



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
1600 E. LAMAR BLVD.  
ARLINGTON, TX 76011-4511

July 22, 2015

Santiago Rodriguez, Acting Chief  
Radiation Control Bureau  
New Mexico Department of Environment  
P.O. Box 5469  
Santa Fe, New Mexico 87502-5469

Dear Mr. Rodriguez:

A periodic meeting with you and your staff was held on June 25, 2015. The purpose of this meeting was to review and discuss the status of the New Mexico Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Mark Shaffer, Duncan White, and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. A Management Review Board (MRB) meeting to discuss the outcome of the periodic meeting has been scheduled for August 3, 2015 at 1:00pm (EST). Call in information for the MRB will be provided in a separate transmission.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 200-1143 or via e-mail at [Randy.Erickson@nrc.gov](mailto:Randy.Erickson@nrc.gov) to discuss your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Erickson".

Randy Erickson  
State Agreements Officer  
Division of Nuclear Materials Safety

Enclosure:  
Periodic Meeting Summary for New Mexico

Santiago Rodriguez, Acting Chief  
 Radiation Control Bureau  
 New Mexico Department of Environment  
 P.O. Box 5469  
 Santa Fe, New Mexico 87502-5469

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
Randy Erickson  
 State Agreements Officer  
 Division of Nuclear Materials Safety

Enclosure:  
 Periodic Meeting Summary for New Mexico

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR  
NEW MEXICO'S ENVIRONMENT DEPARTMENT  
RADIATION CONTROL BUREAU

DATE OF MEETING: JUNE 25, 2015

<b>U.S. Nuclear Regulatory Commission (NRC) Attendees</b>	<b>Oregon Radiation Protection Services Attendees</b>
Randy Erickson, State Agreements Officer, Region IV	Santiago Rodriguez, Acting Chief, Radiation Control Bureau
Mark Shaffer, Director, Division of Nuclear Materials Safety, Region IV	Michael Ortiz, Environmental Scientist
Duncan White, Senior Health Physicist, Agreement State Programs Branch, Office of Nuclear Material Safety and Safeguards	Victor Diaz, Environmental Scientist

**DISCUSSION:**

During the 2013 Integrated Materials Performance Evaluation Program (IMPEP) review of the New Mexico Agreement State Program (Program), the review team found the State's performance satisfactory for the indicators Status of Materials Inspection Program, Technical Quality of Inspections, Technical Quality of Licensing Actions, Technical Quality of Incident and Allegation Activities and Compatibility Requirements; and satisfactory, but needs improvement, for the indicator Technical Staffing and Training. The review team made one recommendation for the Program and closed one recommendation from the 2009 IMPEP review.

The review team also recommended, and the Management Review Board (MRB) agreed, that the New Mexico Agreement State Program was adequate to protect public health and safety and was compatible with the NRC's program. The MRB also agreed that the next IMPEP review take place in approximately four years.

**TOPICS COVERED DURING THE MEETING INCLUDED:**

**Program Strengths**

1. Improved Ability to Attract and Recruit Qualified Individuals
  - The Program previously required a bachelor's of science degree for employment irrespective of an individual's background or work experience. This requirement has been removed and sufficient work experience can now be substituted for a degree. This has made it easier for the Program to attract, recruit and retain qualified individuals.

Enclosure

2. Well Trained Staff

- The Program has not experienced problems getting into NRC training classes and has taken full advantage of those offerings. They also take advantage of local training, Webinars (e.g. EPA MARSSIMS) and also hold topical meetings (e.g. CRCPD AAMP training on medical therapy) to assist the staff. Several of their staff have been long term employees of the Program and are fully qualified to perform all types of inspections.

3. Supportive Management

- Management support to the Program is outstanding at all levels, and access to senior management is unencumbered. Senior Department managers work closely with Program management to ensure that needs are met and that the Program has the ability to meet their mission.

4. Competitive Salaries

- Salaries have remained competitive which has allowed the Program to attract and retain qualified individuals.

Program Challenges

1. Meeting the Requirements for Completing Reciprocity Inspections

- Geographically New Mexico is a large state. Santa Fe is in the northern region of the State and of much of their reciprocity work is in the southeast portion of the state where oil and gas drilling is ongoing. Getting to those locations in a timely manner has been a challenge. Often when they go, the licensees have completed their work and have left the jobsite; or the Program doesn't receive reciprocity notifications in a timely manner. The Program is also challenged by companies coming into the oil and gas fields to work but then don't file for reciprocity as required. The Program continues to work towards meeting the goal of inspecting 20 percent of all reciprocity notifications each calendar year in accordance with Inspection Manual Chapter 1220.

2. Regulations

- Due to their small size, and the complexity of initiating rule revisions, the Program has often found it difficult to keep up with rule development. At the time of the meeting two amendments, RATS ID 2011-2 and RATS ID 2012-1 were overdue for adoption. RATS ID 2011-2 currently applies to one irradiator and 11 well logging licensees and has been implemented by legally binding requirements. RATS ID 2012-1 which refers to RATS ID 2001-1 was completed on 8/23/2005, is currently in place in New Mexico's rules, and will be sent to NRC for approval with RATS ID 2012-2 and RATS ID 2012-3 which come due in August 2015.

### Feedback on the NRC's Program

The Program was appreciative for the letter of support received following the 2013 IMPEP review. It helped management understand the necessity of filling positions that had been left open for long periods of time. They also wanted to extend their appreciation for how easy it's been to get into training classes. Specifically they wanted to call out the efforts of Marcia Casby for her help in making this happen. The Program also expressed concerns that they had heard about the possibility of cuts to training funds in the future as this would have a grave impact on the training of new staff.

### Organization

The New Mexico Radiation Control Program is administered by the Radiation Control Bureau which is located within the Environmental Protection Division. The Division is a part of the New Mexico Environmental Department.

Only one change occurred in the Program since the 2013 IMPEP review. The Bureau Chief stepped down from that position and took a position as an Environmental Scientist within the Program. The Program Manager is currently acting in the Bureau Chief position.

### Program Budget/Funding

The Program's budget is stable. The Program operates on a \$1.25M budget in a dedicated fund with the ability to roll unused funds forward. Approximately 90 percent of their funding is from direct fees and approximately 10 percent is from general revenue. The general revenue portion of the Program's funding continues to be reduced in each budget year.

### Technical Staffing and Training (2013 IMPEP: Satisfactory but needs Improvement)

At the time of the Periodic Meeting, the Program had 8 staff positions, 2 management positions and one contractor position in the materials program. At the time of the meeting 6 of the staff positions are filled and 2 were currently open. One of the vacancies was advertised and is now closed. Interviews are to begin on that position. The Bureau Chief position is currently being filled temporarily by the Program Manager. Once the Department makes a permanent selection for the Program Chief position, the Program Manager position can be filled.

At the time of the 2013 IMPEP review the review team noted that the Program had lived with significant turnover and position vacancy issues for several years. Four staff members had left the materials program, and four staff members were hired to replace them. The Bureau Chief and Program Manager positions had been vacant for 10 months and 9 months respectively through 2010–2011. And at the time of the 2013 IMPEP review 4 technical positions were vacant and had been so for various lengths of time. Because of this, NRC managers held a meeting with Division management to discuss the long standing vacancy issue. A letter of support was provided by NRC which helped Department managers understand the importance of maintaining a viable program. Positions soon began to be filled and the Program was even expanded by two positions.

The 2013 IMPEP review team made one recommendation for the indicator Technical Staffing and Training. The recommendation and its status is listed below.

**Recommendation:** The review team recommends that Program management continue to aggressively pursue the filling of the current vacancies in order to ensure the program's continued adequacy and compatibility.

**Status:** As previously noted in this report, following the 2013 IMPEP review a meeting was held between senior NRC and Department managers and a letter of support from NRC was then provided. This helped Department managers better understand what was needed to maintain their agreement with NRC. The Department responded in a positive manner. Positions were filled and the Program has been expanded by two staff positions. At the time of the Periodic Meeting, only two staff positions were currently open, one was being advertised and one was going before management for approval.

At the time of the 2013 IMPEP review, the Program had a documented training plan consistent with NRC's Inspection Manual Chapter (IMC) 1246, "Formal Qualification Programs in the Nuclear Material Safety and Safeguards Program Area." They still follow that plan but were advised during the meeting that IMC 1246 had been superseded by IMC 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs," and a discussion was held to point out the differences between the former and current guidance and to ensure the Program continued forward using IMC 1248.

Status of Materials Inspection Program (2013 IMPEP: Satisfactory)  
Technical Quality of Inspections (2013 IMPEP: Satisfactory)

The Program had conducted 264 Priority 1, 2, and 3 inspections since the last IMPEP review. None were conducted overdue. Following the 2013 IMPEP review, the Program was only able to perform 10 percent of all reciprocity notifications received for the rest of that year. This was primarily due to the lack of staffing identified during the review. The staffing shortage continued for a period of time past the end date of the 2013 IMPEP review. But in 2014, the Program met the 20 percent goal and they are on track in 2015 to exceed the 20 percent goal. Supervisory accompaniments of inspectors are being performed by the former Bureau Chief.

Technical Quality of Licensing Actions (2013 IMPEP: Satisfactory)

The Program reported they have 204 specific licensees with 6 new licenses pending. All licensing actions are worked on in a timely manner. The Program has received 300 licensing actions since the last IMPEP review. They have a goal of processing most licensing actions within 60 days, but will extend that up to 90 days if necessary. Signature authority is performed by the Program Manager and the Bureau Chief. The guidance used by the Program is equivalent to the NRC's NUREG 1556 Series guidance.

The 2013 IMPEP review team identified a weakness concerning the licensing actions for selected HDR license authorizations. At the time the review team noted that the Program licensed HDR units with possession limits that exceeded medical use limitations on respective Sealed Source and Device Registry (SSD) sheets and also existing licensing guidance. The team discussed this matter with the Program Manager at the time who directed staff to promptly

amend all of the medical licenses that authorized HDR use, to ensure a high technical quality and adherence to existing licensing guidance. This was completed while the review team was on site. Once corrected the Program continues to ensure that they do not authorize limits in excess of the limitations on the SSD review sheets.

The Program continues to follow the revised pre-licensing guidance and hand delivers new licenses to each new licensee.

#### Technical Quality of Incidents and Allegations (2013 IMPEP: Satisfactory)

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

Since the 2013 IMPEP review, the Program has reported 8 events to the NMED database. At the time of the meeting, only 2 of those events were still open and being followed.

#### Regulations and Legislative Changes (2013 IMPEP: Satisfactory)

The current statutory authority for the New Mexico Program is contained in the Radiation Protection Act, Title 20 Environmental Protection, Chapter 3, Radiation Protection. The Bureau is designated as the State's radiation control agency. No legislative changes affecting the Program have occurred since the 2013 IMPEP review.

At the time of the 2013 IMPEP review only one amendment was found to be overdue. The Program had previously adopted the amendment but had not sent it to NRC for a compatibility review. At the time of the 2015 Periodic Meeting, the Program had two other amendments, RATS ID 2011-2 and RATS ID 2012-1 that were overdue for adoption. The requirements are currently implemented by the use of legally binding requirements and apply to 12 licensees. The Program will send the license condition to NRC for a compatibility review. They are in the process of taking care of that now. New Mexico's equivalent to Part 37 will also be implemented through the use of a legally binding requirement. The Program anticipates implementation by March 19, 2016.

#### CONCLUSIONS:

The Program continues to be an effective, well maintained Agreement State program. There are presently two staff level vacancies. The Program has addressed the open recommendation from the 2013 IMPEP review and continues to build on demonstrating sustained performance in timely recruiting, hiring and retaining of Program staff. The Program is effectively managing its licensing and inspection activities. The Program is responding to incidents and allegations as appropriate and only has two overdue regulation amendments.

NRC staff recommends that the next IMPEP review be conducted as scheduled in June 2017.