

September 20, 2005

Mr. Jim Craig, Director
Office of Health Protection
Mississippi State Department of Health
570 East Woodrow Wilson
P. O. Box 1700
Jackson, MS 39215-1700

Dear Mr. Craig:

On August 9, 2005, the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the Mississippi Agreement State Program. The MRB found the Mississippi program adequate to protect public health and safety and compatible with the U.S. Nuclear Regulatory Commission's (NRC) program.

Section 5.0, page 12, of the enclosed final report presents the IMPEP team's recommendations for the State of Mississippi. We request your evaluation and response to the two recommendations that pertain to the Division of Radiological Health (the Division) within 30 days from receipt of this letter.

During the MRB meeting, the Division's high staff turnover was discussed. Specifically, the Radioactive Materials Branch (the Branch) under the Division has had a large staff turnover for many years. Although there were no vacant positions during the on-site review, five Health Physics (HP) staff members departed during this review period (May 26, 2001, to May 20, 2005). The high staff turnover was also identified and discussed during the 2001 IMPEP. At that time, the review team found that four HP staff members had departed since the 1997 IMPEP.

We commend the Division's and the Branch's efforts to maintain their program while at the same time devoting significant effort in hiring and training new staff. Nevertheless, we believe that the challenges the Branch faces today in retaining and training the current HP staff are greater than those four years ago because of the recent loss of several experienced HP staff members. The MRB concurred with the review team's recommendation that the State should take additional actions, such as increasing salary and benefits, to stabilize staffing and ensure continued successful program implementation.

Based on the results of the current IMPEP review, the next full review will be in approximately four years.

J. Craig

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I appreciate the courtesy and cooperation extended to the IMPEP team during the review. I also wish to acknowledge your continued support for the Radiation Control Program and the excellence in program administration demonstrated by your staff, as reflected in the team's findings. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

/RA B. Mallett Acting For/

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

Enclosure:
As stated

cc: Robert Goff , Director
Division of Radiological Health

Thomas Conley, KS
Organization of Agreement States
Liaison to the MRB

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
REVIEW OF MISSISSIPPI AGREEMENT STATE PROGRAM

May 16-20, 2005

Final Report

U.S. Nuclear Regulatory Commission

1.0 INTRODUCTION

This report presents the results of the review of the Mississippi radiation control program. The review was conducted during the period May 16-20, 2005, by a review team comprised of technical staff members from the Nuclear Regulatory Commission (NRC) and the State of Ohio. Team members are identified in Appendix A. The review was conducted in accordance with the "Implementation of the Integrated Materials Performance Evaluation Program and Rescission of Final General Statement of Policy," published in the Federal Register on October 16, 1997, and the February 26, 2004, NRC Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)." Preliminary results of the review, which covered the period May 26, 2001, to May 20, 2005, were discussed with Mississippi management on May 20, 2005.

A draft of this report was issued to Mississippi for factual comment on June 17, 2005. The State responded by E-mail from Mr. Robert Goff on July 12, 2005. The Management Review Board (MRB) met to consider the proposed final report on August 9, 2005. The MRB found the Mississippi radiation control program adequate to protect public health and safety and compatible with NRC's program.

The Mississippi Agreement State program is administered by the Division of Radiological Health (the Division) with the day-to-day operations managed by the Radioactive Materials Branch (the Branch). The Division also contains the X-Ray Branch and the Environmental, Emergency Response, Radioactive Waste, and Transportation Branch. The Division is part of the Office of Health Protection under the Mississippi Department of Health (the Department), which is overseen by the State Health Officer, who is appointed by the State Board of Health. The Division is under the supervision of the Division Director and the Branch is under the supervision of the Health Physicist Administrative (Branch Director). The Branch Director reports directly to the Division Director. An organization chart for the Department is included as Appendix B. At the time of the review, the Mississippi Agreement State program regulated 325 specific licenses authorizing Agreement materials. The review focused on the 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 Mississippi.

In preparation for the review, a questionnaire addressing the common and non-common performance indicators was sent to the Division on February 10, 2005. The Division provided its response to the questionnaire on April 28, 2005. A copy of the questionnaire response may be found on the NRC's Agencywide Documents Access and Management System (ADAMS) using the accession number (ML051470240).

The review team's general approach for conduct of this review consisted of: (1) examination of Mississippi's response to the questionnaire; (2) review of applicable Mississippi statutes and regulations; (3) analysis of quantitative information from the Division licensing and inspection data bases; (4) technical review of selected files; (5) field accompaniments of three Mississippi inspectors; and (6) interviews with staff and management to answer questions or clarify issues. The review team evaluated the information that it gathered against the IMPEP performance criteria for each common and applicable non-common indicator and made a preliminary assessment of the radiation control program's performance.

Section 2 below discusses the Division's actions in response to recommendations made following the previous review. Results of the current review for the IMPEP common performance indicators are presented in Section 3. Section 4 discusses results of the applicable non-common performance indicators, and Section 5 summarizes the review team's findings and recommendations. Recommendations made by the review team are comments that relate directly to performance by the Division. A response is requested from the Division to all recommendations in the final report.

2.0 STATUS OF ITEMS IDENTIFIED IN PREVIOUS REVIEWS

During the previous IMPEP review, which concluded on May 25, 2001, two recommendations were made and the results were transmitted to Dr. F. E. Thompson, Jr., State Health Officer, Mississippi Department of Health, on August 28, 2001. The team's review of the current status of these recommendations is as follows:

1. The review team recommends that the Division give priority to filling the vacant HP Senior position.

Current Status: All staff positions including the vacant HP Senior position have been filled. This recommendation is closed.

2. The review team recommends the Division not delay unnecessarily promulgation of regulations required for compatibility in anticipation of NRC issuing final regulations or issuance of final State Suggested Regulations.

Current Status: The Division changed its policy regarding adoption of regulations and no longer delays adoption of regulations required for compatibility. The Division has no overdue regulations with the exception of the Generally Licensed Device Rule. This recommendation is closed.

3.0 COMMON PERFORMANCE INDICATORS

IMPEP identifies five common performance indicators to be used in reviewing both NRC Regional and Agreement State programs. These indicators include: (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities.

3.1 Technical Staffing and Training

Issues central to the evaluation of this indicator include the Branch's staffing level and staff turnover, as well as the technical qualifications and training histories of the staff. To evaluate these issues, the review team examined the Division's questionnaire responses, interviewed Division management and staff, reviewed job descriptions, training plans, and training records. The review team also considered any possible workload backlogs in evaluating this indicator.

The Branch is authorized for five positions. These positions include the Branch Director and four Health Physicist (HP) positions. The HP positions may be filled with a HP trainee, HP or

HP Senior depending on a qualified candidate's education and experience. A HP trainee may be promoted to a HP and then a HP Senior with satisfactory performance within three years. All HP staff and the Branch Director perform duties in licensing, inspection, and event response. At the time of the review, the HP positions were filled with one HP trainee, two HPs and one HP Senior. They have been working with the Branch for three, four, six and 19 months respectively.

Successful candidates for technical positions are required to have a bachelor's degree in science for a HP trainee and a master's degree and/or additional radiation-related work experience for positions beyond the HP trainee position. The review team noted that the Division has been able to recruit qualified staff. All the four HP staff members have a bachelor's degree in science. Among them, two also have a master's degree in science.

Five staff members departed during the review period for higher paying positions. One member departed in 2001, one in 2002, one in 2003 and two in 2004. These departures included four HP Senior staff members and one HP trainee. For two periods of time after the 2001 IMPEP review, one between January and May 2002 and the other between July and October 2004, the Branch consisted of the Branch Director and one HP Senior staff member. At the time of the review, the Branch has filled all the HP vacancies.

As a result of the large staff turnover, the Branch Director assumed the responsibilities of an HP Senior by conducting the licensing actions and inspections, by conducting reciprocity inspections, and by responding to incidents. Also, the Branch Director hired, developed, and trained new staff during the review period. The Division Director assumed the lead responsibility for updating regulations. There were no significant workload backlogs identified during the review period. The Division's efforts to maintain their program while at the same time devoting significant effort in hiring and training new staff by experienced staff throughout the review period are commendable.

The high staff turnover was identified and discussed during the 2001 IMPEP. The 2001 IMPEP review team identified that four HP staff members had departed since the 1997 IMPEP. The current review team discussed the continued high turnover in staff facing the program with both the Branch Director and Division Director. The review team found that the Branch has been facing the challenges of losing experienced staff and the resource intensive task of training new staff for many years. The challenges the Branch faces today are greater than those four years ago because of the recent loss of several experienced HP staff members to higher paying positions. The review team concluded that the continued high turnover in staff is mainly due to the low salary of the HP positions. The review team also concluded that without an increase in salary structure, the Branch will continue to face the challenges in the future.

The Division Director indicated that the State has had no pay increase for the past four years and that the HP salaries have remained comparatively low to those in other neighboring States. The review team believes that the radiation control area requires a high degree of technical experience and training. Without competitive salaries, the program is vulnerable to further losses of staff which could adversely affect performance. The review team recommended, and the MRB concurred, that the State take additional actions, such as increasing salary and benefits, to stabilize staffing and ensure continued successful program implementation.

The review team noted that the Division had stable funding during the review period. The Division collects about 75 percent of the budget from materials fees, and the other funding mainly comes from grants and contracts from the Food and Drug Administration, Department of Energy, and Environmental Protection Agency.

The Branch has a documented training plan that is consistent with the requirements in the NRC/Organization of Agreement States Training Working Group Report and NRC's Inspection Manual Chapter (MC) 1246. The Branch also has on-the-job training to supplement the course work so that individuals may broaden their work areas. As a part of the Branch's in-house and on-the-job training processes, new staff members are assigned increasingly complex licensing duties under the direction of senior staff and accompany experienced inspectors during increasingly complicated inspections. New staff inspectors are assigned independent inspections after demonstrating competence during accompaniment evaluations by the senior staff. The Branch Director determines when the individual is proficient and can perform the assigned tasks independently. The inspection reports and licensing actions of new staff are also closely reviewed by the Branch Director and Division Director.

The staff training records demonstrated that the Branch is committed to a high degree of training for the staff. The Division Director indicated that upper level management has been very supportive of staff training opportunities. In addition, the review team noted the apparent benefits to the Branch from staff participation in the IMPEP reviews. The Branch Director has participated on four IMPEP review teams. The knowledge and experience gained from participation of these reviews have been reflected back to the Branch.

Although the Branch has the training plan for its HP staff, the review team noted that the HP staff did not have a qualification journal similar to that described in NRC MC 1246 for inspectors and license reviewers. The review team discussed the benefit of having a qualification journal for the HP staff with the Branch Director and Division Director. The review team believes that having a qualification journal would provide a single written document for the HP staff so that they know what training courses need to be completed and what on-the-job training requirements need to be fulfilled before they can become a qualified inspector or a license reviewer for specific categories of licenses. The qualification journal may also be used by management to support their bases before they certify their HP staff as qualified inspectors or license reviewers. After the discussion, the Division Director indicated that he will consider the use of a qualification journal for the HP staff.

The Department is governed by the State Board of Health which is a 13-member Board appointed for staggered terms by the Governor. Duties of the Board include approving all rules and regulations of the Department and providing policy direction for the Department. The Board appoints a State Health Officer for the Department. In addition, the Radiation Advisory Council serves in an advisory capacity to the Department staff and the Board. The Radiation Advisory Council members, as required by legislation, are nominated by the professional organizations and appointed by the Board. Conflicts of interest are addressed under Mississippi Code 25-4-101, which is known as the "Ethics in Government" law and establishes the Ethics Commission. If there was a potential conflict of interest, the Department would request a ruling from the Commission and would follow their guidance.

Based on the IMPEP evaluation criteria, The review team recommended, and the MRB concurred, that Mississippi's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory.

3.2 Status of Materials Inspection Program

The review team focused on five factors in reviewing this indicator: inspection frequency, overdue inspections, initial inspection of new licenses, the timely dispatch of inspection findings to licensees, and the performance of reciprocity inspections. The review team's evaluation is based on the Division's questionnaire responses relative to this indicator, data gathered independently from the Division's licensing and inspection data tracking system, the examination of completed licensing and inspection casework, and interviews with the Division's management and staff.

The review team reviewed the Division's inspection priorities during the review period and found that the inspection frequencies for various types of licenses were as frequent as, or more frequent than, NRC MC 2800 for similar license types.

The review team reviewed the inspection frequency for 132 Priority 1, 2, 3 and initial licenses during the review period. Of these licenses 52 were initial licenses. The review team found that two of the initial licenses have not been inspected within 12 months, but both of these licenses were issued to out-of-state companies who have not performed work in Mississippi since the license was issued. Of the remaining licenses, two were not inspected within 25 percent of the required frequency. Both of these licensees have been inspected and are not currently overdue. Considering the large staff turnover and loss of experienced staff, the Branch's efforts in performing timely inspections of their licensees throughout the review period are commendable.

The timeliness of the issuance of inspection findings was evaluated during the inspection casework review. Of the 15 inspections reviewed, all of the inspection reports were issued within 30 days. In most cases the inspection reports were issued within seven days of the inspection.

To evaluate the reciprocity inspection program, the review team evaluated a spreadsheet of reciprocity inspections, reciprocity inspection files, and the Division's response to the IMPEP questionnaire. During the review period, the Division consistently exceeded the reciprocity inspection goals as established in NRC MC 1220.

Currently, the Division does not have civil penalty authority. The Division Director indicated that he is considering another attempt for legislative approval of civil penalties during the next legislative session.

Based on the IMPEP evaluation criteria, The review team recommended, and the MRB concurred, that Mississippi's performance with respect to the indicator, Status of Materials Inspection Program, be found satisfactory.

3.3 Technical Quality of Inspections

The review team evaluated the inspection reports, enforcement documentation, inspection field notes and interviewed inspectors for 15 materials inspections conducted during the review period. Casework of seven of the Division's materials inspectors was reviewed. The casework covered inspections of various license types, including: medical institutions, high dose-rate remote afterloaders (HDR), well logging, industrial radiography, portable gauges, academic, nuclear pharmacy, and mobile nuclear medicine. A list of the inspection casework files reviewed is included in Appendix C.

Based on the casework review, the review team found that inspectors were reviewing previous open items and past violations during the inspections. For the cases reviewed, inspection reports were thorough, complete, and of high quality, with sufficient documentation to ensure that licensee's performance with respect to health and safety was acceptable. Inspection findings led to appropriate and prompt regulatory action. Team inspections were conducted as appropriate. Based on the casework review, routine inspections covered all aspects of the licensees' radiation programs.

The Division uses a detailed inspection checklist for each license type. These checklists are also used as the inspection report. The inspection reports are in a format that covers all inspection areas for each inspection type. The Division's written inspection procedure is consistent with the inspection guidance outlined in NRC MC 2800. Although the inspectors were following the inspection procedure by using an inspection checklist in conducting inspections, the review team noted that some new inspectors were not familiar with the written inspection procedure. The review team discussed the need for the inspectors to be familiar with the written inspection procedure with the Division management. The management indicated that they will ensure that the new inspectors have a copy of the procedure and are familiar with it in addition to the checklist.

The review team found that the Division maintains a sufficient number of various models of survey instruments to perform radiological surveys of materials licensees. Survey meters are calibrated at least annually by the manufacturer. The review team examined instrumentation and observed that the survey instruments in the Division's office at the time of the on-site review were calibrated and operable. The Branch also has access to a well equipped on-site laboratory, which includes a high purity germanium detector, liquid scintillation counting system, and alpha/beta counting system.

Three inspectors were accompanied by an IMPEP team member during the week of April 11, 2005. The accompaniments included inspections of a portable gauge licensee and two medical institutions. The facilities inspected are identified in Appendix C. During the accompaniments, each inspector demonstrated appropriate inspection techniques and knowledge of the regulations. The inspectors were trained, prepared, and thorough in their inspections of the licensees' radiation safety programs. Overall, each inspector utilized good health physics practices; their interviews with licensee personnel were performed in an effective manner; and their inspections were adequate to assess radiological health and safety at the licensed facilities.

During the review period, the Branch Director performed inspector accompaniments with each of the staff at least annually. New inspectors are accompanied more often as part of their training. Although the Branch Director has performed a significant number of inspections, he is not accompanied on an annual basis in order to evaluate his performance. The Branch Director

was one of the three inspectors accompanied by the IMPEP team member. The review team discussed the inclusion of the Branch Director in the inspector accompaniment schedule with the Division Director and Branch Director. The Division Director indicated that the Division plans to include the Branch Director in the annual inspector accompaniment schedule.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB concurred, that Mississippi's performance with respect to the indicator, Technical Quality of Inspections, be found satisfactory.

3.4 Technical Quality of Licensing Actions

The review team examined completed licensing casework and interviewed the staff for 23 specific licenses. Licensing actions were evaluated for completeness, consistency, proper isotopes and quantities used, qualifications of authorized users, adequate facilities and equipment, and operating and emergency procedures sufficient to establish the basis for licensing actions. Licenses were evaluated for overall technical quality including accuracy, appropriateness of the license, its conditions, and tie-down conditions. Casework was evaluated for timeliness; adherence to good health physics practices; reference to appropriate regulations; financial assurance; consideration of enforcement history on renewals; pre-licensing visits, peer or supervisory review as indicated; and independent review. The files were checked for retention of necessary documents and supporting data.

The licensing casework was selected to provide a representative sample of licensing actions that were completed during the review period. The sampling included the following types: well logging, industrial radiography, medical (institution, private practice, and broad scope), nuclear pharmacy, academic/educational broad scope, panoramic irradiator, research and development, nuclear laundry, commercial service, portable and fixed gauge licenses. Types of licensing actions selected for evaluation included six new licenses, including one denial, five amendments to existing licenses, seven renewals including one simple renewal with the rest being renewals in its entirety and five license terminations. A list of the licensing casework evaluated is included in Appendix D.

Overall, the review team found that the licensing actions were thorough, complete, consistent, of high quality and properly addressed health and safety issues. The staff followed appropriate licensing guides during the review process to ensure that licensees submit information necessary to support their request. Deficiencies were addressed in memorandums to the applicant/licensee after the applicant/licensee was notified via telephone conversations regarding the deficiencies identified. The deficiencies contained appropriate regulatory language and were noted in the license file. The use of license templates by the staff resulted in notable consistency between reviewers. There were no licensing backlogs identified during the review period. Considering the large staff turnover and loss of experienced staff, the Branch's efforts to keep the licensing casework current are commendable.

The Branch issues licenses for periods identical with the inspection frequency for licenses having Priorities 1-3, with renewals in their entirety every five years. Licenses with lower priorities are issued for a period of five years. Inspectors review the license for accuracy during each inspection. The Division Director related that this process enabled the Branch to be more knowledgeable concerning the licensee's operations, and helped to assure public health and safety.

All licensing actions receive peer review from other staff members before being reviewed by the Branch Director. This process serves as a valuable learning tool for the junior staff members. The peer and supervisory reviews contributed to the notable consistency between reviewers and the high quality of licensing documents. All licenses evaluated were signed by the Division Director.

The review team found that actions terminating licenses were well documented, and included the appropriate material survey records. The license terminations evaluation revealed a cross-section of licensees possessing both sealed sources and unsealed material. All files reviewed contained documentation of proper disposal or transfer. The Branch terminated the one nuclear laundry facility that was being decommissioned during the previous review period. The termination satisfied the criteria to release this site for unrestricted use. No potentially contaminated sites formerly licensed by NRC have been identified in Mississippi.

The review team noted that although Radiation Safety Officers (RSO) were identified on nuclear pharmacy and medical/academic broad scope licenses, they were not specifically identified on nuclear medicine or industrial licenses. The review team also noted that based on the information contained in licensing files, it was not clear who is the primary reviewer of a licensing action. After discussion with the Branch Director and Division Director, the Branch will consider identifying the RSO on nuclear medicine and industrial licenses. In addition, the Branch will consider keeping a copy of the routing slip identifying the primary reviewer in the file or putting initials of the primary reviewer responsible for the action on the licensee's correspondence.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB concurred, that Mississippi's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

3.5 Technical Quality of Incident and Allegation Activities

In evaluating the effectiveness of the Division's actions in responding to incidents, the review team examined the Division's response to the questionnaire relative to this indicator, evaluated selected incidents reported for Mississippi in the Nuclear Materials Events Database (NMED) against those contained in the Division files, and evaluated the casework and supporting documentation for 18 radioactive materials incidents. A list of the incident casework examined, with case-specific comments, is included in Appendix E. The review team also reviewed the Branch's response to one allegation received during the review period involving radioactive materials, which was referred to the Division by the NRC.

The review team discussed incident and allegation policies, file documentation, the Branch's incident and allegation tracking system, NMED, and notification of incidents to the NRC Operations Center, with the Branch Director and staff.

Responsibility for initial response and follow-up actions to materials incidents and allegations rests with the Division staff. When a radiological incident is reported, the Branch Director, and others as appropriate, determine the approach to be taken regarding the incident.

The Branch had 23 materials incidents during the review period, 18 of which were reportable under NRC criteria. All 18 reportable incidents were selected for review. The incidents

included: overexposures; lost and leaking sources; fires; stolen, damaged, and lost gauges; transportation accidents; a stuck well logging tool; and a misadministration. The review team determined that the Branch's response to incidents was generally complete and comprehensive. Initial responses were prompt and well coordinated and the level of effort was commensurate with the health and safety significance. The Branch dispatched inspectors for on-site investigations when appropriate, with one exception, and took suitable enforcement action and follow-up action. Actions were coordinated with other agencies, as appropriate.

The exception to appropriate on-site investigations involved a brachytherapy misadministration. The Branch communicated well with the licensee after the incident but did not dispatch inspectors to the medical facility. This incident was initially identified as a potential Abnormal Occurrence by the NRC but was later determined to not meet the criteria. The review team discussed the "trust but verify" concept with Division management and they agreed that an on-site investigation would have been appropriate, in this case. The Branch Director stated that future misadministration responses will include dispatch of inspectors to better assess the incident.

The review team noted that the Branch had lost the one HP trained on submitting incident reports electronically into the NMED database. Since that staff member's departure, the Branch submits incident reports to the NMED contractor, who enters the information into the database. The review team noted that one 2004 incident involving a lost source was not in NMED. The Branch Director indicated that it was an oversight and reported the incident to the NRC Operations Center and NMED, during the on-site review. All other significant incidents were reported to the NRC Operations Center and NMED. Incidents are documented on an incident summary form developed by the Branch. The consistent use of the form resulted in excellent, concise documentation of incidents.

During the review period, the Division was referred one allegation by the NRC. No allegations were received directly by the Division. The review team evaluated the Division's response to the allegation and determined that the Branch took prompt and appropriate action in response to the concerns raised and appropriately protected the alleged's identity. The results of the allegation investigation were not, however, provided to the alleged, as appropriate. The Division Director indicated that the failure to close out with the alleged was an oversight and that the Division's normal practice is to ensure that allegeders are appropriately informed of investigation results. The Division's allegation procedure was updated, during the on-site review, to emphasize the importance of allegation closure with allegeders. The review team recommended, and the MRB concurred, that the Division should ensure that individuals who make allegations are informed of the resolution of their concerns.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB concurred, that Mississippi's performance with respect to the indicator, Technical Quality of Incident and Allegation Activities, be found satisfactory.

4.0 NON-COMMON PERFORMANCE INDICATORS

IMPEP identifies four non-common performance indicators to be used in reviewing Agreement State programs: (1) Compatibility Requirements, (2) Sealed Source and Device Evaluation Program, (3) Low-Level Radioactive Waste Disposal Program, and (4) Uranium Recovery Program. The Mississippi Agreement State program does not cover uranium recovery

operations, so only the first three non-common performance indicators were applicable to this review.

4.1 Compatibility Requirements

4.1.1 Legislation

Along with their response to the questionnaire, the Division provided the review team with the opportunity to review copies of legislation that affects the radiation control program. The Mississippi Radiation Protection Law of 1976 designates the Department as the radiation control agency for the State. This act gives the Department specific powers and duties among which are authority to promulgate regulations, issue licenses, perform inspections, and collect fees. A second act, House Bill 712, that took effect in 2000, increased the schedule of fees for radiological health licenses and permits.

4.1.2 Program Elements Required for Compatibility

The Mississippi regulations pertaining to radiation control apply to all ionizing radiation, whether emitted from radionuclides or devices. Mississippi requires a license for possession, and use, of all radioactive material, including naturally-occurring materials. To the extent possible, the Mississippi regulations follow the Suggested State Regulations of the Conference of Radiation Control Program Directors, Inc. (CRCPD).

The review team examined the procedures used in the Division's regulatory process and found that the public and other interested parties are offered an opportunity to comment on proposed regulations. The NRC is provided an opportunity to comment on draft and final regulations.

After preparation of a package of draft regulations, the Division obtains approval from the Radiation Advisory Council and then the Board of Health. Draft regulation packages are classified as "intent to adopt" and are mailed to registered interested parties, such as licensees and NRC. The Board of Health approves the final regulations and sends the regulations to the Secretary of State for adoption. Meetings of the Radiation Advisory Council and the Board of Health are open to the public. Typically, rule promulgation requires 6 to 12 months due to scheduling of the Radiation Advisory Council and Board of Health meetings. There are no sunset laws in Mississippi and the regulations have no expiration date. The Division Director indicated that draft regulations are posted on the Department's web site. The State legislature is not involved in the rulemaking process.

The review team evaluated the Division's responses to the questionnaire, reviewed the status of regulations required to be adopted by the State under the Commission's adequacy and compatibility policy and verified the adoption of regulations with data obtained from the Mississippi State Regulation Status sheet, maintained by the Office of State and Tribal Programs. A recommendation was made to the Division during the previous IMPEP review to not unnecessarily delay the promulgation of regulations while waiting for issuance of Suggested State Regulations or in anticipation of NRC issuance of final regulations. The Division changed its policy regarding adoption of regulations and no longer delays adoption of regulations required for compatibility. All regulations required to be adopted are currently in effect, with one exception, the following regulation package:

“Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material,” 10 CFR Parts 30, 31, 32 amendments (65 FR 79162) were due for adoption on February 16, 2004 [RATS ID 2001-1].

Mississippi has had a general license registration program in effect since 1963. The rule contains the basic provisions of the NRC regulation but is more restrictive and includes periodic inspections of general licenses. The Division Director indicated that Mississippi does not wish to adopt a less protective general license rule in order to meet the NRC regulation compatibility designation. Mississippi supports the efforts of the Organization of Agreement States, Inc. (OAS) and the CRCPD to appeal to the Commission for a change to the general license regulation compatibility designation, as expressed in a May 7, 2005, letter from the Division Director to the NRC. In the letter, the Director identified how the State’s general license program has repeatedly proved its effectiveness over the years and has served the State well.

Since the issue of adopting the rule is likely to be raised during the upcoming IMPEP reviews as a result of the on-going efforts, the review team recommended, and the MRB concurred, that the NRC provide guidance to IMPEP teams as to how to document review findings for those States which have not adopted the general license rule.

The Division will also need to address the following regulations in upcoming rulemakings or by adopting alternate legally binding requirements:

- “Financial Assurance for Materials Licensees” - Parts 30, 40, 70 (68 FR 57327) that became effective December 3, 2003. [RATS ID 2003-1]
- “Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments” - Part 71 (69 FR 3697) that became effective October 1, 2004. [RATS ID 2004-1]

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB concurred, that Mississippi’s performance with respect to the indicator, Compatibility Requirements, be found satisfactory.

4.2 Sealed Source and Device (SS&D) Evaluation Program

During the review period, the Division did not perform any SS&D evaluations. The review team did not review the State's SS&D program even though Mississippi currently has authority in this area.

4.3 Low-Level Radioactive Waste (LLRW) Disposal Program

In 1981, the NRC amended its Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Authority and Assumption Thereof by States Through Agreement" to allow a State to seek an amendment for the regulation of LLRW as a separate category. Those States with existing Agreements prior to 1981 were determined to have continued LLRW disposal authority without the need of an amendment. Although Mississippi has LLRW disposal authority, NRC has not required States to have a program for licensing a LLRW disposal facility until such time as the State has been designated as a host State for a LLRW disposal facility. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, they are expected to put in place a regulatory program which will meet the criteria for an adequate and compatible LLRW disposal program. There are no plans for a LLRW disposal facility in Mississippi. Accordingly, the review team did not review this indicator.

5.0 SUMMARY

As noted in Sections 3 and 4 above, the review team found Mississippi's performance to be satisfactory for all performance indicators reviewed. Accordingly, the review team recommended, and the MRB concurred, that the Mississippi Agreement State program to be found adequate to protect public health and safety and compatible with NRC's program. Based on the results of the current IMPEP review, the review team recommended, and the MRB concurred, that the next full review should take place in approximately four years.

Below is a summary list of recommendations, as mentioned earlier in the report, for evaluation and implementation by the State and the NRC.

RECOMMENDATIONS FOR THE STATE:

1. The review team recommends that the State take additional actions, such as increasing salary and benefits, to stabilize staffing and ensure continued successful program implementation. (Section 3.1)
2. The review team recommends that the State ensure that individuals who make allegations are informed of the resolution of their concerns. (Section 3.5)

RECOMMENDATIONS FOR THE NRC:

1. The review team recommends that the NRC provide guidance to IMPEP teams as to how to document review findings for those States which have not adopted the general license rule. (Section 4.1.2)

LIST OF APPENDICES AND ATTACHMENTS

Appendix A	IMPEP Review Team Members
Appendix B	Mississippi Organization Charts
Appendix C	Inspection Casework Reviews
Appendix D	License Casework Reviews
Appendix E	Incident Casework Reviews
Attachment	July 12, 2005, E-mail from Robert Goff Mississippi's Response to Draft IMPEP Report

APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	Area of Responsibility
Kevin Hsueh, STP	Team Leader Technical Staffing and Training
Mike Snee, OH	Status of Materials Inspection Program Technical Quality of Inspections Inspector Accompaniments
Jacqueline Cook, RIV	Technical Quality of Licensing Actions
James Lynch, RIII	Technical Quality of Incident and Allegation Activities Compatibility Requirements

APPENDIX B
MISSISSIPPI ORGANIZATION CHARTS
ADAMS: ML051510051

APPENDIX C

INSPECTION CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS ONLY; NO SIGNIFICANT COMMENTS WERE IDENTIFIED BY THE IMPEP TEAM.

File No.: 1

Licensee: Burns Cooley Dennis, Inc.

License Type: Portable Gauge

Inspection Date: 4/12/05

License No.: MS-619-01

Inspection Type: Routine

Priority: 5

Inspector: JE

Comment:

Inspector accompanied by IMPEP team member.

File No.: 2

Licensee: Central Mississippi Medical Center

License Type: Medical Institution

Inspection Date: 4/13/05

License No.: MS-722-01

Inspection Type: Routine

Priority: 3

Inspector: BS

Comment:

Inspector accompanied by IMPEP team member.

File No.: 3

Licensee: Rankin Medical Center

License Type: Medical Institution

Inspection Date: 4/14/05

License No.: MS-311-01

Inspection Type: Routine

Priority: 3

Inspector: JA

Comment:

Inspector accompanied by IMPEP team member.

File No.: 4

Licensee: Southern Inspection Services, Inc.

License Type: Industrial Radiography, Temporary Job Site

Inspection Date: 9/25/03

License No.: MS-747-01

Inspection Type: Routine

Priority: 1

Inspector: ML

File No.: 5

Licensee: Perf-O-Log Services, Inc.

License Type: Well Logging

Inspection Date: 2/10/05

License No.: MS-664-01

Inspection Type: Routine

Priority: 3

Inspector: BS

File No.: 6

Licensee: Entergy Operations, Inc.

License Type: Industrial Radiography, Fixed Facility

Inspection Date: 4/6/05

License No.: MS-681-02

Inspection Type: Routine

Priority: 2

Inspectors: JA & BS

File No.: 7

Licensee: Delta Cancer Center
License Type: HDR
Inspection Date: 7/15/04

License No.: MS-881-01
Inspection Type: Routine
Priority: 2
Inspector: BS

File No.: 8

Licensee: Hattiesburg Clinic - Endocrinology Department
License Type: Medical Private Practice - Written Directive Required
Inspection Date: 5/18/04

License No.: MS-961-01
Inspection Type: Initial
Priority: 3
Inspector: KW

File No.: 9

Licensee: Cardinal Health
License Type: Nuclear Pharmacy
Inspection Date: 7/29/04

License No.: MS-493-04
Inspection Type: Routine
Priority: 2
Inspector: BS

File No.: 10

Licensee: University of Southern Mississippi
License Type: Academic Broad Scope
Inspection Date: 11/7/02

License No.: MS-EBL-03
Inspection Type: Routine
Priority: 3
Inspector: JG

File No.: 11

Licensee: Team Inspections, Inc.
License Type: Industrial Radiography, Temporary Job Site
Inspection Date: 4/17/03

License No.: MS-949-01
Inspection Type: Initial
Priority: 1
Inspector: ML

File No.: 12

Licensee: Helix Health, LLC
License Type: Mobile Nuclear Medicine
Inspection Date: 7/16/03

License No.: MS-906-03
Inspection Type: Initial
Priority: 3
Inspector: KW

File No.: 13

Licensee: University of Mississippi Medical Center
License Type: Medical Broad Scope
Inspection Dates: 6/20/03 & 6/23-27/03

License No.: MS-MBL-01
Inspection Type: Routine
Priority: 2
Inspectors: KW, ML, MV

File No.: 14

Licensee: Coastal Wireline Services, Inc.
License Type: Well Logging
Inspection Date: 8/6/04

License No.: TX LO4239
Inspection Type: Reciprocity
Priority: N/A
Inspectors: JA and BS

File No.: 15

Licensee: Conam Inspection & Engineering Services, Inc.
License Type: Industrial Radiography, Temporary Job Site
Inspection Date: 2/10/05

License No.: LA-10986-L01
Inspection Type: Reciprocity
Priority: N/A
Inspectors: JA and JE

INSPECTOR ACCOMPANIMENTS

The following inspector accompaniments were performed prior to the on-site IMPEP review:

Accompaniment No.: 1

Licensee: Burns Cooley Dennis, Inc.
License Type: Portable Gauge
Inspection Date: 4/12/05

License No.: MS-619-01
Inspection Type: Routine
Priority: 5
Inspector: JE

Accompaniment No.: 2

Licensee: Central Mississippi Medical Center
License Type: Medical Institution
Inspection Date: 4/13/05

License No.: MS-722-01
Inspection Type: Routine
Priority: 3
Inspector: BS

Accompaniment No.: 3

Licensee: Rankin Medical Center
License Type: Medical Institution
Inspection Date: 4/14/05

License No.: MS-311-01
Inspection Type: Routine
Priority: 3
Inspector: JA

APPENDIX D

LICENSE CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS ONLY; NO SIGNIFICANT COMMENTS WERE IDENTIFIED BY THE IMPEP TEAM.

File No.: 1

Licensee: Team Inspection Services
License Type: Industrial Radiography (Temp. Job Sites)
Date Issued: 9/27/02

License No.: MS-949-01
Amendment No.: NA
Type of Action: New
License Reviewer: JG

File No.: 2

Licensee: Turner Industrial Technical, LLC
License Type: Industrial Radiography (Temp. Job Sites)
Date Issued: 11/22/02

License No.: MS-950-01
Amendment No.: NA
Type of Action: New
License Reviewer: JG

File No.: 3

Licensee: Hattiesburg Clinic
License Type: Medical Private Practice
Date Issued: 10/22/03

License No.: MS-961-01
Amendment No.: NA
Type of Action: New
License Reviewer: BS

File No.: 4

Licensee: University of Southern Mississippi
License Type: Research & Development - Educational
Date Issued: 10/1/04

License No.: MS-976-01
Amendment No.: NA
Type of Action: New
License Reviewer: BS

File No.: 5

Licensee: PHC Cleveland, Inc. d/b/a Bolivar Medical Center
License Type: Limited Medical Institution
Date Issued: 5/10/05

License No.: MS-522-01
Amendment No.: 20
Type of Action: Amendment
License Reviewer: BS

File No.: 6

Licensee: St. Dominic - Jackson Memorial Hospital
License Type: Limited Medical Institution
Date Issued: 6/7/02

License No.: MS-039-01
Amendment No.: 73
Type of Action: Amendment
License Reviewer: BS

File No.: 7

Licensee: Perf-O-Log, Inc.
License Type: Well Logging SNM Tracer & Sealed Sources
Date Issued: 4/29/05

License No.: MS-664-01
Amendment No.: 16
Type of Action: Amendment
License Reviewer: BS

File No.: 8

Licensee: Longview Inspection, Inc.
License Type: Industrial Radiography
Date Issued: 7/26/04

License No.: MS-784-01
Amendment No.: 26
Type of Action: Amendment
License Reviewer: BS

File No.: 9

Licensee: Wolverton Engineering
License Type: Portable gauge
Date Issued: 4/13/05

License No.: MS-885-01
Amendment No.: 6
Type of Action: Renewal
License Reviewer: JE

File No.: 10

Licensee: Lampkin Construction Company, Inc.
License Type: Portable gauge
Date Issued: 5/20/04

License No.: MS-964-01
Amendment No.: NA
Type of Action: New
License Reviewer: JA

File No.: 11

Licensee: Mississippi State University
License Type: Educational Broad Scope
Date Issued: 3/15/04

License No.: MS-EBL-02
Amendment No.: 54
Type of Action: Renewal
License Reviewer: BS

File No.: 12

Licensee: University of Mississippi Medical Center
License Type: Medical Institution Broad Scope
Date Issued: 9/17/04

License No.: MS-MBL-01
Amendment No.: 42
Type of Action: Renewal
License Reviewer: BS

File No.: 13

Licensee: Medline Industries, Inc.
License Type: Irradiators
Date Issued: 6/28/04

License No.: MS-661-01
Amendment No.: 21
Type of Action: Termination
License Reviewer: BS

File No.: 14

Licensee: Baker Hughes Oilfield Operations, Inc. d/b/a Baker Atlas
License Type: Well logging SNM Tracer & Sealed Sources
Date Issued: 11/2/01

License No.: MS-385-01
Amendment No.: 32
Type of Action: Renewal
License Reviewer: BS

File No.: 15

Licensee: American Industrial Testing & Analytical Laboratories
License Type: Industrial Radiography (Temp Job Site)
Date Issued: 1/4/05

License No.: MS-738-01
Amendment No.: 26
Type of Action: Renewal
License Reviewer: ML

File No.: 16

Licensee: Chevron USA Products Company
License Type: Fixed gauges
Date Issued: 3/22/05

License No.: MS-413-01
Amendment No.: 39
Type of Action: Renewal
License Reviewer: JA

File No.: 17

Licensee: The Stern Cardiovascular Center
License Type: Medical Private Practice
Date Issued: 4/29/05

License No.: MS-969-01
Amendment No.: 1
Type of Action: Renewal
License Reviewer: DY

File No.: 18

Licensee: Dunn Roadbuilders
License Type: Portable gauge
Date Issued: 4/5/05

License No.: MS-870-01
Amendment No.: 9
Type of Action: Amendment
License Reviewer: DY

File No.: 19

Licensee: Cardinal Health 412, Inc.
License Type: Nuclear Pharmacy
Date Issued: 9/13/04

License No.: MS-853-01
Amendment No.: 20
Type of Action: Termination
License Reviewer: JA

File No.: 20

Licensee: GE Automation Services
License Type: Commercial Service
Date Issued: 3/4/03

License No.: MS-578-01
Amendment No.: 10
Type of Action: Termination
License Reviewers: JG/BS

File No.: 21

Licensee: Bayer Crop Science
License Type: Research & Development
Date Issued: 5/10/05

License No.: MS-928-01
Amendment No.: 6
Type of Action: Termination
License Reviewer: BS

File No.: 22

Licensee: UniTech Services Group, Inc.
License Type: Nuclear Laundry
Date Issued: 5/9/02

License No.: MS-495-01
Amendment No.: 24
Type of Action: Termination
License Reviewers: JG/BS

File No.: 23

Licensee: Delta Heart & Vascular Center
License Type: Medical - Private Practice
Date Issued: NA

License No.: NA
Amendment No.: NA
Type of Action: New
License Reviewer: BS

APPENDIX E

INCIDENT CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT ARE INCLUDED FOR COMPLETENESS ONLY; NO SIGNIFICANT COMMENTS WERE IDENTIFIED BY THE IMPEP TEAM.

File No.: 1

Licensee: Longview Inspection

Date of Incident: 9/24/01

Investigation Date: 10/4/01

License No.: MS-784-01

NMED Number: 010870

Type of Incident: Overexposure

Type of Investigation: On-Site

File No.: 2

Licensee: Southern Inspection Services

Date of Incident: 10/4/01

Investigation Date: 10/4/01

License No.: MS-747-01

NMED Number: N/A

Type of Incident: Vehicle Accident

Type of Investigation: Telephone

File No.: 3

Licensee: H&H X-Ray Services

Date of Incident: 12/21/01

Investigation Date: 12/21/01

License No.: MS-622-01

NMED Number: 020155

Type of Incident: Overexposure

Type of Investigation: Telephone

File No.: 4

Licensee: Greenville Manufacturing

Date of Incident: 12/3/01

Investigation Date: 1/17/02

License No.: GL-300

NMED Number: 020476

Type of Incident: Lost Gauges

Type of Investigation: On-Site

File No.: 5

Licensee: Mississippi Fabritek

Date of Incident: 1/9/02

Investigation Date: 2/19/02

License No.: GL-286

NMED Number: 020478

Type of Incident: Fire

Type of Investigation: On-Site

File No.: 6

Licensee: Burns Cooley Dennis, Inc.

Date of Incident: 7/25/02

Investigation Date: 7/25/02

License No.: MS-619-01

NMED Number: 020706

Type of Incident: Stolen Gauge

Type of Investigation: On-Site

File No.: 7

Licensee: J. H. Parker Construction Co., Inc.

Date of Incident: 12/2/02

Investigation Date: 12/3/02

License No.: MS-911-01

NMED Number: 021201

Type of Incident: Damaged Gauge

Type of Investigation: On-Site

File No.: 8

Licensee: Rouse Rubber Industries, Inc.
Date of Incident: 5/16/02
Investigation Date: 5/16/02

License No.: GL-330
NMED Number: 020796
Type of Incident: Fire
Type of Investigation: On-Site

File No.: 9

Licensee: Mississippi Dept. of Transportation
Date of Incident: 6/3/02
Investigation Date: 6/3/02

License No.: MS-261-01
NMED Number: 020795
Type of Incident: Damaged Gauge
Type of Investigation: On-Site

File No.: 10

Licensee: Southern Inspection Services
Date of Incident: 2/14/03
Investigation Date: 2/14/03

License No.: MS-747-01
NMED Number: 030142
Type of Incident: Overexposure
Type of Investigation: Telephone

File No.: 11

Licensee: Schlumberger Technology Corp.
Date of Incident: 8/17/03
Investigation Date: 8/17/03

License No.: MS-463-01
NMED Number: 030790
Type of Incident: Stuck Logging Tool
Type of Investigation: Telephone

File No.: 12

Licensee: Professional Service Industries, Inc.
Date of Incident: 9/4/03
Investigation Date: 9/4/03

License No.: MS-639-01
NMED Number: 030716
Type of Incident: Stolen Gauge
Type of Investigation: Telephone

File No.: 13

Licensee: Lampkin Construction Co., Inc.
Date of Incident: 4/5/04
Investigation Date: 4/5/04

License No.: MS-964-01
NMED Number: 040238
Type of Incident: Stolen Gauge
Type of Investigation: On-Site

File No.: 14

Licensee: Chem-Bio Labs, Inc.
Date of Incident: 3/23/00
Investigation Dates: 3/23/00 and 3/18/04

License No.: MS-473-01
NMED Number: 040323
Type of Incident: Lost Source
Type of Investigation: On-Site

Comment:

This incident had not been previously reported to the NRC or NMED. It was reported to NRC on 5/17/05, during the IMPEP review.

File No.: 15

Licensee: Imaging Center of Columbus
Date of Incident: 5/20/04
Investigation Date: 5/20/04

License No.: MS-327-01
NMED Number: 040385
Type of Incident: Leaking Source
Type of Investigation: Telephone

File No.: 16

Licensee: Gallet and Associates

Date of Incident: 6/21/04

Investigation Date: 6/21/04

License No.: AL-991

NMED Number: 040464

Type of Incident: Damaged Gauge

Type of Investigation: On-Site

File No.: 17

Licensee: Baptist Memorial Hospital-North MS

Date of Incident: 11/10/04

Investigation Date: 11/10/04

License No.: MS-232-02

NMED Number: 040828

Type of Incident: Misadministration

Type of Investigation: Telephone

Comment:

An on-site investigation was not conducted for this incident which was identified as a potential Abnormal Occurrence.

File No.: 18

Licensee: Thomas Wood Preserving, Inc.

Date of Incident: 12/19/00

Investigation Dates: 12/19/00 and 5/2/05

License No.: GL-266

NMED Number: 050323

Type of Incident: Lost Source

Type of Investigation: On-Site

Comment:

During an inspection in 2005, the Division determined that this lost source, identified as lost in 2000, was never reported to NRC or NMED. It was reported on 5/10/05.

Attachment
July 12, 2005, E-mail from Robert Goff
Mississippi's Response to Draft IMPEP Report

ADAMS: ML052020248