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

January 5, 2005

Mrs. Julia Schmitt, Program Manager
Department of Health & Human Services
Regulation and Licensure
301 Centennial Mall South
P.O. Box 95007
Lincoln, NE 68509-5007

Dear Mrs. Schmitt:

A periodic meeting with Nebraska was held on December 7, 2004. The purpose of this meeting was to review and discuss the status of Nebraska's Agreement State Program. The NRC was represented by me from NRC's Region IV office, and Osiris Siurano from the Office of State and Tribal Programs (by telephone).

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) 860-8116 or e-mail MLM1@NRC.GOV to discuss your concerns.

Sincerely,

/RA/

Linda McLean
Regional State Agreements Officer

Enclosure:
As stated

cc w/enclosure:
Paul Lohaus, Director, STP

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PERIODIC MEETING SUMMARY FOR NEBRASKA
DATE OF MEETING: September 28, 2004

ATTENDEES:

STATE

Julia Schmitt, Program Manager

NRC

Linda McLean, Regional State Agreements Officer, Region IV
Osiris Siurano, Agreement State Project Officer, Office of State and Tribal Programs (by telephone)

DISCUSSION:

The Nebraska Agreement State program is administered by the Radiation Control Program (the Program) in the Department of Health. The Program Manager reports to the Section Administrator for Consumer Health Services, who reports to the Division Director for Public Health Assurance, who in turn reports to the Director of Regulation and Licensure. At the time of the meeting, the Nebraska Agreement State program regulated 150 specific licenses authorizing Agreement materials.

The last IMPEP Review was the week of September 17-20, 2002. The review team recommended and the MRB concurred in finding the Nebraska Agreement State program adequate to protect public health and safety and compatible with NRC's program and that the next full review should be in approximately four years. The team had no recommendations for the state and one recommendation for action by the NRC.

Program items discussed:

1. Status of State's actions to address all open previous IMPEP review findings and/or open recommendations.

. The review team recommended that NRC's Office of Nuclear Material Safety and Safeguards review the contractor's procedure for inputting NMED data and review the database information for accuracy and completeness.

Current Status: The NMED procedure was revised so that the contractor will acknowledge receipt of the information and provide feedback to Agreement States. It is recommended that this item be closed.

2. Strengths and/or weaknesses of the State program as identified by the State or NRC including identification of actions that could diminish weaknesses.

a. Strengths: Strengths identified by the State are the quality of the staff and their training and experience. In addition, the program has good upper management support. Because of this support the program has strengthened their enforcement program.

b. Weaknesses: Some of the Program's Regulatory Guides need to be updated.

3. Feedback on NRC's program as identified by the State and including identification of any action that should be considered by the NRC: Issues discussed were the following:

a) Reciprocity for Registered GLs (including the Commission's decision to make that section a B compatibility;
b) NRC's SA-300 requirement to report to NRC Operations Center the loss of H-3 exit signs;
c) the status of T&E for Part 35;
d) the status of CD&S Orders for the remaining High Risk Medium Priority licensees; and
e) the status of NRC provided equipment for security inspection.

4. Status of State Program including:

a. Staffing and Training: The Program has adequate staffing for the RAM program. An additional staff member for emergency response has been approved. The staff are well trained. In 2004, all inspectors attended the CRCPD training program on Fusion Imaging Technologies in February, and one staff member attended the Root Cause/Incident Investigation Workshop (G-205) course. There are no staff vacancies and there has been no staff turnover.
b. Materials Inspection Program: The Program has no overdue inspections.
c. Regulations and Legislative changes: All regulations are up-to-date.
d. Program reorganizations: No organizational changes are anticipated. The Agency has a new director (Richard Raymond, M.D.).
e. Changes in Program budget/funding: No budget changes are anticipated. The Program plans to update their fees which haven't been changed since 1995.

5. Event Reporting, including follow-up and closure information in NMED: All reportable incidents are entered into the NMED database. All NMED events for Nebraska are closed and completed. There have been no significant events during this period.

6. Response to Incidents and Allegations: The NRC has not referred any allegations to Nebraska during the period.

7. Information exchange and discussion:

a. Current State initiatives: The Program plans to lower possession limits on gauge and HDR licensees so they won't have to receive NRC orders unnecessarily.
b. Emerging technologies: None during this period.
c. State's mechanisms to evaluate performance: The Program has bi-weekly meetings to discuss the status of inspection and licensing activities. All licensing actions and inspection reports receive management review, and regular staff meetings are held.

8. Status of the following program area

Low-Level Waste Disposal Program: The State Of Nebraska agreed in 1986 to host a low-level radioactive waste site. In 1998, the Central Interstate Low-level Radioactive

Waste Commission sued Nebraska. In 2002, a U.S. District Court found that then Governor Ben Nelson and his administration acted in bad faith in the licensing process to build a low-level waste site. In 2004, the 8th U.S. Circuit Court of Appeals upheld the District Court's ruling. In July, 2004, Nebraska asked the U.S. Supreme Court to review the case. In August 2004, Governor Mike Johanns and Attorney General Jon Bruning announced a settlement between the State and the Commission that releases Nebraska from the obligation to host a low-level radioactive waste site. Under terms of the settlement, Nebraska has agreed to pay the Commission $140.5 million. If an agreement is reached with the state of Texas to accept waste from Nebraska and the compact states, Nebraska's total payment would be reduced to $130 million.

9. Other topics discussed:

a. Manual Chapter 2800 changes: Changes in NRC inspection frequencies and how they may affect the State's inspection program were discussed.
b. A copy of the Region IV organization chart was provided to the Section.
c. Security inspections and the 274(i) agreement change:

10. Schedule for the next IMPEP review: September 2006