

KENTUCKY DEPARTMENT FOR PUBLIC HEALTH MONITORING CONFERENCE CALL
July 25, 2011

Nuclear Regulatory Commission Attendees	Kentucky Department for Public Health Attendees
Raymond Lorson, Director, DNMS, Region I	Matthew McKinley, Radiation Control Program Administrator
Donna Janda, RSAO, Region I	Curt Pendergrass, Radiation Health Supervisor
Monica Orendi, RSAO, Region I	
Duncan White, FSME	
Michelle Beardsley, FSME	
Lisa Dimmick, FSME	

BACKGROUND

During the 2008 Integrated Materials Performance Evaluation Program (IMPEP) review of the Kentucky Agreement State Program (the Program), the review team found the Commonwealth's performance satisfactory for five performance indicators and satisfactory, but needs improvement, for three performance indicators. Six recommendations were made by the IMPEP review team. On October 28, 2008, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Program. The MRB found the Program adequate to protect public health and safety, but needs improvement, and compatible with the Nuclear Regulatory Commission's (NRC) program. The MRB directed that Kentucky continue to remain in monitoring status, that calls between the Kentucky Department for Public Health (DPH) and NRC staffs continue to be conducted quarterly, and that a Periodic Meeting take place approximately one year from the 2008 IMPEP review. DPH provided their response to the IMPEP findings in a letter dated December 8, 2008 with an additional response provided in an e-mail dated January 30, 2009. NRC acknowledged DPH's responses in a letter dated February 3, 2009. NRC staff concluded that the DPH responses are addressing the recommendations in the IMPEP report in a reasonable and realistic manner. NRC staff review noted that action had been taken on all recommendations. The tasks, milestones, and assignments for completing final action on the recommendations appeared reasonable and achievable.

On September 15, 2009 a Periodic Meeting was held with DPH. Subsequent to this Periodic Meeting, the MRB met on January 7, 2010 to consider the findings of the Periodic Meeting. The MRB directed that the Commonwealth remain on monitoring and that calls between DPH and NRC continue to be conducted quarterly. Another Periodic Meeting was held with DPH on February 10, 2011. Subsequent to this Periodic Meeting, the MRB met on April 5, 2011 to consider the findings of the Periodic Meeting. The MRB again directed that the Commonwealth remain on monitoring and that calls between DPH and NRC continue to be conducted quarterly. This is the first quarterly conference call with DPH since the April 5, 2011 MRB.

DISCUSSION OF PROGRAM STATUS

Mr. McKinley led the discussion of the Commonwealth's status for each of the IMPEP performance indicators.

Technical Staffing and Training

The Radioactive Materials Section (the Section) currently has one vacancy which was created when a staff member was promoted to fill the Radioactive Materials Supervisor position. In

order to fill this vacancy the Program was allowed to post the position and interviews of qualified candidates are currently being conducted. The Program hopes to have this vacancy filled by the end of September 2011. The Section also has a void in one staff position due to a current staff member being deployed with the National Guard. The Program expects this individual to be deployed for at least 18 months. All staff members are fully qualified. The Program continues to support staff training and utilizes NRC training courses when available.

Status of the Materials Inspection Program

Mr. McKinley stated that the number of overdue inspections was starting to increase, despite staff efforts to decrease the number, due to the two unfilled staff positions. At the time of the call Mr. McKinley was unaware of exactly how many were overdue by NRC standards since the Programs inspection frequencies are more frequent than NRC requirements in some cases. The Section continues to perform reciprocity inspections and is timely with their initial inspections. Mr. McKinley stated that the Radioactive Materials Section continues to focus on completing and documenting inspections within the required time.

Technical Quality of Inspections

The 2008 IMPEP review team generated three recommendations for this performance indicator. These recommendations are listed below along with their current status.

Recommendation 1: The review team recommends that the Commonwealth revise its inspection procedures to require documentation of the closure of any previous violation, verification of corrective actions, and evaluation of preventative measures implemented by the licensee both in the inspection documentation and during the exit with the licensee.

Current Status: Mr. McKinley stated that this revision had been made and that staff had initial and refresher training on the subject matter.

Recommendation 2: The review team recommends that the Commonwealth discuss previous inspection findings, corrective actions, and any potential violations with the licensee during inspections.

Current Status: Mr. McKinley stated that this is now the first topic of discussion when entrancing with a licensee. The inspector discusses previous items of non-compliance, looks at program audits, and has discussions with staff during the inspection to identify any other problems the licensee may have had.

Recommendation 3: The review team recommends that the Commonwealth use its own calibrated radiological survey equipment to perform independent confirmatory surveys during inspections.

Current Status: Mr. McKinley stated that this is the Sections current practice. This recommendation was implemented very quickly after it was made. The last incidence occurred in June 2008.

Kentucky has completed actions with respect to all three recommendations. The Program continues to provide continuing training to inspectors. Inspections are being adequately documented. Annual inspector accompaniments are ongoing.

Technical Quality of Licensing

The 2008 IMPEP review team generated two recommendations for this performance indicator. These recommendations are listed below along with their current status.

Recommendation 4: The review team recommends that the Commonwealth develop and implement a reliable mechanism to identify when a license is in need of a comprehensive renewal, identify these licenses, and develop and implement a plan to perform these renewals.

Current Status: Mr. Pendergrass stated that letters to licensees whose licenses hadn't been amended in their entirety within the last five years were sent out. The Section is working on these renewals and is completing 10 to 15 per quarter. The Section has also put a tracking system in place to ensure proper tracking of when a license is in need of a comprehensive renewal.

Recommendation 5: The review team recommends that the Commonwealth integrate the pre-licensing requirements of FSME 07-026 into their licensing program and reevaluate new licenses issued since September 2007 for implementation of these requirements.

Current Status: Mr. McKinley stated that the Program implemented NRC's pre-licensing guidance within a few weeks after the IMPEP review and staff received initial and refresher training on the subject matter. Mr. McKinley also stated that the Program has gone back through their files to ensure that all previous new licenses issued during the review period were captured.

Kentucky has completed actions with respect to both recommendations. The Program has a working inventory of 45 to 60 licensing actions currently on the books. The Program has seen an increase in the number of licensing actions related to new applications being received (primarily due to consolidation of medical facilities). The longest licensing action has been pending for 10 months.

Technical Quality of Incidents and Allegations

The Program is aware of the need to maintain an effective response to incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety and staff is dispatched to perform onsite investigations when necessary. The Program appropriately communicates reportable incidents to the NRC Operations Center and Region I. Since the last Periodic Meeting in February 2011, the Program has received NMED/ SA-300 training and has installed the NMED software onto their computers. The Program continues to be sensitive to allegations. The Program has received one allegation since the February 2011 Periodic Meeting and is following the procedures currently in place for the handling and follow-up of this allegation.

Compatibility Requirements

Kentucky continues to move forward in this area. The 2008 IMPEP review team noted the progress the Program made to address overdue regulations. Mr. McKinley stated that Kentucky is continuing to focus attention on bringing the Commonwealth up to date with regulation development.

Nineteen NRC regulations are overdue for implementation:

- "Low-Level Waste Shipment Manifest Information and Reporting," 10 CFR Parts 20 and

61 (60 FR 15649 and 60 FR 25983), that was due for Agreement State implementation on March 1, 1998. (RATS ID 1995-3)

- “Clarification of Decommissioning Funding Requirements,” 10 CFR Parts 30, 40, and 70 (60 FR 38235), that was due for Agreement State implementation on November 24, 1998. (RATS ID 1995-6)
- “Medical Administration of Radiation and Radioactive Materials,” 10 CFR Parts 20 and 35 (60 FR 48623), that was due for Agreement State implementation on October 20, 1998. (RATS ID 1995-7)
- “10 CFR Part 71: Compatibility with the International Atomic Energy Agency,” 10 CFR Part 71 (60 FR 50248 and 61 FR 28724), that was due for Agreement State implementation on April 1, 1999. (RATS ID 1996-1)
- “Minor Corrections, Clarifying Changes and a Minor Policy Change,” 10 CFR Parts 20, 35, and 36 (63 FR 39777 and 63 FR 45393), that was due for Agreement State implementation on October 26, 2001. (RATS ID 1998-5)
- “Transfer for Disposal and Manifests: Minor Technical Conforming Amendment,” 10 CFR Part 20 (63 FR 50127), that was due for Agreement State implementation on November 20, 2001. (RATS ID 1998-6)
- “Respiratory Protection and Controls to Restrict Internal Exposure,” 10 CFR Part 20 (64 FR 54543 and 64 FR 55524), that was due for Agreement State implementation on February 2, 2003. (RATS ID 1999-3)
- “Energy Compensation Sources for Well Logging and Other Regulatory Clarifications,” 10 CFR Part 39 (65 FR 20337), that was due for Agreement State implementation on May 17, 2003. (RATS ID 2000-1)
- “New Dosimetry Technology,” 10 CFR Parts 34, 36, and 39 (65 FR 63749), that was due for Agreement State implementation on January 8, 2004. (RATS ID 2000-2)
- “Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material,” 10 CFR Parts 30, 31, and 32 (65 FR 79162), that was due for Agreement State implementation on February 16, 2004. (RATS ID 2001-1)
- “Revision of the Skin Dose Limit,” 10 CFR Part 20 (67 FR 16298), that was due for Agreement State implementation on April 5, 2005. (RATS ID 2002-1)
- “Medical Use of Byproduct Material,” 10 CFR Parts 20, 32, and 35 (67 FR 20250), that was due for Agreement State implementation on October 24, 2005. (RATS ID 2002-2)
- “Financial Assurance for Materials Licensees,” 10 CFR Parts 30, 40, and 70 (68 FR 57327), that was due for Agreement State implementation on December 3, 2006. (RATS ID 2003-1)
- “Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments,” 10 CFR Part 71 (69 FR 3697), that was due for Agreement State implementation on October 1, 2007. (RATS ID 2004-1)

- “Medical Use of Byproduct Materials - Recognition of Specialty Boards - Part 35,” 10 CFR Part 35 (70 FR 16336 and 71 FR 1926), that was due for Agreement State implementation on April 29, 2008. (RATS ID 2005-2)
- “Security Requirements for Portable Gauges Containing Byproduct Material,” 10 CFR Part 30 (70 FR 2001), that was due for Agreement State implementation on October 1, 2007. (RATS ID 2005-1)
- “Minor Amendments,” 10 CFR Parts 20, 30, 32, 35, 40, and 70 (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 (72 FR 45147, 54207) that was due for Agreement State implementation on October 29, 2010. (RATS ID 2007-1)
- “Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent,” 10 CFR Parts 19 and 20 (72 FR 68043) that was due for Agreement State implementation on February 15, 2011. (RATS ID 2008-1)

Six of the 12 regulation changes being worked on by Kentucky, have become final and are in the process of being implemented. Mr. McKinley stated that Kentucky would submit these six final regulations to NRC for review. Five of the 12 regulations are with the Legislative Research Commission and the Program expects these regulations to go final by the end of October 2011. One regulation is being held up because Kentucky requires that a copy of all referenced material be on hand and available should someone request it. Mr. McKinley stated that the Program was unable to locate a copy of the reference ANSI Standard (ANSI HPS-N43.6 (1997)). NRC provided Kentucky with a copy of this standard on July 28, 2011. Once these 12 regulation changes are completed, Kentucky will have current regulations covering through RATS ID 2006-1. After all of the above mentioned regulations go final, the Program plans to work on one RATS ID per month until they have completed all rule changes needed for compatibility.

Sealed Source and Device (SS&D) Evaluation Program

There have been no changes in the SS&D program since the February 2011 Periodic Meeting. The 2008 IMPEP review team generated one recommendation for this performance indicator. These recommendations are listed below along with their current status.

Recommendation 6: The review team recommends that the Commonwealth develop and implement a mechanism to verify the implementation of the approved quality assurance and quality control program.

Current Status: Mr. McKinley stated that this recommendation was implemented within a few days of the 2008 IMPEP as Kentucky only has one licensee that falls into this category. Kentucky added this item to their inspection form to assure that inspectors verified these elements for SS&D manufacturers.

Kentucky currently has one qualified SS&D reviewer and is working to qualify another individual. Kentucky plans to send this individual to the SS&D training being offered in September 2011.

Low-Level Radioactive Waste Disposal (LLRW) Program

Kentucky's LLRW program consists of oversight at one facility, the Maxey Flats site, which is located in eastern Kentucky. The site operated a commercial LLRW disposal facility from May 1963 through December 1977. The license for this site authorizes maintenance activities related to the closed LLRW disposal site. Since the facility is closed and has no on-site activity or operations, the activities at the site are limited to a radiological environmental monitoring program consisting of soil, surface water, and ground water monitoring.

Our Lady of Bellefonte (OLBH)/ Highlands Regional Medical Events

Mr. McKinley gave an update as to the status of Kentucky's ongoing investigation into several prostate brachytherapy medical events related to one particular Authorized User working at two separate hospitals. Kentucky has received some information that was requested from the licensee; however, Kentucky is still waiting for additional information. Currently OLBH has terminated their prostate brachytherapy program and Highlands Regional has temporarily suspended their program while they look for a new AU to perform the procedure. Kentucky continues to investigate these events and will provide NRC with updates as more information is received.

Conclusion

Kentucky's program continues to improve. Kentucky has been responsive to the recommendations that were made during the 2008 IMPEP review. The Program is currently operating with two unfilled staff positions, which are starting to put a slight strain on the Program. Kentucky is working to fill the one vacant position by the end of September 2011. Twelve draft overdue regulations were submitted for NRC review, NRC comments were incorporated, and the regulations are now going through the process for State approval. Six of the twelve overdue regulations have been adopted and the Program stated that they will send them to NRC for review.