

July 1, 2009

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

Joseph R. Gray, Associate General Counsel
for Licensing and Regulation
Office of the General Counsel

Robert J. Lewis, Director
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Cynthia D. Pederson, Deputy Regional Administrator
Region III

FROM: Aaron T. McCraw, IMPEP Project Manager */RA/*
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: JULY 14, 2009 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of periodic meetings held with the California, Maine, and North Dakota Agreement State Programs and a periodic meeting held with the U.S. Nuclear Regulatory Commission Region I Radioactive Materials Program has been scheduled for **Tuesday, July 14, 2009, from 2:00 p.m. to 3:00 p.m. EDT, in Two White Flint North, Room 2-B5**. The summaries for each of the meetings are enclosed (Enclosures 1, 2, 3, and 4).

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 5).

If you have any questions or need additional information, please feel free to contact me at (630) 829-9650 or Aaron.McCraw@nrc.gov.

Enclosures:
As stated

cc: W. Lee Cox, III, North Carolina
Organization of Agreement States
Liaison to the MRB

MRB Members

Distribution: DCD (SP01)

MSSA RF

RLewis, FSME

TReis, FSME

DWhite, FSME

ARivera, OEDO

DJanda, Region I

JKottan, Region I

RErickson, Region IV

LMcLean, Region IV

MBeardsley, FSME

JKatanic, FSME

MOrendi, FSME

WRautzen, FSME

Gary Butner, California

Jay Hiland, Maine

Daniel Harman, North Dakota

John Kinneman, Region I

Daniel Collins, Region I

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OFFICE	FSME/MSSA									
NAME	ATMcCraw:knm1									
DATE	07/01/09									

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**AGREEMENT STATE PERIODIC MEETING SUMMARY FOR MAINE DEPARTMENT OF
HEALTH AND HUMAN SERVICES (DHHS)**

DATE OF MEETING: October 29, 2008

ATTENDEES:

NRC

Monica Orendi, Health Physicist, FSME
James Kottan, RSAO, Region I

Maine DHHS

Jay Hyland, Manager, Radiation Control Program
Shawn Seeley, Health Physicist
Wayne Malloch, Health Physicist

DISCUSSION:

In October 2006, the Integrated Materials Performance Evaluation Program (IMPEP) review team found the Maine Agreement State Program's (the Program) performance to be satisfactory for all common and non-common performance indicators with the exception of the Status of Materials Inspection Program indicator. This indicator was found to be satisfactory but needs improvement with one recommendation. On December 18, 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 take place in October 2008.

The status of the State's actions to address the open recommendation follows:

The review team recommends that the State evaluate current and future staffing needs and business processes to develop and implement a strategy that improves the effectiveness and efficiency of the Program and ensures its continued adequacy and compatibility. (Section 3.2 of the 2006 IMPEP Report)

Status: The Program is in the process of developing a new database for management of the Program. A contractor has been hired to develop the new database, but the contract has not yet been competed. The Program is analyzing alternatives to having the contractor complete the database, such as having State employees complete the work. No decision has been made regarding the path forward to complete the new database. This recommendation remains open and should be evaluated at the next IMPEP review.

Organization

The Program is administered by the Radiation Control Program within the Division of Environmental Health in the Maine Center for Disease Control (the Center) of the DHHS. There have been no changes to the Program's organization since the previous IMPEP.

There are six functional areas within the Radiation Control Program: Low Level Waste, Radioactive Materials, X-ray, Radon, Office of Nuclear Safety, and Tanning. The Radioactive Materials functional area makes up the Program. The Program administers 126 licenses.

Staffing and training

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. Hyland stated that funding, which is fee based, is not adequate for the current organization and the Program. The last increase in fees occurred in 1997. Since that time the Program has attempted to increase fees twice, but both attempts were unsuccessful. The Program's budget has been supplemented with other funds available to the Radiation Control Program within the Center. Another fee increase request is due to be submitted shortly.

Support for staff training exists in the Program. Maine 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. Maine noted that other activities that are not specifically training, such as participation on IMPEP teams and attendance at meetings, also provide valuable opportunities for knowledge sharing.

Pending cuts in the State budget may result in travel restrictions for Program staff, including restrictions on out-of-state travel. This restriction may apply even to travel for NRC-funded training and meetings.

Materials inspection program

Maine's inspection frequencies are at least as frequent as NRC's. No inspections were overdue with respect to NRC inspection priorities. The Program maintains a database of inspections due for management of the inspection program. As mentioned under the status of open recommendations, the Program is in the process of creating a new database to better manage the inspection program.

The Program maintains a sufficient number and variety of calibrated radiological survey instrumentation for use during inspections. Additionally, the Program has access to the State radioanalytical laboratory for sample analyses.

Licensing

The Program had no licensing actions that were pending for greater than one year. The program receives approximately two to three new license applications per year and approximately two to three terminations per year. New licenses are now hand-delivered in response to the requirement for "pre-licensing" visits and/or "pre-licensing" visits are conducted.

Regulations

The Program submitted 11 proposed regulations to the NRC during the October 29, 2008 periodic meeting. These regulations are currently undergoing a compatibility review by NRC staff.

NRC staff identified the following four overdue regulations:

- “Financial Assurance for Materials Licensees,” 10 CFR 30, 40, and 70 amendments (68 FR 57327), that became effective on December 3, 2003.
- “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.
- “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.
- “Security Requirements for Portable Gauges Containing Byproduct Material,” 10 CFR 30 amendments (70 FR 2001) that became effective July 11, 2005.

The four identified overdue regulations are part of the proposed regulation package that was submitted by Maine to the NRC for review.

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

- “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.

Recent legislation in the State legislature assigned responsibility for the Maine Yankee site to the Radiation Control Program. Additionally, the Program manager noted that discussions have occurred within State government about moving the Program from DHHS to the Department of Environmental Protection.

Security

The current security climate and potential future security measures were discussed in detail, particularly regarding fingerprinting and security of self-shielded irradiators. The Program is aware of relevant security issues.

Incidents/Allegations

Program staff communicates reportable incidents to the NRC Operations Center and Region I. One of the Health Physicists is responsible for the input of incident information into the Nuclear Materials Events Database (NMED), as incidents occur. Since the last IMPEP review in October 2006, seven events were reported to NMED. Of these seven events, six were reportable and the remaining event was informational.

There were no allegations referred to the Program since the last IMPEP. The Program had no open allegations at the time of the review.

Feedback on NRC's program

The Program noted that the FSME organization seems to change frequently. The Program stated that they felt the Regional State Agreements Officers were accessible and available. The Program commented that the overall relationship with the NRC is good, and the Program commended Commissioner attendance at the Conference of Radiation Control Program Directors and Organization of Agreement States Annual Meetings. Additionally, the Program appreciates the NRC funding of training. However, the Program would like the NRC to require State attendance at meetings such as OAS and CRCPD as this would help Program staff justify their out-of-state travel requests.

CONCLUSIONS:

The overall performance of the Program continues to be good. The Program staff is experienced, well trained, and remains stable. Although fee-based funding does not provide an adequate financial base for the Program, due to the inability to raise fees over the past 11 years, adequate funding for the Program has been available through funds from within the Center.

Schedule for the next IMPEP review:

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

Action Items Resulting From the Meeting

None.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
612 E. LAMAR BLVD., SUITE 400
ARLINGTON, TEXAS 76011-4125

May 28, 2009

Gary W. Butner, Branch Chief
Radiological Health Branch
Division of Food, Drug & Radiation Safety
California Department of Health Services
P.O. Box 997414, MS-7610
Sacramento, California 95899-7414

Dear Mr. Butner:

A periodic meeting with you and your staff was held on April 29, 2009. The purpose of this meeting was to review and discuss the status of the California Agreement State Program. The NRC was represented by Mr. Arthur Howell from NRC's Region IV office, Mr. William Rautzen from NRC's Office of Federal and State Materials and Environmental Management Programs (FSME), and me. I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

In addition to a discussion of general topics associated with your program, discussions to ascertain the status of overdue regulations specific to your status under Monitoring was performed. This will replace your upcoming Monitoring call with NRC and the next call will be held in 4 months.

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) 860-8143 or e-mail Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Randy Erickson
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for California

Enclosure 2

California Department of Health Services

-2-

cc w/enclosure:

Robert Schlag, M.Sc.

California Department of Public Health

Division of Food, Drug & Radiation Safety

1500 Capitol Avenue, Suite 72.524

P.O. Box 997377, MS7600

Sacramento, California 95899-7377

bcc (via e-mail distribution):

- Arthur Howell
- Chuck Cain
- Robert Lewis, FSME
- Terry Reis, FSME
- James Luehman, FSME
- Duncan White, FSME
- Linda McLean
- Randy Erickson
- Aaron McCraw, FSME
- Janine Katanic, FSME
- William Rautzen, FSME
- Kathleen Schneider, FSME
- Monica Orendi, FSME

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

DATE OF MEETING: APRIL 29, 2009

NRC Attendees	California Attendees
Randy Erickson, RSAO	Robert Schlag, Division Chief
Arthur Howell, Division Director	Gary Butner, Branch Chief
William Rautzen, FSME	Gonzalo Perez, Senior Health Physicist
	Victor Anderson, Senior Health Physicist
	Phillip Scott, Health Physicist
	Marilyn Willis, Regulation Services
	Peter Sapunor, Senior Staff Council

DISCUSSION:

The Radiological Health Branch (the Branch), located within the Division of Food, Drug, and Radiation Safety (the Division), administers the California Agreement State Program. The Division is a part of the Department of Public Health (the Department).

The previous IMPEP review was conducted the week of March 31 – April 4, 2008. At the conclusion of the review the team found California's performance to be satisfactory for six performance indicators and unsatisfactory for the performance indicator Compatibility Requirements. The review team made two recommendations regarding program performance and identified one good practice. Accordingly, the review team recommended, and the MRB agreed, that the California Program is adequate to protect public health and safety and not compatible with NRC's program. The MRB also concluded that the period of heightened oversight should end and a period of monitoring should be initiated. The MRB also concluded that the next full IMPEP review should take place in 4 years and that a periodic meeting be held in 1 year.

The current status of the recommendations from the 2008 California Final IMPEP Report is summarized below:

- 1) The review team recommends that the State reevaluate its justification for inspecting HDR licensees on a 3-year interval and demonstrate that the health, safety, and security of HDR devices are not compromised. (Section 3.2)

Current status: The Branch has changed the frequency of HDR inspections from a 3-year interval to a 2-year interval to be compatible with NRC's frequency. This recommendation should be verified and closed at the next IMPEP review.

- 2) The review team recommends that the Branch develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility. (Section 4.1.2)

ENCLOSURE

Current status: The Department recognized that the rulemaking process in place at the time of the 2008 IMPEP review was inefficient and needed revision. In response to that need, the Department hired a consulting firm to assess the rulemaking process and make recommendations on how to improve the process within the confines of state law. The consulting firm made recommendations to the Department, and in December 2008 the Branch in coordination with the Office of Regulations, drafted an Action Plan to streamline the Branch's rulemaking process. Additionally, they implemented a team approach to development and promulgation of regulations and are now just beginning to follow the Action Plan. More time will be needed to fully evaluate the effectiveness of this approach. This recommendation remains open and should be evaluated at the next IMPEP review.

Other topics covered at the meeting included:

Program strengths: The California Program is a large and busy program with a highly motivated and progressive staff that has approximately 2000 licensees. As a result of the Heightened Oversight process, funding has not been a problem, even with the State's well publicized financial issues. Management support to the Branch is outstanding and access to senior management is unencumbered. Two senior managers have offices on the same floor as the Branch. The close physical location allows easy access to both Branch and Division management and allows managers to be more intimately involved in staff activities.

While the Branch had experienced some staff losses, it has successfully filled those positions with talented individuals bolstering the Program's already broad knowledge base. The Branch supports staff involvement in NRC working groups and encourages participation on IMPEP teams. The Branch has successfully integrated the added workload associated with Increased Controls and Fingerprinting requirements. Staff members work well together providing a high level of customer service to their licensees, and Branch management has worked diligently to ensure that a proper balance is achieved within the program.

Program weaknesses: The Branch noted issues with obtaining training for the newly hired staff. Because of staff depth within the program, newly hired individuals often have to wait to get into classes because other programs with less depth have been identified as having a more serious need. They identified this as an issue, but have been able to manage staff training successfully.

Feedback on NRC's program:

The Branch discussed issues associated with clean up of Department of Defense facilities; low level radioactive waste disposal including questions associated with the jurisdiction of mixed waste from Antarctica returning to the United States; issues associated with NRC review of regulation packages, and compatibility questions regarding a burial site that communicates with the Colorado River; and, questions about what NRC public meetings would be beneficial for the Branch to listen to. These questions are being answered separately.

Staffing and training:

The California Program is a large program which is divided into several program areas. The Branch has an average of 147 total staff members with approximately 50 of those being associated with the radioactive materials program. At the time of the meeting, the Branch reported they were fully staffed. They have aggressively recruited from local universities in addition to hiring experienced staff. The Branch recently lost the senior member in the Brea office, but has recently filled that position. The Branch continues to assess their staffing needs which tend to be dependent on additional requirements placed upon them by NRC.

Program reorganizations:

The Branch has not experienced any program reorganizations since the previous IMPEP review and none are expected.

Changes in Program budget/funding:

The Branch has not experienced any problems with budgeting or funding. The Branch is fee funded. The only issue that has affected the program irrespective of their funding levels is the overriding requirement that all state government offices close 2 days per month, which has had a net effect of a 10 percent pay cut to all employees.

Materials inspection program:

The Branch reported that they currently have no overdue inspections. Routine inspections are generally performed by the due date, but occasionally inspections are performed within a 25 percent window. Initial inspections are typically performed within 12 months of issuance. They continue to inspect reciprocity licensees and have not had difficulty performing inspections on at least 20 percent of candidate reciprocity licensees.

The Branch initially identified 140 licensees who were required to implement Increased Controls. At the time of the 2008 IMPEP review, the Branch still had 12 of these inspections to perform but now report that all Increased Controls inspections have been completed. The Branch also reported that all but three licensees have completed the fingerprinting implementation. Increased Controls/Fingerprinting files are locked in uniquely keyed file cabinets and are not subject to release under FOIA.

The Branch reported they have a process in place for addressing pre-licensing guidance requirements and are currently developing a formal procedure. The Branch stated that at the present time only new Increased Controls licensees currently receive a site visit.

Regulations and legislative changes:

During the 2008 IMPEP review, the Branch was found to not be compatible with NRC's program due to number of late regulations. The period of heightened oversight was terminated and a period of monitoring had been initiated. Over the successive months, calls with the Branch have been held to update NRC on their compatibility with NRC's

program. The most recent call with the Branch occurred on February 17, 2009. At the time of the call, the Branch still had 13 outstanding regulations. During the periodic meeting, the Branch confirmed that two regulations were scheduled to become effective on May 24, 2009. The remaining regulations continue to work their way through the process.

Event reporting, including followup and closure information in NMED:

The Branch had reported 129 events to NMED since the 2008 IMPEP review with 72 still open. The majority of events are landfill alarm trips. The Branch is monitoring the open events and closing them as information to close them becomes available.

Response to incidents and allegations:

The Branch continues to be sensitive 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 Branch Manager has placed a high emphasis on maintaining an effective response to incidents and allegations.

Status of allegations and concerns referred by NRC for action:

While the Branch processed several allegations since the 2008 IMPEP review, no allegations were formally referred by NRC during the same period.

Significant events and generic implications:

While the Branch continues to monitor several significant events, they reported that no new significant events have originated following the 2008 IMPEP review.

Current State initiatives:

The Branch noted that furloughs continue. No specific end date has been identified. Due to budget shortfalls, the State has begun a round of layoffs. The Branch is uncertain if the layoffs will affect them.

Emerging technologies:

None noted.

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

The Branch identified pipeline decommissioning work on Bureau of Land Management lands as a non-standard project they are working.

State's mechanisms to evaluate performance:

Branch 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.

Current NRC initiatives:

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

CONCLUSION:

The Branch appears to have spent a significant amount of time and effort to correct the issues that were initially facing the Program. The remaining recommendation involving Compatibility Requirements continues to be a challenge for the Branch. While a cumbersome and often difficult regulatory process is being revised, the Branch has not demonstrated a sustained period of success in implementing regulations. For that reason, it is recommended that the MRB consider continuing the period of monitoring for the California Agreement State Program and have another periodic meeting with the Program in approximately 18 months.

Schedule for the next IMPEP review:

It is recommended that the next IMPEP review to be held on schedule in 3 years.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

June 3, 2009

Terry O'Clair, Director
Division of Air Quality
North Dakota Department
of Health
918 E. Divide Avenue, 2nd Floor
Bismarck, ND 58501-1947

Dear Mr. O'Clair:

A periodic meeting with your State office was held on May 5, 2009. The purpose of this meeting was to review and discuss the status of the North Dakota Agreement State Program. NRC was represented by Michelle Beardsley and Lucieann Vechioli from NRC's Office of Federal and State Materials and Environmental Management Programs and me. I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

In addition to the regular 1-day periodic meeting agenda, we included a second day for discussions and training on performance based, well logging, and increased controls inspections.

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 Linda.McLean@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Linda McLean
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for North Dakota

cc w/ encl:
Mr. Daniel Harman
Division of Air Quality
North Dakota Department
of Health

Enclosure 3

918 E. Divide Avenue, 2nd Floor
 Bismarck, ND 58501-1947

Internal distribution via E-mail:

- A. Howell, D:DNMS
- C. Cain, DD:DNMS
- R. Erickson, SAO
- L. McLean, SAO
- D. White, FSME
- A. McCraw, FSME
- M. Beardsley, FSME
- L. Vechioli, FSME

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NORTH DAKOTA

DATE OF MEETING: May 5, 2009

NRC Attendees	State of North Dakota Attendees
Linda McLean, RSAO	Terry O'Clair, Director
Michelle Beardsley, FSME	Daniel Harman, Program Manager
Lucieann Vechioli, FSME	

DISCUSSION:

The North Dakota Agreement State Program is administered by the Division of Air Quality. The Radiation Control and Indoor Air Branch (the Branch), which administers the licensing and inspection portion of the Agreement State Program, is under the supervision of the Manager of the Branch. The Branch is a part of the Division, which is one of several environmental divisions located within the North Dakota Department of Health. The Branch regulates approximately 69 specific licenses.

The last IMPEP review was conducted during the week of April 17-19, 2007. At the conclusion of the review, the team recommended that North Dakota's performance be found satisfactory, but needs improvement, for the indicator, Status of the Material's Inspection Program, and satisfactory for all remaining performance indicators reviewed. The review team made no recommendations regarding the performance of the Branch; therefore, on June 25, 2007, the Management Review Board (MRB) agreed that the North Dakota Agreement State Program was adequate to protect public health and safety and compatible with NRC's program.

Status of State's actions to address all open previous IMPEP review findings and/or open recommendations:

There were no recommendations from the 2007 IMPEP Review.

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

Strengths: Currently, the Branch has no overdue inspections or licensing actions. This achievement can be credited to the staff's strong commitment to maintaining a good safety program.

Weaknesses: Turnover has been a problem for several years. Conducting reciprocity inspections is still a challenge for the Branch. The staff's lack of experience in some types of inspections was also identified as a program weakness.

Staffing and training:

The Branch is currently fully staffed with a total of three positions: the Branch Manager, a senior health physicist (fully qualified), and one health physicist (in position 6 months).

ENCLOSURE

Turnover has been affecting the Branch for several years. Once the Branch has two fully qualified inspectors, two inspectors should be sufficient.

The staff needs additional practice and training in conducting performance based inspections. Currently, staff members use checklists. Ms. Beardsley provided a brief review for conducting performance based inspections.

Program reorganizations:

The Branch has not experienced any program reorganizations since the last periodic meeting in 2008.

Changes in program budget/funding:

The Branch has not experienced any budget or funding changes since the 2007 review.

Materials inspection program:

At the time of this periodic meeting, no inspections were overdue. During the 2007 IMPEP review, it was noted that the inspection program generally performed most inspections between the due date and the overdue date. The Branch Manager indicated that the Branch is currently working to eliminate this practice of routinely performing inspections by the due date. Presently, none exceed the 25 percent overdue limit and nine inspections are within the 0 to 25 percent range.

The Branch continues to complete as many reciprocity inspections as possible, although with some difficulty. Reciprocity licensees frequently perform work a far distance from the location of the Branch offices and often outside the inspectors' normal duty hours.

The Branch is making an effort to inspect well logging and radiography activities in the field.

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

The Branch said that the NSTS needs to be improved and suggested that small radiography companies not be required to use the system.

Regulations and legislative changes:

There have been no legislative changes that would affect the Branch's activities. The Branch has decided to adopt NRC regulations by reference and is currently working to separate the X-ray regulations from the currently combined regulations. The Branch is considering regulating TENORM.

Event reporting, including followup and closure information in NMED:

Since the last periodic meeting, the Branch has had two events that were reportable to NRC. All NMED information is up to date.

Response to incidents:

Although, the Branch has few events, the Branch Manager has placed a high emphasis on the Branch's response to incidents and allegations.

Status of allegations and concerns referred by NRC for action:

No allegations were referred by NRC to the Branch since the 2007 review.

Significant events and generic implications:

A radiography camera source disconnect was investigated and reported to NRC Operations Center. No generic issues were identified.

Current State initiatives:

The State may start regulating TENORM.

State's mechanisms to evaluate performance:

The Branch Manager performs accompaniments of the inspection staff to ensure they are performing at the expected level.

Current NRC initiatives:

In addition to the regular 1-day periodic meeting agenda, a second day was included for discussions and training on performance based, well logging, and Increased Controls inspections. Ms. Beardsley also discussed the status of NRC initiatives regarding web-based licensing, security, and NSTS, along with other current items of interest.

CONCLUSION:

Even with having only one qualified inspector, the Branch has continued to maintain public health and safety and continue an effective safety program.

Next IMPEP review:

It is recommended that the next IMPEP review to be held, as currently scheduled, in NRC Fiscal Year 2011.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 16, 2009

MEMORANDUM TO: Samuel J. Collins, Administrator
Region I

FROM: Robert J. Lewis, Director **/RA/**
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: MAY 13, 2009 PERIODIC MEETING UNDER THE INTEGRATED
MATERIALS PERFORMANCE EVALUATION PROGRAM
(IMPEP)

A periodic meeting with Region I was held on May 13, 2009. The purpose of the meeting was to review and discuss the status of the Region I Radioactive Materials Program. The Office of Federal and State Materials and Environmental Management Programs (FSME) was represented by Leira Cuadrado and me. Specific topics and issues of importance discussed at the meeting included status of operating plan and performance metrics, status of staffing and training, licensing and inspection program changes since the last IMPEP, and a review of regional self assessments. I have enclosed a meeting summary.

Enclosure:
Periodic Meeting Summary for Region I

cc w/ encl: John Kinneman, Director
Division of Nuclear Materials Safety

Enclosure 4

Distribution:

DMSSA RF

MDapas, RI

JKinneman, RI

DCollins, RI

MOrendi, FSME/MSSA

MBeardsley, FSME/MSSA

TReis, FSME/MSSA

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OFC	FSME/MSSA						
NAME	RJLewis:knm1						
DATE	06/16/09						

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**PERIODIC MEETING SUMMARY FOR THE REGION I
RADIOACTIVE MATERIALS PROGRAM**

MEETING DATE: May 13, 2009

ATTENDEES:	<u>FSME</u>	<u>Region I</u>
	Robert Lewis	John Kinneman
	Leira Cuadrado	Daniel Collins
		Joe Nick
		Mark Dapas (entrance and exit only)

DISCUSSION:

The Region I radioactive materials program is administered by the Division of Nuclear Materials Safety (the Division). The Division is composed of four branches: the Commercial and Research and Development Branch, the Decommissioning Branch, the Medical Branch, and the Material Security and Industrial Branch.

The previous IMPEP review was conducted the week of April 4-8, 2005. The review team found Region I's performance to be satisfactory for all performance indicators reviewed. Accordingly, the review team recommended, and the MRB agreed, that the Region I program is adequate to protect public health and safety.

Status of operating plan metrics:

No issues were identified with respect to operating plan metrics. Specific areas relating to the status of operating plan metrics are discussed under other headings in this summary.

Review of strategic plan metrics and an assessment of the quality of the data contained in the monthly reports on material statistics:

No issues were identified with respect to strategic plan metrics. The quality of data contained in the monthly reports has been adequate.

Status of the Region's actions to address all open IMPEP review findings and/or open recommendations:

There are no open recommendations from previous IMPEP reviews.

Staffing and training:

The attendees reviewed the Division's staffing plan, along with status of inspector and license reviewer qualifications. The Division is experiencing a changing workload due to new Agreement States decreasing the number of NRC licensees. Resources and vacancies are being closely and appropriately managed by Division management. The Division is investigating strategies to take on new work (e.g, research reactor

ENCLOSURE

environmental reviews); it was confirmed that this will not adversely impact the materials program. No concerns with staffing were identified.

The Division uses the qualification program outlined in Inspection Manual Chapter (IMC) 1246, "Formal Qualification Programs in the Nuclear Material Safety and Safeguards Program Area," for the inspection and licensing staff. Generally, staff gets qualified in all areas of the materials program. All staff is currently qualified or partially qualified. The Division plans to do a self-assessment which will include review of qualification documentation before the next IMPEP. The attendees discussed the importance of knowledge management of specialty skills, such as dosimetry and security, when staff are qualified in multiple disciplines. The attendees discussed that as the number of licensees decreases, it will be harder to qualify people under current IMC1246 for each type of license due to fewer on-the-job training opportunities. Training and qualifications of remote workers, an issue to watch from the last IMPEP, has not been an issue, in part because the Division's remote workers are very experienced and independent. The Division is employing technology to involve the remote workers in Division training and meetings. No concerns with qualifications and training were identified.

Program reorganizations:

The Division has not reorganized since the last IMPEP review.

Changes in program budget/funding:

The process for budgeting for new Agreement States was examined.

Materials inspection program:

The Division had 4 overdue inspections of the 276 inspections performed. This equates to less than 2 percent of the inspections being performed overdue, which exceeds the NRC's performance goal of greater than or equal to 98 percent of scheduled inspections being completed within timeliness requirements, and meets the IMPEP criteria for a "satisfactory" rating for this indicator. The Division performed a self assessment regarding the late inspections, implemented recommendations, and has carefully planned work through the Fiscal Year (FY) to ensure the metrics will continue to be met. The attendees discussed NRC revisiting this metric, because it may become disproportionately more difficult to meet given the lower denominator (total number of inspections) resulting from fewer licensees as more States become Agreement States. In terms of the operating plans, the attendees discussed a possible difference between the Division and FSME involving tracking time to exit (30 days for an inspection or 45 days for a team inspection). Division and FSME management will discuss this issue further at the next Regional Counterpart Meeting.

Response to incidents and allegations:

Response to incidents and allegations was not discussed in detail, as FSME and the Division coordinate closely on these areas daily. The attendees discussed incremental

improvements to the daily events call, for example to further communicate key activities and milestones.

Review of Regional self-assessments:

The attendees discussed three Regional self-assessments. The self-assessments can be found in NRC's Agencywide Document Access and Management System (ADAMS) using the Accession Numbers ML082760706, ML090910019, and ML090050459.

New or potential FSME initiatives that may impact the Regions:

Discussions on ongoing initiatives included security inspections, pre-licensing visits, and working group participation. The Division has begun re-inspection of irradiator and manufacturer and distributor security orders consistent with recent guidance. The Division will rely upon some Agreement States to conduct additional inspections under 274i. Agreements. The Division can accommodate these inspections if the Agreements are not executed. The Division is complying with pre-licensing guidance for site visits and background checks. The Division has instituted a system to track and document these activities beyond the requirements of the guidance. The Region should consider sharing this system with other Regions and the Agreement States. Currently, the Division is participating in a working group to standardize master materials licenses.

CONCLUSIONS:

No performance concerns with respect to the IMPEP criteria were identified.

Schedule for the next IMPEP review:

The next IMPEP review of the Region I radioactive materials program should be held in FY 2010, as currently scheduled.

Action items:

None.

**Agenda for Management Review Board Meeting
July 14, 2009, 2:00 p.m. - 3:00 p.m. EDT, TWFN-2-B5**

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 Lee Cox of North Carolina.)
3. Discussion of Periodic Meetings:
 - a. Maine
(October 28, 2008) – ML090130209 – Kottan/Orendi
 - b. California
(April 29, 2009) – ML091480762 – Erickson/Rautzen
 - c. North Dakota
(May 5, 2009) – ML091540648 – McLean/Beardsley
 - d. Region I
(May 13, 2009) – ML091670279 – Lewis/Cuadrado
4. Adjournment

Invitees:	Martin Virgilio, OEDO	Donna Janda, Region
	Joseph Gray, OGC	Randy Erickson, Region IV
	Robert Lewis, FSME	Linda McLean, Region IV
	Cynthia Pederson, Region III	Michelle Beardsley, FSME
	Lee Cox, NC	Leira Cuadrado, FSME
	Jay Hiland, ME	Monica Orendi, FSME
	Gary Butner, CA	William Rautzen, FSME
	Daniel Harman, ND	Janine Katanic, FSME
	John Kinneman, Region I	Aaron McCraw, FSME
	Terrence Reis, FSME	Karen Meyer, FSME
	Duncan White, FSME	Alison Rivera, OEDO