Orendi, Monica R1

From: Janda, Donna
Sent: Friday, July 24, 2009 4:07 PM
To: Taylor, Torre; Sollenberger, Dennis
Cc: White, Duncan; Orendi, Monica; Collins, Daniel; Kottan, James
Subject: Region I comments on NJ Agreement SECY package

Good afternoon,

I am providing the following comments based on Region I's review of the draft SECY-09-XXXX, "Section 274b Agreement with the State of New Jersey," for your attention. Please contact me on Monday, 7/27/09, to discuss these comments, so we can move forward with Region I's concurrence.

Comments on draft SECY-09-XXXX, "Section 274b Agreement with the State of New Jersey"

1. Enclosure 2, Staff Analysis of Public Comments

- **Item 2.A., The New Jersey Program Fails to Meet the NRC's Compatibility Criteria, General Comment section (page 2):** In its letter (ML091700382), SMC states that they provided NRC with a copy of SMC's comments to the State of New Jersey on the State's proposed regulations.

  Region I Comment: We should acknowledge that NRC did receive a copy of the SMC letter to New Jersey. It does not change our response that NRC does not evaluate public comments that a State receives during its public comment period on its proposed regulations. This would just show that we are not overlooking the fact that we received a copy of the SMC letter.

- **Item 2.C., Even if NJ Becomes an Agreement State, the NRC Can and Should Retain Jurisdiction Over the Newfield Site and its Decommissioning (page 9):** The last sentence in the first paragraph of the NRC response states "NRC cannot retain individual licensees within categories of materials."

  Region I Comment: This statement may not be correct. We believe this practice is based on a policy decision. This item should be checked for the basis of the decision (policy versus law).

2. Enclosure 3, NRC Staff Assessment of the New Jersey Program

- **Item 20.a., Assessment of the Agreement Materials Staffing (pages 12 & 13):** The third paragraph states "The State has determined that 13.25 FTE (full-time equivalent) is adequate for operating the Agreement State Program."

  Region I Comment: It is our understanding that this number is the FTE **available** for the Agreement State Program. Based on the number of licenses to be administered by the Program (700 licenses after the State and NRC licenses are combined), the Program would require a minimum of 7 FTE to adequately manage the radioactive materials program. In addition, the fourth paragraph provides a breakdown of the FTE among staff, which adds up to 12.25 FTE. This could lead to the erroneous conclusion that the Program may not be adequately staffed. The section needs to be revised to provide more specific details regarding the number of FTE the program needs and the number of FTE the program has available to accurately reflect the adequacy of the Program staffing level.

3. Editorial Comments

Information in this record was deleted in accordance with the Freedom of Information Act, Exemptions Ex. 6
FOIA/PA 2010-0039

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- Based on the large number of editorial changes needed, Region I requests that an editorial review be performed prior to the package receiving future concurrence. Region I will provide a marked up copy of the draft SECY package via email with the errors identified during our review of the document.

Please let me know if you have any questions or concerns regarding any of Region I's comments.

Thanks,
Donna

Donna M. Janda
State Agreements Officer
U.S. NRC Region I
610-337-5371 Office
610-337-5269 Fax
(b)(6) Cell