



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

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COMMISSIONER

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Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
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Dear Dr. Sollenberger:

We have reviewed your letter dated October 21, 2005, and attached recommendations from the Integrated Materials Performance Evaluation Program (IMPEP) review team's draft report. Enclosed are the Texas Department of State Health Services' (DSHS) responses to the recommendations made in this draft report.

DSHS has taken actions to improve the adequacy of the Agreement State Program since the NRC placed the program on "heightened oversight" in April of 2005. All regulations have been adopted, the "Health Physicist" job classification is being implemented to assure recruitment and retention of staff, and all incidents are being timely reported to NRC. The inspector positions in Abilene and Corpus Christi are being filled with experienced inspectors. I therefore request that the DSHS Agreement State Program be removed from "heightened oversight" status.

In addition, the Texas Radiation Advisory Board (TRAB) has expressed concern over the statement made on page 5 of the IMPEP draft report, which states, "The review team determined that there appears to be no conflict-of-interest." The TRAB chairman will address the Board's concerns to NRC directly.

If you have any questions, please contact me at 512-834-6660.

Sincerely,

Richard Bays
Assistant Commissioner for Regulatory Services
Texas Department of State Health Services

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SISP Review Complete

RIDS: SPD
STP-002 Template

Responses to Draft IMPEP Issues

Overall Program Finding - Adequate but Needs Improvement; Compatible

Technical Staffing and Training

Draft Finding - Satisfactory but Needs Improvement

1. The program has a significant number of vacancies and a high turnover rate. The following items combined will help to alleviate the current issues with retention and recruitment of staff.

- The Legislature authorized new state classifications for a Health Physicist I, II, and III at salary groups B14, B16, and B18, respectively. Our technical staff are currently in the Environmental Specialist III, IV, and V classifications at salary groups B9, B11, and B13, respectively. Program managers have completed revising job descriptions to reflect the recommended reclassifications in preparation for job audits and the requested changes will be submitted for approval by the end of November.
- The Legislature authorized a cost of living raise for all state employees. The raise is 4% in FY06 and an additional 3% in FY07.
- The program is drafting an intern program plan to be used as a recruitment tool.
- The program will be developing a succession plan that will involve several components:
 - formalizing a career ladder so staff will know what types of and how much training and experience are necessary to move upward in the program,
 - finalizing and implementing the intern program,
 - developing an internal program for cross-training.
- At the time of the IMPEP review, the program had six vacancies. The vacant uranium inspector in the Environmental Monitoring Group was filled effective October 1, 2005. The QA reviewer in the Radiation PSQA Group was filled in November. In the Radioactive Materials Group, individuals have been hired for the inspector positions in Corpus Christi and Canyon, Texas field offices. Posting for the vacant inspector position in Houston has been completed and interviews have been scheduled with qualified applicants. The request for reclassification audit for the Abilene position has been included in the health physicist reclassification

2. The uranium program is understaffed. Managers will evaluate the existing uranium facility closure workload along with the potential workload associated with the expected upturn in the uranium industry. The managers are developing a plan to

request additional FTE and FTE cap as well as contract staff to address the pending workload.

Status of Materials Inspection Program

Draft Finding - Satisfactory but Needs Improvement

1. Initial inspections are overdue and 18% of priority 1, 2, and 3 inspections are overdue. The program will re-evaluate current inspection frequencies with a goal of making them consistent with NRC's frequencies, except for additional authorized use sites. The program will evaluate the IT reports that are available to determine if those reports are actually pulling data that the program intends. The program will also assign specific inspections to specific inspectors, emphasizing overdue and initial inspections.

2. Scheduling of Inspections.

The field inspectors will review the radiation database no later than the third week of the month for what will be coming due the following month. The inspector will schedule the inspections for the month in the following order:

Initial priority 1, 2, 3

Due priority 1, 2, 3

Initial priority 4, 5

Due priority 4, 5

Present overdue initial priority 1, 2, 3

Presently overdue priority 1, 2, 3

Presently overdue initial priority 4, 5

Presently overdue 4, 5

The inspectors will also include on their schedule any inspections that will be due during the month and not scheduled for an inspection.

The manager of the Radioactive Material Inspection Group or the Manager of the Radiation Branch will review the proposed schedule and make any necessary modifications to the inspection schedule.

At the end of the month the inspectors will submit a report of any of the scheduled inspections that were not performed for the month.

Inspectors in regions that have no overdue inspections will, at the Radioactive Material Inspection Group Manager's direction, perform inspections in regions that have overdue inspections.

Technical Quality of Inspections

Draft finding - Satisfactory but Needs Improvement

1. During inspections, overall observations of the licensee's radiation safety program were not made. This issue was discussed with inspectors during the bi-annual meeting in October 2005. The program will formalize the inspector training process to refocus attention on observations of the licensee's radiation safety program, rather than prescriptive reviews of licensee's documentation. The training process will balance the need for appropriate evaluation of the licensee's operations, including an audit of records, with the need for adequate documentation to support any violations found. The Inspector's Manual will be updated to incorporate this process.
2. Annual inspector accompaniments were not all completed for each year of the review period. The program will develop a formal method of tracking and accomplishing annual accompaniments. The annual accompaniment form will be revised and the accompaniment procedures modified to reflect observations of the inspector's evaluation of the licensee's operations, including an audit of records, balanced with adequate documentation to support any violations found.
3. Issuance of inspection findings is not all being done within 30 days of the inspection. The Radiation PSQA Group is conducting an overall evaluation of the QA review process to identify and eliminate inefficiencies. This evaluation will result in a process that, along with filling a vacant QA reviewer position, will ensure appropriate turn-around time for inspection findings to be sent to the licensee.
4. DSHS radiation program is benchmarking inspection procedures and programs to use as guidance in revisions to the DSHS program. Revisions would encourage performance-based inspection, emphasizing these methods:
 - Observation
 - Asking for demonstrations
 - Interviews
 - Confirmatory surveys

Technical Quality of Licensing Actions

Draft finding – Satisfactory

We suggest deleting the paragraph from the final report, since it does not reflect a systematic programmatic finding. If the paragraph stays in the final report, we recommend that it be modified as shown below.

"The team noted that the Department does not routinely verify the disposition of large sealed sources when a licensee requests removal of the sealed source from their license. This was *discussed with Radiation Licensing Group management and they agreed that they should do routinely verify that sealed sources reach their intended disposal or transfer site prior to removing them from a license, but had overlooked the disposition verification step in one instance of a license amendment, rather than a license termination. In the future, the licensing staff will verify that the sources have been received by the recipient prior to deleting it from the senders license."*

Responses to Incidents and Allegations

Draft finding - Satisfactory but Needs Improvement

Reports to NMED were not being made in a timely manner. Staff members in the Incident Investigation program are all newly hired. They are being trained in the proper methods for reporting events to NMED. Events reported to the program after June 2005 have been reported in a timely manner. In order to improve reporting performance to NRC and NMED, Incident Investigation Program Procedures are being revised to clarify reporting requirements to NRC and NMED.

Legislation and Program Elements Required for Compatibility

Draft finding - Satisfactory

Sealed Source and Device Program

Draft finding - Satisfactory

The review team recommended that the Department develop and implement an inspection program to verify that the QA/QC programs are actually implemented by the licensee.

Texas DSHS will develop and implement a program, in congruence with accepted programs developed by other states and/or the USNRC, to verify that the manufacturer is implementing QA/QC requirements in sealed source and device safety evaluations.

Staff from the Licensing and Inspection Units will work together to develop an inspection procedure for QA/QC programs at licensed manufacturers, and will most likely perform joint inspections of those facilities, with sealed source and device reviewer staff taking the lead on the verification of the QA/QC programs.

From the draft report, 4.2.2, paragraph four - This included the need to amend some sheets that indicated that Special Nuclear Materials may be distributed under a general

license. The Department is currently working with the manufacturer to delete this from the registrations.

We recommend that this paragraph be removed from the final IMPEP report since it does not fall within the prescribed review criteria of "All SS&D evaluations completed since the last IMPEP review are candidates for review. Additionally it is not a recommendation or suggestion and does not bear on the overall finding related to this indicator.

Uranium Recovery Program

Draft finding—Satisfactory

The review team recommended that the Department conduct an evaluation of the uranium recovery program and hire the necessary staff to adequately address the workload.

Management staff has been conducting a workload assessment in this program and will be proposing the addition of staff, primarily in the areas of geology, civil engineering, and environmental health physics and the addition of other areas of expertise as needed through contract personnel.

The review team recommended that the Department prepare necessary supporting documentation identifying the basis for the licensing actions associated with reclamation plans for the three conventional mills.

Texas Department of State Health Services staff members continue to rely on NUREG-1620, Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978 and SA-900, Termination of Uranium Milling Licenses in Agreement States as technical and administrative guidance for the review of closure activities at the three tailings impoundments in South Texas. Individual uranium staff members review ongoing monitoring reports and other licensee closure activities using the technical guidance of NUREG-1620. When all closure activities are completed at a site, the sum total of staff correspondence to the individual license files should reflect the application of the guidance of NUREG-1620 for the closure activities specific to each site. For some topics, such as an Alternate Concentration Limit amendment request, a single-topic summary report will be produced which will both support the license amendment action and also serve to support the final Completion Review Report, required by SA-900. It is also intended that each review discipline will write a Final Technical Review that will summarize all of the technical findings at each tailings impoundment based on NUREG-1620 guidance.