

DATED: MAY 21, 1993

Michael R. Skeels, Ph.D., MPH  
Administrator, Health Division  
Assistant Director, Department of  
Human Services  
1400 Southwest Fifth Avenue  
Portland, OR 97201

Dear Dr. Skeels:

This letter confirms the discussion Jack Hornor held with you and your staff on April 2, 1993, following our review of the State's radiation control program.

As a result of our review of the State's program and the routine exchange of information between the NRC and the State, we believe that the State's program for regulating agreement materials is adequate to protect the public health and safety and is compatible with the regulatory programs of the NRC.

We were pleased to find that the Oregon regulations were updated within the three-year time frame specified in the guidelines. Adopting compatibility regulations within this period ensures uniformity among regulatory agencies and improves the effectiveness of the regulatory process.

The guidelines for Legal Assistance state that legal staff should be assigned to assist the radioactive materials program or that procedures should exist to obtain legal assistance expeditiously. Current Oregon policy requires the program to pay the costs of legal assistance out of operating funds. In our opinion, this does not meet the intent of the guidelines and discourages the use of appropriate legal assistance, an indispensable tool in the regulatory process. Oregon has a number of complex licenses which frequently require regulatory decisions that would benefit from legal expertise. We strongly recommend legal assistance be provided to the radioactive materials program without reducing funds available for licensing and inspection.

We congratulate you and your staff for the overall quality of the radiation control program. In particular, we found many improvements in the licensing and termination actions.

Enclosure 1 contains an explanation of our policies and practices for reviewing Agreement State programs.

Enclosure 2 is a summary of the review findings which were discussed with Mr. Paris. We request specific responses from the State on the comments in Enclosure 2.

Michael R. Skeels

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In accordance with NRC practice, I am also enclosing a copy of this letter for placement in the State's Public Document Room or otherwise to be made available for public review.

I appreciate the courtesy and cooperation extended the NRC staff during the review. I am looking forward to your comments regarding legal assistance and your staff responses to the Enclosure 2 recommendations.

Sincerely,

Carlton Kammerer, Director  
Office of State Programs

Enclosures:  
As stated

cc w/encls:  
Ray Paris, Manager,  
Oregon Radiation Control Section  
J. M. Taylor, Executive Director for  
Operations, NRC  
Bobby Faulkenberry, Acting Regional  
Administrator, NRC Region V  
State Public Document Room  
NRC Public Document Room

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bcc w/encls:  
The Chairman  
Commissioner Rogers  
Commissioner Curtiss  
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Application of "Guidelines for NRC Review  
of Agreement State Radiation Control Programs"

The "Guidelines for NRC Review of Agreement State Radiation Control Programs," were published in the Federal Register on May 28, 1992, as an NRC Policy Statement. The Guidelines provide 30 indicators for evaluating Agreement State program areas. Guidance as to their relative importance to an Agreement State program is provided by categorizing the indicators into two categories.

Category I indicators address program functions which directly relate to the State's ability to protect the public health and safety. If significant problems exist in several Category I indicator areas, then the need for improvements may be critical.

Category II indicators address program functions which provide essential technical and administrative support for the primary program functions. Good performance in meeting the guidelines for these indicators is essential in order to avoid the development of problems in one or more of the principal program areas, i.e., those that fall under Category I indicators. Category II indicators frequently can be used to identify underlying problems that are causing, or contributing to, difficulties in Category I indicators.

It is the NRC's intention to use these categories in the following manner. In reporting findings to State management, the NRC will indicate the category of each comment made. If no significant Category I comments are provided, this will indicate that the program is adequate to protect the public health and safety and is compatible with the NRC's program. If one or more significant Category I comments are provided, the State will be notified that the program deficiencies may seriously affect the State's ability to protect the public health and safety and that the need of improvement in particular program areas is critical. If, following receipt and evaluation, the State's response appears satisfactory in addressing the significant Category I comments, the staff may offer findings of adequacy and compatibility as appropriate or defer such offering until the State's actions are examined and their effectiveness confirmed in a subsequent review. If additional information is needed to evaluate the State's actions, the staff may request the information through follow-up correspondence or perform a follow-up or special, limited review. NRC staff may hold a special meeting with appropriate State representatives. No significant items will be left unresolved over a prolonged period. The Commission will be informed of the results of the reviews of the individual Agreement State programs and copies of the review correspondence to the States will be placed in the NRC Public Document Room. If the State program does not improve or if additional significant Category I deficiencies have developed, a staff finding that the program is not adequate will be considered and the NRC may institute proceedings to suspend or revoke all or part of the Agreement in accordance with Section 274j of the Act, as amended.

ENCLOSURE 1

SUMMARY OF ASSESSMENTS AND COMMENTS  
FOR THE OREGON RADIATION CONTROL PROGRAM  
MARCH 8, 1991, TO APRIL 2, 1993

SCOPE OF REVIEW

This program review was conducted in accordance with the Commission's Policy Statement for reviewing Agreement State Programs published in the Federal Register on May 28, 1992, and the internal procedures established by the Office of State Programs, Agreement States Program. The State's program was reviewed against the 30 program indicators provided in the Guidelines. The review included inspector accompaniments, discussions with program management and staff, technical evaluation of selected license and compliance files, and the evaluation of the State's responses to an NRC questionnaire that was sent to the State in preparation for the review.

The 28th regulatory program review meeting with Oregon representatives was held during the period March 22 through April 2, 1993, in Portland. The State was represented by Ray Paris, Manager, Radiation Control Section.

Selected license and compliance files were reviewed by Jack Hornor, Regional State Agreements Officer, Region V. One inspector was accompanied during a field inspection on March 23, 1993. Mr. Hornor, accompanied by Martha Dibblee, Supervisor, Materials Licensing and Compliance, visited two State licensees, Precision Castparts Corporation on March 26, 1993 and the University of Oregon on March 30, 1993. A summary meeting regarding the results of the review was held with Dr. Michael R. Skeels, Administrator, Health Division, on April 2, 1993.

CONCLUSION

The program for control of agreement materials is adequate to protect the public health and safety and is compatible with the regulatory programs of the NRC and Agreement States.

STATUS OF PROGRAM RELATED TO PREVIOUS NRC FINDINGS

The results of the previous review were reported to the State in a letter to Dr. Skeels dated May 1, 1991. All comments made at that time were satisfactorily resolved and closed out during the March 1992 Review Visit.

ENCLOSURE 2

## CURRENT REVIEW COMMENTS AND RECOMMENDATIONS

All 30 program indicators were reviewed and the State fully satisfies 27 of these indicators. In addition, a minor comment on the status of regulations is also provided. Specific comments and recommendations are as follows:

1. Status and Compatibility of Regulations is a Category I Indicator. The following comment with our recommendation is made.

Guideline Statement

For those regulations deemed a matter of compatibility by the NRC, State regulations should be amended as soon as practicable, but no later than three years.

Comment

The State's regulations are compatible with the NRC regulations up to the 10 CFR Parts 30, 40, and 70 amendments on "Financial Assurance and Recordkeeping for Decommissioning" that became effective on July 27, 1988 (53 FR 24018). The next regulation change will be in late 1993, at which time the State is planning to adopt the following regulations.

- "Emergency Planning," 10 CFR Parts 30, 40, and 70 amendments that became effective on April 7, 1990 (54 FR 14061) and should be adopted by the States by April 7, 1993.
- "Standards for Protection Against Radiation," 10 CFR Part 20 amendment (56 FR 61352) that was adopted on June 20, 1991, and will be implemented on January 1, 1994.
- "Safety Requirements for Radiographic Equipment," 10 CFR Part 34 amendment (55 FR 843) that became effective on January 10, 1991 and should be adopted by the States by January 10, 1994.
- "Notification of Incidents," 10 CFR Parts 20, 30, 31, 34, 39, 40, and 70 amendments (56 FR 40757) that became effective on October 15, 1991 and should be adopted by the States by October 14, 1994.
- "Quality Management Program and Misadministrations," 10 CFR Part 35 amendment (56 FR 34104) that became effective on January 27, 1992. Effective date for the States is January 27, 1995.

The emergency planning rule which was to be adopted by the States by April 7, 1993 is currently being enforced through license condition.

Recommendation

The State should notify the Region V Regional State Agreement Officer when the current package of rules become effective.

2. Administrative Procedures is a Category II Indicator.

Guideline Statement

The RCP should establish written internal policy and administrative procedures to assure that program functions are carried out as required and to provide a high degree of uniformity and continuity in regulatory practices. These procedures should address internal processing of license applications, inspection policies, decommissioning and license termination, fee collection, contacts with communication media, conflict of interest policies for employees, exchange-of-information and other functions required of the program.

Comments

- A. Oregon uses the administrative procedures developed by the CRCPD committee as guidance. However, the generic procedures have not modified to fit Oregon's needs; they have not been approved by management; and they are not followed uniformly by all staff. Deficiencies found in the inspection reports, in particular, emphasize the need for uniform adherence to written procedures.
- B. The State does not have adequate procedures in place to assure proper recording and tracking of essential program functions such as incident reporting and escalated enforcement.
1. Although the State responded appropriately to all incidents, we found two incidents meeting NRC reporting requirements were not reported, not entered into the tracking system nor included in the annual summary. In addition, two leaking sources were not reported to the NRC at the time the State was notified.
  2. The State's administrative procedures include an inspection policy that assigns points to various levels of severity of items of non-compliance, with escalated enforcement required at a specific point level. The results of the inspections are entered into a computer system designed to track the need for escalated enforcement. However, in a representative sample of eleven compliance files, four cases were found in which errors made on the inspection form or during data entry failed to trigger the escalated enforcement.

- C. Written procedures have not been revised to meet current regulatory requirements. For example, the medical license application and inspection forms do not reflect recent changes in medical regulations.

#### Recommendations

1. We recommend the State adapt the generic procedures to their own needs and, after management approval, require all staff to uniformly follow the procedures.
  - (1) The State should revise their tracking system to provide verification that all items are entered properly.
  - (2) The license application guides and inspection forms should be revised to reflect current regulations.
3. Inspection Reports is a Category II Indicator.

#### Guideline Statement

Reports should uniformly and adequately document the result of inspections including confirmatory measurements, status of previous noncompliance and identify areas of the licensee's program which should receive special attention at the next inspection. Reports should show the status of previous noncompliance and the results of confirmatory measurements made by the inspector.

#### Comment

Although the State's inspection policies and procedures meet the guidelines, the results of the inspections are not adequately documented in the reports. In the representative sampling of eleven inspection reports, seven contained errors or omissions. In four cases, the inspection forms were not fully completed, and in one case an inspector said he conducted a follow-up inspection but did not document it. Other significant findings included:

- (1) dosimetry records entered without specifying units (six cases),
- (2) no reference to inspecting licensee's ALARA commitments (six cases),
- (3) no documentation that previous items of non-compliance were closed out (four cases), and
- (4) no indication of interviews with ancillary workers.

#### Recommendation

We recommend that all inspection reports be carefully reviewed by the supervisor to ensure the existing policies and procedures are being followed.



4. Enforcement Procedures is a Category I Indicator.Guideline Statement

Licensee responses to enforcement letters should be promptly acknowledged as to adequacy and resolution of previously unresolved items.

Comment

The standard language used in the State's acknowledgement letter to licensee's responses does not indicate whether or not the licensee's corrective actions are satisfactory.

Recommendation

We recommend the standard acknowledgement letter be reworded to advise the licensee of the adequacy of his corrective actions.

## SUMMARY OF DISCUSSION WITH STATE REPRESENTATIVES

A summary meeting to present the results of the regulatory program review was held with Dr. Skeels on April 2, 1993. The meeting was also attended by Thomas Johnson, Head of the Office of Environmental and Health Systems, and Mr. Paris.

The State was commended on adopting the compatible regulations within the three-year time frame. They were also congratulated on improvements in the licensing program.

During our summary of the findings, the need to provide appropriate legal assistance to the program without jeopardizing funds needed for other regulatory functions was emphasized. Dr. Skeels listened to the recommendations made by the NRC and promised to consider changing the method of allocating legal costs.

The State, and Mr. Paris in particular, thanked the NRC for bringing these issues to their attention and for the assistance provided by State Programs. They assured the NRC representative that the technical problems will be corrected promptly. However, the generic procedures have not modified to fit Oregon's needs; they have not been approved by mana