



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

May 2, 2024

Santiago Rodriguez, Chief
Radiation Control Bureau
Environmental Protection
New Mexico Environmental Department
P.O. Box 5469
Santa Fe, New Mexico 87502-5469

SUBJECT: NEW MEXICO 2023 PERIODIC MEETING SUMMARY

Dear Mr. Rodriguez:

A periodic meeting with you and your staff was held on April 18, 2023. The purpose of this meeting was to review and discuss the status of the New Mexico Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Geoffrey Miller, Deputy Director, Division of Radiological Safety and Security, NRC Region IV, and me.

I have completed and enclosed a general meeting summary. If you feel that our comments, conclusions, or actions to be taken do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 200-1143 or via email at Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

A handwritten signature in black ink that reads "Randy Erickson".

Signed by Erickson, Randy
on 05/02/24

Randy Erickson
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure:
New Mexico Periodic Meeting Summary

cc: Michael Ortiz, Program Manager
Radiation Control Bureau



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF NEW MEXICO

TYPE OF OVERSIGHT: NONE

April 18, 2023

PERIODIC MEETING PARTICIPANTS

NRC

- Geoffrey Miller, Deputy Director, Division of Nuclear Materials Safety, Region IV
- Randy Erickson, State Agreements Officer, Region IV

New Mexico Radiation Control Bureau

- Santiago Rodriguez, Bureau Chief
- Michael Ortiz, Program Manager
- James Hesch, Radiation Specialist
- Victor Diaz, Radiation Specialist
- Mandi Cooke, Radiation Specialist
- Vance Miller, Radiation Specialist

1.0 INTRODUCTION

This report presents the results of the periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the State of New Mexico. The meeting was held on April 18, 2023. The meeting was conducted in accordance with the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The New Mexico Agreement State Program is administered by the Radiation Control Bureau (the Bureau) which is in the Environmental Protection Division. At the time of the meeting, the Bureau regulated approximately 204 specific licenses authorizing possession and use of radioactive materials. The meeting focused on the radioactive materials Program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of New Mexico.

The Bureau is currently 100 percent fee funded and all fees collected go into a special revenue fund specifically for the Bureau's budgetary use. In addition, the State can request special budgetary appropriations for specific items, such as radioactive materials licensing activities. Any unexpended funds authorized that are not utilized return to the fund and not to the general fund. The Bureau reported that they are expected to receive a onetime budgetary increase of \$600K for FY24 beginning on July 1, 2023, and plans to propose a fee increase of approximately \$1.9M which would expand their total budget to \$2.3M.

The Bureau last underwent an Integrated Materials Performance Evaluation Program (IMPEP) review in September 2021. A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on January 6, 2022.

Based on the findings presented, the MRB found the Bureau's performance satisfactory for the following performance indicators: Technical Staffing and Training, Status of Materials Inspection Program, Technical Quality of Inspections, Technical Quality of Incident and Allegation Activities and Legislation, Regulations and Other Program Elements (LROPE). The Bureau was rated as satisfactory but needs improvement for the indicator Technical Quality of Licensing Actions. The MRB also found the Bureau adequate to protect public health and safety and compatible with the NRC's Program. The team made three new recommendations for improved program performance regarding tracking of initial inspections, implementing consistent use of the Risk-Significant Radioactive Materials Checklist, and processing renewal applications in accordance with current guidance; and concluded that the recommendation from the 2017 IMPEP review regarding implementation of a well-conceived and balanced staffing strategy should remain open. Additionally, the MRB directed that two periodic meetings take place in approximately 18 and 36 months respectively and that the next IMPEP review take place in approximately 4 years.

2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC regional and Agreement State radioactive materials programs during an IMPEP review. These indicators are: (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities. Each of these indicators was discussed during the April 2023 periodic meeting.

2.1 Technical Staffing and Training (2021 IMPEP review: Satisfactory)

The Bureau reported that at the time of the meeting they were comprised of the Bureau Chief, a Program Manager, 10 technical staff members, and 3 administrative staff members which is equivalent to 6.8 full-time equivalents. They were anticipating a Bureau reorganization in the near future that will expand the staff to include 2 supervisors and the replacement for a retiring staff member. During the 2021 IMPEP review they had no vacancies and at the time of the periodic meeting, they were fully staffed. Prior to the periodic meeting, the Bureau took anywhere from 10-24 months to find and hire qualified candidates primarily due to a lengthy hiring process. That process has been improved and at the present time, they can now onboard new staff in as little as 3 months. The Bureau reported that since the 2021 IMPEP review no staff have left the program, at the present time they have enough staff to maintain the program, and once they receive approval to hire and train new staff, it will greatly improve their efficiency.

The Bureau has a documented training plan for technical staff that is equivalent to the NRC's Inspection Manual Chapter 1248. This training plan includes a requirement that qualified licensing and inspection staff members complete 24 hours of continuing education every 24 months. One recommendation was made during the 2017 IMPEP review which continues to remain open:

Recommendation: The team recommends that the Bureau continues to implement a well-conceived and balanced staffing strategy to ensure the program's continued adequacy and compatibility.

Status: As the Bureau continues to implement its staffing strategy, it has remained stable. The Bureau reported that they are requesting additional staffing and if they are approved, this will bring increased efficiency to the Bureau.

2.2 Status of the Materials Inspection Program (2021 IMPEP review: Satisfactory)

During the 2021 IMPEP review, the team found that the Bureau had conducted 171 Priority 1, 2, 3 and initial inspections, of which 148 were routine inspections and 23 were initial inspections. Nine of the initial inspections had been performed overdue. While the team concluded that only 4.3 percent of inspections had been performed overdue, the majority of them were initial inspections which the Bureau reported were a result of database errors and also in the tracking of new licenses following initial issuance. As a result, the team issued the following recommendation:

Recommendation: The team recommends that New Mexico Agreement State Program implement a method to track initial inspections to ensure that initial inspections are completed in accordance with the guidance outlined in the NRC's IMC 2800.

Status: The Bureau made changes to the database configuration and changed their processes to better track initial inspections and as a result, since the 2021 IMPEP review, the Bureau had conducted 61 inspections with only two having been performed overdue, neither of those were initial inspections.

The Bureau continues to conduct reciprocity inspections on a risk-informed basis. This allows the Bureau to determine which inspections are the most risk-significant instead of simply trying to meet a percentage. This also eases the pressure on the Bureau as their office is in the

northern part of the state, and most reciprocity work is in the far southern part of the State many hours away from their office.

2.3 Technical Quality of Inspections (2021 IMPEP review: Satisfactory)

The Bureau uses inspection procedures that are consistent with the inspection guidance outlined in IMC 2800. Inspection frequencies, with the exception of industrial radiography inspections, are performed more frequently than the frequencies identified in IMC 2800. All inspection reports are reviewed by the Program Manager and the Bureau Chief. Inspector accompaniments continue to be performed for each qualified inspector on an annual basis.

2.4 Technical Quality of Licensing Actions (2021 IMPEP Review: Satisfactory but needs improvement)

The Bureau had approximately 204 specific licensees at the time of the periodic meeting. All licensing actions are completed by one license reviewer with a final review by the Bureau Chief. Since the 2021 IMPEP review, this reviewer completed 378 licensing actions. All licenses are issued with a 5-year expiration date.

The team found, in part, that licensing actions involving both amendments and renewals were not always performed using current licensing guidance specified in the NUREG-1556 series or applicable license guidance documents for renewal applications. This resulted in the issuance of a recommendation:

Recommendation: The team recommends that New Mexico perform reviews of renewal applications in accordance with the criteria outlined in Section 4.4 of the NRC's NUREG-1556, Volume 20, Revision 1, or equivalent Agreement State procedure.

Status: The Bureau reported that all renewals are now performed in entirety and are not accepted with minimal information on the application indicating that there have been no changes in their operation.

The team also reviewed, in part, the Bureau's use of the revised risk significant radioactive materials (RSRM) checklist and found that the checklist was not being used. And even though the team did not identify any missed identification of RSRM as a result of not adopting and implementing the most current version of the checklist, it is a program element which is required to be adopted and implemented by Agreement States. This resulted in the issuance of a recommendation:

Recommendation: The team recommends that New Mexico adopt and consistently implement the RSRM checklist for licensing actions that meet the criteria in the applicable guidance.

Status: The Bureau reported that the RSRM checklist is now being consistently used. They further reported that the Bureau is currently training another license reviewer to eventually be able to share the workload between the two reviewers, which should help to ensure that guidance is more consistently used.

2.5 Technical Quality of Incident and Allegation Activities (2021 IMPEP review: Satisfactory)

Since the 2021 IMPEP review, the Bureau has reported 6 events to the Nuclear Material Events Database (NMED) database and at the time of the periodic meeting, 4 were still open. When an event is reported to the Bureau, it is routed to the staff member who manages the incident program to determine its health and safety significance and then with the assistance of management, together they determine the appropriate response. That response can range anywhere from responding immediately to reviewing the event during the next inspection. Enforcement actions were taken when appropriate. The Bureau responds to events in accordance with its established procedure.

Since the 2021 IMPEP review, the Bureau had not received any allegations directly. NRC made no allegation referrals to the Bureau following the 2021 IMPEP review; however, NRC made three referrals in 2022, and none in 2023 up to the date of the periodic meeting. The three referrals in 2022 had been reviewed and closed. The Bureau follows-up with incidents and allegations using their established procedures.

3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State Programs: (1) Compatibility Requirements, (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery (UR) Program. The NRC's Agreement with New Mexico does not relinquish regulatory authority for SS&D or UR; therefore, only the non-common performance indicators Compatibility Requirements and LLRW apply.

3.1 Legislation, Regulations and Other Program Elements (LROPE) (2021 IMPEP review: Satisfactory)

No legislative actions affecting the Branch had been passed since the 2021 IMPEP review. At the time of the 2021 IMPEP review, one amendment was found to be overdue. At the time of the 2023 periodic meeting, the Bureau reported that they had one regulation package with 5 RATS IDs waiting to be assigned to an attorney. However, these regulations had already been adopted and were enforceable, making the Bureau up to date on all regulations. Regulations applicable to the New Mexico Agreement State Program are not subject to sunset requirements.

3.2 LLRW Program (2021 IMPEP review: NR)

In 1981, the NRC amended its Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Authority and Assumption Thereof by States Through Agreement," to allow a State to seek an amendment for the regulation of LLRW as a separate category. Those States with existing Agreements prior to 1981 were determined to have continued LLRW disposal authority without the need for an amendment. Although New Mexico has authority to regulate a LLRW disposal facility, the NRC has not required States to have a Program for licensing a disposal facility until the State has been designated as a host State for LLRW disposal. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, it is expected to put in place a regulatory program that will meet the criteria for an adequate and compatible LLRW program. There are no plans for a commercial LLRW disposal facility in New Mexico. Thus New Mexico does not currently have a licensing or inspection program for LLRW facilities.

4.0 SUMMARY

The New Mexico Agreement State Program continues to be an effective and vital part of the New Mexico Environmental Protection Division. At the time of the meeting, they were fully staffed. The Bureau is effectively managing its licensing and inspection activities and is responding to incidents and allegations as appropriate.

NRC staff recommends that the next IMPEP review for the New Mexico Program be conducted as scheduled in 2025. The Bureau did not request an MRB meeting following the periodic meeting.