



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
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December 23, 2003

Gary W. Baughman, Director
Hazardous Materials & Waste
Management Division
Department of Public Health
and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Dear Mr. Baughman :

A periodic meeting with Colorado was held on December 9, 2003. The purpose of this meeting was to review and discuss the status of Colorado's Agreement State Program. 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:
Agreement State Periodic Meeting
Summary for Colorado

cc w/enclosure:
Paul Lohaus, Director, OSTP

Gary W. Baughman

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR COLORADO

DATE OF MEETING: December 9, 2003

ATTENDEES:

NRC

Vivian Campbell, Regional State Agreements Officer
Elmo Collins, Director, Division of Nuclear Materials Safety, Region IV
Terry Brock, Office of State and Tribal Programs

State of Colorado

Gary Baughman, Director, Hazardous Materials & Waste Management Division

Policy/Regulations & Radiation Program
Pam Harley, Program Manager
Ken Weaver, Radiation Regulations & Special Projects

Radiation Management Unit
Steve Tarlton, Unit Leader
Tim Bonzer
Tom Pentecost

Jerry Goad, Colorado Attorney General's Office

DISCUSSION:

The following is a summary of the meeting held in Denver, Colorado, on December 9, 2003, between representatives of the NRC and the State of Colorado. During the meeting, the topics suggested in the letter dated October 7, 2003, from Ms. Campbell to Mr. Eugene W. Potter 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 period February 5-9, 2001. The status of the recommendations outlined in Section 5.0 of the final IMPEP report were discussed at the periodic meeting conducted August 7, 2002. The current status is summarized below.

- a. **Recommendation:** The team recommends the Program develop and document a training and qualification program which address the training requirements in the NRC/Organization of Agreement States Training Working Group Report or IMC 1246. (Section 3.3)

Current Status: The Program has developed and implemented a formalized training and qualification program. However, staff indicated that the training program now needs minor revision. Management acknowledged the importance of training staff and affirmed their support. At the August 7, 2002, periodic meeting, it was recommended that this item be closed at the next IMPEP review.

- b. **Recommendation:** The review team recommends that the Program report all significant events to the NRC Emergency Operations Center in accordance with STP Procedure SA-300, "Reporting Material Events." (Section 3.5)

Current Status: The Program appears to be continuing to report all significant events to the NRC's Operations Center. The Program appears to be updating the event information in the nuclear materials events database (NMED), as appropriate.

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

- c. **Recommendation:** The review team recommends that the uranium recovery program consistently provide written results of inspections and site visits to all licensees within 45 days of the completion of the inspection. (Section 4.4.1)

Current Status: The Program is continuing to provide written results of inspections and site visits to the uranium mill licensees. At the August 7, 2002, periodic meeting, it was recommended that this item be closed at the next IMPEP review.

2. Strengths and Weaknesses of the Program

Program strengths:

Although the Program was reorganized into another Division within the Department of Public Health and Environment in February 2003, the Program continues to have qualified, experienced staff. In addition, the Program continues to have stable funding.

Program weaknesses:

With the reorganization, a new manager was assigned to oversee the Radiation Management Unit. Program management acknowledged that a weakness had resulted from the turnover of management. However, Division and Program management emphasized their strong focus on program development, staff management and transition planning. The new Program manager does not view potential staff retirements as a weakness, but as an opportunity for growth and expansion of the Program.

3. State Feedback on NRC's Program

Program management requested an update on the status of the Colorado-OAS petition for rulemaking (PRM-40-27) regarding risks of materials used by exempt persons. The Program was informed of the Commissions' decision in SECY-02-0196 dated November 17, 2003.

The State suggested that NRC consider establishing a joint OAS/NRC committee to review and determine regulation compatibility categories to be recommended to the Commission for approval.

NRC discussed with Program management the timing of the grant program and the next phase for the Gateway site. It was agreed to coordinate a teleconference with the appropriate parties to further discuss the status of Colorado's grant proposal for the characterization and remediation of the Gateway site.

In addition, program management stated their view that additional security measures should be part of the routine Agreement framework for protecting health and safety.

4. Recent or Pending State Program Changes

There are no pending State program changes with regard to budget. The Program has experienced stable funding over the period and is almost exclusively fee supported. However, there has been significant organizational changes since the last periodic meeting. In February 2003, the Radiation Services Program was relocated from the Laboratory and Radiation Services Division into the Hazardous Materials and Waste Management Division. The Radiation Services Program was split into three program areas within the Hazardous Materials and Waste Management Division. The materials licensing and inspection activities were assigned to the Radiation Management Unit within the Compliance Program. Regulation development, the Radon Program, and the X-ray/Mammography Program were assigned to the Policy/Regulations and Radiation Program. Responsibilities for uranium mill tailings closure were assigned to the Remediation Program. Program management provided an updated organization chart, copy attached. Program management stated that regardless of the organization structure within the Division, staff will continue to work collaboratively in order to complete projects.

The Attorney General's representative discussed the additional requirements specified in a newly passed Statute (HB-03-1358) for facilities authorized to dispose of radioactive wastes by burial in soil. The Bill includes provisions for public involvement and time limitations on the Department for processing renewals and amendments for these licensees. In addition, the Bill includes a requirement for an environmental assessment.

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

Ms. Campbell, Mr. Collins, and Mr. Brock discussed the Region IV organization, security issues and NRC rulemaking and guidance development, specifically Part 35 and IMC 2800.

6. Internal Program Audits or Self Assessments

After the reorganization and as a part of the transition, a partial audit of the staffing and training was conducted. The staff's training is generally complete with the exception of a formal course in Incident Investigation and Root Cause Analysis. Program management expressed their desire to host NRC's course in their Denver facility in

calendar year 2004. The NRC staff agreed to facilitate discussions with the appropriate NRC training coordinators.

7. Status of Allegations Referred by NRC to the State

Three allegations were referred to the State by Region IV during the period. Although a case file review was not conducted, it appears that they have responded to the allegations in a timely and thorough manner.

8. Compatibility of Colorado Rules and Regulations

Colorado's rules and regulations are for the most part up to date. Two regulations were past due and the status of one was unknown. Colorado has a plan to address the two identified past due regulations and are looking into the status of the one unknown. Colorado was made aware of two additional regulations coming due in early 2004.

9. Nuclear Material Events Database (NMED)

The State appears to be reporting significant events to NRC's Operations Center and providing updated information to NMED according to procedure. The Program has installed and used the latest version of the NMED software. No problems were reported.

10. Schedule for next IMPEP Review

The next IMPEP is scheduled for fiscal year 2004. Program management requested that NRC consider scheduling the next IMPEP in the June - August 2005 time frame. The management expects a significant resource impact related to renewing a major license.