



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 28, 2015

MEMORANDUM TO: Michael F. Weber
Deputy Director Materials, Waste, Research,
State, Tribal, and Compliance Programs
Office of the Executive Director for Operations

Mary B. Spencer, Assistant General Counsel for
Reactor and Materials Rulemaking
Office of the General Counsel

Catherine Haney, Director
Office of Nuclear Material Safety
and Safeguards

Patrick L. Loudon, Director
Division of Nuclear Material Safety
Region III

FROM: Lisa C. Dimmick, Senior Health Physicist */RA/*
Agreement State Program Branch
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

SUBJECT: MAY 26, 2015 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of the periodic meetings held with the New Hampshire and Georgia Agreement State Programs has been scheduled for **Tuesday, May 26, 2015, from 1:00 p.m. to 3:00 p.m. ET, in One White Flint, Room 17-B04**. The summaries for each of the meetings are enclosed (Enclosure 1 and 2).

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 3).

If you have any questions or need additional information, please feel free to contact me at (301) 415-0694 or Lisa.Dimmick@nrc.gov.

Enclosures:

1. New Hampshire Summary Report
2. Georgia Summary Report
3. Meeting Agenda

cc: Joe Klinger, Illinois
Organization of Agreement States
Liaison to the MRB

MRB Members

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

DATE OF MEETING: November 13, 2014

| NRC Attendees | NH Department of Health and Human Services Attendees |
|---|---|
| Donna Janda, RSAO, Region I | Michael Dumond, Administrator, Bureau of Public Health Protection |
| Farrah Gaskins, RSAO, Region I | Augustinus Ong, Administrator, Radiological Health Section |
| Lisa Dimmick, Senior Health Physicist, NMSS | Twila Kenna, Manager, Radioactive Materials Program |

DISCUSSION:

During the October 2012 Integrated Materials Performance Evaluation Program (IMPEP) review of the New Hampshire Agreement State Program (the Program), the review team found the State's performance satisfactory for six performance indicators and unsatisfactory for one performance indicator, Compatibility Requirements. No new recommendations regarding Program performance were made by the IMPEP review team. The review team determined that the recommendation from the 2008 IMPEP review, regarding the development and implementation of an action plan to adopt NRC regulations in accordance with the current NRC policy, should remain open.

On December 18, 2012, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Program. The MRB found the Program adequate to protect public health and safety and not compatible with the NRC's program. The MRB directed NRC staff to initiate a period of Monitoring and requested that calls between the New Hampshire DHHS and NRC staffs be conducted every four months. The MRB also directed that a Periodic Meeting take place in approximately October 2014. In a letter dated January 29, 2013, DHHS provided their response to the IMPEP findings and submitted the State's action plan to adopt regulations in accordance with NRC's policy on adequacy and compatibility (ML13044A096). NRC acknowledged DHHS's response and action plan in a letter dated February 28, 2013 (ML13058A105).

Topics covered during this meeting included:

Program Strengths

The Program has an experienced, stable and well-trained staff including the administrative staff. Although the Program currently has one vacant technical position, there is no backlog in licensing actions or inspections.

Program Weaknesses

The Program currently has one vacant position which has been posted externally. The Program Manager noted that knowledge management is a challenge that will need to be addressed in the near future as some of the experienced staff members become eligible for retirement or leave the Program.

Feedback on the NRC's Program

The Program commented that both the overall relationship and communications with the NRC are good and that they appreciated NRC's continued support of the Agreement States.

Agreement State Program Staffing and Training

The Program currently has two technical staff members for a total of 1.5 full-time equivalents. There is one full-time vacant technical position which is currently posted externally. Once this position is filled, the Program will have 2.5 FTE. In addition, the Program has one full-time manager of the radioactive materials program. One technical staff member is fully qualified in licensing and inspection and one technical staff member is partially qualified. This individual continues to attend NRC qualification courses and can work independently on an interim basis until his course work is completed.

Organization

The New Hampshire Agreement State Program is administered by the Radiological Health Section, which is located in the Bureau of Public Health Protection under the Department of Health and Human Services (the Department). All Program activities are conducted from the Concord office.

Program Budget/Funding

The Program managers noted no changes in Program budget or funding.

Inspection and Licensing Programs

The Program reported no backlog in inspections since the 2012 IMPEP review. Inspection reports are being tracked and are issued within 30 days of the conclusion of the inspection. The Program continues to conduct reciprocity inspections for greater than 20 percent of candidate licensees. The Program Manager continues to conduct annual supervisor accompaniments for the technical staff.

The Program currently has approximately 80 specific radioactive materials licenses. The Program Manager reported no backlog in licensing actions. The Program has issued four new licenses since the 2012 IMPEP review. The licensing staff uses the pre-licensing guidance to review licensing actions and conducts pre-licensing site visits when applicable.

Regulations and Legislative Changes

One recommendation which remains open from the 2008 IMPEP review is discussed below:

Recommendation 1: The review team recommends that the State develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

Status: The State submitted their action plan to NRC on January 29, 2013. The Radiological Health Section formed a rulemaking committee which developed the action plan and established milestones to monitor the State's progress in the adoption of overdue regulations.

The Program is continuing to work on promulgating regulations. The 2012 IMPEP review team identified 10 regulation amendments that were overdue for State adoption at the time of the review. Since the 2012 IMPEP review, the Program has made significant progress on addressing overdue and upcoming regulations and submitted proposed regulations for 12 regulation amendments to NRC for review. The Program expects to address NRC's comments and adopt the Part 35 portions of these amendments in spring 2015 and the remaining portions of the amendments later in 2015.

Event Reporting

The Program has had no reportable events since the 2012 IMPEP review.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations. The Program has responded to 22 events since the 2012 IMPEP review. None of these events were reportable to NRC and the majority of the events involve responding to alarms at trash or metal recycling facilities. Since the 2012 IMPEP review, NRC has not transferred any allegations to the Program for follow up action. In addition, the Program has not received any other allegations.

Sealed Source and Device (SS&D) Evaluation Program

The Program currently has two active SS&D registration sheets. No new registrations or amendments have been issued since the 2012 IMPEP review.

Current State Initiatives

The Program has no current State initiatives to report.

Emerging Technologies

The Program is currently working with NMSS on a request to license activities involving the extraction of material from zirconium sand in order to use the resulting zirconium dioxide in ceramic lighting applications.

Large, Complicated, or Unusual Authorizations for Use of Radioactive Material

The Program anticipates receiving a request to address possible issues with the planned development of a site that was previously licensed for the manufacture of lighting sources. The license had been terminated and a deed restriction had been placed on the property due to Th-232 contamination from previous licensed activities.

State's Mechanisms to Evaluate Performance

The Program maintains a database of all licensing, inspection, and event response activities. Staff meetings are held on a monthly basis and on an ad hoc basis when a special topic is reviewed. All licensing actions and inspection reports receive a supervisory review. The Program Manager performs supervisory inspection accompaniments annually for each qualified inspector.

CONCLUSIONS:

The State of New Hampshire Radioactive Materials Program continues to be an effective, well-maintained Agreement State program with an experienced and well-trained staff. There is one vacancy in the Program at this time; however, the Program is effectively managing its licensing and inspection activities. NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2017 (tentatively October 2016).

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
GEORGIA ENVIRONMENTAL PROTECTION DIVISION'S
RADIOACTIVE MATERIALS PROGRAM

DATE OF MEETING: February 24, 2015

| U.S. Nuclear Regulatory Commission (NRC) Attendees | Georgia Environmental Protection Division (EPD) Attendees |
|---|--|
| Monica Ford, State Agreements Officer, Region I | Keith Bentley, Branch Chief, Air Protection Branch |
| Catherine Haney, Director, Office of Nuclear Material Safety and Safeguards | Karen Hays, Policy Advisor, Air Protection Branch |
| Duncan White, Senior Health Physicist, Agreement State Programs Branch | Travis Cartoski, Manager, Radioactive Materials Section |
| | Barty Simonton, Manager, Environmental Radiation Section |

DISCUSSION:

During the 2008 Integrated Materials Performance Evaluation Program (IMPEP) review of the Georgia Agreement State Program (Program), the review team found the State's performance satisfactory, but needs improvement for the indicators Technical Staffing and Training, Status of Materials Inspection Program, Technical Quality of Licensing, and Technical Quality of Inspections and satisfactory for the indicators Technical Quality of Incidents and Allegations, Compatibility Requirements, and Sealed Source and Device Evaluation. Two recommendations were made by the IMPEP review team and two recommendations were carried over from the previous IMPEP review. On December 4, 2008, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Program. The MRB found the Program adequate to protect public health and safety, but needs improvement, and compatible with the NRC's program. The MRB directed NRC staff to initiate a period of monitoring for the Program.

During the 2012 IMPEP review the review team found the State's performance unsatisfactory for the indicators Technical Quality of Inspections and Technical Quality of Incidents and Allegations; satisfactory but needs improvement for the indicators Technical Staffing and Training, Status of Materials Inspection Program, and Technical Quality of Licensing; and satisfactory for the indicators Compatibility Requirements and Sealed Source and Device Evaluation. Twelve recommendations were made by the IMPEP team, one of which was carried over from the 2004 and 2008 IMPEP reviews. On January 17, 2013, the MRB met to consider the proposed final IMPEP report on the Program. The MRB found the Program adequate to protect public health and safety but needs improvement and compatible with the NRC's program. The MRB stated that it would recommend to the Commission that the Program be placed on probation and until such time as the Commission votes, the Program would be on Heightened Oversight. The MRB also directed that another full IMPEP review take place one year from the date of the MRB. SECY-13-0051, conveying the IMPEP findings and the MRB's recommendation, was presented for Commission vote on May 9, 2013. On August 1, 2013, the Commission sent a letter to Georgia Governor Nathan Deal informing him of their decision to place the Program on probation (ML13193A193). A press release, letters to Congress, and a

Enclosure 2

Federal Register Notice were also issued.

In January 2014, another full IMPEP review of the Program took place. The review team found the State's performance satisfactory for the indicators Technical Staffing and Training, Technical Quality of Licensing Actions, Technical Quality of Incidents and Allegations, and Compatibility Requirements; satisfactory but needs improvement for the indicator Technical Quality of Inspections; and unsatisfactory for the indicator Status of Materials Inspection Program. One new recommendation was made and two recommendations were kept open from the 2012 IMPEP review. On April 17, 2014, the MRB met to consider the proposed final IMPEP report on the Program. The MRB found the Program adequate to protect public health and safety but needs improvement and compatible with the NRC's program. The MRB stated that it would recommend to the Commission that the Program be removed from probation and placed on heightened oversight. The MRB also directed that a full IMPEP review take place approximately two years from the date of the MRB meeting, that a periodic meeting be held in a year, that bi-monthly calls between the Program and the NRC continue, and that the Program revise its program improvement plan (Plan) accordingly. SECY 14-0074 was transmitted to the Commission on July 24, 2014 (ML14115A053) requesting discontinuance of the probation period for the Program. SRM-SECY-14-0074 was issued on August 25, 2014, removing the Program from probation and placing them on heightened oversight (ML14237A148).

The Program submitted their original Plan to the NRC, addressing recommendations from the 2012 IMPEP review, on March 7, 2013 (ML13070A161) and the Plan was approved by the NRC in a letter dated April 4, 2013 (ML13079A465). Revisions to this Plan were submitted on June 10, 2013 (ML13161A314) and August 21, 2013 (ML13240A136). Subsequent to the April 2014 MRB, on June 23, 2014, the Program submitted a new Plan reflecting the recommendations made during the 2014 IMPEP review (ML14174A733). Updated Plans were submitted on September 10, 2014 (ML14265A191) and November 7, 2014 (ML14337A383).

As directed by the MRB a periodic meeting was held, approximately one year after the IMPEP review, on February 24, 2015. This summary is a reflection of that periodic meeting.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

The Program has implemented weekly staff meetings which have helped to open the lines of communication between management and staff. These weekly meetings have also encouraged open discussions to ensure all questions on a particular item are addressed. The Program routinely conducts in-house training. Self-audits conducted by the Program allow management to identify and correct deficiencies on a proactive basis. A new database has been implemented which helps to ensure accurate tracking of licensing and inspection activities.

Program Challenges

The Program feels that staff retention is the biggest challenge for the program. The Program currently has three staff vacancies, all of which have come about since the last IMPEP review in January 2014. At the time of the periodic meeting the Program was in the process of filling these three positions. Program management stated that the Program is looking at ways to

retain staff. A discussion was held with the Program on strategies to retain staff. The Program currently offers work from home days to allow staff more flexibility in their work life balance and is going to consider some of the other ideas that were shared during the discussion.

Feedback on the NRC's Program

The Program is interested in using the NRC's web based licensing system. The Program has been in contact with the project manager and relayed some questions on the information technology compatibility of the system. At the time of the periodic meeting, the Source Management and Protection Branch in the Office of Nuclear Material Safety and Safeguards was working on a response.

Agreement State Program Staffing and Training (2014 IMPEP: Technical Staffing and Training – Satisfactory)

The Program staffing plan calls for nine technical staff positions and one program manager. At the time of the January 2014 IMPEP review the Program had no vacancies. Following the IMPEP review two staff left the Program creating two vacancies within the Program. The Program was able to post these positions and both positions were filled. At the time of the periodic meeting the Program had an additional three vacant staff positions. Of these three vacancies, one staff member left the program to take a job outside of the Georgia EPD, one staff member is moving to another section within Georgia EPD, and one staff member was promoted to the section manager position when the previous section manager left the section in October 2014. At the time of the periodic meeting the Program was in the process of hiring to fill all three vacant positions. In total the Program has lost four technical staff and one program manager since the last IMPEP review. The employment times of those who left the program was two months, six months, two years, two years, and six years.

The Program revised its training manual in June 2013 to incorporate changes that were made in NRC's Inspection Manual Chapter 1248. This revised training manual is being used by new staff starting with the Program. Program staff is attending NRC training courses when available.

Organization

The Georgia Agreement State Program is located in the Air Protection Branch which is part of the Georgia EPD. The Georgia EPD is located in the Georgia Department of Natural Resources.

Program Budget/Funding

The Program is 100 percent fee funded. The funds are placed into an account for the Radioactive Materials Section. No carryover is allowed from fiscal year to fiscal year. Any excess money is used within the Georgia EPD. The Program recently increased the fees collected for reciprocity. Program management stated that the current budget allowed for sufficient funding of a fully staffed program.

Inspection and Licensing Programs (2014 IMPEP: Status of Materials Inspection Program – Unsatisfactory; Technical Quality of Inspections – Satisfactory but needs improvement; Technical Quality of Licensing Actions – Satisfactory)

The 2014 IMPEP review found the Program unsatisfactory for the indicator Status of Materials Inspection Program due to the Program completing 53 percent of its priority 1, 2, and 3 and initial inspections overdue during the review period. Since the last IMPEP review the Program has completed one inspection overdue (a priority 2 inspection) out of 55 priority 1, 2, and 3 inspections completed. The Program has no priority 1, 2, and 3 inspections currently overdue. The Program completed 11 out of 24 initial inspections overdue (greater than 12 months past the date of the license issuance). These overdue initial inspections were identified when the Program implemented a new database in the fourth quarter of calendar year 2013. At the time of the periodic meeting all overdue initial inspections had been completed and no new initial inspections were found overdue. The Program's inspection frequencies are the same as NRC's inspection frequencies as listed in Inspection Manual Chapter 2800. All supervisory accompaniments were completed for calendar year 2014. The Program is attempting to complete reciprocity inspections as time allows. During the periodic meeting it was discovered that the program had a misunderstanding of how to determine if a licensee was a candidate for a reciprocity inspection. A discussion was held with the program manager after the periodic meeting and a copy of Inspection Manual 1220 Appendix III was provided to offer clarity on this topic. The Program originally calculated that eight percent of reciprocity candidates were inspected in calendar year 2014, however this number will likely decrease given the additional information provided to the program.

The Program has approximately 460 licensees. Georgia licensees are subject to a five year license renewal term. The program has a decommissioning licensing action that has been in house since 2008. The Program stated that this action is expected to be completed in March 2015. All other licensing actions have been in house for less than one year.

The 2014 IMPEP review team generated three recommendations for these performance indicators. The recommendations are listed below along with their status.

Recommendation 1: The review team recommends that the State: (1) implement its inspection procedures to ensure that inspectors document the reason for missing temporary job site inspections; document details and circumstances of violations in inspection reports and NOVs; consider a reduction in inspection frequency for serious violations; and conduct performance based inspections; and (2) complete its enforcement procedure for assigning severity levels of violations.

Status: The Program is taking a multi-step approach to resolving this recommendation. In order to address item number one, the Program retrained staff on the appropriate documentation of an inspection. The training occurred on August 5, 2014. Additional training (both in house and NRC offered courses) has been utilized to give specialized refresher training on a number of inspection topics. The Program also plans to conduct managerial reviews of a selection of inspection reports beginning in March 2015. This review will allow program management to ensure that inspections are being conducted using a performance based approach (once the inspection procedure is fully updated) and will help to identify weaknesses in the program's inspection abilities. In addition inspection forms are being updated to include

more performance based characteristics. On September 23, 2014, the Program completed training offered by the NRC on performance based inspection techniques. The Program has reviewed its inspection procedures to determine what improvements need to be made to enhance an inspector's comprehension of performance based inspections. These procedure improvements are in progress. The Program manager is also performing inspection accompaniments and will evaluate staff on their performance based and overall inspection technique and will provide feedback to each inspector on areas for improvement.

In order to address item number two, the Program developed and implemented an enforcement procedure and provided training to the staff in January 2015. The Program plans to analyze the effectiveness of the procedure on an annual basis.

Recommendation 2: The review team recommends that the State verify that all previously approved medical authorized users have proper documentation of their qualifications, since the new requirements were initiated in 2008. (Kept open from the 2012 IMPEP)

Status: The Program has been working on addressing this recommendation since the 2012 IMPEP review. As of the periodic meeting, 33 users still require additional documentation to be correctly placed on a license as an authorized user. All of the authorized users/ licensees have been contacted and the Program is waiting for additional information to complete these actions. The Program hopes to have this work completed before the next IMPEP review in fiscal year 2016.

Recommendation 3: The review team recommends that the State finalize its procedures for pre-licensing requirements and provide training to the staff on the revised procedure.

Status: The Program finalized, in May 2014, its new licensing procedure which included the pre-licensing requirements. The Program plans to conduct an annual review of the procedure and revise it as necessary. The Program held training on this procedure on July 8, 2014. The Program uses checklists based off of the NRC's worksheets for its Basis of Confidence checklists. The program manager plans to perform reviews of pre-licensing activities to ensure that the procedure is being used correctly and is effective. The program manager completed a review of prelicensing actions for new licenses issued from July 2013 thru January 2015 and found three of 13 actions did not have any pre licensing documentation in the chart. Those three files were assigned to staff and prelicensing work was completed for each case. Staff was then assigned a list of renewals that were completed between July 2013 and January 2015 to ensure prelicensing documentation existed in each file. Deficiencies discovered as a result of this audit were corrected. Program management stated that audits will now be conducted quarterly to ensure this does not happen in the future.

Regulations and Legislative Changes (2014 IMPEP: Satisfactory)

There have not been any legislative changes or proposals that have affected the Program. There are no regulations overdue for adoption. The Program has submitted a license condition for the equivalent adoption of the NRC's Part 37. The NRC provided comments back to the Program in February 2015. The Program is working on revisions to their regulations to address changes made in regulation amendment tracking sheet 2011-1. The Program plans to submit these revisions for review before the end of calendar year 2015.

Event Reporting (2014 IMPEP: Technical Quality of Incidents and Allegations – Satisfactory)

The Program has reported 20 events to the NRC since the 2014 IMPEP review. All reportable events have been reported to the NRC accordingly and appropriate follow-up through NMED has occurred. The Program stated that all staff is aware of event reporting criteria.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations. The Program has received one allegation since the 2014 IMPEP review. This allegation was investigated by the program and a notice of violation was subsequently issued to the licensee.

CONCLUSIONS:

Georgia continues to improve upon their Agreement State Program. The Program continues to struggle with staff retention. At the time of the periodic meeting the Program had three vacancies. The Program has already performed interviews and hopes to fill the three positions in the near future. The Program completed no priority 1, one priority 2 and no priority 3 inspections overdue since the last IMPEP. The Program completed 13 of 24 initial inspections in a timeframe greater than one year since the last IMPEP review. These were identified when the program transitioned to a new database in late 2013. The Program currently has no overdue initial inspections. The Program continues to stay current on its licensing actions and is responding to events appropriately.

NRC staff recommends that the Program continue on Heightened Oversight and the next IMPEP review be conducted as scheduled in May 2016.

**Agenda for Management Review Board Meeting
May 26, 2015 1:00 p.m. – 3:00 p.m. ET, O-17B04**

1. Announcement of Public Meeting to all attendees and request for identification of any members of the public participating in this meeting.
2. MRB Chair convenes meeting. Introduction of MRB members, NRC staff members, State representatives, and other participants.
3. Discussion of IMPEP Periodic Meetings:
 - a. New Hampshire Department of Health & Human Services
(November 12, 2014) – ML15052A005 – Janda / Gaskins / Dimmick
 - b. Georgia Environmental Protection Division
(February 24, 2015) – ML15089A444 – Ford / White / Haney
4. Adjournment

Invitees:

Michael Weber, DEDMRT
Mary Spencer, OGC
Catherine Haney, NMSS
Patrick Loudon, RIII
Joe Klinger, IL, OAS
Monica Ford, RI/RSOA
Donna Janda, RI/RSOA
Farrah Gaskins, RI
Duncan White, NMSS

Josephine Piccone, NMSS
Pamela Henderson, NMSS
Christian Einberg, NMSS
Lisa Dimmick, NMSS
Karen Meyer, NMSS
Joe O'Hara, NMSS
Jack Foster, OEDO
Augustinus Ong, NH
Twila Keena, NH
Travis Cartoski, GA
Karen Hays, GA
Keith Bentley, GA