From: Don Betts <Don.Betts@arkansas.gov>
Sent: Monday, January 10, 2022 4:25 PM
To: Poy, Stephen <Stephen.Poy@nrc.gov>
Cc: Beth Williams <Anne.E.Williams@arkansas.gov>; Bernard Bevill <Bernard.Bevill@arkansas.gov>
Subject: [External_Sender] 2022 IMPEP Questionnaire

Mr. Stephen,
Please find attached the ADH response to the IMPEP questionnaire.
We look forward to having you and the NRC IMPEP Team, the week of January 24-28, 2022.

Warm Regards,

Don

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Approved by OMB[1]
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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM QUESTIONNAIRE
Reporting Period:
Note: If there has been no change in the response to a specific question since the last IMPEP questionnaire, the State or Region may copy the previous answer, if appropriate.

A. GENERAL

1. Please prepare a summary of the status of the State's or Region's actions taken in response to each of the open recommendations from previous IMPEP reviews.

1. Section 3.1 Technical Quality of Licensing Actions
"The team recommends that Arkansas continue to perform and update its quarterly Quality Improvement audits to ensure that licensing actions are thorough, consistent, and adhere to Arkansas's licensing procedures for the use of standard license conditions, standard authorized use conditions, standard authorized medical user materials authorization; and to ensure that staff is appropriately implementing the RSRM checklist, especially in cases where the request is to remove or decrease RSRM."

Quarterly Audits (2018 through present) were performed to review licensing actions following this recommendation. All issues discovered throughout the audit process were acknowledged and corrected. Audits ensured that licensing actions, standard license conditions, standard authorized use conditions, standard authorized medical user materials authorization were thorough, consistent, and adhere to Arkansas' licensing procedures.

B. COMMON PERFORMANCE INDICATORS

I. Technical Staffing and Training

2. Please provide the following organization charts, including names and positions:
(a) A chart showing positions from the Governor down to the Radiation Control Program Director

SEE ATTACHED ITEM 2A

(b) A chart showing positions of the radiation control program, including management; and

SEE ATTACHED ITEM 2B

(c) Equivalent charts for sealed source and device evaluation, low-level radioactive waste and uranium recovery programs, if applicable.

This is not applicable.

3. Please provide a staffing plan, or complete a listing using the suggested format below, of the professional (technical) full-time equivalents (FTE) applied to the radioactive materials program by individual. Include the name, position, and, for Agreement States, the fraction of time spent in the following areas: administration, materials licensing & compliance, emergency response, low-level radioactive waste, uranium recovery, other. If these regulatory responsibilities are divided between offices, the table should be consolidated to include all personnel contributing to the radioactive materials program. If consultants were used to carry out the program's radioactive materials responsibilities, include their efforts. The table heading should be: Name Position Area of Effort FTE%

SEE ATTACHED ITEM(S) 3; 4; 7; 8; 9

4. Please provide a listing of all new professional personnel hired into your radioactive materials program since the last review, indicate the date of hire; the degree(s) they received, if applicable; additional training; and years of experience in health physics or other disciplines, as appropriate.

SEE ATTACHED ITEM(S) 3; 4; 7; 8; 9

5. Please list all professional staff who have not yet met the qualification requirements for a radioactive materials license reviewer or inspector. For each, list the courses or equivalent training/experience they need and a tentative schedule for completion of these requirements.

SEE ATTACHED ITEM 5

6. Identify any changes to your qualification and training procedure that occurred during the review period.

There are no changes to the program's qualification and training procedure.

7. Please identify the technical staff that left your radioactive materials program during the review period and indicate the date they left.

SEE ATTACHED ITEM(S) 3; 4; 7; 8; 9

8. List any vacant positions in your radioactive materials program, the length of time each position has been vacant, and a brief summary of efforts to fill the vacancy.

SEE ATTACHED ITEM(S) 3; 4; 7; 8; 9

9. For Agreement States, does your program have an oversight board or committee which provides direction to the program and is composed of licensees and/or members of the public? If so, please describe the procedures used to avoid any potential conflict of interest.

SEE ATTACHED ITEM(S) 3; 4; 7; 8; 9

II. Status of Materials Inspection Program

10. Please identify individual licensees or categories of licensees the State is inspecting less frequently than called for in NRC's Inspection Manual Chapter (IMC) 2800 and explain the reason for the difference. The list only needs to include the following information: license category or licensee name and license number, your inspection interval, and rationale for the difference.

There are no licensees or categories of licensees inspected less frequently than IMC 2800.

11. Please provide the number of routine inspections of Priority 1, 2, and 3 licensees, as defined in IMC 2800 and the number of initial inspections that were completed during each year of the review period.

Priority	12/2017	2018	2019	2020	2021
I	1	8	9	9	11
II		7	7	6	5
III	1	18	4	12	17
Totals	2	33	20	27	33
Initials		3	3	9	3

12. Please submit a table, or a computer printout, that identifies inspections of Priority 1, 2, and 3 licensees and initial inspections that were conducted overdue.
At a minimum, the list should include the following information for each inspection that was conducted overdue during the review period:

(1) Licensee Name

(2) License Number
(3) Priority (IMC 2800)
(4) Last inspection date or license issuance date, if initial inspection
(5) Date Due
(6) Date Performed
(7) Amount of Time Overdue
(8) Date inspection findings issued

There was one overdue:
Desert NDT dba Shawcor ARK-1010-03310 I
Last Insp 09/14/2018, Due 09/14/2019 (+6m 03/14/2020)
Performed 06/09/2020, (3 months past 50% allowance)
Inspection findings issued 06/17/2020 with no violations noted.
This Business is restructuring and no longer at job site in Arkansas.

13. Please submit a table or computer printout that identifies any Priority 1, 2, and 3 licensees and initial inspections that are currently overdue, per IMC 2800. At a minimum, the list should include the same information for each overdue inspection provided for Question 12 plus your action plan for completing the inspection. Also include your plan for completing the overdue inspections.

There are no inspections currently overdue of Priority 1,2, and 3 licensees.
There are no initial inspections currently overdue.

14. Please provide the number of reciprocity licensees that were candidates for inspection per year as described in IMC 1220 and indicate the number of reciprocity inspections of candidate licensees that were completed each year during the review period.

Totals include all priority codes

2018 – 36 Candidates with 6 Inspections performed
2019 – 31 Candidates with 7 Inspections performed
2020 – 32 Candidates with 3 Inspections performed (covid impact on inspections)
2021 – 30 Candidates with 6 Inspections performed

III. Technical Quality of Inspections

15. What, if any, changes were made to your written inspection procedures during the reporting period?

SEE ATTACHED ITEM 15

16. Prepare a table showing the number and types of supervisory accompaniments made during the review period. Include:

Inspector Supervisor License Category Date

SEE ATTACHED ITEM 16

17. Describe or provide an update on your instrumentation, methods of calibration, and laboratory capabilities. Are all instruments properly calibrated at the present time? Were there sufficient calibrated instruments available throughout the review period?

The Radiation Control Section's Radiation Safety Manual describes procedures for the calibration of radiation detection instruments. Most instruments are sent to the manufacturer or other qualified vendor for calibration on an annual basis. A small number of pocket dosimeters are checked against a source/leakage checked in-house annually.

In addition, it is the Health Physicists' responsibility to assure that instruments are in calibration and are working properly at the time of use or otherwise obtain an instrument that is in calibration and operating properly.

A sufficient number of calibrated instruments are available to support the Arkansas Program. See attached Item 17,"HP Equipment List," for instrument specifications and laboratory capabilities.

SEE ATTACHED ITEM 17

IV. Technical Quality of Licensing Actions

18. How many specific radioactive material licenses does your program regulate at this time?

The program currently regulates 176 specific radioactive material licenses.

19. Please identify any major, unusual, or complex licenses which were issued, received a major amendment, were terminated, decommissioned, submitted a bankruptcy notification or renewed in this period.

SEE ATTACHED ITEM 19

20. Discuss any variances in licensing policies and procedures or exemptions from the regulations granted during the review period.

No variances in licensing policies and procedures or exemptions from the regulations were granted during the review period.

21. What, if any, changes were made in your written licensing procedures (new procedures, updates, policy memoranda, etc.) during the reporting period?

SEE ATTACHED ITEM 21

22. Identify by licensee name and license number any renewal applications that have been pending for one year or more. Please indicate why these reviews have been delayed and describe your action plan to reduce the backlog.

There are no renewal applications that have been pending for one year or more. Currently, one renewal has been in timely renewal for eleven months.

V. Technical Quality of Incident and Allegation Activities

23. For Agreement States, please provide a list of any reportable incidents not previously submitted to NRC (See Procedure SA-300, *Reporting Material Events*, for additional guidance, OMB clearance number 3150-0178). The list should be in the following format:
Licensee Name License # Date of Incident/Report Type of Incident

SEE ATTACHED ITEM 23

24. Identify any changes to your procedures for responding to incidents and allegations that occurred during the period of this review.

There are no changes to procedures for responding to incidents and allegations that occurred during the period of this review.

C. NON-COMMON PERFORMANCE INDICATORS

I. Compatibility Requirements
25. Please list all currently effective legislation that affects the radiation control program. Denote any legislation that was enacted or amended during the review period.

Arkansas became an Agreement State on July 1, 1963. Legislative authority to create a radiation control agency and enter into an Agreement with NRC was granted in Arkansas Code Annotated § 20-21-201 et seq. The State Board of Health is designated as the State Radiation Control Agency, with the day-to-day administrative duties being carried out by the Secretary of the Department of Health's designee in accordance with A.C.A. § 20-21-206. The Arkansas Department of Energy and Environment, Division of Environmental Quality, has very limited provisions in Title 8, Chapter 7 – Hazardous Substances, Subchapter 6 – Low-Level Radioactive Waste, that address disposal and storage of low-level radioactive waste.

Act 315 of 2019 eliminates "unnecessary references to regulations throughout the Arkansas Code" and provides for "consistent references to rules throughout the Arkansas Code." This Act will require the Program to amend all regulations, licenses, license conditions, forms, etc. to remove references to the word "regulation" and to replace with "rule."

Act 517 of 2019 requires each state agency, after each regular and fiscal session of the General Assembly, to review any newly enacted laws to determine whether any existing rule should be repealed or amended or any new rule should be adopted. These new, amended, or repealed rules generally must be filed for adoption with the Secretary of State on or before January 1 of the following year.

Act 662 of 2019 establishes the Code of Arkansas Rules (CAR). The Act instructs the Bureau of Legislative Research (BLR) to develop a uniform style, format, and numbering system for the

rules in the CAR. A Word document of our rules was submitted to BLR on August 3, 2021. The Program has little information on how this conversion will occur and has stressed that rules of an Agreement State must be compatible with that of the NRC and therefore must adhere to certain rulemaking procedures in order to demonstrate "adequacy" of the Program.

Act 268 of 2021 ensures compatibility of Arkansas law concerning ionizing radiation with NRC law and regulations and provides for updating of the Arkansas Code Annotated to reflect current terminology and technological advances. This was a Program-initiated Bill.

Rule changes pursuant to Act 268 of 2021 have been accomplished (as required by Act 517 of 2019) but a considerable amount of work will need to be done to be in compliance with Act 315 of 2019 and Act 662 of 2019.

26. Are your regulations subject to a "Sunset" or equivalent law? If so, explain and include the next expiration date for your regulations.

The Arkansas State Board of Health Rules for Control of Sources of Ionizing Radiation is not subject to a "sunset" or equivalent law.

27. Please review and verify that the information in the enclosed State Regulation Status (SRS) sheet is correct. For those regulations that have not been adopted by the State, explain why they were not adopted, and discuss actions being taken to adopt them. If legally binding requirements were used in lieu of regulations and they have not been reviewed by NRC for compatibility, please describe their use.

The most current State Regulation Status (SRS) sheet is dated October 1, 2021 and is correct.

With the adoption of the most recent rule package effective December 20, 2021, the Arkansas Program has adopted all RATS amendments due at this time. However, RATS ID 2018-1 is due January 14, 2022, and did not make it onto the Executive Staff agenda in order to begin the rulemaking process with other RATS that became effective December 20, 2021. Proposed language for this particular RATS has been reviewed by the NRC, though, with no comments. The other six RATS amendments, through RATS ID 2021-2 (plus 2018-1), should enter the rulemaking process this year. RATS IDs 2018-2, 2018-3, 2019-1, and a few provisions not associated with a RATS ID were contained in the rule package effective December 20, 2021, and were submitted to the NRC on January 7, 2022, for final review.

28. If you have not adopted all amendments within three years from the date of NRC rule promulgation, briefly describe your State's procedures for amending regulations in order

to maintain compatibility with the NRC, showing the normal length of time anticipated to complete each step.

The process for amending rules includes the following:

- Development of the proposed rule, including approval by our Center Director and Agency Attorney
- Appearance before the Executive Staff of the Arkansas Department of Health to seek approval to proceed to the Arkansas State Board of Health
- Appearance before the Arkansas State Board of Health for approval to proceed with rulemaking
- Approval of the rule package by the Governor's Office prior to announcing the Public Comment Period
- Filing and distribution of the proposed rule
- A 30-day Public Comment Period to receive comments on the proposed revisions (if substantive comments received, rulemaking process restarts)
- Appearance before the Senate and House Joint Committee on Public Health, Welfare, and Labor for rule review
- Appearance before the Administrative Rules and Regulations Subcommittee of the Arkansas Legislative Council (ALC) for rule review and approval
- Appearance before the full ALC for final approval
- Signature of the final rule by the "Director" of the Arkansas Department of Health, who serves as the Secretary of the Arkansas State Board of Health; and filing and distribution of the final rule.

The rulemaking process generally takes at least one year to complete. The length of time required to complete each step varies depending on many factors.

II. Sealed Source and Device (SS&D) Evaluation Program – NOT APPLICABLE

29. Prepare a table listing new and amended (including transfers to inactive status) SS&D registrations of sources and devices issued during the review period. The table heading should be:
SS&D Manufacturer,
Registry Distributor or Product Type Date Type of
Number Custom User or Use Issued Action

30. Please include information on the following questions in Section A, as they apply to the SS&D Program:
Technical Staffing and Training - Questions 2-9
Technical Quality of Licensing Actions - Questions 18-22
Technical Quality of Incident and Allegation Activities - Questions 23-24

III. Low-level Radioactive Waste Disposal Program – NOT APPLICABLE

31. Please include information on the following questions in Section A, as they apply to the

Low-Level Radioactive Waste Disposal Program:
Technical Staffing and Training - Questions 2-9
Status of Materials Inspection Program - Questions 10-14
Technical Quality of Inspections - Questions 15-17
Technical Quality of Licensing Actions - Questions 18-22
Technical Quality of Incident and Allegation Activities - Questions 23-24

IV. Uranium Recovery Program – NOT APPLICABLE

32. Please include information on the following questions in Section A, as they apply to the Uranium Recovery Program:
Technical Staffing and Training - Questions 2-9
Status of Materials Inspection Program - Questions 10-14
Technical Quality of Inspections - Questions 15-17
Technical Quality of Licensing Actions - Questions 18-22
Technical Quality of Incident and Allegation Activities - Questions 23-24

MATERIALS REQUESTED TO BE AVAILABLE FOR
THE ON-SITE PORTION OF AN IMPEP REVIEW

Please have the following information available for use by the IMPEP review team when they arrive
at your office:

- List of open license cases, with date of original request, and dates of follow-up actions.

- List of licenses terminated during review period.

- Copy of current log or other document used to track licensing actions.

- List of all licensing actions completed during the review period (sorted by license reviewer, if possible).

- Copy of current log or other document used to track inspections.

- List of all inspections completed during the review period (sorted by inspector, if possible).

- List of inspection frequencies by license type.

- List of all allegations occurring during the review period. Show whether the allegation is open or closed and whether it was referred by NRC.

- List of all licenses that your agency has imposed additional security requirements upon.

ALSO, PLEASE HAVE THE FOLLOWING DOCUMENTS AVAILABLE:

- All State regulations

- Statutes affecting the regulatory authority of the State program

- Standard license conditions

- Technical procedures for licensing, model licenses, review guides

□ SS&D review procedures, guides, and standards

□ Instrument calibration records

□ Inspection procedures and guides

□ Inspection report forms

□ Documented training plan, if applicable

□ Records of results of supervisory accompaniments of inspectors

□ Emergency plan and communications list

□ Procedures for investigating allegations

□ Procedures for investigating incidents

□ Enforcement procedures, including procedures for escalated enforcement, severity levels, civil penalties (as applicable)

□ Job descriptions