



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

November 15, 2021

Ms. Ashley Forbes, Director  
Radioactive Materials Division  
Office of Waste  
Texas Commission on  
Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

SUBJECT: TCEQ TEXAS PERIODIC MEETING SUMMARY 2020

Dear Ms. Forbes:

A periodic meeting with Texas Commission on Environmental Quality (TCEQ) was conducted on February 20, 2020. The purpose of this meeting was to review and discuss the implementation of Texas's Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Mary Muesle, Director, Division of Nuclear Materials Safety, and Jacqueline D. Cook, Regional State Agreements Officer, from the NRC's Region IV office. Also attending was Patricia Silva, Chief, Materials Inspection Branch, also from the NRC Region IV office.

I have completed and enclosed a general meeting summary. If you feel that our comments, conclusions, or actions to be taken do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 200-1132 or via email at [Jackie.Cook@nrc.gov](mailto:Jackie.Cook@nrc.gov) to discuss your concerns.

Sincerely,

A handwritten signature in cursive script, reading "Jacqueline D. Cook".

Signed by Cook, Jacqueline  
on 11/15/21

Jacqueline D. Cook  
Regional State Agreements Officer

Enclosure:  
Periodic Meeting Summary for Texas

SUBJECT: TCEQ TEXAS PERIODIC MEETING SUMMARY 2020, DATED NOVEMBER 15, 2021

**DISTRIBUTION:**

MMuessle, DNMS, RIV  
LHowell, DNMS, RIV  
LRoldan-Otero, DNMS, RIV  
JCook, DNMS, RIV  
RJohnson, NMSS  
DWhite, NMSS

OneDrive\U.S. NRC\Documents\Periodic Meetings\2020 TCEQ\2020 Texas Periodic Meeting Summary.docx

## ADAMS ACCESSION NUMBER:

☒ SUNSI Review:

ADAMS:

☐ Non-Publicly Available☒ Non-Sensitive

Keyword:

By:

☒ Yes ☐ No☒ Publicly Available☐ Sensitive

OFFICE	RIV: SAO	RIV: DD				
NAME	JDCook	MMuessle				
SIGNATURE	<b>JDC</b>	<b>MCM</b>				
DATE	11/15 /2021	11/15/2021				

OFFICIAL RECORD COPY



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM  
PERIODIC MEETING WITH THE STATE OF TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY (TCEQ)  
TYPE OF OVERSIGHT: NONE

February 20, 2020

## TCEQ Periodic Meeting Summary

### PERIODIC MEETING PARTICIPANTS

#### **NRC**

- Mary Muessle: Director, Division of Nuclear Materials Safety, NRC Region IV
- Patricia Silva: Chief, Materials Inspection Branch, NRC Region IV
- Jackie Cook: RSAO, NRC Region IV

#### **State of Texas Commission on Environmental Quality**

- Ashley Forbes: Director, Radiation Materials Division (RMD)
- Colleen Ford: Office of Legal Services (OLS)
- Ron Thomas: RMD
- Muhammadali Abbaszadeh: Critical Infrastructure Division (CID)
- Hoyt Henry: CID
- Amie Robinson: OLS
- Tony Gonzalez: RMD
- Hans Weger: RMD
- Brody Burks: Commissioners Office
- Kelly W. Cook: CID
- Alisha Stallard: RMD
- Brad Broussard: RMD

## 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 Texas (Texas Commission on Environmental Quality [TCEQ]). The meeting was held on February 20, 2020 and was conducted in accordance with Nuclear Materials Safety and Safeguards (NMSS) Procedure SA-116, "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The Texas Agreement State Program is comprised of staff located in three Divisions within two State Agencies: the Consumer Protection Division, the Radioactive Materials (RM) Division, and the Critical Infrastructure (CI) Division. The Consumer Protection Division is located in the Texas Department of State Health Services (the Department) and the RM Division and the CI Division are in the Texas Commission on Environmental Quality (the Commission). This periodic meeting focused on the Commission.

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 Texas.

Although the Commission's budget is variable, full-time equivalent and training are always maintained and there are no impacts.

The Program's last Integrated Materials Performance Evaluation Program (IMPEP) review was from January 29-February 9, 2018. That report is in the NRC's Agencywide Documents Access and Management System under Accession Number [ML18120A324](#). A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on April 24, 2018.

During the April 24, 2018 MRB meeting, Texas's performance was found to be satisfactory for the Low-Level Radioactive Waste Disposal Program and satisfactory, but needs improvement, for the Uranium Recovery Program. The team recommended, and the MRB agreed, to three recommendations from the 2018 IMPEP review.

Accordingly, the team recommended, and the MRB agreed, that the Texas Agreement State Program be found adequate to protect public health and safety, and compatible with the NRC's program. Based on the results of the current IMPEP review, the team recommended, and the MRB agreed, that the next full IMPEP review take place in approximately 4 years with a periodic meeting to be held in approximately 2 years.

Below are the team's recommendations, as mentioned in the 2018 Final Texas IMPEP Report and as mentioned in this report, for evaluation and implementation by Texas:

1. Texas should review and update the recently developed formal training and qualification program to identify the training needs of the low level radioactive waste and uranium recovery programs and ensure it meets the essential objectives of Inspection Manual Chapter (IMC) 1248 and apply it to staff currently going through the qualification process. (Sections 2.1 and 2.2).
2. Texas should revise its low level radioactive waste and uranium recovery program inspection procedures to specify that inspection results will be communicated to licensees within 30 days of the completion of an inspection. Additionally, Texas should ensure that future inspection results are sent to licensees within 30 days of the

## TCEQ Periodic Meeting Summary

completion of an inspection. (Sections 2.1 and 2.2).

3. Texas should provide training to its staff on the newly revised licensing standard operating procedures to ensure consistency in low level radioactive waste and uranium recovery licensing actions (Sections 2.1 and 2.2).

## 2.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs:

(1) Legislation, Regulations and Other Program Elements, (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery (UR) Program. In accordance with the NRC's Agreement with the Commission, (1), (3), and (4) applied to this meeting.

### 2.1 Legislation, Regulations and Other Program Elements (formerly Compatibility Requirements) (2018 IMPEP Rating: Satisfactory)

Currently there are no overdue regulation amendment for the Commission. However, one of the Commission's current initiatives is legislation that was passed in 2019 that requires a state agency to immediately notify each political subdivision into which a radioactive substance was potentially released into the environment. It was further stated by you that the bill passed by the Legislature in 2019 that requires a state agency to immediately notify each political subdivision into which a radioactive substance was potentially released into the environment was not reviewed for compatibility by the NRC. The bill modified the Texas Health and Safety Code to include this notification requirement but did not expressly require rulemaking as part of its implementation. Thus, it was not incorporated into the Texas Administrative Code, which is the equivalent to the Code of Federal Regulations. Only rulemaking to the Texas Administrative Code is sent to the NRC for a compatibility regulations review.

Please note that the Commission should submit any legislative changes that affect the Radiation Control Program to ensure that they are consistent with Federal statutes, regardless of whether it affects or adds to their regulations.

### 2.2 Low-Level Radioactive Waste (LLRW) Disposal Program (2018 IMPEP Rating: Satisfactory)

#### LLRW Technical Staffing and Training

The RM Division is comprised of 12 staff members which equals approximately 12 full time equivalent (FTE). Five staff in the LLRW licensing program are qualified license reviewers and one is yet to be qualified. In addition, planning, reviews, and administration of the program are conducted also. Five staff in the LLRW inspection program are qualified inspectors and one is yet to be qualified to conduct inspections independently. At the time of this meeting, there were no program vacancies in the LLRW licensing or inspection programs.

One staff member left the LLRW licensing program on November 30, 2018 and transferred to the CI Division as an inspector. Two staff members were hired since the last IMPEP, one health physicist and one environmental permit specialist.

For the CI Division inspection program, one staff member retired on June 30, 2018 and another staff member transferred to another division within the Commission on June 1, 2019. One staff member transferred from the LLRW licensing program to the CI Division as an inspector. Another staff member was hired on August 5, 2019 to conduct inspections. The

same staff perform both LLRW and UR inspections.

The Work Leader oversees the day-to-day operations of the technical staff. The Section Manager oversees the entire Section, the work produced by the staff, and handles the administrative responsibilities of the Section.

The Commission revised its training program for radioactive materials inspectors and license reviewers which meets the essential objectives of NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs."

**Recommendation 1:** Texas should review and update the recently developed formal training and qualification program to identify the training needs of the low level radioactive waste program and ensure it meets the essential objectives of IMC 1248 and apply it to staff currently going through the qualification process.

To address the above recommendation, the Commission revised its training program on January 29, 2020 for the low level radioactive waste program which meets the essential objectives of NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs."

#### Status of the LLRW Disposal Inspection Program

Since the last IMPEP review, there are no inspections performed overdue. At the time of this meeting, there were no overdue inspections. There were no initial inspections performed since the last IMPEP review.

**Recommendation 2:** Texas should revise its low level radioactive waste inspection program procedures to specify that inspection results will be communicated to licensees within 30 days of the completion of an inspection. Additionally, the Commission should ensure that future inspection results are sent to licensees within 30 days of the completion of an inspection.

To address the above recommendation, the Commission revised its LLRW Disposal Program inspection procedures on March 30, 2018, to specify that inspection results will be communicated to licensees within 30 days of the completion of an inspection. Additional language was added to the inspection procedures as follows: *The investigator(s) will make every reasonable effort to adhere to this deadline, unless the deadline cannot be met due to holidays, unexpected circumstances, or other priorities. The investigator(s) will document and discuss the reasons for not meeting the deadline with CI Division Management.*

#### LLRW Technical Quality of Inspections

Inspection reports generated by resident inspectors for the receipt and disposal of LLRW are signed/approved by the Section Manager. Inspection reports generated by inspectors (other than the Work Leader) for the annual inspections are reviewed and signed/approved by the Work Leader in coordination with the Section Manager. Inspection reports generated by the Work Leader for the annual inspections are signed/approved by the Section Manager.

Letters to the licensees indicating the results of the inspections are reviewed by the Work Leader and the Section Manager and signed/approved by the Section Manager.

Supervisory accompaniments have been performed each year and were current as of the

#### LLRW Technical Quality of Licensing Actions

The Commission has performed 2 minor licensing actions since the 2018 IMPEP review of one of the LLRW disposal sites approved in March and May 2019, respectively.

**Recommendation 3:** Texas should provide training to its staff on the newly revised licensing standard operating procedures to ensure consistency in low level radioactive waste licensing actions.

To address this recommendation, the Commission has provided updated awareness training to LLRW licensing staff of all procedures related to LLRW licensing actions and it was completed on January 31, 2020.

#### LLRW Technical Quality of Incident and Allegation Activities

There have been no incidents/allegations since the last IMPEP review.

### 2.3 Uranium Recovery (UR) Program (2018 IMPEP Rating: Satisfactory, but needs improvement)

#### UR Technical Staffing and Training

There are six staff in the UR licensing program. There are four qualified license reviewers and two are yet to be qualified. The UR licensing program is comprised of 6.0 FTEs. In addition, planning, reviews, and administration of the program are also conducted by staff. At the time of this meeting, there are no program vacancies in the UR licensing program.

One staff member was hired who began on March 5, 2018. Prior to January 2021, the UR inspection program was comprised of 3 FTEs. Two of the 3 FTEs were qualified inspectors. One FTE should be qualified later this year. Effective January 1, 2021, one of the qualified UR inspectors left the inspection program and transferred to the RM Division as a manager. Currently, the UR inspection program is comprised of 2 FTE, one qualified UR inspector and another UR inspector to be qualified later this year. There is one vacancy in the UR inspection program. Interviews have been scheduled to fill the vacancy.

For the inspection program, 1 staff member retired on June 30, 2018 and another staff member transferred to another division with the Commission on June 1, 2019. One staff member transferred from the LLRW licensing program to the Division as an inspector. Another staff member was hired on August 5, 2019 as an inspector. The same staff perform both LLRW and UR inspections.

The Commission revised its training program which meets the essential objectives of NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs."

**Recommendation 1:** Texas should review and update the recently developed formal training and qualification program to identify the training needs of the uranium recovery program and ensure it meets the essential objectives of IMC 1248 and apply it to staff currently going through the qualification process.

To address the above recommendation, the Commission revised its training program on January 29, 2020, which meets the essential objectives of NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and

### UR Status of the Inspection Program

There have been no overdue inspections performed since the last IMPEP review nor any overdue inspections during the time of this meeting.

The Commission issued a new license on February 8, 2019. Prior to an on-site inspection, and at the request of the Commission, a periodic site status was reported to the Commission by the licensee. Subsequently, the Commission conducted the first on-site inspection in August 2020 and verified that the licensee had not conducted any activities at the site and did not possess any licensed materials. In addition, no structure of any kind (i.e. processing plant, storage areas, etc.) had been constructed at the site. The two permitted waste disposal wells have been drilled/constructed.

Exploration activities under a Texas Railroad Commission exploration permit, including casing the exploration holes for first production area authorization continue at the site. Currently, except for continuation of the exploration activities at the site, the status of the site has not changed. The Commission continues to request periodic site status updates from the licensee.

**Recommendation 2:** Texas should revise its uranium recovery program inspection procedures to specify that inspection results will be communicated to licensees within 30 days of the completion of an inspection. Additionally, the Commission should ensure that future inspection results are sent to licensees within 30 days of the completion of an inspection.

To address the above recommendation, the Commission revised its UR Program Inspection procedures on March 30, 2018, to specify that inspection results will be communicated to licensees within 30 days of the completion of an inspection. Additional language was added to the inspection procedures as follows: *The investigator(s) will make every reasonable effort to adhere to this deadline, unless the deadline cannot be met due to holidays, unexpected circumstances, or other priorities. The investigator(s) will document and discuss the reasons for not meeting the deadline with CI Division Management.*

### UR Technical Quality of Inspections

Inspection reports generated by resident inspectors for the receipt and disposal of UR are signed/approved by the Section Manager. Inspection reports generated by inspectors (other than the Work Leader) for the annual inspections are reviewed and signed/approved by the Work Leader in coordination with the Section Manager. Inspection reports generated by the Work Leader for the annual inspections are signed/approved by the Section Manager. Letters to the licensees indicating the results of the inspections are reviewed by the Work Leader and the Section Manager and signed/approved by the Section Manager.

Supervisory accompaniments have been performed each year and were current as of the date of this meeting.

During the meeting, the Commission noted that a significant inspection challenge is the Division turnover with inspection staff since the last IMPEP review.

### UR Technical Quality of Licensing

There were eight licensing actions since the last IMPEP review which included the following: three administrative amendments, one major amendment, two license terminations, one

minor amendment, and one new license.

**Recommendation 3:** Texas should provide training to its staff on the newly revised licensing standard operating procedures to ensure consistency in uranium recovery licensing actions.

To address the above recommendation, the Commission has provided updated awareness training to UR licensing staff of all procedures related to UR licensing actions and it was completed on January 31, 2020. The Work Leader provided more detailed training to staff on these procedures in January 2020.

#### UR Technical Quality of Incidents and Allegations Activities

There have been no incidents since the last IMPEP review. As discussed during this meeting, the Underground Injection Control (UIC) permitting section received a complaint during the comment period in February 2020 for a UIC Class III uranium production area authorization minor amendment at a UR site. The complaint was forwarded to the Office of Compliance and Enforcement, the CI Division, for further review and processing. Please note that the Commission reported this complaint to the Headquarters Operation Office via email on February 21, 2020.

There were no allegations referred by the NRC for action, no significant events and generic implications, nor event reporting, including follow-up and closure information in the Nuclear Materials Event Database.

### 3.0 SUMMARY

Current Commission initiatives: The Commission is anticipating the submittal of a plan for the removal of the Los Alamos National Laboratory transuranic waste from the waste disposal site in Andrews, Texas.

An emerging technology used by the Commission is the use of drones for conducting radiological surveys.

The Commission uses Legislative Budget Board and Performance Time Tracking reports and annual performance appraisals of staff to evaluate performance of staff.

The status of Greater Than Class C, 10 CFR Part 61, Very Low-Level Waste, and potential uranium groundwater rulemaking are some NRC current initiatives.

Additional topics of discussion during this meeting included the following: 1) possibility of inviting Agreement State staff to any NRC training held at Region IV due to the Commission's limited out-of-state travel authority; 2) possibility of providing Agreement State staff with access to NRC's Talent Management System training for courses that may be applicable to the Agreement State's programs; and 3) improving the efficiency of the review and concurrence process for Completion Review Reports (CRR) (submitting a draft CRR and then a final CRR) to terminate a license under the UR program.