



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON NUCLEAR WASTE
WASHINGTON, DC 20555 - 0001

ACNWR-0217

March 11, 2005

The Honorable Nils J. Diaz
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

SUBJECT: STATUS OF THE AGREEMENT STATE PROGRAM AND THE INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM (IMPEP)

Dear Chairman Diaz:

At its 156th Meeting, December 13-14, 2004, the NRC staff briefed the Advisory Committee on Nuclear Waste (ACNW) on the status of the Agreement State Program. The Committee heard details about the staff's use of the Integrated Materials Performance Evaluation Program (IMPEP) to oversee and review the Agreement State Program. IMPEP results are used to determine the adequacy and compatibility of individual Agreement State programs. IMPEP was started in 1995 to replace the staff's previous prescriptive review program.

Currently there are 33 Agreement States regulating about 17,000 licensees. Two additional States are pursuing agreements. Several other States have made inquiries asking for background information about the Agreement State Program.

In the past 10 years, IMPEP has evolved in positive ways. Two new policy statements have been issued (Statement of Principles and Policy for the Agreement State Program, Policy Statement on Adequacy and Compatibility of Agreement State Programs). New procedures have been developed for processing an agreement (SA-700). A revised management directive has been put in place for these reviews (Management Directive 5.6, "Integrated Materials Performance Evaluation Program") and policy, rules, and guidance have been implemented (Management Directives 5.3 and 6.3).

Furthermore, Agreement States are increasingly involved in administration of IMPEP and NRC's materials program. Agreement State staff members have participated as members of:

- IMPEP review teams,
- Management Review Boards,
- The topical working groups, e.g., portable gauge rulemaking, working group and steering committee for materials security, and the national source tracking system, and
- Since 1997 they have taken a leadership role in the Organization of Agreement States.

Two key factors make the IMPEP program proactive rather than reactive and risk informed and performance based rather than prescriptive. First, the collaboration of independent Agreement State staff members and NRC's regional materials program staff on review teams provides for consistency among the States and lets them share their results and experiences. This interaction has led to improved risk-informed approaches and procedures.

Second, IMPEP ratings and responses use a graded approach with progressively more significant levels of action. The response levels go from Monitoring and Heightened Oversight (Procedure SA-122) to Probation (Procedure SA-113). NRC also can initiate an Emergency Suspension (Procedure SA-122), Suspension of an Agreement (Procedure SA-114), and Termination of an Agreement (Procedure SA-115). Future inspection frequency and the depth of interaction with Agreement State Program staff are determined by review of a program's performance. Additionally, the number of review team members is scaled to be proportional to the size of an Agreement State program. This graded approach allows for effective oversight and identification of Agreement State programs needing attention, so that corrective measures can be implemented before significant problems arise.

The staff told the Committee that the Agreement States face challenges in several areas:

- Integrating the regulation of Atomic Energy Act (AEA) materials with naturally occurring and accelerator-produced radioactive materials.
- Recruiting and retaining sufficient numbers of adequately trained staff to implement radiation protection programs.
- State financial constraints.

The Agreement State Program staff is aware of and effectively monitors these issues. The NRC staff tracks nuclear program events quarterly to identify emerging trends under these issues. The Committee will follow up on these problem areas in future briefings.

In summary, the Committee believes that Agreement State Program staff is providing effective and timely support to and oversight of individual Agreement State programs.

Sincerely,

/RA/

Michael T. Ryan
Chairman