

September 3, 2008

MEMORANDUM TO: Martin J. Virgilio
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, and Compliance Programs
Office of the Executive Director for Operations

George C. Pangburn, Deputy Director
Office of Federal and State Materials
and Environmental Management Programs

Karen D. Cyr, General Counsel

Mark A. Satorius
Deputy Regional Administrator, Region III

FROM: Kim K. Lukes, Project Manager **/RA/**
State Agreements and Industrial Safety Branch
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: OCTOBER 16, 2008 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of periodic meetings with three Agreement State agencies has been scheduled for **Thursday, October 16, 2008, from 10:00 a.m. to 12:00 p.m. EDT, in One White Flint North, Room O11-B2**. The periodic meeting summary reports for Kansas, Massachusetts, and Oklahoma, will be discussed. The meeting summary for each of the Agreement State agencies is enclosed (Enclosures 1, 2, and 3).

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 4).

If you have any questions or need additional information, please feel free to contact me at (301) 415-6701.

Enclosures:
As stated

cc:
Cindy Cardwell, Texas
Organization of Agreement States
Liaison to the MRB

Management Review Board Members

September 3, 2008

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 E. LAMAR BLVD., SUITE 400
ARLINGTON, TEXAS 76011-4125

July 8, 2008

Thomas A. Conley, CHP, RRPT, Chief
Radiation and Asbestos Control Section
Bureau of Air & Radiation
Kansas Section of Health & Environment
1000 SW Jackson, Suite 310
Topeka, KS 66612-1366

Dear Mr. Conley:

A periodic meeting with Kansas was held on June 18, 2008. The purpose of this meeting was to review and discuss the status of the Kansas Agreement State Program. I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

If you feel that my conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 860-8143 or email Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Randy Erickson
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for KDHE

ENCLOSURE 1

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR KANSAS

DATE OF MEETING: JUNE 18, 2008

NRC Attendees	Kansas Attendees
Randy Erickson, RSAO	Tom Conley, Chief Rad. Control Program
	David Whitfill, PE, CHP, Supervisor
	Isabelle Busenitz, Environmental Scientist
	James Harris, Environmental Scientist

DISCUSSION:

The Agreement State program is administered by the Section. The Section is part of the Bureau of Air and Radiation (the Bureau) in the Division of Environment (the Division). The Division is located within the Section of Health and Environment (the Section). At the time of the review, the Kansas program regulated approximately 306 specific licenses, including naturally occurring or accelerator-produced radioactive material (NARM).

The previous IMPEP review was conducted the week of April 18-21, 2006. At the conclusion of the review the team found Kansas' performance to be satisfactory but needs improvement for the performance indicator, Technical Staffing and Training, and satisfactory for all remaining performance indicators reviewed. The review team made one recommendation regarding the performance of the Kansas Agreement State Program and recommended that one recommendation from the prior IMPEP review be left open. Accordingly, the review team recommended and the MRB agreed that the Kansas Agreement State Program was adequate to protect public health and safety and compatible with NRC's program. The team also recommended and the MRB agreed that the period of heightened oversight should be discontinued.

The status of the recommendations are summarized below.

- The team recommends the State ensure that the Materials Program has adequate resources and an adequate complement of qualified staff. (From 2002 IMPEP review) (Section 3.1)

Previous Status: After suffering significant staff losses which were noted during the 2002 review, the State adopted a radiation control fee fund in 2004 that now provides adequate resources for the Agreement State program. The 2006 review found the Section was fully staffed. The team also found that new staff members were well educated and capable of contributing to the Agreement State program, but felt that additional training and experience was necessary before the Section would have an adequate complement of fully qualified staff. The review team concluded that this recommendation should remain open, pending further staff training and experience.

Current Status: The Section remains fully staffed with a well trained individuals. Additional positions were added in the X-Ray and Emergency Response areas which have helped free up materials staff for other duties. The Section does not anticipate any

other staff additions at this time. Staff members continue to attend both NRC sponsored and other training courses as they become available. This recommendation should be verified and closed at the next IMPEP review.

- The review team recommends that the State place greater emphasis and resource allocation towards reciprocity inspections in accordance with program goals and the criteria in NRC MC 1220. (Section 3.2)

Previous Status: The 2006 review team found the Section inspected approximately 12 percent of candidate reciprocity licensees during the review period, which is less than MC 1220 reciprocity inspection requirements. The review team recommended that the State place greater emphasis and resource allocation towards reciprocity inspections in accordance with program goals and the criteria in MC 1220.

Current Status: The Section reported that for the remainder of 2006 and all of 2007 they did not meet NRC's criteria of inspecting 20 percent of candidate licensees, instead the Section performed an average of 10-12 percent each year. Through the middle of 2008 they had completed approximately half of the 20 percent requirement. Program managers stated that most reciprocity inspections occur in far west Kansas, several hours drive away from the office. They stated it is difficult for the Program to perform announced reciprocity inspections which are often several hours drive from the office. Unannounced reciprocity inspections are even more difficult to perform as the work is often completed when they arrive, making the trip a wasted effort. Additionally, the staff is often called upon by Emergency Management to assist in non-radiological emergency situations, often for long periods of time, which reduces their availability to perform reciprocity inspections. This recommendation remains open and should be evaluated at the next IMPEP review.

Other topics covered at the meeting included.

Program Strengths: The Kansas Program is a very busy program with a highly motivated and dedicated staff. While the Section has experienced staff losses noted during previous reviews, they have successfully filled vacated positions with talented individuals bolstering the Program's already broad knowledge base. The 2004 fee fund has helped ease staff hiring and retention problems that had previously placed a hardship on the Program. Staff members are also active participants on IMPEP teams. The Section has integrated the workload associated with Increased Controls and Fingerprinting requirements without falling behind in other Program areas. The Program has implemented a database to track regulatory changes, and one staff member is now assigned to ensure that regulatory and compatibility requirements are kept up to date. Staff members work well together providing a high level of customer service to their licensees, and Program management has worked to ensure that a proper balance is achieved within the program.

Program Weaknesses: The Section reported that while they have sufficient staff to meet the daily needs of the Program, they are often stressed by other non-radiological issues that arise. When State or national disasters occur, the Section is often called upon to provide Program staff with special skills to assist in response and recovery efforts. These efforts can last from weeks to months, a hardship that reduces the effectiveness of the Program in meeting its programmatic goals for timely inspections, review of incidents and allegations, and updating NMED.

Staffing and training:

The Program has a staff of 7.5 full-time staff members in the radioactive materials licensing and inspection programs. Two of those staff members are managers. The Program is staffed with highly trained individuals including two Certified Health Physicists, a Professional Engineer, and two individuals with certification from the National Registry of Radiation Protection Technologists. All Section management are also Certified Public Managers. Currently the Program has no vacant technical positions.

Program reorganizations:

The Section has not experienced any program reorganizations since the previous IMPEP review and none are expected. During the review period both the Bureau Director and Division Director positions experienced turnover and both have been replaced.

Changes in Program budget/funding:

The Section has not experienced significant problems with budgeting or funding since adoption of the radiation control fee fund in 2004. A potential fee increase is being considered in 2010.

Materials Inspection Program:

The Section reported that they currently have one overdue inspection. Routine inspections are generally performed by the due date, but occasionally inspections are performed within the +25 percent window although that's not routinely done. Initial inspections are typically performed within 12 months of issuance. They continue to experience difficulty in inspecting reciprocity licensees as previously noted. The Section initially identified 21 licensees who were required to implement Increased Controls. The Section reported that all Increased Controls inspections were performed within the first year and are now performed as a part of their routine inspection program.

Regulations and Legislative changes.

The Section reported that they are up to date on all regulations. No legislative changes were reported.

Event reporting, including follow-up and closure information in NMED.

The Section reported that all NMED information is currently up to date. The Program has a research analyst who tracks all event reporting information monthly, and now ensures that all information is entered into the system in a timely manner.

Response to incidents and allegations.

The Section continues to be responsive to notifications of incidents and allegations. Incidents are quickly reviewed for their affect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program Manager has placed a high emphasis on maintaining an effective response to incidents and allegations. Four allegations were received by the Section since the 2006 review and one allegation was referred to NRC for follow-up. Each of the allegations received was

investigated, appropriate actions were taken, and the allegations were closed.

Status of allegations and concerns referred by the NRC for action.

No allegations were referred by NRC to the Section since the 2006 review.

Significant events and generic implications.

The Section reported three significant events since the 2006 review. One involved the failure to retract a radiography source due to a crimped guide tube, two instances of lost static eliminators, and one attempted theft of a radiography source which was defeated by the Increased Controls measures implemented by the licensee. None of these involved generic implications.

Current State Initiatives.

The Section reported three ongoing initiatives. One involves a new radon bill that will affect the program, and the other two involve the Section's continued efforts with decontamination and decommissioning of old radium dial shops, and the increased surveillance of research labs.

Emerging Technologies.

None noted.

Large, complicated, or unusual authorizations for use of radioactive materials.

The Section identified the decontamination and license review of a large research laboratory, and the identification and decontamination of legacy radium dial shop locations through a cooperative effort with the Bureau of Environmental Remediation as large efforts being undertaken. The Section also noted their work with the U.S. Environmental Protection Agency concerning RCRA and CERCLA requirements as additional large and complicated activities being undertaken by the Program.

State's mechanisms to evaluate performance.

Section managers review performance reports involving licensing actions, inspections performed, incidents reported, and reports reviewed. Inspector accompaniments are also performed to ensure they are performing at the expected level. The Section also has the services of a research analyst. She is responsible for reviewing files, procedures, etc., to ensure that all evaluation methods are up to date and effective.

Current NRC initiatives:

NRC staff discussed ongoing initiatives with the Section. These included pre-licensing guidance, fingerprint orders, national source tracking, web based licensing, generally licensed devices, and the issues associated with tritium exit signs.

Schedule for the next IMPEP review:

It is recommended that the next IMPEP review to be held in two years.



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PA 19406-1415

July 18, 2008

Robert J. Walker, Director
Radiation Control Program
Massachusetts Department of Public Health
Schrafft Center, Suite 1M2A
529 Main Street
Charlestown, MA 02129

Dear Mr. Walker:

A periodic meeting with Massachusetts was held on June 19, 2008. The purpose of the meeting was to review and discuss the status of Massachusetts' Agreement State program. The NRC was represented by Kathleen Schneider and me.

I have completed and enclosed a general meeting summary, including any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (610) 337-5371, or email to Donna.Janda@nrc.gov to discuss your comments.

Sincerely,
/RA/

Donna M. Janda
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure: as stated

cc w/encl: Salifu Dakubu, MA DPH

ENCLOSURE 2

**AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH (DPH)**

DATE OF MEETING: June 19, 2008

ATTENDEES:

NRC

Kathleen Schneider, Sr. Project Manager, FSME
Donna Janda, RSAO, Region I

Massachusetts DPH

Robert Walker, Radiation Control Program Director
Salifu Dakubu, Materials Supervisor
Robert Gallagher, Inspection Supervisor
Michael Whalen, Events & Database Coordinator
Kenath Traegde, Materials Licensing and SS&D Supervisor

DISCUSSION:

Previous IMPEP Review

In May 2006, the Integrated Materials Performance Evaluation Program (IMPEP) review team found the Massachusetts Agreement State Program's (the Program) performance to be satisfactory for five of the performance indicators reviewed. The review team found Massachusetts' performance to be satisfactory, but needs improvement, for the following two indicators: Technical Quality of Incident and Allegation Activities and Compatibility Requirements. In addition, the review team made 8 recommendations regarding the Program.

On August 14, 2006, the Management Review Board (MRB) met to consider the IMPEP review team's proposed findings regarding the Program. The MRB found the Program adequate to protect public health and safety and compatible with the NRC's program. Accordingly, the MRB determined that the next full review of the Program should take place in 4 years and that a periodic meeting should be tentatively scheduled for May 2008.

The status of the Commonwealth's actions to address all open previous IMPEP review findings and/or open recommendations follows:

Recommendation 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.

Status:

The Program's funding is obtained through several accounts, including a retained revenue account, which is a fee-based program, and a Bureau of Environmental Health account, which funds approximately 6 staff positions. The Program's licensees are assessed annual fees based on the licensed activity category and amendment fees. The Program retains revenue up to a fixed spending cap determined by the state legislature. Excess revenue is deposited in the Commonwealth's general fund. As of the date of this meeting, the Program was "level" funded and the budget had not been finalized for the upcoming fiscal year beginning July 1, 2008. With

level funding, the Program must pay for increased costs (e.g., staff salary increases, rent increases, etc.) by not filling positions vacated by retirements or attrition. Program management believes that senior management is supportive of increasing the Program's funding to support and implement the staffing plan that is needed to meet current program demands as well as the projected increase in workload. However, Program management believes that, without Legislative Branch support, the Program remains vulnerable to further losses of staff positions or may not have sufficient staff resources to meet increasing workload demand which could adversely affect performance.

This recommendation remains open.

Recommendation 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.

Status:

The Program has worked with licensees to decrease possession limits by issuing license amendments when applicable. The Program issued license amendments to include increased controls for 48 licensees who are subject to the requirements.

It is recommended that this item be reviewed and closed at the next IMPEP review.

Recommendation 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.

Status:

Since the last IMPEP review, the Program staff was retrained on ensuring that event follow-up actions were commensurate with the potential health and safety significance for all events. The Events Coordinator prints out a list of open actions on a weekly basis to ensure the assigned staff member follows up in a timely manner.

It is recommended that this item be reviewed and closed at the next IMPEP review.

Recommendation 4: The review team recommends that the Commonwealth take necessary steps to ensure that all reportable events are submitted and updated to NRC in accordance with STP Procedure SA-300.

Status:

The Program retrained the staff about reporting requirements and has a designated Nuclear Materials Events Database (NMED) Coordinator who conducts periodic spot checks to ensure events are being reported and updated as required. Since the last review, the Program had 26 events reported to NMED. A review of NMED identified timely and quality input of incidents.

It is recommended that this item be reviewed and closed at the next IMPEP review.

Recommendation 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.

Status:

Since the last review, the Commonwealth submitted 18 final regulations for NRC's review on October 24, 2006. NRC responded on November 30, 2006, and had no comments on the final regulations. The Program's fingerprinting requirements used to address NRC Order EA-07-305 were submitted for review and no comments were identified in the NRC's response dated April 14, 2008. Presently, there are two regulations overdue. One additional final regulation was submitted for review, which had not been previously reviewed by NRC as a draft regulation in accordance with the guidance in SA-201. See the Regulations section below for additional details.

This recommendation remains open.

Recommendation 6: The review team recommends that the Commonwealth make corrections to registration certificate MA-0116-102-B.

Status:

The SS&D Supervisor reported that the licensee had not been cooperative and responded to the Program's request for additional information only after the Program issued the licensee a letter which stated the Commonwealth's intent to issue an Order to ensure the licensee's compliance. The program is currently reviewing the licensee's response.

This recommendation remains open.

Recommendation 7: The review team recommends that the Commonwealth develop and document a set of formal qualification requirements for SS&D reviewers.

Status:

The Program has incorporated formal qualification requirements for SS&D reviewers into their procedures.

It is recommended that this item be reviewed and closed at the next IMPEP review.

Recommendation 8: The review team recommends that the Commonwealth issue inactivated 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.

Status:

The Program plans to issue inactivated registration certificates along with the new SS&D certificates and a cover letter explaining the new procedure. The Program will soon be issuing two registration certificates according to the new procedure.

It is recommended that this item be reviewed and closed at the next IMPEP review.

Organization

The Massachusetts Agreement State Program is administered by the Program, which is located within the Bureau of Environmental Health (the Bureau). The Bureau is located within the Department of Public Health (the Department). There have been no changes to the Program's organization since the previous IMPEP. Mr. Robert Walker remains the Program Director. Mr. Walker reports to an Associate Commissioner who is also the Bureau Director. The Radioactive Materials Unit (the Unit), one of five units in the Program, administers approximately 515 licenses in the radioactive materials program.

Agreement State Program Staffing

A well-trained, stable, and experienced staff is the strength of the Program. The staff is the same as that seen during the last IMPEP review. Mr. Walker stated that funding, which is partially fee based, has been level for several years and is not anticipated to increase in the near future (see discussion on Recommendation 1 above). The Program has three vacant positions, one of which is a new position for a Deputy Director created in anticipation of the Program Director's plan to retire within 16 months. The addition of this position was planned for continuity of management and the Deputy will be expected to act in the Director's position after he retires until a final hiring decision is made by the Bureau Director. Depending on the hiring decision, the Deputy position may then be removed. The Program anticipates filling this new Deputy Director position with a current staff member. The two additional vacant positions cannot be filled due to budget concerns. In addition, the staff member in the Low Level Radioactive Waste position retired and the position was not filled. Those duties were given to another staff member.

The staff is fully engaged due to the current emphasis on increasing the security of radioactive materials and implementation of NRC regulations. With the unfilled positions and budget issues, the Program has to shift resources to address the increased workload due to activities such as implementation of pre-licensing guidance, Increased Controls inspections. The Program has reduced the number of inspections at accelerators and no longer performs inspections of programs which use only non-ionizing radiation sources.

Training

Support for staff training exists in the Program. The Program welcomed the NRC's revised policy on funding training for Agreement States. Program staff has attended NRC and other training courses, including the NRC's Security Systems and Principles Course, for which one staff member is an instructor. Several of the Program staff members participate on various NRC Working Groups and on IMPEP review teams.

Inspections

Massachusetts' inspection frequencies are at least as frequent as NRC's. No inspections are currently overdue with respect to NRC policies. The Program self-identified and corrected a database issue with respect to initial inspection due dates not being correctly assigned.

The Program maintains a sufficient number and variety of calibrated radiological survey

instrumentation for use during inspections. Additionally, the Program has a radioanalytical laboratory available for sample analyses.

Licensing

The Program had several pending licensing actions greater than 30 days, some of which were pending for more than one year. The Licensing Supervisor indicated that this was due to licensees not responding in a timely manner to requests for additional information. Most licensing actions are acted upon within 30 days of receipt. All completed licensing actions are reviewed by a second reviewer and the Licensing Supervisor. The Materials Manager reviews all new licenses for administrative format. The Program Director signs all licensing documents.

Regulations

There have been no legislative changes since the last IMPEP review.

The Program submitted two proposed regulations and one final regulation to the NRC on May 14, 2008, which are presently under review and NRC staff expect to complete the review by July 14, 2008.

The following regulations are overdue:

- “Compatibility with IAEA Transportation Safety Standards (TS-R-1) and Other Transportation Safety Amendments,” 10 CFR 71 amendments (69 FR 3698), that became effective on October 1, 2004. This proposed regulation was submitted by the Program to NRC on May 14, 2008, and NRC’s review was issued on July 1, 2008 with comments identified on this regulation.
- “Medical Use of Byproduct Material - Recognition of Specialty Boards,” 10 CFR 35 amendments (70 FR 16336; 71 FR 1926) that became effective April 29, 2005. The Program staff believes that this regulation has been adopted, but was not sent to the NRC for review. NRC staff discussed the submittal process for regulation reviews and the Program staff planned to submit the package following the periodic review. A proposed regulation package was submitted with insufficient information on June 20, 2008, and was not accepted for review.

The following final regulation adopted by the Commonwealth was submitted to NRC on May 14, 2008, and is under review:

- “Financial Assurance for Materials Licensees,” 10 CFR 30, 40, and 70 amendments (68 FR 57327), that became effective on December 3, 2003. NRC’s review was issued on July 1, 2008 with comments identified on this regulation.

NRC staff identified the following regulation changes and adoptions that will be needed in the future:

- “Security Requirements for Portable Gauges Containing Byproduct Material,” 10 CFR 30 amendments (70 FR 2001) that became effective July 11, 2005. This regulation was

submitted by the Program to NRC on May 14, 2008, and NRC's review was issued on July 1, 2008 with no comments on this regulation.

- "National Source Tracking System," 10 CFR Part 20 amendment (71 FR 65865, 72 FR 59162) that is due for State adoption by January 31, 2009.
- "Minor Amendments – 10 CFR Parts 20, 30, 32, 35, 40 and 70," 10 CFR amendments (71 FR 15005) that are due for State adoption by March 27, 2009.
- "Medical Use of Byproduct Material – Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 amendments (72 FR 45147, 72 FR 54207) that are due for State adoption by October 29, 2010.
- "Requirements for Expanded Definition of Byproduct Material," 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendments (72 FR 55864) that are due for State adoption by November 30, 2010.
- "Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements," 10 CFR Parts 30, 31, 32 and 150 amendments (72 FR 58473) that are due for State adoption by December 17, 2010.
- "Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent," 10 CFR Parts 19 and 20 amendments (72 FR 68043) that are due for State adoption by February 15, 2011.

Security

The current security climate and potential future security measures were discussed in detail, including discussions on fingerprinting requirements and security of self-shielded irradiators. The Program is aware of relevant security issues. The Program tracks radioactive sources to quantities much lower than NRC requires. The Commonwealth entered into 274i Agreements with NRC to inspect materials licensee compliance with NRC-ordered security measures and with RAMQC.

Incidents/Allegations

Program staff communicates reportable incidents to the NRC Operations Center and Region I. The Event Coordinator is responsible for ensuring all incidents and allegations are handled properly. Staff members are responsible for entering incident information into the Nuclear Materials Events Database (NMED), as incidents occur. Since the last IMPEP review in May 2006, twenty-six (26) events were reported to NMED. A review of NMED identified timely and quality input of incidents.

The Program indicated that two events had potential for national implications. One event (EN43461, NMED Event No. 070401) involved the shipment to a MA licensee of deuterium water contaminated with 2.7 curies of H-3. The second event (EN43767, NMED Event No. 070683) involved the improper disposal of several generally-licensed static eliminators containing Am-241.

There were no allegations referred to the Program since the last IMPEP. Approximately seven allegations per year are received by the Program.

Sealed Sources and Devices

The Commonwealth has an active SS&D program which has issued 61 licensing actions since the last IMPEP.

Emerging Technologies

The Program has identified PET MRI and electronic brachytherapy as areas involving emerging technologies which will need to be addressed in their Program.

Feedback on the NRC's Program

Items discussed included current NRC initiatives for the National Source Tracking System, Web-Based Licensing, fingerprinting, GAO initiatives (e.g., orders versus rulemaking), pre-licensing checklists, and upcoming regulations to be adopted. The Program staff indicated that one strength of their Program is meeting NRC requests for information in a timely manner.

CONCLUSIONS:

The Massachusetts Radiation Control Program continues to be a strong, stable Agreement State program. The Program staff is experienced and well trained. Budget issues continue to be of concern regarding adequate funding of the Program and freezing of vacant positions. With the increased focus on the safety and security of radioactive material, adequate program resources have become much more critical. Any further reduction in staff may be detrimental to the Commonwealth's Radiation Control Program.

NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2010 (tentatively May 2010).



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4005

July 10, 2008

Mr. Mike Broderick
Dept. of Environmental Quality
707 North Robinson, 5th Flr
Oklahoma City, OK 73102

Dear Mr. Broderick,

A periodic meeting with your State was held on June 26, 2008. The purpose of this meeting was to review and discuss the status of the Oklahoma Agreement State Program. The NRC was represented by Mr. Dennis Sollenberger from NRC's Office of Federal and State Materials and Environmental Management Programs (FSME), and me. Topics and issues of importance discussed at the meeting included a detailed discussion of recommendations from the 2006 IMPEP review.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 860-8116 or e-mail me at Linda.McLean@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Linda McLean
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for Oklahoma

ENCLOSURE 3

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR OKLAHOMA

DATE OF MEETING: June 26, 2008

NRC Attendees	Oklahoma Attendees
Linda McLean, RSAO	Mike Broderick, Program Manager
Dennis Sollenberger, FSME	Kevin Sampson, Environmental Specialist
	Jon Roberts, Environmental Programs Manager

DISCUSSION:

The Oklahoma Agreement State Program (the Program) is administered by the Radiation Management Section (the Section), located within the Land Protection Division of the Department of Environmental Quality. At the time of last the IMPEP Review, the Program regulated 246 specific licenses authorizing Agreement materials.

The previous IMPEP review was conducted the week of June 5-8, 2006. The review team found Oklahoma's performance to be satisfactory, but needs improvement, for the indicator, Technical Quality of Incident and Allegation Activities, and satisfactory for all remaining performance indicators reviewed. The review team made three recommendations regarding the performance of the Oklahoma Agreement State Program and recommended that one recommendation from the 2002 IMPEP review remain open. The status of each of the recommendations is discussed below.

The review team recommended and the MRB agreed that the Oklahoma Agreement State Program is adequate to protect public health and safety and compatible with NRC's program. Based on the results of the 2006 IMPEP review, the review team recommended and the MRB agreed that the next full IMPEP review should take place in approximately four years.

Status of open IMPEP review recommendations

1. The review team recommended that all inspections be fully documented, and that license files be complete and accurate. (From the 2002 IMPEP report) (Section 3.3 of 2006 IMPEP Report)

Report Finding: During the 2006 IMPEP Review, the team found that in several of the cases reviewed, inspections were not fully documented, and license files were not complete and accurate. Therefore, the recommendation regarding inspection report documentation remained open from the 2002 IMPEP report.

Status: The Section has better clerical assistance for file maintenance. This has help ensure that license files are complete and accurate. The recordkeeping and file maintenance in the Section is now much more efficient. In addition, the Program Manager reviews all of the inspection results and is finding improvement in the inspection

documentation. This recommendation should be verified and closed at the next IMPEP review.

2. The review team recommended that the State document corrective actions for cited violations issued on DEQ Form 410-591. (Section 3.3 of 2006 IMPEP Report)

Report Finding: Violations issued on DEQ Form 410-591 are violations of minor safety consequences. If cited violations are issued on the DEQ Form, the Section requests only that the licensee sign a copy of the Form and return it to the Section. The review team found that for cited violations issued on DEQ Form 410-591, there was no documentation of any corrective actions on the form issued or in the inspection report or in the inspection files.

Status: The Program Manager reviews all of the inspection results and is finding improvement in the inspection documentation and the documentation of corrective actions. This recommendation should be verified and closed at the next IMPEP review.

3. The review team recommended that the State take measures to ensure proper documentation and appropriate response, review, enforcement, and follow up of all radioactive materials incidents. (Section 3.5 of 2006 IMPEP Report)

Report Findings: The review team found the Section's documentation in response to incidents was often incomplete, and in some cases, the investigation results were missing from the licensee files and had to be found in other locations.

Status: The Program Manager reviews all inspection reports to ensure proper documentation. In addition, a staff member has been assigned to review all NMED reports to ensure they are complete and are closed. This recommendation should be verified and closed at the next IMPEP review.

4. The review team recommended that the State take measures to ensure proper documentation and appropriate tracking and closure of all allegations involving radioactive material. (Section 3.5 of 2006 IMPEP Report)

Report Findings: The team found that the initial contact information and the investigation documentation was maintained in several locations, and in some cases the follow up lacked proper documentation.

Status: The Section has better clerical assistance for file maintenance. This has help ensure that license files are complete and accurate. In addition, the Program Manager reviews all reports to ensure proper documentation and appropriate tracking and closure of allegations. This recommendation should be verified and closed at the next IMPEP review.

Strengths and/or weaknesses of the State program as identified by the State or NRC including identification of actions that could diminish weaknesses

- Strengths: Although during this review period, one experienced staff person retired and the Program Manager anticipates that a second experienced person will retire this year, the Section has been able to fill the vacancies promptly and with individuals with good backgrounds. One new hire has a master's degree in medical physics and has been a very valuable asset for the Program.

- Weakness: Low salaries continue to be a concern. However, the situation has improved to some extent in recent months with an increase in pay for three staff members.

Feedback on NRC's program as identified by the State and including identification of any action that should be considered by NRC

- The Section said that they appreciate that NRC re established the funding for Agreement State staff training. The Section suggested that NRC consider reinstating the five week Health Physics course.*

Status of State Program including:

- Staffing and training: Currently, the Section is fully staffed. The Section has one manager, 9 technical staff, one part time technical staff, and one clerical staff. Vacancies have been filled promptly. Turnover has slowed down and staffing appears adequate.
- Materials Inspection Program: Currently, two inspections are over the +25% requirement; however, both inspections have been scheduled. Due to a database problem, 20 inspections were conducted overdue in 2007. The database problem has been corrected. The Program Manager stated that the Section has noticed an increase in enforcement activities, perhaps due to the increased control requirements. All accompaniments were completed in 2007 and are scheduled to be completed in 2008.
- Large, complicated, or unusual authorization for use of radioactive materials: The Section is licensing a Linac for proton therapy in Oklahoma City. Also, an electron beam accelerator is being installed for sterilization of bottles. The Program Manager noted that there has been an increase in requests for the use of Californium-252 as a replacement for Americium-241. (Apparently Am-241 has been in short supply.) Since the Periodic Meeting, the Section has learned that the Department of Energy is ceasing production of Californium due to budget constraints, which may be the end of this trend.
- Current State initiatives: The Section offers industrial radiography examinations for radiographers to obtain an Oklahoma identification card. It was noted that number of exams requested and the exam failure rate has increased. The EPA has installed an air monitoring system (RAD-Net) in Oklahoma City that the Section will maintain. Another RAD-Net system will soon be installed in Tulsa.
- Regulations and Legislative changes: All regulations and/or legally binding requirements are up to date. The fingerprinting order was implemented by use of license conditions. The Section will be updating their regulations by "incorporation by reference" this fall which should include all of NRC's amendments as of January 2008. There has been no substantive change to LLW Compact Law, and no changes to Radiation Management Act are contemplated.
- Program reorganizations: The Division added one additional level of management with the addition of the position Environmental Program Manager III. The Program Manager reports to this position; nevertheless, the Section has full access to other senior management.
- Changes in Program budget/funding: The Section is primarily fee funded, with some additional EPA grants. Fees are stable, and the EPA grants are increasing slightly. The Section's funding situation is stable. The State's finance situation is fair, but since the

Section does not have appropriated funding, this should have little direct impact on the RAM program.

Event Reporting, including follow-up and closure information in NMED: Reports in NMED have been completed and closed where applicable.

Response to Incidents: Response to incidents has been prompt, as appropriate. The Section had two significant events during this period. One involved an X-Ray overexposure, and the second involved a lost well logging source which resulted in an overexposure to a member of the public. Both events resulted in enforcement actions with financial penalties.

Allegations: One allegation was referred to the Section by the NRC. The Section followed up appropriately.

Information exchange and discussion: The Section discussed the security requirements; such as, using rulemaking in place of orders and bringing to an end or reducing the amount of security actions placed on the States. Other topics discussed: action items that were due to the NRC and FSME letters. The Program Manager applauded the Federal government for reinstating cytogenetic testing capability in the U.S.

Other topics: The Program Manager mentioned that one of his staff had problems receiving travel reimbursements for two trips causing the employee to incur interest charges and to pay the charges with her own money.*

Schedule for the next IMPEP Review: FY2010

The Section requested that their next IMPEP Review be performed after the month of July.*

* Action items

**Agenda for Management Review Board Meeting
October 16, 2008, 10:00 a.m. - 12:00 p.m. EDT, O11-B2**

1. Announcement of Public Meeting to all attendees and request for identification of any members of the public participating in this meeting.
2. MRB Chair convenes meeting. Introduction of MRB members, Agreement State representatives, and other participants. (OAS Liaison is Cindy Cardwell of Texas.)
3. Discussion of Periodic Meetings:
 - a. Kansas
(June 18, 2008) – ML081900656 – Erickson
 - b. Massachusetts
(June 19, 2008) – ML082030380– Janda/Schneider
 - c. Oklahoma
(June 26, 2008) – ML081920642 – McLean/Sollenberger
4. Establishment of Precedents/Lessons Learned
5. Adjournment

Invitees:	Martin Virgilio, OEDO	Randy Erickson, Region IV
	George Pangburn, FSME	Donna Janda, Region I
	Karen Cyr, OGC	Kathleen Schneider, FSME
	Mark Satorius, Region III	Linda McLean, Region IV
	Cindy Cardwell, TX	Dennis Sollenberger, FSME
	Duncan White, FSME	Kim Lukes, FSME
	James Luehman, FSME	Aaron McCraw, FSME
	Robert Lewis, FSME	Thomas Conley, KS
	Stephen Campbell, OEDO	Robert Walker, MA
		Mike Broderick, OK