

January 27, 2006

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons

FROM: Luis A. Reyes */RA/*
Executive Director for Operations

SUBJECT: ANNUAL REPORT OF AGREEMENT STATES' AND
REGIONS' RADIOACTIVE MATERIAL PROGRAMS

The June 30, 1997, Staff Requirements Memorandum (SRM), on SECY-97-054, "Final Recommendations on Policy Statements and Implementing Procedures for: 'Statement of Principles and Policy for the Agreement State Programs' and 'Policy Statement on Adequacy and Compatibility of Agreement State Programs,'" directed staff to provide the Commission annual status reports on the performance of Agreement State radioactive materials programs. This annual report on the status of the Agreement States' and the U.S. Nuclear Regulatory Commission's (NRC) Regional radioactive material programs is being provided to the Commission in response to the SRM. (This report includes the Regions since the Integrated Materials Performance Evaluation Program (IMPEP) is applied to both Agreement State and Regional programs.) Enclosure 1 is the Summary of Agreement States' Adequacy and Compatibility Status as of the end of Calendar Year 2005. Depending on the State's performance, review cycles under the IMPEP range from one to four years. All Agreement State programs were found to be adequate to protect public health and safety. However, five States were found to have issues as a result of IMPEP reviews conducted in 2005. California, Georgia, Rhode Island, and Texas were found to be adequate, but needing improvement. Two Agreement State programs (California and Illinois) were found to not be compatible with NRC's program. All Regional programs were found to be adequate.

The California, Illinois, Kansas, New York, and Texas programs are currently operating under IMPEP's Heightened Oversight process. Under the Heightened Oversight process, each State is required to develop a Program Improvement Plan (Plan) to address IMPEP findings and recommendations, which is submitted to the NRC for approval prior to implementation. The States on Heightened Oversight submit status reports prior to bimonthly conference calls conducted by the Office of State and Tribal Programs (STP) with State program management and staff to discuss program status. In addition, the Kentucky and Georgia programs are being monitored by NRC in response to several compatibility issues. Each of these programs is discussed below.

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California:

A special review of the California program took place from May 23-26, 2005. This review was to verify the status of the State's actions in satisfying the milestones identified in its Plan. On August 11, 2005, the Management Review Board (MRB) met to consider the findings of the special review. Although progress was noted in achieving some of the milestones of the Plan, less progress had been achieved in addressing the large number of overdue regulations. The overdue regulations and staffing issues are the main reasons for the program continuing on Heightened Oversight. A follow-up review of the California program is scheduled for March 27-31, 2006.

Illinois:

The MRB met on June 28, 2005, to consider the proposed final report from the April 4-8, 2005, IMPEP review of the Illinois program. Based on the status of regulations in the State of Illinois, the review team recommended, and the MRB agreed, that the State was not compatible with NRC's program. As a result, the MRB decided that the Illinois program should be placed on Heightened Oversight. A follow-up review of the Illinois program is scheduled for June 5-6, 2006.

Kansas:

The Kansas program, previously operating under the Monitoring process, was put on Heightened Oversight following the June 14, 2005, MRB meeting. The MRB decided to escalate the degree of NRC oversight of the Kansas program based on the lack of progress in addressing overdue regulations since the April 23-26, 2002, IMPEP review. Other concerns with program funding and staffing were also factors in the MRB's decision. The NRC has sent a letter to State management highlighting the progress the program has made recently in promulgating rules as well as requesting continued support of the program. A routine IMPEP review of the Kansas program is scheduled for April 17-21, 2006.

New York:

Due to the number of overdue NRC amendments by all four Agencies that comprise the New York program, the MRB placed the State on Heightened Oversight at the November 3, 2005, MRB meeting. A number of NRC amendments that were identified during the 2002 IMPEP review of the New York program remain overdue. A routine IMPEP review of the New York program is scheduled for July 2006.

Texas:

The Texas program was placed on Heightened Oversight during the April 13, 2005, MRB meeting. The MRB's decision was based on information regarding staffing, timeliness of inspections, event reporting, and status of regulations identified during the March 15, 2005, periodic meeting with the State. A routine IMPEP review of the Texas program occurred September 7-16, 2005. The MRB met to consider the results of this review on December 14, 2005. Although the Texas program has exhibited progress in addressing the concerns identified at the March periodic meeting, the review team recommended and the MRB agreed to continue the period of Heightened Oversight until sustained satisfactory performance is demonstrated. A follow-up review of the Texas program is scheduled for early in Fiscal Year (FY) 2007.

Kentucky:

The Kentucky program is currently operating under the Monitoring process. Programs on Monitoring participate in quarterly conference calls conducted by STP with State program management to discuss program status. The Kentucky program was placed on Monitoring following the October 19, 2005, MRB meeting to discuss the results of the periodic meeting held

with representatives from the Commonwealth of Kentucky on July 14, 2005. Issues central to the MRB's decision to place the program on Monitoring include staff turnover, timeliness of inspections, and documentation of activities associated with incident and allegation investigation.

Georgia:

The Georgia program, while not placed on Heightened Oversight or Monitoring as a result of their FY 2005 IMPEP review, was found adequate but needs improvement. During the IMPEP review, sufficient program issues were found in the indicators "Technical Quality of Inspections" and "Sealed Source and Device Evaluation Program" which caused the MRB to rate the program adequate but needs improvement. However, the MRB did not believe that these issues rose to a level warranting Heightened Oversight or Monitoring. The States progress to address these issues will be monitored by the NRC at the next NRC-State periodic meeting in 18 months.

The New Hampshire, Nevada and Rhode Island programs were removed from increased NRC oversight during FY 2005. The New Hampshire program was removed from the Heightened Oversight process on November 2, 2005. During the July 2005 follow-up IMPEP review, significant improvements in the State's performance were noted by the review team. Based on the improvements, the review team recommended, and the MRB agreed, that the period of Heightened Oversight should be discontinued. However, the MRB directed that periodic meetings be conducted between the NRC and the New Hampshire program on an annual basis until the next IMPEP review tentatively scheduled for FY 2008.

The Nevada program was removed from the Monitoring process on June 20, 2005. During the March 2005 routine IMPEP review, significant improvements in the State's performance were noted by the review team. Based on the improvements, the review team recommended and the MRB agreed that the period of Monitoring should be discontinued.

The Rhode Island program was removed from the Monitoring process on September 20, 2005, based on program improvements and the results verified during a periodic meeting held between NRC and Rhode Island representatives on April 21, 2005.

Enclosure 2 presents the Summary of the NRC Regional Program Adequacy Status as of the last day of FY 2005. Enclosure 3 presents a summary of IMPEP report issuance against the 104-day goal. Enclosure 4 presents a summary of activities related to States in Heightened Oversight or Monitoring.

The NRC and the Agreement States continue to work in cooperation to achieve the goals of the IMPEP program. Inclusion of the Agreement States in the IMPEP review process facilitates an exchange of radiation protection knowledge. The NRC and the Agreement States are both able to benefit from the IMPEP program's blending of State and Federal resources.

Enclosures:
As stated

cc: SECY
OGC
OCA
OPA
CFO

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SUMMARY OF AGREEMENT STATES' ADEQUACY AND COMPATIBILITY STATUS
(As of close of Calendar Year (CY) 2005)

STATE	FISCAL YEAR OF REVIEW	ADEQUACY FINDING	COMPATIBILITY FINDING
Alabama	2002	adequate	compatible
Arizona	2002	adequate	compatible
Arkansas	2002	adequate	compatible
California	2004	adequate, but needs improvement	not compatible
Colorado	2001	adequate	compatible
Florida	2003	adequate	compatible
Georgia	2004	adequate, but needs improvement	compatible
Illinois	2005	adequate	not compatible
Iowa	2003	adequate	compatible
Kansas	2002	adequate	compatible
Kentucky	2004	adequate	compatible
Louisiana	2004	adequate	compatible
Maine	2003	adequate	compatible
Maryland	2003	adequate	compatible
Massachusetts	2002	adequate	compatible
Mississippi	2005	adequate	compatible
Nebraska	2002	adequate	compatible
Nevada	2003	adequate	compatible
New Hampshire	2005	adequate	compatible
New Mexico	2005	adequate	compatible
New York	2002	adequate	compatible
North Carolina	2004	adequate	compatible
North Dakota	2003	adequate	compatible
Ohio	2005	adequate	compatible
Oklahoma	2002	adequate	compatible
Oregon	2002	adequate	compatible
Rhode Island	2004	adequate, but needs improvement	compatible
South Carolina	2003	adequate	compatible
Tennessee	2004	adequate	compatible
Texas	2005	adequate, but needs improvement	compatible
Utah	2003	adequate	compatible
Washington	2003	adequate	compatible
Wisconsin	2005	adequate	compatible

SUMMARY OF NRC REGIONS' ADEQUACY STATUS
(As of close of CY 2005)

REGION	REVIEW YEAR	ADEQUACY FINDING
Region I	2005	adequate
Region II	2002	adequate
Region III	2003	adequate
Region IV	2004	adequate

IMPEP REPORT TRACKING

FISCAL YEAR 2005

State or Region	Review Date Month/Year	Total number of days from review to release of final report Goal: 104 Days
OH	10/04	87
NV	3/05	103
Region I	4/05	96
IL	4/05	104
*MS	5/05	123
NM	6/05	102
NH	7/05	104
WI	8/05	102
TX	9/05	102
NRC SS&D	9/05	95

- * The MS final report was held to await Commission ruling on staff's proposal to hold the Generally Licensed Device rule in abeyance until resolution of the petition for rulemaking submitted by the Organization of Agreement States.

FY 2004 HEIGHTENED OVERSIGHT/MONITORING CHART

(As of close of Calendar Year 2005)

State	RSAO/ASPO	Last IMPEP Review	Last Contact	Next Contact	Action(s) Due
HEIGHTENED OVERSIGHT					
California	McLean/ Siurano	5/23-26/05 Special Review	Bimonthly Call 12/8/05	Bimonthly Call 2/06	1. Bimonthly Calls with Team Lead 2. Status Report due 2 weeks prior 3. Follow-up IMPEP 3/27-31/06.
Illinois	Lynch/ Blanton	4/4-8/05	Bimonthly Call 12/1/05	Bimonthly Call 2/2/06	1. Bimonthly Calls with Team Lead 2. Status Report due 2 weeks prior 3. Follow-up IMPEP 6/5-6/06.
Kansas	Campbell/ Zabko	4/23-26/02	Bimonthly Call 10/31/05	Bimonthly Call 1/4/06	1. Bimonthly Calls with Team Lead 2. Status Report due 2 weeks prior 3. Routine IMPEP 4/17-21/06.
New York	White/ Hsueh	7/15-26/02	Special MRB 11/3/05	Bimonthly Call 1/06	1. Bimonthly Calls with Team Lead 2. Status Report due 2 weeks prior 3. Routine IMPEP 7/06.
Texas	Campbell/ McCraw	9/7-16/05	MRB 12/14/05	Bimonthly Call 2/06	1. Bimonthly Calls with Team Lead 2. Status Report due 2 weeks prior 3. Follow-up IMPEP FY 2007.
MONITORING					
Kentucky	Minnick/ Zabko	7/19-23/04	Special MRB 10/19/05	Quarterly Call 2/06	1. Quarterly calls with RSAO and 2. Periodic meeting scheduled for 3. Next IMPEP FY 2008.

ENCLOSURE 4