



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
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February 9, 2004

Fay Boozman, M.D., M.P.H.
Director
Arkansas Department of Health
4815 West Markham Street, Slot 30
Little Rock, Arkansas 72205-3867

Dear Dr. Boozman :

A periodic meeting was conducted with your Division of Radiation Control and Emergency Management staff on January 22, 2004. The purpose of this meeting was to review and discuss the status of Arkansas' Agreement State Program. 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, or your staff, 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 (817) 860-8143 or e-mail VHC@NRC.GOV to discuss your concerns.

Sincerely,

/RA/

Vivian H. Campbell
Regional State Agreements Officer

Enclosure:
Agreement State Periodic Meeting
Summary for Arkansas

cc w/enclosure:
Paul Lohaus, Director, OSTP

Jared Thompson, Program Leader
Radioactive Materials Section

Bernard Bevill, Team Leader
Radiation Control and Emergency
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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR ARKANSAS

DATE OF MEETING: January 22, 2004

ATTENDEES:

NRC

Vivian Campbell, Regional State Agreements Officer
Andrew Mauer, Office of State and Tribal Programs

State of Arkansas

Bernard Bevill, Team Leader, Radiation Control and Emergency Management Program
Jared Thompson, Program Leader, Radioactive Materials Section
Kim C. Wiebeck
Gary Bortz
Cathey Bradley
David D. Snellings
Steve Mack
Lynn Davis

DISCUSSION:

The following is a summary of the meeting held in Little Rock, Arkansas, on January 22, 2004, between representatives of the NRC and the State of Arkansas. During the meeting, the topics suggested in the letter dated October 21, 2003, from Ms. Campbell to Mr. Jared Thompson were discussed. The discussion pertaining to each topic is summarized below.

1. Action on Previous IMPEP Review Findings

The previous Integrated Materials Performance Evaluation Program (IMPEP) review was conducted during the period September 9-13, 2002. The status of the recommendations outlined in Section 5.0 of the final IMPEP report was discussed. The status of the recommendations for Arkansas is summarized below.

- a. **Recommendation:** The team recommends that Department management review the current staffing plan to achieve a more effective balance between licensing and inspection activities (Section 3.3).

Current Status: After the 2002 IMPEP, the Department staff evaluated the workload distribution and developed a plan for reducing the renewal backlog. The Department staff are qualified in both licensing and inspection. Two staff members were designated to function primarily as license reviewers. Three staff members were designated to function primarily as inspectors. In addition, the Department uses the services of a retired employee on a consultant basis to complete licensing actions. It is recommended that this item be reviewed at the next IMPEP review.

- b. **Recommendation:** The review team recommends that Department management develop and implement an action plan to reduce the licensing renewal backlog (Section 3.4).

Current Status: The Department has implemented an action plan to reduce the renewal backlog. The licensing staff are expected to begin six new renewals each quarter and the inspection staff are expected to dedicate two weeks each quarter to working on licensing actions and begin one new renewal each quarter. The consultant also works on renewal actions.

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

- c. **Recommendation:** The review team recommends completion of revisions to update licensing guidance documents and checklists (this item was identified in the 1998 IMPEP review).

Current Status: In addition to completing licensing actions, the consultant works on updating licensing guidance. The portable gauge guidance was finalized in September 2003. The fixed gauge guidance is currently in draft and undergoing peer review. Department management stated that the industrial radiography and well logging guidance was the next priority to be completed. The Department does not plan to update medical guidance until their regulations are updated. In the interim for other disciplines, Department staff rely on NRC's NUREG 1556 guidance.

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

2. Strengths and Weaknesses of the Program

Program strengths: The Department has well trained, experienced and dedicated staff members. The licensing and inspection staff are highly skilled. The Department has excellent emergency response and investigation capabilities.

Program weaknesses: Department management stated that program funding was a weakness. Currently, the Division is 60 percent funded by General Revenue and 40 percent funded by licensee fees. The Division did not receive an increase in the General Revenue budget for this fiscal year. They were also not allowed to increase licensee fees. The Department has been collecting fees from licensees since 1988; however, there has been only one license fee increase since 1988. Department management expects this constraint to impact their ability to send staff to out-of-state training courses.

Department management informed the NRC staff that the Division has had a vacancy since October 2003 which has impacted their ability to reduce license renewal backlog. One of the licensing staff was promoted into a newly created position to manage the General License program. The Department was able to post the vacancy, interview applicants, and make a selection in November 2003. However, because of an administrative issue, the Department has been unable to fill the position. Department

management plans to discuss this subject with the Legislative Personnel Committee in February 2004.

3. State Feedback on NRC's Program

The State suggested that NRC consider hosting more training courses in NRC's regional offices. With the State's current budget constraints, Department management stated they could readily justify sending staff to courses hosted in the regional offices because staff could drive a State vehicle to the course site as opposed to the costly air fare to a distant location.

While Department management does not agree with NRC's view of additional security measures as part of common defense, they acknowledged that NRC's interaction with States on this subject has improved. Department management considered the Homeland Security Workshop conducted in June 2003 a success.

4. Recent or Pending State Program Changes

There are no pending State program changes with regard to budget or distribution of responsibilities. Some organizational changes have occurred within the Department. A copy of the new organization chart was provided during the periodic meeting, copy attached. In July 2003, the Division was moved from Health Systems under Statewide Services to the Office of Public Health Preparedness with Bioterrorism. The Division reports to a member of the Agency Leadership Team, who reports to the Director of the Arkansas Department of Health.

On April 7, 2003, during the regular session of the 84th General Assembly, Act 1119 House Bill 2489 passed approving the registration program of general licensed devices. As discussed earlier, a licensing staff member was promoted to implement and manage the General License program creating a vacancy in the Division.

Department management informed the NRC staff about two significant decommissioning activities that will be occurring this year at the University of Arkansas campus located in Fayetteville, Arkansas. The University is planning to begin decommissioning legacy waste stored on campus in February 2004. In addition, they are planning to decommission a Resource Conservation and Recovery Act (RCRA) waste burial site located at Harmon Road. Department management anticipates a significant increase in program workload associated with these decommissioning activities.

Department management also discussed the potential challenges resulting from an Arkansas Supreme Court case. A group of school districts had filed a law suit against the State for inequity of funding school districts. Fourteen months ago, the Court had ordered the State to develop a proposal to resolve this inequity by January 1, 2004. The State did not meet the deadline and had to appear in Court on January 22, 2004, for oral arguments.

The NRC staff met with the Director of the Department of Health to discuss the potential impact on the Division. The Director informed the staff that the Governor had instructed department directors to identify essential functions in the event that the Court ordered State Government to shut down. The staff learned that no activities performed by the Division had been identified as essential functions. The staff questioned that emergency response and radioactive materials functions had not been identified as essential functions. The Director indicated that the likelihood of a State-wide shut down was remote and that in the event of a shut down essential functions would be re-examined.

5. NRC Program or Policy Changes That Could Impact Agreement States

Ms. Campbell and Mr. Mauer discussed the Region IV organization, security issues and NRC rulemaking and guidance development, specifically Part 35 and IMC 2800. In addition, Mr. Mauer expressed NRC's appreciation for the Department's cooperation in providing information for the national interim database of possible sources of concern.

6. Internal Program Audits or Self Assessments

Department management assesses the status of the program on a routine basis through management reports generated from the licensing and inspection database. The Department currently has no backlogs in inspection, new license applications, or amendments to existing licenses. Management periodically performs inspector accompaniments, and reviews licensing and compliance actions.

7. Status of Allegations Referred by NRC to the State

No allegations were referred to the State by Region IV during the period.

8. Compatibility of Arkansas Rules and Regulations

Arkansas' rules and regulations are for the most part up to date, with the exception of their medical regulations. In a letter dated February 20, 2003, the Department submitted final regulations to satisfy the requirements of 29 NRC amendments. The NRC reviewed these final regulations by comparison to equivalent NRC regulations and generated comments on Arkansas' final regulations. During discussions at the 2003 Conference of Radiation Control Program Directors meeting, the Department and NRC agreed that the majority of these comments would be resolved when the State promulgates regulations equivalent to NRC's amendment of Part 35 (Medical Use of Byproduct Material with a due date for State implementation of April 24, 2005).

During this periodic meeting, the Department was made aware of one NRC amendment which is past due (New Dosimetry Technology with a due date for State implementation of January 8, 2004) and one amendment which is due February 16, 2004, (Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material). The State plans to draft all necessary rule changes by the end of calendar year 2004 and expects that the changes would be effective by October 2005.

9. Nuclear Material Events Database (NMED)

The State appears to be reporting significant events to NRC's Operations Center and providing updated information to NMED according to procedure. The Department has installed and used the latest version of the NMED software. Department staff expressed concern about a recent change in data entry into the reporting requirement's field of the NMED report. The NRC staff discussed this concern with the NMED project manager and was able to address the State's issue. This information has been provided to Department staff.

10. Schedule for next IMPEP Review

The next IMPEP is scheduled for fiscal year 2006.