



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

*NRC Public
Document
Room*

October 1, 1982

Russell F. Rhoades, Director
Environmental Improvement Division
Department of Health and Environment
P. O. Box 968
Santa Fe, New Mexico 87503

Dear Mr. Rhoades:

This is to confirm the discussions Mr. R. J. Doda, Mr. J. F. Kendig, and other NRC staff held recently with you and various members of your staff, including Mr. C. Clayton and Mr. A. A. Topp. These discussions were conducted on June 25, and July 29, 1982. Our program review was composed of two phases (June 21-25, 1982, and July 28-29, 1982) and covered the principal administrative and technical aspects of the radiation control program. This review included an examination of the program's legislation and regulations, organization, management and administration, personnel, and licensing and compliance activities. Our review did not cover the administrative aspects of the program for uranium mills and tailings since these aspects are being separately reviewed in connection with the State's pending request to the NRC for continuing authority to regulate uranium mills and tailings.

Our review used as a reference, the NRC policy statement, "Evaluation of Agreement State Radiation Control Programs," published in the Federal Register on December 4, 1981. This policy statement provides 30 indicators for evaluating Agreement State program areas. Guidance as to their relative importance to an Agreement State program is provided by dividing the indicators into two categories. Category I indicators address program functions that directly relate to the State's ability to protect public health and safety. Category II indicators address functions which provide essential technical and administrative support. If a significant problem exists in a Category I indicator, the deficiency may seriously affect the State's ability to protect the public health and safety and needs to be addressed on a priority basis. If significant problems exist in more than one Category I indicator, then improvements are critically needed. In such cases, we will need a timely response from the State, and the NRC staff will not make recommendations for adequacy and compatibility until after the responses are received and evaluated. A followup review within six months may also be scheduled.

As a result of our review of the State's program, which excluded the administrative aspects of the uranium mill program, and the routine exchange of information between the NRC and the State of New Mexico, the staff believes that New Mexico's program for the regulation of agreement materials, except for uranium mill tailings, is adequate to protect the public health and safety and is compatible with the Commission's program for regulation of similar materials. The determination of adequacy and compatibility for the regulation of uranium mill tailings will be made as part of the ongoing review of the State's request for an amended agreement.

The first phase of the review was conducted in Santa Fe and included an evaluation of State licensing practices for uranium mills and the administrative aspects (other than the mill program) and the technical aspects of the agreement materials program.

The second phase of the review included a review of uranium mill inspection reports in the Milan regional office. Also, during the second phase of our review, a visit was made to the State Engineer's office in Santa Fe to review the methods used by the State Engineer for evaluating the design of uranium mill tailings impoundments, including the application of NRC Regulatory Guide 3.11, or equivalent, in this evaluation. Mr. D. Lopez, of the State Engineer's office, provided excellent assistance to our representatives during this visit. As a result, we believe the methods used by the State Engineer are adequate to protect the public health and safety and utilize procedures and criteria compatible with those used by NRC for similar evaluations.

The overall review disclosed that most program indicators were within NRC guidelines. This is all the more commendable, during this review period, considering that the Division's staff had been expending a significant amount of effort on activities relating to the State's request for an amended agreement. The major portion of this special effort now appears to have been completed. However, one element of the State's staffing level deserves mention at this time. We found that the Division experienced a turnover of five persons in the technical staff during the review period. Since the loss of experienced and trained staff may present difficulties in maintaining the effectiveness of the radiation control program, we recommend the State monitor any future staff turnover and take steps to minimize the causes of such losses, wherever possible. Staff Continuity is a Category II indicator.

During the review, we noted that the Division, for some time now, has been filing completed uranium mill inspection reports in the Milan regional office only. The second phase of our review included a visit to the Milan office to assess this aspect of the program. We believe it may be helpful from the administrative aspects of the uranium mill inspection program to file copies of mill inspection reports in the Division's Santa Fe office. Even though we found no serious problems resulting from this practice, we recommend that the Division consider filing a copy of each completed mill inspection report in the Santa Fe office. Possible advantages of this procedure would include: (1) closer

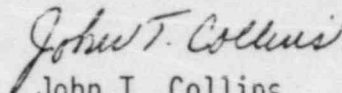
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management review of inspection reports, (2) availability of compliance histories to the mill project managers in Santa Fe, and (3) availability of complete mill files in Santa Fe for the public record. Administrative Procedures is a Category II indicator.

Enclosed in this letter are comments regarding the technical aspects of the program. You may wish to have Mr. A. A. Topp respond directly to these comments. I would appreciate your review of our recommendations and receiving your specific responses for improvement of the agreement materials program. I am also enclosing a copy of this letter for placement in the State Public Document Room or to otherwise be made available for public review.

I appreciate the courtesy and cooperation extended to R. J. Doda, J. F. Kendig, and other NRC representatives during the review meetings.

Sincerely,



John T. Collins,
Regional Administrator

Enclosure:
As stated

cc:
A. A. Topp
G. W. Kerr
NRC Public Document Room
State Public Document Room

TECHNICAL COMMENTS AND
RECOMMENDATIONS ON THE NEW MEXICO RADIATION CONTROL PROGRAM

General Comment

During the first phase of the review, it was noted that a staffing document in the State's request package for amended agreement regarding uranium mills and tailings did not include a factor for the water quality staff who perform functions in the review of license applications from uranium mill applicants. The Environmental Improvement Division (EID) staff indicated the staffing document would be corrected immediately and would be included in the final request for an amended agreement, when submitted to the NRC in the future.

A. Enforcement Procedures (Category I indicator)

1. Comment and Recommendation

We recommend that the State develop written escalated enforcement procedures. A similar comment was provided after the previous year's review. During the current review, it was noted that the essential means for taking escalated enforcement actions are in place and some actions had been taken by the State for specific cases in the past. However, we believe that written procedures are necessary and that all appropriate personnel should be instructed in the application of those procedures. The State responded promptly to this recommendation by sending in detailed and written escalated enforcement procedures within 10 days after the first phase of this review (June 21-25, 1982).

B. Inspection Reports (Category II indicator)

1. Comment and Recommendation

It was noted, during the review, that inspection report forms do not have a specific entry location on the form for coverage of previous items of noncompliance. For several inspection reports, it could not be determined whether or not previous items of noncompliance had been reviewed during the inspection. We recommend that all inspection reports contain a clear indication that the applicable previous items of noncompliance are checked during the inspection. The State responded promptly to this recommendation by sending in modified inspection report forms with a specific entry location on each form for providing the status of previous items of noncompliance. Samples of these forms were supplied within 10 days after the first phase of this review (June 21-25, 1982).

2. Comment and Recommendation

We recommend that a brief summary statement be included in written inspection reports which gives the results of the questioning of workers and technicians concerning their operating and emergency

procedures with respect to licensed radioactive materials. The summary statement should indicate whether or not the licensee's training for and monitoring of operational and emergency procedures are being implemented in practice.

3. Comment and Recommendation

It was noted, upon completion of the inspection file review that the "documentation of findings" on the mill inspection reports were very brief and in some cases incomplete. It is recommended that the findings documented in the inspection reports describe the scope of the inspection conducted and that the report indicate the substance of discussions with licensee management and the licensee's responses. In addition, each inspection report should stand independent of any other report or reference material. Thus, it is important that complete and concise findings be documented.

C. Inspection Frequency (Category I indicator)

1. Comment and Recommendation

In reviewing the State's inspection priority system, it was found that for Priority 3 licensees the required frequency was listed as, "2 years or as indicated." We recommend that this be changed to provide a definite maximum period of time between inspections. Since it was not the State's intention to extend this inspection frequency to time periods longer than 2 years, they modified this inspection schedule to read, "2 years or less." This revision was supplied within 10 days after the first phase of this review (June 21-25, 1982). In addition, we recommend that inplant radiography licensees be changed to Priority 2 so that inspections are as frequent as NRC's system.

D. Licensing Procedures (Category II indicator)

1. Comment and Recommendation (SOHIO L-BAR, Lic. No. NM-50H-ML-RI-01)

A review of this application revealed that the application was signed by the Environmental Coordinator. The division's licensing staff was reminded that the person signing an application should be an officer of the company or one who is authorized to commit the company to statements and representations contained in the application. However, it was noted by the reviewer that the application was submitted by cover letter signed by a Vice President.

2. Comment and Recommendation (SOHIO L-BAR, Lic. No. NM-50H-ML-RI-01)

During the course of the file review, it was noted that details regarding the licensee's audit program and SWP program were not provided. It was recommended that these aspects be evaluated in

future reviews. See the NRC proposed ALARA Guide for Uranium Mills and the Health Physics Guide for Uranium Mills.

3. Comment and Recommendation (SOHIO L-BAR, Lic. No. NM-50H-ML RI-01)

Information on the inplant radiation safety assessment by the staff and licensee is scattered throughout the licensing file. Consequently, it is difficult and time consuming to determine the scope and depth of coverage to which the licensee has committed. It is recommended that the staff pull all such information together into one section of the file.

4. Comment and Recommendation (SOHIO L-BAR, Lic. No. NM-50H-ML-RI-01)

To enhance the EID's License Renewal Application analysis, it is recommended that: (1) the staff add to the appendix, a document which provides or shows that an analysis of the tailings impoundment by the State Engineer's office was completed, as was done for the "Groundwater Discharge Plan Analysis, Appendix B"; and (2) include or add to the appendix, a document which shows that the EID evaluated or verified the licensee's figures for developing the amount of the surety for decommissioning and reclamation activities.

5. Comment and Recommendation (Mobil Oil, Lic. No. MO-B-UL-00)

The applicant stated that visitors would not be issued TLD's unless they requested them. It was the reviewer's opinion that this is poor practice and the licensee should be required to provide dosimetry devices to visitors in accordance with New Mexico's regulations.

6. Comment and Recommendation (Mobil Oil, Lic. No. MO-B-UL-00)

As determined from the files, it appeared that there was some confusion on the part of the staff regarding the application of the section, "Ban on Construction Activities," for uranium pilot project in situ operations. This was resolved during the course of the debriefing and it was acknowledged that the construction ban prior to issuance of a license does apply. However, certain investigative activities and other activities regarding the gathering of data for support of the license application are allowed. This is consistent with NRC practices. No recommendation was made to the State on this matter.

7. Comment and Recommendation

We recommend that the State Engineer's office identify in its documentation of reviews the bases for licensing actions, i.e., Regulatory Guides, Corps of Engineers' criteria, or other criteria.

E. Inspection Procedures (Category II indicator)

1. Comment and Recommendation

In our review of selected mill compliance files, it was noted that procedures for maintaining licensees' compliance histories and other file information were not completely established. It is recommended that although the inspector is located in a field office and has each respective mill project manager accompany him on the inspection as an "observer," a formal written document (i.e., safety evaluation report or an appraisal report) should be available. This report would provide an immediate reference to the inspector as well as being used as a source for maintaining up-to-date information on the respective mills and their activities.

2. Comment and Recommendation

The EID was reminded of the NRC's recommendations from the last review regarding license conditions for Gulf Mt. Taylor and Bokum. It was recommended that these two facilities notify the State when they intend to go active, and that the EID should review the NRC recommended license conditions and consider adding them to the license.

3. Comment and Recommendation

It was noted during the mill inspection file review that no formal documentation of procedures existed for communication between the inspector and the licensing staff. It is recommended that although the inspector can verbally communicate with the mill project manager, that some formal documentation (e.g., telephone calls affecting major mill activities) be maintained. In addition, formal written procedures should be established governing the feedback of information between the licensing and inspection staffs.

4. Comment and Recommendation

Future NRC reviews of the New Mexico program will continue to include a review of the State's inspection and surveillance program, and implementation of the program, for uranium mill tailings dams. Future NRC reviews would be simplified if the State were to establish a more formal inspection and surveillance program for uranium mill tailings, such as dams, including the use of Regulatory Guide 3.11.1, "Operational Inspection and Surveillance of Embankment Retention Systems for Uranium Mill Tailings." This would help to maintain program continuity in the event of any future staff turnover.