UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 7, 1995

Ms. Judith M. Espinosa, Secretary
Environment Department
1190 St. Francis Drive
Santa Fe, NM 87502

Dear Ms. Espinosa:

This is to transmit the results of the Nuclear Regulatory Commission's (NRC) review and evaluation of the New Mexico radiation control program conducted by Mr. Robert J. Doda, State Agreements Officer, Region IV, which was concluded on August 12, 1994. The results of this review were discussed with you and members of the New Mexico staff, Ms. Kathleen M. Sisneros, Director, Water and Waste Management Division; Mr. Benito Garcia, Chief, Hazardous and Radioactive Materials Bureau (Bureau); and Mr. William Floyd, Program Manager, Radiation Section, of the Hazardous and Radioactive Materials Bureau.

As a result of our review of the State's program and the routine exchange of information between the NRC and the State of New Mexico, the staff determined that, at this time, the New Mexico radiation control program for the regulation of agreement materials is adequate to protect the public health and safety. However, a finding that the program is compatible with the Commission's program is being withheld due to nine regulations that have not been adopted within the three-year period allowed by the NRC.

The New Mexico radiation protection regulations were last amended on March 10, 1989. Since that time, there have been nine regulations, which are matters of compatibility, that New Mexico has not adopted within the three-year period allowed by NRC. Primary among these missing regulations is a part equivalent to NRC's most recent revision of 10 CFR Part 20, "Standards for Protection Against Radiation." These regulations were to have been adopted by Agreement States on or before January 1, 1994. Most of the 29 Agreement States have adopted these standards, and it is of major concern that the New Mexico radiation control program has not adopted this regulation. This is a serious omission since 10 CFR Part 20 contains basic radiation protection standards.

The nine regulations necessary for a finding of compatibility are listed below: (1) bankruptcy notification, (2) quarterly audit of the performance of radiographers, (3) well logging requirements, (4) National Voluntary Laboratory Accreditation Program (NVLAP) certification of dosimetry processors, (5) decommissioning requirements, (6) emergency plans, (7) safety requirements for radiographic equipment, (8) 10 CFR Part 20-equivalent regulations, and (9) notification of incidents. We recognize that the NVLAP certification requirement is administratively covered, in the interim, through New Mexico's certification program for service companies, and that New Mexico currently may not have any licensees that require sureties for decommissioning. Five of these regulations were overdue for adoption during NRC's 1992 review of the New Mexico program. In addition, three of these

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amendments were also found overdue for adoption during a previous program review in August 1990. We request your attention to this matter and request that you submit a schedule for completion of the revisions to the regulations. We also request that you identify procedural changes or program revisions that will improve your timeliness of rule promulgation in the future.

We wish to commend the Hazardous and Radioactive Materials Bureau for their efforts in completing 240 inspections during the current review period resulting in no overdue inspections for any State licensees at the time of the review. Also, the Bureau has availed itself of many NRC training courses for its staff during the review period.

Please note that there has been a change made in the format of this letter from our previous review letters. This letter summarizes the findings regarding all 30 program indicators as opposed to only discussing those indicators where deficiencies were noted. Enclosure 1 contains an explanation of our policies and practices for reviewing Agreement State Programs. Enclosure 2 is a summary of the review findings where recommendations are made for improvements in the radiation control program. These were discussed with Messrs. Garcia and Floyd during the week of the review. We request specific responses from the State on the current review assessments and recommendations in Enclosure 2 within 30 days of this letter. We recognize the delay in our issuance of this letter, and if you require more than 30 days to respond, please let us know.

Enclosure 3 presents a summary of the review findings where the State has adequately satisfied the indicators. A response to the items in Enclosure 3 is not required.

I appreciate the courtesy and cooperation you and your staff extended to Mr. Doda during the review meeting.

Sincerely,
Original Signed By
RICHARD L. BANGART
Richard L. Bangart, Director
Office of State Programs

Enclosures:
As stated

cc w/encls:
B. Garcia, Chief, Hazardous and Radioactive
Materials Bureau and State Liaison Officer

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NME	RBernero	FCameron	RBangart	HLThompson	JMTaylor	
DTE	12/2/94*	12/2/94*	12/06/94*	1/ /95	12/15/94*	

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bcc w/encls:
The Chairman
Commissioner Rogers
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JMontgomery, RIV
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New Mexico File

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 May 28, 1992, as an NRC Policy Statement. The Guidelines provide 30 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 several 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 a particular program area(s) 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 follow-up or 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 of the results of the reviews of the individual Agreement State programs 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 Act, as amended.

ENCLOSURE 1

SUMMARY OF ASSESSMENTS AND RECOMMENDATIONS
FOR THE NEW MEXICO RADIATION CONTROL PROGRAM
AUGUST 14, 1992 TO AUGUST 12, 1994

SCOPE OF REVIEW

The 15th regulatory program review of the New Mexico radiation control program (RCP) was held during the period of August 8-12, 1994, in Santa Fe, New Mexico. This program review was conducted in accordance with the Commission's Policy Statement for reviewing Agreement State Programs published in the Federal Register on May 28, 1992, and the internal procedures established by the Office of State Programs. The State's program was reviewed against the 30 program indicators provided in the policy statement. The review included an inspector accompaniment, discussions with program management and staff, technical evaluation of selected license and compliance files, review of policies and procedures and the evaluation of the State's responses to an NRC questionnaire that was sent to the State in preparation for the review.

The State was represented by Mr. Benito Garcia, Chief, Hazardous and Radioactive Materials Bureau, and Mr. William Floyd, Program Manager, Radiation Section.

Selected license and compliance files were reviewed by Mr. Robert J. Doda, State Agreements Officer, Region IV. In addition to the routine office review, an accompaniment of a State inspector was made on August 10, 1994, at a depleted uranium licensee in Socorro, New Mexico. A summary meeting regarding the results of the regulatory program review was held with Judith M. Espinosa, Secretary, Environment Department; Kathleen M. Sisneros, Director, Water and Waste Management Division, Environment Department; and Benito Garcia and William Floyd on August 11, 1994.

CONCLUSION

The New Mexico program for the regulation of agreement materials is adequate to protect the public health and safety. However, a finding of compatibility continues to be withheld because nine regulations have not been adopted within the three-year period allowed by the NRC.

STATUS OF PROGRAM RELATED TO PREVIOUS NRC FINDINGS

The previous NRC program review was concluded on August 14, 1992, and comments and recommendations were sent to the State in a letter dated September 10, 1992. At that time, the program was found to be adequate to protect the public health and safety. However, compatibility was withheld because of five overdue regulations.

The comments and recommendations from the previous program review were followed up and the State's responses were evaluated for adequacy. All previous comments and recommendations have been closed out, except for a repeat finding of overdue compatibility regulations. These findings are as follows:

1. Status and Compatibility of Regulations (Category I Indicator)

The issue addressed in the following recommendation has not been satisfactorily resolved and remains open.

Recommendation from the August 1992 Routine Review

The review of the State's radiation control regulations disclosed that five regulatory amendments, which are matters of compatibility, have not been adopted by the State within a three-year period after adoption by the NRC. These amendments deal with a bankruptcy notification, decommissioning requirements, NVLAP certification of dosimetry processors, well logging requirements, and a quarterly audit of the performance of radiographers. We recognize that the NVLAP certification requirement is administratively covered through New Mexico's certification program for service companies, and that New Mexico may not currently have any licensees that require sureties for decommissioning. However, we believe, for the longer term, that these requirements should be added to New Mexico's radiation control regulations. We recommend that these amendments, and any others approaching the three-year period allowed after NRC adoption, be promulgated as effective State radiation control regulations.

Current Status

New Mexico has not amended the radiation protection regulations since March 10, 1989. As a consequence, the above five regulations are still overdue for adoption. In addition, four additional regulations have become overdue for a total of nine regulations that have not been adopted in the three-year period allowed by the NRC. Of particular concern are the 10 CFR Part 20-equivalent regulations which should have been adopted by January 1, 1994.

2. Technical Quality of Licensing Actions (Category I Indicator)

The issue addressed in the following recommendation has been satisfactorily resolved and is considered closed.

Recommendation from the August 1992 Routine Review

A number of minor errors were found during the review of the license files. These included typographical errors, omissions, outdated license conditions and missing or misfiled documentation. Potentially more serious problems included: (1) a license on which a radiopharmacist was listed as an authorized medical user, (2) a case in which a licensee notified the State of a change to its facility for the use of radioactive material but the change was not incorporated into the license, and (3) a case in which a licensee was authorized to store for decay radionuclides with half lives up to 88 days without a documented rationale for the extension beyond the 65 days allowed in a standard license condition. These problems appear to have been caused by reassigning experienced licensing staff to perform inspections leaving

the remaining licensing staff with the least experience performing all the licensing reviews. Also, computer difficulties during the initial phases of a data management system for licenses caused some of the typing errors. All of these cases were discussed with the Bureau's technical staff during the review meeting and may have already been resolved. Also, we should note that recent administrative changes are expected to minimize future problems of this sort. We recommend that program management staff improve the Bureau's quality assurance program for licensing actions in order to reduce the incidence of these minor errors.

Current Status

No potentially serious concerns similar to the above were found during this year's program review. The State's quality assurance program for licensing actions is effective in reducing licensing errors on final license documents.

3. Status of Inspection Program (Category I Indicator)

The issue addressed in the following recommendation has been satisfactorily resolved and is considered closed.

Recommendation from the August 1992 Routine Review

The routine review disclosed that the TMA Eberline license (No. GL225) had a license condition that required a quarterly report to the Bureau on the devices distributed to general licensees. Recently, these reports were not being received by the State, apparently, due to an oversight by the licensee. We believe this is a minor comment since the licensee has these detailed records in its Albuquerque office. (Note, these records had just been reviewed during an accompaniment inspection on August 10, 1992, by the Region IV State Agreements Officer with a New Mexico inspector.) We recommend that the Bureau confirm that these quarterly reports are submitted as required in the license.

Current Status

Appropriate quarterly reports are now being received by the State, for this particular licensee.

CURRENT REVIEW ASSESSMENTS AND RECOMMENDATIONS

All 30 program indicators were reviewed and the State satisfies 28 of these indicators. A questionnaire containing the 30 indicators with specific questions addressing each indicator was sent to the State prior to the review. The assessments and recommendations below are based upon the evaluation of the State's written response to the questionnaire, comparison with previous review information, discussions with the program managers and staff members, review team observations, review of the State's policies and procedures, and licensing and inspection casework file reviews. Based on the results of the review, the New Mexico RCP is adequate to protect public health and safety.

The NRC is withholding a finding of compatibility because nine regulations have not been adopted by the New Mexico program within 3 years of the date of final publication by NRC.

1. Status and Compatibility of Regulations (Category I Indicator)

NRC Guidelines

The State must have regulations essentially identical to 10 CFR Part 19, Part 20 (radiation dose standards, effluent limits, waste manifest rule and certain other parts), Part 61 (technical definitions and requirements, performance objectives, financial assurances) and those required by the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), as implemented by Part 40. The State should adopt regulations to maintain a high degree of uniformity with NRC regulations. For those regulations deemed a matter of compatibility by NRC, State regulations should be amended as soon as practicable but no later than 3 years. The radiation control program (RCP) should have established procedures for effecting appropriate amendments to State regulations in a timely manner, normally within 3 years of adoption by NRC. Opportunity should be provided for the public to comment on proposed regulation changes. (Required by UMTRCA for uranium mill regulations.) Pursuant to the terms of the Agreement, opportunity should be provided for the NRC to comment on draft changes in State regulations.

Assessment

The New Mexico radiation protection regulations were last amended on March 10, 1989. Since that time, regulations that are matters of compatibility have been found to be overdue for adoption during each subsequent routine program review: three overdue regulations in 1990, five overdue regulations in 1992, and nine overdue regulations in 1994. The reason for this buildup in overdue regulations is that the New Mexico management staff have always placed a higher priority on other aspects of the program (e.g., licensing, inspection, training) thus creating a delay in amending regulations for compatibility.

The nine overdue regulations include bankruptcy notification, decommissioning requirements, NVLAP certification of dosimetry processors, well logging requirements, a quarterly audit of the performance of radiographers, emergency plans, safety requirements for radiographic equipment, 10 CFR Part 20-equivalent regulations and notification of incidents. We recognize that the NVLAP certification requirement is administratively covered through New Mexico's certification program for service companies, and that New Mexico does not currently have any licensees that require sureties for decommissioning. At the time of the routine review, a draft package of regulations, which included the nine overdue regulations, was being developed. On December 13, 1994, we were informed that the New Mexico draft package of regulations received hearing at the Environmental Improvement Board (EIB) on December 8-9, 1994. The EIB raised some concerns regarding the draft package, and the package was returned to

the Radiation Technical Advisory Council (RTAC). The RTAC plans to meet on the revisions to the draft package on January 20, 1995 and the draft package is to be returned to the EIB by February 10, 1995. If they pass the EIB review, they will be filed and after 30 days would become effective regulations with the earliest possible effective date being in March 1995.

Recommendation

We recommend that these amendments, and any others approaching the three-year period allowed after NRC adoption, be promulgated as effective State radiation control regulations as soon as possible and that a schedule for completion of the revisions be prepared and submitted. Other compatibility regulations coming due in the near future include:

- "Quality Management Program and Misadministrations," 10 CFR Part 35 amendment (56 FR 153) which is needed by January 27, 1995.

- "Licenses and Radiation Safety Requirements for Irradiators", 10 CFR Part 36 (58 FR 7715) that became effective on July 31, 1993 and will need to be adopted by July 31, 1996.

- "Decommissioning Recordkeeping, and License Termination: Documentation Additions," 10 CFR Parts 30, 40, 70, and 72 amendments (58 FR 39628) that became effective on October 25, 1993 and will need to be adopted by October 25, 1996.

- "Self-Guarantee as an Additional Financial Mechanism," 10 CFR Parts 30, 40, and 70 amendments (58 FR 68726 and 59 FR 1618) that became effective on January 28, 1994 and will need to be adopted by January 28, 1997.

2. Administrative Procedures (Category II Indicator)

NRC Guidelines

The RCP should establish written internal procedures to assure that the staff performs its duties as required and to provide a high degree of uniformity and continuity in regulatory practices. These procedures should address internal processing of license applications, inspection policies, decommissioning and license termination, fee collection, contacts with communication media, conflict of interest policies for employees, exchange of information and other functions required of the program. Administrative procedures are in addition to the technical procedures utilized in licensing, inspection, and enforcement.

Assessment

The indicator, "Administrative Procedures," includes a guideline which recommends that the radiation control program establish written internal procedures in order to assure that the staff performs its duties as

required and provides a high degree of uniformity and continuity in regulatory practices. We found that many of these types of written procedures exist as policy memoranda or other documents in various locations or manuals used by the Bureau, however, certain procedures were not available or not easily located by all staff members. However, we were informed that the RCP staff was instructed by management on the proper procedure when a procedure was needed.

Recommendation

We recommend that the Bureau's internal procedures be reviewed and compiled in a manual (or manuals) that are easily referred to by all staff members in order to maintain consistency in staff licensing and compliance activities. The procedures should cover internal processing of license applications, scheduling and documenting inspections and enforcement activities, escalated enforcement actions, and other functions required under the program. (The NRC reviewer provided a suggested outline for content of a procedures manual during the review meeting, which included an indication of the procedures that were in need of updating.)

SUMMARY DISCUSSIONS WITH STATE REPRESENTATIVES

A summary meeting to present the results of the regulatory program review was held with Judith M. Espinosa, Secretary, Environment Department; Kathleen M. Sisneros, Director, Water and Waste Management Division, Environment Department; and Benito Garcia, and William Floyd, Hazardous and Radioactive Materials Bureau, on August 11, 1994. The scope and findings of the review were discussed. Ms. Espinosa was informed of the one significant Category I finding regarding the compatibility of the State's radiation control regulations. Ms. Espinosa stated that the State would consider the efforts necessary for a revision of the regulations to include the nine amendments that are necessary for compatibility. During this discussion she also expressed her concern for adopting the more demanding regulations that are coming due for compatibility purposes; such as, notification of incidents and the medical quality management program. She indicated that this places a great burden on the smaller Agreement State programs to maintain compatibility with the NRC's program. The State representatives concluded that the draft regulation package could be adopted before the end of the year, barring some adverse action by the Radiation Technical Advisory Council. Ms. Espinosa was informed that the results of the review would be reported in a letter to her from the Director, Office of State Programs, and that a written response would be requested.

She also expressed the State's appreciation for past NRC assistance and training for the Bureau's staff. She also stated that the Department would continue to support the radiation control program, any NRC-sponsored training courses, and cooperative efforts with the NRC and other Agreement State programs.

A closeout discussion with the RCP technical staff was conducted on August 12, 1992. The State was represented by William Floyd, and his

radiation control staff. Several general and specific questions were raised by the State representatives. The review guideline questions and the State's responses were discussed in detail. In addition, the results of the license and compliance casework reviews were provided to the staff for discussion. An instructional phase was included to reinforce the proper methods to be used by State personnel when notifying NRC of significant incidents, such as abnormal occurrences, transportation accidents, or events having media interest.

SUMMARY OF ASSESSMENT OF INDICATORS ADEQUATELY SATISFIED
BY THE NEW MEXICO RADIATION CONTROL PROGRAM
AUGUST 14, 1992 TO AUGUST 12, 1994

The assessments below are based upon the evaluation of the State's written response to the questionnaire, comparison with previous review information, discussions with the program managers and staff members, review team observations, licensing and inspection casework file reviews, review of the State's policies and procedures, and an inspector accompaniment. The State fully satisfies the following indicators.

1. Legal Authority (Category I)

NRC Guidelines

Clear statutory authority should exist, designating a State radiation control agency and providing for promulgation of regulations, licensing, inspection and enforcement. States regulating uranium or thorium recovery and associated wastes pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) must have statutes enacted to establish clear authority for the State to carry out the requirements of UMTRCA. States regulating the disposal of low-level radioactive waste in permanent disposal facilities must have statutes that provide authority for the issuance of regulations for low-level waste management and disposal. The statutes should also provide regulatory program authority and provide for a system of checks to demonstrate that conflicts of interest between the regulatory function and the developmental and operational functions shall not occur.

Assessment

During previous reviews, it was noted that clear statutory authority exists which provides the State radiation control agency, the Environment Department, with authority over agreement materials. During this routine review, effective legislation in Sections 74-3-1 through 74-3-16, NMSA 1978, which provide for promulgation of regulations, licensing, inspections, and enforcement, was evaluated and there had been no changes to this authority during this review period.

2. Location of the Radiation Control Program Within the State Organization (Category II)

NRC Guidelines

The radiation control program (RCP) should be located in a State organization parallel with comparable health and safety programs. The Program Director should have access to appropriate levels of State management. Where regulatory responsibilities are divided between State agencies, clear understandings should exist as to division of responsibilities and requirements for coordination.

Assessment

Discussions with the New Mexico RCP staff and a review of the State's organizational charts, indicated that the New Mexico Radiation Control Program is located in the Environment Department, which is comparable to other health and safety programs. The Program Director is the Chief of the Bureau of Hazardous and Radioactive Materials. Adequate access to appropriate levels of State management is maintained through the Secretary of the Environment Department.

3. Internal Organization of the RCP (Category II)

NRC Guidelines

The RCP should be organized with the view toward achieving an acceptable degree of staff efficiency, place appropriate emphasis on major program functions, and provide specific lines of supervision from program management for the execution of program policy. Where regional offices or other government agencies are utilized, the lines of communication and administrative control between these offices and the central office (Program Director) should be clearly drawn to provide uniformity in licensing and inspection policies, procedures and supervision.

Assessment

Discussions with the management of the Bureau of Hazardous and Radioactive Materials and review of organizational charts indicated that the RCP is adequately organized. The RCP for the agreement materials is located in the Radiation Section in the Hazardous and Radioactive Materials Bureau, which is located in the Division of Water and Waste Management of the Environment Department. The lines of supervision from the Secretary, Environment Department to the Director, Division of Water and Waste Management to the Chief, Bureau of Hazardous and Radioactive Materials, are adequate for effective execution of the agreement materials program policy.

The New Mexico RCP has staff located in Santa Fe and in Albuquerque. The three Albuquerque staff members report to the program manager in Santa Fe and there is usually weekly contact with the program manager. This arrangement minimizes travel and provides staff in the Albuquerque area with managerial oversight. Also, the senior environmental specialist in Albuquerque provides a day-to-day management function in that office.

4. Legal Assistance (Category II)

NRC Guidelines

Legal staff should be assigned to assist the RCP or procedures should exist to obtain legal assistance expeditiously. Legal staff should be knowledgeable regarding the RCP, statutes, and regulations.

Assessment

Based upon discussions with the RCP staff and the State's written responses to the NRC routine review questionnaire, the reviewer confirmed that the State Attorney General's office and the Department's Office of the General Counsel provide legal assistance to the program. This assistance includes review of proposed rules and enforcement cases. Much legal effort has been applied in the last year due to the extensive package of revised regulations that is working its way through the adoption process. The 10 CFR Part 20 equivalent regulations are included in this package. The Bureau staff indicated that legal support has been provided in all cases, when necessary, during the review period.

5. Technical Advisory Committees (Category II)

NRC Guidelines

Technical Committees, Federal agencies, and other resource organizations should be used to extend staff capabilities for unique or technically complex problems. A State Medical Advisory Committee should be used to provide broad guidance on the uses of radioactive drugs in or on humans. The committee should represent a wide spectrum of medical disciplines. The committee should advise the RCP on policy matters and regulations related to use of radioisotopes in or on humans. Procedures should be developed to avoid conflict of interest, even though committees are advisory. This does not mean that representatives of the regulated community should not serve on advisory committees or not be used as consultants.

Assessment

Based upon discussions with the New Mexico RCP staff, it was determined that the New Mexico radiation protection program uses a Radiation Technical Advisory Council (RTAC), which has members appointed under the authority of the Radiation Control Act. Conflicts of interest are avoided since the seven members on the RTAC consent to overall regulatory changes and do not address specific cases.

The program also relies on the NRC's Office of State Programs, Region IV personnel, and the New Mexico Environment Department consultants for assistance with technically complex licensing or inspection problems.

6. Contractual Assistance (Category II)

NRC Guidelines

Because of the diversity and complexity of low-level radioactive waste disposal licensing and regulation, States regulating the disposal of low-level radioactive waste in permanent disposal facilities should have procedures and mechanisms in place for acquisition of technical and vendor services necessary to support these functions that are not

otherwise available within the RCP. The RCP should avoid the selection of contractors which have been selected to provide services associated with the low-level radioactive waste facility development or operations.

Assessment

This indicator is not applicable as the State does not regulate the disposal of low-level radioactive waste.

7. Quality of Emergency Planning (Category I)

NRC Guidelines

The State RCP should have a written plan for response to such incidents as spills, overexposures, transportation accidents, fire or explosion, theft, etc. The plan should define the responsibilities and actions to be taken by State agencies. The plan should be specific as to persons responsible for initiating response actions, conducting operations and cleanup. Emergency communication procedures should be adequately established with appropriate local, county and State agencies. Plans should be distributed to appropriate persons and agencies. NRC should be provided the opportunity to comment on the plan while in draft form. The plan should be reviewed annually by program staff for adequacy and to determine that content is current. Periodic drills should be performed to test the plan.

Assessment

The State emergency plan was last revised July 1990 and was previously reviewed by NRC and was found to be acceptable. At the time of the review the plan was being revised. In November 1994, we were informed that the emergency plan was being completed by the Department of Public Safety and should be finalized by January 1995. A random check of the State call list was performed during this review and it was found to be up-to-date. Staff members are on call for a week at a time on a rotational basis and emergency accidents or incidents involving radioactive materials are referred to RCP staff on an as needed basis. Reports of incidents or accidents are maintained in a Hazardous Materials Incident log. While the staff has had several calls regarding a radioactive "incident," they have not had to respond onsite to any actual cases this year. RCP staff participated in a one-day mock radiological exercise involving Los Alamos National Laboratory, the New Mexico Department of Public Safety and the New Mexico National Guard on March 23, 1994. The State's RCP satisfies this indicator.

8. Budget (Category II)

NRC Guidelines

Operating funds should be sufficient to support program needs such as staff travel necessary to conduct an effective compliance program, including routine inspections, follow-up or special inspections

(including pre-licensing visits) and responses to incidents and other emergencies, instrumentation and other equipment to support the RCP, administrative costs in operating the program including rental charges, printing costs, laboratory services, computer and/or word processing support, preparation of correspondence, office equipment, hearing costs, etc., as appropriate. States regulating the disposal of low-level radioactive waste facilities should have adequate budgetary resources to allow for changes in funding needs during the low-level radioactive waste facility life cycle. After appropriations, the sources of program funding should be stable and protected from competition from or invasion by other State programs. Principal operating funds should be from sources which provide continuity and reliability, i.e., general tax, license fees, etc. Supplemental funds may be obtained through contracts, cash grants, etc.

Assessment

Based upon discussions with RCP management and noting adequate staffing and funding for program operations, it was determined that the funding is sufficient to support the New Mexico radioactive materials program. The program director stated that there are no current restrictions to travel or administrative support. The program does not have licensee fees, and does not expect to seek a fee structure in the near future. The Legislature approves appropriations from the general fund for the Environment Department.

9. Laboratory Support (Category II)

NRC Guidelines

The RCP should have the laboratory support capability in-house, or readily available through established procedures, to conduct bioassays, analyze environmental samples, analyze samples collected by inspectors, etc., on a priority established by the RCP. In addition, States regulating the disposal of low-level radioactive waste facilities in permanent disposal facilities should have access to laboratory support for radiological and non-radiological analyses associated with the licensing and regulation of low-level waste disposal, including soils testing, testing of environmental media, testing of engineering properties of waste packages and waste forms, and testing of other engineering materials used in the disposal of low-level radioactive waste. Access to laboratory support should be available on an "as needed" basis for nonradiological analyses to confirm licensees' and applicants' programs and conditions for nonradiological testing should be prescribed in plans or procedures.

Assessment

The laboratory was not visited during this review, but has been visited during previous reviews and was found to be acceptable.

Based upon discussions with New Mexico staff and the review of a laboratory request form, the Environment Department, which contains the RCP, has an agreement with the Scientific Laboratory Division, New Mexico Department of Health, for services regarding sample analyses and other measurements. The reviewer focused on the timeliness of laboratory results and found it to be adequate. In addition, it was found that immediate priority service for sample analysis is also available, if needed. Eberline is under contract by the Environment Department to provide survey instrument calibration services, which includes scheduling and completing calibrations on a quarterly basis.

10. Management (Category II)

NRC Guidelines

Program management should receive periodic reports from the staff on the status of regulatory actions (backlogs, problem cases, inquiries, regulation revisions). RCP management should periodically assess workload trends, resources and changes in legislative and regulatory responsibilities to forecast needs for increased staff, equipment, services and fundings. Program management should perform periodic reviews of selected license cases handled by each reviewer and document the results. Complex licenses (major manufacturers, low-level radioactive waste disposal facilities, large scope-Type A Broad, and those which have the potential for significant releases to the environment) should receive second party review (supervisory, committee, consultant). Supervisory review of inspections, reports and enforcement actions should also be performed. For the implementation of very complex licensing actions, such as initial license review, license renewals and licensing actions associated with a low-level radioactive waste disposal facility, there should be an overall Project Manager responsible for the coordination and compilation of the diverse technical reviews necessary for the completion of the licensing action. The Project Manager should have training or experience in one or more of the main disciplines related to the technical reviews which the Project Manager will be coordinating such as health physics, engineering, earth science or environmental science. When regional offices or other government agencies are utilized, program management should conduct periodic audits of these offices.

Assessment

Based upon discussions with the RCP management and the review of sample information from the RCP's computer tracking system along with the review of inspection and licensing files, the following assessment was made. The program manager is able to review inspection data immediately from the computer tracking system. Licensing status is maintained in file folders and is immediately available to the program manager. Monthly reports from the program staff are generated which contain current lists of inspections and license actions completed, as well as other information.

A management plan is developed by using individual inputs from staff members, which is used as a tool by program management to plan long and short-term goals and to predict what resources will be needed to achieve those goals.

Each license or inspection letter is reviewed by the program manager. Inspection letters and licensing actions are signed by the Bureau Chief and the Division Director, respectively. These measures were implemented by management to maintain accuracy and consistency in work products. Weekly meetings are held with staff to discuss casework, policies, goals and problems.

11. Office Equipment and Support Services (Category II)

NRC Guidelines

The RCP should have adequate secretarial and clerical support. Automatic typing and Automatic Data Processing and retrieval capability should be available to larger (300-400 licenses) programs. Similar services should be available to regional offices, if utilized. States should have a license document management system that is capable of organizing the volume and diversity of materials associated with licensing and inspection of radioactive materials. Professional staff should not be used for fee collection and other clerical duties.

Assessment

Based upon discussions with the RCP staff and review of the RCP's response to the NRC routine review questionnaire, the following assessment was made. One full-time secretary is employed by the radioactive materials program. Additional secretarial support is available within the Bureau, if needed. While secretarial and clerical support is now adequate, it was not adequate during much of this reporting period. Radiation Licensing and Registration Section had a 50 percent shortage of secretarial help during this part of the reporting period, which resulted in a delay of the development of the new regulation package.

The computer tracking system has minimized some administrative duties such as action tracking, letter preparation, expiration notices, etc.

Each of the technical staff has a computer terminal to use for correspondence and actions relating to technical matters. Boilerplates, model citations, and license conditions are available to staff.

12. Public Information (Category II)

NRC Guidelines

Inspection and licensing files should be available to the public consistent with State administrative procedures. It is desirable, however, that there be provisions for protecting from public disclosure

proprietary information and information of a clearly personal nature. Opportunity for public hearings should be provided in accordance with UMTRCA and applicable State administrative procedure laws during the process of major licensing actions associated with UMTRCA and low-level radioactive waste in permanent disposal facilities.

Assessment

Based upon discussions with the RCP staff, evaluation of RCP's responses to NRC routine review questionnaire, and review of procedures on public announcements, the reviewer determined that inspection and licensing files are available to the public. However, an appointment is necessary to allow the staff to remove proprietary information from the files prior to public viewing. For the most part, all media requests for public information are channeled through the Departmental Public Information Office. Public hearings are held on all new regulations.

13. Qualifications of Technical Staff (Category II)

NRC Guidelines

Professional staff should have a bachelor's degree or equivalent training in the physical and/or life sciences. Additional training and experience in radiation protection for senior personnel including the director of the radiation protection program should be commensurate with the type of licenses issued and inspected by the State. For States regulating uranium mills and mill tailings, staff training and experience should also include hydrology, geology, and structural engineering. For programs which regulate the disposal of low-level radioactive waste in permanent facilities, staff training and experience should include civil or mechanical engineering, geology, hydrology, and other earth science, and environmental science. In both types of materials, staff training and experience guidelines apply to available contractors and resources in State agencies other than the RCP. Written job descriptions should be prepared so that professional qualifications needed to fill vacancies can be readily identified.

Assessment

Based upon a review of the RCP's response to the NRC routine review questionnaire, the reviewer determined that technical staff all have bachelor degrees and other specific training in the use of radioactive materials, which is commensurate with the types of licenses (i.e., nuclear laundry, well logging, sealed source manufacturing, medical, broad medical, and gauges) that the RCP issues.

The two most recent additions to the program have attended numerous technical training courses and have considerable experience with radiation safety programs. These two have become staff members of the New Mexico radiation control program since the last review. One has a B.A. in Science and 11 years experience in health physics and medical physics. The other has a B.S. in Technology and has 21 years experience

in health physics and medical physics. The State's RCP satisfies this indicator.

14. Staffing Level (Category II)

NRC Guidelines

Professional staffing level should be approximately 1-1.5 person-year per 100 licenses in effect. RCP must not have less than two professionals available with training and experience to operate the RCP in a way which provides continuous coverage and continuity. The two professionals available to operate the RCP should not be supervisory or management personnel. For States regulating uranium mills and mill tailings current indications are that 2-2.5 professional person-years' of effort, including consultants, are needed to process a new mill license (including in situ mills) or major renewal, to meet requirements of the Uranium Mill Tailings Radiation Control Act of 1978. States which regulate the disposal of low-level radioactive waste in permanent disposal facilities should allow a baseline RCP staff effort of three-four professional technical person-years (in addition to the two professionals for the basic RCP). However, in some cases, the level of site activity may be such that a lower level is adequate, particularly if contractor support is on call. In any event, staff resources should be adequate to conduct inspections on a routine basis during operations of the low-level radioactive waste facility, including inspection of incoming shipments and licensee site activities and to respond to emergencies associated with the site. During periods of peak activity additional staff or specialty consultants should be available on a timely basis.

Assessment

Based upon a review of documents submitted by the RCP in response to the NRC review questionnaire and discussions with staff, it was confirmed that the current technical staffing level is 3.05 FTE which was reached with new hires in 1993. With a staffing level of 3.05 FTE and 240 licenses, the ratio is 1.27 FTE per 100 licenses. This is within the NRC-suggested range of 1.0 to 1.5 FTE per 100 licenses. There are no vacancies in the program, at present.

Staff assigned to the x-ray and naturally occurring radioactive material (NORM) regulatory programs are also cross-trained in the materials program. This cross-training provides the program with greater flexibility and insurance against the loss of staff in the future.

15. Staff Supervision (Category II)

NRC Guidelines

Supervisory personnel should be adequate to provide guidance and review the work of senior and junior personnel. Senior personnel should review applications and inspect licenses independently, monitor work of junior personnel, and participate in the establishment of policy. Junior

personnel should be initially limited to reviewing license applications and inspecting small programs under close supervision.

Assessment

Based upon discussions with the RCP staff and review of the RCP's responses to the NRC routine review questionnaire, the following assessment was made. The program manager and the regional coordinator provide licensing and inspection guidance to junior personnel. Currently, all inspection letters and licensing actions are reviewed and signed by the Bureau Chief and the Division Director, respectively. Inspectors' work is monitored by a review of their inspection preparation, a debriefing upon return, and a review of inspection reports and letters. License reviewers' work is monitored by a review of checklists, deficiency letters and licensing documents.

Inspection accompaniments are performed by the regional coordinator and the program manager to train inspectors and to critique their development. The RCP's inspectors are accompanied at least annually.

16. Training (Category II)

NRC Guidelines

Senior personnel should have attended NRC core courses in licensing orientation, inspection procedures, medical practices and industrial radiography practices. The RCP should have a program to utilize specific short courses and workshops to maintain an appropriate level of staff technical competence in areas of changing technology. The RCP staff should be afforded opportunities for training that is consistent with the needs of the program.

Assessment

Based upon review of information proved by the RCP, it was determined that technical staff rely on NRC-sponsored training courses for formal training in health physics and radioactive disciplines. The environmental specialist hired in 1993 is scheduled to attend the five-week health physics, inspection procedures, licensing orientation, medical, and well logging courses during the next year.

All staff members are cross trained in materials, x-ray and NORM requirements. Also, they all have responsibilities in the State's emergency response procedures.

One-on-one training for inspectors and reviewers is provided by senior personnel in radiation control. Formal training courses are used to supplement in-house training. Junior technical staff members are assigned the more straight forward inspections, initially.

17. Staff Continuity (Category II)

NRC Guidelines

Staff turnover should be minimized by combinations of opportunities for training, promotions, and competitive salaries. Salary levels should be adequate to recruit and retain persons of appropriate professional qualifications. Salaries should be comparable to similar employment in the geographical area. The RCP organization structure should be such that staff turnover is minimized and program continuity maintained through opportunities for promotion. Promotion opportunities should exist from junior level to senior level or supervisory positions. There also should be opportunity for periodic salary increases compatible with experience and responsibility.

Assessment

Based upon previous routine reviews, staff turnover has been detrimental to the New Mexico radioactive materials program over the past few program reviews. In the past year, however, only one technical staff person left the program according to information provided by the RCP staff. This person was reassigned to another Bureau in the Environmental Department at his request. The staffing situation appears to be stable at this time since the Bureau filled the Environmental Specialist position immediately. This individual will provide a good measure of technical back up in the Albuquerque area.

New Mexico RCP staff indicated that salary levels appear to be comparable to similar employment in the same geographical area for State government and private industry.

18. Technical Quality of Licensing Actions (Category I)

NRC Guidelines

The RCP should assure that essential elements of applications have been submitted to the agency, and which meet current regulatory guidance for describing the isotopes and quantities to be used, qualifications of persons who will use material, facilities and equipment, and operating and emergency procedures sufficient to establish the basis for licensing actions. Additionally, in States which regulate the disposal of low-level radioactive waste in permanent disposal facilities, the RCP should assure that essential elements of waste disposal applications meet State licensing requirements for waste product and volume, qualifications of personnel, facilities and equipment, operating and emergency procedures, financial qualifications and assurances, closure and decommissioning procedures and institutional arrangements in a manner sufficient to establish a basis for licensing action. Licensing activities should be adequately documented including safety evaluation reports, product certifications or similar documentation of the license review and approval process. Prelicensing visits should be made for complex and major licensing actions. Licenses should be clear, complete, and

accurate as to isotopes, forms, quantities, authorized uses, and permissive or restrictive conditions. The RCP should have procedures for reviewing licenses prior to renewal to assure that supporting information in the file reflects the current scope of the licensed program.

Assessment

During the review period, 240 specific licenses were in effect in New Mexico. New Mexico issued 32 new licenses and 199 renewals in their entirety, and processed 30 terminations during the review period. In addition 318 amendments were issued. As a result of the review of licensing casework, which included nine licensing actions and three terminations, it was determined that the technical quality of licensing actions has improved since the last review. The licensing staff is gaining experience and has received considerable assistance from management review of all licensing actions.

To improve the quality of licensing actions, checklists are used routinely and example licensing actions are available for the various types of licensed programs. All actions are checked for accuracy and content prior to signing by the Division Director. A major upgrade of the New Mexico license file system has been accomplished during the last one and a half years, with the result that the license files are complete, orderly, and well organized.

Errors were identified in a few of the actions, such as an improper date or improper filing of documents, none of which were significant. These issues were discussed with the licensing staff. One recent licensing action for the broadscope license for the University of New Mexico, was discussed at length.

19. Adequacy of Product Evaluations (Category I)

NRC Guidelines

RCP evaluations of manufacturer's or distributor's data on sealed sources and devices outlined in NRC, State, or appropriate ANSI Guides, should be sufficient to assure integrity and safety for users. The RCP should review manufacturer's information on labels and brochures relating to radiation health and safety, assay, and calibration procedures for adequacy. Approval documents for sealed source or device designs should be clear, complete and accurate as to isotopes, forms, quantities, uses, drawing identifications, and permissive or restrictive conditions. Approval documents for radioactive waste packages, solidification and stabilization media, or other vendor products used to treat radioactive waste for disposal should be complete and accurate as to the use, capabilities, limitations, and site specific restrictions associated with each product.

Assessment

This indicator does not apply to New Mexico for this review period. The State has had no requests for evaluations of sealed sources and devices. If an application for an evaluation is received, the New Mexico staff would initiate review of the application, and in all likelihood, would identify specific areas needing technical assistance from the NRC.

20. Licensing Procedures (Category II)

NRC Guidelines

The RCP should have internal licensing guides, checklists, and policy memoranda consistent with current NRC practice. In States which regulate the disposal of low-level radioactive waste in permanent disposal facilities, the RCP should have program specific licensing guides, plans and procedures for license review and policy memoranda which relate to specific aspects of waste disposal. The program should include the preparation of safety evaluation reports, product certifications, or similar documentation of license review and approval process. License applicants (including applicants for renewals) should be furnished copies of applicable guides and regulatory positions. The present compliance status of licenses should be considered in licensing actions. Under the NRC Exchange-of-Information program, evaluation sheets, service licenses, and licenses authorizing distribution to general licensees and persons exempt from licensing should be submitted to NRC on a timely basis. Standard license conditions comparable with current NRC standard license conditions should be used to expedite and provide uniformity in the licensing process. Files should be maintained in an orderly fashion to allow fast, accurate retrieval of information and documentation of discussions and visits.

Assessment

Based upon a review of the New Mexico RCP's procedures and discussion with staff, the reviewer confirmed that the New Mexico radioactive materials program is using NRC regulatory guides for the various types of programs which are licensed. Medical, portable gauge and fixed gauge guides are the most common ones used in the State. Checklists are also used to improve the quality and consistency of the licensing process. Standard license conditions and boilerplate letters are available for the staff. The number of standard license conditions has been increased from 88 to 151 in an effort to stress adherence to New Mexico Radiation Protection Regulations. The Bureau's filing procedures are strictly adhered to with the result that the license files are complete, orderly, and well organized.

21. Status of Inspection Program (Category I)

NRC Guidelines

The State RCP should maintain an inspection program adequate to assess licensee compliance with State regulations and license conditions. The inspection program in all States should provide for the inspection of licensee's waste generation activities under the State's jurisdiction. In States which regulate the disposal of low-level radioactive waste in permanent disposal facilities, the RCP should include provisions for preoperational, operational, and post-operational facility inspections. The inspections should cover all program elements which are relevant at the time of the inspection and be performed independently of any resident inspector program. In addition, inspections should be conducted on a routine basis during the operation of the low-level radioactive waste facility, including inspection of incoming shipments and licensee site activities. The RCP should maintain statistics which are adequate to permit Program Management to assess the status of the inspection program on a periodic basis. Information showing the number of inspections conducted, the number overdue, the length of time overdue and the priority categories should be readily available. There should be at least semiannual inspection planning for the number of inspections to be performed, assignments to senior versus junior staff, assignments to regions, identification of special needs and periodic status reports. When backlogs occur the program should develop and implement a plan to reduce the backlog. The plan should identify priorities for inspections and establish target dates and milestones for assessing progress.

Assessment

Based upon the review of inspection files and an inspector accompaniment, the following assessment was made. The New Mexico radioactive materials program, with current levels of staffing, is capable of assessing licensee compliance with State regulations and license requirements. In addition, the RCP does not have any inspection backlog in accordance with NRC criteria.

The computer tracking system allows program managers to retrieve program statistics, on demand, allowing assessment of the inspection program. A list of inspections due is produced quarterly.

Thirty onsite closeout inspections prior to license termination were made during the reporting period. The Bureau maintains a special inspection program for a depleted uranium licensee because of high public awareness concerning this licensee. The NRC reviewer completed an accompaniment inspection with a New Mexico inspector of this licensee during the review meeting. The Bureau's inspection activities for this licensee were judged to be very complete and acceptable in all respects. Three reciprocity inspections were conducted during this reporting period, out of the 50 reciprocity notices that were received.

22. Inspection Frequency (Category I)

NRC Guidelines

The RCP should establish an inspection priority system. The specific frequency of inspections should be based upon the potential hazards of licensed operations, e.g., major processors, broad licensees, and industrial radiographers should be inspected approximately annually -- smaller or less hazardous operations may be inspected less frequently. The minimum inspection frequency including for initial inspections should be no less than the NRC system.

Assessment

Based upon NRC staff review of the RCP's inspection frequency, the RCP's inspection procedures manual, and inspection priority schedule, the following assessment was made. New Mexico performs inspections at the same frequency as the NRC, or more frequent. Inspections are generally unannounced. The inspection priorities are listed in the Department's priority schedule and are updated as NRC Manual Chapter 2800 is changed.

Inspection frequency may be temporarily reduced or extended based on licensee performance, as allowed by NRC Manual Chapter 2800.

Protechnics International, Inc. and TMA/Eberline are being inspected more frequently than called for because of a history of compliance problems. New Mexico Tech/EMRTC is being inspected more frequently than called for because of the controversial nature of the licensed operation using depleted uranium. The Bureau's RCP satisfies this indicator.

23. Inspector's Performance and Capability (Category I)

NRC Guidelines

Inspectors should be competent to evaluate health and safety problems and to determine compliance with State regulations. Inspectors must demonstrate to supervision an understanding of regulations, inspection guides, and policies prior to independently conducting inspections. For the inspection of complex licensed activities such as permanent low-level radioactive waste disposal facilities, a multidisciplinary team approach is desirable to assure a complete compliance assessment. The compliance supervisor (may be RCP manager) should conduct annual field evaluations of each inspector to assess performance and assure application of appropriate and consistent policies and guides.

Assessment

Based upon an accompaniment of a New Mexico RCP inspector and previous accompaniments of New Mexico's staff, the reviewer determined that the New Mexico radioactive materials inspectors are competent to evaluate health and safety problems and to determine compliance with State regulations and requirements. All inspectors were accompanied by the program manager during the last year. The NRC reviewer confirmed staff

capabilities by discussions with several State inspectors concerning their individual methods of conducting various inspections.

Inspections are currently being performed by staff located in Albuquerque and in Santa Fe, New Mexico. Prior to receiving authorization to perform independent inspections, personnel are accompanied by the program manager. The Regional State Agreements Officer accompanied an inspector on an inspection of a depleted uranium licensee, and provided an evaluation to the program manager. The inspector was found to be competent to apply State regulations and to inspect this type of licensee.

24. Responses to Incidents and Alleged Incidents (Category I)

NRC Guidelines

Inquiries should be promptly made to evaluate the need for on-site investigations. On-site investigations should be promptly made of incidents requiring reporting to the Agency in less than 30 days (10 CFR 20.403 types). For those incidents not requiring reporting to the Agency in less than 30 days, investigations should be made during the next scheduled inspection. On-site investigations should be promptly made of non-reportable incidents which may be of significant public interest and concern, e.g. transportation accidents. Investigations should include in-depth reviews of circumstances and should be completed on a high priority basis. When appropriate, investigations should include reenactments and time-study measurements (normally within a few days). Investigation (or inspection) results should be documented and enforcement action taken when appropriate. State licensees and the NRC should be notified of pertinent information about any incident which could be relevant to other licensed operations (e.g., equipment failure, improper operating procedures). Information on incidents involving failure of equipment should be provided to the agency responsible for evaluation of the device for an assessment of possible generic design deficiency. The RCP should have access to medical consultants when needed to diagnose or treat radiation injuries. The RCP should use other technical consultants for special problems when needed.

Assessment

The NRC reviewer held discussions with Bureau staff members and examined recent State actions to incidents and allegations to assess this indicator. Allegations are investigated, usually in the same manner as incidents. Onsite visits are made when deemed appropriate. During the review period, 32 incidents were reported; 30 of these incidents received on-site visits; and three notifications to NRC were made.

Incidents and allegations are promptly evaluated and investigated. Incident details and response actions are discussed with the Regional State Agreements Officer, by telephone, when necessary according to NRC practice. In addition, investigational assistance in cases of potential wrongdoing is available through the State Attorney General's office.

Particularly noteworthy is the RCP handling of an incident during this review period. NRC was notified by the Bureau in August 1994, that a truck with some residual radioactive contamination was found by a Radiation Safety Officer at New Mexico Tech, Socorro, New Mexico. The intended use of the truck was to carry radioactive debris from the Olin Ordnance Ballistic Test Range to a low-level radioactive waste disposal site in Utah. The Bureau staff followed up and kept NRC informed of this investigation, in accordance with the Bureau's standard practice. The State's response to this incident was found to be exceedingly thorough.

25. Enforcement Procedures (Category I)

NRC Guidelines

Enforcement procedures should be sufficient to provide a substantial deterrent to licensee noncompliance with regulatory requirements. Provisions for the levying of monetary penalties are recommended. Enforcement letters should be issued within 30 days following inspections and should employ appropriate regulatory language clearly specifying all items of noncompliance and health and safety matters identified during the inspection and referencing the appropriate regulation or license condition being violated. Enforcement letters should specify the time period for the licensee to respond indicating corrective actions and actions taken to prevent recurrence (normally 20-30 days). The inspector and compliance supervisor should review licensee responses.

Licensee responses to enforcement letters should be promptly acknowledged as to adequacy and resolution of previously unresolved items. Written procedures should exist for handling escalated enforcement cases of varying degrees. Impounding of material should be in accordance with State administrative procedures. Opportunity for hearings should be provided to assure impartial administration of the radiation control program.

Assessment

Enforcement procedures were evaluated during the review and enforcement matters were discussed with the New Mexico RCP staff. Enforcement actions similar to NRC's are available to the program through the New Mexico regulations and statutes, which provide a sufficient deterrent to noncompliance. The Bureau's inspection forms were recently revised according to license type. References are made to the New Mexico radiation protection regulations to note which parts of the regulations are being violated during inspections.

Enforcement letters clearly specify violations and concerns and are generally issued within 30 days following inspections. Responses to enforcement letters are reviewed by the inspector and program manager. The Department may choose to impound radioactive material, when necessary. The State's escalated enforcement procedures were reviewed

during the meeting and found to be satisfactory. New Mexico has civil penalty authority. No civil penalties were issued during the review period. Actions such as increased inspection frequency were used by New Mexico during the review period to assure effective corrective actions were implemented by the licensee.

26. Inspection Procedures (Category II)

NRC Guidelines

Inspection guides, consistent with current NRC guidance, should be used by inspectors to assure uniform and complete inspection practices and provide technical guidance in the inspection of licensed programs. NRC guides may be used if properly supplemented by policy memoranda, agency interpretations, etc. Written inspection policies should be issued to establish a policy for conducting unannounced inspections, obtaining corrective action, following up and closing out previous violations, interviewing workers and observing operations, assuring exit interviews with management, and issuing appropriate notification of violations of health and safety problems. Procedures should be established for maintaining licensees' compliance histories. Oral briefing of supervision of the senior inspector should be performed upon return from nonroutine inspections. For States with separate licensing and inspection staffs, procedures should be established for feedback of information to license reviewers.

Assessment

The Bureau's inspection policies were discussed with the program manager. The Bureau has an inspection procedures manual which is consistent with NRC procedures. The manual establishes policies for conducting unannounced inspections, obtaining corrective action, following up and closing out previous violations, interviewing workers and observing operations, assuring exit interviews with management, and issuing appropriate notification of violations.

Inspectors debrief with the program manager upon return from inspections. Significant inspection findings are relayed to licensing personnel during telephone calls and staff meetings. The Bureau's RCP satisfies this indicator.

27. Inspection Reports (Category II)

NRC Guidelines

Findings of inspections should be documented in a report describing the scope of inspections, substantiating all items of noncompliance and health and safety matters, describing the scope of licensees' programs, and indicating the substance of discussions with licensee's management and licensee's response. Reports should uniformly and adequately document the results of inspections and identify areas of the licensee's program which should receive special attention at the next inspection.

Reports should show the status of previous noncompliance and the independent physical measurements made by the inspector.

Assessment

Eight inspection reports were reviewed for appropriate documentation of inspection results. All of the reports uniformly and adequately documented inspections. Only a minor error or two were identified in these reports and these were discussed with the program manager.

Inspection reports adequately closed out violations from previous inspections. Standard violations are maintained in the Bureau's inspection manual. No narrative reports are generated, except for investigations of incidents or allegations. Independent radiation measurements, appropriate for the type of license, are documented in the reports.

28. Confirmatory Measurements (Category II)

NRC Guidelines

Confirmatory measurements should be sufficient in number and type to ensure the licensee's control of materials and to validate the licensee's measurements. In States which regulate the disposal of low-level radioactive waste in permanent disposal facilities, access to testing should be available on an "as needed" basis for confirming licensees' and applicants' programs for measurements related to nonradiological aspects of facility operations such as soils and materials testing and environmental sampling and analysis to demonstrate compliance with 10 CFR Part 61 or compatible Agreement State regulations and ensure facility performance. Conditions for nonradiological testing should be prescribed in plans or procedures. RCP instrumentation should be adequate for surveying license operations (e.g., survey meters, air samplers, lab counting equipment for smears, identification of isotopes, etc.). RCP instrumentation should include the following types:

GM Survey Meter: 0-5 mr/hr
Ion Chamber Survey Meter: up to several R/hr
Neutron Survey Meter: Fast & Thermal
Alpha Survey meter: 0-100,000 c/m
Air Samplers: Hi and Low Volume
Lab Counters: Detect 0.001 μCi/wipe
Velometers
Smoke Tubes
Lapel Air Samplers

Instrument calibration services or facilities should be readily available and appropriate for instrumentation used. Licensee equipment and facilities should not be used unless under a service contract. Exceptions for other State agencies, e.g., a State University, may be made. Agency instruments should be calibrated at intervals not greater than that required to licensees being inspected.

(Note: Additional types of instrumentation that are highly desirable are thin window plastic or NaI detectors for low energy gammas and "micro-R" meters with audio signal for searching for lost gamma emitter sources.)

Assessment

The NRC reviewer held discussions with various staff members on the procedures followed for confirmatory measurements. The review also examined in detail the measurements made concerning a depleted uranium licensee. Confirmatory measurements are made during each inspection, if necessary. Measurements are sufficient in number and type to confirm licensee control of radioactive materials. Instrumentation is adequate for program needs. Available instrumentation includes GM survey meters with end window and pancake probes, ion chambers, and sodium iodide detectors. Air sampling equipment is available, if needed.

The Environment Department has a contract with Eberline for calibration of all of the instruments. Instruments are calibrated at quarterly frequencies. The review also obtained a copy of the Quality Assurance Audit prepared by the EPA on the State's laboratory. The laboratory was not visited during this review, but has been visited during previous reviews and was found to be adequate.