



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Larry Hogan
Governor

Ben Grumbles
Secretary

Boyd Rutherford
Lieutenant Governor

January 8, 2016

Via E-mail: lisa.dimnick@nrc.gov
Christian E. Einberg, Chief
Agreement State Programs Branch
Division of Material Safety, State, Tribal, and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards
United States Nuclear Regulatory Commission (NRC)

Dear Mr. Einberg:

The Secretary of the Maryland Department of the Environment, Benjamin Grumbles has asked me to respond to your December 7, 2015 letter regarding the draft Integrated Materials Performance Evaluation Program (IMPEP) draft report. The IMPEP draft report documents the results of the Agreement State review held in Maryland on November 2-6, 2015. Maryland's comments on the draft report are enclosed.

The Maryland Agreement State Program complements and thanks the NRC and the IMPEP team for their professional conduct and performance during the audit; and the high level of technical expertise reflected. Maryland continues to support the IMPEP process and is always striving to improve our program.

We are looking forward to discussing the results of the IMPEP audit during the Management Review Board meeting currently scheduled for January 21, 2016 in Rockville Maryland. Should you have any questions regarding this letter, please contact Roland G. Fletcher or Raymond E. Manley of the Radiological Health Program at 410-537-3300.

Sincerely,


Mary Beth Tung, Deputy Secretary
Maryland Department of the Environment

Enclosure



COMMENTS 2015 IMPEP DRAFT REPORT

1. Comment report location 3.1.b and 3.1.c

The Maryland Program appreciates IMPEP draft report statements that we are getting the job done (performance based) even while we are addressing a staff shortage. Accordingly, we are happy to report that Maryland has recently filled a vacant inspection position, and the new inspector is scheduled to begin work on January 20, 2016.

In an effort to limit the negative effects of future staff shortages, we are working with the Director's Office and the Office of the Secretary to establish administrative procedures designed to, where possible, limit the long-term impact of future vacancies. These procedures will include such options as additional cross training of employees; borrowing staff from other Air and Radiation Management Administration (ARMA) programs; borrowing staff from other Agreement State Programs/NRC; and establishing options for employee assistance from outside vendors. Notwithstanding the outcome of this process, we will continue to meet all inspection and licensing thresholds in Management Directive 5.6.

Regarding the draft report's statements on Maryland's training qualification program, we understand that the Organization of Agreement States (OAS) worked in cooperation and collaboration with the NRC resulting in the NRC's decision to make IMC 1248 a Compatibility C. Therefore, we will implement the training recommendation by conducting a full evaluation of our training and qualification program, revising our policy and holding IMC 1248 training for staff. We expect to implement procedures that meet the essential objectives of IMC 1248 by March 30, 2016. The Licensing and Inspection Supervisors will document training qualifications, proficiency and completion in each essential element using IMC 1248 Appendix A and B as the basis for the documentation.

2. Comment report location 3.4.c

With regard to statements about licensing actions in the draft report, we recognize them as issues/concerns and will correct the obvious errors. We do however have questions regarding an apparent NRC license requirement to have maximum possession limits for non radionuclides of concern such as Ni-63 or Co-57 sealed sources, and request further discussion about this issue with NRC staff.

It is Maryland's intent to improve our licensing process as much as possible inclusive of using many of NRC's standardized "best practice" language in the special conditions of our radioactive material licenses.

3. Comment report location 4.1.b

There seems to be an error in the 3rd paragraph under 4.1.b. The amendment “Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste,” 10 CFR Part 71 (77 FR 34194), which was due for adoption August 10, 2015 was (as indicated in the IMPEP questionnaire) adopted by Maryland on October 26, 2015 prior to the 2015 NRC IMPEP. The final regulation has been submitted to and approved by NRC without comments subsequent to the November 2015 IMPEP.

In closing, we would like to communicate an observation from the IMPEP evaluation process. Section 3.4.c of the draft report uses the term “identified errors” in the licensing case file review. We respectfully submit that the standard license condition for transportation is a “best practice” and should not be described as an error in the license. It is a reminder to the licensee of the requirement to follow the transportation regulations. This observation can also be seen as reflected in the report’s statement of error in our licenses for failure to use “best practice” reciprocity language for temporary jobsites. In our opinion, these reminder license conditions simply provide guidance and any failure to put them in a license condition should not be considered an error per se.

Also, we believe the draft report language about the missing Radiation Safety Officer (RSO) documentation for the industrial broad-scope in the same section 3.4.c is misleading. The RSO’s responsibility under that particular license was no greater than the oversight of small activity sources maintained in one small locked cabinet used to test operability of instrumentation. We accepted the RSO’s qualifications to oversee the licensed activities based on the quantities and types of radioactive material used on the license (performance based).