



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064**

April 7, 2000

Mr. Robert Leopold, Director
Nebraska Department of Health & Human Services
Regulation and Licensure
301 Centennial Mall South
P.O. Box 95007
Lincoln, Nebraska 68509-5007

Dear Mr. Leopold:

This year's periodic meeting with Nebraska was held on March 14, 2000. The meeting covered the period from September 1998, the date of Nebraska's last IMPEP review, to March 14, 2000.

The purpose of this meeting was to review and discuss the status of Nebraska's Agreement State program. The NRC was represented by Kevin Hsueh from NRC's Office of State Programs, and Dwight Chamberlain and me from NRC's Region IV office.

I have completed and enclosed a general meeting summary, including any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussion, or if you have any additional remarks about the meeting in general, please contact me at (817) 860-8116 or e-mail mlm1@nrc.gov to discuss your concerns.

Sincerely,

/RA/

M. Linda McLean
Region IV State Agreements Officer

Enclosure: As stated

cc w/encl.: Paul Lohaus, Director, OSP

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NEBRASKA

Date of Meeting: March 14, 2000

ATTENDEES:

State of Nebraska

Robert Leopold, Division Administrator
Cheryl Rogers, Program Manager
Susan Semerena, Section Administrator

NRC

Dwight Chamberlain, Division Director, RIV
Linda McLean, Regional State Agreements Officer, Region IV
Kevin Hsueh, Agreement State Project Officer, OSP

DISCUSSION

The following is a summary of the meeting held in Lincoln on March 14, 2000, between representatives of the NRC and the State of Nebraska. During the meeting, the topics suggested in a letter dated January 12, 2000, from Mrs. McLean to Mr. Leopold were discussed. The discussion pertaining to each topic is summarized below.

Action on Previous IMPEP Review Findings

The previous Integrated Materials Performance Evaluation Program (IMPEP) review was conducted during the period September 21-25, 1998, with the findings discussed in a meeting between the State and the IMPEP Management Review Board (MRB) on December 17, 1998. The results were issued in a final report dated 1998. At that time the MRB found that the Nebraska radiation control program was adequate to protect public health and safety and compatible with NRC's program. The recommendations made in the final report are listed below followed by a summary of the State's actions in response to each recommendation.

RECOMMENDATIONS

1. Because of the importance of the development and implementation of critical procedures relative to the performance of the staff and the performance indicators, the team recommends that the State initiate appropriate actions needed to complete the development and implementation of the previously identified procedures that are critical to the performance of the program. The State should provide the revised schedule to NRC and copies of the procedures as they are completed.

CURRENT STATUS

The State has provided the revised schedule and copies of the procedures to NRC. All critical procedures have been developed and implemented.

It is recommended that this item be closed at the next IMPEP review.

2. The team recommends that staff who conduct independent inspections and/or license reviews of pool irradiators, teletherapy and brachytherapy complete the irradiator course and teletherapy and brachytherapy courses.

CURRENT STATUS

In 1999, two staff members successfully completed the teletherapy and brachytherapy course. The Department plans to send one staff member to the irradiator course. The Department will submit applications for the other courses as the courses and department funds become available.

It is recommended that this item be closed at the next IMPEP review.

3. The review team recommends that the State add the inventory license condition to all applicable licenses, within the next year.

CURRENT STATUS

The inventory license condition has been added to all but one applicable license, and the one remaining license is under renewal and is close to being completed.

It is recommended that this item be closed at the next IMPEP review.

4. The review team recommends that the allegation records clearly state the basis for the findings and outcome of the investigation, and that the alleged be informed of the outcome of the investigation.

CURRENT STATUS

The Department has had one allegation since the 1998 IMPEP review. The alleged, in this case, did not provide enough information to investigate the complaint (the person did not provide the name of the licensee); therefore there was no outcome to report. However, the Department's procedure is to inform the alleged of the outcome of the investigation when possible. The Department plans to document and close this case unless additional information is provided by the alleged.

It is recommended that this item be closed at the next IMPEP review.

5. The review team recommends that Radioactive Materials Program management effect rulemaking activities to ensure that NRC rule changes are adopted within the specified 3 year time period.

CURRENT STATUS

A summary of the State's status in adopting NRC amendments can be found in the Attachment to this report. Four regulation amendments have been adopted by the State

since the 1998 IMPEP review, and the four published regulations have been reviewed by the NRC. The State staff also projected that five more regulations, due by September 2000, would be adopted in the summer of 2000. These five proposed regulations have also been reviewed by the NRC. NRC's comments on both published and proposed regulations have been incorporated in the final versions which are currently in the Attorney General's office for review and approval. The State will send the final regulations to NRC for review when the regulations are adopted and published in accordance with OSP Procedure SA-201. This recommendation will remain open pending the completion of the regulations due by September 2000.

It is recommended that this item remain open.

6. The team recommends that NDEQ prepare, or adopt by reference, a procedure for managing allegations.

CURRENT STATUS

Currently there is no active technical review of the LLRW site; therefore, the NDEQ does not feel that there is a need to develop a procedure for managing allegations.

It is recommended that this item be closed at the next IMPEP review.

Strengths and Weaknesses of the Nebraska Program

One strength identified by the State was the stability of the Department staff. There has been no reorganization or turnover for over a year. In addition, the quality of the staff and their training and experience is a program strength.

The Program Manager stated that one program weakness is that the Department has not revised the NRC's NUREG 1556, "Consolidated Guidance About Materials Licenses" into Nebraska's Regulatory Guides.

Recent or Pending State Program Changes

Changes in Program Staff/Program Reorganizations

No program changes are anticipated. There has been no turnover or department reorganization for over a year and no retirements are anticipated in the near future.

Changes in program budget or funding

Fees are being evaluated for adjustment to help support the program. The last fee adjustment was in 1995. Anticipated funding for the next few fiscal years looks stable.

NRC Program or Policy Changes That Could Impact Agreement States

Areas of discussion included: the Region IV, DNMS reorganization; the National Materials Program Working Group; the move of the Training Center to Rockville; the

Continuity of Government initiative; the working group on Event Reporting; the NMSS budget process; and the Oklahoma Agreement State transition.

The Department stated that the revised 10 CFR Part 35 and the new General License Rule could have an impact on Agreement States.

Internal Program Audits or Self Assessments

The Program Manager regularly accompanies the inspectors as part of program audits. In addition, the Department has a database tracking system that monitors the progress of the number of inspections due and completed. The database includes reciprocity inspections tracking, and also the number of license actions that have been completed or are due. The Program Manager meets with her staff bi-weekly to discuss the database reports and the status of the inspection and licensing program.

Status of Allegations Referred by NRC to the Nebraska Radiation Control Program

The NRC has not referred any allegations to the Department during this period.

Compatibility of Agreement State regulations

See the "REGULATION UPDATE TABLE" attached to this report.

Nuclear Material Events Database (NMED)

Since the Department has updated their database system to Access Version 3 software, a separate computer is designated to be used for NMED program. (NMED utilizes Version 2.) The State staff indicated that since the 1998 IMPEP review, there has been one materials event that reached the threshold for reporting to NMED. The State will continue to use the NMED system for reporting events to NRC.

Schedule for next IMPEP Review

Nebraska's IMPEP review is planned for FY2002. It was agreed to continue the quarterly phone calls between the RSAO, the ASPO, and the Department. These meetings have provided regular communication between the NRC and the State and were acknowledged to be useful for all participants.

Action Items Identified During Meeting

1. The Department requested clarification on the adoption of the "Quality Management and Misadministration" rule - Kevin Hsueh.

Mr. Hsueh responded to the request by e-mail dated March 16, 2000. He stated that based on SECY-97-054, the NRC will defer findings on this rule until the NRC issues a revised Part 35. This Action Item is closed.

2. The Department requested a copy of Region IV's Quarterly Report - Linda McLean.

A copy of Region IV's Division of Nuclear Materials Safety First Quarter 2000 report was e-mailed to C. Rogers on March 21, 2000. This Action Item is closed.

3. The Department asked if NRC was aware of 45 CFR Part 61, "Health Care Fraud and Abuse Data Collection Program: Reporting of Final Adverse Actions; Final Rule" from the Department of Health and Human Services - Kevin Hsueh.

Mr. Hsueh responded to the query by e-mail dated March 16, 2000. He stated, in part, that OSP is aware of the issue and had forwarded the document to NRC's Office of General Counsel (OGC) for review. NRC will notify all Agreement States of the outcome the OGC's review. This Action Item is closed.

4. The Department requested that the NRC's Technical Assistant Requests (TARs) be available via the world wide web. This item will be forwarded to NMSS for review - OSP

Attachment
REGULATION UPDATE TABLE

10 CFR RULE	DATE DUE	DATE EFFECTIVE	STATUS AT LAST IMPEP	CURRENT STATUS IF NOT ADOPTED		
				ADOPTION EXPECTED	DATE SENT TO NRC	CHECK IF NOT STARTED
Safety Requirements for Radiographic Equip; Part 34	1/10/94	5/30/94	Adopted			
Notification of Incidents; Parts 20, 30, 31, 34, 39, 40, 70	10/15/94	5/30/94	Adopted			
QM and Misadministrations; Part 35	1/27/95	NA	Adoption pending any NRC changes in Compatibility or enforcement			
Licensing and Radiation Safety Requirements for Irradiators; Part 36	7/1/96	10/30/96	Adopted			
Definition of Land Disposal and Waste Site QA Program; Part 61	7/22/96	5/30/94	Adopted			
Decommissioning Recordkeeping: Documentation Additions; Parts 30, 40, 70	10/25/96	5/30/94	Adopted			
Uranium Mill Tailings: Conforming to EPA Standards; Part 40	7/1/97	NA	NA			
Timeliness in Decommissioning Parts 30, 40, 70	8/15/97	9/17/97	Adopted			
Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use; Parts 30, 32, 35	1/1/98	9/17/97	Adopted			
Low-Level Waste Shipment Manifest Information and Reporting; Parts 20, 61	3/1/98	12/15/98	Had not been adopted at 9/98 IMPEP review, but was adopted on 12/15/98			

10 CFR RULE	DATE DUE	DATE EFFECTIVE	STATUS AT LAST IMPEP	CURRENT STATUS IF NOT ADOPTED		
				ADOPTION EXPECTED	DATE SENT TO NRC	CHECK IF NOT STARTED
Frequency of Medical Examinations for Use of Respiratory Protection Equipment; Part 20	3/13/98	12/15/98	Had not been adopted at 9/98 IMPEP review, but was adopted on 12/15/98			
Performance Requirements for Radiography Equipment; Part 34	6/30/98		Had not been adopted at 9/98 IMPEP	6/2000	Draft sent to NRC 10/99	
Radiation Protection Requirements: Amended Definitions and Criteria; Parts 19, 20	8/14/98	12/15/98	Had not been adopted at 9/98 IMPEP review, but was adopted on 12/15/98			
Clarification of Decommissioning Funding Requirements; Parts 30,40,70	11/24/98	9/17/97	Adopted			
10 CFR Part 71: Compatibility with the IAEA; Part 71	4/1/99	12/15/98	Had not been adopted at 9/98 IMPEP review, but was adopted on 12/15/98			
Medical Administration of Radiation and Radioactive Materials; Parts 20,35	10/20/98	9/17/97	Adopted			
Termination or Transfer of Licensed Activities: Recordkeeping Requirements; Parts 20, 30, 40, 70, 61	6/17/99	9/17/97	Adopted			
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act; Part 20	1/9/00		Had not been adopted at 9/98 IMPEP	6/2000	Draft sent to NRC 10/99	
Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State; Part 150	2/27/00		Had not been adopted at 9/98 IMPEP	6/2000	Draft sent to NRC 10/99	
Criteria for the Release of Individuals Administered Radioactive Material; Parts 20, 35	5/29/00	9/17/97	Adopted			

10 CFR RULE	DATE DUE	DATE EFFECTIVE	STATUS AT LAST IMPEP	CURRENT STATUS IF NOT ADOPTED		
				ADOPTION EXPECTED	DATE SENT TO NRC	CHECK IF NOT STARTED
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations; Parts 30, 34	6/27/00		Had not been adopted at 9/98 IMPEP	6/2000	Draft sent to NRC 10/99	
Radiological Criteria for License Termination; Parts 20, 30, 40, 70	8/20/00		Had not been adopted at 9/98 IMPEP	6/2000	Draft sent to NRC 10/99	

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