



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

November 27, 2019

Kimberly Steves, Director
Kansas Radiation Control Program
Kansas Department of Health
and Environment
1000 SW Jackson Suite 330
Topeka, KS 66612

Dear Ms. Steves:

SUBJECT: KANSAS FY19 PERIODIC MEETING SUMMARY

This letter refers to the U.S. Nuclear Regulatory Commission's (NRC) periodic meeting held on August 14, 2019, with you, Ms. Kendra Baldrige, Director of Community Health Systems, and Mr. David Lawrenz, Supervisor, Radioactive Materials Unit. The purpose of this meeting was to review and discuss the status of the Kansas Agreement State Program. The NRC was represented by Linda Howell, Deputy Director, Division of Nuclear Materials Safety (DNMS), Patricia Silva, Branch Chief, Materials Inspection Branch, and me.

I have completed and enclosed a draft general meeting summary, including any specific actions resulting from the discussions. A Management Review Board (MRB) meeting to discuss the outcome of the periodic meeting is scheduled for December 5, 2019 at 2:00 PM EST. After the MRB meeting the draft periodic meeting summary will be revised to include MRB findings and/or direction. A final meeting summary will be issued within 30 days of the MRB meeting.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC's Website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the Public without redaction.

If you have any questions regarding this summary or have any additional remarks about the meeting in general, please contact me at (817) 200-1132 or via e-mail at Jackie.Cook@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Jacqueline D. Cook
State Agreements Officer
Division of Nuclear Materials Safety

Enclosure:
Periodic Meeting Summary



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
PERIODIC MEETING WITH THE STATE OF KANSAS

August 14, 2019

Enclosure

PERIODIC MEETING PARTICIPANTS

NRC

- Linda Howell: DNMS Deputy Director, NRC Region IV
- Patricia Silva: Branch Chief, Materials Inspection Branch
- Jacqueline Cook: State Agreements Officer, NRC Region IV

State of Kansas

- Kendra Baldrige: Director, Bureau of Community Health Systems
- Kimberly Steves: Director, Radiation Control Program
- David Lawrenz: Supervisor, Radioactive Materials Unit

1.0 INTRODUCTION

This report presents the results of the periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the State of Kansas. The meeting was held on August 14, 2019. The meeting was conducted in accordance with NMSS Procedure SA 116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The Kansas Agreement State Program (the Program) is administered by the Radioactive Control Program which is located within the Bureau of Community Health Services (the Bureau). The Bureau is part of the Department of Health and Environment (the Department). The Director of the Bureau reports to the Deputy Secretary for the agency who reports to the Secretary of the Agency. The Secretary of the Agency reports to the Governor.

At the time of the meeting, the Kansas Agreement State Program regulated approximately 270 specific licenses authorizing possession and use of radioactive materials. The meeting focused on the radioactive materials program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of Kansas.

During a Management Review Board (MRB) held on September 18, 2018, to discuss the results of the June 2018 Integrated Materials Performance Evaluation Program (IMPEP) review, the MRB determined that the Program was found adequate to protect public health and safety but needs improvement and compatible with the NRC's Program, and should be placed in a period of heightened oversight.

In response to the initiation of Heightened Oversight, Kansas submitted their initial Program Improvement Plan (PIP) on November 15, 2018 (ML18324A616). On January 18, 2019, Kansas submitted a revised PIP (ML19036A701) reflecting updates to the initial submittal. The initial Heightened Oversight call was then held with the Program on January 28, 2019. Additional calls were held on April 18 and June 20, 2019.

The follow up IMPEP review is scheduled the week of May 18, 2020.

2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC Regional Office and Agreement State radioactive materials programs during an IMPEP review. These indicators are (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities.

2.1 Technical Staffing and Training (2018 IMPEP: Satisfactory)

The Program reported they currently have a total of 5.55 FTE technical staff who perform both licensing and inspection activities. They also have 1.26 FTE in supervisory support. The Program hired one staff member in April 2019. There are no vacancies at this time. The Program has a documented training and qualification plan consistent with NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs."

2.2 Status of the Materials Inspection Program (2018 IMPEP: Satisfactory)

At the time of the meeting, one initial inspection was overdue by two months, and no routine Priority 1, 2, and 3 inspections had been performed overdue during the review period. The overdue initial inspection was due to a data entry error for the new licensee. The inspection frequency was incorrectly entered as a two-year routine inspection, instead of an initial inspection frequency which the Program sets at six-months so that it can be assigned and completed prior to the one-year requirement. Although, the overdue inspection was identified during the Program's internal audit, it was not identified in time to meet the 12-month requirement. The inspection was completed prior to the Periodic Meeting and the licensee is now placed on its routine inspection frequency.

The Program issued four other new licenses during the review period and all initial inspections of those licenses were performed within 12-months.

IMPEP Finding: Candidate licensees working under reciprocity were not consistently inspected in accordance with the criteria prescribed in NRC's IMC 1220.

Status: The Program stated that they have consistently inspected candidate licensees working under reciprocity in accordance with the criteria prescribed in NRC's IMC 1220. In order to accomplish this task, the Program: (1) determined the initial goal for reciprocity inspections each year; and (2) modified the reciprocity procedure to focus reciprocity inspection completion in first six months of the calendar year. The milestone to integrate the reciprocity report into monthly staff meetings is ongoing.

The Program reported that they have been exceeding the 20 percent requirement for performing reciprocity inspections this review period.

2.3 Technical Quality of Inspections (2018 IMPEP: Satisfactory but needs improvement)

The Program continues to perform annual supervisor accompaniments of each inspector with none being missed since the previous IMPEP review.

IMPEP Finding 1: Inspection procedures are not equivalent to NRC Inspection Procedure 87100 series.

Status: The Program revised their inspection procedures to be consistent and compatible with the NRC Inspection Procedures, as appropriate, and have implemented them.

IMPEP Finding 2: When preparing to conduct inspections, the program's inspectors did not routinely review the relevant inspection procedures.

Status: The Program revised inspection guides (appendices to the inspection procedures) and provided training to the inspectors. The tasks implemented by the Program included revision of the inspection guides, training of staff on all inspection procedures, and verification of implementation during annual inspection accompaniments.

IMPEP Finding 3: Inspection findings were not well founded or properly documented in reports and root causes were not properly identified. Issues of non-compliance did not

always have specific regulations clearly documented. There was inadequate management oversight of inspection reports. Inspection findings did not always lead to appropriate or prompt regulatory action.

Status: To address this finding, the Program completed the following tasks: (1) revised inspection guidance and provide training to inspectors; (2) ensured inspection guidance is consistent with NRC guidance to ensure findings are properly documented and root causes are identified appropriately; (3) reduced the staff's dependency on internal database for specific non-compliance identifications; (4) required all items of non-compliance to be communicated with program management; (5) required licensee responses to be reviewed and approved by management; and (6) increased management review of inspection reports.

IMPEP Finding 4: Inspections do not consistently address previously identified open items.

Status: To resolve this finding, the Program committed to clearly address all previously identified open items. The following actions were completed to address this finding: (1) revised inspection procedures to clarify how it will be documented when previously identified items are closed or remain open; (2) trained staff on new requirements; (3) included group discussions of all inspection findings of non-compliance at monthly staff meetings; and (4) verify implementation during annual inspection accomplishments.

2.4 Technical Quality of Licensing Actions (2018 IMPEP: Satisfactory but needs improvement)

A total of 246 license actions were performed since the last review period.

IMPEP Finding: Essential elements of license applications were not consistently submitted or consistent with regulatory guidance. License action reviews were not sufficiently thorough, complete, or of acceptable technical quality.

Status: The Program is ensuring that essential elements of license applications and actions are consistent. In addition, the Program is ensuring the license review is sufficient to identify deficiencies prior to issuing a license and has implemented the following actions: (1) created forms to outline requirements for common license actions; (2) review and update license guides annually; (3) develop an annual training plan on license action requirements and offer refreshers annually; and (4) Unit Supervisor and Lead Worker audits at least 25 percent of license actions each year and discuss results with staff.

2.5 Technical Quality of Incident and Allegation Activities (2018 IMPEP: Unsatisfactory)

The Program reported that over the review period, they had a total of three Nuclear Material Events Database (NMED) reportable events. At the time of the meeting all but one had been reviewed and closed. One allegation was referred to Kansas by the NRC. No violations were issued from the Program regarding this allegation; however, the license was amended at the licensee's request.

IMPEP Finding 1: Response actions were not always appropriate or timely. Procedures for onsite responses were not always followed when incidents of potential

health, safety, or security significance were reported or suspected. The NRC was not always notified of incidents, as appropriate. There was inadequate management oversight of reactive inspections and reporting.

Status: To address the IMPEP finding, the Program took a number of actions including: (1) revised their written procedure on reactive inspections and provided staff training on the procedure; (2) adhered to an appropriate policy that requires onsite response to all incidents of health, safety, or security significance; (3) ensured internal policies include adequate management oversight of incidents and reactive inspections; and (4) ensured all incidents are reported as stated in Appendix A of SA-300. In addition, the Program Director and Unit Supervisor meet routinely regarding each incident, ongoing incident investigations are discussed in monthly team meetings, the Program Director and Unit Supervisor actively monitor staff response to all incidents and investigations and review and approve investigation reports for each incident; and perform periodic review of NMED files to ensure all information is included and properly closed when applicable.

IMPEP Finding 2: Follow up action not always taken to ensure prompt compliance, including follow up inspections to investigations.

Status: The Program revised their procedures to require a full inspection report to be completed for any reactive inspection or investigation involving a licensee, their material, or facility as well as document the decision of adjusting the frequency of the next routine inspection or keeping the licensee on the same frequency.

3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Compatibility Requirements, (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery (UR) Program. The NRC's Agreement with Kansas does not relinquish regulatory authority for either SS&D, UR, or LLRW; therefore, only the non-common performance indicator Compatibility Requirements applies.

3.1 Compatibility Requirements (2018 IMPEP: Satisfactory but needs improvement)

The Program reported that there had been no legislative changes affecting the Program since the 2018 IMPEP review. At the first bi-monthly conference call, the Program made a commitment to assign a radiation staff member to be responsible for monitoring the status of NRC regulation revisions which impact compatibility and drafting corresponding revisions to Kansas regulations. They have executed this commitment and it is ongoing.

IMPEP Finding: Several regulations adopted by Kansas for the purposes of compatibility were adopted later than three years after the effective date of the NRC regulation.

Status: To address this finding, the Program now ensures proposed revisions to Kansas regulations are developed and provided to KDHE legal staff in a timely manner following publication by the NRC of corresponding regulations and request agency management to prioritize action on those regulations which are required to maintain compatibility with NRC.

4.0 SUMMARY

The Program has made significant progress addressing the IMPEP findings and continues to make improvements to their Program. The NRC staff has determined that there is a high likelihood that the Program will be able to sustain these improvements moving forward. No additional programmatic concerns were noted during the periodic meeting. The Kansas Agreement State Program is fully staffed and since the 2018 IMPEP review, has shown a period of sustained performance. Based on the significant progress and accomplishments to address all the IMPEP findings, the NRC staff is recommending that the period of Heightened Oversight for the Kansas Agreement State Program be terminated. The NRC staff is recommending that the Kansas Agreement State be moved to monitoring until the next IMPEP review which has been scheduled the week of May 18, 2020. In addition, in preparation for the Kansas IMPEP in May 2020, inspector accompaniments of the Program's inspectors will be performed in February or March 2020.

KANSAS FY19 PERIODIC MEETING SUMMARY DATED NOVEMBER 27, 2019

DISTRIBUTION: (SP08)

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ADAMS ACCESSION NUMBER: ML19331B191

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