

KENTUCKY DEPARTMENT FOR PUBLIC HEALTH  
QUARTERLY MONITORING CONFERENCE CALL  
February 27, 2013

<b>Nuclear Regulatory Commission Attendees</b>	<b>Kentucky Department for Public Health Attendees</b>
Dan Collins, Region I	Matthew McKinley, Radiation Control Program Administrator
Monica Orendi, Region I	Curt Pendergrass, Radiation Health Supervisor
Donna Janda, Region I	
Michelle Beardsley, FSME	
Duncan White, FSME	

## **BACKGROUND**

During the 2012 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, satisfactory but needs improvement for the performance indicator Compatibility Requirements, and unsatisfactory for the performance indicator Status of Materials Inspection Program. On September 6, 2012, the Management Review Board (MRB) met to consider the proposed final IMPEP report. The MRB found the Program adequate to protect public health and safety, but needs improvement, and compatible with the U.S. Nuclear Regulatory Commission's (NRC) program. The MRB added one recommendation to the final IMPEP report. 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 two years from the June 2012 IMPEP review. DPH provided their response to the final IMPEP report in a letter dated October 18, 2012.

This is the second quarterly conference call with DPH since the September 6, 2012 MRB.

## **DISCUSSION OF PROGRAM STATUS**

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

### Technical Staffing and Training (2012 IMPEP finding: Satisfactory)

At the time of the June 2012 IMPEP review the Program was composed of one program administrator, one supervisor, and five technical staff (one of which was and still is on military deployment and not scheduled to return until the end of calendar year 2013). The Program also had two vacant staff positions. Since the IMPEP review the Program has hired two new technical staff members to fill the vacant positions. The two new staff members are currently working on their qualifications to become license reviewers and inspectors. Since joining the Program, both new staff members have been qualified to inspect portable gauges. The Program continues to support staff training and utilizes the NRC training courses when available. Kentucky has requested to host a Sealed Source and Device Training workshop. NRC is looking at the possibility of holding a course in northern KY sometime in fiscal year 2014.

### Status of the Materials Inspection Program (2012 IMPEP finding: Unsatisfactory)

The 2012 IMPEP review found that the Program completed 41 percent of its priority 1, 2, and 3 and initial inspections overdue during the review period. Since the IMPEP review KY has conducted one inspection overdue by more than 25 percent of its assigned inspection frequency. Based on the number of inspections completed since the 2012 IMPEP the Program is calculating that they have completed 4.3 percent of Priority 1, 2, and 3 and initial inspections overdue. Kentucky's inspection frequencies are the same as NRC's inspection frequencies as listed in Inspection Manual Chapter 2800. No initial inspections have been completed greater than 1 year from license issuance since the IMPEP review. With regard to reciprocity it is the Program's policy to inspect all industrial radiographers that come into KY each year.

The 2012 IMPEP review generated one recommendation for this performance indicator. The recommendation is listed below along with the status.

**Recommendation 1:** The MRB recommends that the Branch perform a self-assessment to determine the effectiveness of its oversight of the inspection program and that the results of this self-assessment be reviewed as part of the periodic meeting.

**Status:** Mr. McKinley did state that the Program has completed a self assessment of the materials inspection program and will have a final written document available for review at the periodic meeting. (No change since 11/28/12 monitoring call)

### Technical Quality of Inspections (2012 IMPEP finding: Satisfactory)

The 2012 IMPEP found that the Program's inspection reports were thorough, complete, consistent, and of high quality, with sufficient documentation to ensure that a licensee's performance with respect to health and safety was acceptable. Documentation supported violations, recommendations made to licensees, unresolved safety issues, and discussions held with licensees during exit interviews. Three of the Program inspectors are fully qualified. Two Program inspectors are qualified in everything but industrial radiography and the Program hopes to have them complete their qualification by the end of 2013. The remaining two inspectors are in the beginning of their inspector qualifications and are only qualified to inspect portable gauges.

The inspection procedures utilized by the Branch are consistent with the inspection guidance outlined in IMC 2800. Supervisory accompaniments of Program inspectors are being tracked and all accompaniments except for the two new inspectors have been completed for calendar year 2012. Appropriate, calibrated survey instrumentation is available. Instruments are calibrated at least annually. (No change since 11/28/12 monitoring call)

### Technical Quality of Licensing (2012 IMPEP finding: Satisfactory)

The 2012 IMPEP found that the licensing actions were thorough, complete, consistent, and of high quality with health, safety, and security issues properly addressed. License tie-down conditions were stated clearly and were supported by information contained in the file. Deficiency letters clearly stated regulatory positions and were used at the proper time, and identified substantive deficiencies in the licensees' documents. Terminated licensing actions were well documented, showing appropriate transfer and survey records. License reviewers use the Branch's licensing guides and/or NUREG-1556 series guidance documents, policies, checklists, and standard license conditions specific to the type of licensing actions to ensure consistency in licenses.

All licensing actions undergo a peer review and management review. The Program Administrator subsequently signs the license. The license reviewers and Section Supervisor do not have signatory authority for licensing actions. The Commonwealth's regulations require, and the Program's licensing guidance documents note, that an amendment in entirety must be performed every five to seven years.

The Program has approximately 423 licensees. The Program has received 453 licensing actions since the last IMPEP. The Program has a working inventory of approximately 128 licensing actions with the longest action being in house for approximately 44 days. These actions range from amendments to new licenses to amendments in entirety.

#### Technical Quality of Incidents and Allegations (2012 IMPEP finding: Satisfactory)

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 IMPEP, the Program has received three reportable events and has reported them appropriately. The Program continues to be sensitive to allegations. The Program has received no allegation since the June 2012 IMPEP.

#### Compatibility Requirements (2012 IMPEP finding: Satisfactory but Needs Improvement)

Kentucky is working to move forward in this area. The 2012 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 adoption and has a plan in place to address the overdue regulations. Currently the KY legislature is in a short session so all regulation revisions are on hold. KY expects changes for RATS IDs 2001-1 and 2007-3, and fees regulations to be final by the end of 2013.

Six NRC regulations are overdue for implementation:

- "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.
- "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.
- "Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material; Licensing and Reporting Requirements," 10 CFR Parts 30, 31, 32, and 150 amendment (72 R 58473), that was due for Agreement State adoption by December 17, 2010.
- "Requirements for Expanded Definition of Byproduct Material," 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, 150 amendment (72 FR 55864), that was due for Agreement State adoption by November 30, 2010.
- "Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent," 10 CFR Parts 19 and 20 amendment (72 FR 68043), that was due for Agreement State adoption by February 15, 2011.
- "Medical Use of Byproduct Material – Authorized User Clarification," 10 CFR Part 35 amendment (74 FR 33901), due for Agreement State adoption by September 28, 2012.

### Sealed Source and Device (SS&D) Evaluation Program (2012 IMPEP finding: Satisfactory)

There have been no changes in the SS&D program since the June 2012 IMPEP. The Commonwealth has one device manufacturer with 11 active SS&D registrations. Kentucky currently has one qualified SS&D reviewer. Kentucky is working to qualify at least one more individual to perform SS&D reviews. This individual has taken the SS&D workshop and needs to complete a few more supervised SS&D reviews before becoming qualified. Kentucky is looking to hold an SS&D workshop in northern Kentucky sometime in NRC fiscal year 2014.

### Low-Level Radioactive Waste Disposal (LLRW) Program (2012 IMPEP finding: Not Reviewed)

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. The Commonwealth is working on progression of the site to final closure. The remedial design work plan to extend the final cap has been submitted. Eventually once approval is received and when work begins to increase on the final cap the Program expects to have one or two people dedicated to the project. Mr. McKinley stated that this workload is expected to be easily absorbed by the Program.

### Conclusion

Kentucky's program continues to improve. Kentucky has been responsive to the recommendation that was made by the MRB stemming from the 2012 IMPEP review. The Program is currently operating with one unfilled staff position due to a military deployment. Six overdue regulations are due for adoption and the Commonwealth is working on addressing those changes.