

Comments on Section 4.4, Inspection Program Elements, NJDEP Formal Application

4.4.1 Procedures for Inspecting Facilities Where Radioactive Materials Are Stored or Used

- NJDEP Manual Chapter 2800, Materials Inspection Program, does not describe the inspection program for licensees with permanent field offices. New Jersey must submit for review a description of this inspection program. Section 07.04.b.1-b.3 of NRC Manual Chapter 2800 contains a description of an inspection program for licensees with permanent field offices which may be helpful in your response.
- Section 03.01.b.1 of NJDEP IP 87132 references 10 CFR 643, 647, and 657, which appear to be typographical errors. The correct references should be 10 CFR 35.643, 35.647, and 35.657.

Licensing Elements

Remaining Comments from 1/2008 letter:

- Item #14: See comments under "Instructions for Completing Initial Application," below. (formerly called "Licensing Guidance"?) **(Q. 2 of 1/08 letter)**

"Instructions for Completing Initial Application"

- It is still unclear whether licensees are to follow the instructions in this document or the NUREG-1556 guidance, or both. In some cases the instructions conflict with the NUREG-1556 guidance. Will NJDEP accept use of the checklists in the NUREG-1556 volumes? [These are designed for use by both licensees and license reviewers]
- Item #21: NJ response states that NJDEP views all information concerning radioactive material licensees' activities as a domestic security issue, therefore it is exempted from OPRA requirements to provide information to the public and there is no need for a procedure regarding withholding of information. The response does not address whether NJ will mark outgoing documents, such as licenses and correspondence, to indicate that they are security-related and not to be released to the public. **(Q.9 of 1/08 letter)**
- Item #27: References to NRC regulations in the "State Response" for this item are not fully correct, but appear to be corrected in the "Instructions for Completing Initial Application." [Note the typo in the first NJAC reference in this section of the "Instructions....;" should be N.J.A.C. 7:28-52.1] **(Q. 15 of 1/08 letter)**
- In addition, NUREG-1556, Vol. 9, Rev. 1 has been superseded by Rev. 2; the reference and the link to the NRC website should be updated. Will NJDEP accept use of the Form 313A series and guidance, for medical use licensees to submit qualifications for proposed authorized individuals? If so, it might be helpful to state this and provide the link(s) to the NRC website. Also, NUREG-1556, Vol. 13 has been superseded by Rev. 1; the reference and link to the NRC website should be updated.

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- Page 2 instructs applicants not to submit copies of NRC or NJDEP licenses. While NJDEP will certainly have access to copies of its own licenses, there are likely to be many situations in which it is most expeditious for applicants to include copies of NRC licenses in order to verify previous authorizations of authorized individuals.
- BER 3.04 and 3.07: Time frames for completion of review of licensing actions
 - Time frames for completion of review of licensing actions appear to differ in BER 3.04, section 3.1 (90 days for completion of licensing action, with deficiencies issued by day 45) and BER 3.07, section 3.0C, which says the objective is to issue licensing actions within 45 days and deficiency letters within 30 days (with clock re-starting after receipt of response).
 - The time frames need to be clarified.

Licensing Element

Additional questions from second reviewer:

- Q. 4 in 1/08 letter – regarding exemptions. Comment is that we usually see this with medical only and don't use temporary exemptions routinely. He didn't see anything in the application that changed or expanded.
- Q. 15 in 1/08 letter (row 27 of crosswalk) – we had a question regarding references to 10 CFR 31 and 31.32 and what portable gauges may be exempt from licensing requirements. Reviewer still has question on this. NJ answer was to say certain portable gauges may be exempt – Section 52 or 10 CFR 30 provides a listing of exempt devices for further clarification.
 - Reviewer cannot find this information.
- Q. 21 in 1/08 letter (row 33 in crosswalk) – NJ response limited this to PET radioactive materials. Vol. 21 was not limited to PET – dealt with production of radioactive materials using an accelerator. Reviewer had a question as to why limited to PET.
- Q. 22 in 1/08 letter (row 34 in crosswalk) – reviewer could not find what they referenced in response – 7:28-51, BER 2.02, page 15, item 3.14. Related to statement about continued operation under the authority of any license for which renewal application was submitted after expiration date.
- The reviewer will be providing some editorial corrections that he noted – we will provide those as soon as we have them. The corrections are ones that can be made in the document for your program staff and do not need to be submitted to NRC.

Comments on NJ Application Section 4.7

The following event response procedures (from 4.7.1.2) appear to be missing from application:

- notifications of licensing staff
- notifications to other affected licensees of generic problems

Additionally, the following guidance should be added to the application.

- Response to radioactive material incidents that do not require activation of the incident response plan. Specifically guidance regarding the need for a reactive/special inspection should be developed.
 - Question pending conversation with Reviewer. Will discuss further in call on 3/2/09.
- Follow-up actions and action levels for radiation exposures associated with materials incidents involving members of the public
- Requesting Emergency Acceptance of Radioactive Material by the U.S. Department of Energy (DOE).
- Response to Transportation Accidents Involving Radioactive Materials
 - While NJ has procedures on responding to transportation incidents, the reviewer could not find anything regarding notifying DOT.

Technical Staffing and Training, Formal Qualification Plan:

- Medical Qualification Journal references to program code 2100 should be corrected to 2110 for medical institution, broad.

Program Organization

- In the Program Organization section, as part of section 4.1.2, several organizational charts were submitted showing the organizational structure of the Program through the Governor's office. The charts for the Bureau of Environmental Radiation were submitted as part of the application. However, subsequently, NJ had submitted a revised organizational chart in Section 4.6.3.1 to reflect staffing adjustments made for needed staffing levels.
 - The charts for the Bureau of Environmental Radiation in section 4.1.2 should be updated to reflect these changes as well.
- Review of position titles, descriptions, and evaluations
 - We noticed some inconsistencies in the use of titles which are probably related to transition of current program to an Agreement State Program.
 - There is not a position description for a Research Scientist though several staff have this title in the organization chart.
 - It was not clear if this position is similar to the environmental specialist and radiation physicist positions.
 - Evaluations were not submitted for the Radiation Physicist 3 and Research Scientist positions.
 - It was not clear if these positions would be evaluated as for the other radiation physicist and environmental scientist positions.
 - What is the difference in the principle environmental specialist position vs. environmental specialist position