



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

July 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

David Lew, Deputy Director
Division of Nuclear Material Safety
Region I

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:

AUGUST 3, 2015, SPECIAL MANAGEMENT REVIEW BOARD
MEETING

A Special Management Review Board meeting to discuss the results of the periodic meetings held with the Mississippi, Oregon, and New Mexico Agreement State Programs has been scheduled for **Monday, August 3, 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 (Enclosures 1, 2, and 3).

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 4).

CONTACT: Lisa Dimmick, NMSS/MSTR
301-415-0694

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. Mississippi Summary Report
2. Oregon Summary Report
3. New Mexico Summary Report
4. Meeting Agenda

cc: Steven Harrison, Virginia
Organization of Agreement States
Liaison to the MRB

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

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2. Oregon Summary Report
3. New Mexico Summary Report
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Organization of Agreement States
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MISSISSIPPI PERIODIC MEETING SUMMARY

DATE OF MEETING: APRIL 22.2015

NRC Attendees	Mississippi Attendees
Binesh Tharakan, RSAO, Region IV	B.J. Smith, Director, Radiological Health Division
Lisa Dimmick, IMPEP Coordinator, NMSS	Jayson Moak, Director, Radioactive Materials Branch
	Brielle Grantham, Health Physicist
	Jeff Algee, Health Physicist
	Robert Sims, Health Physicist

DISCUSSION:

The Mississippi Agreement State Program (the Program) is administered by the Mississippi Division of Radiological Health (the Division). Within the Division, the Radioactive Materials Branch (the Branch) is responsible for regulating the activities of 310 specific licensees authorized to use radioactive materials.

The previous Integrated Material Performance Evaluation Program (IMPEP) review was conducted the week of April 15-19, 2013. At the conclusion of the 2013 IMPEP review, the team found Mississippi's performance to be satisfactory for all performance indicators reviewed and did not make any recommendations. The Program was found adequate to protect public health and safety and compatible with the U.S. Nuclear Regulatory Commission's (NRC's) program.

The review team recommended that the next IMPEP review take place in 4 years and that a periodic meeting take place in 2 years. Therefore, a periodic meeting was held on April 22, 2015.

The topics discussed at the meeting included:

Program Strengths:

The Program management and staff agreed that the small number of staff within the Division promotes one on one mentoring sessions, and facilitates positive discussions about licensing, inspection, and incident response activities. The staff expressed that the team was a cohesive unit and that supervisors were easily approachable and available to discuss regulatory issues and staff concerns. A new salary structure was put into place in 2012 which increased salaries by as much as 28 percent. The salary structure was developed to help alleviate the Program's inability to retain staff, which was partly due to the low salaries offered by the Program. Program management believes that the new salary structure has enhanced the Program's ability to retain staff. Also as a result of previous IMPEP reviews, the Program improved formal documentation about its policies and procedures and made them available to all staff members. Another program strength discussed was the state-of-the-art radiation monitoring equipment, laboratory facilities, and radiological response vehicles the Program has been able to procure over the years through various grants from the State and Federal government. In addition, the State of Mississippi emergency operations facility is a one-of-a-kind facility that is prepared to

handle several different types of natural and man-made emergencies including radiological emergencies.

Program Weaknesses:

The radioactive materials program is funded 100 percent by the fees it charges to licensees. Operating costs and inflation has increased to the point that the Division has been operating with approximately a negative \$150,000 balance each year. The Division submitted a proposal to the State Legislature to increase fees to approximately 25 percent of the NRC fees; however, that bill did not make it out of committee in the State Legislature. The Division is planning to submit another proposal for the fiscal year 2017 budget. The Division also indicated that it considers its inability to issue civil penalties to be a weakness in its enforcement program. The Division can only pursue issues which are considered willful.

Feedback for NRC:

The Program indicated that they appreciated the good support provided by NRC Region IV staff and the communications between the two agencies. Especially, noteworthy was the improved Agreement State Travel and Training Web site and the more formal and structured nature of communications to Agreement States about upcoming training. The Division expressed an interest to participate on future IMPEP teams. Ms. Dimmick explained the process of becoming an IMPEP team member and upcoming training sessions.

Staffing and training:

The Mississippi Program is managed by the Division Director and a Radioactive Materials Branch Director. The Division is fully staffed with the Director and four technical staff for a total of five full-time equivalents (FTEs). Each technical staff person performs licensing and inspections of the State's 310 licensees with oversight from both the Division Director and the Branch Director. The Branch Director is also a fully qualified to license and inspect all license types within the State of Mississippi. Two staff members are qualified for all license types except for the pool irradiator in the State. A third staff member is qualified for all license types except for the irradiator and radiography licensees. The fourth staff member is a new hire that has been with the program for 3 months and is currently going through the training and qualification process. Since the 2013 IMPEP, two staff members left the Program and two were hired. One of the newly hired staff members was a former employee that was already qualified to perform licensing and inspections. The Division Director ensured this individual was appropriately recertified to perform licensing actions and inspections in the State. The Division Director stated that five FTEs were adequate to implement the program.

Program reorganizations:

The Program has not been subject to reorganization since the 2013 IMPEP review.

Changes in Program budget/funding:

As mentioned above, the Program is funded 100 percent by the fees it charges to licensees. Operating costs and inflation has increased to the point that the Program has been operating

with approximately a negative \$100,000 balance each year. The Program continues to effectively implement the radioactive materials program and pay salaries and expenses, but expressed concern that the current trend could not be sustained long term without an increase in fees or alternate funding sources.

Materials Inspection Program:

The Division reported that there was one overdue inspection of a radiographer that maintains a license in Mississippi but has a main office in another state. They perform radiography at the nuclear power plant and come during plant outages. The Division does not have the opportunity to inspect this licensee at the required annual frequency because they are not allowed to travel out of state to perform an inspection.

Licensing Program:

Each member of the staff performs both inspections and licensing actions as assigned. The Program noted that licensing actions are tracked on a Microsoft Excel spreadsheet and that no backlogs exist.

Prior to the last IMPEP, the Division was in the process of adopting the distributed version of NRC's Web-Based licensing (WBL) system known as the Licensing Tracking System. However, since the agreement between the two agencies for the software was signed, the Program was unable to maintain the software due to a lack of IT support within the Department of Health. There have been several updates and the Program has not been able to keep up with the software revisions. Therefore, the Program continues to use a Microsoft Excel spreadsheet file to keep track of licensing actions and inspections.

The NRC staff discussed the possibility of the Program using the NRC hosted version of WBL. The Program was interested in this option and will pursue if it's technically feasible of adopting this system. The NRC staff agreed to contact the WBL project manager and provide the Program with additional information about how to pursue this option.

Sealed Source and Device Evaluation Program (SS&D):

The Program reported that the SS&D Program has been inactive since the time the Program became an Agreement State in 1962. The Program intends to return the SS&D Evaluation Program portion of the Agreement back to NRC. At the time of this meeting, the letter requesting that the NRC resume regulatory authority over the SS&D program was with the Governor's office for the Governor's signature.

Regulations and Legislative changes:

Currently, the Division is up to date on rule promulgation and they do not have any rules that are overdue. However, a recent change to the regulation numbering system that was mandated by the Secretary of State resulted in the Program having several incorrect references in regulations already submitted by the Program. Subsequent to the numbering change, NRC reviewed proposed regulations submitted by the Program in 2013 that resulted in over 50 comments due to the incorrect references. The Program is working to resolve the comments and resubmit the

final rules for NRC review. These corrections have slowed down the rulemaking process within the Division. Although no rules are currently overdue, several rules need to be submitted for NRC review soon, most notably the implementation of 10 CFR Part 37 physical protection requirements due by March 2016. The Division stated it may pursue adding license conditions to meet the due date.

Event reporting, including follow-up and closure information in the Nuclear Material Events Database (NMED).

Since the 2013 IMPEP, the Program reported 3 events to NMED. All of the events have been followed-up, reviewed and closed by the Program.

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. Incidents are evaluated for safety significance and staff is dispatched to perform onsite investigations as indicated.

Status of allegations and concerns referred by the NRC for action.

The Program continues to process allegations as they are received. Since the 2013 Periodic Meeting, the NRC has referred two allegations to the Program. Each of the allegations received by the Program is being investigated and will be closed when completed. The Program continues to be sensitive to issues of identity protection regarding alleged.

Large, Complicated, or Unusual Authorizations for use of Radioactive Materials

The Division issued a license for a pool irradiator used to irradiate oysters to eliminate harmful bacteria from the oysters.

Current State Initiatives

For many years, the Division has been monitoring the Salmon site where two underground detonations took place on October 22, 1964, and December 3, 1966. These detonations were a part of the Department of Energy's project to develop seismic methods for detecting underground nuclear tests. The Salmon Site is a 1,470-acre tract of land located about 21 miles southwest of Hattiesburg, Mississippi. The tract is located over a geological formation known as the Tatum Salt Dome and is the location of the only nuclear weapons test detonations known to have been performed in the Eastern United States.

The Division completed radiological and chemical deposition analyses on trees above the Tatum Salt Dome area and determined that the trees did not contain any measurable tritium or radioactive materials above normal release levels.

State's Mechanisms to Evaluate Performance

The Division uses peer reviews of inspection reports and licensing actions to develop consistency and obtain a final quality check for each regulatory product. The final report or licensing action is issued by the Division Director. The Division Director stated that the Program plans to initiate self-audits in the future. Inspectors are accompanied by the Branch Director on an annual basis. In addition, the Division meets as needed to assess the program or to recommend any changes or improvements to the processes in the program. The Division noted that quality assurance is maintained by the staff working closely together to ensure that the program is successful. The Program also uses feedback sessions during annual performance appraisals to discuss performance of the staff.

Current NRC initiatives:

The following NRC initiatives were discussed with the Program:

- FSME – NMSS Merger including management changes
- Web-Based Licensing, National Source Tracking System, and the Integrated Source Management Portfolio
- Implementation of NRC's new materials license reviewer and inspector qualification program (IMC 1248)
- Rulemaking Initiatives and current status of potential changes to 10 CFR Part 20 and 35
- Updates on the NUREG 1556 series revisions
- IMPEP Performance Metrics and upcoming Management Directive changes
- Merger of the policy statements for Agreement States and the Agreement State Program Enhancement Initiatives

Schedule for the next IMPEP review:

NRC staff recommends that the next IMPEP review be held, as scheduled, in April 2017.

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
OREGON'S PUBLIC HEALTH DIVISION
RADIATION PROTECTION SERVICES

DATE OF MEETING: JUNE 18, 2015

U.S. Nuclear Regulatory Commission (NRC) Attendees	Oregon Radiation Protection Services Attendees
Randy Erickson, State Agreements Officer, Region IV	David Howe, Director, Radiation Protection Services
Mark Shaffer, Director, Division of Nuclear Materials Safety, Region IV	Richard Wendt, Program Manager, Operations
Lisa Dimmick, Senior Health Physicist, Agreement State Programs Branch, Office of Nuclear Material Safety and Safeguards	Todd Carpenter, Program Manager, Licensing
	Richard Beaman, Health Physicist, Inspector
	Daryl Leon, Health Physicist, Inspector
	Erin DeSempole, License Reviewer
	Connie Grater, Administrative Assistant
	Nancy Curry, Administrative Assistant
	Glenda Villamar, X-ray Inspector

DISCUSSION:

During the 2013 Integrated Materials Performance Evaluation Program (IMPEP) review of the Oregon Agreement State Program (Program), the review team found the State's performance satisfactory for the indicators Technical Staffing and Training, Status of Materials Inspection Program, Technical Quality of Inspection, and Compatibility Requirements and satisfactory, but needs improvement for the indicators Technical Quality of Licensing Actions and Technical Quality of Incidents and Allegation Activities. The finding of satisfactory but needs improvement for the indicators Technical Quality of Licensing Actions and Technical Quality of Incident and Allegation Activities had remained the same from the 2009 IMPEP review and the finding of satisfactory for the indicator Technical Quality of Inspections was an improvement from the 2009 IMPEP review.

The review team made a total of five recommendations in the indicators Technical Quality of Licensing Actions, Technical Quality of Incident and Allegation Activities, and Compatibility Requirements. The review team closed two recommendations from the 2009 IMPEP report and kept one recommendation open. The open recommendation was in the indicator Technical Quality of Incident and Allegation Activities.

The review team recommended, and the Management Review Board (MRB) agreed, that the Oregon Agreement State Program was adequate to protect public health and safety and was compatible with the U.S. Nuclear Regulatory Commission (NRC) program. The MRB also agreed with the review team that the next IMPEP review take place in approximately 4 years.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

1. Well Established Staff Training Program
 - Radiation Protection Services (RPS) takes advantage of all the training resources available to them including NRC training, local training, topical meetings, and the staff work cohesively and comprehensively to help train each other. The number of staff is small so that works well for them. Staff is well trained.
2. Highly Motivated and Talented Staff
 - The Oregon program is a busy program with a highly motivated staff responsible for the licensing and inspection of 409 specific materials licensees. RPS managers believe they have made good selections for open positions filling them with talented staff with solid and varied backgrounds who work collaboratively.
3. Supportive Management
 - Management support to the Program is outstanding at all levels, and access to senior management is unencumbered. Some of the senior managers are unfamiliar with exactly what RPS does on a daily basis, but RPS management is working with them to help them gain that knowledge.
4. Competitive Salaries
 - Salaries have remained competitive which has allowed the Program to attract the quality candidates that they have hired in recent years.

Program Challenges

1. Budget
 - The RPS budget is 95 percent fee funded and they receive 5 percent of their budget from grants for first responder training and from the Food and Drug Administration (FDA) under the Mammography Quality Standards Act (MQSA) program. In recent years overhead cost allocation has risen from 11 percent of their budget to 40 percent of their budget. It is anticipated that fee increases will allow them to maintain the 19 full time equivalents (FTE) they are currently authorized but they are not allowed to expand staffing even though they believe it would enhance quality services.
2. Information Technology (IT) Issues
 - Even though the RPS budget funds one FTE, they still experience issues with IT support to the Program. Specifically, they would like to be a part of Web Based Licensing (WBL), but issues with the IT staff have made that not possible at this time. Primarily there is no fiscal component that would allow for e-payments.

3. Insufficient Staffing

- With the Program only having 2.5 materials inspectors and 19 total staff, they often experience times when they need additional staff. Staff are often spread too thin to be as effective as they would prefer to be.

Feedback on the NRC's Program

The Program was complimentary of the IMPEP process and the training provided by NRC. However, the Program mentioned they often feel overwhelmed with the volume of expectations placed upon them from NRC. They often feel inundated with requests for information, requests for input on documents and other requests from NRC. They come at a rapid pace and while the Program would like to provide input, they simply often don't have the time.

Another issue brought forward by the Program was that they feel like they are always being sold on WBL as it is today and not really listening to the needs of the Agreement States. The Program believes that listening to the State's needs is necessary to obtain widespread participation.

Organization

The Oregon Agreement State Program is administered by the Radiation Protection Services Section which is located within the Center for Health Protection (the Center). The Center is part of the Oregon Public Health Division.

There have been no reorganizations since the 2013 IMPEP review.

Program Budget/Funding

As indicated earlier in this report, RPS is 95 percent fee funded and receives about 5 percent of their funding from grants for emergency response training and from FDA under the MQSA program. The money goes into a dedicated fund specific for agency use.

Technical Staffing and Training (2013 IMPEP: Satisfactory)

At the time of the periodic meeting, the Program had 16 staff positions across the entire Program (both RAM and X-Ray). Of those positions they have 2.5 FTE dedicated to materials inspections and 1.5 FTE dedicated to materials licensing. They currently have 409 specific licenses. The Program has one Program Director and two managers, one for inspections and one for licensing. The Program had three vacancies, one in the materials program.

At the time of the 2013 IMPEP review, the Program had a documented training plan consistent with NRC's Inspection Manual Chapter (IMC) 1246, "Formal Qualification Programs in the Nuclear Material Safety and Safeguards Program Area." They still follow that plan but were advised during the meeting that IMC 1246 had been superseded by IMC 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs," and a discussion was held to point out the differences between the former and current guidance and to ensure the Program continued forward using IMC 1248.

Status of Materials Inspection Program (2013 IMPEP: Satisfactory)
Technical Quality of Inspections (2013 IMPEP: Satisfactory)

The Program had conducted 157 Priority 1, 2, and 3 inspections since the last IMPEP review. None were conducted overdue. The Program performed 24 percent of all reciprocity notifications in 2014 and 40 percent as of June 16, 2015. Additionally, the Program has rolled out a new electronic reciprocity notification system. Licensees file online and that information is automatically pushed out to all the inspector's email which they are able to access while in the field. When they are in the area, they can perform the inspection. This has enhanced their ability to perform reciprocity inspections.

Technical Quality of Licensing Actions (2013 IMPEP: Satisfactory)

The Program reported they have 409 specific licensees. All licensing actions are worked on in a timely manner. Since the last IMPEP review the Program has implemented a peer review system for licensing actions. The Program has received 630 licensing actions since the last IMPEP review. They have a goal of processing most licensing actions within 30 days, but will extend that up to 90 days if necessary. Signature authority is the Program Manager for Licensing. The guidance used by the Program is equivalent to the NRC's NUREG 1556 Series guidance.

The 2013 IMPEP review team made three recommendations for the indicator Technical Quality of Licensing Actions. The recommendations and status are listed below.

Recommendation 1: The review team recommends that the Section follow its licensing procedure flow sheet and re-implement the peer review process to ensure consistency and accuracy for all licensing actions.

Status: Since the IMPEP review, the Program's long term license reviewer recently retired and the individual who was only partially qualified at the time of the review is now their primary reviewer. She is now qualified to work independently on all license types. Immediately following the IMPEP review, they began fully following their licensing flow chart by reestablishing peer reviews of all completed licensing documents. They use the peer reviews as training opportunities by having open communication among staff.

Recommendation 2: The review team recommends that the State verify that all previously approved authorized users, authorized medical physicists, radiation safety officers on medical licenses, and authorized nuclear pharmacists have the proper board certification or training requirements and preceptor attestation, since the new requirements were initiated in 2006.

Status: At the time of the IMPEP review, the review team noted that authorized users were being added to licenses without evidence of documentation verifying that appropriate training had been completed; or with limited documentation or incorrectly filled out attestation forms. Following the IMPEP review, the Program created a new procedure ensuring that complete and appropriate documentation is obtained, verified and that all forms are complete and accurate. The Program also went back and identified all licensing actions that occurred from 2006 to 2013 and looked at the authorization process for each individual approved. What they eventually found was that all of the individuals who had been authorized were properly qualified.

Recommendation 3: The review team recommends that the State develop and implement a pre-licensing protocol based on the RCPD-08-020 letter issued on September 22, 2008, to enhance the basis for confidence that radioactive materials will be used as specified on a radioactive materials license.

Status: The Program was previously applying the revised pre-licensing guidance to all licensees who possessed Increased Control (IC) quantities of radioactive materials. However, for the rest of the new materials licensees, if they had been registered as a business with the Oregon Secretary of State, they were considered a known entity and the pre-licensing guidance was not applied. Following the IMPEP review, the Program changed their policy and now use the pre-licensing guidance for all new license applications. They also perform pre-licensing visits on all new licensees. If they are an IC licensee, they also perform a security inspection. If all is ok, then the license is hand delivered to the licensee.

Technical Quality of Incidents and Allegations (2013 IMPEP: Satisfactory)

The Program is aware of the need to maintain an effective response to incidents and allegations. At the time of the periodic meeting the Program had reported nine events to Nuclear Materials Events Database (NMED) since the last IMPEP review. All reportable events were conveyed to the NRC Headquarters Operation Officer (HOO) in the correct manner. At the time of the meeting, only two events were currently open.

The 2013 IMPEP review team made two recommendations for the indicator Technical Quality of Incident and Allegation Activities. The recommendations and status are listed below.

Recommendation 4: The review team recommends that the Section implement a process to ensure all required information is submitted to NMED and to also promote timely completion of NMED entries. This recommendation remains open from 2009 IMPEP review.

Status: Following the IMPEP review the Program implemented a new process for the handling and disposition of incoming events. The Program has selected the Program Manager for Operations to be the point person for this effort, but it involves all members of the staff. When an event is received by RPS, staff and management consult to determine what level of effort is needed to address the issue based on risk significance. Then staff is dispatched according to the plan that has been established. HOO and NMED reports are tracked and each is discussed during monthly staff meetings to ensure that each is closed properly and in a timely manner.

Recommendation 5: The review team recommends that the State revise its protocol for reviewing incidents for reportability in accordance with the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-300 and to ensure timely reporting of events to the NRC Operations Center and to NMED.

Status: As identified in Recommendation 4, the Program implemented a new process for the handling and disposition of incoming events. This procedure also addresses reviewing incidents for reportability in accordance with NMSS Procedure SA-300 and the timely reporting of events to the HOO and to NMED.

Regulations and Legislative Changes (2013 IMPEP: Satisfactory)

The current effective statutory authority is contained in Volume 11 Chapter 453 Hazardous Substances, Radiation Sources, of the Oregon Revised Statutes. The Section is designated as the State's radiation control agency. The Program is implemented by the Radiation Protection Services Section. Oregon's regulations are located in Chapter 333, Divisions 100-124 of the Oregon Administrative Rules. No legislative changes affecting the Program have occurred since the last IMPEP review.

At the time of the 2013 IMPEP review there were no amendments overdue for adoption and at the time of the 2015 Periodic Meeting, there also were no amendments overdue for adoption. Oregon's equivalent to Part 37 had been developed, reviewed by NRC and accepted. The Program anticipates implementation by September 2015.

The 2013 IMPEP review team made one recommendation for the indicator Compatibility Requirements. The recommendation and its status is listed below.

Recommendation 6: The review team recommends that the State develop and implement a protocol to ensure that regulations required for adoption are adopted within 3 years as required in the Policy Statement on Adequacy and Compatibility of Agreement State Programs.

Status: While there were no overdue amendments at the time of the 2013 IMPEP review, during that review period seven amendments had been submitted, of which five were submitted overdue and the Program had no established procedure or timeline for rule development. Following the IMPEP review, the Program developed a new procedure for rule development and assigned the Program Manager for licensing to be the point person for the effort. Rules can now be developed as quickly as 60 days and submitted to NRC for review. They do have one impediment to the process. No rules can be developed while the legislature is in session five months of each odd-numbered year and one month of each even-numbered year. Amendments are now submitted in a timely manner.

CONCLUSIONS:

The Program continues to be an effective, well maintained Agreement State program. There is presently one staff level vacancy. The Program has addressed the six open recommendations from the 2013 IMPEP review and continues to demonstrate sustained performance in those areas. The Program is effectively managing its licensing and inspection activities. The Program is responding to incidents and allegations as appropriate and has no overdue regulation amendments.

NRC staff recommends that the next IMPEP review be conducted as scheduled in August 2017.

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
NEW MEXICO'S ENVIRONMENT DEPARTMENT
RADIATION CONTROL BUREAU

DATE OF MEETING: JUNE 25, 2015

U.S. Nuclear Regulatory Commission (NRC) Attendees	New Mexico Attendees
Randy Erickson, State Agreements Officer, Region IV	Santiago Rodriguez, Acting Chief, Radiation Control Bureau
Mark Shaffer, Director, Division of Nuclear Materials Safety, Region IV	Michael Ortiz, Environmental Scientist
Duncan White, Senior Health Physicist, Agreement State Programs Branch, Office of Nuclear Material Safety and Safeguards	Victor Diaz, Environmental Scientist

DISCUSSION:

During the 2013 Integrated Materials Performance Evaluation Program (IMPEP) review of the New Mexico Agreement State Program (Program), the review team found the State's performance satisfactory for the indicators Status of Materials Inspection Program, Technical Quality of Inspections, Technical Quality of Licensing Actions, Technical Quality of Incident and Allegation Activities and Compatibility Requirements; and satisfactory, but needs improvement, for the indicator Technical Staffing and Training. The review team made one recommendation for the Program and closed one recommendation from the 2009 IMPEP review.

The review team also recommended, and the Management Review Board (MRB) agreed, that the New Mexico Agreement State Program was adequate to protect public health and safety and was compatible with the Nuclear Regulatory Commission (NRC) program. The MRB also agreed that the next IMPEP review take place in approximately 4 years.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

5. Improved Ability to Attract and Recruit Qualified Individuals
 - The Program previously required a bachelor's of science degree for employment irrespective of an individual's background or work experience. This requirement has been removed and sufficient work experience can now be substituted for a degree. This has made it easier for the Program to attract, recruit and retain qualified individuals.

6. Well Trained Staff

- The Program has not experienced problems getting into NRC training classes and has taken full advantage of those offerings. They also take advantage of local training, Webinars (e.g. EPA MARSSIMS) and also hold topical meetings (e.g. CRCPD AAMP training on medical therapy) to assist the staff. Several of their staff have been long term employees of the Program and are fully qualified to perform all types of inspections.

7. Supportive Management

- Management support to the Program is outstanding at all levels, and access to senior management is unencumbered. Senior Department managers work closely with Program management to ensure that needs are met and that the Program has the ability to meet its mission.

8. Competitive Salaries

- Salaries have remained competitive which has allowed the Program to attract and retain qualified individuals.

Program Challenges

4. Meeting the Requirements for Completing Reciprocity Inspections

- Geographically New Mexico is a large state. Santa Fe is in the northern region of the State and much of their reciprocity work is in the southeast portion of the state where oil and gas drilling is ongoing. Getting to those locations in a timely manner has been a challenge. Often when the Program goes, the licensees have completed their work and have left the jobsite; or the Program does not receive reciprocity notifications in a timely manner. The Program is also challenged by companies coming into the oil and gas fields to work but then don't file for reciprocity as required. The Program continues to work towards meeting the goal of inspecting 20 percent of all reciprocity notifications each calendar year in accordance with Inspection Manual Chapter 1220.

5. Regulations

- Due to its small size, and the complexity of initiating rule revisions, the Program has often found it difficult to keep up with rule development. At the time of the meeting two amendments, RATS ID 2011-2 and RATS ID 2012-1 were overdue for adoption. RATS ID 2011-2 currently applies to one irradiator and 11 well logging licensees and has been implemented by legally binding requirements. RATS ID 2012-1 which refers to RATS ID 2001-1 was completed on 8/23/2005, is currently in place in New Mexico's rules, and will be sent to NRC for approval with RATS ID 2012-2 and RATS ID 2012-3 which come due in August 2015.

Feedback on the NRC's Program

The Program was appreciative for the letter of support received following the 2013 IMPEP review. It helped management understand the necessity of filling positions that had been left open for long periods of time. They also wanted to extend their appreciation for how easy it's been to get into training classes. Specifically they wanted to call out the efforts of Marcia Casby for her help in making this happen. The Program also expressed concerns that they had heard about the possibility of cuts to training funds in the future as this would have a grave impact on the training of new staff.

Organization

The New Mexico Radiation Control Program is administered by the Radiation Control Bureau which is located within the Environmental Protection Division (the Division). The Division is a part of the New Mexico Environmental Department.

Only one change occurred in the Program since the 2013 IMPEP review. The Bureau Chief stepped down from that position and took a position as an Environmental Scientist within the Program. The Program Manager is currently acting in the Bureau Chief position.

Program Budget/Funding

The Program's budget is stable. The Program operates on a \$1.25M budget in a dedicated fund with the ability to roll unused funds forward. Approximately 90 percent of their funding is from direct fees and approximately 10 percent is from general revenue. The general revenue portion of the Program's funding continues to be reduced in each budget year.

Technical Staffing and Training (2013 IMPEP: Satisfactory but needs Improvement)

At the time of the Periodic Meeting, the Program had eight staff positions, two management positions and one contractor position in the materials program. At the time of the meeting six of the staff positions are filled and two were currently open. One of the vacancies was advertised and is now closed. Interviews are to begin on that position. The Bureau Chief position is currently being filled temporarily by the Program Manager. Once the Department makes a permanent selection for the Program Chief position, the Program Manager position can be filled.

At the time of the 2013 IMPEP review the review team noted that the Program had lived with significant turnover and position vacancy issues for several years. Four staff members had left the materials program, and four staff members were hired to replace them. The Bureau Chief and Program Manager positions had been vacant for 10 months and 9 months respectively through 2010–2011. And at the time of the 2013 IMPEP review four technical positions were vacant and had been so for various lengths of time. Because of this, NRC managers held a meeting with Division management to discuss the long standing vacancy issue. A letter of support was provided by NRC which helped Department managers understand the importance of maintaining a viable program. Positions soon began to be filled and the Program was even expanded by two positions.

The 2013 IMPEP review team made one recommendation for the indicator Technical Staffing and Training. The recommendation and its status is listed below.

Recommendation: The review team recommends that Program management continue to aggressively pursue the filling of the current vacancies in order to ensure the program's continued adequacy and compatibility.

Status: As previously noted in this report, following the 2013 IMPEP review a meeting was held between senior NRC and Department managers and a letter of support from NRC was then provided. This helped Department managers better understand what was needed to maintain their agreement with NRC. The Department responded in a positive manner. Positions were filled and the Program has been expanded by two staff positions. At the time of the Periodic Meeting, only two staff positions were currently open, one was being advertised and one was going before management for approval.

At the time of the 2013 IMPEP review, the Program had a documented training plan consistent with NRC's Inspection Manual Chapter (IMC) 1246, "Formal Qualification Programs in the Nuclear Material Safety and Safeguards Program Area." They still follow that plan but were advised during the meeting that IMC 1246 had been superseded by IMC 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs," and a discussion was held to point out the differences between the former and current guidance and to ensure the Program continued forward using IMC 1248.

Status of Materials Inspection Program (2013 IMPEP: Satisfactory)
Technical Quality of Inspections (2013 IMPEP: Satisfactory)

The Program had conducted 264 Priority 1, 2, and 3 inspections since the last IMPEP review. None were conducted overdue. Following the 2013 IMPEP review, the Program was only able to perform 10 percent of all reciprocity notifications received for the rest of that year. This was primarily due to the lack of staffing identified during the review. The staffing shortage continued for a period of time past the end date of the 2013 IMPEP review. But in 2014, the Program met the 20 percent goal and they are on track in 2015 to exceed the 20 percent goal. Supervisory accompaniments of inspectors are being performed by the former Bureau Chief.

Technical Quality of Licensing Actions (2013 IMPEP: Satisfactory)

The Program reported they have 204 specific licensees with 6 new licenses pending. All licensing actions are worked on in a timely manner. The Program has received 300 licensing actions since the last IMPEP review. They have a goal of processing most licensing actions within 60 days, but will extend that up to 90 days if necessary. Signature authority is performed by the Program Manager and the Bureau Chief. The guidance used by the Program is equivalent to the NRC's NUREG 1556 Series guidance.

The 2013 IMPEP review team identified a weakness concerning the licensing actions for selected High Dose Rate Remote Afterloaders (HDR) license authorizations. At the time the review team noted that the Program licensed HDR units with possession limits that exceeded medical use limitations on respective Sealed Source and Device Registry (SSD) sheets and also existing licensing guidance. The team discussed this matter with the Program Manager at

the time who directed staff to promptly amend all of the medical licenses that authorized HDR use, to ensure a high technical quality and adherence to existing licensing guidance. This was completed while the review team was on site. Once corrected the Program continues to ensure that they do not authorize limits in excess of the limitations on the SSD review sheets.

The Program continues to follow the revised pre-licensing guidance and hand delivers new licenses to each new licensee.

Technical Quality of Incidents and Allegations (2013 IMPEP: Satisfactory)

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 Office has placed a high emphasis on maintaining an effective response to incidents and allegations.

Since the 2013 IMPEP review, the Program has reported 8 events to the NMED database. At the time of the meeting, only 2 of those events were still open and being followed.

Regulations and Legislative Changes (2013 IMPEP: Satisfactory)

The current statutory authority for the New Mexico Program is contained in the Radiation Protection Act, Title 20 Environmental Protection, Chapter 3, Radiation Protection. The Bureau is designated as the State's radiation control agency. No legislative changes affecting the Program have occurred since the 2013 IMPEP review.

At the time of the 2013 IMPEP review only one amendment was found to be overdue. The Program had previously adopted the amendment but had not sent it to NRC for a compatibility review. At the time of the 2015 Periodic Meeting, the Program had two other amendments, RATS ID 2011-2 and RATS ID 2012-1 that were overdue for adoption. The requirements are currently implemented by the use of legally binding requirements and apply to 12 licensees. The Program will send the license condition to NRC for a compatibility review. They are in the process of taking care of that now. New Mexico's equivalent to Part 37 will also be implemented through the use of a legally binding requirement. The Program anticipates implementation by March 19, 2016.

CONCLUSIONS:

The Program continues to be an effective, well maintained Agreement State program. There are presently two staff level vacancies. The Program has addressed the open recommendation from the 2013 IMPEP review and continues to build on demonstrating sustained performance in timely recruiting, hiring and retaining of Program staff. The Program is effectively managing its licensing and inspection activities. The Program is responding to incidents and allegations as appropriate and only has two overdue regulation amendments.

NRC staff recommends that the next IMPEP review be conducted as scheduled in June 2017.

**Agenda for Management Review Board Meeting
August 3, 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. Mississippi Division of Radiological Health
(April 22, 2015) – ML15134A465 – Tharakan / Dimmick
 - b. Oregon Radiation Protection Services
(June 18, 2015) – ML15089A444 – Erickson / Shaffer / Dimmick
 - c. New Mexico Radiation Control Bureau
(June 25, 2015) – ML15203A900 – Erickson / Shaffer / White
4. Adjournment

Invitees:

Michael Weber, DEDMRT
Mary Spencer, OGC
Catherine Haney, NMSS
David Lew, RI
Steven Harrsion, VA, OAS
Randy Erickson, RIV/RSOA
Binesh Tharakan, RIV/RSOA
Mark Shaffer, RIV
Linda Howell, RIV

Josephine Piccone, NMSS
Pamela Henderson, NMSS
Christian Einberg, NMSS
Lisa Dimmick, NMSS
Duncan White, NMSS
Joe O'Hara, NMSS
Jack Foster, OEDO
BJ Smith, MS
DHowe, OR
SRodriquez, NM