Texas - Heightened Oversight
Conference Call Summary

Date of call: June 24, 2005

Participants:

State of Texas	NRC
Richard Ratliff, Radiation Control Program Officer	Mark Shaffer, RIV
Alice Rogers, Inspection Unit	Vivian Campbell, SAO, RIV
Tommy Cardwell, Radiation Branch	Paul Lohaus, Director, STP
Bill Silva, Radioactive Materials Group	Dennis Rathbun, Deputy Director, STP
Bob Free, Environmental Monitoring Group	Dennis Sollenberger, STP
Cindy Cardwell, Radiation Group, Policy/ Standards/ Quality Assurance	Bill Rautzen, STP
Ruth McBurney, Radiation Safety Licensing Branch, Regulatory Licensing Unit	
Pete Myers, Radioactive Materials Group	

Background:

Subsequent to the March 2005 periodic meeting with the Texas Department of State Health Services (DSHS) and discussions with DSHS staff during the April 2005 conference call, the Management Review Board (MRB) determined that DSHS should undergo a period of heightened oversight. The MRB requested that bimonthly conference calls be conducted between the appropriate DSHS and NRC staffs to discuss the status of the State's program improvement plan (plan).

DSHS submitted their plan in a letter dated May 24, 2005, to the Director of the Office of State and Tribal Programs (STP). In the plan, DSHS identified specific actions with projected completion dates to address each MRB recommendation. The first conference call was conducted on June 24, 2005, to discuss the State's plan and the heightened oversight process.

Discussion:

The NRC staff opened the conference call with a discussion of the required elements of heightened oversight described in STP Procedure SA-122, Heightened Oversight and Monitoring. The staff also discussed the roles and responsibilities of NRC's Regional State Agreements Officer and Agreement State Project Officer, and the Agreement State Program Management with respect to the bimonthly conference calls.

NRC staff asked that DSHS further explain the function of the Radiation Program Officer. In

the May 24 letter, DSHS had disagreed with NRC's view that the reorganization had lead to a notable decline in program oversight and performance.

DSHS staff explained that the Radiation Program Officer had been officially designated as the radiation control program director and reports directly to the Assistant Commissioner. He is the subject matter expert for radiation control issues. The Radiation Program Officer meets on a monthly basis with the management of the organizational units in the Division of Regulatory Services to discuss issues within the radiation control program. He is responsible for facilitating the discussion in order to maintain a cohesive radiation control program. Although the Radiation Program Officer does not have direct supervisory authority over these organizational units, in situations where a consensus cannot be reached, he can effect the necessary changes through the Assistant Commissioner's direct supervisory authority. The Radiation Program Officer's role and responsibility are outlined in the position description, copy attached.

DSHS had prepared a status update of their plan in preparation for the scheduled call, copy attached. Below is a summary of DSHS' actions thus far to address the MRB's recommendations.

Recommendations:

1. The MRB recommends that DSHS develop and implement a staffing plan to competively fill current vacancies, address the high rate of staff turnover, and maintain long-term program stability in staffing.

The first action was completed with the approval of the new health physics classification category in the 79th Legislative session which ended May 30, 2005. This legislation authorized new State classification descriptions for Health Physicist I, II, and III with a higher pay scale. DSHS has drafted an implementation plan which is pending management approval. The rulemaking to increase fees to recover costs associated with this new classification system will be delayed until the DSHS' fiscal office provides a budget for the Program. DSHS management has set a goal to take a proposed fee rule to the September 15, 2005, State Health Services Council for their recommendation.

2. The MRB recommends that DSHS take appropriate measures to conduct Priority I, II, and III inspections, including initial inspections, in accordance with the NRC's inspection priority system.

DSHS has completed several of the actions for this recommendation. They have posted vacancies for inspector positions in Austin, Houston, Abilene and Canyon. They have interviewed candidates for the Austin position and are planning to conduct interviews for the Abilene and Canyon positions before the end of July 2005. The Houston posting did not produce any applicants that met the minimum qualifications so that position will need to be reposted.

DSHS currently have two inspectors that are not fully qualified. Management anticipates that their on-the-job training will be completed by August 31, 2005. Their classroom training will be completed as the appropriate courses become available.

DSHS management has developed a comparison between the Texas' priority system and NRC's system. They have identified 52 - 62 overdue routine inspections (Priority I, II, and III)

based on NRC's criteria and 38 overdue initial inspections. Inspectors have been provided the lists of overdue inspections and instructed that these inspections are to be performed on a priority basis.

3. The MRB recommends DSHS develop and implement a plan to account for the programmatic burden of the new two-year administrative and ten-year technical renewal of all materials licenses that Texas legislative bill, HB 2292, will place on the program. In particular, the FTE allotment for the additional licensing actions and inspections that will be required to locate, renew or terminate licensees that do not send in renewal information or fees as required by the new two-year requirement.

DSHS management have met with the IT programer to discuss automation of the administrative renewals. They have also identified the need for another administrative assistant to implement the administrative renewals. Since a licensee is eligible for the administrative renewal if they have not had significant enforcement in the last two years, DSHS management believes that most of their licensees will meet this criteria.

4. The MRB recommends that DSHS take appropriate measures to promptly investigate, document and report, in accordance with NRC regulations, incidents involving the use of radioactive materials.

DSHS management stated that all incidents have been appropriately investigated and referred to enforcement for action. In addition, DSHS has filled the two vacancies in the Incident Investigation Program and is in the process of posting a vacancy for a uranium mill inspector/incident investigator. In June 2005, INEEL provided NMED software training to the incident investigation staff in Austin. DSHS management stated that they found the training to be beneficial and planned to use the software to update event information in NMED. DSHS has reviewed the NMED data for events previously reported by Texas and are in the process of updating event information and closing events when investigations have been completed.

5. The MRB recommends that DSHS promulgate, and submit to NRC for review, all overdue regulations and develop a plan to account for future adoption of NRC amendments in the required time frames.

DSHS management states that they have promulgated all but two amendments that are due. They have completed the review of their rulemaking case files to find documentation of proposed and final rules transmitted to NRC. This documentation was sent to STP on May 27, 2005. NRC staff is currently reviewing the updated SRS sheet and the two rule packages that were provided. If additional information is needed, staff will be contacting DSHS.

Next Conference Call:

The next call is scheduled for August 23, 2005 at 1:30 p.m. (CDT).