

To: Miller, FSME



MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

TIMOTHY R. MURPHY
SECRETARY

PAUL J. COTE, JR.
COMMISSIONER

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Center for Environmental Health
Radiation Control Program
Schrafft Center, Suite 1M2A
529 Main Street, Charlestown, MA 02129
(617) 242-3035 (617) 242-3457 - Fax

cys: EDO
DEDMRS
DEDR
DEDIA
AO
RI
NMSS
OGC
8/31/06 Ltr.

October 24, 2006

Martin J. Virgilio
Deputy Executive Director
for Materials, Research, State and Compliance Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Virgilio:

The purpose of this letter is to respond to your letter of August 31, 2006, to Ms. Suzanne K. Condon, Associate Commissioner of the Massachusetts Department of Public Health (MDPH), and in which you enclosed the final Integrated Materials Performance Evaluation Program (IMPEP) report on the Massachusetts Agreement State Program. Ms. Condon has asked me to respond directly to you on this final report.

On behalf of the members of the Radioactive Materials Unit (RMU) of the Radiation Control Program (RCP), I would like to thank you and the members of the IMPEP Review Team for the generally positive nature of this report. The final report makes eight (8) recommendations and your letter requests our response to those recommendations. The responses to each of the recommendations are enclosed as Attachment A.

There is a very strongly worded paragraph in your letter which relates to the Technical Quality of Incident and Allegation Activities. This would very likely not have been authored if information which we provided after the teleconference and before the final report was issued, had been considered. That information is reproduced in Attachment A in response to the recommendation regarding that performance indicator.

The Massachusetts RCP is very pleased that the Management Review Board (MRB) has accepted the recommendation of the Review Team and found the Massachusetts program adequate to protect public health and safety and compatible with the Nuclear Regulatory Commission's program.

Template: EDO-001

E-RIDS: EDO-01

Again, we appreciate all of the efforts of the IMPEP Review Team and look forward to a continued professional working relationship with the NRC.

Sincerely,



Robert Walker
Director

Attachment (1)

CC: Janet R. Schlueter, Director
Office of State and Tribal Programs
US Atomic Energy Commission

Suzanne K. Condon, Associate Commissioner
Massachusetts Department of Public Health

Christine McCombs, Director
Massachusetts Emergency Management Agency
State Liaison Officer

Dr. Salifu Dakubu, RMU Supervisor
Massachusetts Department of Public Health

Steve Collins, Illinois
Organization of Agreement States
Liaison to the MRB

ATTACHMENT A
Response to Recommendations

1. The review team recommends that the Commonwealth pursue adequate funding to support and implement the staffing plan which is needed to meet current program demands as well as the projected increase in workload. (Section 3.1)

Response:

There is currently one open position for an Environmental Engineer III in the Materials Program. The posting period has concluded and we are in the process of arranging interviews for the position. We will continue to work with the administration and the state legislature (who has ultimate approval of annual appropriations) regarding our staffing needs.

2. The review team recommends that the Commonwealth address each of the licensing cases where increased controls are needed by either issuing license amendments to decrease possession limits or issuing license amendments to include increased controls. (Section 3.4)

Response:

We have screened all the active licensees for Increased Control (IC) requirements. Licensees exceeding the possession limits for IC's were either issued an amendment lowering the maximum possession limits to quantities below that required for Increased Controls, or had Increased Controls imposed by license condition. We are also actively screening all new licensing actions for potential IC conditions.

3. The review team recommends that the Commonwealth take appropriate and timely follow-up actions commensurate with the potential health and safety significance for all events. (Section 3.5)

Response:

The Commonwealth agrees that we need improvement in the timely follow-up of actions commensurate with the potential health and safety significance of all events. We have implemented actions as discussed in our response to Recommendation 4. However, it is important to note that the Commonwealth has taken appropriate actions for all events of health and safety significance; the communication of reportable events to the NRC is the only area for improvement.

Since the conclusion of the IMPEP team inspection we have reviewed the case files identified in the draft inspection report. We have concluded that only 4

events were not reported on NMED rather than the 9 originally identified by the team. However, that does not diminish our obligation to implement the reporting requirements in accordance with STP Procedure SA-300.

4. The review team recommends that the Commonwealth take necessary steps to ensure that all reportable events are submitted and updated to the NRC in accordance with STP Procedure SA-300. (Open recommendation from 2002 IMPEP review)(Section 3.5)

Response:

The Commonwealth agrees that additional steps are necessary to ensure that all reportable events are submitted and updated to the NRC in accordance with STP Procedure SA-300. We have obtained a copy of STP SA-300 and have made this available to all members of the Materials staff.

We have also assigned a point person, called the Events Coordinator, who is responsible for the oversight of each event. The Licensing Supervisor is notified of an event by staff personnel and prepares the appropriate assignment in collaboration with the Materials Supervisor and the Events Coordinator. The reviewer assigned to the event is responsible for the notification of the NRC via the Operations Center and the entry of NRC reportable events into the NMED database. The NMED entries are tracked by the Events Coordinator.

In the case where there are no other members of the staff available to respond to a reportable event, the staff member receiving the initial report will contact the NRC Operations Center directly in compliance with STP Procedure SA-300. The protocol for the processing of the event would be handled at a later time.

5. The review team recommends that the Commonwealth adopt regulations necessary for compatibility within the required three year time frame and submit alternate forms of legally binding requirements for NRC review following the guidance in SA-201. (Open recommendation from the 2002 IMPEP review)(Section 4.2)

Response:

The Public Health Council approved the amendments to the Regulation 105 CMR 120.000, "Massachusetts Regulation For the Control of Radiation (MRCR)," on July 25, 2006 and the document has since been published.

6. The team recommends that the Program make corrections to registration certificate MA-0116-D-102-B. (Open recommendation, second part only, from the 2002 IMPEP review) (Section 2.0, Recommendation 4)

Response:

The Radiation Control Program, Sealed Source & Device Section, is in the process of amending MA-0116-D-102-B. We are currently collecting design specific and external dose rate information to determine if the device can be used by persons having no specific training in radiological protection. We are also resolving a number of other issues identified during the amendment process.

7. The review team recommends that the Commonwealth develop and document a set of formal qualification requirements for SS&D reviewers. (Section 4.2.1).

Response:

We are composing a written qualification document for Sealed Source & Device reviewers.

8. The review team recommends that the Commonwealth issue inactivated SS&D registration certificates in the future with full text and, reissue the shortened certificates with full text, if practicable. If the Commonwealth wishes to continue the practice of short forms, then the review team recommends that the registration certificate, which is referenced in the short text, be attached to the inactivated registration. (Section 4.2.2)

Response:

We have elected the option of attaching the recently amended referenced certificate to the abbreviated inactivated certificate. We will also include a short description of this protocol in the cover letter included with the package sent to the NRC for posting in the national SS&D registry.