

NEW YORK MONITORING CONFERENCE CALL
January 11, 2017

NRC Attendees	New York Attendees
Donna Janda, RSAO, Region I	Stephen Gavitt, CHP, Director, Bureau of Environmental Radiation Protection (BERP), NYSDOH
Lisa Dimmick, Senior Health Physicist, ASPB, NMSS	Robert Dansereau, Assistant Director, BERP, NYSDOH
	Daniel Samson, CHP, Chief, Radioactive Materials Section, BERP, NYSDOH
	Sandra Hinkel, Chief, Radiation Control Permits Section, Division of Environmental Remediation, NYSDEC
	Timothy Rice, Chief, Radiological Sites Section, Division of Environmental Remediation, NYSDEC
	Ann Marie Gray, Environmental Radiation Specialist, Radiation Control Permit Section, Division of Environmental Remediation, NYSDEC
	Jessie Sangster, Environmental Program Specialist, Radiological Sites Section, Division of Environmental Remediation, NYSDEC
	Geoffrey Korir, Director, Office of Radiological Health, Department of Health and Mental Hygiene, NYC

SUMMARY

The agencies which comprise the New York Agreement State program (Program) are the New York State Department of Health (NYSDOH), New York State Department of Environmental Conservation (NYSDEC), and New York City Department of Health and Mental Hygiene (NYC). During the March 2014 Integrated Materials Performance Evaluation Program (IMPEP) review of the New York Program, the review team found the State's performance satisfactory for five performance indicators; satisfactory, but needs improvement, for the performance indicator, Technical Staffing and Training; and unsatisfactory for the performance indicator, Compatibility Requirements. The review team found the performance indicator, Technical Quality of Licensing Actions, to be satisfactory, but needs improvement; however, the Management Review Board (MRB) determined this indicator should be found satisfactory. The review team made three recommendations regarding program performance in technical staffing, technical quality of licensing, and compatibility requirements, and determined that the six recommendations from the 2011 IMPEP review, regarding reciprocity inspections, development of an action plan to adopt NRC regulations, and incident reporting and incident procedures, should be closed.

On August 4, 2014, the MRB found the Program to be adequate to protect public health and safety and not compatible with NRC's program. The MRB commended the Program for progress made under the indicator, Technical Quality of Incident and Allegation Activities, where performance was improved from unsatisfactory to satisfactory during the review period, and the progress made in adopting several overdue rules. As a result, the MRB directed that the period of Heightened Oversight be discontinued and a period of Monitoring be initiated. The MRB also directed that quarterly calls be conducted between the New York and NRC staffs and that a periodic meeting should be held in approximately March 2016.

On May 3 – May 5, 2016, periodic meetings were held with the three agencies comprising the Program. The MRB met on September 20, 2016, to discuss the Program's progress in addressing the recommendations from the 2014 IMPEP review and the current status of

Program activities. The MRB determined that the next IMPEP review date should be conducted as planned in March 2018.

DISCUSSION OF PROGRAM STATUS

Technical Staffing and Training

The 2014 IMPEP review team made one recommendation for this performance indicator:

Recommendation: The review team recommends that the DOH and DEC continue to pursue vacancy waivers and implement a strategy to address current and future staffing vacancies in order to maintain effectiveness, and that NYC should update its staffing and qualification program to include approved documentation of staff's qualifications.

Status: During the 2016 Periodic Meeting, the NYSDOH Program noted that nine vacancy waivers had been approved. During the September 2016 MRB, the NYDOH stated that all positions had been filled, including five technical staff positions in the radioactive materials program. In addition, the Acting Section Chief position was changed to a permanent Section Chief position. Three provisional staff were made permanent staff and a medical physicist was moved into a higher grade medical physicist position. The new staff members are undergoing qualification training. The Program prioritizes workloads to maintain effectiveness of inspection and licensing activities.

NYSDEC filled one position when a vacancy waiver was approved and an existing staff member moved from a lower grade position in the Radiation Control Permit Section. The Permit Section is now pursuing a vacancy waiver for the lower grade position. There is one vacancy in the Radiological Sites Section which has been vacant for greater than three years. The Sites Section has not received a waiver approval for this position. The Program adjusts workloads and schedules to meet Program demands.

NYC is currently fully staffed in the radioactive materials licensing and inspection programs. NYC continues to develop a blended program in which technical staff will be trained in both radiological materials and radiation machine-based activities. NYC has updated its staffing and qualification program to include approved documentation of staff's qualifications. The new qualification program is equivalent to NRC Inspection Manual Chapter 1248.

All three agencies send technical staff to the NRC-funded training as well as use other means (i.e., in house training and inspector accompaniments) to train current staff. State staff members need approval from the Governor's office for out-of-state travel which at times impacts State employees' attendance at the NRC-funded courses. NYSDOH is scheduled to host an Inspection Procedures Course in April 2017 in Albany with assistance from NRC Region I and the NRC Technical Training Center. NYC continues to conduct in-house training sessions on topics applicable to the radioactive materials program.

Status of the Materials Inspection Program

All three agencies stated that their Programs are on track with their inspections and have had no issues since the March 2014 IMPEP review. NYSDOH reported having a couple of overdue higher priority inspections. Pre-licensing visits are being conducted when applicable. NHSDOH and NYC reported that their agencies are meeting the goal of performing reciprocity inspections for at least 20 percent of candidate licensees.

NYSDOH noted that although the Program lost their dedicated IT support staff, the Program has a contractor to maintain the inspection database. The database was recently updated to include

planning tools such as a 30-day warning when an inspection is nearing the due date and also the date when the inspection is considered overdue.

Technical Quality of Inspections

All three agencies reported that they have had no issues arise in this area since the March 2014 IMPEP review. Annual supervisory inspection accompaniments are ongoing. NYSDOH plans to update their inspection procedures in the near future.

Technical Quality of Licensing

The 2014 IMPEP review team made one recommendation for this performance indicator:

Recommendation: The review team recommends that NYC (1) provide additional training to technical staff members regarding technical review of licensing actions, including training to ensure that the staff acquires increased familiarity with the regulations under NYC's equivalent to 10 CFR Parts 30, 33, and 35, and applicable licensing guidance documents and license conditions, and (2) take measures to ensure that the NYC's review of licensing actions are complete and well-documented.

Status: NYC continues to conduct training on licensing activities when applicable. New staff continue to attend NRC's qualification courses. There has been no change to the NYC licensing program since the 2016 Periodic Meeting. The NYC Program maintains approximately 350 radioactive materials licenses.

Since the 2016 Periodic Meeting, NYSDOH continues to make progress addressing their backlog of licensing renewal actions. New licensing staff are undergoing qualification training. The Program maintains approximately 1,000 radioactive materials licenses.

NYSDEC reported that the Program had no backlog with regards to permitting actions. The NYSDEC Program continues to conduct pre-permit visits for new facilities. The NYSDEC Program maintains approximately 31 radioactive materials discharge permits.

Technical Quality of Incidents and Allegations

NYSDOH reported that the Program had five events since the May 2016 Periodic Meeting. The Program noted that they are reviewing one event that staff sent to NRC but is not showing up in NMED. The Program also noted that it plans to discuss on the next CRCPD/OAS/NRC monthly call its questions about the procedure for handling radium being sold on websites such as eBay.

NYSDEC reported no incidents or allegations affecting their Program. The NYSDEC Program refers significant issues to licensing agencies except for NORM which is handled in house.

NYC reported no incidents or allegations since the May 2016 Periodic Meeting. No other issues were identified.

Compatibility Requirements

The 2014 IMPEP review team made one recommendation for the Program in this indicator:

Recommendation: The review team recommends that the Program make appropriate regulatory changes to resolve NRC-generated comments as noted in regulation review letters, and adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

Status: New York continues to work on addressing this recommendation. All three agencies continue to focus attention on bringing New York up to date with compatible regulations.

Since the March 2014 IMPEP review, NYC has drafted proposed regulations to adopt all applicable NRC regulations by reference and submitted these regulations to NRC for review. NYC anticipates submitting the final regulations to NRC for review shortly. NYC has conducted workshops on the new regulations for their licensees.

NYSDOH is in the process of drafting new regulations which will adopt NRC regulations by reference, with the exception of Parts 19 and 20, which will be in full text. Their plan is to repeal their current regulations and replace them with the new regulations. The proposed regulations will incorporate those applicable to commercial and industrial uses, which are currently in the State Labor Department regulations. The Department's Division of Legal Affairs is assisting the program at an earlier than usual time in the regulatory process due to the size and scope of the effort to repeal and replace 10 NYCRR 16. The Program has an upcoming meeting with the Center for Environmental Health to set up timetables for adopting regulations.

NYSDEC noted that the Part 384 regulation package is completed and has been submitted for finalization. The package will then be sent out of the Division for the next step in the approval process. In addition, the Part 380 regulation package has been with the Governor's Office for over one year. No date for adoption of this package has been determined.

Sealed Source and Device (SS&D) Evaluation Program

NYSDOH noted that senior management is still considering returning the SS&D program to the NRC. There are several additional steps involved in this decision-making process before it reaches the Governor's office.

Low-Level Radioactive Waste Disposal (LLRW) Program

The NYSDEC reported no changes to the LLRW program.

Conclusion

The three agencies that make up the New York Agreement State Program are addressing the recommendations that were made during the 2014 IMPEP review. The next Monitoring call will be scheduled for April-June 2017.