

September 14, 2010

MEMORANDUM TO: Michael F. Weber
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, and Compliance Programs
Office of the Executive Director for Operations

Bradley W. Jones, Assistant General Counsel
for Reactor and Materials Rulemaking
Office of the General Counsel

Charles L. Miller, Director
Office of Federal and State Materials
and Environmental Management Programs

Elmo Collins, Regional Administrator
Region IV

FROM: Michelle R. Beardsley, Health Physicist */RA K. Meyer for/*
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: OCTOBER 5, 2010 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of periodic meetings held with the Ohio Agreement State Program, and the orientation meeting held with the New Jersey Agreement State Program has been scheduled for **Tuesday October 5, 2010 from 10:00 a.m. to 11:30 a.m. EDT, in Two White Flint North, Room 2-B5**. The summaries for each of the meetings are enclosed (Enclosures 1 and 2).

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 3).

If you have any questions or need additional information, please feel free to contact me at (610) 337-6942 or Michelle.Beardsley@nrc.gov.

Enclosures:
As stated

cc w/ encl.: James McNees, Alabama
Organization of Agreement States
Liaison to the MRB

MRB Members

Distribution: DCD (SP01)

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DATE	09/14/10									

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR THE OHIO
BUREAU OF RADIATION SAFETY

NRC Attendees	Ohio Attendees
Jim Lynch, RSAO	Michele Shipp, MD, DrPH, Assistant Director, ODH
Aaron McCraw, FSME	Mike Snee, Administrator
	Steve Helmer, Administrator
	Mark Light, Supervisor
	Chuck McCracken, Supervisor

DATE OF MEETING: AUGUST 4, 2010

DISCUSSION:

The Agreement State Program is administered by the Bureau of Radiation Protection (the Bureau), within the Ohio Department of Health. The Program is divided into three sections: Nuclear Material Safety, Technical Support, and X-Ray. The Technical Support Section is responsible for regulations, training, self-assessments, Radiation Safety Officer functions, and emergency response. The Nuclear Material Safety Section is divided into three units: Medical, Industrial, and Decommissioning.

The State's last IMPEP review was conducted in October 2008. The review team found Ohio's performance to be satisfactory for all performance indicators reviewed. The review team made one recommendation, discussed below. Accordingly, the review team recommended, and the Management Review Board agreed, that the Ohio Agreement State Program was adequate to protect public health and safety, and compatible with NRC's program. This was the third consecutive IMPEP review in which all performance indicators were found to be fully satisfactory, the highest possible rating.

The status of the recommendation from the 2008 Ohio Final IMPEP Report is summarized below:

- The review team recommends that the State document and implement a training and qualification program that, at a minimum, contains a statement of policy, minimum qualifications for staff training, and supervisory verification for ensuring this policy is implemented.

Status: The Bureau developed a staff training and qualification program. Bureau managers indicated that the program was implemented for all staff members. This recommendation should be verified and closed at the next IMPEP review.

Other topics covered at the meeting included:

Program Strengths:

The experienced, competent staff is the most notable strength of the program. First line supervisors are very experienced and have maintained a strong radioactive materials program during a difficult budget period.

The Bureau's audit program has been able to identify and correct areas in need of improvement.

The Bureau's Radmat radioactive materials database is nationally recognized and provides an excellent management tool.

Program Weaknesses:

Bureau managers noted that out-of-state travel for training or professional meetings is difficult to get approved, even if cost-free to Ohio. Department personnel are limited to 12 days of out-of-state travel per year.

Feedback on NRC's Program:

The Bureau indicated that they appreciated the good relationship and communication that they have with NRC Region III. They were also appreciative of NRC's funding for Agreement State training.

The Bureau also expressed a desire to improve their interactions with NRC Region II, which has jurisdiction over the USEC facility in Piketon. Since Ohio has emergency response duties in the area of the facility, Bureau managers believe that increased familiarity with operations will be useful. The Region III representative will work with the NRC's liaison program to attempt to improve those communications.

Staffing and Training:

Staffing for the Agreement State program remains a challenge with significant budget issues facing the State. The Bureau has been able to fill staff positions, with only one vacancy in the Program at the time of the meeting.

The Bureau Chief, Bob Owen, is planning to retire at the end of 2010.

Program Reorganizations:

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

Changes in Program Budget/Funding:

The Program has a solid source of funding through a dedicated fee fund. A 20 percent increase in radioactive material license fees was approved in July 2009. No general revenue is received for the Agreement State Program. State-wide cuts have led to the requirement for all employees to take 10 unpaid "cost savings days" per year.

Materials Inspection Program:

The Bureau reported that they have not performed any inspections overdue and had no overdue inspections at the time of the meeting. All inspection frequencies are the same as found in the NRC's Inspection Manual Chapter (IMC) 2800. Several license categories identified during the last review were modified to the NRC's frequencies. The Bureau is performing Increased Controls inspections in conjunction with the routine health and safety inspections.

The Bureau conducted three 274i inspections on behalf of the NRC. Reports were compiled and submitted to the NRC. Issues involving potential violations identified during the inspections were discussed during the meeting.

The Bureau regularly performs reciprocity inspections. Ohio is meeting the inspection targets in IMC 1220.

Materials Licensing Program:

Licensing actions are kept current with no licensing backlog. License applications are generally completed within a few weeks of receipt. Sealed Source and Device (SS&D) reviews are performed in a timely manner.

The Bureau has implemented the essential objectives of the NRC's pre-licensing guidance. To meet the requirements, the Bureau hand delivers licenses to new license applicants that are unknown to the program. This process allows the Bureau to withhold the license if expectations are not met by the applicant.

Regulations and Legislative Changes:

The State is up to date on all regulation amendments currently required for compatibility. NRC comments on one proposed rule package (RATS 2007-3) remain unresolved; however, Bureau managers stated that the final rule addressing those comments would be completed in the near future. The regulation promulgation process in Ohio takes approximately 1 year to complete.

The current 10 CFR Part 37 rulemaking initiative was also discussed during the meeting.

Event Reporting, including Followup and Closure Information in the Nuclear Materials Events Database (NMED):

The Bureau had reported numerous events to NMED since the 2008 IMPEP review. All of the events were appropriately reported to the NRC, and were properly entered into, and updated, within NMED. Very good communication with Region III was noted during event response.

Response to Incidents and Allegations:

The Bureau continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their affect on public health and safety. Twenty-five incidents have been reported since the last IMPEP review. Staff is dispatched to perform on-site investigations when necessary. The Supervisors have placed emphasis on maintaining an effective response to incidents and allegations.

Status of Allegations and Concerns Referred by the NRC for Action:

The NRC referred two allegations to Ohio since the last IMPEP review. Six allegations were also received directly by the State during the period. All allegations were thoroughly investigated in a timely fashion. Allegers' identities were protected, as appropriate.

Significant Events and Generic Implications:

The Bureau had two abnormal occurrences since the last IMPEP review. Urology Center and Mercy St. Vincent Medical Center both had medical events that met the abnormal occurrence criteria. The Urology Center incident was reported in the Fiscal Year 2009 report to Congress. The Mercy St. Vincent incident will be included in the Fiscal Year 2010 report. Bureau managers stated that the write-up for that incident will be submitted to the NRC in the near future.

Current State Initiatives:

In December 2008, the Bureau identified a number of events involving the failure of fixed gauge shutter closure mechanisms. They issued an Information Notice alerting licensees of the generic problems identified and reminded licensees of the reporting requirement associated with such failures. The NRC, seeing a similar trend in NRC-regulated industries, issued an Information Notice (2009-18) in September 2009 that was based on the Ohio document.

Large, Complicated, or Unusual Authorizations for use of Radioactive Materials:

Ohio's significant decommissioning projects were discussed, including Advanced Medical Systems (AMS) and Shieldalloy. Significant progress has been made at the AMS site, in which all of the cobalt-60 contaminated equipment and debris was disposed of through an authorized vendor. Contaminated structures remain to be

decontaminated and the Bureau is pursuing that process with the licensee. The Bureau performs routine monitoring at the Shieldalloy slag pile to assure that the contaminated material remains appropriately interred at the site.

State's Mechanisms to Evaluate Performance:

The Bureau has an extensive audit program. Internal audits of the SS&D program and the status of Increased Controls inspections were completed since the last IMPEP review. In addition, the Nuclear Materials Safety Program Administrator audits inspection, licensing and incident response parameters on a monthly frequency. Inspectors are accompanied at least annually by their Supervisors.

Current NRC Initiatives:

NRC staff discussed ongoing initiatives with the Ohio representatives. These included pre-licensing guidance, national source tracking, and the integrated source management initiative.

CONCLUSION:

The Ohio Agreement State Program remains a very active, strong, stable program with excellent management support. Staffing has remained consistent since the last review and the training level for staff members is on target. Ohio managers indicated that they will continue to support the IMPEP program, NRC working groups, the Organization of Agreement States, and CRCPD. The Bureau has an effective self-audit program that enables self-identification of programmatic issues prior to their escalation to performance weaknesses.

Schedule for the Next IMPEP Review:

NRC staff recommends that the next IMPEP review to be held, as currently scheduled, in late 2012.

AGREEMENT STATE ORIENTATION MEETING SUMMARY FOR
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (NJDEP)

DATE OF MEETING: June 24, 2010

NRC Attendees	NJDEP
Pamela Henderson, Acting Deputy Director, Division of Nuclear Materials Safety, Region I	Jill Lipoti, Director, Division of Environmental Safety and Health, NJDEP
Donna Janda, Region I RSAO	Paul Baldauf, Asst. Director, Radiation Protection Programs
Michelle Beardsley, Health Physicist, FSME	Patricia Gardner, Chief, Bureau of Environmental Radiation
Maria Arribas-Colon, Health Physicist, FSME	Jennifer Goodman, Supervisor, Diffuse NARM, Source and Special Nuclear Material, General Licensing & Decommissioning Section
	William Csaszar, Supervisor, Industrial, Medical, and Reciprocity Section
	Richard Peros, Supervisor, Medical Section
	Catherine Biel, Supervisor, Industrial Section

DISCUSSION:

New Jersey became the 37th Agreement State on September 30, 2009. The Agreement discontinued NRC regulatory authority in the State for: a) byproduct materials as defined in Section 11e.(1), 11e.(3), and 11e.(4) of the Act; b) source materials; and c) special nuclear materials not sufficient to form a critical mass. The Agreement does not cover safety evaluations of sealed sources and devices or regulation of 11e.(2) byproduct material resulting from the extraction or concentration of source material from ore processed primarily for its source material content or its management or disposal.

FSME Procedure SA-118, *Orientation Meetings for New Agreement States*, requires that orientation meetings with new Agreement States take place approximately nine months after the signing of the agreement. The orientation meeting serves as a forum to hold discussions, to exchange information, to identify areas of concern during the initial implementation for the new Agreement State program, and to assess IMPEP review planning. The orientation meeting is not a formal evaluation.

The New Jersey Agreement State Program (the Program) is located in the Bureau of Environmental Radiation (the Bureau), which is located in the Radiation Protection Program within the New Jersey Department of Environmental Protection (NJDEP).

This summary describes New Jersey's orientation meeting.

TOPICS COVERED DURING THE MEETING INCLUDED:Program Strengths

An experienced and well trained staff is a major strength of the Program. Eight staff members have advanced degrees and greater than 20 years of experience. The Program developed a good working relationship with the regulated community prior to New Jersey's transition to an Agreement State and continues to maintain this effective working relationship. Management support, including upper management, for the Program is very good. According to Program managers, adopting NRC regulations by reference and careful consideration of the licensing fee schedule both contributed to the successful start of the Agreement State Program.

Program Weaknesses

According to Program management, the process of populating their electronic license file database to include the license information from NRC paper files had to be done from scratch which required significant resources to accomplish. Merging files took more time than estimated and the Program needed to adapt the database to fit their needs. Staff must spend more time than anticipated to generate licenses and letters. In addition, Program staff identified a weakness associated with their website which needs to be updated with current Agreement State-related information. Program management is considering modeling their website based on the Florida materials program website. The updated website will also have a list server set up so licensees can sign up to receive Program announcements/correspondence.

Management Support of the Agreement State Program

Division management is very supportive of the Agreement State Program, including support for training of Program staff.

Feedback on the NRC's Program

The Program staff indicated that NRC's general license tracking system (GLTS) database has been found to contain many inaccuracies. A copy of this database was provided to the Program prior to the effective date of the Agreement. Two issues the program identified included finding sources on the list that should have been removed and the inability to locate some licensees based on the information provided in the database. The Program Chief indicated that the State intends to send a letter to NRC describing the issues the State has identified with GLTS.

Program management commented that both the overall relationship and communication with the NRC are good and welcomed the NRC funding of training. The Program Chief stated that the National Source Tracking System (NSTS) webinar conducted by FSME and Increased Controls inspection training provided by Region I staff were good NRC initiatives. The Program staff would like to see more opportunities for NMED training, including a webinar if possible, and/or better guidance for NMED users.

Agreement State Program Staffing and Training

The Program is fully staffed. Approximately 12 full-time equivalents (FTE) are allotted to the Program, not including clerical support. Program staff consists of the Program Chief, four Section supervisors and seven technical staff members. According to the Program Chief, the staffing level was a challenge when considerable resources were spent merging docket files after becoming an Agreement State; however, the staffing level is adequate for a normal workload.

Support for staff training exists in the Program. Program staff members have attended NRC and other training courses, including the NRC's Security Systems and Principles Course. The Program Chief noted that they were concerned that they were unsuccessful in enrolling staff in the two NRC medical qualification courses. Training journals are maintained for each staff member and include requests for upcoming training.

Materials Inspection Program

The Program's inspection frequencies are at least as frequent as NRC's. At the time of the Agreement, NRC Region I provided an approximate three-month "cushion" of completed inspections to allow New Jersey time to concentrate on structuring its Program without concern about the need to immediately conduct inspections. No inspections were completed overdue, and there is no inspection backlog. New Jersey has performed 26 routine inspections since becoming an Agreement State. The Program maintains a database for tracking inspection activities. Program supervisors have started conducting annual inspection accompaniments.

The Program has conducted seven reciprocity inspections of 33 candidate licensees that have entered the State since the effective date of the Agreement. The State has a very active reciprocity program which is reflected in the receipt of approximately 190 requests from these licensees to work in New Jersey. In addition, the State has taken enforcement action against two licensees who did not file for reciprocity with the State prior to conducting licensed activities in New Jersey.

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's radioanalytical laboratory for sample analyses.

Licensing

No licensing backlog exists. The Program has approximately 650 active radioactive materials licenses and has completed merging 316 of these licenses into their license database. The Program has processed 436 licensing actions including 26 applications for new licenses since the effective date of the Agreement. Pre-licensing checklists are being used and pre-licensing visits are conducted when appropriate. The Program has received one new application for a gamma knife facility which is currently under review.

Regulations and Legislative Changes

There have not been any legislative changes or proposals that have affected the Program.

New Jersey adopts NRC regulations by reference with few exceptions. New Jersey regulations are subject to sunset laws and are due to sunset in July 2011. The Program Chief noted that New Jersey will need a new pointer when 10 CFR Part 37 regulations are published. New Jersey will notify their licensees when NRC regulations are out for comment.

Program Budget/Funding

The New Jersey Agreement State Program is 100 percent funded by the fees charged to licensees by the Program. At the present time the Program is adequately funded. Fees are placed into a restricted account that is available only to the Program. The Program Chief noted that no furloughs or layoffs of Program staff members are expected in the upcoming fiscal year.

Financial Assurance

The State has 23 licensees that require financial assurance. At the time of this meeting, four licensees have transferred their financial assurance instruments from NRC to New Jersey and four others are in the process. New Jersey is waiting for additional information from the remaining 15 licensees who possess financial assurance instruments.

Event Reporting

The Program communicates reportable incidents to the NRC Operations Center and Region I when appropriate in a prompt manner. Since New Jersey became an Agreement State, three events were reported to the NRC.

Response to Incidents and Allegations

The Program is sensitive to notifications of incidents and allegations. Program management quickly reviews incidents for their effect on public health and safety, and staff members are dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations and has procedures in place to ensure appropriate follow up action is taken. The Program has received two allegations from NRC since becoming an Agreement State. Both of these allegations were followed up and closed out with the allegeders.

General Licensing Program

New Jersey has an active program for generally licensed devices. The Program has contacted the generally licensed device users within the State. As noted previously in this report, the Program has noted that it has been a challenge working with the NRC GLTS database. The Program plans to work with general licensees to establish an accurate and accountable inventory list for general licensed devices in New Jersey. The Program is currently investigating a vendor selling industrial smoke detectors, which may be generally licensed devices, on a

public website.

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 has continued to conduct inspections of licensees subject to the Increased Controls Order. These inspections are conducted in conjunction with routine safety inspections.

NRC Current Initiatives

Discussion topics included the recent addition of three new Commissioners; new Deputy Executive Director of Operations for Materials and Chairperson for the Management Review Board; Federal Register Notices for Draft Safety Culture Policy Statement, NUREG-0654, and revision of fee schedules; new 10 CFR Part 37; License Verification System; Inspection Manual Chapter 2800 revision; NUREG-1556 series revision; and the Regulation Toolbox on the FSME website.

CONCLUSIONS:

The New Jersey Agreement State Program appears to be a capable, stable Agreement State program with good managerial support. Staffing has remained consistent since the implementation of the Agreement, and the training and experience level for the staff is good.

NRC staff recommends that the initial IMPEP review should be conducted as scheduled in FY 2011 (tentatively March 2011).

**Agenda for Management Review Board Meeting
October 5, 2010, 10:00 a.m. – 11:30 a.m. EST, T-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, NRC staff members, State representatives, and other participants.
3. Discussion of Periodic Meetings:

Ohio
 (August 4, 2010) – ML102310145 – Lynch/McCraw
4. Orientation Meeting:

New Jersey
 (June 24, 2010) – ML102360417--Janda/Beardsley/Arribas
5. Adjournment

Invitees:	Michael Weber, OEDO	Donna Janda, Region I
	Bradley Jones, OGC	John Kinneman, Region I
	Charles Miller, FSME	Aaron McCraw, FSME
	Elmo Collins, RIV	Michelle Beardsley, FSME
	Pat Gardner, NJ	Karen Meyer, FSME
	Mike Snee, OH	Monica Orendi, FSME
	Maria Arribas, FSME	Kathryn Brock, OEDO
	Duncan White, FSME	Rob Lewis, FSME
	Terry Reis, FSME	James Lynch, Region III