

June 8, 2005

MEMORANDUM TO: Martin J. Virgilio, Deputy Executive Director
for Materials, Research, State and Compliance Programs
Office of the Executive Director for Operations

Paul H. Lohaus, Director
Office of State and Tribal Programs

Jack R. Strosnider, Director
Office of Nuclear Material Safety and Safeguards

Karen D. Cyr, General Counsel

FROM: John G. Zabko, Health Physicist */RA By Dennis K. Rathbun for/*
Office of State and Tribal Programs

SUBJECT: JUNE 14, 2005 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of periodic meetings with Agreement States has been scheduled for **Tuesday, June 14, 2005, from 2:00 p.m. to 4:00 p.m. EST, in One White Flint North, Room O-8-B4**. The periodic meeting summary reports of the following States will be discussed: Washington and Florida (Attachments 1 and 2). Two additional topics will be discussed: the status of the Kansas Agreement State Program (Attachment 3) and a proposed new policy for Integrated Materials Performance Evaluation Program (IMPEP) refresher training (Attachment 4). An Updated FY 2005 IMPEP Tracking Chart and Updated Heightened Oversight and Monitoring Chart are also attached (Attachments 5 and 6).

In accordance with Management Directive 5.6, the meeting is open to the public. The Agenda for this meeting is attached (Attachment 7).

If you have any questions or need additional information, please feel free to contact me at (301) 415-2308.

Attachments:
As stated

cc: Craig Jones, UT
Organization of Agreement
States Liaison to the MRB

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RECOMMENDATION TO PLACE THE KANSAS AGREEMENT STATE PROGRAM ON HEIGHTENED OVERSIGHT

The Staff is requesting Management Review Board (MRB) approval to place the Kansas Agreement State Program on Heightened Oversight due to slow progress in developing rules compatible with the NRC.

Background

During the April 2002 IMPEP review, the team found that Kansas had not promulgated rules to meet the requirements of 20 NRC amendments. At the time of the IMPEP review, the Bureau was developing a complete revision of the regulations with an expected effective date of December 2002. Bureau management chose to revise the regulations in whole rather than adopt individual NRC amendments partly because the required amendments entail conforming changes to a significant number of references. The amendments were drafted, and were under review by Agencies outside the Bureau at the time of the IMPEP.

Interviews conducted with the staff during the 2002 IMPEP confirmed that the Bureau uses license conditions when regulations were not adopted within the 3-year time frame. The team noted that license conditions or other legally binding requirements were being used to meet the requirements for the 20 overdue regulations. The review team examined eight licenses selected at random. All eight contained the appropriate license conditions required as alternatives for applicable regulations. The team concluded that the Bureau satisfactorily uses license conditions as alternatives to regulations. However, these legally binding requirements had not been submitted for NRC review. The team recommended that the Bureau submit the license conditions to the NRC for review. In 2002, the Bureau agreed to send in all of its license conditions for NRC review. To date the Bureau has not sent in the license conditions for review. A recent STP request to the Bureau for submission of the license conditions has not resulted in any action by the Bureau. In order to determine if these license conditions fully meet the intent and compatibility requirements for these 20 NRC amendments, they need to undergo NRC review.

Since the 2002 IMPEP review, two additional amendments have come due for Agreement State adoption which Kansas has not adopted.

During the two NRC periodic meetings conducted since the 2002 IMPEP, the status of this rule package has remained unchanged. Based on the periodic meeting discussions and other interactions with the Bureau, NRC staff had been informed that the complete revision of the Bureau regulations, has not progressed in the review process external to the Bureau.

Discussion

As of June 1, 2005, the Bureau has sent in four regulations for review, but has yet to send in any of the license conditions mentioned previously. The four regulations are under NRC review. Due to the large number of overdue regulations and the inability to verify the compatibility and adequacy of the license conditions, staff recommends that the MRB place the Kansas Agreement State Program on heightened oversight. The Kansas program is due for an IMPEP review in Spring of 2006. This period of heightened oversight will afford the Bureau the extra level of program visibility to ensure that by the 2006 IMPEP this deficiency can be adequately addressed.

**RECOMMENDATION TO MODIFY THE IMPEP REFRESHER TRAINING
REQUIREMENTS FOR IMPEP QUALIFIED STAFF**

The staff recommends that the Management Review Board (MRB) modify the Integrated Materials Performance Evaluation Program (IMPEP) refresher training requirements, for currently qualified team members, to more accurately meet the needs of the program and reduce the cost to the Agency.

As stated in Management Directive 5.10, page 14, all qualified IMPEP team members must attend refresher training every 2 years. The current requirements are causing the Agency to expend resources due to a training requirement that no longer fits the needs of the IMPEP program. With approximately 125 currently IMPEP qualified team members, refresher training costs Agency resources in two ways:

- **Cost in dollars** - During the 2003 refresher training held at Headquarters, the agency spent \$18,000 in travel funds to bring the Agreement State IMPEP team members to Headquarters for the refresher training. This number does not account for the funds spent on NRC staff travel from the Regions.
- **Cost in staff time** - Each attendee losses three work days and the NRC staff preparation for the training occupies two staff for five days. In addition, there is a detrimental effect on the NRC Regions and Agreement State programs, due to the loss of a large number of staff required to be out of the office for 3 days to attend the training.

In practice, the IMPEP program does not use half of the currently qualified IMPEP team members. In an average year, the IMPEP program reviews use approximately 40 team members. This number is derived as follows:

- 8 State/NRC Region reviews a year, 4 members a team.....32 staff
- Extra members for occasional 5 member teams or substitutions.....8 staff

Total 40 staff

In the earlier years of the IMPEP program, it was deemed prudent to have a large body of qualified individuals. Over time, with experience of many reviews, staff has been able to accurately project the amount of personnel needed to complete the scheduled reviews in a given year. This greatly reduces the need for IMPEP refresher training of all qualified staff.

Each year the program uses four categories of staff to fill the 40 positions needed in a typical year's IMPEP schedule. These categories are: Regional State Agreement Officers (RSAO), senior STP staff, senior Agreement State staff, and newly trained IMPEP team members. The first three categories of staff do not need yearly refresher training due to their frequency of participating in IMPEP reviews. In addition, the requirement for refresher training for the senior staff is questionable, being that these staff are used as lecturers during the refresher training.

The new IMPEP team members, included in the list below, receive new member training in January of the year they will participate in a review, and do not need refresher training due to the recentness of their training. The actual number of staff that need refresher training per year is zero to ten as shown below.

Each year the program uses:

	<u>Positions Filled</u>
• 4 Regional State Agreement Officers (3 reviews/year).....	12
• 5 senior STP staff to team lead or team member (1 or 2 reviews/year).....	5-10
• 5 senior Agreement State staff (1 or 2 reviews/year).....	5-10
• 8 new team members (attended new member training that year).....	8

Total 30-40 staff

In addition, staff has developed new and more efficient ways to distribute information to IMPEP team members that in the past was covered by refresher training.

- The IMPEP flyer, distributed quarterly, at a minimum.
- IMPEP CDs are distributed to all team members that contain updated IMPEP information, all IMPEP procedures, lessons learned and good practices.
- A yearly IMPEP topic is included at the STP/NRC Regional counterpart meeting.
- A “just in time training” lesson package has been developed to meet emergent needs. This review package can be sent electronically or given one-on-one to meet the needs of staff.
- An IMPEP team teleconference with the IMPEP project manager is conducted before all reviews.

Proposal

1. Conduct refresher training (in January) only for staff who are participating in an IMPEP review that year, and who meet the following criteria:
 - Did not go out on an IMPEP review the previous year, or
 - Have not received IMPEP new member training that year.
2. Modify Management Directive 5.10 to reflect this change.

**Agenda for Management Review Board Meeting
June 14, 2005, 2:00 p.m. - 4:00 p.m., O-8-B4**

1. Announcement of Public Meeting to all attendees and request for identification of any members of the public participating in this meeting.
2. MRB Chair convenes meeting. Introduction of MRB members, Agreement State representatives, and other participants.
3. Discussion of Periodic Meetings:
 - a. Washington (February 8, 2005) - ML050700061 - Campbell/Siurano
 - b. Florida (February 3, 2005) - ML050480021 - Minnick/Schneider
4. Status of Regulations in the State of Kansas
5. Proposed Implementation of New Policy for IMPEP Refresher Training
6. Establishment of Precedents/Lessons Learned
7. Adjournment

Invitees: Martin Virgilio, EDO
Paul Lohaus, STP
Jack Strosnider, NMSS
Karen Cyr, OGC
Craig Jones, UT
Gary Robertson, WA
William Passetti, FL
Thomas Conley, KS

Sheri Minnick, RI
Dennis Rathbun, STP
Vivian Campbell, RIV
John Zabko, STP
Osiris Siurano, STP
Kathleen Schneider, STP
JTobin, STP

