

July 28, 2005

ALL AGREEMENT STATES, MINNESOTA, PENNSYLVANIA

ENHANCEMENTS IN IMPEP PROGRAM (STP-05-059)

Based on recent Integrated Materials Performance Evaluation Program (IMPEP) experience, lessons learned from review of individual State rules, and recent discussion on State involvement in NRC rulemaking activities, three areas within our cooperative programs were identified as deserving further attention.

First, I want to assure you that NRC staff will continue to engage the States early in our rule development process and to anticipate, identify and resolve issues prior to submittal of final rules to the Commission. If an issue or area of concern to Agreement States has not been fully resolved, NRC staff will continue to ensure that the issue or concern is clearly articulated and made known to the Commission for its consideration in reaching a decision.

Additionally, we plan to revise and expand guidance for IMPEP reviews especially in the area of "Compatibility Requirements" to address three areas. One area will be to assure better integration and connectivity between the results of the NRC's review of regulations and the status of State regulations covered during IMPEP reviews. In particular, the staff will:

1. Add to the scope of IMPEP reviews the status of State actions to address comments resulting from NRC's review of State regulations;
2. Emphasize the need for States to submit proposed and final rules to NRC for review if they have not been submitted for review by the State; and
3. Ensure the State Regulation Status Data Sheet and IMPEP report section regarding rule status reflects the same information regarding rules adopted by the State and overdue rules.

A second area will be to assure that IMPEP reviews are evaluating and drawing conclusions that an Agreement State is both adopting and implementing rules in a manner compatible with the NRC. For example, the IMPEP review would identify and address cases where a State may adopt a compatible rule, but implement the rule in a manner that is not consistent with NRC's implementation of the rule. A third area deals with inconsistencies between indicator findings for the Non-Common Performance Indicator "Compatibility Requirements" and the overall compatibility determination made during IMPEP reviews for individual States. To help address

this, the staff will revise the guidance in the Office of State and Tribal Programs Procedure SA-107, *Reviewing the Non-Common Performance Indicator, Compatibility Requirements*, accordingly. The revised procedure will provide more guidance to the primary reviewer, the Management Review Board, and the Agreement States for understanding the basis for IMPEP team findings in this area across all IMPEP reviews. When drafted, we will share the revised procedures with you for review and comment.

If you have any questions regarding this correspondence, please contact me or the individual named below.

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