



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
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ARLINGTON, TEXAS 76011-4125

September 30, 2010

David M. Howe, Acting Section Manager
Radiation Protection Services
Oregon Public Health Division
Oregon Health Authority
800 NE Oregon Street, Suite 640
Portland, OR 97232-2162

Dear Mr. Howe:

A periodic meeting with you and your staff was held on September 21, 2010. The purpose of this meeting was to review and discuss the status of the Oregon Agreement State Program. The NRC was represented by Mr. Charles Cain from NRC's Region IV office and me. Topics and issues of importance discussed at the meeting included a detailed discussion of recommendations from the 2009 IMPEP review.

Following the meeting you provided supporting documentation via e-mail to demonstrate completion of the recommendations noted during the review. The information you provided can be found in NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Number ML102710098.

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

Sincerely,

/RA/

Randy Erickson
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for Oregon

(cc listing on next page)

Oregon Health Authority

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cc w/enclosure:

Terry D. Lindsey
RPS Special Projects
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Oregon Health Authority

Internal distribution via e-mail:

- Art Howell, DNMS
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- Robert Lewis, FSME
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- Randy Erickson, SAO
- Rachel Browder, SAO
- Monica Orendi, FSME
- Janine Katanic, FSME
- Michelle Beardsley, FSME
- Karen Meyer, FSME

MLXXXXXXXXXX

SUNSI Review Completed: Yes ADAMS: X Yes No Initials: RRE
 X Publicly Available Non-Publicly Available Sensitive X Non-Sensitive

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR THE
OREGON HEALTH AUTHORITY

DATE OF MEETING: SEPTEMBER 21, 2010

NRC Attendees	
Randy Erickson, RSAO	
Charles Cain, Deputy Director, DNMS	

Oregon Attendees	
Terry Lindsey, RPS Special Projects	Kevin Siebert, Health Physicist-Inspections
David Howe, Acting Section Manager	Justin Spence, Health Physicist-Inspections
Todd Carpenter, Licensing Manager	Daryl Leon, Health Physicist-Inspections
Bonny Wright, Medical Physicist	Nancy Curry, Office Specialist
Sylvia Martin, Health Physicist-Licensing	

DISCUSSION:

At the time of the 2009 IMPEP review, the Oregon Agreement State Program was administered by the Radiation Protection Services Section (Section) in the Division of Public Health (Division) which was part of the Oregon Department of Human Services. The most recent legislative session in 2009 moved the Division and ultimately the Section to the Oregon Health Authority. This transition is anticipated to be completed by June 30, 2011.

The 2009 IMPEP Review was conducted the week of August 24-27, 2009. The review team found Oregon's performance to be satisfactory for three performance indicators and satisfactory, but needs improvement for three other indicators. The team closed three open recommendations and opened three new recommendations; and, recommended that the Oregon Program be found adequate to protect public health and safety, but needs improvement, and is compatible with NRC's program.

The team recommended that the Program remain on monitoring with a periodic meeting to be held in one year. The team also recommended that the next full IMPEP review be held in four years, but the Program requested that the next review take place in three years to not conflict with the 2011 and 2013 sessions of the Oregon Legislature.

Following the August 2009 program review NRC held two Monitoring calls with the Section. The first call was held on March 16, 2010 where the Section reported they had completed one of the three recommendations involving development and implementation of a procedure for the control of sensitive or security-related information that provides guidance to identify, mark, handle, and protect such information. The second call was held on June 16, 2010 where the Section reported they were still working on the remaining recommendations involving staff qualifications; and, the timely entry of information into NMED.

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The following is a status summary of the three recommendations that were identified in the 2009 Oregon final IMPEP report:

- The review team recommends the State develop and use a documented formal qualification program (including refresher training) for inspection and licensing staff that would include journals that clearly indicate each individual's training and qualification including oral and/or written evaluation of their understanding of regulations and guidance documents.

Current Status: The Section developed a Training Policy Statement which clarifies their commitment to proper training and development of the technical staff. Additionally, they developed a comprehensive qualification program utilizing a three phased approach. Manual Chapter 1246 was used as a guide during development, and their program closely mirrors NRC's required classroom training and inspection requirements. As candidates move through the training program, trainers and supervisors sign off on their progress. When candidates have completed the training requirements and have received enough inspection related experience to operate independently, they are reviewed by management who then signs their qualification documentation.
This recommendation should be verified and closed at the next IMPEP review.

- The review team recommends that the State develop and implement a procedure for the control of sensitive or security-related information that provides guidance to identify, mark, handle, and protect such information.

Current Status: The Section developed a protocol entitled, "Sensitive Unclassified Non-Safeguards Information (SUNSI)" which was developed using the guidance found in RIS 2005-31. The Section implemented their SUNSI program and staff now utilizes the protocol to more consistently identify, mark, handle and properly protect sensitive or security-related information. The protocol is now applied to all documents, either incoming or staff generated, to appropriately handle documents determined to be sensitive.
This recommendation should be verified and closed at the next IMPEP review.

- The review team recommends that the Section implement a process to ensure all required information is submitted to NMED and to also promote timely completion of NMED entries.

The Program in conjunction with Idaho National Laboratory provided NMED training to the staff on May 11, 2010. Concurrent with that training, NRC Region IV provided SA-300 training. During that training, discussions were held regarding appropriate and timely reporting to the Headquarters Operations Officer in addition to NMED, and the requirements associated with each type of reporting. The Program has also developed a protocol regarding events which includes timely NMED data entry and follow-up to ensure NMED data is properly submitted. Additionally, the incidents are now reviewed during monthly staff meetings. As closing information is gathered, it goes through two

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levels of management evaluation prior to being sent to NMED for closure.
This recommendation should be verified and closed at the next IMPEP review.

Other topics covered at the meeting included.

Program Strengths: The Oregon Program is a relatively stable program with most of the technical staff having been with the Program for several years. These individuals came to the Program from diverse health physics backgrounds which only serve to bolster the cohesive nature in which the inspectors work together. Staff is supportive of each other and work together to achieve maximum success for the program.

Program Weaknesses: The Section identified one main area that continues to stress the Program, with that being in the area of unfunded NRC requirements. Managers noted that to date, the Program has been able to conduct increased control inspections, issue fingerprinting license conditions, implement pre-licensing guidance; and, keep up with the requirements of the National Source Tracking System, mainly because Section personnel have been able to be flexible and prioritize regulatory projects. Although the Section was successful in securing recent fee increases, this may not continue to be the case in the future.

The Section also noted difficulties with navigating NRC's public website as a hindrance to efficiently locating guidance documents. Specifically, the Program noted that the search function of the website does not function as easily as other public and government websites.

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

The Section expressed their appreciation for NRC's continued funding of Agreement State staff training.

Staffing and training:

The Oregon Program is a moderate sized program with 21 staff members. Most of the technical staff has both primary and secondary responsibilities within the Program. However, the majority of their time is spent within their main program area. At the time of the 2009 IMPEP review, the Program had 5.25 full-time equivalents in the technical program areas, now they are up to 7.5 full-time equivalents. They plan to ask for 2 additional staff during the next legislative session. The entire process for securing additional staff can take up to 6 years to complete.

The technical staff has been very stable with no turnover since 2001. While Section management completely turned over in 2007 due to the retirement of several individuals, it has been stable since that time. However, the current Program Manager announced his retirement effective January 31, 2011, and a nationwide search for a replacement is currently underway.

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The Section reported that they have been able to get staff into training courses and have even hosted courses. The most recent course they hosted was NRC's Transportation Course which was approximately two years ago. The Section reported that several of their staff, including some of the senior staff, failed the class. This was discussed with the Section who stated that they discussed this in detail with FSME senior management at the time. The Section reported that none of the staff who failed the course actually required it for qualification at the time so specific alternatives for training were discussed.

Program reorganizations:

The Section reported that the 2009 Oregon legislative session passed House Bill 2009 which resulted in the Public Health Division being transferred to a new agency named the Oregon Health Authority. Administrative and Information Technology services will remain a shared expense between the two departments. The change is being phased in over a two year period and is anticipated to be completed by June 30, 2011. The Section views this as a positive change with more access to the legislature.

The Section believes that additional organizational changes are likely to occur as the Department moves towards a more "lean" organization structure.

Changes in Program budget/funding:

The Department has not experienced significant problems with budgeting or funding in regards to the materials program. The Department is 85 percent fee funded. The most recent change to the Section's funding occurred on September 1, 2010 when the radioactive materials licensing fees were approved for a 20 percent fee increase. The Program reported that this funding level is sufficient to operate the Program at current levels.

The Section also reported that the Section has lost one FTE equivalent over the last three years due to reductions in CDC federal grant appropriations. This loss of funding has had to be absorbed by the Section to continue to provide an emergency response function.

Materials Inspection Program:

The Department reported that they currently have no overdue inspections. Routine inspections are generally performed by the due date. Initial inspections are generally performed within 12 months of issuance. The Section continues to inspect Increased Controls inspections in conjunction with routine inspections.

Regulations and Legislative changes:

The Department reported that they are currently up to date on all regulations. There are three regulation packages that will come due by the end of 2010. These include:

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- “Requirements for Expanded Definition of Byproduct Material,” 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendment (72 FR 55864), that is due for Agreement State adoption by November 30, 2010.

(The Section reported they have already submitted this rule package as final rule for NRC review)

- “Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements,” 10 CFR Parts 30, 31, 32, and 150 amendment (72 FR 58473), that is due for Agreement State adoption by December 17, 2010.
- “Medical Use of Byproduct Material – Minor Corrections and Clarifications,” 10 CFR Parts 32 and 35 amendment (72 FR 45147, 54207), that is due for Agreement State adoption by October 29, 2010.

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

The Section reported that all NMED information with the exception of three open items is currently up to date.

Response to incidents and allegations.

The Section maintains sensitivity 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 Section Manager and staff have placed a high emphasis on maintaining an effective response to incidents and allegations.

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

No allegations were referred by NRC to the Section since the 2009 IMPEP review.

Significant events and generic implications.

The Section reported multiple examples of fixed gauge failures at Oregon industrial plants which they believe may be related to improper installation or maintenance failures. The Section plans to escalate follow-up inspections from a five-year frequency, to a one or two year frequency to ensure that these issues are addressed.

Current State Initiatives.

The Department plans to initiate a funding proposal in the 2011 legislative session to fund NRC’s requirements placed upon the program. They are also seeking funding to build a comprehensive environmental health program within the Public Health Division of the Oregon Health Authority. Additionally, Oregon is in the final phase of the CRCPD SCATR source disposal program.

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Emerging Technologies.

None noted. The Section reported they recently updated their administrative rules to be compatible with 10 CFR 35.1000 rule on emerging technologies.

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

None noted. However, the Section did note that an ORAU contractor recently submitted a FOIA request related to the NIOSH Dose Reconstruction Project for an Oregon licensee. This effort took about 40 staff hours as they reviewed approximately 20,000 pages of records.

State's mechanisms to evaluate performance.

Section managers use a combination of internal audits of the program, the use of databases to track work and evaluate performance, accompaniments of inspectors to evaluate training and performance, and also conducts routine staff meetings to review the status of the licensing and inspection programs, regulation compatibility, protocol development, and incident reviews as a means to evaluate the Section's overall performance.

Current NRC initiatives:

NRC staff discussed ongoing initiatives with the Office. This included pre-licensing guidance, fingerprint orders, national source tracking, web-based licensing, generally licensed devices, safety culture, Part 37; and, revisions of NuReg 1556 series, IMC 1246 and IMC 2800.

Summary:

The Section appears to have spent a significant amount of time and effort to address the three recommendations identified during the 2009 IMPEP review. A Training Policy Statement has been developed, formal qualification journals have been developed and implemented, procedures to properly handle and mark sensitive documents have been developed and implemented, and a process for timely submission of NMED documents has been developed and implemented. The Section believes they have sufficiently demonstrated a period of sustained performance. The Section reports that sensitive documents are now being marked and handled appropriately, and NMED data is being closed out in a timely manner. While qualification journals have been developed for the technical staff, current technical staff has been with the program a minimum of nine years and have been fully qualified for several years. The newly developed qualification journals will be used for all new staff joining the Section.

For those reasons it is recommended that the Management Review Board consider removing the Oregon Program from Monitoring.

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Schedule for the next IMPEP review:

It is recommended that the next IMPEP review to be held in two years (2012) to accommodate Oregon's request to not conflict with the 2011 and 2013 legislative sessions.