

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT (KDHE)  
RADIATION CONTROL PROGRAM  
BI-MONTHLY CONFERENCE CALL  
January 28, 2019

<b>Nuclear Regulatory Commission (NRC) Attendees</b>	<b>Kansas Attendees</b>
Randy Erickson, Region IV	Kim Steves, Director
Jackie Cook, Region IV	David Lawrenz, Supervisor
Duncan White, NMSS	
Robert Johnson, NMSS	
Lizette Roldan-Otero, NMSS	

## **BACKGROUND**

During the 2018 Integrated Materials Performance Evaluation Program (IMPEP) review of the Kansas Agreement State Program (the Program), the team initially found the Program's performance satisfactory for the indicators Technical Staffing and Training and Status of Materials Inspection Program; satisfactory but needs improvement for the indicators Technical Quality of Licensing Actions and Compatibility Requirements; and, unsatisfactory for the indicators Technical Quality of Inspections and Technical Quality of Incident and Allegation Activities.

The team noted in part, that declining performance by the Program over the review period resulting in the unsatisfactory findings was due to (1) inadequate management oversight of inspection and event reports, (2) poorly documented inspection findings to licensees; and (3) a pattern of untimely and insufficient responses to events. The team made no new recommendations for the Program and recommended that the open recommendation remaining from the 2014 review be closed. The team also recommended that the Program be found adequate to protect public health and safety, but needs improvement, and compatible with the NRC's program; and, that a period of Heightened Oversight be initiated.

On September 18, 2018, the Management Review Board (MRB) met to consider the team's proposed final IMPEP report. While the team initially recommended that the Technical Quality of Inspections indicator be found unsatisfactory, the MRB determined this indicator should instead be found satisfactory, but needs improvement. The MRB made this determination after taking into consideration that Program inspectors performed well on the inspection accompaniments, and that the frequency of the issues identified in the casework review did not meet the criteria for an unsatisfactory finding. The MRB agreed with the team that the open recommendation should be closed, and that the Program should be found adequate to protect public health and safety, but needs improvement; and, compatible with the NRC's program. The MRB further agreed that the period of Heightened Oversight should be initiated.

In response to the initiation of Heightened Oversight, Kansas submitted their initial Program Improvement Plan (PIP) on November 15, 2018 (ML18324A616). Then on January 18, 2019 Kansas submitted a revised PIP (ML19036A701) reflecting updates to the initial submittal. The initial Heightened Oversight call was then held with the Program on January 28, 2019.

After reviewing both the initial and updated PIPs and participating in the initial Heightened Oversight call, the NRC determined that the PIP as submitted adequately addressed each of the

outstanding issues, provided estimated completion dates, and specified responsibilities. As a result the NRC approved the updated PIP submitted on January 18, 2019, and issued a formal acknowledgement letter to the Program on February 13, 2019 (ML19037A356).

The following are a listing of issues identified by the 2018 review team and the steps taken by the Program to improve performance in each of these areas.

**IMPEP Finding:**

Candidate licensees working under reciprocity were not consistently inspected in accordance with the criteria prescribed in NRC's Inspection Manual Chapter (IMC) 1220.

**Status on January 28, 2019:**

The Program reported that their plan is to determine their initial goal for reciprocity inspections at the beginning of calendar year based on averaging the reciprocity filings received by the Program over the previous five calendar years and then modifying that goal if the number of reciprocity filings received throughout the remainder of the calendar year changes.

The Program also modified their reciprocity procedure to emphasize the completion of most, if not all their anticipated reciprocity inspections in the first six months of each calendar year based again on the five-year average of reciprocity filings received. Staff were then trained on the modified procedure.

The Program then developed and integrated a report on reciprocity status into their monthly staff meetings where the status of reciprocity inspection completion is discussed, inspections are assigned, and strategies are discussed for keeping on track with reciprocity inspections. The Program supervisor oversees annual completion of reciprocity inspections.

**IMPEP Finding:**

Inspection procedures are not equivalent to NRC Inspection Procedure 87100 series.

**Status on January 28, 2019:**

The Program reported that they identified multiple procedures that either needed to be revised or developed to align with NRC's inspection procedures. The Program noted that they have an overarching document entitled "RCP 3 Inspection Procedure Guidance" (RCP 3) that defines and outlines the materials inspection program. Each of the inspection procedures are designated as a separate appendix to RCP 3.

After identifying the procedures needing attention, the Program began to either develop new or revise the existing inspection procedures already in place. The Program noted that they had no licensees that fell into two categories, 87122 Irradiator Programs and 87133 Medical Gamma Sterotactic Radiosurgery and Teletherapy Programs, so the Program decided to defer development of these procedures until they receive an application for them. Of the remaining inspection procedures, the Program has completed final drafts of several procedures and is currently developing new procedures for several others.

Until the inspection procedures are finalized, the staff has been directed to use NRC procedures and are required to take them with them during inspections. The Program also noted that they have used the development of new procedures to assist in training new inspectors. Once the procedures are published, the Program will provide additional staff training.

**IMPEP Finding:**

When preparing to inspect, the program's inspectors did not routinely review the relevant inspection procedures.

**Status on January 28, 2019:**

The Program reported that in addition to developing new procedures and revising existing procedures, they focused primarily on execution. Management had meetings with the staff to discuss the process to be used and review best practices they want to utilize. They also made the commitment to review inspection procedures prior to performing inspections and as noted previously. Inspectors now take inspection procedures with them during inspections.

**IMPEP Finding:**

Inspection findings not well founded or properly documented in reports and root causes were not properly identified. Issues of non-compliance did not always have specific regulations clearly documented. There was inadequate management oversight of inspection reports. Inspection findings did not always lead to appropriate or prompt regulatory action.

**Status on January 28, 2019:**

The Program reported that in addition to revising inspection guidance and providing additional training to inspectors, the Program is working to ensure that all inspection findings are properly documented and that root causes are appropriately identified. To ensure this, the Program is committed to reducing staff dependency on the internal database to identify non-compliance issues. They reported they will accomplish this through more management involvement and to make certain that all inspection staff attend NRC's G-205 "Root Cause Workshop". Management meets with the inspector prior to completion of the report and a discussion is held to ensure that the regulations support the proposed violations; and, additionally all inspection findings are now reviewed and discussed collectively during monthly staff meetings.

Program management is now more engaged in reviewing and approving all inspection reports, all Notices of Violation prior to issuance, licensee responses, corrective actions taken by licensees, and the shortening of inspection frequencies where warranted. Management has committed to a more hands-on approach to managing the inspection program. When legal action is necessary, the Unit Supervisor coordinates with the Program Director to follow the proper process

**IMPEP Finding:**

Inspections do not consistently address previously identified open items.

**Status on January 28, 2019:**

The Program reported that they have revised their inspection procedures to include identifying and addressing all previously open items. The inspection staff previously relied on the internal database with its drop-down menus to prepare for inspections; however, the database did not address open items, so open items were potentially missed during inspections. Inspection forms have now been revised to include follow-up on open items. All inspection findings are now also addressed during monthly staff meetings. Once the inspection procedure revisions are completed, staff will receive additional training on open item follow up. Additionally, management will ensure compliance during annual inspector accompaniments.

**IMPEP Finding:**

Essential elements of license applications were not consistently submitted or consistent with regulatory guidance. License Action reviews were not sufficiently thorough, complete or of acceptable technical quality.

**Status on January 28, 2019:**

The Program reported that they are still working on development of common licensing guides and creating forms to assist the staff with the requirements for licensing actions. They have reached out to other states to determine what they have and what works for their purposes. They are also reviewing current requirements to ensure Kansas' licenses have adequate financial assurance.

When they have completed the licensing guides and forms, the Program plans to implement an annual review of the licensing guides. They also plan to develop an annual staff training plan for licensing action requirements. Then to ensure that the program is functioning as intended, the Unit Supervisor and Lead Worker plan to audit a minimum of 25 percent of all licensing actions annually and use the results as a teaching tool when they discuss the findings with the staff.

**IMPEP Finding:**

Response actions were not always appropriate or timely. Procedures for onsite responses were not always followed when incidents of potential health, safety, or security significance were reported or suspected. The NRC was not always notified of incidents as appropriate. There was inadequate management oversight of reactive inspections and reporting.

**Status on January 28, 2019:**

The Program reported that they have completed revision of their procedure for responding to incidents and allegations and have also completed staff training on the new procedure. The new procedure includes clear guidance to the staff on how to appropriately respond to incidents and how to properly respond to incoming allegations. The new procedure includes portions of the guidance contained in SA-300 "Reporting Materials Events" including the reporting requirements table. The procedure also includes requirements for NMED entries.

The Unit Supervisor and the Program Director will now meet routinely and discuss ongoing events and the path forward needed for closure. These discussions will also become part of the

monthly staff meetings and will be used as a training tool for the staff. Management will also closely monitor the handling of event investigations by the staff, review and approve investigation reports, and ensure all are appropriately closed. The Unit Supervisor will then conduct quarterly reviews of the NMED database to ensure that records supplied by Kansas are complete.

**IMPEP Finding:**

Follow up action not always taken to ensure prompt compliance, including follow up inspections to investigations.

**Status on January 28, 2019:**

The Program reported that previously reactive inspections were not always performed and follow up wasn't appropriate. To address this, the Program revised their procedures to now require a full inspection report to be completed for all reactive inspections instead of just the area in question. The staff has received training on SA-300 "Reporting Materials Events" with emphasis on the requirements for NRC's Headquarters Operations Officer (HOO) reporting. Management will continue to follow through to ensure that all reports are appropriately characterized. The Unit Supervisor and the Program Director will determine if inspection frequencies need to be shortened and will document that information in the licensee's file. Status will be tracked during the monthly staff meeting. Only the Unit Supervisor or the Program Director can now formally close reports.

**IMPEP Finding:**

Several regulations adopted by Kansas for the purposes of compatibility were adopted later than three years after the effective date of the NRC regulation.

**Status on January 28, 2019:**

The Program reported they are committed to ensuring that proposed amendments to Kansas' regulations are developed and provided to legal counsel within the three-year window for adoption by Kansas following adoption by NRC. Staff will promptly be assigned new amendments and Program managers will oversee completion of the regulations. The Program also noted that if necessary they may adopt regulations by reference or use CRCPD's suggested state regulations in lieu of creating their own regulations. That will be determined on a case-by-case basis.

**Next Call:**

The next call with the Program will be on April 18, 2019, at 1 pm Central.