



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

June 5, 2006

Lawrence E. Nanney, Director
Division of Radiological Health
L & C Annex, Third Floor
401 Church Street
Nashville, TN 37243-1532

Dear Mr. Nanney:

A periodic meeting with the Tennessee Division of Radiological Health was held on April 27, 2006. The purpose of the meeting was to review and discuss the status of the Tennessee Agreement State program. The NRC was represented by Andrew Mauer from the NRC's Office of State and Tribal Programs and me. Specific topics and issues of importance discussed at the meeting included the Division's turnover in staff, implementation of increased controls and actions taken in response to the recommendations from the last Integrated Materials Performance Evaluation Program review.

I have completed and enclosed a general meeting summary, included 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 discussions, or have any additional remarks about the meeting in general, please contact me at (610) 337-5042 or by e-mail at adw@nrc.gov to discuss your concerns.

Thank you for your cooperation.

Sincerely,

Original signed by Duncan White

Duncan White, CHP
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure: As stated

cc:
A. Mauer, STP

L. Nanney
Tennessee Division of Radiological Health

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR TENNESSEE DIVISION OF RADIOLOGICAL HEALTH

DATE OF MEETING: April 27, 2006

ATTENDEES:

Duncan White, RSAO
Andrew Mauer, ASPO
Tracy Carter, Senior Director, Air Resources Group
Eddie Nanney, Director, Division of Radiological Health (DRH)
Debra Shults, Deputy Director, DRH
Johnny Graves, Manager, Licensing, Registration and Planning
Roger Fenner, Health Physics Consultant
Ruben Crosslin, Manager, Technical Services
Mary Helen Short, Administrative Assistant Director
Beth Murphy, Regulations

DISCUSSION:

A. IMPEP Recommendations

There were three recommendations from the last Integrated Materials Performance Evaluation Program (IMPEP) review of the Tennessee program that occurred February 23-25, 2004.

1. The review team recommends that the Division promptly adopt the current version of 10 CFR 20.2003. (Section 4.1.2)

Current Status: The State regulations will be effective July 2, 2006, with the current version of 10 CFR 20.2003. DRH will provide a copy of the final version to the NRC for review. It is recommended that this item be verified at the next IMPEP review.

2. The review team recommends that the Division acquire or provide a mechanism for staff to have access to expertise commensurate with the complexity of SS&D casework. (Section 4.2.2)

Current Status: SS&D reviewers have been instructed to bring technical issues requiring outside expertise to the Section Manager. A few issues have been raised since the last IMPEP review and all have been successfully addressed. In one case, the DRH asked the NRC to review the State's evaluation of a vibrational issue involving a fixed gauge. It is recommended that this item be verified at the next IMPEP review.

3. The review team recommends that the Division prepare registration certificates consistent with the current version of NUREG-1556, Volume 3. (Section 4.2.2)

Current Status: The correct format and content for SS&D sheets were discussed with the reviewers. The sheets maintained by the program have been reviewed and corrected for format and content as needed. It is recommended that this item be verified at the next IMPEP review.

B. Program Status

One of the ongoing challenges faced by DRH has been the retention of inspection staff. Since the last IMPEP review, 10 individuals have left the program (eight were involved with Agreement State activities). Despite a Statewide hiring freeze, DRH has been able to routinely get releases for the positions and hire replacements. Of the 10 vacated positions, seven replacements have been hired and DRH is proceeding to fill the other three. An important change over the last two years has been the ability of DRH to get training approved, particularly out-of-state training. The Program is using a combination of in-house training and NRC courses for the new inspectors. Most inspectors first gain experience with x-ray inspections before they perform materials inspections. It takes DRH approximately two years to make the inspector productive for materials inspections. DRH management noted that the Department's senior management has been very supportive of the program and their need to get positions filled and individuals trained. Related to staff retention has been the low pay scales for State employees. The State legislature considered providing some increase in pay for long-term employees, but it did not pass this legislative session.

Another challenge currently facing the program is the high level of effort and participation required of DRH for emergency response activities. In addition to the two commercial nuclear power plants in the State, the Department of Energy's (DOE) annual exercises at three major facilities in the State (ORNL, K-25 and Y-12) have put a strain on DRH resources. Although DRH did note that they have a good working relationship with the DOE's Radiological Assistance Program and are kept informed of DOE's activities in this area, the Division is not funded for these activities. DRH is also supporting emergency response activities being conducted by DOE related to emergency response and antiterrorism efforts. Again, DRH is not funded for these activities.

One of the program's strengths is the number of long-term employees that provide stability to the program, particularly in the area of licensing. DRH management does recognize the need for transition planning to replace those long-term individuals in technical and management positions within the Division in the coming years.

DRH noted a number of items regarding the State's interaction with the NRC. DRH is concerned that the implementation of some recent requests appear not to be well thought out and with little time provided to get the request done. Recognizing that some of these requests were the results of Congressional commitments and inquiries, DRH suggested that NRC should not be rushed and do things the right way, even if that means to push back at Congress. DRH indicated that if NRC chose to push back, the States would support NRC's position. The State also discussed their concerns with the proposed definition of byproduct material and compatibility level under the NARM rulemaking. Finally, DRH management expressed their appreciation of how the STP Director's handled a number of recent conference calls with the States.

Despite the turnover in the inspection staff, the Division indicated that routine inspections are being performed in accordance with Inspection Manual Chapter 2800. There is currently one overdue inspection of a priority two licensee. This inspection has been scheduled for completion. DRH management noted that the Division has a new computer tracking system for all inspection activities which is available to all field offices. This system has been helpful in

ensuring the timely completion of inspections since it provides real-time feedback on the status of any inspection. DRH management indicated that annual inspector accompaniments are being completed in a timely manner.

With regard to the implementation of increased controls, the State has five inspectors who received the security training. The Division recently performed its first increased controls inspection. DRH plans to send additional individuals for security training and increase the number of inspections during the second half of the year. DRH management indicated that the need to perform a significant number of increase controls inspections may have an impact on the routine inspections.

The Region I office has referred six allegations to the State for follow up, including two for a particular facility that required a significant amount of effort on the part of DRH inspection staff. NRC staff determined that the State has taken appropriate action with the referrals. The most recently referred matter is currently being investigated. With regard to events, DRH indicated that there has been no significant events or events with generic implications.

Based on a review of the Nuclear Materials Event Database (NMED), NRC staff noted that there were 60 events in Tennessee since the last IMPEP review. A total of 37 events required reporting to the NRC. It was noted that nearly all of those events were closed in NMED.

DRH reported that the number of pending licensing actions has not changed substantially since the last IMPEP. There are a number of large waste processors located in Tennessee. DRH noted that this industry is currently undergoing consolidation and restructuring which has resulted in a number of licensing amendments and restructuring of financial assurance packages. The Division also noted that they are currently involved with a significant decommissioning action involving ATG. Regarding the SS&D program, there are eight manufacturers in the State, no change since the last IMPEP review. Over the last two years, DRH has issued one new registration sheet, inactivated one sheet, removed one sheet and issued 27 amendments to existing sheets.

There has been no legislative changes since the last review. A legislation proposal to provide notification of local governments of new license applications or new locations of use is not likely to pass. Even if this legislative proposal became law, DRH has already implemented a similar notification policy since last June. Effective July 1, 2006, the State's radon program will be transferred to DRH. Currently, 92.5% of the Division's budget comes from fees that are maintained in a dedicated fund with the balance of the budget coming from general appropriations. Fees were last adjusted in 2001. There has been no significant change in the program's budget the last two years. DRH management briefly discussed the reporting of routine program information to upper management in the Department and the State legislature.

NRC staff described the current status of NRC's security initiatives involving material licensees, status of the Commission regarding the Chairman's term ending and the two Commissioner serving under recess appointments, management changes at the Region and headquarters, and the current status of NRC's activities with regard to the Energy Policy Act.

NRC staff reviewed the most recent State Regulation Status (SRS) Sheet dated April 5, 2005, with DRH staff. In the table below, the current status and the State's next action of RATS ID that were listed as either not done or partially completed are presented.

| RATS ID | Status on SRS Sheet | Current Status | State's Next Actions |
|----------------|---------------------------------------|---|---|
| 1994-3 | NRC reviewed draft regulation in 2004 | Under Department review - to be completed in 2006 | Provide final version to NRC for review when rule becomes final |
| 1995-6 | No activity indicated | DRH currently working on draft regulations | Provide draft version to NRC for review |
| 1996-3 | No activity indicated | DRH currently working on draft regulations | Provide draft version to NRC for review |
| 1998-5 | NRC reviewed draft regulation in 2003 | Adopted as final rule effective 1/31/06 | Provide final version to NRC for review |
| 1998-6 | NRC reviewed draft regulation in 2003 | Adopted as final rule effective 1/31/06 | Provide final version to NRC for review |
| 1999-3 | NRC reviewed draft regulation in 2003 | Adopted as final rule effective 1/31/06 | Provide final version to NRC for review |
| 2000-1 | NRC reviewed draft regulation in 2003 | Adopted as final rule effective 1/31/06 | Provide final version to NRC for review |
| 2000-2 | NRC reviewed draft regulation in 2003 | Adopted as final rule effective 1/31/06 | Provide final version to NRC for review |
| 2001-1 | NRC reviewed draft regulation in 2004 | Submitted for Department legal review - to be completed in 2006 | Provide final version to NRC for review |
| 2001-2 | NRC reviewed draft regulation in 2004 | Submitted for Department legal review - to be completed in 2006 | Provide final version to NRC for review |
| 2002-2 | No activity indicated | DRH currently working on draft regulations | Provide draft version to NRC for review |
| 2003-1 | No activity indicated | DRH will start work on drafting regulations at a later date | Plan to adopt as regulations |
| 2004-1 | No activity indicated | DRH will start work on drafting regulations at a later date | Plan to adopt as regulations |
| 2005-1 | No activity indicated | DRH will start work on drafting regulations at a later date | Plan to adopt as regulations |
| 2005-2 | No activity indicated | DRH currently working on draft regulations | Provide draft version to NRC for review |

C. Conclusions

NRC staff concluded that the next IMPEP review should be conducted as scheduled in FY 2008. DRH management was invited to participate when NRC staff presents the results of this periodic meeting to the Management Review Board. No specific actions were identified as a result of this meeting.