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POLICY ISSUE

(Information)

November 12, 1996

SECY-96-234

FOR: The Commissioners

FROM: James M. Taylor
Executive Director for Operations

SUBJECT: STATUS REPORT ON IMPLEMENTATION OF THE INTEGRATED
MATERIALS PERFORMANCE EVALUATION PROGRAM

PURPOSE:

To provide the Commission with a status report on the staff's implementation of the Integrated Materials Performance Evaluation Program (IMPEP) in conducting reviews of the materials programs of the U. S. Nuclear Regulatory Commission Regions and the Agreement States.

SUMMARY:

In accordance with Commission direction, the staff has completed the first full year of use of the common performance indicators in evaluating the materials programs of two NRC Regions (Regions I and II) and seven Agreement States (North Carolina, Georgia, North Dakota, Iowa, Kentucky, Maryland, and Nebraska). These reviews were conducted using interdisciplinary teams with members drawn from the Offices of Nuclear Material Safety and Safeguards (NMSS) and State Programs (OSP), the NRC Regions, and the Agreement States. This arrangement, along with involvement by the Regions and the Agreement States in Management Review Boards (MRBs), proved to be effective both in terms of evaluating the adequacy and compatibility of the materials programs and improving technical and programmatic exchange of information between NRC and the Agreement States. The staff is continuing implementation of IMPEP in FY97.

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NOTE: TO BE MADE PUBLICLY AVAILABLE IN 5
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BACKGROUND:

IMPEP was developed, in part, in response to an April 1993 report prepared by the General Accounting Office (GAO) entitled, "Better Criteria and Data Would Help Ensure Safety of Nuclear Material." Under the approaches that were being used at the time, GAO found that it would be difficult to ensure that a uniform level of protection of public health and safety was being provided nationwide. GAO recommended that "...the Chairman, NRC, establish (1) common performance indicators in order to obtain comparable information to evaluate the effectiveness of both [the Agreement State and Regional materials] programs in meeting NRC's goal...." The staff described its plan and schedule to develop a program employing such indicators in SECY-93-300.

In SECY-94-011, the staff documented the IMPEP program in the form of a proposed management directive on use of common performance indicators in review of Regional and Agreement State materials programs. The five draft indicators were:

- Status of Materials Inspection Program
- Technical Staffing and Training
- Technical Quality of Licensing Actions
- Technical Quality of Inspections
- Response to Incidents and Allegations

The staff also informed the Commission of its plan to implement the directive on a pilot basis in the Regions and the Agreement States. The Commission conditionally approved the staff's plan in a Staff Requirements Memorandum (SRM) of March 16, 1994, noting that the information gathered by the staff "... should be used in reformulating the draft common performance indicators in response to the GAO recommendations." The Commission also stated that under the pilot program, the review of Agreement States should be done under the existing 1992 Policy Statement and procedures for determining adequacy and compatibility and that the collection of information on common performance indicators should be done in addition to the normal review process.

In SECY-95-047, the staff evaluated the pilot program and concluded that the IMPEP approach was viable. The common performance indicators were considered effective in evaluating a materials licensing and inspection program and were sufficiently broad to be applicable for both Regional and Agreement State reviews. The use of an interdisciplinary team from NMSS, OSP, and the Regions under the IMPEP process, was considered to be particularly effective. Other aspects of the pilot program--including the issuance of a draft report for comment, the use of a 5-member MRB, and Regional or Agreement State management participation in MRB meetings--provided greater openness, participation, and management involvement in the review process.

Additionally, in SECY-95-047, the staff recommended implementation of IMPEP on an interim basis in the Regions and Agreement States using the five common performance indicators listed above. The staff also recommended that Agreement State representatives be a part of the review teams and that a non-voting Agreement State liaison to the MRB be appointed. Finally, the staff recommended that, as appropriate, certain program areas that are not part of both Regional and Agreement State programs (such as low-level

radioactive waste (LLW) disposal licensing or sealed source and device (SS&D) approvals) would be evaluated using non-common performance indicators. The Commission approved the staff's recommendations in an SRM dated June 27, 1995.

DISCUSSION:

Initial Steps in Implementation

With the Commission's approval to proceed, the staff issued a final Management Directive 5.6 on IMPEP on September 12, 1995, which outlined the responsibilities, authorities, review process, and review criteria of the program. In addition, the staff developed a Federal Register notice (FRN) that suspended relevant portions of the existing Commission policy statement on review of Agreement State programs and replaced it with Management Directive 5.6, on an interim basis. The FRN was published on October 25, 1995.

The staff also sought Agreement State interest in participation on the review teams and as non-voting liaison to the MRB in a letter to the Organization of Agreement States (OAS) dated July 27, 1995. The Agreement States responded by providing the names of 10 review team members drawn from technical staff ranks and four senior managers to serve as MRB liaisons. Similarly, the staff also identified additional potential team members from NMSS, OSP, and the Regional offices. The cadre of individuals for consideration as members of IMPEP teams totaled 36.

The staff then proceeded to develop a schedule for reviews based on a typical team composition of four members in an Agreement State and five members in an NRC region. For smaller Agreement State programs, teams of two to three individuals were used.

Once the cadre of team members and schedules was developed, the staff held a one-day training session in Rockville, Maryland, on November 29, 1995. This session familiarized team members with the IMPEP approach--with its focus on performance, provided specific guidance on reviewing each of the indicators, and discussed report preparation, coordination, and the role of the MRB.

Finally, during this initial phase of implementation, before the first scheduled review in North Carolina, the staff began work on developing review criteria for non-common performance indicators, such as LLW, SS&D, and uranium recovery. These indicators will be discussed in greater detail later in this paper.

Results of Reviews

During FY96, the staff, with assistance from the Agreement States, conducted nine reviews under IMPEP. These reviews included two NRC Regions (RI and RII) as well as seven States (North Carolina, Georgia, North Dakota, Iowa, Kentucky, Maryland, and Nebraska). The performance of both of the NRC Regions was found to be "Satisfactory" with respect to all of the common and non-common performance indicators and, therefore, adequate to protect public health and safety. In five of the Agreement State reviews, the programs were found adequate and compatible. The review for Maryland was conducted

in late September and is not yet complete. A final MRB decision on the team's findings in the IMPEP review of the Nebraska program, as well as Nebraska's plans to address those findings has not yet been made. The IMPEP review of the Nebraska program was conducted July 15-19, 1996, and the draft IMPEP report was sent to Nebraska on October 17, 1996. The review team found four of the five common performance indicators to be "Satisfactory, with Recommendations for Improvement" and the fifth indicator to be "Unsatisfactory." The review team also found Nebraska's performance, with respect to the non-common indicator "Legislation and Regulations," "Unsatisfactory." Based on these findings, the team will likely recommend that the Nebraska program be placed on probation.

The Attachment displays a "Summary of Agreement States Adequacy and Compatibility Status." Findings for reviews conducted before December 1995, were based on the 1992 Policy Statement, "Guidelines for NRC Review of Agreement State Radiation Control Programs." Under those guidelines, findings of adequacy and/or compatibility were withheld when significant concerns were identified. For four of the Agreement States reviewed under IMPEP (North Carolina, Georgia, Iowa, and Kentucky), the Agreement State's performance was found satisfactory with respect to all the common and non-common indicators. The next IMPEP reviews for these States will be scheduled in 3 to 4 years, unless program concerns develop that require an earlier evaluation. In one Agreement State (North Dakota), the State's performance in the program indicator, "Status of Materials Inspection Program," was found to be satisfactory, with recommendations for improvement. Although the overall program performance for this State was found adequate, the next review will be scheduled in 2 to 3 years, based on the IMPEP team recommendations and MRB approval. As noted above, both regions received findings of adequacy. The reviews for these Regions will remain at a 2-year frequency, however, reflecting the fact that IMPEP is a major portion of the NMSS management control system, through which regional implementation of the NMSS programs and appropriate expenditure of resources provided by the program office are assured.

During the September 1996 Annual Agreement States Meeting, the States of North Carolina, North Dakota, Georgia, Iowa, and Kentucky spoke in support of the IMPEP process. These five States found the IMPEP reviews effective. They indicated that although there was some initial apprehension about the new review process, this concern proved to be groundless. They went on to note that the reviews were thorough, professional, and performance-based rather than prescriptive. The States also declared that they welcomed the opportunity to review the draft reports and that the MRB portion of the process gave them an opportunity to discuss their programs with NRC from a management, rather than from a technical, perspective. The inclusion of different reviewers, including an individual from an Agreement State, was also considered a strength of the review process.

Status of Non-Common Indicators

During FY96, the staff developed non-common indicators to address those programmatic areas which are not common to the Regions and the Agreement States: these included SS&D, LLW disposal, and uranium recovery. The staff issued the indicators for SS&D and LLW programs to the Agreement States for review and comment in All-Agreement State

letters dated January 5 and June 3, 1996, respectively. Five comments were received and were considered in developing final indicators for these programmatic areas. The LLW program indicator was used in three Agreement State IMPEP reviews, and the SS&D program indicator was used in four Agreement State IMPEP reviews. The staff found these two indicators appropriate for continued use, with minor adjustments based on operational experience. The uranium recovery indicator was not used during FY96 because no States with uranium mill authority were scheduled for review. The staff issued the indicator for uranium recovery programs to the Agreement States for review and comment by November 18, 1996, in an All-Agreement State letter dated October 7, 1996. The staff anticipates that three such States--Texas, Illinois and Colorado--will be reviewed during FY97.

The staff continues to develop an approach to review decommissioning under IMPEP. Presently, the staff considers that there is no firm basis for attempting to review the programs of the Regions and the Agreement States using a unique decommissioning common performance indicator. The final rule on radiological criteria for decommissioning, which will provide the key health and safety point of commonality between the Regions and the Agreement States, will not be completed until 1997. In addition, because: (a) NRC's cleanup criteria do not exist in regulation; (b) Agreement States are not required to promulgate their equivalents of NRC's decommissioning timeliness rule until August 1997; and (c) Agreement States have assured NRC that no health and safety concerns exist at their licensed facilities and sites awaiting decommissioning, the staff informed the Commission, in a memorandum dated May 19, 1995, that it would provide Agreement States flexibility in the area of decommissioning. The above considerations argue for a flexible approach in review of decommissioning programs. In terms of the Agreement States, as well as the Regions, the staff will treat license terminations and decommissioning as a subset of the routine materials licensing and inspection program, and thereby, review it under the existing IMPEP structure. In discussions with the OAS Executive Board on October 10, 1996, the Board indicated that it supported this type of approach. For the Regions, staff will develop a non-common indicator that will allow NMSS to evaluate the Regions' management of, and resource expenditures for, the Site Decommissioning Management Program.

Annual Meetings between IMPEP Reviews

In their respective MRB meetings, each of the Agreement States reviewed commented on the need for an NRC presence on a more frequent basis than once every 4 years. The issue of conducting a mid-cycle or annual meeting was discussed at the September 1996 Annual Agreement State Meeting. In addition, in discussions with the OAS Executive Board, on October 10, 1996, regarding either a mid-cycle or an annual meeting, the Executive Board supported an annual 1-day meeting.

The staff is proposing an annual 1-day meeting with each of those Agreement States, during the intervening years between IMPEP reviews, to help all parties to remain knowledgeable of the respective programs and to conduct planning for the next IMPEP review. A team consisting of the Regional State Agreement Officer and the cognizant OSP staff member would participate in this meeting with the Agreement State's management and staff. The scope of the discussions during the meeting will include Agreement State

action on previous IMPEP review findings, Agreement State program strengths and weaknesses identified by the State or NRC, status of program or policy changes under development, and discussion of any internal program audits conducted by the Agreement State. Approximately 0.75 to 1.0 FTE will be necessary to carry out this program each year, split equally between OSP and the Regional State Agreement Officers.

Resources:

Resources for continued implementation of IMPEP are in the budget for FY97 and beyond. These budget numbers were developed based on estimates contained in SECY-95-047, which indicated that implementation of IMPEP would require approximately 0.5 FTE per review. Based on a review of staff hour data for FY96, the staff determined that NRC expended approximately 3.5 FTE in conduct of IMPEP reviews. When combined with an estimated 1.0 FTE expended by the Agreement States in support of the reviews, total resource expenditure in FY96 was 4.5 FTE or approximately 0.5 FTE per review.

In addition, when reviewing the staff hours in FY96, it was discovered that staff expended approximately 0.6 FTE on IMPEP coordination, policy, and programmatic guidance development, besides the 0.5 FTE per team review effort. This effort is within the existing resources that were available for IMPEP reviews.

We believe that the additional resources, for the Annual Meetings, of 0.75 to 1.0 FTE, split equally between the Regions and OSP, are available. Program discussion meetings with the Agreement States, annually, are within the current scope of Regional State Agreement Officers' duties. The OSP staff resources for the Annual Meeting can become available through the improved efficiencies expected in other program responsibilities (e.g., regulation reviews) and the reduction in the level of effort applied to Agreement State Program guidance development.

Integration with Adequacy and Compatibility Working Group

In an SRM of June 29, 1995, the Commission directed the staff to develop implementing procedures for the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" and the "Statement of Principles and Policy for the Agreement State Program," before implementation of those policy statements. A joint NRC-Agreement State Working Group has developed and submitted procedures to implement the Policy Statement on Adequacy and Compatibility of Agreement State Programs to the staff for review and subsequent transmittal to the Commission. After evaluating public and state comments and final Commission approval is received, the staff will make any necessary conforming changes to Management Directive 5.6, "Integrated Materials Performance Evaluation Program." The staff will include the non-common indicators discussed above in this revision of Management Directive 5.6 and will also address any redundancy between the non-common indicators and the common indicators, such as the need to review "Technical Staffing and Training" and "Response to Incidents and Allegations," once, and not multiple times, in connection with each applicable non-common indicator.

Good Practices Report

In July 1996, the staff issued a report to the Regions and to the Agreement States identifying good practices noted during the IMPEP pilot program. This report included innovative customer satisfaction surveys, use of integrated licensing and inspection databases, and development of computer-based licensing templates. For each such practice, the staff included a contact person and phone number for those wishing to gain additional information about the practice. The staff plans to issue similar reports, annually, summarizing the good practices observed during that year's reviews.

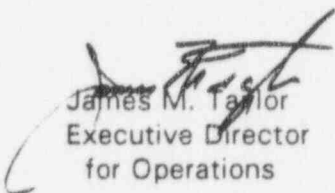
CONCLUSIONS:

A number of IMPEP attributes contribute to its effectiveness in ensuring an accurate assessment of Regional and Agreement State materials program adequacy to assure public health and safety. First, the five common indicators are directly related to program adequacy, and in-depth, root-cause analysis of concerns associated with an indicator can quickly lead to program improvements, when necessary. Second, the team approach provides sufficient resources to review each of the indicators in detail. Moreover, the differing backgrounds, work experience, and technical expertise of team members provide a range of review insights that aids in the identification of issues and their assessments. Third, personnel from NMSS, OSP, Regions, and Agreement States who have worked together on program reviews have gained valuable insights about each other's programs. As a result, the staff believes that continued IMPEP implementation will help achieve the objective of a consistent level of protection of the public health and safety, in the use of radioactive materials nationwide, and the objective of assuring that Agreement State programs are compatible with NRC's program.

Given the effectiveness of the initial year of IMPEP implementation and support for the program from both Agreement States and NRC Regions, the staff plans to continue implementation of IMPEP.

COORDINATION:

This paper has been coordinated with the Office of the General Counsel, which has no legal objection.



James M. Taylor
Executive Director
for Operations

Attachment:

"Summary of Agreement States
Adequacy and Compatibility Status"

DISTRIBUTION:

Commissioners	OCA
OGC	REGIONS
OCAA	EDO
OIG	SECY
OPA	

SUMMARY OF AGREEMENT STATES ADEQUACY AND COMPATIBILITY STATUS¹

October 1, 1996

STATE	YEAR OF REVIEW	ADEQUATE	COMPATIBLE
Alabama	1995	x	x
Arizona	1995	x	FW ²
Arkansas	1995	x	FW
California	1994	FW	FW
Colorado	1993	x	x
Florida	1995	x	x
Georgia	1996	x	x
Illinois	1994	x	FW
Iowa	1996	x	x
Kansas	1995	x	FW
Kentucky	1996	x	x
Louisiana	1995	x	x
Maine	1995	x	x
Maryland	1994 ³	x	FW ⁴
Mississippi	1993	x	x
Nebraska	1994 ³	x	x
Nevada	1994	x	x
New Hampshire	1994	x	FW ⁵
New Mexico	1994	x	FW ⁶
New York	1995	x	FW
North Carolina	1995	x	x
North Dakota	1996	x	x
Oregon	1996 ⁷	x	x
Rhode Island	1994	x	x
South Carolina	1995	x	x

STATE	YEAR OF REVIEW	ADEQUATE	COMPATIBLE
Tennessee	1994	x	x ⁸
Texas	1994	x	FW
Utah	1994	x	x
Washington	1995	x	FW

¹The 1992 policy statement, "Guidelines for NRC Review of Agreement State Radiation Control Programs," was suspended in October 1995. On an interim basis, all reviews for FY96 were performed under Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)." Depending on the State's performance, review cycles under IMPEP will be extended from 2 years to 3-4 years. The following States were reviewed under IMPEP during FY96: Georgia, Iowa, Kentucky, Maryland, Nebraska, North Carolina, and North Dakota.

²Please note that "FW" indicates that the finding was withheld.

³The 1996 IMPEP Review was conducted but the Management Review Board has not yet met.

⁴By letter dated October 2, 1995, the State indicated that it had adopted all regulations required for compatibility at the time of the 1994 routine review. The regulations became effective on October 9, 1995.

⁵By letter dated February 21, 1995, the State indicated that it had adopted one regulation overdue at the time of the 1994 routine review and a second overdue regulation, "Emergency Planning," did not apply to any of its licensees.

⁶By letter dated April 5, 1995, the State indicated that it had adopted all regulations required for compatibility, that were overdue at the time of the 1994 routine review.

⁷A follow-up review was conducted on July 8-12, 1996. The letter issued on September 17, 1996, documenting the program, was adequate.

⁸Based on the January 1995 review visit, the State has not adopted two regulations that are required and became due for compatibility.