



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

December 2, 2008

MarySue Semerena, Administrator
Environmental Health Unit
Department of Health and Human Services
301 Centennial Mall South
P.O. Box 95026
Lincoln, Nebraska 68509-5026

Dear Ms. Semerena:

A periodic meeting with Nebraska was held on November 4, 2008. The purpose of this meeting was to review and discuss the status of the Nebraska Agreement State Program. I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

If you feel that my 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 email Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Randy Erickson

Enclosure:
Periodic Meeting Summary for Nebraska

cc w/enclosure:

Julia A. Schmitt, Program Manager
Office of Radiological Health
Department of Health and Human Services
301 Centennial Mall South
P.O. Box 95026
Lincoln, Nebraska 68509-5026

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MLXXXXXXXXXX

SUNSI Review Completed: Yes ADAMS: X Yes No Initials: RRE
X Publicly Available Non-Publicly Available Sensitive X Non-Sensitive

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NEBRASKA

DATE OF MEETING: NOVEMBER 4, 2008

NRC Attendees	Nebraska Attendees
Randy Erickson, RSAO	Julia A. Schmitt, Program Manager
	Bryan Miller, Health Physicist
	Howard Schuman, Health Physicist
	Trudy Hill, Health Specialist
	Beverly Spang, Staff Assistant

DISCUSSION:

The Nebraska Agreement State program (the Program) is administered by the Office of Radiological Health consisting of four program areas all under the direction of the Program Manager. These include Radioactive Materials, Materials Security, X-Ray and Emergency Response. The Program reports to the Environmental Health Unit of the Health Licensure and Investigations Section of the Division of Public Health (Division). The Chief Medical Officer leads the Division and reports to the Chief Executive Officer of the Department of Health and Human Services. At the time of the meeting, the Nebraska program regulated approximately 150 specific licenses.

The previous IMPEP review was conducted the week of September 18-21, 2006. At the conclusion of the review, the team recommended that Nebraska's performance for all performance indicators reviewed be found satisfactory, and made no recommendations regarding the performance of the Program. Additionally, the review team recommended, and on December 14, 2006, the Management Review Board agreed, that the Nebraska Agreement State Program was adequate to protect public health and safety and was compatible with NRC's program.

Other topics covered at the meeting included.

Program Strengths: The Nebraska Program is a stable program that has not experienced any staff losses since 2000. Their dedicated staff is very experienced and works together cohesively. Both the Program Manager and the Unit Administrator are supportive of the staff's activities, and the staff is supportive of each other. The Program is very proactive in addressing health, safety and security of radioactive materials within the State. As an example, while searching for generally licensed devices, the Nebraska Program initially identified the tritium exit sign losses involving a major retailer and has worked together with that retailer to close those issues within their borders. The staff meets bi-weekly where a comprehensive review of all licensing, inspection, and incident and allegation activities are conducted. They also assign new work at these meetings based on the current workload of the staff. Goals are discussed and benchmarked, and schedules are adjusted as necessary. Peer reviews are conducted on all licensing actions and inspection reports which as resulted in a high degree of consistency within the Program.

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Program Weaknesses: The Program noted they are behind on one regulation that will come due on January 31, 2009. It is currently out for a public comment period. However, the program does not believe that the regulation will be in effect by January 31, 2009, so they will issue Orders to those licensees that are subject to the NSTS requirements. The Program also cited restrictions on out of state travel as something that has hindered their ability to attend training classes and participate in other activities such as participating on IMPEP reviews or NRC working groups.

Feedback on NRC's Program:

The Program noted that very few individuals in Agreement States have security clearances. Those with security clearances have been issued by agencies within the Federal government other than the NRC. States believe that the expansion of these clearances is important to their efforts to work cohesively with an agency that is becoming ever more security conscious. The lack of a clearance limits a State's ability to participate in certain NRC working groups or to be made aware of credible threats that exist within their borders. They are requesting that NRC consider sponsoring the issuance of security clearances to Agreement State management personnel.

The Program believes that NRC should consider the impacts on the Agreement State programs of the Inspection Manual Chapter 2800 revision in regards to the addition of a secondary priority code (Priority 2) for all facilities subject to Additional Security Requirements. Current NRC policy requires the inspection of facilities with multiple priority codes to be performed at the more restrictive frequency. This would result in all licensees subject to Additional Security Requirements to be inspected at either a one or two year inspection frequency. Requiring this could have a significant negative effect on Agreement State programs, especially smaller programs or programs struggling to retain staff.

The Program also requested that NRC consider revising the Inspection Manual Chapter 1220 requirement that States and Regional Offices conduct reciprocity inspections on a minimum of 20 percent of candidate licensees annually. Many programs struggle under normal conditions to meet this requirement, and it becomes even more difficult to meet this requirement in today's environment of increased security as well as other requests of Agreement States.

The Program noted that the disposal of low level radioactive wastes is a concern that will begin to negatively affect licensees across the nation and ultimately become a problem for Agreement States and the NRC. They requested that NRC begin to look into the issue and work to develop a method for long term low level waste disposal for licensees in all States.

The Program would like to commend NRC for their openness and free access to NRC management and staff, and for their willingness to earnestly listen to the concerns of the Agreement State Programs. The Program wanted to reiterate their appreciation for NRC support for Agreement State staff training.

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Staffing and training:

The Program has a total of three Health Physicists dedicated to the radioactive materials program. They are supported by one Health Specialist and one Staff Assistant. The Program is managed by the Program Manager. Currently the Program has no vacant technical positions; however, a continued increase in NRC requirements could result in a need to expand the staff which they believe would cause a hardship for the Program.

Program reorganizations:

The Department underwent reorganization effective July 1, 2007. This change in structure had little effect on the Program. The name was changed and changes were made in the reporting structure.

Changes in Program budget/funding.

The Program has not experienced problems with budgeting or funding. The Program recently published a revised fee schedule sufficient to remove them from any general revenue funding and make them a 100 percent fee funded program. The increased fee rule is currently out for public comment.

Materials Inspection Program:

The Program reported that they currently have no overdue inspections. Routine inspections are generally performed by the due date and initial inspections are typically performed within 12 months of issuance. They have identified and located approximately 350 general licensees and issue annual certifications of possession to each of them.

The Program previously experienced difficulty in performing inspections on at least 20 percent of candidate reciprocity licensees; however, they are currently keeping up with these inspections. The Program initially identified 12 licensees who were required to implement Increased Controls. The Program reported that they only have one Increased Controls inspection left to be performed by the due date of May 14, 2009. They also reported that fingerprinting orders have been issued to all affected licensees.

Annual supervisory accompaniments were defined by the Program Manager as performance based accompaniments. Because the three health physicists are all long term, seasoned inspectors; the Program Manager will either accompany each inspector through the year on investigations or special inspections then evaluate their performance on this work, or an accompaniment is performed by a peer. They also perform peer reviews on all inspection reports generated. They believe this model is a more effective way to comprehensively evaluate staff performance rather than one supervisor accompaniment each year.

Regulations and Legislative changes:

The Program's rules and regulations are mostly up to date. One regulation will be due on January 31, 2009, and it is out for a public comment period. When the public comment period has been completed, they will forward it to NRC for review.

As noted above, the program does not believe that the regulation will be in effect by January 31, 2009, so they will issue Orders to those licensees that are subject to the NSTS requirements.

Event reporting, including follow-up and closure information in NMED.

The Program reported that all NMED information is up to date. All items are closed.

Response to incidents and allegations.

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their affect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program Manager has placed a high emphasis on maintaining an effective response to incidents and allegations.

Status of allegations and concerns referred by the NRC for action.

One allegation was referred by NRC to the Program since the 2006 review. That allegation was addressed but is not yet closed.

Significant events and generic implications.

The Program reported one event with potential generic implications. This involved smoke detectors with pre-filters located in pool irradiators. The significance of the issue is currently being evaluated.

Current State Initiatives.

None noted.

Emerging Technologies.

None noted.

Large, complicated, or unusual authorizations for use of radioactive materials.

None noted.

State's mechanisms to evaluate performance.

As noted above the Program identified their process for performing peer reviews on 100 percent of all licensing and inspection activities as one mechanism for evaluating performance. They also noted their biweekly staff meetings as another method for ensuring that performance is continuously evaluated.

Current NRC initiatives:

NRC staff discussed ongoing initiatives with the Program. These included pre-licensing guidance, fingerprint orders, national source tracking, web based licensing, generally licensed devices, and the issues associated with tritium exit signs.

Schedule for the next IMPEP review:

It is recommended that the next IMPEP review to be held in two years.