



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064**

January 4, 2002

Terry L. O'Clair, Director
Division of Air Quality
Department of Health
1200 Missouri Avenue, Room 304
P.O. Box 5520
Bismarck, North Dakota 58506-5520

Dear Mr. O'Clair:

A periodic meeting with North Dakota was held on December 12, 2001. The purpose of this meeting was to review and discuss the status of North Dakota's Agreement State Program. The NRC was represented by Dwight Chamberlain and myself from NRC's Region IV office, and James Myers, by phone, from the NRC's Office of State and Tribal Programs.

I have completed and enclosed a general 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) 860-8143 or e-mail VHC@NRC.GOV to discuss your concerns.

Sincerely,

/RA/

Vivian H. Campbell
Regional State Agreements Officer

Enclosure:
As stated

cc w/encl

Paul Lohaus, Director, OSTP

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DOCUMENT NAME: S:\DNMS\SAO\Periodic Meetings\2002\NDSummary.wpd

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NORTH DAKOTA

DATE OF MEETING: December 12, 2001

ATTENDEES:

NRC

Vivian Campbell, Regional State Agreements Officer
Dwight Chamberlain, Director, DNMS
James Myers, Agreement State Project Officer,
Office of State and Tribal Programs, by phone

State of North Dakota

Terry O'Clair, Director, Division of Air Quality
Kenneth Wangler, Manager, Radiation Control Program
James Killingbeck, Environmental Scientist, RAM Licensing and Control
Justin Griffin, Environmental Engineer, RAM Licensing and Control

DISCUSSION:

The following is a summary of the meeting held in Bismarck, North Dakota, on December 12, 2001, between representatives of the NRC and the State of North Dakota. During the meeting, the topics suggested in a letter dated November 1, 2001, from Ms. Campbell to Mr. Wangler were discussed. The discussion pertaining to each topic is summarized below.

1. Action on Previous IMPEP Review Findings

The previous Integrated Materials Performance Evaluation Program (IMPEP) review was conducted during the April 13-16, 1999 and a follow-up IMPEP for the common indicator, Status of Inspections was conducted July 12, 2000. Recommendations 1, 2 and 3 outlined in Section 5.0 of the final 1999 IMPEP report were discussed and closed at the follow-up IMPEP review. (A copy of Section 5.0 of the IMPEP report is attached for reference.) The proposed status of the two recommendations remaining open are summarized below.

- a. **Recommendation:** The review team recommends that management perform an in-depth review of the Radiation Control Program's (the Program) current and future anticipated activities and obligations to ensure budgeted staffing levels are adequate to fulfill the responsibilities of the program.

Current Status: The Program management reviewed the staffing levels for the program and determined that the current staffing level for licensing and inspection is appropriate for their program. The program has had a decrease in the number of licensees since the last IMPEP.

It is recommended that this item be closed at the next IMPEP review

- b. **Recommendation:** The review team recommends that the State provide training to technical personnel, either by formal course work or equivalent, in the area of brachytherapy.

Current Status: One staff member successfully completed NRC's teletherapy/brachytherapy course in August, 1999. The second staff member has not yet been scheduled for this course. However, he has been scheduled for the 5-week health physics course in the Spring 2002.

It is recommended that this item be closed at the next IMPEP review

2. Strengths and Weaknesses of the Program

Some of the program strengths discussed were:

- a. Experienced staff with no recent turnover;
- b. Excellent working relationship with the staff;
- c. Good senior management support for the program;
- d. Cooperation from licensees; and
- e. Good technical support from the State's information technology staff.

Some of the program weaknesses discussed were:

- a. Limited out-of-state travel which could affect training staff;
- b. Critical staffing level to ensure successful program management; and
- c. Delay in the promulgation of regulations to maintain compatibility.

3. State Feedback on NRC's Program

The State:

- a. Suggested that NRC develop a program that would allow students to participate in some NRC training courses remotely, either by Internet or video-conference;

- b. Suggested that OSTP consider a format change for Agreement State Program letters so that the States can easily understand the subject of the document and identify a response deadline (This ASPO will follow-up on this issue.);
- c. Requested access to NRC's technical assistance request (TAR) database (The State indicated that the database would be a useful resource for addressing unique licensing issues. This issue will be referred to NMSS and OSTP for consideration of inclusion of the TAR database to the OSTP Web page.);
- d. Commented that the NRC had always been helpful when assistance was requested;
- e. Stated that NRC's NUREG 1556 series has been very useful (However, they are no longer available at the NRC website.); and
- f. Provided positive comments about the IMPEP process;

4. Recent or Pending State Program Changes

The State provided an updated organization chart. There are no pending State program changes. The Program has adequate funding for training and instrumentation. Approximately 35 percent of the budget comes from the General Fund and 65 percent from fees. License renewals remain at a 5-year frequency. The Program has approximately 59 licensees.

5. NRC Program or Policy Changes That Could Impact Agreement States

A copy of the Region IV organization was provided to the State. State assignments between the Regional State Agreements Officers (RSAO) and the status of the National Materials Program were also discussed.

6. Internal Program Audits or Self Assessments

While the State does not conduct formal audits or self-assessments, Program management and staff maintain a continuous awareness of the status of the program using the computerized tracking system. Program management accompanies staff on 10 percent of the inspections performed and reviews 100 percent of the licenses issued.

7. Status of Allegations Referred by NRC to the State

The NRC has not referred any allegations to North Dakota during the period.

8. Compatibility of North Dakota's Rules and Regulations

Management made the decision to focus resources on improving the status of the materials inspection program in lieu of adopting regulations required for compatibility purposes. The Program is currently using legally binding license conditions until the rules are promulgated. Now that their inspection program is current, management stated that regulation development and adoption is a high priority. The State has

finalized regulations required for compatibility through RATS ID 1997-3. However, none of the regulations due for adoption since June 2000 have been promulgated. Program management has made assignments to staff for regulation development and intends to submit and adopt the rules before the next IMPEP review.

9. Nuclear Material Events Database (NMED)

There have been no significant issues with the NMED system. The State sends event information to the INEEL contractor according to procedure.

10. Schedule for next IMPEP Review

Program management requested that the next IMPEP review be tentatively scheduled in April, May, or June 2003 because of other commitments impacting the State.