

14
Kathy,

47
2/12/86

These are all of the materials from the Washington Review 1986 of the Waste Management LLW program.

1. A copy of 1st rough draft of comment letter - no concurrences.
Check LLW section
2. Section VIII questions to WA
3. Answers to questions in 2
4. List of employees and duties
5. new waste mgmt. tracking system
6. Mary Jo Seeman's review
7. 6 SB (senate bills for your info on LLW)
8. The draft report referenced in Comment draft letter
5/20/85 PC + m for LLW - need 18 million not 10
9. List of Appendices for answers to questions in 3 above
10. Appendices A, B, D, E, F, G, I,
Note C and J are just inspection reports - INK's in App D.
Note H is a copy of license that you already have

The report will have Section VIII LLW with the list of questions and answers and reference to Appendices in RV and OSP files (these are your copies). I will provide review assessment much like Enclosure 2 in Comment letter. This is how things will be done unless you stop me for some reason I am not aware of —

Love Jack Hornor

A/49

*1ST Rough Draft
WA-'86 Review Comment LTR
JWH 2/12/86
no concurrences yet
not outg RV yet*

Dr. John Beare, Director
Division of Health (M/S ET-26)
Department of Social and Health Services
1112 South Quince Street
Olympia, Washington 98504

Dear Dr. Beare:

This is to confirm the discussions Mr. Jack Hornor, Region V State Agreement Representative, held with you and your staff on February 7, 1986, following our review and evaluation of the State radiation control program. The review covered the principal administrative and technical aspects of the program. This included an examination of the program's legislation and regulations, organization, management and administration, personnel, licensing and compliance, and the accompaniment of two State inspectors. The review also covered the State's regulatory programs for low-level waste disposal and uranium milling and mill tailings.

Our review used as a reference the NRC "Guidelines for NRC Review of Agreement State Radiation Control Programs," published in the Federal Register on December 4, 1981, as an NRC Policy Statement. The Guidelines contain 30 Indicators for program evaluation. A description of how the Indicators are used in reporting the results of the program review to State management is enclosed (Enclosure 1).

As a result of our review of the State's program and the routine exchange of information between the Nuclear Regulatory Commission and the State of Washington, the staff believes that the Washington program for regulation of agreement materials is adequate to protect the public health and safety and is compatible with the Commission's program. There are, however, comments pertaining to the low-level waste and mill programs that are worthy of management's attention.

There are issues that remain unresolved in assigning certain technical requirements and responsibilities for the low-level radioactive waste site. Decisions should be made on these questions and the conclusions forwarded to the NRC, the Washington Department of Ecology and U.S. Ecology so that the renewal of the low-level waste site license can be completed.

We are concerned that insufficient funds will be available for future site closure expenses. The NRC financial analyst agrees with a study conducted by the State (DSHS draft report dated May 20, 1985) in which it was found that existing funds for the costs of site closure, perpetual care and maintenance are \$8,000,000 less than the current estimated actual closure costs. We suggest these current figures be used as justification to utilize a portion of the surcharges as necessary while the money is still available.

We are also concerned that adequate funds will not be available for closure of three uranium mills. We are aware there has been consideration of returning the amended agreement for regulation of uranium mills to the NRC. In that event, we would like to point out that, under NRC authority, if and when the closure and reclamation funds are exhausted, the land owner is responsible for the additional costs. The State of Washington will become the land owner by eminent domain should the Joy and Dawn Mills declare bankruptcy. The Sherwood/Western Nuclear Mill is located on Indian land; however, there is no agreement between the State and the Bureau of Indian Affairs to assure the closure funds will be used for the State interests, i.e., the mill closure rather than the mine costs. We recommend you reevaluate the closure costs and increase the surety funds for all three mills before the companies become completely insolvent.

A separate issue discussed in the meeting concerns the proposed State legislation which would transfer certain responsibilities for the low-level waste site to the Washington Department of Ecology (WDOE). This action would impact on our Agreement, and in the event of passage, it will be necessary for us to review the parts of the WDOE program that fall under the Agreement State Program. We ask that you notify the NRC at such time any portions of your responsibilities associated with the Agreement are turned over to the WDOE, so that we may evaluate WDOE's ability to regulate the program.

Enclosed with this letter are specific comments regarding the technical aspects of the materials and waste management program (Enclosure 2). You may wish to have Mr. T. R. Strong, Head, Radiation Control Section, address these comments.

I would appreciate your review of our comments and recommendations and would like to receive your specific plans to improve Washington's radiation control program, including milestones and commitment dates. I am also enclosing a copy of this letter for placement in the State Public Document Room or otherwise to be made available for public review.

I appreciate the courtesy and cooperation you and your staff extended to Mr. Hornor and our staff.

Sincerely,

John B. Martin
Regional Administrator

Enclosures:

As stated

cc w/enclosures

T. R. Strong, Head, Radiation Control Section

State Public Document Room

NRC Public Document Room (SP01)

G. W. Kerr, Director, Office of State Programs

RV
Hornor

RV
Scarano

OSP
Kerr

EDO
Stello

RV
Martin

ENCLOSURE 2

Comments and Recommendations on the Technical Aspects of the Washington Radiation Control Program for Agreement Materials

I. Licensing

Licensing Procedures is a Category II Indicator. The following comment with our recommendation is made.

Comment

The State Radiation control program (RCP) should have internal licensing guides, checklists and policy memoranda consistent with current NRC practice. The Washington RCP is tying license conditions down to telephone calls and telephone memoranda.

Recommendation

We recommend the State require licensees to followup license changes made by telephone with letters. The license changes should then be tied to these letters which should be kept in the license file along with the telephone memoranda. (This policy need not apply to obvious typographical errors which may be corrected by telephone as long as the correction is clearly dated and signed and the telephone memo retained in the file.)

II. Compliance

A. Status of Inspection is a Category I Indicator. The following minor comment with our recommendation is made.

Comment

Both the NRC and the State require inspection of new licensees within six months after the license is issued. Inspection of the compliance files revealed three instances in which the inspection was not completed within the initial license inspection period. This finding is repeated from the previous review.

Recommendation

We recommend you modify your method of assigning inspections to assure the new licensees are inspected within the six-month period.

- B. Inspector's Performance and Capability is a Category I Indicator. The following minor comment with our recommendation is made.

Comment

Inspectors should demonstrate an understanding of inspection techniques and be able to properly evaluate health and safety problems. During the field accompaniments, it was noted that the inspectors placed almost total emphasis on review of licensee records, and failed to make an adequate observation of the licensee's use of radioactive materials or to interview ancillary personnel. In the two cases in point, major areas of noncompliance were associated with the licensee's use and handling of radioactive materials.

Recommendation

We recommend that the inspection program consider a random scheme of record review (similar to the one taught in the Inspection Procedures Course) in order that more onsite time and emphasis can be given to observation of licensee use and handling of radioactive materials and ancillary employee interviews.

- C. Responses to Incidents and Alleged Incidents is a Category I Indicator. The following minor comment with our recommendation is made.

Comment

For routine Agreement State reviews and when significant incidents, identified in 10 CFR 20, 402, 403 occur within the State, the NRC requests that these incidents be investigated, summarized and forwarded to the NRC for generic evaluation and dissemination to all users when applicable. The Washington RCP has three separate incident response systems: materials, waste management and emergency response. Of these systems, only the materials incidents are routinely summarized and forwarded to the NRC.

Recommendation

We recommend that the State combine their incident response files and forward to NRC the evaluation and summary of those incidents which are applicable from each of these files.

- D. Enforcement Procedures is a Category I Indicator. The following minor comment with our recommendation is made.

Comment

Licensees should respond to enforcement letters within 20 to 30 days. The State should have and utilize a tracking system for followup on those licensees who do not respond within this time period. There were two licensees whose responses to significant items of noncompliance were several months overdue and the RCP had apparently taken no action.

Recommendation

We recommend that the Washington RCP develop and implement a tracking system to follow licensees who fail to respond to enforcement letters within the 30-day response period.

III. Low-Level Waste Program (LLW)

- A. Responses to Incidents and Alleged Incidents is a Category I Indicator. The following minor comment with our recommendation is made.

Comment

Incidents should be promptly evaluated with management review and sign-off. The incidents should be closed out and filed when completed. The Waste Management incident response file was missing several significant incidents (later found) and many of these incidents were apparently not reviewed by management nor closed out.

Recommendation

We recommend that the Washington Waste Management Section develop and implement a new incident response tracking and filing system which includes management review, close out and sign-off.

- B. Inspector's Performance and Capability is a Category I Indicator. The following minor comment with our recommendation is made.

Comment

As a minimum, the low-level waste program manager should conduct and document annual field evaluations of each inspector, both onsite and headquarters inspectors of the site, to assess

performance and ensure application of appropriate and consistent policies and guides. The Washington LLW program manager stated that he had performed accompaniments with all LLW inspectors; however, there was no documentation.

Recommendation

We recommend that the LLW program manager develop and use an inspector accompaniment log for accompaniments of all LLW site inspectors.

C. Contingency Plans.

Comment

The NRC requires certain large licensees, including LLW site operators, to develop and implement contingency plans according to NUREG-0767, 0762 and 0810. The State of Washington has apparently not reviewed the licensee's emergency plans against the required NUREGs.

Recommendation

We recommend that the State review the emergency plans included in the licensee's renewal application against the cited NUREGs and require the licensee, as a minimum, to meet these standards for the required contingency plans.

D. Closure, Perpetual Care and Maintenance Funds.

Comment

The NRC reviewed the State of Washington's funds for closure, perpetual care and maintenance for the LLW site and found them to be insufficient by approximately \$8,000,000. This finding agrees with a recent draft report (DSHS 05/20/85) done by the RCS where specific costs were evaluated in current dollars.

Recommendation

We recommend that the State review and adjust the closure, perpetual care and maintenance funds annually, especially now while the State is collecting additional outside money in the form of surcharges.

IV. Uranium Mill Program

A. Uranium Mill Tailings Piles

The Dawn Uranium Mill has two old AEC uranium mill tailings piles which they claim fall under Title I piles, and their cleanup and reclamation is the responsibility of the U.S. Department of Energy (U.S. DOE). The NRC finds that the definition of Title I piles excludes the Dawn AEC piles and that there are no provisions for cleanup and reclamation of these piles in the Dawn closure funds or sureties.

Recommendation

We recommend that the State of Washington request from Dawn a letter from U.S. DOE acknowledging responsibility for these piles under Title I or that Dawn immediately adjust its closure and reclamation funds and sureties to cover these tailings piles.

B. Uranium Mill Letters of Credit.

Comment

Washington State regulations (WAC 402-22-040(6)(d) require the RCS to annually review the letters of credit for closure of the uranium mills. The reviewers found no documentations that this annual review had ever been accomplished.

Recommendation

We recommend that the Washington RCS review the letters of credit (and document the review) as required by their regulations and adjust them as necessary for inflation and special problems such as the old AEC piles.

C. Closure Bond for the Sherwood Mill.

Comment

The State of Washington does not have a memorandum of understanding with the Bureau of Indian Affairs or the Spokane Tribe, who are named as the beneficiaries of the \$6,000,000 closure bond. It appears that without this MOU, the bond money may be entirely spent on mine reclamation, leaving the State to clean up the mill site and tailings should the licensee declare bankruptcy.

Recommendation

We recommend that the State develop an MOU with the Bureau of Indian Affairs and the Spokane Tribe that assures that adequate bond money would be spent on mill closure in the event of bankruptcy.

D. Dawn Perpetual Care and Maintenance Fund

Comment

The Dawn perpetual care maintenance fund is currently \$56,000 and limited to \$1,000,000 (RCW 70.121.050), neither amount which is adequate for closure in 1986 or later.

Recommendation

We recommend that the State take immediate action to rectify this situation in order to protect the State from having to provide State revenue for possible future perpetual care and maintenance of the Dawn mill site.

E. Reclamation Plans.

Comment

The reclamation plans for the two remaining mills were reviewed by the NRC Nuclear Materials Safety and Safeguards staff. The suggested improvements in the plans are listed below.

Recommendations

1. The Dawn reclamation plan should be modified to provide for the following:
 - a. Reclamation of the old AEC (incorrectly identified ~~as~~ Title I piles) uranium tailings piles.
 - b. Resolution of the tailings cover thickness so that the 20 pico curies per meter squared second standard will not be exceeded for the 1000 year period.
 - c. Rock covering for all slopes less than 10 horizontal to 1 vertical.
 - d. Meeting the standard for cover compaction.
 - e. Restriction on planting of trees or other deep rooted plants on the tailings cover because of potential root paths for radon emanation.

2. The Sherwood reclamation plan should be modified to provide for the following:

- a. Sufficient down slope to insure stability of the tailings dam structure for 1000 years. This will most likely require some rock cover on the down stream slope.
- b. Reevaluation of the diversion ditches around the impoundment to allow for a possible maximum flood to occur and not overflow the dike. This may require a larger diversion ditch and rock armoring.
- c. Restriction on planting of trees or other deep rooted plants on the tailings cover because of potential root paths for radon emanation.

E. Ingersoll

Warning Letters
Suspension Letters
Reinstatement Letters
Regulatory Actions
Daily Operations
Phone Calls
Other reviews as necessary
Variances
License Renewal

M. Elsen

Variances
Topical Reports
Annual Reports
Absorbent Study
Phone calls
Other reviews as necessary
USEC License Renewal

B. Bidstrup
On-site inspection

C. Hill
On-site inspection

Jack,
Here is the
list of duties
for Rad Waste

FEB 24 1986

50

TEXAS WASHINGTON
NEW MEXICO COLORADO

FINANCIAL ASSURANCES FOR URANIUM RECOVERY LICENSEES

Enclosed is policy guidance on financial assurances for uranium recovery licensees to meet the requirements of Criteria 9 and 10 of 10 CFR Part 40, Appendix A which has been provided to our Regional Administrator in Region IV.

This policy allows uranium recovery licensees to use parent company guarantees with appropriate financial tests to meet their financial assurance requirements for reclamation, stabilization, decommissioning and long-term care of their facilities.

Donald A. Nussbaumer
Assistant Director for
State Agreements Program
Office of State Programs

Enclosure:
As stated

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DEC 30 1985

204.9/MJS/85/11/29/0

- 1 -

MEMORANDUM FOR: Robert D. Martin
Regional Administrator, Region IV

FROM: Robert E. Browning, Director
Division of Waste Management

SUBJECT: POLICY GUIDANCE REGARDING PARENT COMPANY AND LICENSEE
GUARANTEES FOR URANIUM RECOVERY LICENSEES

Enclosed is policy guidance on financial assurances for uranium recovery licensees to meet the requirements of Criteria 9 and 10 of 10 CFR Part 40, Appendix A. This policy allows uranium recovery licensees to use parent company guarantees with accompanying financial tests to meet their financial assurance requirements for reclamation, stabilization, decommissioning and long term care of their facilities. However, a licensee may not demonstrate financial assurance by means of a self-guarantee based on the same financial test.

It should be noted that the statement is based on a legal opinion of the meaning of "self-insurance" in 10 CFR Part 40, Appendix A.

This guidance allows URFO to respond to several pending NRC licensee requests for corporate or licensee guarantees. Additionally, we have examined the corporate guarantee and financial tests allowed under the Wyoming Department of Environmental Quality's reclamation program. We think they provide an acceptable method of financial assurance for NRC uranium recovery licensees located in that State.

We are working with OSP regarding application of this policy by the Agreement States. We will keep you informed of our progress.

You may contact us if you have questions about this policy statement.

Original Signed by
MICHAEL J. [illegible]

Robert E. Browning, Director
Division of Waste Management

Enclosure:
As stated

cc: Ralph Heyer
R. Dale Smith

OFC : WMPC : WMPC : OSP : OELD : WMPC : WM
NAME : MJSeeman:cp : MKearney : DNaussbaumber : JOBunting : REBrowning

12/23/85 12/30/85

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POLICY GUIDANCE
PARENT COMPANY AND LICENSEE GUARANTEES
FOR URANIUM RECOVERY LICENSEES

It is our policy to allow licensees to use a parent company guarantee based on a financial test to meet the financial assurance requirements of Criteria 9 and 10 of 10 CFR Part 40, Appendix A. However, a licensee may not demonstrate financial assurance by means of a self-guarantee based on the same financial test. This policy is based on a September 13, 1985 OELD legal opinion on the meaning of "self-insurance" as used in 10 CFR Part 40, Appendix A (enclosed).

Any use of a parent company guarantee and financial test must be identical to the parent company guarantee and financial test found in the U.S. EPA's Revised Interim Final Rules for 40 CFR Parts 264 and 265, issued in April 1982 (enclosed).

These are the same standards used by Headquarters staff in their test analysis of the Union Carbide parent company guarantee and financial test used to demonstrate financial assurance for the NRC licensed uranium mill in Utah.

Licensee requests to use parent company guarantees (with accompanying financial tests) based on standards found in State reclamation programs will be examined on a case by case basis.