



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

DCR(SPO1)

January 23, 1990

William W. Cobey, Jr., Secretary  
State of North Carolina Department  
of Environment, Health and Natural  
Resources  
P. O. Box 27687  
Raleigh, NC 27611-7687

Dear Mr. Cobey:

This is to confirm the discussion Mr. Richard L. Woodruff, NRC State Agreements Officer, held on November 17, 1989 with you and Mr. Dayne H. Brown following our review and evaluation of the State's radiation control program.

As a result of our review of the State's program and the routine exchange of information between the Nuclear Regulatory Commission and the State of North Carolina, the staff determined that overall the North Carolina program for regulation of agreement materials is adequate to protect the public health and safety and is compatible with the Commission's program. However, our findings include one item that we would like for you to address.

Staffing Level is a Category II Indicator. The program's technical staffing level should be approximately 1.0 to 1.5 person-years per 100 licenses. The Materials Section has only four technical persons and the Section Chief for 556 specific licenses, or a staffing level of approximately 0.9 person-year per 100 licenses. We noted during the review that the Materials Section has one vacancy and the interviews for this vacancy were being conducted. We urge that this vacancy be filled and the staffing level be maintained at the recommended 1.0 to 1.5 person-years per 100 licenses. Our experience has been that a low staffing level is often a precursor to serious problems in State programs.

An explanation of our policies and practices for reviewing Agreement State programs is included as Enclosure 1.

Enclosure 2 contains comments regarding the State's program which were discussed with Deputy Director Tierney and Charles McMahon during our exit meeting with them. As indicated during our exit meeting, we would like a response from the State on the issues discussed in Enclosure 2. We are enclosing a second copy of this letter for placement in the State's Public Document Room or otherwise to be made available for public view.

We wish to commend the State for prompt adoption of regulations that are needed to maintain compatibility with NRC regulations. Periodic amendment of the State's regulations is necessary to add those requirements that NRC has adopted which are matters of compatibility. These need to be adopted by the State within three years. The State will need to adopt rules on decommissioning by 1991, and we suggest steps be initiated as early as possible to meet this deadline. Also, the State has an excellent program for maintaining regulatory information on 546 General Licenses. The State's regulatory efforts in these areas are greatly appreciated.

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William W. Cobey

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As we discussed, we appreciate your support of the Division of Radiation Protection and their regulatory efforts to protect public health and safety. We also appreciate your cooperation with this office and the cooperation extended by your staff to Mr. Woodruff and Ms. Connell during the review.

Sincerely,

original signed by Vandy L. Miller

*for*

Carlton Kammerer, Director  
State, Local and Indian Tribe Programs  
Office of Governmental and Public Affairs

Enclosures:  
2, as stated

cc: J. M. Taylor, EDO  
S. Ebnetter, RII  
Dayne H. Brown, Director  
Radiation Protection Division  
State Liaison Officer  
NRC Public Document Room  
State Public Document Room

bcc: Chairman Carr  
Commissioner Roberts  
Commissioner Rogers  
Commissioner Curtiss  
Commissioner Remick

Distribution:

SA RF  
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\*See previous concurrences

RII:SAR\*  
RLWoodruff:vw  
12/19/89

RII:DRSS\*  
JPStohr  
12/19/89

RII:RA\*  
SDEbnetter  
12/19/89

RII:RA\*  
VMiller  
1/5/90

SLITP:D\*  
CKammerer  
1/10/90

*GPA:DD*  
SSchwartz  
1/11/90

EDO  
JTaylor  
1/11/90

GPA:D  
HRDenton  
1/11/90

APPLICATION OF "GUIDELINES FOR NRC REVIEW OF  
AGREEMENT STATE RADIATION CONTROL PROGRAMS"

The "Guidelines for NRC Review of Agreement State Radiation Control Programs" were published in the Federal Register on June 4, 1987, as an NRC Policy Statement. The Guide provides 29 indicators for evaluating Agreement State program areas. Guidance as to their relative importance to an Agreement State program is provided by categorizing the indicators into two categories.

Category I indicators address program functions which directly relate to the State's ability to protect the public health and safety. If significant problems exist in one or more Category I indicator areas, then the need for improvements may be critical.

Category II indicators address program functions which provide essential technical and administrative support for the primary program functions. Good performance in meeting the guidelines for these indicators is essential in order to avoid the development of problems in one or more of the principal program areas, i.e., those that fall under Category I indicators. Category II indicators frequently can be used to identify underlying problems that are causing or contributing to difficulties in Category I indicators.

It is the NRC's intention to use these categories in the following manner. In reporting findings to State management, the NRC will indicate the category of each comment made. If no significant Category I comments are provided, this will indicate that the program is adequate to protect the public health and safety and is compatible with the NRC's program. If one or more significant Category I comments are provided, the State will be notified that the program deficiencies may seriously affect the State's ability to protect the public health and safety and that the need for improvement in particular program areas is critical. If, following receipt and evaluation, the State's response appears satisfactory in addressing the significant Category I comments, the staff may offer findings of adequacy and compatibility as appropriate or defer such offering until the State's actions are examined and their effectiveness confirmed in a subsequent review. If additional information is needed to evaluate the State's actions, the staff may request the information through follow-up correspondence or perform a special limited review. NRC staff may hold a special meeting with appropriate State representatives. No significant items will be left unresolved over a prolonged period. The Commission will be informed and copies of the review correspondence to the States will be placed in the NRC Public Document Room. If the State program does not improve or if additional significant Category I deficiencies have developed, a staff finding that the program is not adequate will be considered and the NRC may institute proceedings to suspend or revoke all or part of the Agreement in accordance with Section 274j of the Atomic Energy Act of 1954, as amended.

ENCLOSURE 1



COMMENTS AND RECOMMENDATIONS ON TECHNICAL ASPECTS OF THE  
NORTH CAROLINA RADIATION CONTROL PROGRAM FOR AGREEMENT MATERIALS

Scope of Review

This program review was conducted in accordance with the Commission's Policy Statement for reviewing Agreement State Programs published in the Federal Register on June 4, 1987, and the internal procedures established by the Office of Governmental and Public Affairs, State, Local and Indian Tribe Programs, State Agreements Program. The review included discussions with program management and staff, technical evaluation of selected license files and compliance files (casework), and the evaluation of the State's response to an NRC questionnaire that was sent to the State in preparation for the review.

The regulatory program review meeting with North Carolina representatives was held during the period of November 13-17, 1989 in Raleigh, North Carolina. The State was represented by Dayne H. Brown, Director, Division of Radiation Protection, and Cecil B. Brown, Chief, Radioactive Materials Section. A review of selected license and inspection files was conducted by Richard L. Woodruff on November 13-16, 1989, and assisted by Carol A. Connell on November 13-14, 1989. A summary meeting regarding the results of the regulatory program review was held with William W. Cobey, Jr., Secretary, Department of Environment, Health and Natural Resources, and Dayne H. Brown on November 17, 1989.

Status of Previous NRC Comments and Recommendations

Comments and recommendations from NRC's previous reviews were sent to the State in a letter dated January 4, 1988. All of the comments were satisfactorily resolved during our visit on October 28, 1988.

Current Review Comments and Recommendations

All 29 indicators were reviewed in depth and the State fully satisfies the guidelines in 27 of these indicators. Specific comments and recommendations for the remaining indicators are as follows:

1. Personnel

Staffing level is a Category II indicator. The following comment with our recommendation is made.

Comment

The program's technical staffing level should be approximately 1.0 to 1.5 person-years per 100 licenses. The Materials Section has only four technical persons and the Section Chief for 556 specific licenses, or a staffing level of approximately 0.9 person-year per 100 licenses. We noted during the review that the Materials Section has one vacancy and the interviews for this vacancy were being conducted. Our experience has been that a low staffing level is often a precursor to serious problems in the State programs.

Recommendation

We urge that this vacancy be filled and the staffing level be maintained at the recommended 1.0 to 1.5 person-years per 100 licenses.

2. Compliance

Responses to Incidents and Alleged Incidents is a Category I indicator. The following comment with our recommendation is made.

Comment

Investigation results should be documented and enforcement action taken when appropriate. A broad medical licensee verbally reported an excessive exposure to phosphorus-32 and conducted an investigation. A detailed written report of the event and subsequent investigation conducted by the broad licensee was not received by the State, and the event was not reported by the State to the NRC. During the review, the State (and the NRC reviewer) conducted a meeting with the licensee's representative and orally requested that a detailed report of the event be provided to the State. The primary cause for the failure to fully document and communicate the details of the event appears to be a breakdown in the State's tracking system for reportable events. Because the State has satisfactorily responded to and followed-up on other reported incidents, we do not consider this case to be of major significance at this time. However, it requires attention to assure it is not repeated.

Recommendation

We recommend that the State: (1) confirm in writing the request for the report and fully document the details of the event; (2) take enforcement actions as appropriate; (3) provide the detailed report to NRC in accordance with established procedures; and (4) revise the State's system for tracking, documenting and reporting events to assure proper actions are taken by the licensee.

Summary Discussions with State Representatives

A summary meeting with Mr. William W. Cobey, Jr. and Mr. Dayne H. Brown, Director, Division of Radiation Protection, was held at 1:00 p.m. on Friday, November 17, 1989.

In general, the reviewer provided a background statement to Secretary Cobey on the history of the North Carolina agreement and discussed the scope of the review. Reviewer comments and recommendations on the Staffing Level and the Response to Incidents and Alleged Incidents

indicators were discussed in detail. In addition, the State was complemented on their efforts to maintain regulations that are compatible with NRC regulations, and their efforts to better regulate general licensees.

In response, Mr. Cobey expressed his support for the Division of Radiation Protection and related that he was pleased to hear about the positive efforts being taken by the Division to protect public health and safety. In closing, NRC's mechanism for reporting the results of the review were discussed in detail.