

August 1, 2011

MEMORANDUM TO: Cynthia Carpenter, Acting Director
Office of Federal and State Materials
and Environmental Management Programs

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

Robert Lewis, Acting Deputy Director
Office of Federal and State Materials
and Environmental Management Programs

Cynthia Pederson, Deputy Regional Administrator
Region III

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: August 16, 2011 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of periodic meetings held with the Georgia, North Carolina and New Mexico Agreement State Programs has been scheduled for **Tuesday August 16, 2011 from 1:00 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 and 3).

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

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

Enclosures:
As stated

cc w/ encl.: Paul Schmidt, Wisconsin
Organization of Agreement States
Liaison to the MRB

MRB Members

Distribution: DCD (SP01)

MSSA_Technical_Asst

TReis, FSME

MDelligati, FSME

DWhite, FSME

LDimmick, FSME

KMeyer, FSME

MWeber, OEDO

Almboden, OEDO

TRothchild, OGC

JBiggins, OGC

RBrowder, RIV

JKatanic, FSME

RCaniano, RIV

RLorson, RI

MOrendi, RI

DJanda, RI

LCox, NC

CLong, GA

MOrtiz, NM

ML112130376

OFFICE	ASPB
NAME	MBeardsley / knm1
DATE	08/01/11

OFFICIAL RECORD COPY

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES'
RADIATION PROTECTION SECTION

DATE OF MEETING: March 15, 2011

NRC Attendees	North Carolina Department of Environment and Natural Resources Attendees
Monica Orendi, Region I RSAO	James Albright, Manager, Radioactive Materials Branch
Michelle Beardsley, FSME, Health Physicist	

DISCUSSION:

During the 2009 Integrated Materials Performance Evaluation Program (IMPEP) review of the North Carolina Agreement State Program (the Program), the review team found the State's performance satisfactory for all seven performance indicators. The IMPEP review team made two recommendations regarding the Program. On May 5, 2009, 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. Based on the results of the IMPEP review, the review team recommended, and the MRB agreed, that the next full IMPEP review take place in approximately four years. The MRB also determined that a periodic meeting should take place in early 2011.

This summary describes that periodic meeting.

The following is a status summary of the two recommendations that were identified in the 2009 North Carolina final IMPEP report:

1. The review team recommends that the State strengthen its incident response process to ensure that incidents will be reported to the NRC as required by FSME Procedure SA-300.

Current status: North Carolina acknowledged that reporting to the NRC was not as strong as it could be, as identified in the February 2009 IMPEP review. This was in part due to a misunderstanding on the part of the State regarding reporting incidents with twenty-four (24) hour reporting requirements. This was also in part due to a procedural ambiguity about which staff was responsible for making incident notification to the NRC. State staff handling incidents in the field thought that the Program's Nuclear Material Events Database (NMED) Coordinator was responsible for reporting to the NRC, although that is not the NMED Coordinator's designated responsibility or function. North Carolina stated that they addressed these issues by revising their procedure and training staff as to the following: 1) clarification on reporting requirements: specifically that the State is subject to the same reporting requirements to the NRC as their licensees are required to report incidents to the State, and 2) designation of the Regional Inspectors as the incident lead for all incidents in their Regions. The Regional Inspectors are responsible for determining if notification needs to be made, or was made, in accordance with FSME Procedure SA-300.

2. The review team recommends that the State, to maintain compatibility with the NRC, make appropriate regulatory changes to resolve NRC-generated comments as noted in regulation review letters.

Current Status: North Carolina currently has a plan in place to address NRC comments from letters dated August 15, 2006 and June 30, 2008 along with the five amendments overdue for adoption. North Carolina expects to submit these regulation changes to the NRC in draft in the fall of 2011.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

A LAN based spreadsheet for tracking industrial radiography and reciprocal licensee activities within the State was developed in 2009. In 2010 the Program conducted inspections on an average of 50% of the candidate licensees (those licensees required to submit reciprocal notification or 3-day notification for fieldwork). This exceeds the IMPEP requirement that 20% of the candidate reciprocity licensees are inspected per year.

Program Weaknesses

One weakness noted by the Program was with regards to rulemaking. The Program has begun to address this weakness by designating a staff member with rulemaking as a primary responsibility and developing a plan outlining the adoption of all overdue NRC regulations.

A second weakness noted by the Program is in regards to the incident reporting process. As part of the effort to resolve this weakness, the incident database and corresponding incident files were audited. During this audit it was found that there were some minor problems with the database when staff closed out incidents due to the way the database was designed. The Program intends to replace the current incident database when they beta test NRC's Web Based Licensing system, and to redesign the current database if the web based licensing system lacks the functionality necessary to replace it.

Feedback on the NRC's Program

The Program staff commented that the overall relationship with the NRC is a good one. The Program staff appreciates NRC funding of qualification training courses. The Program staff would like to see NRC continue to work on the development and dissemination of web based licensing. The Program also would like to see NRC revise their general licensing program so that provisions of the increased controls can be implemented for those licensees.

Agreement State Program Staffing and Training

The Program currently consists of ten technical positions, one administrative support position, and one program manager. The Program has one staff vacancy which is a technical position. Support for staff training exists in the Program. Due to the acquisition of four new technical staff since the last IMPEP, training is a major part of the Program's daily functions. The Program is working on cross training its staff so that they can do both licensing and inspection.

Organization

The Program is administered under the Department of Environment and Natural Resources within the Division of Environmental Health. There have been no organizational changes since the 2009 IMPEP review.

Program Budget/Funding

As of July 2011 the Program will no longer receive appropriated funds to support its activities. Fee rules were adopted in February 2011 that fully support the Program's activities.

Inspection/Licensing Programs

The Program has approximately 760 radioactive materials licenses. The Program's inspection frequencies are as frequent as NRC's. There were no overdue inspections at the time of the Periodic meeting.

The Program currently has no overdue licensing actions. The Program is looking forward to beta-testing NRC's Web Based Licensing system.

Regulations

There has been one legislative change with regards to how the Program is funded. Based on this change the Program will be entirely fee based by July 2011. Also the Governor issued Executive Order 70, which requires that rulemaking in the State only be conducted if it is required by federal or state law, or is deemed necessary to protect the public interest. Rules shall not impose an undue burden upon those that have to comply with them and shall be clearly written, relevant, up-to-date, and based upon sound, scientific, technical, economic, and other relevant information. The executive order requires that the Agency Head sign a statement that the proposed rules and rule changes meet the regulatory principals stated in the executive order. Any impact on state or local government has to be fully vetted, whether or not the regulatory change is required by federal or state law. If a rule change proposed by a Program creates more work or extra cost the Program must justify why that change is necessary. As of the date of this meeting, North Carolina has five regulations that are overdue.

The following regulations are overdue:

- "Minor Amendments," 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendment (71 FR 15005), that was due for Agreement State implementation on March 27, 2009. (RATS ID 2006-1)
- "Medical Use of Byproduct Material – Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 amendment (72 FR 45147 and 72 FR 54207), that is due for Agreement State adoption by October 29, 2010. (RATS ID 2007-1)
- "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. (RATS ID 2007-3)

- “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. (RATS ID 2007-2)
- “Occupational Dose Records, Labeling, Containers, and Total Effective Dose Equivalent,” 10 CFR Parts 19 and 20 amendment (72 FR 68043), that is due for Agreement State adoption by February 15, 2011. (RATS ID 2008-1)

The State will need to address the following NRC amendments in the future:

- “Medical Use of Byproduct Material – Authorized User Clarification,” 10 CFR Part 35 (74 FR 33901), that is due for Agreement State adoption by September 28, 2012. (RATS ID 2009-1)

Event Reporting

The Program communicates reportable incidents to the NRC Operations Center and Region I when appropriate in a prompt manner. The Program has reported 23 events to the NRC since the 2009 IMPEP.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for the potential effect on public health and safety. 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 conducts investigations of allegations and follows up with the concerned individuals regarding the outcome of the investigations.

Sealed Source and Device Program

The Program has two fully trained staff and one trainee that review sealed source and device registration (SS&D) applications. In addition, they contract with a professional engineer at North Carolina State University to provide engineering reviews of these applications on an as-needed basis. Since February, 2009, one SS&D review for a new device was performed and the SS&D was issued. One application to amend an existing SS&D sheet was received but the amendment was determined not to be necessary. No deficiencies were identified during these reviews.

Low-Level Radioactive Waste Program

Although North Carolina has authority for low-level radioactive waste (LLRW) disposal they currently do not have a LLRW disposal facility. North Carolina continues to monitor the disposal needs of their licensees and statewide low-level radioactive waste capacity. The State requires licensees that generate LLRW to submit an annual report to the Program. The data is compiled into a single LLRW report for the NC Radiation Protection Commission and the NC legislature.

Current State Initiatives

The Program is in the process of going paperless to support web based licensing. The Program is doubling their capacity for performing inspections at generally licensed facilities by reassigning one FTE to performing inspections of those facilities half-time. The Program is ramping up volunteers for their Team of Radiological Emergency Volunteers (TOREV) in partnership with the local chapter of the Health Physics Society for population monitoring during a radiological event.

State's Mechanisms to Evaluate Performance

Starting in 2009, the Program started performing yearly IMPEP like self-assessments to evaluate Program performance. The Program also conducts inspector accompaniments yearly.

Summary

North Carolina continues to maintain a strong Agreement State Program. North Carolina was found adequate to protect public health and safety and compatible with NRC's program, and received satisfactory ratings for all performance indicators during the last four IMPEP reviews. Based on current IMPEP policy extending the frequency of IMPEP reviews from four to five years for high performing Programs, NRC staff recommends that the next IMPEP review of the North Carolina Agreement State Program be extended and conducted in FY 2014.

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR GEORGIA DEPARTMENT OF
NATURAL RESOURCES (DNR)

DATE OF MEETING: April 26, 2011

NRC Attendees	Georgia DNR
Raymond Lorson, Director, Division of Nuclear Materials Safety, Region I	Jac Capp, Branch Chief, Air Protection Branch
Donna Janda, Region I RSAO	Chuck Mueller, Senior Policy Advisor
Monica Orendi, Region I RSAO	Cynthia Sanders Long, Manager, Radioactive Materials Program

DISCUSSION:

During the 2008 Integrated Materials Performance Evaluation Program (IMPEP) review of the Georgia Agreement State Program (the Program), the review team found the State's performance satisfactory for three performance indicators: Technical Quality of Incidents and Allegations, Compatibility Requirements, and Sealed Source and Device Evaluation Program; and satisfactory, but needs improvement, for four performance indicators: Technical Staffing and Training, Status of Materials Inspection Program, Technical Quality of Inspections, and Technical Quality of Licensing Actions. Two recommendations were made by the IMPEP review team, and two recommendations were carried over from the 2004 IMPEP review. On December 4, 2008, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Georgia Agreement State Program. The MRB found the Program adequate to protect public health and safety, but needs improvement, and compatible with NRC's program. The MRB directed NRC staff to initiate a period of monitoring, requested that calls between the Georgia DNR and NRC staffs be conducted quarterly, and directed that a periodic meeting take place approximately one year from the 2008 IMPEP review. On October 28, 2009, a periodic meeting was held to discuss the status of the Program and the recommendations made during the 2008 IMPEP review. On January 7, 2010, the MRB met to discuss the results of the periodic meeting. The MRB concluded that the next IMPEP review of the Program should take place as currently scheduled in Fiscal Year 2012.

The following is a status summary of the four recommendations that were identified in the 2008 Georgia final IMPEP report:

1. The review team recommended that Georgia develop, document, and implement a formal qualification program for licensing and inspection activities that includes written documentation and supervisor endorsement of competency in each program area.

Status: The Program has developed and implemented a policy and procedure for formal qualification of staff. Efforts are ongoing with respect to licensing qualification for staff. Staff licensing actions are undergoing review by Ms. Long, and peer reviews of licensing actions have also been implemented. Efforts on the inspection qualification program are also continuing. Ms. Long is conducting training accompaniments with staff as part of the inspection qualification program. Georgia

staff are attending NRC sponsored training courses, and Georgia is attempting to place as many staff as possible into the training courses in order to respond to the recommendation in this area. Georgia continues to move forward with staff qualifications and training.

2. The review team recommended that Georgia update their inspection procedures and enforcement guidance to include the requirements for timely follow up of Increased Controls violations.

Status: Ms. Long stated that the inspection procedures have been updated to include the guidance in FSME's RCPD-07-006 letter and that staff has been trained on the revised procedure.

3. The review team recommended that Georgia develop and implement a process for conducting annual accompaniments of all radiation compliance inspectors by a supervisor. (Carryover recommendation from the 2004 IMPEP.)

Status: The Program Supervisor is conducting annual accompaniments of inspectors. The accompaniments are documented in an Accompaniments Tracking Log. Ms. Long stated that all of her staff had been accompanied during calendar year 2010.

4. The review team recommended that Georgia qualify one additional reviewer in Sealed Source and Device (SSD) evaluations to provide backup for the principal reviewer. (Carryover recommendation from the 2004 IMPEP.)

Status: Ms. Long stated that this position remains unfilled at the present time. Due to budget constraints within the State, the Program has been unable to fill this vacant position. Ms. Long is currently performing the second review for SS&D sheets. In the interim, Ms. Long stated that the Program is considering qualifying a second staff member to be able to perform the second review for SS&D sheets or asking other Agreement States with SS&D programs for help with performing the second review on SS&D sheets while the vacancy remains.

OTHER TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

The Program has recovered from a significant turnover of staff and now has a good mix of staff with respect to experienced staff and new hires. The team work and sharing of responsibilities amongst the staff are considered Program strengths. There is support for staff training throughout the Program management organization. The Program has been responsive to the recommendations from the latest IMPEP review.

Program Weaknesses

Budget constraints are the major Program weakness. Due to a tighter State budget, the Program is unable to send staff to the five week health physics course. Also with regards to

NRC initiatives that the Agreement States are asked to comply with, lack of resources could impact how long it takes for the Program to implement these initiatives.

Feedback on the NRC's Program

The Program commented that both the overall relationship and communications with the NRC are good. The Program expressed appreciation for the NRC funding of training and added that they would like to see the NRC fund the five-week Oak Ridge Health Physics Course.

Agreement State Program Staffing and Training

The Program staff currently consists of nine individuals, which includes the Program manager. There are three staff vacancies, two technical positions and one administrative position. Ms. Long stated that Program staff is working together as a team to maintain the Program and pick up the workload of the departed staff.

Support for staff training exists in the Program. Georgia 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. The Program Manager noted that other activities that are not specifically training, such as attendance at meetings, also provide valuable opportunities for knowledge sharing. In response to recommendations made during the last IMPEP review, the Program has developed core training course requirements for program staff.

Organization

The Georgia Agreement State Program is administered by the Radioactive Materials Program which is located in the Air Protection Branch (the Branch). The Branch is a part of the Environmental Protection Division of the DNR. Since the most recent IMPEP review, the Director of the Environmental Protection Division resigned and the new replacement is F. Allen Barnes.

Program Budget/Funding

The program is adequately funded and is one hundred percent funded by fees. The funds are placed into a restricted account that is reserved for the Program. Program management stated that licensee fees are not based on a percentage of NRC's fees. Georgia has not had a fee increase since 1992.

Inspection and Licensing Programs

The Program's inspection frequencies are at least as frequent as NRC's. At the time of the periodic meeting three Priority 1 inspections, four Priority 2 inspections, and eight Priority 3 inspections were overdue by more than twenty five percent of the assigned inspection interval. About 11 other inspections were past due at the time of the meeting. The Program monitors and tracks inspection scheduling. Management is aware of the backlog and the importance of inspection program schedules. Ms. Long attributed this backlog is due in large part to the technical position vacancy. Additional options to help complete the overdue inspections in the

absence of the technical position vacancy; such as reprioritizing the inspections based on priority code; were discussed with Program Management.

The Program currently has approximately 520 licensees. Georgia licensees are subject to a five year license renewal term. As of the periodic meeting the Program has 17 licensing actions that have been in house for more than one year. The Program receives about 400 licensing actions per year.

Regulations and Legislative Changes

There have not been any legislative changes or proposals that have affected the Program. Georgia has three overdue regulations due for adoption.

The following regulations are currently overdue:

- “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 was due for implementation on December 17, 2010. (RATS ID 2007-2)
- “Requirements for Expanded Definition of Byproduct Material,” 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendment (72 FR 55864), that was due for implementation on November 30, 2010. (RATS ID 2007-3)
- “Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent,” 10 CFR Parts 19 and 20 amendment (72 FR 68043), that was due for implementation on February 15, 2011. (RATS ID 2008-1)

Georgia plans to have final regulations adopted and in place before the next IMPEP review which is tentatively scheduled for FY 2012.

Event Reporting

The Program communicates reportable incidents to the NRC Operations Center and Region I when appropriate in a prompt manner. Since the last IMPEP review in September 2008, twelve events were reported to the NRC. It was noted during this Periodic meeting that a few of the events had either not been closed out by the State or the reports were either not completed by the State or had additional information requests from Idaho National Laboratory. The Program agreed to follow-up on these issues as appropriate.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations.

Sealed Source and Device (SS&D) Evaluation Program

Since the 2008 IMPEP review the Program has received 12 SS&D actions. Five of the 12 SS&D actions have been completed as of the date of this periodic meeting and one SS&D action was rescinded. It was noted that a few of the 12 SS&D actions were received in the second half of calendar year 2009 and still had not been completed by the Program. Ms. Long stated that the Program would work on completing these actions and also work on eliminating the current backlog.

Large, Complicated, or Unusual authorizations for use of Radioactive Material

The Program received an interesting request from one of their major medical licensees, who is looking become a broadscope medical licensee by including their sister hospitals as satellite locations. The Program is in the early stages of evaluating this request and is planning to meet with the applicant licensee in the coming future to discuss the logistics of this request.

Commonwealth's Mechanisms to Evaluate Performance

Ms. Long stated that the Branch conducts self assessments by tracking program statistics and completing supervisor accompaniments of inspectors.

CONCLUSIONS:

Georgia has been responsive to the recommendations that were made during the 2008 IMPEP review. Staffing vacancies continue to impact the Program. The effort to reduce the inspection backlog continues.

NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2013 (tentatively October 2012).

NEW MEXICO PERIODIC MEETING SUMMARY

Date of Meeting: June 7, 2011

Attendees

NRC	NEW MEXICO
Rachel Browder, RSAO	Butch Tongate, Director, Environmental Protection Division
Janine Katanic, FSME	Michael Ortiz, Chief, Radiation Control Bureau
	Santiago Rodriguez, Program Manager

DISCUSSION:

The New Mexico Agreement State program is administered by the Radiation Control Bureau, under the Environmental Protection Division within the New Mexico Environment Department (NMED). The Bureau was recently moved to the Environmental Protection Division. Mr. Tongate was appointed by the recently-elected Governor as the Director of the Division. NMED was recently reorganized into four divisions, the Environmental Protection Division, Resource Protection Division, Operations & Infrastructure Division, and Information Technology Division. During the reorganization, the radioactive materials program continued to be executed by the Radiation Control Bureau. During the past 2 years, the NRC sent two letters of support for the program to two different Secretaries of the Environment Department. During these communications and as part of this periodic meeting, we understand that the State of New Mexico is taking steps to ensure the Radiation Control Bureau has sufficient resources and oversight to protect public health and safety. More specific information on staffing and training is discussed below.

At the time of the periodic meeting, the Bureau regulated approximately 200 licenses authorizing the use of byproduct, source, and special nuclear material. The Bureau does not regulate 11.e.2 material and does not license a low level waste facility.

The last IMPEP Review was conducted July 20-24, 2009. The review team recommended, and the Management Review Board (MRB) agreed, that the New Mexico Agreement State Program was found *satisfactory* for five of the six performance indicators reviewed and *satisfactory, but needs improvement* for the performance indicator Technical Quality of Incident and Allegation Activities. There was one recommendation regarding updating information to NMED. Overall, the New Mexico Agreement State Program was found adequate to protect public health and safety and compatible with NRC's program.

Based on the results of the 2009 IMPEP Review, the MRB concurred that the next full review of the New Mexico Agreement State Program is to take place in approximately 4 years from this review, and a periodic meeting would be tentatively scheduled for July 2011. The purpose of this periodic meeting is to fulfill that requirement in order to evaluate the effectiveness of the State's response to the review team's recommendations, as well as the overall implementation of the Agreement State Program.

The status of the recommendations from the 2009 Final New Mexico IMPEP Report is summarized below:

- The review team recommends that the State develop and implement a process to ensure appropriate notification to the NRC Headquarters Operations Center for reportable events, to ensure all required information is submitted to NMED, and to promote timely closure of NMED entries.

Status: The Bureau stated that they utilize a database to track all NRC reportable and non-reportable events. A staff member has been designated as the primary point of contact (POC) for the database. In reviewing NMED as part of this periodic meeting, it appears that the State is updating the information appropriately in NMED. This recommendation should be verified and closed at the next IMPEP review.

Other topics covered during the periodic meeting included:

Program Strengths: Although not all of the Environmental Scientist positions are filled, the Bureau has five seasoned inspectors with over 80 years combined experience in a wide array of radiological areas that benefit the program. The inspectors have received the core training courses that reflect MC 1246 training requirements. As a result of the experienced staff, planning efficiencies, and schedules, there is not a backlog of inspection or licensing actions.

The Bureau was moved under the Environmental Protection Division as a result of reorganization within the New Mexico Environment Department (NMED). The Bureau indicated it was a beneficial move and that the responsibilities of the Bureau are congruent with the Division's. In addition, the budget appropriations coding under the Division allows the Director to move funds between the major budget segments as needed, which is beneficial for the overall Division.

Program Weaknesses: The loss of personnel over the last review period is considered a program weakness. The salary within the State is considered good for the area; however, the budget restraint within the State limited the Bureau in quickly filling two supervisor vacancies and several Environmental Scientist positions during the review period. At the time of this periodic meeting, the Bureau Chief and the Program Manager positions had been filled. However, there remain five Environmental Scientist position vacancies. Additional information is provided in the Staffing and Training section.

Feedback on NRC's Program

The Division indicated that they appreciated the good support provided by NRC Region IV and the communications between the two agencies. The State requested to participate in the current FSME initiative to share a web-based licensing (WBL) software version with the Agreement States. The state is working with their internal information technology department to install the WBL software version on their own server. The State indicated that they appreciate NRC's efforts on the WBL and believe that the software will help to streamline the process for sharing pertinent license information.

Staffing and Training

The Bureau has 15 positions of which 10 positions are responsible for the Agreement State program activities. The 10 positions represent the Bureau Chief, Program Manager, and eight Environmental Scientist positions. Of the 8 Environmental Scientist positions, there are 3 filled positions and 5 vacancies. It's noteworthy to recognize that of the eight Environmental Scientist positions, 6 are classified as "advanced" and 2 are classified as "operational." This classification allows the State to bring in a highly-qualified candidate initially, in lieu of training someone at an entry level position.

Since May 2010, the NRC has sent two letters of support to the Secretary of New Mexico Environment Department (NMED). The letters did not question the State's ability to protect public health and safety, but encouraged the State to take steps as necessary to fill the vacancies in a timely manner. The State initiated steps to ensure the Bureau had sufficient resources and oversight to protect public health and safety. This included filling the Bureau Chief and Program Manager positions within this review period. In addition, the State was anticipating making an offer during June and two offers were awaiting the Governor's approval. In addition, the Bureau is expecting to post the other vacancies in the near future.

The Bureau is anticipating rehiring a staff member as a *rehired annuitant* to focus on licensing actions. This would alleviate the Bureau Chief from performing licensing actions and allow him to focus primarily on managing the program and performing inspections, as necessary.

Program Reorganizations

NMED reorganized its structure into three divisions. As a result of the reorganization, the Environmental Health Division was dissolved and the Bureau was placed under the newly organized Environmental Protection Division. As stated previously, the Bureau indicated it was a beneficial move and the responsibilities of the Bureau mirror the functions of this particular Division's purpose. The Division's bureaus and programs include the Air Quality Bureau, Occupational Health & Safety Program, Solid Waste Bureau, and Radiation Control Bureau.

Changes in Program Budget/Funding

The Bureau receives general funds from the State. There have been changes in the general fund which have contributed to distribution reductions. For example, in 2008 the general fund was approximately 40 percent of the Bureau's budget, 2010 was approximately 12 percent of the Bureau's budget and the projection for 2012 is approximately 9.5 percent of the Bureau's budget. The program is moving towards being fully fee funded. It is also important to note that, within the Environmental Protection Division, the Director is able to move funds around within the Division as appropriate.

Materials Inspection Program

At the time of this periodic meeting, the Bureau reported that they were meeting their Quarterly Performance Measures, which were more conservative than the inspection criteria established in NRC Manual Chapter 2800. Therefore, there were no overdue inspections for health and safety or for security inspections, which are tracked separately.

Materials Licensing Program

At the time of this periodic meeting, the Bureau indicated there was no backlog in licensing actions. The Bureau stated that renewals were typically completed within 3 weeks, new applications were completed within 45 days, and amendments were completed in less than 1 week.

Regulations and Legislative Changes

The State is up to date on all regulation amendments currently required for compatibility. The Bureau indicated that they have addressed the final comments for one regulatory package (RATS ID 2008-1), with an effective date of June 30, 2011. The Bureau will provide the final regulations to the NRC for review. A second package (RATS-ID 1993-2) was previously not addressed because the State did not license a Part 36 irradiator. However, now that the State regulates a Part 36 irradiator, the pertinent final regulations will be submitted to the NRC for review.

Event Reporting, Including Follow-up and Closure Information in NMED

The Bureau reported two events to the Nuclear Material Events Database (NMED) since the 2009 IMPEP review. Both events were medical events and they were appropriately reported to the NRC and properly entered into, and updated within, NMED. One of the events is closed and the second event, which also meets the AO criteria, remains open pending further legal action.

Response to Incidents and Allegations

The Bureau tracks all incidents and events in the Bureau's new event tracking database. The Bureau indicated that they respond to all events, including non-reportable events. The purpose of their response is to assess and document the event as a reference point of information for any potential trends or occurrences in the future. Incidents are quickly reviewed for their affect on public health and safety. The State has one medical event that meets the AO criteria that remains open. The enforcement action taken in this case includes a proposed civil penalty. The case is with the Office of General Counsel.

Status of Allegations and Concerns Referred by the NRC for Action

NRC did not refer any allegations to New Mexico during the review period.

Emerging Technologies

The Bureau did not identify any emerging technologies.

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

The state has two large decommissioning sites. These two sites are Eberline, which has Pu and Am-241 soil contamination, and IBA Molecular, who is decommissioning a cyclotron with activated concrete. The State did not authorize restricted release for IBA Molecular, and the company is subsequently removing the concrete.

Current State Initiatives

The Bureau has been closely involved with the response to the Las Conchas fire, which started after this periodic meeting. Their involvement includes installing and monitoring air samples. The Bureau is also coordinating with other agencies and federal partners, such as the EPA and FBI, in preparing and responding to any potential event involving radioactive material during the Albuquerque International Balloon Festival in October 2011.

State's Mechanisms to Evaluate Performance

The Bureau performs quarterly self-audits on approximately 10 percent of the inspections performed. This includes ensuring the inspection files are complete, the deficiencies are documented appropriately, and a formal corrective action response letter from the licensee is in the file, as appropriate. Historically, the Bureau Chief has performed the inspection accompaniments for all of the inspection staff. Since the Program Manager position has been filled, the Program Manager will perform the inspection accompaniments for all inspection staff. These accompaniments are documented and maintained in the files.

Current NRC Initiatives

NRC staff discussed ongoing *Office of Federal and State Materials and Environmental Management Programs* (FSME) initiatives with the New Mexico representatives. This included recently issued FSME and RCPD letters, proposed regulatory rulemaking, and new training procedures and applicable forms for the State to follow when requesting NRC training courses. In addition, FSME discussed WBL, in which New Mexico is a participant.

CONCLUSION:

Based on the discussions during the periodic meeting and throughout this review period, it appears that the Bureau is continuing to implement a program that protects the health and safety of the public and the environment. The NRC is supportive of the continuing efforts by the Bureau and NMED to fill the vacancies within the Bureau, which would allow the Bureau Chief and Program Manager to focus on managing the program.

Schedule for the Next IMPEP Review

NRC staff recommends that the next IMPEP review be held, as currently scheduled, in FY 2013.

**Agenda for Management Review Board Meeting
August 16, 2011 1:00 p.m. – 3:00 p.m. EDT, 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:
 - a. North Carolina
(March 15, 2011) – ML110960343--Orendi / Beardsley
 - b. Georgia
(April 26, 2011) – ML111510911 –Orendi / Janda / Lorson
 - c. New Mexico
(June 7, 2011) – ML11187A225 --Browder / Katanic
4. Adjournment

Invitees:	Michael Weber, OEDO Bradley Jones, OGC Cynthia Carpenter, FSME Cynthia Pederson, Region III Lee Cox, NC Jac Capp, GA Michael Ortiz, NM Kathryn Brock, OEDO Rob Lewis, FSME Terry Reis, FSME Ray Lorson, Region I	Randy Erickson, Region IV Janine Katanic, FSME Roy Caniano, Region IV Duncan White, FSME Michelle Beardsley, FSME Karen Meyer, FSME Lisa Dimmick, FSME Rachel Browder, Region IV Monica Orendi, Region I Donna Janda, Region I Paul Schmidt, WI
-----------	--	---