



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 9, 2013

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-13-0051

TITLE: MANAGEMENT REVIEW BOARD RECOMMENDATION FOR
PROBATION OF THE GEORGIA AGREEMENT STATE
PROGRAM

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of July 9, 2013.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook".

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Macfarlane
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
EDO
PDR

SECY Note: This SRM will be released to the public 5 working days after dispatch of the letter to the Governor.

VOTING SUMMARY - SECY-13-0051

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. MACFARLANE	X				X	6/13/13
COMR. SVINICKI		X			X	6/18/13
COMR. APOSTOLAKIS	X				X	6/18/13
COMR. MAGWOOD		X			X	5/29/13
COMR. OSTENDORFF	X				X	5/31/13

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Allison M. Macfarlane
SUBJECT: SECY-13-0051 – MANAGEMENT REVIEW BOARD
RECOMMENDATION FOR PROBATION OF THE
GEORGIA AGREEMENT STATE PROGRAM

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below XX Attached XX None _____

I approve the staff's recommendation to place the Georgia Agreement State Program on Probation. I agree that the performance problems identified by the Integrated Materials Performance Evaluation Program review team necessitate this Commission action. I am looking forward to the staff's recommendations and implementation plan for whether a performance-based approach for determining compatibility should be developed as directed in SRM-SECY-12-0112. I also approve the staff's recommended letter to Governor Deal, the Federal Register Notice, and Press Release, subject to my edits.



SIGNATURE

6/13/13

DATE

Entered on "STARS" Yes _____ No _____

NUCLEAR REGULATORY COMMISSION

[NRC-2012-XXXX]

Placement of the Georgia Agreement State Program on Probation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Georgia Agreement State Program Being Placed on Probation.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the placement of the Georgia Agreement State Program (Georgia Program) for the regulation of certain Atomic Energy Act materials on Probation and further increasing the NRC oversight of the Georgia Program, as well as overseeing implementation of a "Program Improvement Plan" developed by the staff of the Georgia Program. Once the Georgia Program has met the commitments made in the "Program Improvement Plan," and has demonstrated significant improvements in program performance, the probationary status will be lifted. There will be further announcements of that action.

FOR FURTHER INFORMATION CONTACT: Lisa Dimmick, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-415-0694, e-mail: Lisa.Dimmick@nrc.gov.

SUPPLEMENTARY INFORMATION:

Under Section 274 of the Atomic Energy Act, as amended, the Commission retains the authority and the responsibility to assure that Agreement State programs continue to provide adequate protection of public health and safety, and to be compatible with the NRC's program with respect to the regulation of the materials and uses authorized under the Agreement. Agreement States are States which have assumed regulatory authority from the NRC over the possession and use of certain radioactive materials. The Commission Policy Statement, "Statement of Principles and Policy for the Agreement State Program," established the option of placing an Agreement State radiation control program on Probation for program weaknesses that require increased NRC oversight.

Section 274j. of the Atomic Energy Act of 1954, as amended, requires that the NRC periodically review each Agreement State to ensure Agreement States are adequate and compatible. It is the policy of the NRC to evaluate the NRC regional materials programs and Agreement State radiation control programs in an integrated manner, using common and non-common performance indicators, to ensure that public health and safety is being adequately protected. The periodic review process for Agreement State and NRC regional radioactive materials programs is called the Integrated Materials Performance Evaluation Program (IMPEP).

The Management Review Board (MRB), in a public meeting, makes the overall assessment of each NRC regional materials and Agreement State program. Information considered by the MRB includes the proposed final IMPEP report which presents suggested performance indicator ratings and recommendations prepared by the IMPEP review team, and information provided by the region or State at the MRB meeting. For most IMPEP reviews, no action other than issuance of the final IMPEP report is needed. For those infrequent reviews

where additional action is needed, the MRB may consider Monitoring, Heightened Oversight, and recommendations for Probation, Suspension, or Termination. The most significant actions, Probation, Suspension, or Termination, require Commission approval.

Overall, the MRB found the Georgia Program adequate to protect public health and safety, but needs improvement, and compatible with the NRC's program. The MRB found the Georgia Program performance unsatisfactory for two performance indicators: Technical Quality of Inspections, and Technical Quality of Incident and Allegation Activities. The Georgia Program was found satisfactory, but needs improvement, for three performance indicators: Technical Staffing and Training, Status of Materials Inspection Program, and Technical Quality of Licensing Actions. The indicators, Compatibility Requirements and Sealed Source and Device Evaluation were found satisfactory. The MRB recommended that the Georgia Program be placed on Probation due to the significant performance issues identified. The Commission considered the performance of the Georgia Program and agreed that the Georgia Program should be placed on Probation.

In cases where program weaknesses exist regarding the adequacy or compatibility of an Agreement State's program yet the weaknesses are not so serious as to find the program inadequate to protect public health and safety, one of the options available to ensure continued protection of public health and safety, is to place the Agreement State program on Probation.

~~The probationary period is approximately one year.~~ The Georgia Agreement State Program's progress in addressing the program weaknesses will be evaluated in January 2014 by an IMPEP review team. Once the MRB determines that the Agreement State has met the commitments in the "Program Improvement Plan" and has demonstrated significant improvements in program performance, a recommendation will be made to the Commission that the probationary status be lifted.

Upon Commission approval, the probationary status will be lifted. Notification of discontinuance of Probation will be made to the Governor of Georgia, the Georgia Congressional delegation, and all other Agreement and Non-Agreement States. The NRC will also publish a *Federal Register* Notice and a press release announcing the discontinuance of Probation for the Georgia Program.

Dated at Rockville, Maryland, this **XX** day of **xx**, 2013.

For the Nuclear Regulatory Commission.

Brian J. McDermott, Director,
Division of Materials Safety and State Agreements,
Office of Federal and State Materials
and Environmental Management Programs.

The Honorable Nathan Deal
203 State Capitol
Atlanta, GA 30334

Dear Governor Deal:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am writing to bring to your attention significant concerns that were identified during a recent evaluation of the Georgia Agreement State Program. ~~This is the program responsible for ensuring~~ ~~in-overseeing~~ the safe and secure use of radioactive material in Georgia. I am requesting your support for the program's efforts to address these concerns.

On December 15, 1969, the State of Georgia entered into an Agreement with the NRC pursuant to section 274b. of the Atomic Energy Act, as amended. Under this agreement, the State of Georgia committed to establish a radiation control program that is adequate and compatible to protect the health and safety of Georgia citizens from the potential hazards associated with the use of radioactive materials. The NRC retains the authority and responsibility for ensuring that Agreement State programs continue to provide adequate protection of public health and safety, and that they are compatible with the NRC's program for regulating radioactive materials.

The most recent review of the Georgia Agreement State Program found program weaknesses related to the adequacy of your Agreement State program. The identified weaknesses were of such safety significance that assurance of the Georgia Agreement State Program's ability to protect public health and safety was degraded. ~~and increased oversight by the NRC is required to confirm program improvements.~~ The Commission has further determined that while making the necessary corrections, the Georgia program would benefit from increased NRC oversight. The Commission is, therefore, placing the Georgia Agreement State Program on Probation. ~~The Staff from your~~ Georgia radiation control program staff has been involved in the discussions leading to this decision.

The weaknesses identified in Georgia Agreement State program do not immediately threaten public health and safety. Probation is appropriate because it allows the NRC to remain closely involved with the Georgia program managers as they implement improvements. Probation only involves the 274b. Agreement between the NRC and the State of Georgia involving the use of radioactive materials by medical, industrial, and academic facilities. It does ~~is not involve expected that our decision for Probation would impact other State responsibilities pertaining to emergency preparedness at~~ commercial nuclear power plants or the construction ~~and operation~~ of nuclear power plants.

The Georgia Agreement State Program staff has already provided the NRC staff a "Program Improvement Plan" describing actions to be taken to address the identified weaknesses, including specific goals and timetables. The NRC staff will work with your staff throughout the probationary period. The State's progress in addressing the program

weaknesses will be evaluated in a formal review in January 2014. Once the Commission determines that the commitments in the "Program Improvement Plan" have been met and that the Georgia Agreement State Program has demonstrated significant improvements in program performance, the probationary status will be lifted.

Let me assure you that the Commission is ready to assist Georgia in improving the Agreement State program. I will be happy to answer any questions you may have, or your staff may contact Mark A. Satorius, Director, Office of Federal and State Materials and Environmental Management Programs, at 301-415-7197.

~~301 415 7197.~~

Sincerely,

Allison M. Macfarlane

OPA

DRAFT

(Source:)

NRC APPROVES PROBATION FOR GEORGIA'S AGREEMENT STATE REGULATORY PROGRAM

The Commission has approved placing the Sstate of Georgia on Pprobation for deficiencies in its Agreement State program—the first time the NRC has taken such action. This move does not affect oversight of nuclear reactors in Georgia, which remain under NRC authority.

Georgia is one of 37 Sstates that have entered into agreements with the NRC giving them authority to license and regulate certain nuclear materials users within their borders. The agency reviews these Agreement State programs regularly. Probation is an option for ensuring continued protection of public health and safety in cases where program weaknesses exist, but the weaknesses do not make the program inadequate to provide that protection.

A review team comprised of technical staff from the NRC, North Carolina and Florida evaluated the Georgia program in October 2012. The team identified significant deficiencies throughout the program that, if left uncorrected, have the potential to impact public health and safety. The team observed a basic misunderstanding of several important safety and security requirements,

and it noted significant communication issues between staff and management that affected the program's ~~safety culture and~~ performance. Overall, the team identified a decline in performance since Georgia's last evaluation in 2008.

The problems identified relate largely to prioritization of work, specifically responding to incidents promptly and prioritizing inspections of licensees using radioactive materials with the greatest potential for harm. The team found numerous examples where tasks were not appropriately prioritized.

In spite of the need for improvement, the review found Georgia's program to be adequate and compatible with the NRC regulatory program. But the team recommended, and an NRC ~~M~~management ~~R~~review ~~B~~board agreed, that Georgia's performance be found unsatisfactory for several performance indicators. The team made 11 specific recommendations to Georgia for improving performance. The report on Georgia's agreement state program can be found [here](#).

Pending the ~~C~~ommission's decision, the ~~S~~tate has been on "Heightened Oversight," a condition requiring increased interaction with NRC staff, preparation of a program improvement plan, bimonthly conference calls and periodic status reports. The NRC will continue to interact more frequently with the state program office during probation. The Georgia program will be evaluated again in January 2014.

#####

News releases are available through a free *Listserve* subscription or by clicking on the [EMAIL UPDATES](#) link on the NRC homepage (www.nrc.gov). E-mail notifications are sent to subscribers when news releases are posted to NRC's website. For the latest news, follow the NRC on www.twitter.com/NRCgov.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER SVINICKI
SUBJECT: SECY-13-0051 – MANAGEMENT REVIEW BOARD
RECOMMENDATION FOR PROBATION OF THE
GEORGIA AGREEMENT STATE PROGRAM

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached XX None _____



SIGNATURE

06/18/13

DATE

Entered on "STARS" Yes No _____

**Commissioner Svinicki's Comments on SECY-13-0051
Management Review Board Recommendation for
Probation of the Georgia Agreement State Program**

I approve the staff's recommendation to place the Georgia Agreement State Program on probation. I determine that the issues identified and the evaluation of those issues conducted through the Integrated Materials Performance Evaluation Program (IMPEP) warrant this action. I also propose edits to the draft *Federal Register* notice, the letter to the Governor of Georgia, and the draft public announcement, as attached.

In deliberating on this matter, I have reviewed the responses by the Georgia Program, including the Georgia Program Improvement Plan, which has been reviewed and approved by the NRC staff. The response by the Georgia Program to the issues identified has been expansive and thorough, and I acknowledge Georgia's stated commitment to these corrective measures, some of which are already implemented and many of which are substantially underway.

Our Agreement States are vital partners and co-regulators in achieving our mutual goal of protection of public health and safety with respect to the care and handling of radiological materials. This partnership is a direct reflection of Congress's design for the role of the States in these important matters. Consequently, the NRC will also take measures under its power, related to training and other technical assistance, in support of Georgia's efforts in improving its program.

The NRC staff has and will continue to evaluate whether these events indicate that enhancements to the IMPEP are needed. Beginning with a programmatic evaluation by NRC's Office of Inspector General in 2009, followed by an assessment of the IMPEP led by agency rehired annuitants with significant expertise in this area in 2010, and continuing on to a report on strengthening the Agreement State Program (still under development), recent years have seen a period of substantial review and evaluation of our processes for monitoring Agreement State programs. Although the NRC staff has already addressed a number of the recommendations for program enhancements coming out of these reviews, a number of program enhancements and revisions are still being developed. These are substantial efforts by the staff. Prior to any wholesale, additional changes being directed by the Commission, the requisite time should be allowed for these staff actions to be implemented and their effectiveness to be evaluated. Rather than directing additional programmatic changes now, the Commission should direct the staff to report back one year after the issuance of the staff requirements memorandum arising from SECY-13-0051 on the status of the staff's work in addressing the recommendations coming from the reviews already conducted and any further actions that are planned.



Kristine L. Svinicki 06/18/13

NUCLEAR REGULATORY COMMISSION

[NRC-2012-XXXX]

Placement of the Georgia Agreement State Program on Probation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Georgia Agreement State Program Being Placed on Probation.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the placement of the Georgia Agreement State Program (Georgia Program) for the regulation of certain Atomic Energy Act materials on Probation and a further increaseing in the NRC oversight of the Georgia Program, as well as including overseeing implementation of a "Program Improvement Plan" developed by the staff of the Georgia Program. Once the Georgia Program has met the commitments made in the "Program Improvement Plan," and has demonstrated significant improvements in program performance, the probationary status will be lifted. There will be further announcements of that action.

FOR FURTHER INFORMATION CONTACT: Lisa Dimmick, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-415-0694, e-mail: Lisa.Dimmick@nrc.gov.

SUPPLEMENTARY INFORMATION:

Under Section 274 of the Atomic Energy Act, as amended, the Commission retains the authority and the responsibility to assure that Agreement State programs continue to provide adequate protection of public health and safety, and to be compatible with the NRC's program with respect to the regulation of the materials and uses authorized under the Agreement.

Agreement States are States ~~which~~ that have assumed regulatory authority from the NRC over the possession and use of certain radioactive materials. The Commission Policy Statement, "Statement of Principles and Policy for the Agreement State Program," established the option of placing an Agreement State radiation control program on Probation for program weaknesses that require increased NRC oversight.

Section 274j. of the Atomic Energy Act of 1954, as amended, requires that the NRC periodically review each Agreement State to ensure Agreement State's regulatory programs are adequate and compatible. It is the policy of the NRC to evaluate the NRC regional materials programs and Agreement State radiation control programs in an integrated manner, using ~~common and non-common~~ performance indicators, to ensure that public health and safety is being adequately protected. The periodic review process for Agreement State and NRC regional radioactive materials programs is called the Integrated Materials Performance Evaluation Program (IMPEP).

The Management Review Board (MRB), in a public meeting, makes the overall assessment of each NRC regional materials and Agreement State program. Information considered by the MRB includes the proposed final IMPEP report, which presents suggested performance indicator ratings and recommendations prepared by the IMPEP review team, and information provided by the region or State at the MRB meeting. For most IMPEP reviews, no action other than issuance of the final IMPEP report is needed. For those infrequent reviews

where additional action is needed, the MRB may consider Monitoring, Heightened Oversight, and recommendations for Probation, Suspension, or Termination. The most significant actions, Probation, Suspension, or Termination, require Commission approval. In 2008, the MRB placed the Georgia Program under a condition of Monitoring due to the results of the 2008 Georgia Program IMPEP.

~~Overall~~After the most recent review, the MRB found the overall Georgia Program compatible with the NRC's program and adequate to protect public health and safety, but needs improvement, ~~and compatible with the NRC's program~~. The MRB found the Georgia Program performance unsatisfactory for two performance indicators: Technical Quality of Inspections, and Technical Quality of Incident and Allegation Activities. The Georgia Program was found satisfactory, but needs improvement, for three performance indicators: Technical Staffing and Training, Status of Materials Inspection Program, and Technical Quality of Licensing Actions. The indicators, Compatibility Requirements and Sealed Source and Device Evaluation were found satisfactory. The MRB recommended that the Georgia Program be placed on Probation due to the significant performance issues identified. The Commission considered the performance of the Georgia Program and agreed that the Georgia Program should be placed on Probation.

In cases where program weaknesses exist regarding the adequacy or compatibility of an Agreement State's program yet the weaknesses are not so serious as to find the program inadequate to protect public health and safety, one of the options available to ensure continued protection of public health and safety, is to place the Agreement State program on Probation. The probationary period, at a minimum, is expected to last approximately one year. The Georgia Agreement State Program's progress in addressing the program weaknesses will be evaluated in January 2014 by an IMPEP review team. Once the MRB determines that the

Agreement State has met the commitments in the "Program Improvement Plan" and has demonstrated significant improvements in program performance, a recommendation will be made to the Commission that the probationary status be lifted.

Upon Commission approval, the probationary status will be lifted. Notification of discontinuance of Probation will be made to the Governor of Georgia, the Georgia Congressional delegation, and all other Agreement and Non-Agreement States. The NRC will also publish a *Federal Register* Notice and a press release announcing the discontinuance of Probation for the Georgia Program.

Dated at Rockville, Maryland, this **XX** day of **xx**, 2013.

For the Nuclear Regulatory Commission.

Brian J. McDermott, Director,
Division of Materials Safety and State Agreements,
Office of Federal and State Materials
and Environmental Management Programs.

The Honorable Nathan Deal
203 State Capitol
Atlanta, GA 30334

Dear Governor Deal:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am writing to bring to your attention significant concerns that were identified during a recent evaluation of the Georgia Agreement State Program in overseeing the safe and secure use of radioactive material in Georgia. I am requesting your support for the program's efforts to address these concerns.

On December 15, 1969, the State of Georgia entered into an Agreement with the NRC pursuant to section 274b. of the Atomic Energy Act, as amended. Under this agreement, the State of Georgia committed to establish a radiation control program that is adequate and compatible to protect the health and safety of Georgia citizens from the potential hazards associated with the use of radioactive materials. The NRC retains the authority and responsibility for ensuring that Agreement State programs continue to provide adequate protection of public health and safety, and that they are compatible with the NRC's program for regulating radioactive materials.

The most recent review of the Georgia Agreement State Program found program weaknesses related to the adequacy your Agreement State program. The identified weaknesses were of such safety significance that assurance of the Georgia Agreement State Program's ability to protect public health and safety was degraded and increased oversight by the NRC is required to confirm program improvements. The Commission has further determined that while making the necessary corrections, the Georgia ~~p~~P Program would benefit from increased NRC oversight. The Commission is, therefore, placing the Georgia Agreement State Program on Probation. Staff from ~~your the Georgia radiation control~~ Radioactive Materials p Program within the Georgia Environmental Protection Division ~~has~~ have been involved in the discussions leading to this decision.

The weaknesses identified in Georgia Agreement State ~~p~~P Program do not immediately threaten public health and safety. Probation is appropriate because it allows the NRC to remain closely involved with Georgia ~~p~~P Program managers as they implement improvements. Probation only involves the 274b. Agreement between the NRC and the State of Georgia involving the use of radioactive materials by medical, industrial, and academic facilities. ~~It is not expected that our~~ The decision for Probation ~~would~~ does not impact other State responsibilities pertaining to emergency preparedness at commercial nuclear power plants or the construction and operation of nuclear power plants.

The Georgia Agreement State Program staff has already provided the NRC staff a "Program Improvement Plan" describing actions to be taken to address the identified weaknesses, including specific goals and timetables. The NRC staff will work with your staff throughout the probationary period. The State's progress in addressing the program

weaknesses will be evaluated in a formal review in January 2014. Once the Commission determines that the commitments in the "Program Improvement Plan" have been met and that the Georgia Agreement State Program has demonstrated significant improvements in program performance, the probationary status will be lifted.

Let me assure you that the Commission is ready to assist Georgia in improving the Agreement State program. I will be happy to answer any questions you may have, or your staff may contact Mark A. Satorius, Director, Office of Federal and State Materials and Environmental Management Programs, at 301-415-7197.
~~301-415-7197.~~

Sincerely,

Allison M. Macfarlane

OPA**DRAFT**
(Source:)

**NRC APPROVES PROBATION FOR
GEORGIA'S AGREEMENT STATE REGULATORY PROGRAM**

The Commission has approved placing the state of Georgia on probation for deficiencies in its Agreement State program—the first time the NRC has taken such action.

Georgia is one of 37 states that have entered agreements with the NRC giving them authority to license and regulate certain nuclear materials users within their borders. The agency reviews these Agreement State programs regularly. Probation is an option for ensuring continued protection of public health and safety in cases where program weaknesses exist, but the weaknesses do not make the program inadequate to provide that protection.

A review team comprised of technical staff from the NRC, North Carolina and Florida evaluated the Georgia program in October 2012. The team identified significant deficiencies throughout the program that, if left uncorrected, have the potential to impact public health and safety. The team observed a basic misunderstanding of several important safety and security requirements, and it noted significant communication issues between staff and management that affected the

program's safety culture and performance. Overall, the team identified a decline in performance since Georgia's last evaluation in 2008.

The problems identified relate largely to prioritization of work, specifically responding to incidents promptly and prioritizing inspections of licensees using radioactive materials with the greatest potential for harm. The team found numerous examples where tasks were not appropriately prioritized.

In spite of the need for improvement, the review found Georgia's program to be adequate and compatible with the NRC regulatory program. But the team recommended, and an NRC management review board agreed, that Georgia's performance be found unsatisfactory for several performance indicators. The team made 11 specific recommendations to Georgia for improving performance. The report on Georgia's agreement state program can be found [here](#).

The Georgia Program managers are addressing the performance concerns. The Georgia Program has submitted a Georgia Program Improvement Plan. This plan has been reviewed and approved by the NRC.

Pending the commission's decision, the state has been on "Heightened Oversight," a condition requiring increased interaction with NRC staff, preparation of a program improvement plan, bimonthly conference calls and periodic status reports. The NRC will continue to interact more frequently with the state program office during probation. The Georgia program will be evaluated again in January 2014.

#####

News releases are available through a free *Listserv* subscription or by clicking on the EMAIL UPDATES link on the NRC homepage (www.nrc.gov). E-mail notifications are sent to subscribers when news releases are posted to NRC's website. For the latest news, follow the NRC on www.twitter.com/NRCgov.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Apostolakis
SUBJECT: SECY-13-0051 – MANAGEMENT REVIEW BOARD
RECOMMENDATION FOR PROBATION OF THE
GEORGIA AGREEMENT STATE PROGRAM

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below X Attached X None _____

I approve the staff's recommendation to place the Georgia Agreement State Program on probation subject to the attached edits. Staff should quickly report to the Commission if at any time during this probation period the State is not making progress to improve and sustain its program.



SIGNATURE

6/18/13

DATE

Entered on "STARS" Yes No _____

NUCLEAR REGULATORY COMMISSION

[NRC-2012-XXXX]

Placement of the Georgia Agreement State Program on Probation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Georgia Agreement State Program Being Placed on Probation.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the placement of the Georgia Agreement State Program (Georgia Program) for the regulation of certain Atomic Energy Act materials on Probation and further increasing the NRC oversight of the Georgia Program, as well as overseeing implementation of a "Program Improvement Plan" developed by the staff of the Georgia Program. Once the Georgia Program has met the commitments made in the "Program Improvement Plan," and has demonstrated significant **and sustained** improvements in program performance, the probationary status ~~will~~**could** be lifted. There will be further announcements of ~~that~~**such** action.

FOR FURTHER INFORMATION CONTACT: Lisa Dimmick, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-415-0694, e-mail: Lisa.Dimmick@nrc.gov.

SUPPLEMENTARY INFORMATION:

Under Section 274 of the Atomic Energy Act, as amended, the Commission retains the authority and the responsibility to assure that Agreement State programs continue to provide adequate protection of public health and safety, and to be compatible with the NRC's program with respect to the regulation of the materials and uses authorized under the Agreement. Agreement States are States which have assumed regulatory authority from the NRC over the possession and use of certain radioactive materials. ~~The Commission Policy Statement, "Statement of Principles and Policy for the Agreement State Program," established the option of placing an Agreement State radiation control program on Probation for program weaknesses that require increased NRC oversight.~~

Section 274j. of the Atomic Energy Act of 1954, as amended, requires that the NRC periodically review each Agreement State to ensure Agreement States are adequate and compatible. ~~It is the policy of the NRC to evaluate the NRC regional materials programs and Agreement State radiation control programs in an integrated manner, using common and non-common performance indicators, to ensure that public health and safety is being adequately protected. The periodic review process for Agreement State and NRC regional radioactive materials programs is called the Integrated Materials Performance Evaluation Program (IMPEP).~~

The Management Review Board (MRB), in a public meeting, makes the overall assessment of ~~each NRC regional materials and the~~ Agreement State program. Information considered by the MRB includes the proposed final IMPEP report which presents suggested performance indicator ratings and recommendations prepared by the IMPEP review team, and

information provided by the ~~region or~~ State at the MRB meeting. For most IMPEP reviews, no action other than issuance of the final IMPEP report is needed. For those infrequent reviews where additional action is needed, the MRB may consider Monitoring, Heightened Oversight, and recommendations for Probation, Suspension, or Termination. The most significant actions, Probation, Suspension, or Termination, require Commission approval.

Overall, the MRB found the Georgia Program adequate to protect public health and safety, but needs improvement, and compatible with the NRC's program. The MRB found the Georgia Program performance unsatisfactory for two performance indicators: Technical Quality of Inspections, and Technical Quality of Incident and Allegation Activities. The Georgia Program was found satisfactory, but needs improvement, for three performance indicators: Technical Staffing and Training, Status of Materials Inspection Program, and Technical Quality of Licensing Actions. The indicators, Compatibility Requirements and Sealed Source and Device Evaluation were found satisfactory. The MRB recommended that the Georgia Program be placed on Probation due to the significant performance issues identified. The Commission ~~considered the performance of the Georgia Program and~~ agreed that the Georgia Program should be placed on Probation.

~~In cases where program weaknesses exist regarding the adequacy or compatibility of an Agreement State's program yet the weaknesses are not so serious as to find the program inadequate to protect public health and safety, one of the options available to ensure continued protection of public health and safety, is to place the Agreement State program on Probation. The probationary period is approximately one year.~~ The Georgia Agreement State Program's progress in addressing the program weaknesses will be evaluated in January 2014 by an IMPEP review team. Once the MRB determines that the Agreement State has met the commitments in the "Program Improvement Plan" and has demonstrated significant ~~and~~

sustained improvements in program performance, a recommendation will be made to the Commission that the probationary status be lifted.

~~Upon Commission approval, the probationary status will be lifted.~~ Notification of discontinuance of Probation ~~would~~ be made to the Governor of Georgia, the Georgia Congressional delegation, and all other Agreement and Non-Agreement States. The NRC ~~will~~ ~~would~~ also publish a *Federal Register* Notice and a press release announcing the discontinuance of Probation for the Georgia Program, ~~if approved by the Commission.~~

Dated at Rockville, Maryland, this ~~XX~~ day of ~~xx~~, 2013.

For the Nuclear Regulatory Commission.

Brian J. McDermott, Director,
Division of Materials Safety and State Agreements,
Office of Federal and State Materials
and Environmental Management Programs.

Commissioner Apostolakis' edits SECY-13-0051

The Honorable Nathan Deal
203 State Capitol
Atlanta, GA 30334

Dear Governor Deal:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am writing to bring to your attention significant concerns that were identified during a recent evaluation of the Georgia Agreement State Program in overseeing the safe and secure use of radioactive material in Georgia. I am requesting your support for the program's efforts to address these concerns.

On December 15, 1969, the State of Georgia entered into an Agreement with the NRC pursuant to section 274b. of the Atomic Energy Act, as amended. Under this agreement, the State of Georgia committed to establish a radiation control program that is adequate and compatible to protect the health and safety of Georgia citizens from the potential hazards associated with the use of certain radioactive materials. The NRC retains the authority and responsibility for ensuring that Agreement State programs continue to provide adequate protection of public health and safety, and that they are compatible with the NRC's program for regulating radioactive materials.

The most recent review of the Georgia Agreement State Program found program weaknesses related to the adequacy of your Agreement State program. The identified weaknesses were of such safety significance that assurance of the Georgia Agreement State Program's ability to protect public health and safety was degraded and increased oversight by the NRC is required to confirm program improvements. The Commission has further determined that while making the necessary corrections, the Georgia program would benefit from increased NRC oversight. The Commission is, therefore, placing the Georgia Agreement State Program on Probation. Staff from your Georgia radiation control program staff has been involved in the discussions leading to this decision.

The weaknesses identified in Georgia Agreement State program do not immediately threaten public health and safety. Probation is appropriate because it allows the NRC to remain closely involved with the Georgia program managers as they implement improvements. Probation only involves the 274b. Agreement between the NRC and the State of Georgia involving the use of radioactive materials by medical, industrial, and academic facilities. It is not expected that our decision for Probation would impact involve other State responsibilities pertaining to emergency preparedness at commercial nuclear power plants or the construction and operation of nuclear power plants.

The Georgia Agreement State Program staff has already provided the NRC staff a "Program Improvement Plan" describing actions to be taken to address the identified weaknesses including specific goals and timetables. The NRC staff will work with your staff throughout the probationary period. The State's progress in addressing the program weaknesses will be evaluated in a formal review in January 2014. Once the Commission determines that the commitments in the "Program Improvement Plan" have been met and that the Georgia Agreement State Program has demonstrated significant and sustained improvements in program performance, the probationary status will could be lifted.

Comment [GA1]: Include similar text in the press release.

2

Let me assure you that the Commission is ready to assist Georgia in improving the Agreement State program. I will be happy to answer any questions you may have, or your staff may contact Mark A. Satorius, Director, Office of Federal and State Materials and Environmental Management Programs, at 301-415-7197,
~~301-415-7197~~.

Sincerely,

Allison M. Macfarlane

NOTATION VOTE

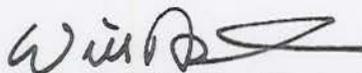
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MAGWOOD
SUBJECT: SECY-13-0051 – MANAGEMENT REVIEW BOARD
RECOMMENDATION FOR PROBATION OF THE
GEORGIA AGREEMENT STATE PROGRAM

Approved Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached None _____



SIGNATURE

29 May 2013

DATE

Entered on "STARS" Yes No _____

**Commissioner Magwood's Comments on SECY-13-0051,
"Management Review Board Recommendation For
Probation of the Georgia Agreement State Program"**

I approve staff's recommendation to place the Georgia Agreement State Program on probation as described in the NRC Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)". From the history related by the staff in the subject SECY paper, it is clear that this step is appropriate. That said, it is also important to recognize that Georgia State personnel are aware of the areas of concern cited by the staff and are taking positive actions to remediate their program.

However, it is also true that the agency has had significant concerns about Georgia's program since at least 2008. During the five years that have passed, it is likely that performance issues in Georgia have resulted in increased safety and security risks to the public. In SECY-13-0051, staff describes an example in which a conscientious member of the public inadvertently came into possession of a device containing an americium-241 sealed source. This person acted appropriately and contacted the Georgia Program. The responsible inspector made an unsuccessful attempt to locate the original owner and took no further action. Only when NRC, acting on a complaint from the person in possession of the source, discussed the matter with Georgia was appropriate action taken to recover the source. Obviously, such an example is emblematic of a serious programmatic failure by the Georgia Program. But the fact that such a degraded level of performance has been observed for five years also raises concerns about the IMPEP and the agency's application of it.

The Agreement States are an integral part of the Nation's radiological safety regulatory regime. Agreement States assure that the approximately 19,000 industrial, medical, and other licensees operate in a manner that protects the health, safety, and security of the public and the workers involved. As a general matter, the state programs perform in exemplary fashion, working with limited staff and resources to carry out a wide range of essential regulatory functions. However, the state organizations with these responsibilities are very often buried in bureaucracies that do not appreciate the unique and important nature of their work.

As I have visited many states over the years, I find reoccurring stories of staff shortages despite the availability of funds (often from fees on licensees) to pay for new hires; restrictions on travel to essential meetings and training because of broad state government rules; growing worries about loss of capability as staff move on or retire; and moribund efforts to establish updated regulations. Given these challenges, it is more likely than not that programs that are performing well today will become the "Georgias" of a few years from now.

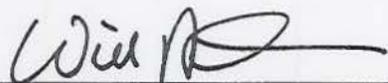
It is apparent that our IMPEP review and the process for determining Agreement State adequacy and compatibility are ripe for an extensive review. The position in which Georgia finds itself is a perfect example of why I have noted in previous votes that staff should engage the Agreement States to develop a recommendation for a performance-based approach for

determining compatibility of State radiation control programs. Such an approach should revisit how we assess "adequacy" and "compatibility" and develop clear metrics which could replace, supplement, or expand upon the IMPEP program.

Even if the current IMPEP, with its traditional metrics and ratings such as "Monitoring," are supportive entirely of the NRC's internal processes (which can be debated), they do little to adequately and clearly inform the public of the performance of state programs. The Reactor Oversight Program (ROP) is also designed to support internal NRC processes, but it has become an effective and valuable public communication tool—as staff trumpeted when it proposed the creation of the Construction ROP. In contrast, the current IMPEP does not provide sufficient information to the public or to senior state officials about degrading performance. Nor does it satisfactorily encourage states to strive for excellence—until, like Georgia, a program suffers years of degraded performance and the NRC is forced to place it on probation.

I recognize that staff believes the current approach is adequate. Many states, in their official comments, also support broadly the *status quo*. Nevertheless, based on the many discussions I have had with the state program staffs responsible for protecting public health and safety, I conclude that the time has come for a new approach and that the Commission is best placed to move this effort forward.

It is best to dispatch the current matter quickly in order to address the specific concerns associated with the Georgia Program. However, we have a responsibility to improve the process by which we carry out NRC's responsibilities under the Atomic Energy Act and we should consider our next steps. I believe that the best path is to begin working with our Agreement State partners to design an approach that provides them increased flexibility while establish performance metrics that properly assess and communicate the job they are doing to protect public health and safety. Clearly, this will take some time, but the benefits to radiological safety in this country make it worthy of the effort. I look forward to discussing this important policy matter with my Commission colleagues and encourage that we make this challenge a priority in the coming months.

 5/29/13

William D. Magwood, IV

Date

NOTATION VOTE

RESPONSE SHEET

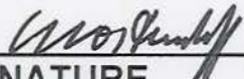
TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER OSTENDORFF
SUBJECT: SECY-13-0051 – MANAGEMENT REVIEW BOARD
RECOMMENDATION FOR PROBATION OF THE
GEORGIA AGREEMENT STATE PROGRAM

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below X Attached _____ None _____

I approve the staff's recommendation to place the Georgia Agreement State Program on probation. I believe the significance of the issues identified by the Integrated Materials Performance Evaluation Program (IMPEP) team warrant this action. I commend the staff's efforts to appropriately reflect on whether these significant performance issues indicate that enhancements to the IMPEP program are needed. I encourage the staff to continue to enhance the program as necessary, but I do not think that wholesale changes are warranted. The staff should continue to keep the Commission informed of its assessment of the IMPEP and any changes the staff determines are necessary to ensure appropriate oversight of Agreement State programs.



SIGNATURE

5/31/13

DATE

Entered on "STARS" Yes x No _____