



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

August 7, 1990

MEMORANDUM FOR: Files

FROM: Vandy L. Miller, Assistant Director
for State Agreements Program
State Programs, GPA *V. L. Miller*

John T. Greeves, Deputy Director
Division of Low-Level Waste Management
and Decommissioning, NMSS *John T. Greeves*

SUBJECT: APPROACH TO BE FOLLOWED IN THE REVIEW OF
AGREEMENT STATE LOW-LEVEL WASTE REGULATORY
PROGRAMS

The following is a summary of the principal points of discussion during a meeting between SP and LLWM on the approach to be followed in the review of Agreement State LLW regulatory programs.

1. There will be one NRC review team headed by the Regional Agreement State Officer (RSAO). All members of the team will report to and work through the RSAO. LLWM participation will generally be directed at two areas: general administration of the LLW regulatory portion of the State's program and review of specific LLW disposal licensing, inspection and enforcement casework and other specific casework in the LLWM area such as waste form or container approvals. Prior to the review, the LLWM team members will coordinate scheduling and preparation of a list of questions and areas to specifically cover during the review with the RSAO.
2. As a part of the onsite review, the team will prepare comments and recommendations based on the 29 indicators in the two above areas, i.e., the results of the general program review and comments and recommendations resulting from the review of specific licensing, inspection and other file reviews. Team members will prepare the comments and recommendations in written draft form in the evening two days prior to the exit meeting. The team will meet to review and revise the comments and recommendations during the evening of the day before the exit briefing.

3. The team led by the RSAO will present comments and recommendations developed in Item 2 above to the State at the conclusion of the onsite review. Any findings significant enough to be made part of the review report should be discussed at the exit briefing. There may be an occasion, although infrequent, that significant findings are developed after the exit briefing as a result of further evaluations. In this case, the team member will inform the team leader and SP promptly so that an agreement can be reached on the best method to inform the Agreement State authorities prior to issuance of the report.
4. Upon return to the Office, the LLWM team members prepare the comments and recommendations presented to the State under Item 3 above in final typewritten form, prepare a cover memo for Richard Bangart's signature to Carlton Kammerer, and ensure that all team members and team member management are on the memo for concurrence. The final comments and recommendations should be completed and signed out by Mr. Bangart to meet the GPA schedule to provide comments to the State within two weeks of the completion of the review. There may be occasions when LLWM may have less important comments on recommendations for the States which do not require a response. States could be provided these items in writing as an enclosure to the report or under separate cover from the review report to use at their own discretion. No additional formal report will be prepared by the review team.
5. With regard to Agreement State visits, the RSAO along with LLWM team members will conduct an informal review of the Agreement State program and assist the State in resolving issues. All unresolved findings will be discussed with the Agreement State staff during the exit briefing. The RSAO will prepare a trip report of the visit documenting the unresolved issues to include LLWM findings, and the overall status of the program and provide it to the Assistant Director, State Agreements Program. SP will determine in conjunction with LLWM/D the significance of the unresolved issues and make a decision as to whether to provide these findings to the Agreement State under the signature of the Director, State Programs.

- 6. The LLWM team members participating in the review will provide a briefing to NMSS management upon return, the team members will cover all major guidance areas in the LLW program review as well as the specific comments and recommendations as noted above.

Distribution

SA RF
 Dir RF
 CKammerer
 VMiller
 RBangart
 JGreeves
 SP staff
 RSAOs (5)
 Review Procedures File

*See previous concurrence

FC	:NMSS:LLWM:DD:SP:SA:AD	:SP:D	:	:	:	:
IAME	:JGreeves:dd	:VMiller	:CKammerer	:	:	:
DATE	:8/7/90*	:8/1/90*	:8/6/90*	:	:	:

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NUCLEAR REGULATORY COMMISSION

Evaluation of Agreement State Radiation Control Programs; Final General Statement of Policy

AGENCY: U.S. Nuclear Regulatory
Commission.

ACTION: Final general statement of
policy.

SUMMARY: The Nuclear Regulatory
Commission is adopting as a general
statement of policy the recently revised
"Guidelines for NRC Review of
Agreement State Radiation Control
Programs." This statement of policy is
being issued to inform the States and the
public of the criteria and guidelines
which the Commission intends to use in
its periodic evaluations of Agreement
State programs.

FOR FURTHER INFORMATION CONTACT:
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SUPPLEMENTARY INFORMATION: On
November 13, 1986 the NRC published in
the Federal Register proposed minor
revisions to its General Statement of
Policy, "Guidelines for NRC Review of
Agreement State Radiation Control
Programs" (51 FR 41172). Interested
persons were invited to submit written
comments on the proposed revised
policy statement which expired January
12, 1987. Seven written comments were
received. After review and evaluation of
the comments, the Commission has
concluded the revisions can be
published as proposed as a final general
statement of policy. Minor editorial
corrections have been made to the text
for clarification.

Six letters offered comments on the
proposed revision to the Policy
Statement.

One comment letter was received
from a public citizen, one from a utility
health physicist, three from Agreement
State radiation control program directors

and one from a non-Agreement State
radiation control program director. A
seventh comment letter, from a nuclear
utility, commented on the Federal
Register notice of the Commission's
interest in the feasibility of developing a
set of objective performance indicators
for the various materials licenses
regulated by the NRC and the
Agreement States. The Commission
plans to further explore this possibility
and will seek opportunities to do so
together with the Agreement States and,
when appropriate, with additional
opportunity for public input.

One comment was specific to a State
(Pennsylvania) which recently entered a
Memorandum of Understanding (MOU)
with NRC (51 FR 43487). The MOU was
viewed by the commentor as
circumventing this Policy Statement.
The referenced agreement is authorized
by section 247i of the Atomic Energy Act
as amended. State activities under it
will not include regulatory functions that
could be conducted pursuant to a
Section 274b Agreement (which this
Policy Statement covers).

One comment recommended elevating
staffing level to Category I and another
recommended elevating all the
Indicators under Personnel to Category
I. Commission staff, when developing
the proposed revision, solicited
Agreement State and regional staff
views on moving staffing level to
Category I. Supporting arguments were
that staffing level deficiencies were
frequently a major contributing cause of
significant Category I deficiencies in
State programs, e.g., lack of staff leads
to inspection backlogs, and elevating the
Indicator to Category I would help focus
State attention on the underlying causes,
e.g., inadequate funds for positions and
low salaries. On the other hand, NRC
staff routinely couple comments on staff
deficiencies with comments on Category
I problems, when linkage exists, in the
comment letters to the State Health
Officers. NRC staff will also comment
on staffing deficiencies in the absence of
Category I deficiencies if the staff
believes the staffing deficiencies, if
uncorrected, will lead to problems in
Category I areas. Category I Indicators,
as explained in the Policy Statement,
have a direct bearing on health and
safety and Category II Indicators
address essential technical and
administrative support which if not
maintained may lead to Category I
problems. As an example of a Category
II Indicator the Policy Statement cites
staffing level. Maintaining staffing level
and other Personnel Indicators as
Category II will be consistent with the

intended distinctions between
I and II.

Comment from a non-Agreement State recommended maintaining the separation of Status of Regulation and Compatibility of Regulations (as in the present Policy Statement). As explained in the November 13, 1986 Federal Register notice confusion has arisen over the distinctions between the two indicators. The proposal to combine them received no negative comments from the 28 Agreement States. Allied with this comment, was another recommending that draft language for State regulations should be provided to the States to enable them to meet the guidelines for maintaining compatible regulations within 3 years of adoption by NRC. Agreement States are routinely notified of NRC regulatory amendments that must be adopted to maintain compatibility. In many cases simple redrafting of the NRC requirement to meet State codification standards can be done easily by the States. When major NRC amendments are issued, such as the waste manifest rules contained in 10 CFR 20.311, NRC staff will prepare and make available to the States draft suggested State regulation language that incorporate NRC amendments. The Conference of Radiation Control Program Directors, with NRC and other Federal Agency assistance maintains model Suggested State Regulations (SSR) through a formal adoption process. Experience has shown that when State delays in adopting amendments are encountered, they have been as much related to inadequate staff resources that are needed to prepare amendments and the complex State administrative procedures for adopting regulations as they have been to the availability of timely issued SSR's. The Conference has not always adopted revisions within 3 years of NRC amendments; however, these other NRC measures provide adequate alternatives by which Agreement States can initiate actions to adopt conforming amendments to State regulations.

One comment from a non-Agreement State suggested that the guidelines should establish criteria for determining if a State's program is inadequate because of common defense and security (CD&S) considerations. As noted in the Federal Register notice on the proposed agreement with the State of Illinois (52 FR 2309), the Commission is considering the question of continued regulation of a specific licensee in State in the interest of the common use and security of the United States. This CD&S issue emanates from

the Commission's statutory obligations to protect the common defense and security as set forth in section 274m of the Act, as amended. That section makes clear that this obligation is separate from determining that the State's program is adequate to protect the public health and safety as required by section 274b.

One comment received from a non-Agreement State suggested that in adding to the guidelines, NRC should compare Agreement State programs to the Regional NRC materials programs. The implication of the comment is that the NRC regulatory program for materials should be reviewed in light of the same guidelines for the Agreement States. The Policy Statement has been developed specifically for the review of Agreement State programs as required by section 247j of the Act, as amended, which provides that NRC "shall periodically review such agreements and actions taken by the States under the agreements to insure compliance with the provisions of this section." Thus, the guidelines are not totally applicable to NRC programs. However, the periodic appraisal or assessments which NRC makes of its own materials regulatory program utilize comparable principles to those used in evaluating Agreement State programs.

One comment recommended development of guidelines for staff for Agreement State programs responsible for regulation of low-level waste disposal. Guidance in assessing staff technical capability needs and overall staffing requirements for States seeking low-level waste regulatory authority is available from NRC staff under NRC's Low-Level Waste Technical Assistance Program (51 FR 3866). NRC staff plans to prepare a supplementary Policy Statement addressing guidelines which are specific to Agreement State regulatory programs in this area.

Additional comments were received that addressed typographical errors by the Federal Register and offered minor editorial corrections. The latter have been incorporated.

Guidelines for NRC Review of Agreement State Radiation Control Programs, 1987

(Prepared by Office of Governmental and Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555)

Introduction

Section 274 of the Atomic Energy Act was enacted by the Congress in 1959 to recognize the interests of the States in atomic energy, to clarify the respective responsibilities of State and Federal

Governments, and to provide a mechanism for States to enter into formal agreements with the Atomic Energy Commission (AEC), and later the Nuclear Regulatory Commission (NRC), under which the States assume regulatory authority over byproduct, source, and small quantities of special nuclear materials, collectively referred to as agreement materials. The mechanism by which the NRC discontinues and the States assume regulatory authority over agreement materials is an agreement between the Governor of a State and the Commission. Before entering into an Agreement, the Governor is required to certify that the State has a regulatory program that is adequate to protect the public health and safety. In addition, the Commission must perform an independent evaluation and make a finding that the State's program is adequate from the health and safety standpoint and compatible with the Commission's regulatory program.

Current Guidelines

In 1981, the Commission published a major revision of the guide for review of Agreement State programs (two earlier revisions reflected primarily minor and editorial changes). These Guidelines constitute Commission policy in the form of a document entitled "Guidelines for NRC Review of Agreement State Radiation Control Programs." This document provides guidance for evaluation of operating Agreement State programs based on over 20 years of combined AEC-NRC experience in administering the Agreement State program. In 1985, Commission staff initiated minor updating, clarifying and editorial changes reflecting the experience gained with the 1981 policy statement. The revised document will be used by the NRC in its continuing program of evaluating Agreement State programs.

The "Guidelines" contain six sections, each dealing with one of the essential elements of a radiation control program (RCP) which are: Legislation and Regulations, Organization, Management and Administration, Personnel, Licensing, and Compliance. Each section contains (a) a summary of the general significance of the program elements, (b) indicators which address specific functions within the program element, (c) categories which denote the relative importance of each indicator, and (d) guidelines which delineate specific objectives or operational goals.

Categories of Indicators

The indicators listed in this document cover a wide range of program functions, both technical and administrative. It should be recognized that the indicators, and the guidelines under each indicator, are not of equal importance in terms of the fundamental goal of a radiation control program, i.e. protection of the public health and safety. Therefore, the indicators are categorized in terms of their importance to the fundamental goal of protecting the public health and safety. Two categories are used.

Category I—Direct Bearing on Health and Safety. Category I Indicators are:

- Legal Authority.
- Status and Compatibility of Regulations.
- Quality of Emergency Planning.
- Technical Quality of Licensing Actions.
- Adequacy of Product Evaluations.
- Status of Inspection Program.
- Inspection Frequency.
- Inspectors' Performance and Capability.
- Response to Actual and Alleged Incidents.
- Enforcement Procedures.

These indicators address program functions which directly relate to the State's ability to protect the public health and safety. If significant problems exist in one or more Category I indicator areas, then the need for improvements may be critical. Legislation and regulations together form the foundation for the entire program establishing the framework for the licensing and compliance programs. The technical review of license applications is the initial step in the regulatory process. The evaluation of applicant qualifications, facilities, equipment, and procedures by the regulatory agency is essential to assure protection of the public from radiation hazards associated with the proposed activities. Assuring that licensees fulfill the commitments made in their applications and that they observe the requirements set forth in the regulations is the objective of the compliance program. The essential elements of an adequate compliance program are (1) the conduct of onsite inspections of licensee activities, (2) the performance of these inspections by competent staff, and (3) the taking of appropriate enforcement actions. Another very important factor is the ability to plan for, respond effectively to, and investigate radiation incidents.

Category II—Essential Technical and Administrative Support. Category II Indicators are:

- Location of Radiation Control Program Within State Organization.
- Internal Organization of Radiation Control Program.
- Legal Assistance.
- Technical Advisory Committees.
- Budget.
- Laboratory Support.
- Administrative Procedures.
- Management.
- Office Equipment and Support Services.
- Public Information.
- Qualifications of Technical Staff.
- Staffing Level.
- Staff Supervision.
- Training.
- Staff Continuity.
- Licensing Procedures.
- Inspection Procedures.
- Inspection Reports.
- Confirmatory Measurements.

These indicators address program functions which provide essential technical and administrative support for the primary program functions. Good performance in meeting the guidelines for these indicators is essential in order to avoid the development of problems in one or more of the principal program areas, i.e. those that fall under Category I indicators. Category II indicators frequently can be used to identify underlying problems that are causing, or contributing to, difficulties in Category I indicators.

It is the NRC's intention to use these categories in the following manner. In reporting findings to State management, the NRC will indicate the category of each comment made. If no significant Category I comments are provided, this will indicate that the program is adequate to protect the public health and safety and is compatible with the NRC's program. If one or more significant Category I comments are provided, the State will be notified that the program deficiencies may seriously affect the State's ability to protect the public health and safety and that the need of improvement in particular program areas is critical. The NRC would request an immediate response. If, following receipt and evaluation, the State's response appears satisfactory in addressing the significant Category I comments, the staff may offer findings of adequacy and compatibility as appropriate or defer such offering until the State's actions are examined and their effectiveness confirmed in a subsequent review. If additional information is needed to evaluate the State's actions, the staff may request the information through follow-up correspondence or perform a follow-up or special, limited review. NRC staff may hold a special meeting with

appropriate State representatives. No significant items will be left unresolved over a prolonged period. The Commission will be informed of the results of the reviews of the individual Agreement State programs and copies of the review correspondence to the States will be placed in the NRC Public Document Room. If the State program does not improve or if additional significant Category I deficiencies have developed, a staff finding that the program is not adequate will be considered and the NRC may institute proceedings to suspend or revoke all or part of the Agreement in accordance with section 274j of the Act.

Category II comments concern functions and activities which support the State program and therefore would not be critical to the State's ability to protect the public. The State will be asked to respond to these comments and the State's actions will be evaluated during the next regular program review.

It should be recognized that the categorization pertains to the significance of the overall indicator and not to each of the guidelines within that indicator. For example, "Technical Quality of Licensing Actions" is a Category I indicator. The review of license applications for the purpose of evaluating the applicant's qualifications, facilities, equipment, and procedures is essential to assuring that the public health and safety is being protected. One of the guidelines under this indicator concerns preclicensing visits. The need for such visits depends on the nature of the specific case and is a matter of judgment on the part of the licensing staff. The success of a State program in meeting the overall objective of the indicator does not depend on literal adherence to each recommended guideline.

The "Guidelines for NRC Review of Agreement State Radiation Control Programs" will be used by the NRC staff during its onsite reviews of Agreement State programs. Such reviews are conducted at approximately 18 month intervals, or less if deemed necessary. If there are no significant Category I comments, the staff may extend the interval between reviews to approximately 24 months.

In making a finding of adequacy, the NRC considers areas of the State program which are critical to its primary function, i.e., protection of the public health and safety. For example, a State that is not carrying out its inspection program, or fails to respond to significant radiological incidents would not be considered to have a program adequate to protect the public health

ety. Basic radiation protection ds, such as exposure limits, also affect the States' ability to public health and safety. The NRC feels that it is important to strive for a high degree of uniformity in technical definitions and terminology, particularly as related to units of measurement and radiation dose. Maximum permissible doses and levels of radiation and concentrations of radioactivity in unrestricted areas as specified in 10 CFR Part 20 are considered to be important enough to require States to be essentially equivalent in this area in order to protect public health and safety. Certain procedures, such as those involving the licensing of products containing radioactive material intended for interstate commerce, also require a high degree of uniformity. If no serious performance problems are found in an Agreement State program and if its standards and program procedures are compatible with the NRC program, a finding of adequacy and compatibility is made.

Program Element: Legislation and Regulations

The effectiveness of any State radiation control program (RCP) is dependent upon the underlying authority of the RCP in State legislation, and mented in the State regulations. Regulations provide the foundation upon which licensing, inspection, and enforcement decisions are made. Regulations also provide the standards and rules within which the regulated must operate. Periodic revisions are necessary to reflect changing technology, improved knowledge, current recommendations by technical advisory groups, and consistency with NRC regulations. Procedures for providing input to the NRC on proposed changes to NRC regulations are necessary to assure consideration of the State's interests and requirements. The public and, in particular, affected classes of licensees should be granted the opportunity and time to comment on rule changes.

Indicators and Guidelines

Legal Authority (Category I)

- Clear statutory authority should exist, designating a State radiation control agency and providing for promulgation of regulations, licensing, inspection and enforcement.
- States regulating uranium or thorium recovery and associated wastes want to the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) must have statutes enacted

to establish clear authority for the State to carry out the requirements of UMTRCA.

Status and Compatibility of Regulations (Category I)

- The State must have regulations essentially identical to 10 CFR Part 19, Part 20 (radiation dose standards, effluent limits, waste manifest rule and certain other parts), Part 61 (technical definitions and requirements, performance objectives, financial assurances) and those required by UMTRCA, as implemented by Part 40.
- The State should adopt other regulations to maintain a high degree of uniformity with NRC regulations.
- For those regulations deemed a matter of compatibility by NRC, State regulations should be amended as soon as practicable but no later than 3 years.
- The RCP has established procedures for effecting appropriate amendments to State regulations in a timely manner, normally within 3 years of adoption by NRC.
- Opportunity should be provided for the public to comment on proposed regulation changes (Required by UMTRCA for uranium mill regulation.)
- Pursuant to the terms of the Agreement, opportunity should be provided for the NRC to comment on draft changes in State regulations.

Program Element: Organization

The effectiveness of any State RCP may be dependent upon its location within the overall State organizational structure. The RCP should be in a position to compete effectively with other health and safety programs for budget and staff. Program management must have access to individuals or groups which establish health and safety program priorities. The RCP should be organized to achieve a high degree of efficiency in supervision, work functions, and communications.

Indicators and Guidelines

Location of Radiation Control Program Within State Organization (Category II)

- The RCP should be located in a State organization parallel with comparable health and safety programs. The Program Director should have access to appropriate levels of State management.
- Where regulatory responsibilities are divided between State agencies, clear understandings should exist as to division of responsibilities and requirements for coordination.

Internal Organization of Radiation Control Program (Category II)

- The RCP should be organized with the view toward achieving an acceptable degree of staff efficiency, place appropriate emphasis on major program functions, and provide specific lines of supervision from program management for the execution of program policy.
- Where regional offices or other government agencies are utilized, the lines of communication and administrative control between these offices and the central office (Program Director) should be clearly drawn to provide uniformity in licensing and inspection policies, procedures and supervision.

Legal Assistance (Category II)

- Legal staff should be assigned to assist the RCP or procedures should exist to obtain legal assistance expeditiously. Legal staff should be knowledgeable regarding the RCP program, statutes, and regulations.

Technical Advisory Committees (Category II)

- Technical Committees, Federal Agencies, and other resource organizations should be used to extend staff capabilities for unique or technically complex problems.
- A State Medical Advisory Committee should be used to provide broad guidance on the uses of radioactive drugs in or on humans. The Committee should represent a wide spectrum of medical disciplines. The Committee should advise the RCP on policy matters and regulations related to use of radioisotopes in or on humans.
- Procedures should be developed to avoid conflict of interest, even though Committees are advisory. This does not mean that representatives of the regulated community should not serve on advisory committees or not be used as consultants.

Program Element: Management and Administration

State RCP management must be able to meet program goals through strong, direct leadership at all levels of supervision. Administrative procedures are necessary to assure uniform and appropriate treatment of all regulated parties. Procedures for receiving information on radiological incidents, emergency response, and providing information to the public are necessary. Procedures to provide feedback to supervision on status and activities of the RCP are necessary. Adequate facilities, equipment and support

services are needed for optimum utilization of personnel resources. Laboratory support services should be administered by the RCP or be readily available through established administrative procedures.

In order to meet program goals, a State RCP must have adequate budgetary support. The total RCP budget must provide adequate funds for salaries, travel costs associated with the compliance program, laboratory and survey instrumentation and other equipment, and other administrative costs. The program budget must reflect annual changes in the number and complexity of applications and licenses, and the increase in costs due to normal inflation.

Indicators and Guidelines

Quality of Emergency Planning (Category I)

- The State RCP should have a written plan for response to such incidents as spills, overexposures, transportation accidents, fire or explosion, theft, etc.

- The Plan should define the responsibilities and actions to be taken by State agencies. The Plan should be specific as to persons responsible for initiating response actions, conducting operations and cleanup.

- Emergency communication procedures should be adequately established with appropriate local, county and State agencies. Plans should be distributed to appropriate persons and agencies. NRC should be provided the opportunity to comment on the Plan while in draft form.

- The plan should be reviewed annually by Program staff for adequacy and to determine that content is current. Periodic drills should be performed to test the plan.

Budget (Category II)

- Operating funds should be sufficient to support program needs such as staff travel necessary to the conduct of an effective compliance program, including routine inspections, followup or special inspections (including pre-licensing visits), and responses to incidents and other emergencies, instrumentation and other equipment to support the RCP, administrative costs in operating the program including rental charges, printing costs, laboratory services, computer and/or word processing support, preparation of correspondence office equipment, hearing costs, etc. as appropriate.

- Principal operating funds should be from sources which provide continuity and reliability, i.e., general tax, license

fees, etc. Supplemental funds may be obtained through contracts, cash grants, etc.

Laboratory Support (Category II)

- The RCP should have laboratory support capability inhouse, or readily available through established procedures, to conduct bioassays, analyze environmental samples, analyze samples collected by inspectors, etc. on a priority established by the RCP.

Administrative Procedures (Category II)

- The RCP should establish written internal policy and administrative procedures to assure that program functions are carried out as required and to provide a high degree of uniformity and continuity in regulatory practices. These procedures should address internal processing of license applications, inspection policies, decommissioning and license termination, fee collection, contacts with communication media, conflict of interest policies for employees, exchange-of-information and other functions required of the program. Administrative procedures are in addition to the technical procedures utilized in licensing, and inspection and enforcement.

Management (Category II)

- Program management should receive periodic reports from the staff on the status of regulatory actions (backlogs, problem cases, inquiries, regulation revisions).

- RCP management should periodically assess workload trends, resources and changes in legislative and regulatory responsibilities to forecast needs for increased staff, equipment, services and fundings.

- Program management should perform periodic reviews of selected license cases handled by each reviewer and document the results. Complex licenses (major manufacturers, large scope-Type A Broad, potential for significant releases to environment) should receive second party review (supervisory, committee, consultant). Supervisory review of inspections, reports and enforcement actions should also be performed.

- When regional offices or other government agencies are utilized, program management should conduct periodic audits of these offices.

Office Equipment and Support Services (Category II)

- The RCP should have adequate secretarial and clerical support. Automatic typing and Automatic Data Processing and retrieval capability

should be available to larger (greater than 300-400 licenses) programs. Similar services should be available to regional offices, if utilized.

- Professional staff should not be used for fee collection and other clerical duties.

Public Information (Category II)

- Inspection and licensing files should be available to the public consistent with State administrative procedures. It is desirable, however, that there be provisions for protecting from public disclosure proprietary information and information of a clear personal nature.

- Opportunity for public hearings should be provided in accordance with UMTRCA and applicable State administrative procedure laws.

Program Element: Personnel

The RCP must be staffed with a sufficient number of trained personnel. The evaluation of license applications and the conduct of inspections require staff with in-depth training and experience in radiation protection and related subjects. The staff must be adequate in number to assure licensing, inspection, and enforcement actions of appropriate quality to assure protection of the public health and safety. Periodic training of existing staff is necessary to maintain capabilities in a rapidly changing technological environment. Program management personnel must be qualified to exercise adequate supervision in all aspects of a State radiation control program.

Indicators and Guidelines

Qualifications of Technical Staff (Category II)

- Professional staff should have bachelor's degree or equivalent training in the physical and/or life sciences. Additional training and experience in radiation protection for senior personnel including the director of the radiation protection program should be commensurate with the type of licenses issued and inspected by the State.

- Written job descriptions should be prepared so that professional qualifications needed to fill vacancies can be readily identified.

Staffing Level (Category II)

- Professional staffing level should be approximately 1-1.5 person-year per 100 licenses in effect. RCP must not have less than two professionals available with training and experience to operate RCP in a way which provides continuous coverage and continuity.

- For States regulating uranium mills tailings, current indications are that 2-

75 professional person-years of effort, consultants, are needed to develop a new mill license (including initial or major renewal, to meet requirements of Uranium Mill Tailings Radiation Control Act of 1978. This effort must include expertise in radiological matters, hydrology, geology, and structural engineering.¹

Staff Supervisor (Category II)

- Supervisory personnel should be adequate to provide guidance and review the work of senior and junior personnel.

- Senior personnel should review applications and inspect licenses independently, monitor work of junior personnel, and participate in the establishment of policy.

- Junior personnel should be initially limited to reviewing license applications and inspecting small programs under close supervision.

Training (Category II)

- Senior personnel should have attended NRC core courses in licensing orientation, inspection procedures, medical practices and industrial radiography practices. (For mill States, mill training should also be included.)

- The RCP should have a program to utilize specific short courses and workshops to maintain appropriate level of technical competence in areas of technology.

Staff Continuity (Category II)

- Staff turnover should be minimized by combinations of opportunities for training, promotions, and competitive salaries.

- Salary levels should be adequate to recruit and retain persons of appropriate professional qualifications. Salaries should be comparable to similar employment in the geographical area.

- The RCP organization structure should be such that staff turnover is minimized and program continuity maintained through opportunities for promotion. Promotion opportunities should exist from junior level to senior level or supervisory positions. There also should be opportunity for periodic salary increases compatible with experience and responsibility.

Program Element: Licensing

It is necessary in licensing byproduct, source, and special nuclear materials that the State regulatory agency obtain information about the proposed use of

nuclear materials, facilities and equipment, training and experience of personnel, and operating procedures appropriate for determining that the applicant can operate safely and in compliance with the regulations and license conditions. An acceptable licensing program includes: preparation and use of internal licensing guides and policy memoranda to assure technical quality in the licensing program (when appropriate, such as in small programs, NRC Guides may be used); prelicensing inspection of complex facilities; and the implementation of administrative procedures to assure documentation and maintenance of adequate files and records.

Indicators and Guidelines

Technical Quality of Licensing Actions (Category I)

- The RCP should assure that essential elements of applications have been submitted to the agency, and that these elements meet current regulatory guidance for describing the isotopes and quantities to be used, qualifications of persons who will use material, facilities and equipment, and operating and emergency procedures sufficient to establish the basis for licensing actions.

- Prelicensing visits should be made for complex and major licensing actions.

- Licenses should be clear, complete, and accurate as to isotopes, forms, quantities, authorizes uses, and permissive or restrictive conditions.

- The RCP should have procedures for reviewing licenses prior to renewal to assure that supporting information in the file reflects the current scope of the licensed program.

Adequacy of Product Evaluations (Category I)

- RCP evaluations of manufacturer's or distributor's data on sealed sources and devices outlined in NRC, State or appropriate ANSI Guides, should be sufficient to assure integrity and safety for users.

- The RCP should review manufacturer's information in labels and brochures relating to radiation health and safety, assay, and calibration procedures for adequacy.

- Approval documents for sealed source or device designs should be clear, complete and accurate as to isotopes, forms, quantities, uses, drawing identifications, and permissive or restrictive conditions.

Licensing Procedures (Category II)

- The RCP should have internal licensing guides, checklists, and policy

memoranda consistent with current NRC practice.

- License applicants (including applicants for renewals) should be furnished copies of applicable guides and regulatory positions.

- The present compliance status of licensees should be considered in licensing actions.

- Under the NRC Exchange-of-Information program, evaluation sheets, service licenses, and licenses authorizing distribution to general licensees should be submitted to NRC on a timely basis.

- Standard license conditions comparable with current NRC standard license conditions should be used to expedite and provide uniformity in the licensing process.

- Files should be maintained in an orderly fashion to allow fast, accurate retrieval of information and documentation of discussions and visits.

Program Element: Compliance

Periodic inspections of licensed operations are essential to assure that activities are being conducted in compliance with regulatory requirements and consistent with good safety practices. The frequency of inspections depends on the amount and the kind of material, the type of operation licensed, and the results of previous inspections. The capability of maintaining and retrieving statistical data on the status of the compliance program is necessary. The regulatory agency must have the necessary legal authority for prompt enforcement of its regulations. This may include, as appropriate, administrative remedies, orders requiring corrective action, suspension or revocation of licenses, the impounding of materials, and the imposing of civil or criminal penalties.

Indicators and Guidelines

Status of Inspection Program (Category I)

- State RCP should maintain an inspection program adequate to assess licensee compliance with State regulations and license conditions.

- The RCP should maintain statistics which are adequate to permit Program Management to assess the status of the inspection program on a periodic basis. Information showing the number of inspections conducted, the number overdue, the length of time overdue and the priority categories should be readily available.

- At least semiannual inspection planning for number of inspections to be performed, assignments to senior vs.

¹ Additional guidance is provided in the Criteria of States and NRC in Discontinuance of Regulatory Authority and Assumption by States Through Agreement (46 FR 7340, 4-48 FR 33378).

junior staff, assignments to regions, identification of special needs and periodic status reports. When backlogs occur, the program should develop and implement a plan to reduce the backlog. The plan should identify priorities for inspections and establish target dates and milestones for assessing progress.

Inspection Frequency (Category I)

- The RCP should establish an inspection priority system. The specific frequency of inspections should be based upon the potential hazards of licensed operations, e.g., major processors, and industrial radiographers should be inspected approximately annually—smaller or less hazardous operations may be inspected less frequently. The minimum inspection frequency including for initial inspections should be no less than the NRC system.

Inspectors' Performance and Capability (Category I)

- Inspectors should be competent to evaluate health and safety problems and to determine compliance with State regulations. Inspectors must demonstrate to supervision an understanding of regulations, inspection guides, and policies prior to independently conducting inspections.
- The compliance supervisor (may be RCP manager) should conduct annual field evaluations of each inspector to assess performance and assure application of appropriate and consistent policies and guides.

Response to Actual and Alleged Incidents (Category I)

- Inquiries should be promptly made to evaluate the need for onsite investigations.
- Onsite investigations should be promptly made of incidents requiring reporting to the Agency in less than 30 days. (10 CFR 20.403 types.)
- For those incidents not requiring reporting to the Agency in less than 30 days, investigations should be made during the next scheduled inspection.
- Onsite investigations should be promptly made of non-reportable incidents which may be of significant public interest and concern, e.g., transportation accidents.
- Investigations should include in-depth reviews of circumstances and should be completed on a high priority basis. When appropriate, investigations should include reenactments and time-study measurements (normally within a few days). Investigation (or inspection) results should be documented and enforcement action taken when appropriate.

- State licensees and the NRC be notified of pertinent information about any incident which could be relevant to other licensed operations (e.g., equipment failure, improper operation procedures).

- Information on incidents involving failure of equipment should be provided to the agency responsible for evaluation of the device for an assessment of possible generic design deficiency.

- The RCP should have access to medical consultants when needed to diagnose or treat radiation injuries. The RCP should use other technical consultants for special problems when needed.

Enforcement Procedures (Category I)

- Enforcement Procedures should be sufficient to provide a substantial deterrent to licensee noncompliance with regulatory requirements. Provisions for the levying of monetary penalties are recommended.

- Enforcement Procedures should be issued within 30 days following inspection and should employ appropriate regulatory language clearly specifying all items of noncompliance and health and safety matters identified during the inspection and referencing the appropriate regulation or license condition being violated.

- Enforcement letters should specify the time period for the licensee to respond indicating corrective actions and actions taken to prevent re-occurrence (normally 20-30 days). The inspector and compliance supervisor should review licensee responses.

- Licensee responses to enforcement letters should be promptly acknowledged as to adequacy and resolution of previously unresolved items.

- Written procedures should exist for handling escalated enforcement cases of varying degrees.

- Impounding of material should be in accordance with State administrative procedures.

- Opportunity for hearings should be provided to assure impartial administration of the radiation control program.

Inspection Procedures (Category II)

- Inspection guides consistent with current NRC guidance, should be used by inspectors to assure uniform and complete inspection practices and provide technical guidance in the inspection of licensed programs. NRC Guides may be used if properly supplemented by policy memoranda, agency interpretations, etc.

- Written inspection policies should be issued to establish a policy for

conducting unannounced inspections, obtaining corrective action, following up and closing out previous violations, interviewing workers and observing operations, assuring exit interviews with management, and issuing appropriate notification of violations of health and safety problems.

- Procedures should be established for maintaining licensees' compliance histories.

- Oral briefing of supervisors or the senior inspector should be performed upon return from nonroutine inspections.

- For States with separate licensing and inspection staffs procedures should be established for feedback information to license reviewers.

Inspection Reports (Category II)

- Findings of inspections should be documented in a report describing the scope of inspections, substantiating all items of noncompliance and health and safety matters, describing the scope of licensee's programs, and indicating the substance of discussions with license management and licensee's response.

- Reports should uniformly and adequately document the result of inspections including confirmatory measurements, status of previous noncompliance and identify areas of the licensee's program which should receive special attention at the next inspection. Reports should show the status of previous noncompliance and the results of confirmatory measurements made by the inspector.

Confirmatory Measurements (Category II)

- Confirmatory Measurements should be sufficient in number and type to ensure the licensee's control of materials and to validate the licensee's measurements.

- RCP instrumentation should be adequate for surveying license operations (e.g., survey meters, air samples, lab counting equipment for smears, identification of isotopes, etc).

- RCP instrumentation should include the following types: GM Survey Meter, 0-50 mr/hr; Ion Chamber Survey Meter, several r/hr; micro-R-Survey meter; Neutron Survey Meter, Fast and Thermal; Alpha Survey Meter, 0-1000,000 c/m; Air Samples, Hi and Lo Volume; Lab Counters, Detect 0.001 uc/wipe; Velometers; Smoke Tubes; Lapel Air samplers.

- Instrument calibration services or facilities should be readily available and appropriate for instrumentation used. Licensee equipment and facilities should not be used unless under a service

tract. Exceptions for other State agencies, e.g., a State University, may be made.

- Agency instruments used for surveys and confirmatory measurements should be calibrated within the same time interval as required of the licensee being inspected.

Dated at Washington, DC this 27 day of May 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

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