training and for public outreach. The Program has also purchased six computers, additional office supplies, and two automobiles. In addition, three positions have been approved for the X-Ray inspection program.

Weaknesses: One weakness discussed is the State's difficulty in adopting regulations in a timely manner. They currently have one staff member dedicated to writing the regulations which should improve their future timeliness.

The State's X-Ray inspection program is currently behind in inspections. As noted above, they have received approval for three new positions to help reduce the inspection backlog. Another

weakness identified is the aging workforce. Two individuals in the Program are eligible for retirement.

Feedback on NRC's program as identified by the State and including identification of any action that should be considered by NRC. The State is considering adopting by reference the requirements in the Memorandum of Understanding (MOU) that was signed by the NRC with the Environmental Protection Agency. The MOU includes provisions for NRC and EPA consultation for certain sites when, at the time of the license termination, (1) site groundwater contamination exceeds EPA-permitted levels; (2) NRC contemplates restricted release or alternate use criteria of the site; or (3) site soil concentrations exceed levels defined in the MOU.

Status of State Program or policy changes under development or recently completed including:

- a. Changes in program staff: One staff vacancy was filled, and three new positions have been approved. The new staff member's responsibilities are both inspection and licensing. The Program plans to fill the three new positions by early 2003.
- b. Program reorganization: The new hires will be classified as X-Ray inspectors. The current inspector positions will be reclassified as radioactive materials inspectors to allow a higher pay scale for the current staff members.
- c. Legislative changes: A rule package was sent to the State's advisory board to add X-Ray inspection activities to the fee schedule. The package did not make it to the Governor's office. The Program will try again with the new administration.
- d. Changes in program budget/funding: On May 19, 2002, the State's fee schedule was adopted.

Status of NRC program changes that could impact Agreement States. The Program felt that the pending Interim Compensatory Measures (ICMs) may impact the Program depending upon the final selection of the measures.

Internal Program Audits or Self Assessments. The State performs routine quality assurance audits of inspection reports and licenses and inspection accompaniments. The State has an on-going process for reviewing the Program to identify needed improvements.

Status of all allegations and concerns previously referred by NRC to the Agreement State Radiation Control Program for action, and methods used to resolve allegations that have been closed. The NRC forwarded one allegation to the State by letter dated November 25, 2002. The investigation is in progress.

NMED reporting including event follow-up and closure information. STP Procedure SA-300, "Reporting Material Events" was discussed to ensure that all events required to be reported by the State to the NRC Operations Center and entered into NMED occurs. The procedure provides, in part, guidance for reporting significant events to the NRC Operations Center, for 24 hour notification, and for 30-60 day notification and follow-up event information. It was noted that the State needs to update its entry of events into the NMED database. The Program expressed their interest in scheduling an NMED training course in New Mexico. They have

talked to the NMED Project Manager and other Agreement States about arranging a course next year. The State needs to update its entry of events.

Schedule for next IMPEP Review. Fiscal year 2005.