



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

June 18, 2018

Jeff J. Dautat, Administrator
Emergency and Radiological Services Division
Louisiana Department of Environmental Quality
P.O. Box 4312
Baton Rouge, LA 70821-4312

SUBJECT: PERIODIC MEETING SUMMARY FOR THE LOUISIANA AGREEMENT STATE
PROGRAM DATE OF MEETING: APRIL 26, 2018

Dear Mr. Dautat:

This letter documents the results of a periodic meeting with you and your staff on April 26, 2018. The purpose of this meeting was to review and discuss the status of the Louisiana Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) representatives included Mark R. Shaffer, Director, Division of Nuclear Materials Safety (DNMS), and Binesh K. Tharakan, CHP, State Agreements Officer, DNMS.

Enclosed is a general meeting summary, including actions resulting from the discussions. A Management Review Board (MRB) meeting to discuss the outcome of the periodic meeting will be scheduled. The date and time of the MRB meeting will be provided to you in a separate transmission.

If you believe that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting, please contact me at (817) 200-1116, or via e-mail at Binesh.Tharakan@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Binesh K. Tharakan, CHP
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary

PERIODIC MEETING SUMMARY FOR THE
LOUISIANA AGREEMENT STATE PROGRAM
DATE OF MEETING: APRIL 26, 2018

U.S. Nuclear Regulatory Commission (NRC) Attendees

Binesh Tharakan, CHP, State Agreements Officer, Region IV
Mark Shaffer, Director, Division of Nuclear Materials Safety, Region IV

Louisiana Department of Environmental Quality Attendees

Jeff Dauzat, Administrator, Emergency and Radiological Services Division
Judith Schuerman, Manager, Radiation Section, Emergency and Radiological Services Division
Gwen Berthelot, Senior Scientist, Emergency and Radiological Services Division
Joe Noble, Staff Scientist, Radiation Section
James Pate, Staff Scientist, Radiation Section
Scott Blackwell, Licensing and Inspection Unit Supervisor
Dwayne Stepter, Inspection Unit Supervisor
Karen Burgard, Environmental Scientist 4
Jennifer Elee, Environmental Scientist 4

DISCUSSION:

The Louisiana Agreement State Program (the Program) regulates approximately 480 radioactive materials licensees. The Program is administered by the Radiation Section (the Section) of the Emergency and Radiological Services Division (the Division). The Division is one of three Divisions under the Office of Environmental Compliance (the Office), which is located in the Louisiana Department of Environmental Quality (the Department).

The previous IMPEP review concluded on April 29, 2016. The review was conducted by a team of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Washington and covered the period from April 28, 2012, to April 29, 2016.

On July 21, 2016, a Management Review Board (MRB) met to consider Louisiana's performance with respect to the seven performance indicators that were reviewed. The MRB determined that Louisiana's performance was satisfactory for six out of the seven performance indicators, and satisfactory, but needs improvement, for the indicator, Technical Quality of Incidents and Allegation Activities. The IMPEP review team recommended that Louisiana's performance for the indicator, Technical Staffing and Training, also be found satisfactory but needs improvement. The MRB acknowledged the IMPEP team's recommendation, but concluded that Louisiana's performance with respect to the indicator, Technical Staffing and Training be found satisfactory because the staff turnover and training issues in this indicator did not impact Louisiana's performance in inspection, licensing, or incident response. The 2016 IMPEP team also made three recommendations regarding program performance for Louisiana to address.

Accordingly, the review team recommended, and the MRB agreed that the Louisiana Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. Based on the results of the current IMPEP review, the review team recommended, and the MRB agreed, that the next IMPEP review take place in approximately 4 years and that a periodic meeting be held in 2 years. The following information is a summary of the periodic meeting that was held with the Program on April 26, 2018.

Program Challenges

Louisiana reported the following challenges:

Statewide Budget Issues – the Louisiana Governor has described the state budget issues as being on a “fiscal cliff” due to overspending. The “fiscal cliff” is a statewide issue that does not impact the radiation program. The Program is 100 percent fee funded and does not rely on Louisiana State General Funds to implement the Program. The fees collected by the Program are deposited into the Environmental Trust Fund and are provided to the Department as budgeted. This is a dedicated fund, but the Louisiana legislature can allocate 5 percent in times of fiscal crisis if approved. Spending freezes are implemented in times of fiscal crisis and all agencies are administratively restricted in spending, especially with respect to purchasing new vehicles. The Division must use state government vehicles to conduct licensing, inspections, and incident response activities. While older vehicles are used in most cases, the Division Administrator stated that there are enough vehicles to carry out the Division’s mission. Typically, training and staff development are not restricted, but some limitations apply to out-of-state travel.

Employee Salaries – A statewide review of employee salaries was conducted to determine if salaries were correctly applied to the State’s civil service workers and if they were comparable to surrounding states’ salaries with equivalent living costs. The results indicated that salaries were not appropriately calculated and that State employees were underpaid based on the position they held. Louisiana took action to remedy that salary discrepancy by issuing a 2 percent general salary increase in January 2018 to all Louisiana Civil Service employees. Also, new minimum salary levels were established for many job titles statewide which resulted in a pay structure adjustment raise for newer employees to bring them up to the new pay range minimums – in some cases these raises were as high as 14 percent. Another round of salary increases is set for July 2018. Up to 4 percent has been allocated to staff based upon their performance in Fiscal Year 2018.

Feedback on NRC’s Program

The Division continues to appreciate the relationship with the Region IV Regional State Agreements Officers. The Division also appreciates the online computer-based training provided by the NRC, such as the blended learning classes developed by the NRC’s Technical Training Center staff and webinars. The Division indicated that the webinars also help satisfy the refresher training requirements and believes they are an effective and efficient use of staff resources. The Division encourages the NRC to continue to provide cost-free classroom and online training to the Agreement States.

Program Reorganizations

Since the 2016 IMPEP review, the Program was reorganized into the Emergency and Radiological Services Division. The emergency response and radiation program functions were transferred to the Division from the Assessment Division. A new Administrator was appointed to lead the Division. The new Administrator is a long-time employee of the Department, but new to the Program. The new administrator stated that he is committed to ensuring that the Program continues to support the staff that implement the Program and to implementing the recommendations provided by the 2016 IMPEP team.

Program Budget/Funding

The Program reported that its budget is stable and that there have been no significant changes since the last IMPEP review. In July 2015, the radiation fees collected by the Program were increased by 10 percent, therefore, sufficient funding is available to implement the Program. The Program generates more revenue than expenditures. All licensing fees collected by the Program are returned to the Environmental Trust Fund, which is a dedicated fund that cannot be utilized by other agencies. The Division's management indicated that there is discussion within the Division of requesting a department-wide fee increase to the Louisiana legislature in 2019. Radiation fees will be reassessed by reviewing fees charged by Gulf Coast states and applying averages to establish the appropriate fee increase. If approved the increased fees would go into effect in fiscal year 2020.

Technical Staffing and Training (2016 IMPEP: Satisfactory)

The Louisiana Agreement State Program is composed of the Division Administrator, the Radiation Section Manager, and 23 technical staff accounting for 12 full-time equivalent staff to implement the radioactive materials program. Technical staff members conduct inspections, perform licensing actions including sealed source and device reviews, and respond to incidents and allegations. Other duties include mammography and X-ray audits, inspections, and permitting. Currently, there are no vacancies in the Section. Since the last IMPEP, six staff members left the Section and six were hired into the vacated positions. Typically, vacancies are filled within 3 months. Over the last year, the Section staffing has been stable with no turnover since March of 2017.

2016 IMPEP Recommendation: The review team recommends that the Division perform an evaluation to determine the causes for the low staff retention rate and implement corrective actions to mitigate the causes.

To address the recommendation, the Division conducted interviews and evaluated the statewide salary structure in consultation with human resources to determine the causes for the low staff retention rate. Although the Division did not produce a written report of their evaluation; ultimately, the Division reported that the main cause for the low staff retention rate was "the staff was overworked and underpaid." The Division is working to mitigate both aspects of the main cause by trying to increase salaries and reduce workload. The review of the statewide salary structure indicated that the Division had not taken advantage of the current salary structure such that it benefitted the Division's technical staff. As a result, the Division staff received a pay raise in January 2018 and will receive another pay raise when the next fiscal year starts in July 2018. The Division also modified the career ladder by creating two Environmental Scientist 4 (ES-4) positions. Previously, the highest Environmental Scientist position was an ES-3. Two ES-3 staff members were promoted into ES-4 positions; no additional staff members were hired. The Division management believes this provides more opportunities for staff to advance and receive higher salaries.

The Division has reduced workload by reducing the number of internal metrics applied to the licensing and inspection programs. Also, the Division continued offering workplace flexibilities like telecommuting/work-at-home for one or 2 days a week to help alleviate the stress of traveling to work every day and allowing staff to focus on the work products without the distractions of the workplace, as well as, helping the Division attract and retain staff.

The Section has a documented training plan that is consistent with NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs." The Section modified the training program to accelerate the rate at which new staff become qualified to license and inspect radioactive materials. Although previously, new staff were provided with NRC training classes; currently, staff will initially work on X-ray and mammography licensees before progressing to radioactive materials qualifications. The delay in qualifying new staff increased the workload on existing radioactive materials inspectors and license reviewers. Now, the program fast tracks certain highly qualified individuals through the training program by focusing their training on radioactive materials and bypassing the other program areas. As of April 26, 2018, the Section had five inspectors and three license reviewers that were fully qualified as well as eight inspectors and two license reviewers at various stages of the training program. Staff scientists and supervisors can also perform various inspections and license reviews, if necessary.

Status of Materials Inspection Program (2016 IMPEP: Satisfactory)
Technical Quality of Inspections (2016 IMPEP: Satisfactory)

Since the 2016 IMPEP review, the Section conducted 11 initial inspections and 549 Priority 1, 2, or 3 inspections. Two of the 560 total inspections were conducted overdue, none of which were initial inspections.

The Section inspected more than 20 percent of all candidate licensees, as defined in IMC 1220, applying to work in the state under reciprocity in both 2016 (11/53 or 21 percent) and 2017 (18/50 or 36 percent).

Supervisory accompaniments of the inspection staff have been performed at least annually for all staff members since the 2016 IMPEP review. The Section management, supervisors and senior staff scientists typically perform the accompaniments. The supervisory accompaniment forms were recently updated and made available electronically to the inspectors prior to the inspection accompaniment, so that the inspectors are aware of the expectations. The Inspection Supervisor also conducts semi-annual reviews of inspector performance to discuss past successes and future challenges.

The Section Manager reported that inspection reports have been issued in a timely manner within the Section's goal of 30 days. Typically, inspectors provide reports to supervisors for review within 14 days of the inspection, and then it takes about another 10 days to complete the supervisory and section management reviews. Inspectors leave an inspection form in the field at the end of the inspection. The form is similar to NRC Form 591. If proposed violations are identified, then a notice of deficiency is issued from the office.

The Section reported that some senior staff members are working on or completed initiatives to reduce workload on the staff and improve the overall effectiveness and efficiency of the inspection program. These initiatives included:

- Updating all 17 standard operating procedures. The initiative started in December 2017 and was completed in March 2018.
- Updating, creating, or revising inspection checklists, which is an ongoing collaborative process.

- Monthly calls with inspectors to review and discuss the proposed changes. The monthly meeting also serves as an opportunity for staff to voice any concerns or issues with their day-to-day activities.
- Regional meetings at field offices to discuss activities and challenges in the local area.
- Elimination of peer reviews of inspection reports to reduce the workload on staff; however, a thorough three step review process among the supervisors, staff scientists, and management would still occur.

Technical Quality of Licensing Actions (2016 IMPEP Satisfactory)

The Program currently has 480 specific licensees and completed a total of 605 licensing actions (472 amendments, 101 renewals, 11 terminations, and 21 new licenses) since the last review. The Program reported no backlog of licensing actions.

2016 IMPEP Recommendation: The review team recommends that the Division implements a procedure that addresses at a minimum, the means for controlling access to documents that contain sensitive information, within the limits of Louisiana regulations.

To address the recommendation, the Division initially blocked everyone's access to license files except for a few qualified licensing staff immediately after the 2016 IMPEP. Subsequently, the online access to all of the licensing files was blocked. After further discussions with records management and legal staff, access to non-sensitive licensing information was restored to additional Section staff. The Section's licensing staff is working with the Department's records management staff to develop a procedure to better control and monitor access to licensee information. Access will be granted to members of the public, as allowed by law, with specific limitations and controls, which includes detailed contact information about the requester. Currently, members of the public cannot access radioactive materials information online and must come to the Department's main office to receive the information. Sensitive information is not released. The Section's licensing staff monitors what is released.

Technical Quality of Incidents and Allegations (2016 IMPEP Satisfactory but Needs Improvement)

Since the 2016 IMPEP review, the Division reported 49 events to the Nuclear Material Events Database (NMED). The events involved possible overexposures, equipment malfunctions, leaking sources, radiography camera disconnects, damaged portable gauges, lost and stolen radioactive materials, and medical events. The Division investigated and closed all but eight of the events at the time of the periodic meeting. Six events still had active investigations, and two events were still open due to ongoing enforcement actions. The Section continues to meet the reporting timelines to the NRC and NMED per the guidance in State Agreements Procedure SA-300, "Reporting Materials Events."

Since the 2016 IMPEP review, three allegations involving Louisiana licensees were received by the Program. One of the allegations was referred by the NRC. Louisiana investigated and closed all three allegations and provided responses to the allegers, where appropriate.

2016 IMPEP Recommendation: The review team recommends that the Division develops and implements a comprehensive incident and allegation procedure, provides incident and allegations training to the staff, and ensures adequate management supervision in the incident and allegation program.

To address the recommendation, a senior staff scientist reviewed and updated the standard operating procedures (SOPs) for complaints, allegations, and incidents (CAIs). Training was provided to all staff on the SOPs and the Division's expectations for responding to CAIs. In general, when a CAI comes into the Division, it is reviewed for significance by a supervisor, manager, or staff scientist and then dispatched to an inspector for follow-up and investigation, as appropriate. Once the inspector has completed the investigation, a report is generated and reviewed by the Division's supervisors and management, as well as, the senior staff scientist responsible for closing out the event in NMED. To ensure adequate management oversight of CAIs, ongoing investigations are routinely discussed during inspector "huddles" to ensure that any issues identified during an investigation are communicated to management, supervisors, and senior staff scientists in a timely manner.

Compatibility Requirements (2016 IMPEP Satisfactory)

Louisiana became an Agreement State on May 1, 1967. The Program's statutory authority is contained in Title 33, "Environmental Quality," Part XV, "Radiation Protection," of the Louisiana Administrative Code. The Department is designated as State of Louisiana's radiation control agency. No legislation affecting the radiation control program was passed since the 2016 IMPEP review.

Louisiana's administrative rulemaking process takes approximately 6 months from drafting to finalizing a rule. Licensees, the general public, and other stakeholders are offered an opportunity to comment during the process. Louisiana's regulations are not subject to "sunset" laws.

No regulation amendments were overdue for adoption at the time of the periodic meeting. Two regulation amendments are coming due later in 2018. The Program is drafting proposed regulations for Regulation Amendment Tracking System Identification number 2015-4 and 2015-5 to submit for NRC review. Both amendments are associated with miscellaneous corrections to Title 10 of the Code of Federal Regulations.

Sealed Source and Device (SS&D) Evaluation Program (2016 IMPEP Satisfactory)

The Section has two qualified SS&D reviewers and one additional staff member in training. The training program is compatible with the requirements identified in Appendix D of NRC IMC 1248 "Training Requirements and Qualification Journal for Byproduct Material Sealed Source and Device Reviewer."

Louisiana has 10 SS&D licensees that hold a total of 77 certificates. Since the 2016 IMPEP, the Section's SS&D reviewers processed 8 actions – 7 new certificates and 1 amendment.

Since the 2016 IMPEP, there was one incident reported to the program associated with the SS&D program. The incident involved source leakage. The investigation is ongoing at the time of the periodic meeting. The senior SS&D reviewer will determine if the incident requires an amendment to the SS&D registry.

Current State Initiatives

- Several staff members participate on external working groups, e.g., Conference of Radiation Control Program Directors
- Evaluation of internal processes and procedures to improve effectiveness and efficiency

Current NRC Initiatives

- New Agreement State Application Reviews for Wyoming and Vermont
- Commissioner Nominations Status
- Retirement of NRC's Executive Director for Operations
- Region IV Management Changes
- Project AIM completion status
- Inspection Manual Chapter 2800 revisions
- NRC Office of Inspector General Audit of the National Materials Program
- Revisions to NRC Management Directive 5.6 governing IMPEP

CONCLUSIONS

Louisiana continues to adequately protect public health and safety. The Program made notable improvements by taking actions to address the IMPEP recommendations for staffing, licensing, and incident response. Based on the results of the periodic meeting, the NRC staff recommends that the next IMPEP review of the Louisiana Agreement State Program be conducted as scheduled in April 2020.