

January 31, 2007

MEMORANDUM TO: Chairman Klein  
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 U.S. Nuclear Regulatory Commission (NRC) Regional and Agreement State radioactive material programs is being provided to the Commission in response to the SRM. (This report includes the NRC Regional radioactive materials programs 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 2006. Depending on a State's performance, IMPEP review cycles can range from 1- 4 years. All but six Agreement State programs currently have a program finding of "adequate to protect public health and safety." Arizona, California, Georgia, Oregon, Rhode Island, and Texas have a program finding of "adequate, but needs improvement." All but one Agreement State program (California) are "compatible with NRC's program." All Regional radioactive materials programs currently have a program finding of "adequate to protect public health and safety."

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When programmatic weaknesses exist in an Agreement State program, the NRC primarily uses two processes, Heightened Oversight and Monitoring, to ensure that an Agreement State program needing improvement is progressing toward re-establishing a fully satisfactory program without negatively impacting other parts of the program. Under Heightened Oversight, a State is required to develop a Program Improvement Plan to address IMPEP findings and recommendations, which is submitted to the NRC for approval prior to implementation. A State on Heightened Oversight must submit status reports prior to bimonthly conference calls conducted by the Office of Federal and State Materials and Environmental Management Programs (FSME) with State program management and staff to discuss program status. For Monitoring, a State's management and staff must participate in quarterly calls with FSME to discuss program status. Discussions of each of the States on Heightened Oversight and Monitoring are provided in the corresponding sections below. Also provided are the details of States removed from the Heightened Oversight or Monitoring process and the specifics of States with findings of "adequate, but needs improvement" that are not subject to Heightened Oversight or Monitoring.

### **STATES ON HEIGHTENED OVERSIGHT**

#### **California:**

A followup IMPEP review of the California Agreement State Program took place from March 27-30, 2006. The IMPEP review team noted marked improvement in the California program; however, the program did not demonstrate a period of sustained performance due to the short time frame between the improvements and the followup IMPEP review. In particular, the review team noted additional improvements are needed in the areas of event reporting and regulation promulgation. As a result, the review team recommended that the period of Heightened Oversight continue to ensure that the improvements are sustained. On June 15, 2006, the Management Review Board (MRB) met to consider the review team's findings. The MRB agreed with the team's findings, including the recommendation that the period of Heightened Oversight should continue. A full IMPEP review of the California program is scheduled for Fiscal Year 2008.

#### **New York:**

The New York Agreement State Program was found adequate and compatible following the 2002 IMPEP review; however, due to the compiling number of overdue NRC amendments by all four State Agencies that comprise the New York Agreement State Program, the MRB placed the State on Heightened Oversight at the November 3, 2005, MRB meeting. A number of NRC amendments that were identified as overdue during the 2002 IMPEP review of the New York program remain overdue. A routine IMPEP review of the New York program was initially scheduled for July 2006; however, the review was postponed to November 2006 to accommodate the consolidation of the New York Department of Labor into the New York State Department of Health. As a result of the consolidation, only three State Agencies now comprise the Agreement State program. The review occurred November 1-9, 2006. The review team will present its findings to the MRB in early February 2007.

#### **Oregon:**

During the August 21-25, 2006, IMPEP review, the review team noted programmatic weaknesses in the Oregon Agreement State Program. Agreeing with the review team's recommendation, the MRB placed the Oregon program on Heightened Oversight at its

November 7, 2006, meeting. The MRB's decision to place the program on Heightened Oversight was influenced by the review team's findings in the areas of quality of inspections, quality of licensing actions, incident response and reporting, and adoption of NRC amendments. A followup IMPEP review of the Oregon program is planned for August 2007.

**Texas:**

The Texas Agreement State 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 had 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 followup review of the Texas program occurred November 13-17, 2006. The review team will present its findings to the MRB in early February 2007.

**STATES ON MONITORING**

**Kentucky:**

The Kentucky program is currently operating under the Monitoring process. Programs on Monitoring participate in quarterly conference calls conducted by FSME 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 included staff turnover, timeliness of inspections, and documentation of activities associated with incident and allegation investigation.

**STATES REMOVED FROM ADDITIONAL REVIEW PROCESS**

**Illinois:**

During the June 2006 followup IMPEP review of the Illinois Agreement State Program, the review team found that the program had adopted all overdue regulations. Accordingly, the review team recommended, and the MRB, agreed that the Illinois program had reestablished a compatible program and that the period of Heightened Oversight should be discontinued.

**Kansas:**

The Kansas Agreement State Program was removed from the Heightened Oversight process at the MRB meeting on July 11, 2006. During the April 2006 IMPEP review, the review team noted vast improvement in the State's performance in regard to staffing, training, and adopting regulations. Based on the improvements, the review team recommended, and the MRB agreed, that the period of Heightened Oversight should be discontinued.

**STATES NOT SUBJECT TO ADDITIONAL REVIEW PROCESS**

The Arizona, Georgia, and Rhode Island programs all have an overall program finding of “adequate, but needs improvement;” however, none of the programs are subject to additional review by the NRC.

**Arizona:**

The Arizona Agreement State Program was reviewed in February 2006. The review team noted budget and staffing issues, which have caused other aspects of the program to decline. Although the technical quality of regulatory actions is high, backlogs are forming, particularly in the inspection program. Because of the resource demands on the State associated with additional review by the NRC, the MRB decided against placing the program on Heightened Oversight or Monitoring to ensure that the program will be utilizing its limited resources in an efficient manner to address the backlogs. The MRB directed NRC staff to conduct a periodic meeting with the State approximately one year after the review to assess the State’s performance in addressing performance issues identified during the review. The periodic meeting is scheduled in March 2007.

**Georgia:**

The Georgia Agreement State Program was found “adequate, but needs improvement” at the MRB meeting on November 18, 2004. During the IMPEP review in Fiscal Year 2004, the review team identified programmatic weaknesses in the performance indicators “Technical Quality of Inspections” and “Sealed Source and Device Evaluation Program.” The MRB agreed with the review team’s findings, but did not believe that these issues rose to a level additional review by the NRC. A routine IMPEP review of the Georgia program is scheduled for Fiscal Year 2008.

**Rhode Island:**

The Rhode Island Agreement State Program had been subject to Heightened Oversight and Monitoring in the past, but improvements noted during a periodic meeting in 2005 led the MRB to discontinue any additional review of the program. A routine IMPEP review of the Rhode Island program is scheduled for May 2007.

**TRENDING ANALYSIS**

During Fiscal Year 2006, no new trends were identified through IMPEP; however, several previously identified trends continue. Staffing and budgeting issues continue to affect many Agreement State programs. In some cases, the staffing issues are causing other performance declines in other program areas. Some of the most common weaknesses are exhibited in the areas of event reporting and regulation adoption. Identification of programmatic weaknesses in both these areas extends back for several years.

Over the last four years, the number of programs subject to additional review by the NRC has remained stable; however, in more recent years, the number of States on Heightened Oversight has surpassed the number of States on Monitoring. The increase of States on Heightened Oversight is attributable to the MRB’s placing greater emphasis on these two areas, in particular. Heightened Oversight has proven to be effective in restoring Agreement State programs to the adequate and compatible level by involving upper State management in the process.

Enclosure 2 of this report presents the Summary of the NRC Regions' Adequacy Status as of the last day of FY 2006. Enclosure 3 presents a summary of Fiscal Year 2006 IMPEP report issuances against the 104-day goal. Enclosure 4 presents a current summary of activities related to States on 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:

1. Summary of Agreement States' Adequacy and Compatibility Status
2. Summary of NRC Regions' Adequacy Status
3. IMPEP Report Tracking
4. Heightened Oversight and Monitoring Chart

cc: SECY  
OGC  
OCA  
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|--------|------------------|------------------|------------|-------------|
| OFFICE | FSME/DMSSA/SAISB | FSME/DMSSA/SAISB | FSME/DMSSA | FSME/DMSSA: |
| NAME   | ATMcCraw:gd      | PARathbun        | SWMoore    | JRSchlueter |
| DATE   | 01/08/07         | 01/16/07         | 01/23/07   | 01/23/07    |
| OFFICE | TechEd           | FSME:D           | EDO        |             |
| NAME   | CPoland          | CMiller          | LAReyes    |             |
| DATE   | 01/23/07         | 01/24/07         | 01/31/07   |             |

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**SUMMARY OF AGREEMENT STATES' ADEQUACY AND COMPATIBILITY STATUS**  
(As of close of Calendar Year 2006)

| STATE          | FISCAL YEAR OF REVIEW | ADEQUACY FINDING                | COMPATIBILITY FINDING |
|----------------|-----------------------|---------------------------------|-----------------------|
| Alabama        | 2006                  | adequate                        | compatible            |
| Arizona        | 2006                  | adequate, but needs improvement | compatible            |
| Arkansas       | 2006                  | adequate                        | compatible            |
| California     | 2006                  | adequate, but needs improvement | not compatible        |
| Colorado       | 2006                  | adequate                        | compatible            |
| Florida        | 2003                  | adequate                        | compatible            |
| Georgia        | 2004                  | adequate, but needs improvement | compatible            |
| Illinois       | 2006                  | adequate                        | compatible            |
| Iowa           | 2003                  | adequate                        | compatible            |
| Kansas         | 2006                  | adequate                        | compatible            |
| Kentucky       | 2004                  | adequate                        | compatible            |
| Louisiana      | 2004                  | adequate                        | compatible            |
| Maine          | 2003                  | adequate                        | compatible            |
| Maryland       | 2003                  | adequate                        | compatible            |
| Massachusetts  | 2006                  | adequate                        | compatible            |
| Mississippi    | 2005                  | adequate                        | compatible            |
| Nebraska       | 2006                  | adequate                        | compatible            |
| Nevada         | 2005                  | 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       | 2006                  | adequate                        | compatible            |
| Oregon         | 2006                  | adequate, but needs improvement | 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 Calendar Year 2006)

| REGION     | REVIEW YEAR | ADEQUACY FINDING |
|------------|-------------|------------------|
| Region I   | 2005        | adequate         |
| Region II  | 2006        | adequate         |
| Region III | 2003        | adequate         |
| Region IV  | 2004        | adequate         |



**IMPEP REPORT TRACKING  
FISCAL YEAR 2006**

| <b>State or Region</b> | <b>Review Date<br/>Month/Year</b> | <b>Total number of days from review<br/>to release of final report<br/>Goal: 104 Days</b> |
|------------------------|-----------------------------------|---|
| AZ                     | 2/06                              | 102   |
| CO                     | 3/06                              | 98  |
| CA Followup            | 3/06                              | 103   |
| AL                     | 4/06                              | 96  |
| KS                     | 4/06                              | 94  |
| MA                     | 5/06                              | 104   |
| Region II              | 5/06                              | 147*  |
| IL Followup            | 6/06                              | 99  |
| OK                     | 6/06                              | 102   |
| OR                     | 8/06                              | 96  |
| AR                     | 8/06                              | 94  |
| NE                     | 9/06                              | 97  |

\* Due to scheduling conflicts, the Management Review Board meeting was held at the 106-day mark to ensure that all parties were in attendance.

**HEIGHTENED OVERSIGHT AND MONITORING CHART**  
(As of close of Calendar Year 2006)

| State                       | RSAO/ASPO            | Last IMPEP Review       | Last Contact               | Next Contact           | Action(s) Due  |
|-----------------------------|----------------------|-------------------------|----------------------------|------------------------|--|
| <b>HEIGHTENED OVERSIGHT</b> |                      |                         |                            |                        |  |
| California                  | Erickson/<br>Siurano | 3/27-30/06<br>Followup  | Bimonthly Call<br>12/19/06 | Bimonthly Call<br>2/07 | <ol style="list-style-type: none"> <li>1. Bimonthly Calls with Team Leader and NRC Staff.</li> <li>2. Status Report due 2 weeks prior to calls.</li> <li>3. Full IMPEP scheduled for FY 2008.</li> </ol>                         |
| New York                    | White/<br>Hsueh      | 11/1-9/06               | IMPEP<br>11/1-9/06         | MRB<br>2/07            | <ol style="list-style-type: none"> <li>1. Bimonthly Calls with Team Leader and NRC Staff.</li> <li>2. Status Report due 2 weeks prior to calls.</li> <li>3. Routine IMPEP 11/1-9/06, pending presentation to MRB.</li> </ol>     |
| Oregon                      | McLean/<br>Rautzen   | 8/21-25/06              | MRB<br>11/7/06             | Bimonthly Call<br>2/07 | <ol style="list-style-type: none"> <li>1. Bimonthly Calls with Team Leader and NRC Staff.</li> <li>2. Status Report due 2 weeks prior to calls.</li> <li>3. Follow-up IMPEP 8/07.</li> </ol>                                     |
| Texas                       | McLean/<br>McCraw    | 11/13-17/06<br>Followup | Followup<br>11/13-17/06    | MRB<br>2/07            | <ol style="list-style-type: none"> <li>1. Bimonthly Calls with Team Leader and NRC Staff.</li> <li>2. Status Report due 2 weeks prior to calls.</li> <li>3. Follow-up IMPEP 11/13-17/06, pending presentation to MRB.</li> </ol> |
| <b>MONITORING</b>           |                      |                         |                            |                        |  |
| Kentucky                    | White/<br>Blanton    | 7/19-23/04              | Quarterly Call<br>10/30/06 | Quarterly Call<br>1/07 | <ol style="list-style-type: none"> <li>1. Quarterly calls with RSAO and ASPO.</li> <li>2. Periodic meeting held 7/06.</li> <li>3. Next IMPEP FY 2008.</li> </ol>   |