



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I**  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

June 17, 2010

MEMORANDUM TO: Joseph E. DeCicco, IMPEP Team Leader  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

FROM: John D. Kinneman, Director */RA P. J. Henderson for/*  
Division of Nuclear Materials Safety  
Region I

SUBJECT: RESPONSE TO DRAFT REPORT - INTEGRATED MATERIALS  
PERFORMANCE EVALUATION PROGRAM REVIEW OF THE  
REGION I RADIOACTIVE MATERIALS PROGRAM

As requested in your June 1, 2010, memorandum, we have reviewed the draft report entitled "Integrated Materials Performance Evaluation Program (IMPEP) Review of the Region I Radioactive Materials Program." We agree with the team's proposed recommendations and the enclosed response contains minor comments related to information contained in the draft report. The review by your team was comprehensive and professional; and the draft report accurately reflects Region I's radioactive materials program performance from April 2005 to April 2010. As reflected in the draft report, we continue to implement an effective materials program at a consistently high level of performance, despite the challenges we have experienced over the past five years with the creation of three new Agreement States and implementation of several Security Orders.

We appreciate the opportunity to review the draft IMPEP report and if you have any questions regarding the enclosed comments, please contact us as listed below.

Enclosure:  
As stated

cc w/enclosure:  
S. Collins, RI  
M. Dapas, RI

CONTACT: Marc S. Ferdas, DNMS/RI  
(610) 337-5022

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**SUNSI Review Complete: MSF (Reviewer's Initials)**

**Non-Public Designation Category: MD 3.4 Non-Public B.1 (A.3 - A.7 or B.1)**

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| DATE   | 06/16/10      |   | 06/16/10    |   | 06/17/10        |  |  |

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**Region I Comments**  
**Draft Report - IMPEP Review of the Region I Radioactive Materials Program**

Comment 1:

The fifth paragraph in Section 1.0 on page 1 states:

*In preparation for the review, a questionnaire addressing the common performance indicators was sent to Region I on January 14, 2010. The Division provided a response to the questionnaire on April 8, 2010. A copy of the completed questionnaire response can be found in NRC's Agencywide Document Access and Management System (ADAMS) using Accession Number ML100980461.*

Region I provided a response to the questionnaire on April 7, 2010, and the response was entered into ADAMS in two parts and therefore can be found using Accession Numbers ML100980430 (memorandum) and ML100980461 (response).

Comment 2:

The second paragraph in Section 3.1 on page 2 states:

*The Division is composed of four branches: (1) the Medical Branch, (2) the Commercial and R&D Branch, (3) the Materials Security and Industrial Branch, and (4) the Decommissioning Branch. A six member Licensing Assistance Team managed as part of the Decommissioning Branch provides administrative support to all the branches in the Division. Including non-technical positions, the Division had 42 staff members on board at the time of the review. Funding for technical positions comes from the Nuclear Materials Safety Arena (26.9 full-time equivalents (FTE)) and Security and Incident response Arena (5.1 FTE).*

The Licensing Assistance Team consists of a Team Leader and three staff for a total of four members. They provide administrative and records management support for licensing and inspection activities for the Division of Nuclear Materials Safety.

Comment 3:

The third paragraph in Section 3.1 on page 2 states:

*Since the previous review, the Division's total FTE level has decreased by 10. This decrease is in parallel with a decrease of approximately 1,400 licenses that new transferred to new Agreement States during the review period.*

Since the previous review, the Division's total number of staff positions has decreased by 10 individuals with a budget change of approximately seven FTE (39 FTE in FY 2005/32.75 FTE in FY2010). The Region has transferred approximately 1,600 licenses (PA: 700, VA: 400, NJ: 500) during the review period, not 1,400 as stated in the report.

Comment 4:

The third paragraph in Section 3.2 on page 3 states:

*Region I conducted a total of 1,207 inspections of Priority 1, 2, and 3 licensees during the review period. The review team identified 12 of these inspections that were conducted overdue by more than 25 percent of the inspection frequency prescribed by IMC 2800. The review team did not identify any inspections that were overdue at the time of the review. The review team found that 9 of the 12 overdue inspections were due to LTS data entry errors. During the review period, the Division instituted changes in Quality Control and monitoring in order to reduce future errors.*

As documented in the IMPEP questionnaire response (ML100980430 and ML100980461), we identified a total of 35 overdue inspections between April 2005 and April 2010 (12 overdue inspections in 2005, 8 in 2006, 9 in 2007, 4 in 2008 and 2 in 2009, 0 in 2010). Ten (10) of the 35 overdue inspections were attributed to LTS data entry errors.

Comment 5:

The sixth paragraph in Section 3.2 on page 3 states:

*During the review period, the team determined that the Division completed the required number of reciprocity inspections of candidate licensees for all years covered by the review period, except 2005. IMC 1220, "Processing of NRC Form 241 and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20," requires inspection of at least 20 percent of all candidate reciprocity licensees per calendar year. In 2005, the Division inspected 3 of 19 candidate licensees or 16 percent of candidate licensees. The review team identified the increased workload as a result of the implementation of the Increased Controls as an underlying cause for missing the metric in 2005.*

Based on our reviews leading up to the IMPEP review, Region I was unable to identify a clear underlying cause for not performing the required number of reciprocity inspections in 2005. As stated in the draft report, the region was challenged with an extensive increased work load associated with implementation of additional security orders that were issued in 2004 and 2005. In addition, the regional staff is frequently challenged by licensee schedule changes and inspection scheduling issues associated with short term work requests or filings late in the calendar year. Through increased monitoring, Region I has met or exceeded the goal in each of the following calendar years of the review period.

Comment 6:

The fourth paragraph in Section 3.4 on page 4 states:

*...One license had possession limits that would require implementation of the Increased Controls and fingerprinting requirements but did not have the required appropriate license conditions. This license was transferred to the Commonwealth of Pennsylvania when Pennsylvania became an Agreement State on March 31, 2008. Following discovery of this case, the Division notified Pennsylvania to ensure that the necessary correction has been or will be made to the license.*

This particular license was considered a "straight transfer" to Pennsylvania because it did not contain a temporary job site or a location remaining in NRC jurisdiction; and the license did not need to be amended before it was transferred per FSME guidance (ADAMS Accession Number ML070400111), dated February 9, 2007. The guidance directs license reviewers to add the specified license condition at the time of the next licensing action request. In addition, it should be noted that this particular license was last amended on October 16, 2006. Therefore the license was not subject to adding the license condition prior to the transfer to the Agreement State.

Comment 7:

Appendix D - File No. 14 (page D.2), File No. 22 (page D.3), and File No. 34 (page D.4) state:

*The Region did not include a required license condition on this new license.*

The license identified in File No. 14 is not required to contain the license condition, because the licensee is not subject to those particular requirements. This information is tied-down to the license in License Condition 17.A (ADAMS Accession Number ML080390555).

File No. 22 involves the Army, not the Navy. This license was amended (Amendment No. 35) on September 15, 2006. As noted in comment 6 above, FSME did not instruct the Regions to apply the license condition until 2007 and noted that this condition could be applied during a review of the next licensing action request. The next licensing action was completed on June 18, 2009 when Amendment No. 36 was issued and included the license condition.

Please see comment 6 with regard to File No. 34.