



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

January 13, 2020

Kimberly Steves, Director
Kansas Radiation Control Program
Kansas Department of Health
and Environment
1000 SW Jackson Suite 330
Topeka, KS 66612

Dear Ms. Steves:

SUBJECT: KANSAS FY19 PERIODIC MEETING SUMMARY

On December 5, 2019, the Management Review Board (MRB) met to consider the results of the Periodic Meeting held with the Kansas Agreement State Program on August 14, 2019. The MRB was comprised of senior managers from the U.S. Nuclear Regulatory Commission (NRC) and an Organization of Agreement States Liaison to the MRB.

The MRB agreed with the NRC staff's determination that your program has demonstrated a period of sustained performance since the 2018 Integrated Materials Performance Evaluation Program review and agreed with the NRC staff's recommendations that the period of Heightened Oversight for the Kansas Agreement State Program be terminated, and the program be placed on monitoring. The final periodic meeting summary including the MRB's findings is enclosed. If you feel that the summary does not accurately reflect the outcome of the MRB meeting please contact me at (817) 200-1106 or Jackie Cook at (817) 200-1132. I look forward to our agencies continuing to work together in support of the National Materials Program.

Sincerely,

/RA/

Mary C. Muessle, Director
Division of Nuclear Materials Safety

Enclosure:
Final Periodic Meeting Summary

SUBJECT: KANSAS FY19 PERIODIC MEETING SUMMARY DATED JANUARY xx, 2020

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
FINAL PERIODIC MEETING WITH THE STATE OF KANSAS

August 14, 2019

PERIODIC MEETING PARTICIPANTS

NRC

- Linda Howell: DNMS Deputy Director, NRC Region IV
- Patricia Silva: Branch Chief, Materials Inspection Branch, NRC Region IV
- Jacqueline Cook: State Agreements Officer, NRC Region IV

State of Kansas

- Kendra Baldrige: Director, Bureau of Community Health Systems
- Kimberly Steves: Director, Radiation Control Program
- David Lawrenz: Supervisor, Radioactive Materials Unit

1.0 INTRODUCTION

This report presents the results of the periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the State of Kansas. The meeting was held on August 14, 2019. The meeting was conducted in accordance with Nuclear Material Safety and Safeguards (NMSS) Procedure SA 116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The Kansas Agreement State Program (the Program) is administered by the Radioactive Control Program, which is located within the Bureau of Community Health Services (the Bureau). The Bureau is part of the Department of Health and Environment (the Department). The Director of the Bureau reports to the Deputy Secretary for the Agency who reports to the Secretary of the Agency. The Secretary of the Agency reports to the Governor.

At the time of the meeting, the Kansas Agreement State Program regulated approximately 270 specific licenses authorizing possession and use of radioactive materials. The meeting focused on the radioactive materials program as it is carried out under the Section 274b (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of Kansas.

During a Management Review Board (MRB) held on September 18, 2018, to discuss the results of the June 2018 Integrated Materials Performance Evaluation Program (IMPEP) review, the MRB determined that the Program was found adequate to protect public health and safety, but needs improvement and compatible with the NRC's Program, and should be placed in a period of Heightened Oversight.

In response to the initiation of Heightened Oversight, Kansas submitted its initial Program Improvement Plan (PIP) on November 15, 2018 (NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML18324A616). On January 18, 2019, Kansas submitted a revised PIP (ADAMS Accession ML19036A701) reflecting updates to the initial submittal. The initial Heightened Oversight call was then held with the Program on January 28, 2019. Additional calls were held on April 18 and June 20, 2019.

The next IMPEP review is scheduled the week of May 18, 2020.

2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC Regional Office and Agreement State radioactive materials programs during an IMPEP review. These indicators are (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities.

2.1 Technical Staffing and Training (2018 IMPEP: Satisfactory)

The Program reported it currently has a total of 5.55 full time equivalent (FTE) technical staff who perform both licensing and inspection activities. It also has 1.26 FTE in supervisory support. The Program hired one staff member in April 2019. There are no vacancies at this time. The Program has a documented training and qualification

program consistent with NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs."

2.2 Status of the Materials Inspection Program (2018 IMPEP: Satisfactory)

At the time of the meeting, one initial inspection was overdue by 2 months, and no routine Priority 1, 2, and 3 inspections had been performed beyond the due date during the review period. The overdue initial inspection was due to a data entry error for a new licensee. The inspection frequency was incorrectly entered as a 2-year routine inspection, instead of an initial inspection frequency which the Program sets at 6 months so that it can be assigned and completed prior to the 1-year requirement. Although, the overdue inspection was identified during the Program's internal audit, it was not identified in time to meet the 12-month requirement. The inspection was completed prior to the Periodic Meeting and the licensee is now placed on its routine inspection frequency.

The Program issued four other new licenses during the review period and all initial inspections of those licenses were performed within 12 months.

IMPEP Finding: Candidate licensees working under reciprocity were not consistently inspected in accordance with the criteria prescribed in NRC's IMC 1220, "Processing of NRC Form 241 and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20."

Status: The Program stated that they have consistently inspected candidate licensees working under reciprocity in accordance with the criteria prescribed in NRC's IMC 1220. In order to accomplish this task, the Program: (1) determined the initial goal for reciprocity inspections each year; and (2) modified the reciprocity procedure to focus reciprocity inspection completion in first 6 months of the calendar year. The milestone to integrate the reciprocity report into monthly staff meetings is ongoing.

The Program reported that they have been exceeding the 20 percent requirement for performing reciprocity inspections this review period.

All tasks and associated milestones identified in the PIP have been completed. The Program will continue to monitor the effectiveness of the implementation of the PIP in addition to the changes they have made for all indicators.

2.3 Technical Quality of Inspections (2018 IMPEP: Satisfactory but needs improvement)

The Program continues to perform annual supervisor accompaniments of each inspector with none being missed since the previous IMPEP review.

IMPEP Finding 1: Inspection procedures are not equivalent to NRC's Inspection Procedure 87100 series.

Status: The Program revised its inspection procedures to be consistent and compatible with the NRC's Inspection Procedures, as appropriate, and have implemented them.

IMPEP Finding 2: When preparing to conduct inspections, the program's inspectors did not routinely review the relevant inspection procedures.

Status: The Program revised inspection guides (appendices to the inspection procedures) and provided training to the inspectors. The tasks implemented by the Program included revision of the inspection guides, training of staff on all inspection procedures, and verification of implementation during annual inspection accompaniments.

IMPEP Finding 3: Inspection findings were 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: To address this finding, the Program completed the following tasks: (1) revised inspection guidance and provided training to inspectors; (2) ensured inspection guidance is consistent with NRC's guidance to ensure findings are properly documented and root causes are identified appropriately; (3) reduced the staff's dependency on internal database for specific non-compliance identifications; (4) required all items of non-compliance to be communicated with program management; (5) required licensee responses to be reviewed and approved by management; and (6) increased management review of inspection reports.

IMPEP Finding 4: Inspections do not consistently address previously identified open items.

Status: To resolve this finding, the Program committed to clearly address all previously identified open items. The following actions were completed to address this finding: (1) revised inspection procedures to clarify how it will be documented when previously identified items are closed or remain open; (2) trained staff on new requirements; (3) included group discussions of all inspection findings of non-compliance at monthly staff meetings; and (4) verified implementation of the revised inspection procedures during annual inspection accompaniments.

The Program will continue to monitor the effectiveness of the implementation of the PIP in addition to the changes they have made for all indicators. All tasks and associated milestones identified in the PIP have been completed.

2.4 Technical Quality of Licensing Actions (2018 IMPEP: Satisfactory but needs improvement)

A total of 246 license actions were performed since the last review period.

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: The Program is ensuring that essential elements of license applications and actions are consistent. In addition, the Program is ensuring the license review is sufficient to identify deficiencies prior to issuing a license and has implemented the following actions: (1) created forms to outline requirements for common license actions; (2) review and update license guides annually; (3) develop an annual training plan on license action requirements and offer refreshers annually; and (4) unit supervisor and

lead worker audits at least 25 percent of license actions each year and discuss results with staff.

All tasks and associated milestones identified in the PIP have been completed. The Program will continue to monitor the effectiveness of the implementation of the PIP in addition to the changes they have made for all indicators.

2.5 Technical Quality of Incident and Allegation Activities (2018 IMPEP: Unsatisfactory)

The Program reported that over the review period, they had a total of three reportable events, which were entered into the Nuclear Material Events Database (NMED). At the time of the meeting all but one had been reviewed and closed. One allegation was referred to Kansas by the NRC. This allegation involved a Kansas licensee not having a radiation safety officer (RSO) listed on the license. No violations were issued from the Program regarding this allegation because the assistant RSO listed on the license had the qualification necessary to be the RSO. Therefore, the license was amended at the licensee's request.

IMPEP Finding 1: 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: To address this IMPEP finding, the Program took a number of actions including: (1) revised its written procedure on reactive inspections and provided staff training on the procedure; (2) adhered to an appropriate policy that requires onsite response to all incidents of health, safety, or security significance; (3) ensured internal policies include adequate management oversight of incidents and reactive inspections; and (4) ensured all incidents are reported as stated in Appendix A of SA-300, "Reporting Material Events."

In addition, the Program director and unit supervisor: (1) meet routinely regarding each incident; (2) ongoing incident investigations are discussed in monthly team meetings; (3) the Program director and unit supervisor actively monitor staff response to all incidents and investigations and review and approve investigation reports for each incident; and (4) perform periodic reviews of NMED files to ensure all information is included and properly closed when applicable.

IMPEP Finding 2: Follow up action not always taken to ensure prompt compliance, including follow up inspections to investigations.

Status: The Program revised its procedures to require a full written inspection report to be completed for any reactive inspection or investigation involving a licensee, its material, or facility, as well as document the decision of adjusting the frequency of the next routine inspection or keeping the licensee on the same frequency.

The Program will continue to monitor the effectiveness of the implementation of the PIP in addition to the changes they have made for all indicators. All tasks and associated milestones identified in the PIP have been completed.

3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Compatibility Requirements, (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery (UR) Program. The NRC's Agreement with Kansas retains regulatory authority for a UR program; therefore, only the first three non-common performance indicator applied to this meeting.

3.1 Compatibility Requirements (2018 IMPEP: Satisfactory but needs improvement)

The Program reported that there had been no legislative changes affecting the Program since the 2018 IMPEP review. During the first bi-monthly conference call, the Program made a commitment to assign a radiation staff member to be responsible for monitoring the status of NRC regulation revisions which impact compatibility and drafting corresponding revisions to Kansas regulations. They have executed this commitment and it is ongoing.

IMPEP Finding: Several regulations adopted by Kansas for the purposes of compatibility were adopted later than 3 years after the effective date of the NRC regulation.

Status: To address this finding, the Program now ensures proposed revisions to Kansas regulations are developed and provided to the State of Kansas' legal staff in a timely manner following publication by the NRC of corresponding regulations. In addition, the Program requests that Agency management prioritize action on those regulations which are required to maintain compatibility with the NRC.

All tasks and associated milestones identified in the PIP have been completed. The Program will continue to monitor the effectiveness of the implementation of the PIP in addition to the changes they have made for all indicators.

3.2 Sealed Source and Device Evaluation Program

The Kansas Agreement State Program has authority to conduct Sealed Source and Device (SS&D) evaluations for byproduct, source, and certain special nuclear materials; however, Kansas did not conduct any SS&D evaluations during the review period. There are currently no SS&D manufacturers in Kansas. If Kansas were to receive an application for an SS&D action, they have a procedure in place to outsource or hire a contractor to complete the review. Accordingly, the team did not review this indicator.

3.3. Low-Level Radioactive Waste Disposal Program

In 1981, the NRC amended its Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement," to allow a State to seek an amendment for the regulation of Low-Level Radioactive Waste (LLRW) as a separate category. Although the Program has authority to regulate a LLRW disposal, the NRC has not required States to have a program for licensing a disposal facility until the State has been designated as a host State for a LLRW disposal facility. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, it is expected to put in

place a regulatory program that will meet the criteria for an adequate and compatible LLRW disposal program. There are no plans for a LLRW disposal facility in Kansas. Accordingly, the NRC staff did not review this indicator.

4.0 SUMMARY

The Program has made significant progress addressing the IMPEP findings and continues to make improvements to its Program. The Program will continue to monitor the effectiveness of the implementation of the PIP in addition to the changes they have made for all indicators. All tasks and associated milestones identified in the PIP have been completed. The NRC staff has determined that there is a high likelihood that the Program will be able to sustain these improvements moving forward. No additional programmatic concerns were noted during the periodic meeting.

The Program is fully staffed and since the 2018 IMPEP review, has shown a period of sustained performance. Based on the significant progress and accomplishments to address all the IMPEP findings, the NRC staff recommended, and the MRB agreed, that the period of Heightened Oversight for the Kansas Agreement State Program be terminated, and the Program be moved to monitoring. The next IMPEP review has been scheduled for the week of May 18, 2020.