



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
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ATLANTA, GEORGIA 30303-8931**

April 17, 2003

Mr. Lawrence E. Nanney, Director
Division of Radiological Health
Department of Environment and Conservation
401 Church Street
Nashville, TN 37243-1532

Dear Mr. Nanney:

A periodic meeting with Tennessee was held on March 19, 2003. The purpose of this meeting was to review and discuss the status of Tennessee Agreement State program. The NRC was represented by Mr. Lloyd Bolling from the NRC's Office of State and Tribal Programs (STP), Mr. Douglas M. Collins, Director, Division of Nuclear Materials Safety and Safeguards, Region II, and myself. Specific topics and issues of importance discussed at the meeting included actions taken on previous review findings, program strengths, staffing and training, performance of licensing and inspection activities, and the updating of regulations for compatibility.

I have completed and enclosed a general meeting summary for your review. Four action items were identified during this meeting. These items will be followed during our quarterly conference calls, and the next conference call is tentatively scheduled for June 18, 2003.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at 404-562-4704, or e-mail to rlw@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Richard L. Woodruff
Regional State Agreement Officer

Enclosure: Periodic meeting summary

cc w/encl:
R.E. Trojanowski, RII
Lloyd Bolling, STP

Distribution w/encl: (See page 2)

L. E. Nanney

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR TENNESSEE
DIVISION OF RADIOLOGICAL HEALTH (DRH)

DATE OF MEETING: MARCH 19, 2003

ATTENDEES:

NRC

Richard L. Woodruff, RSAO, Region II
Douglas M. Collins, Director, DNMS, Region II
Lloyd Bolling, ASPO, STP

STATE

Lawrence E. Nanney, Director, Division of Radiological Health (DRH)
Debra G. Shults, Deputy Director, DRH
Mary Helen Short, Administrative Assistant Director, DRH
Johnny C. Graves, Manager, Licensing, Registration, and Planning, DRH
Charles Arnott, Manager, Licensing, DRH
Ruben Crosslin Manager, Technical Services, DRH
Sandra Szendy, Health Physics Consultant, DRH
Barbara Davis, Standards Development, DRH
Roger Fenner, Manager, Inspection and Enforcement, DRH
Billy Freeman, Manager, Knoxville Inspections, DRH
John Politte, Manager, Chattanooga Inspections, DRH
Roger Perry, Manager, Nashville Inspections, DRH
Allen Grewe, Manager, Memphis Inspections, DRH

DISCUSSION:

An entrance meeting was held at 8:00 a.m. on March 19, 2003, with Ms. Betsy Child, Commissioner, Department of Environment and Conservation, and Mr. John M. Leonard, Assistant Commissioner for Environment. The NRC representatives and the Director, DRH and the Deputy Director, DRH attended the entrance meeting.

The remainder of the meeting was held with the Tennessee attendees listed above, in the DRH conference room. The topics listed in an NRC letter dated February 18, 2003, to Mr. Nanney were discussed. Details for each area are discussed below.

Quarterly conference calls have been held with the Division. The calls were held on June 25, 2002 (ML030900318), September 18, 2002 (ML030900326), and December 17, 2002 (ML030900331).

The topics listed in our letter dated February 18, 2003 were discussed as follows:

1. Action on Previous Review Findings

The previous meeting was a follow-up review held with the State on October 22-25, 2001, and a report was provided to the State by letter dated May 7, 2002. The letter and the report provided one open recommendation from the August 25, 2000 IMPEP, and two follow-up recommendations. The status of these recommendations is as follows:

Open Recommendation 1 from the 2000 IMPEP report

The review team recommends that the Division take actions to ensure that:
(1) inspections are conducted in accordance with their assigned inspection frequencies;
and (2) inspection reports are issued in a timely manner. (Section 3.1 of 2000 report;
Section 2.1 of a follow-up report)

Status: The Inspection and Enforcement manager reported that all inspections were being inspected at their assigned frequencies, and that most inspection reports were being issued in a timely manner (30 days), that a couple had been delayed because of human error/events. The Area Inspection managers all reported that the back log of inspections had been completed and that there were no overdue inspections. The Division's progress in this area will be followed during the quarterly conference calls and results reviewed at the next IMPEP review.

Follow-up Recommendation 1

The review team recommends that the Division establish and implement additional guidance for report documentation and ensuring consistent, appropriate, and prompt regulatory actions, such as enforcement and inspection actions, incorporating root cause identification and health and safety significance (severity levels) for repeat violations. (Section 2.2 of follow-up report)

Status: Action on this recommendation has not been completed. The Inspection manager of the Knoxville office has been assigned the task of developing additional inspector guidance for report documentation and enforcement guidance. During staff discussions, it became apparent that there was some confusion on the intent and scope of the recommendation. NRC representatives noted that the "guidance" being developed by the State, should be generic in nature, to ensure consistent, appropriate, and prompt regulatory actions to be taken, and with consistent documentation in the reports concerning the basis for the noncompliance cited. It was also noted that copies of NRC's enforcement guidance and the newly revised inspection procedures (IP's) had been provided to the State. The program Director related that the revised guidance will be developed, tested, and implemented in all inspection offices prior to the next IMPEP. The Division's progress in this area will be followed during the quarterly conference calls and the results reviewed during the next IMPEP.

Follow-up Recommendation 2

The review team recommends that the Division establish a management plan for the development, tracking, and adoption of regulations in a timely manner, and to adopt the current regulations needed for adequacy and compatibility in accordance with the STP Procedure SA-201, "Review of State Regulations or Other Generic Legally Binding Requirements." (Section 3.1.2 or follow-up report)

Status: The Division developed procedures for "Development, Tracking and Adoption of Rules" in September of 2001, and they were provided to NRC for comment. The implementation of this procedure will be evaluated during the next IMPEP review.

2. Systems and/or mechanisms used to track the status of inspection and licensing programs, key items, and to assure quality performance

The manager of Inspection and Enforcement (I&E) has developed a tracking system for all licenses. The system is designed to be used by the Division office and the materials inspection staff located in the Environmental Assistant Centers (EAC) in Knoxville, Chattanooga, Nashville, and Memphis. The system will provide immediate access to the current license and amendments, license data, inspection history, inspection due date, and other specific inspection data. The I&E manager discussed and demonstrated the capabilities of the system and related that the system would be demonstrated in the EAC offices prior to implementation.

The managers from the inspection offices related that all inspection reports and Notices of Noncompliance are reviewed for quality performance at least one time before being sent to the Division office or the licensee.

The Licensing managers maintain a "Tracking Log" for all licensing actions and correspondence for licenses, amendments, and sealed source and device reviews. The program currently has about 556 specific licenses, of which about 60 are core licenses (those licenses with a one, two, or three years inspection frequency).

Incidents and allegations are tracked by the Administrative Secretary who is also the Complaint /Allegation/Incident (CAI) coordinator. The Deputy Director reviews the reports for documentation, reporting, and quality control.

Reciprocity notices are being tracked by the Licensing/Permitting staff and coordinated with the Enforcement Coordinator and the inspection managers in the EAC's.

The NRC representatives shared some of the ways used in the Region II managers to focus on and prioritize key items needed to accomplish the Agency performance goals.

3. Results of any internal program audits/self assessments conducted by the State

Division managers related that internal assessments are being accomplished through the review of quarterly reports, supervisory review of inspection reports, and periodic reviews of the license/inspection/correspondence files. Managers anticipate that the newly developed I&E tracking system and data base will enhance this process.

NRC representatives discussed the internal self-assessment process utilized in the Regional office, in preparation for IMPEPs utilizing the guidance and criteria found in Management Directive 5.6, Integrated Materials Performance Evaluation Program. The NRC representatives also noted that STP had not received a reply from Tennessee concerning the "Opportunity to Comment on Draft Options for New Periodic Meeting Procedures," STP-03-002, dated January 9, 2003.

4. Status of State program or policy changes under development or recently completed including:

Changes in program staff: An updated Division organization chart was provided along with a summary of personnel changes since October of 2001. The summary shows that the Division lost five persons, hired two new persons, another person left and returned, four persons that had left previously had returned, and the Division was in the process of filling three positions. The organization has a total of 68 positions, of which three positions are listed as vacant, and one position was lost. The technical staff has received a two-step increase in salary and a cost of living increase.

Program reorganizations: There was no reorganization during this period.

Legislative changes: There were no legislative changes concerning program authority.

Redistribution of responsibilities: There was no redistribution of responsibilities.

Changes in program budget/funding: The program is about 91.5% funded by fees that are placed in a Departmental fund. There was a cut in the appropriated funds, but this cut is not projected to impact health and safety elements of the program. Out-of-state travel is still restricted, and special approval is needed for this type of travel. Intrastate travel is also being closely monitored.

Training: The Division utilizes the NRC Technical Training Center (TTC) whenever possible which reduces the amount of out-of-state travel. The Division contracted with ORISE to provide a one week course on Diagnostic and Therapeutic Nuclear Medicine using guidance and subject/agenda materials provided by the TTC. Twenty-five persons received this training course. The Division related that three persons need the Inspection Procedures Course, and the Division would like to sponsor or contract the Industrial Radiography course at a location in Tennessee. Options for the Industrial Radiography course are being pursued with the STP and the TTC offices. Following the meeting, the TTC replied that the NRC contract course could not be given on the road at other locations. Dennis Sollenberger replied that TN could contract with the current contractor or another contractor to put on a similar course in Tennessee, or TN could develop one on their own.

5. Compatibility of Agreement State regulations and status of any proposed regulation changes

The State Regulation Status (SRS) document dated February 1, 2002, and posted on the NRC web site was reviewed and discussed. This document was provided to the Division by letter dated February 1, 2002 and included several comments that needed to be addressed for adequacy and compatibility. On January 6, 2003, the DRH Standards Development section provided electronic copies of the text for two rulemaking public hearing notices scheduled for February 19, 2003. The text was forwarded to STP and the STP (John Zabko) reply was sent to the Division (Standards Development) by e-mail on January 8, 2003.

During this meeting, the Standards Development representative related that there were no comments from the February 19, 2003 public hearings, that the rulemaking package included the rule revisions needed through RATS ID 2000-2, and the package would be sent to their Office of General Council and the Office of Attorney General, and to STP for review before the rules become final.

6. NMED reporting including event follow-up and closure information

A query of the NMED system shows that TN had reported 40 events since the follow up review. Several of the event reports were shown as complete, but the events had not been closed in the report. We discussed the need to officially "close" the event after the information is completed. The Deputy Director related that she had some questions concerning the capabilities of their software (Access 2.0).

Following the meeting, the RSAO sent a request on 03/28/03 to Ms. Michele Burgess at NRC for assistance concerning this matter. The Deputy Director also contacted Ms. Burgess and Mr. Robert Sant, at INEL, and was told that new software for NMED should be available in May of 2003, and that training would be conducted in the NRC Regional offices.

7. Status of all allegations and concerns previously referred by NRC to your office for action, and methods used to resolve allegations that have been closed

Only two allegations have been referred to the DRH since the follow-up review, and the concerns were closed in the Region II office. The Deputy Director reviews all allegations and determines if the actions taken were appropriate and documented. The DRH procedures were updated in February 2003 (Revision 8).

8. Strengths and/or weaknesses of the State and NRC programs as identified by the State or NRC including identification of actions that could diminish weaknesses

The Director related that the program had good staff, but staff turnover had been a problem in the past because of low salaries. The DRH received a two-step increase this past year which should help. The program has been successful in filling vacancies, but

this requires a lot of effort due to an ongoing hiring freeze. The program has a good fee schedule that provides a stable source of funding. Out of State travel restrictions has a negative impact on training new personnel and managerial attendance at workshops and national meetings.

9. Feedback on NRC's program as identified by the State, including identification of any action that should be considered by NRC

The Licensing / Registration / Planning manager expressed appreciation to Region II for feedback on licensing and sealed source & device information and policies.

More communication is needed regarding the issuance of Advisories and orders, who will follow up, inspections, etc.

10. Status of NRC program changes that could impact Agreement States

The Director, Division of NMSS, RII discussed NRC program changes that could impact the State, such as the MOU with the EPA, the control of radioactive sources (accountability, orphan sources, physical protection, control of imports), federal guidance on dose to members of the public (clearance rule, Part 40 exemptions), the evolving materials program, risk analysis (NUREG 6642), priorities, safety goals, and the Compensatory Measures.

In reply, the DRH Director related that the NRC issuance of orders to State licensees for National Security and Defense issues, potentially could be very confusing to the licensees and become a sensitive issue.

11. Schedule for next quarterly conference call: June 18, 2003 at 0900 CST

12. Schedule for the next IMPEP review: February 2004

CONCLUSIONS:

1. The Tennessee program reported that they had good support from the Department of Environment and Conservation, and stable sources of revenue to meet programmatic needs.

Action: None

2. Considerable progress has been made in overcoming the inspection backlog, and the inspection managers reported that there were currently no overdue inspections.

Action: The RSAO will continue to monitor status of inspections during conference calls.

3. The regulations are being updated for compatibility, and a package of rules will be sent to STP for review.

Action: The RSAO will continue to monitor the status of the TN regulations during conference calls.

4. Work is continuing in the enforcement area and technical quality of inspections area to develop inspector guidance.

Action: The RSAO will continue to monitor the development of the inspection guidance during conference calls.

5. The program still experiences some staff turnover, but only three positions are not filled and the program is committed to providing training as needed for the staff.

Action: The RSAO will continue to monitor the staffing and training during conference calls.

6. Based upon the above information and improvements, and the IMPEP criteria, the program appears to be adequate to protect public health and safety.

Action: None