

MEMO TO FILE

SUBJECT: Teleconference with Representatives from the State of Montana

FROM : Janine F. Katanic, PhD, CHP
Health Physicist
FSME/MSSA/ASPB

On August 18, 2009, at the State Liaison Officer's meeting, Mr. Dan McGowan, Homeland Security Advisor for the Montana Department of Military Affairs, approached representatives from the Organization of Agreement States and the NRC's Office of Federal and State Materials and Environmental Management Programs (FSME), Division of Materials Safety and State Agreements (MSSA) and inquired about the process of becoming an Agreement State. Following the meeting, MSSA management suggested that staff from NRC Region IV contact Mr. McGowan to provide him with the pertinent information. Subsequently, Mr. Randy Erickson, State Agreements Officer, NRC Region IV, Division of Nuclear Materials Safety (DNMS) arranged to conduct a teleconference with NRC and State of Montana (State) representatives regarding their inquiry. Ms. Linda McLean, State Agreements Officer, NRC Region IV, DNMS, developed a presentation regarding the process of becoming an Agreement State and, prior to the teleconference, provided a copy of the presentation to the State representatives (Attachment). Also prior to the teleconference, Mr. Erickson provided the representatives with additional background information including: links to various NRC inspection program documents, such as Inspection Manual Chapter 2800; NRC's Fee Schedule for various license types; a list of all NRC licenses issued in Montana; a report of NRC-invoiced billing for Montana licensees for 2008 and 2009 (revenue from Montana licensees); and other generic information about becoming an Agreement State.

On September 3, 2009, a teleconference was held with representatives from NRC and the State. The representatives were as follows:

US Nuclear Regulatory Commission	State of Montana
Randy R. Erickson, State Agreements Officer Region IV/DNMS	Dan McGowan, Homeland Security Advisor Montana Department of Military Affairs
Janine F. Katanic, Health Physicist FSME/MSSA/Agreement State Programs Branch	Jeff Buska, Administrator Quality Assurance Division Department of Public Health and Human Services
Pete Hernandez, NSPDP Office of Enforcement (on rotation to RIV/DNMS)	Roy Kemp, Assistant Administrator Quality Assurance Division Department of Public Health and Human Services

At the onset of the call, it was noted that approximately 3 years earlier, representatives from the State had a teleconference with NRC representatives regarding the same subject of the process of becoming an Agreement State. At the conclusion of the previous call, the State representatives decided to not pursue Agreement State status. Since 3 years had passed, the State wanted a refresher on the process so they could re-evaluate the possibility of entering into an Agreement with NRC.

During the call, Dr. Katanic and Mr. Erickson reviewed the presentation materials and answered questions as appropriate. The State representatives expressed concern regarding obtaining the


necessary budget resources to implement an Agreement State program. It was noted that NRC does not supply funding such as “seed money” to Agreement State programs. There was some discussion regarding NRC’s fee structure and the amount of revenue that could be obtained by the State through various types of materials licensing and reciprocity fees. The State representatives also expressed concern regarding attracting and retaining qualified staff. The State representatives inquired if there was a period of gradual takeover once an Agreement is signed. The NRC representatives noted that once an Agreement is signed, the State would have full authority and responsibility to implement the program. The State representatives also inquired about Native American reservations and the jurisdiction of certain licensed activities on those lands. They were asked to provide additional information as appropriate, so that NRC’s Office of General Counsel could address their questions and concerns. The State representatives also inquired about which licensees in the State of Montana would remain under NRC’s jurisdiction as Federal entities.

At the conclusion of the call, Mr. Erickson agreed to provide further information regarding general licensees in the State of Montana; NRC-specified frequencies of routine inspections; and a list of licensees that would be retained by NRC as Federal entities. Mr. Erickson and Dr. Katanic extended an offer for NRC representatives to make a more formal, detailed presentation in person to State representatives and representatives from the State Governor’s office. The offer was not accepted at the time of the call.

Following the telephonic briefing, on September 8, 2009, Mr. Erickson provided the requested information to the State representatives.

Attachment:

Copy of presentation provided to State representatives



THE AGREEMENT STATE PROGRAM

Presented to Dan W. McGowan
Homeland Security Advisor
State of Montana

Linda McLean, Region IV
Randy Erickson, Region IV
Janine Katanic, FSME

September 3, 2009

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SECTION 274 OF THE ATOMIC ENERGY ACT

- Enacted in 1959
- Initiative by the States
- Cooperative program
- Transfer of NRC authority
- Development of standards



SECTION 274 OF THE ATOMIC ENERGY ACT

- NRC continues to regulate certain areas
- NRC periodically reviews State Programs

CURRENT STATUS OF AGREEMENT STATE PROGRAM

- NRC ~3345 material licensees
- Agreement States (36) ~19,000 material licensees
- Currently pursuing Agreement:
 - New Jersey – date October 1, 2009
 - (~490 material licensees)

CATEGORIES OF AGREEMENTS

- STANDARD AGREEMENT
 - Authority to regulate all categories of licensees
 - State option, uranium mills, low-level waste facilities, and sealed source and device evaluation

AREAS OF AUTHORITY RESERVED TO NRC

- NRC retains authority over
 - Reactors
 - Common defense and security
 - Federal agencies
 - Exports and imports
 - High-level waste handling and disposal



AREAS OF AUTHORITY RESERVED TO NRC

- Exempt licensing (consumer products)
- Source Material
- Special nuclear material (Quantities to form Critical Mass)
- Off-shore waters



STATE ACTIONS

- Letter of Intent from Governor
- Development of draft request
- Draft request to NRC
- Governor submits formal request to NRC Chairman



CRITERIA FOR STATES

- Statutes and regulations
- Licensing program
- Inspection and enforcement program
- Event and allegation response program
- Trained and qualified personnel



TIMELINE

- Completeness review of draft request – 6 weeks
- State prepares final request – 8 weeks
- Commission and public review of final request – 26 weeks



TIMELINE

- Final processing and Commission approval – 13 weeks
- Effective date – 1 month after signature
- Total time– 53 weeks



NRC ACTIONS

- Find the State Program compatible and adequate to protect public health and safety
- Assessment based on FSME Procedure SA-700



NRC ACTIONS

- Publish assessment in the Federal Register
- Discontinuance of NRC jurisdiction



CURRENT ISSUES

- Difficulty of States to hire, train, and retain staff
- State Budget Issues
- Security enhancements (Increased Controls, NSTS, Fingerprinting)



NRC/AGREEMENT STATE ACTIVITIES

- Exchange-of-Information
- Training
- Technical Assistance
- Guidance Development Activities
- NRC Oversight of Agreement States



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM (IMPEP)

- Used for review of both Agreement State and NRC Regional material programs
- Reviews usually conducted every four years



IMPEP

- Reviews scaled to the size of the Agreement State Program
- Reviews conducted by team from NRC Offices and Agreement State Staff



IMPEP PERFORMANCE INDICATORS

- Five common performance indicators
 - Staffing and Training
 - Status of Inspection Program
 - Technical Quality of Inspections
 - Technical Quality of Licensing Actions
 - Incident and Allegation Activities



IMPEP PERFORMANCE INDICATORS

- Non-common performance indicators, as applicable
 - Compatibility Requirements
 - Sealed Source and Device Evaluation
 - Low-Level Radioactive Waste
 - Uranium Recovery

LICENSES IN MONTANA BY TYPE OF PROGRAM

Academic Type A Broad – 2
Medical Institution– 15
High-Dose Rate Remote After – 4
Medical Therapy, Emerging Technology – 2
Self Shielded Irradiators - 2

LICENSES IN MONTANA BY TYPE OF PROGRAM

Testing Laboratory - 1
Well Logging - 1
Industrial Radiography - 1
Fixed Gauges - 15
Portable Gauges - 34
Research & Development - 6
Possession Only - 2


TOTAL = 85

COMMISSION POLICIES AND PROCEDURES

- Policy Statement – “Statement of Principles and Policy for the Agreement State Program”
- Policy Statement – “Adequacy and Compatibility of Agreement State Programs”
- Policy Statement – Criteria for Guidance to States “on Agreements”
- Management Directive 5.8, “Proposed Section 274b Agreements With States”

COMMISSION POLICIES AND PROCEDURES


- Office of Federal and Environmental Management Procedures (FSME)
(e.g., SA-700 "Processing an Agreement")
- Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)"



FSME INTERNET WEB SITE

- <http://www.hsrđ.ornl.gov/nrc/home.html>

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QUESTIONS?

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