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MEMORANDUM TO: Andrea L. Kock, Director
Division of Materials Safety, Security, State
and Tribal Programs
Office of Nuclear Material Safety and Safeguards

Jennifer Opila, Chair
Organization of Agreement States

FROM: Duncan White, State Agreement */RA/*
and Liaison Programs Branch Co-Chair
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National Materials Program
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SUBJECT: RECOMMENDATIONS OF NATIONAL MATERIALS PROGRAM
AND INTEGRATED MATERIALS PERFORMANCE EVALUATION
PROGRAM WORKING GROUP

PURPOSE

The National Materials Program and Integrated Materials Performance Evaluation Program Working Group (NMPWG) was established to formulate innovative ideas and determine: (1) whether adjustment is necessary to the scope, and the roles and responsibilities of the Agreement States and the U.S. Nuclear Regulatory Commission (NRC) under the National Materials Program (NMP); (2) whether there are opportunities to streamline the process for the preparation for and documentation of the results of Integrated Materials Performance Evaluation Program (IMPEP) reviews of Agreement State and NRC programs, and (3) if adjustments are recommended, the general areas of focus that should be pursued in a longer term evaluation. The charter for the working group is in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession number ML19120A309. This memorandum summarizes the ideas identified by the working group and recommends areas for additional evaluation.

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BACKGROUND

In response to the U.S. Nuclear Regulatory Commission (NRC) Office of Inspector General (OIG) report on *Audit of NRC's Oversight of the National Materials Program* OIG-18-A-11 (Agencywide Documents Access and Management System Accession No. ML18094A280), the Division of Materials Safety, Security, State, and Tribal Programs (MSST) has prepared a draft version of State Agreement (SA) Procedure SA-10, Oversight of the National Materials Program. The objectives of SA-10 are to: optimize the resources of the NRC and the Agreement States programs within the National Materials Program (NMP), account for individual agency needs, promote consensus on regulatory priorities and approaches, promote consistent exchange of information, and recognize and share successes within the NMP. The draft procedure was issued for comment to the Agreement States (RCPD-19-002) and NRC Regions on January 17, 2019. The NRC staff held two webinars to discuss the draft document and solicit feedback during the comment period which ended March 11, 2019. The draft procedure has been finalized based on comments received from the Agreement States, OAS and the NRC Regions. The procedure was approved on May 24, 2019 and issued to the Agreement States and the NRC Regions on May 25, 2019 in *Issuance of the Office of Nuclear Material Safety and Safeguards Procedure SA-10, "Joint Oversight of the National Materials Program" and Appointment of the Nuclear Regulatory Commission's National Materials Program Champion (STC-19-030)* (ADAMS Accession Nos. ML191123A083).

As an extension of this effort, consistent with the NRC's focus on transforming our regulatory approaches, this short-term working group was formed. Evaluation of the scope of the NMP and the process for IMPEP preparation and documentation are necessary at this time given: (1) the expected increase in the number of Agreement States in the near future; (2) the need to ensure the NRC is fulfilling its role in IMPEP in the most efficient manner given the changes in the organizational structure and size of the NRC's Agreement State oversight program over the last ten years; and (3) the expected continued interest from internal and external stakeholders regarding the appropriate scope of the NRC's Agreement State oversight program given changes in the NRC's external environment. More detailed evaluation of ideas identified by the NMPWG and implementation plans for any recommendations will be determined as part of a longer term and larger working group that will be established in the third quarter of fiscal year 2019.

SUMMARY

The working group met five times in April 2019 to formulate ideas for the NMP and IMPEP. Overall, the working group identified several ideas for consideration under each topic. These are summarized in Attachment 1 (scope/roles and responsibilities for National Materials Program) and Attachment 2 (process and documentation of IMPEP reviews). For each idea, the working group identified a number of considerations to frame the evaluation of each topic by a future working group.

Regarding the NMP, the working group's ideas complemented a number of NMP priorities identified by the NRC and the OAS Board in March 2019 and were so noted in Attachment 1. As a result, the OAS Board and NRC could consider direct implementation of some of the ideas.

Given the final approval of Management Directive 5.6 in the near future and the planned development of the accompanying procedures for implementation later this year, some of the IMPEP ideas in Attachment 2 could be implemented during the revision of the IMPEP procedures.

Attachments

1. List of Ideas for the scope/roles and responsibilities for National Materials Program
2. List of Ideas for the process and documentation of IMPEP reviews

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
WORKING GROUP **DATE June 3, 2019**

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Attachment 1: List of Ideas for the scope/roles and responsibilities for National Materials Program

1. Risk Inform the Adoption of Program Elements to Maintain an Adequate and Compatible Program:
Considerations:
 - a. Modify the time frames in which Agreement States have to adopt NRC amendments for compatibility requirements in Agreement State Program Policy Statement and Management Directive 5.9.
 - b. Risk-inform “small” or “minor” NRC regulation amendments and increase time period for Agreement States to adopt low-risk requirements.
 - c. Eliminate time frame completely if the NRC regulation amendment or regulatory requirement does not meet a risk threshold.

2. Create Center of Expertise (COE)
Considerations
 - a. Similar to some of the current OAS/NRC priorities of 1) identify resources and develop resource sharing process between states and NRC to support agreement state and NRC activities and develop “pillars of excellence” within the agreement state programs; 2) establish working groups to address high priority technical issues; and 3) ensure that the NMP community is ready to review emerging medical technologies.
 - b. Create or identify COEs for specific issues or topical areas to address a specific issue (i.e., financial assurance for sources, source security, and rulemaking) or serve as a resource for ongoing issues (i.e., medical event response, performance assessment, alternative concentration limits, medical technologies etc.)
 - c. COEs could be virtual and made of individuals from multiple agencies.

3. Identify specific regulatory areas that are low-risk and determine what can be done to shed these areas to focus resources on higher risk activities.
Considerations
 - a. Similar to the current OAS/NRC priority of evaluating the existing general license program to determine if is relevant and appropriate.
 - b. Built on current (i.e., re-evaluation of general licensing program and IMC 2800) and previous NRC efforts.
 - c. Develop a process to quickly implement these streamlined changes for specific identified regulatory issues (i.e., inspection of manufacturers and distributors (M&D) that are licensed for exempt distribution and “distribute” through drop shipments when the M&D has no actual location of use).

4. Training and Increased Understanding of Technical Issues across the NMP
Considerations
 - a. Similar to the current OAS/NRC priority of evaluating Agreement States training needs and determine how to achieve those needs.
 - b. Create a common level of understanding through training of the NMP community (via video, webinar, GoToMeeting) on a variety of topics.
 - c. Invite M&Ds with emergent technologies to provide NMP wide presentation(s).
 - d. The training could be provided on a specific topical area such as disposal of materials with individual subtopics on sealed source disposal, financial assurance, decontamination, and generally licensed devices.

5. Procedure and Guidance Development

Considerations

- a. Streamline approval process of SA procedures. Use working groups to revise SA procedures as “interim guidance” and then allow use of interim guidance for several months with open comment period before finalizing.
- b. Streamline the development process for technical or regulatory guides by allowing use of “revised” guidance developed by an Agreement State partner in the NMP.
- c. Coordination and tracking of efforts across the NMP through SA-10 protocols.

6. Waste Disposal of Very Low Level Waste (VLLW)

Considerations

- a. This activity often has cross jurisdiction implications.
- b. Built on previous NRC and LLW Forum efforts.
- c. Need consistency across the NMP on the evaluation for disposal of VLLW through the 10 CFR 20.2002 process (i.e., licensed materials send to non-Part 61 facilities for disposal).
- d. Lack of understanding by many Agreement States that do not understand the two-step process outlined in FSME-12-025 for release of licensed material under 20.2002 and disposal under an exemption.
- e. Development of standard guidance needed through NRC or COE.
- f. Coordination and tracking through the SA-10 protocols
- g. Consider review of VLLW disposal approvals during IMPEP reviews.

7. Enhanced Communications Across the NMP

Considerations

- a. Webinar on State Communication Portal (SCP) – what are the features/new enhancements etc.
- b. Change scope/content of the NRC/OAS/CRCPD monthly call to provide more useful/instructional informative and discuss a few topics in depth.
- c. Track NMP “successes” and share this information with all members of the NMP community through SA-10 protocols.

Attachment 2: List of Ideas for the process and documentation of IMPEP reviews

1. Significantly Reduce the Length of the IMPEP report.
Considerations
 - a. Provide no details unless a performance issue is identified.
 - b. If the performance indicators are all satisfactory, then the report can be reduced to a short letter or summary.
 - c. The report needs to be balanced with good news. IMPEP reports are important sources of feedback to the Agreement States.
 - d. The level of resources have historically been a root cause of performance issues and should be the focus of the report.
 - e. Reports should not reflect the NRC management reviewing them. Need to develop protocols to guard against changes caused by different management styles in the content and level of detail in the report.
 - f. Signature authority for draft report should be given to the Team Leaders or even a third party to prepare.
 - g. Use IMPEP questionnaire as the “body” of the report that contains the details. The report itself will be short and high level.
 - h. Consider adding a self-assessment prepared by the subject agency under review as part of the report

2. Use the IMPEP Questionnaire as a more integral part of the IMPEP Report
Considerations
 - a. Use questionnaire as the “body of the report.”
 - b. Revise the questionnaire to request additional information up front to help shorten or make the on-site review more efficient; however, need to balance what is fair to request and what is needed to make the review efficient.
 - c. Information such as incidents identified in the questionnaire should be risk informed – identify which one involved high risk activities or licensed material
 - d. Other considerations for the questionnaire to make the review more efficient
 - i. Use existing electronic information to fill in information
 - ii. Ask about agency’s electronic records capabilities
 - iii. Ask for total number of actions completed for each indicator, such as allegations.

3. IMPEP Culture Considerations
Considerations
 - a. Define what an IMPEP review is. Is it an audit? Is it a performance-based review?
 - b. Interactions and exchange of information are important during IMPEP reviews. More exchange of information will help improve and positively change the IMPEP process.
 - c. Time with NRC during IMPEP reviews and MRB are valued – provides feedback

4. Encourage use of Electronic reviews

Considerations

- a. Do we need a memorandum of understanding for sharing information maintained on WBL or other platforms?
- b. Include the review of regulations and legislation as part of electronic reviews
- c. Most states do not have all licensing/inspection documents in an electronic formats – IMPEP teams will still need to go onsite.
- d. Take full advantage of programs that have electronic systems that can be accessed prior and during the on-site review.
- e. Understanding of State's electronic capabilities should be determined early in the IMPEP planning process.

5. Encourage Use of Self-Assessments

Considerations

- a. Regardless of the quality of the self-assessment and the corrective action performed by the agency, the NRC will also need to perform some level of review.
- b. Give "credit" to an agency for performing a self-assessment and taking effective corrective actions. One "credit" could be a reduction in the overall scope of the IMPEP review.
- c. NRC should develop a tool to promote consistency on what is in an agency performed self-assessment.
- d. NRC should review the agency performed self-assessment well ahead of the scheduled IMPEP review.

6. Management Review Boards (MRB)

Considerations

- a. If there are no performance issues and indicator ratings are satisfactory, no need to hold an MRB.
- b. Make the MRB more efficient and save resources by greater use of video/Skype (and less travel).
- c. Reduce the MRB review process for final reports by either agreeing to edits at the MRB or limit completion of final report between the team leader, IMPEP project manager and the MRB Chair or their designee.
- d. Reduce the length of the MRB by limiting the presentation of the team to an overview of the entire report by the team leader.
- e. If you have an MRB, you open the report to any aspect of the review conducted by the team – can there be a "short" MRB? Should the MRB chair be empowered to limit discussion when there are no performance issues?
- f. Focus MRB discussion only on performance issues and positive aspects of the review. Do not focus on individual casework.
- g. MRB members should go to an IMPEP review and see the Agreement States as their partners.

7. Structure of IMPEP review

Considerations

- a. Support consolidated review of NRC as is currently done in other multi-agency Agreement States.
- b. The scope of the NRC review should be the same areas as any Agreement State program, including regulation development timeline of three years.
- c. Review of incidents should be limited to high risk ones, events involving general licensed devices are low risk and should not be reviewed.
- d. Given the differences in general licensing program implementation from agency to agency, should not be part of IMPEP due to its low risk.
- e. Include waste processing and other alternative disposal pathways in IMPEP review due to their complexity and potentially high risk safety risks of the licensee's operations.