



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

June 16, 2021

David Turberville, Director
Office of Radiation Control
Alabama Department of Public Health
P.O. Box 303017
Montgomery, AL 36130-3017

Dear Mr. Turberville:

A periodic meeting with you and your staff was held on May 11, 2021. The purpose of this meeting was to review and discuss the status of the Alabama Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Blake Welling, Director, Division of Radiological Safety, and Security, U.S. NRC Region I and me.

I have completed and enclosed a general meeting summary. If you feel that summary and its conclusion do not accurately reflect the meeting discussion or have any additional remarks about the meeting in general, please contact me at (610) 337-5214 or via e-mail at Monica.Ford@nrc.gov to discuss your concerns.

Sincerely,

Monica Lynn Ford

Monica Lynn Ford
Regional State Agreements Officer
Division of Nuclear Materials Safety
U.S. NRC Region I

Enclosure:
Periodic Meeting Summary for Alabama

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF ALABAMA

TYPE OF OVERSIGHT: NONE

May 11, 2021

FINAL

PERIODIC MEETING PARTICIPANTS

NRC

- Blake Welling: Director, Division of Radiological Safety, and Security, U.S. Nuclear Regulatory Commission (NRC), Region I
- Monica Ford: Regional State Agreements Officer, NRC, Region I
- Farrah Gaskins: Regional State Agreements Officer, NRC, Region I

Alabama Department of Public Health

- Michele Jones: Chief of Staff, Alabama Department of Public Health (exit only)
- David Turberville: Director, Office of Radiation Control
- Myron Riley: Assistant Director, Office of Radiation Control
- Cason Coan: Supervisor, Radioactive Materials Compliance, Office of Radiation Control
- Undria McCallum: Radiation Physicist Senior (Licensing), Office of Radiation Control

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 Alabama on May 11, 2021. The meeting was conducted in accordance with the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The Alabama Agreement State Program underwent an Integrated Materials Performance Evaluation Program (IMPEP) review on May 20-24, 2019. A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on August 6, 2019. Based on the findings presented, the MRB found Alabama's performance satisfactory for all performance indicators reviewed. One recommendation was made under the indicator Technical Quality of Inspections, to assess its industrial radiography inspection program with respect to temporary jobsites to determine whether any changes are warranted. Overall, Alabama was found adequate to protect public health, and safety and compatible with the NRC's program. The MRB determined that the next IMPEP review should take place in approximately 4 years with a periodic meeting in approximately 2 years.

The Alabama Agreement State Program is administered by the Office of Radiation Control which is in the Alabama Department of Public Health. No changes to the organizational structure of the Agreement State Program have occurred.

At the time of the periodic meeting, the Alabama Agreement State Program regulated approximately 344 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 Alabama.

The Alabama Agreement State Program is 100 percent fee funded. Licensees are charged 75 percent of the NRC's annual fees for their specific program code. The funds are placed into a dedicated fund for the Office of Radiation Control. Although the money is placed into a dedicated fund, the Program has a \$100,000 cap on money allowed to be carried over to the next fiscal year. Any money remaining at the end of the fiscal year, in excess of the cap, goes into the general fund.

2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC regional 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. Each of these indicators was discussed during the May 2021 periodic meeting.

2.1 Technical Staffing and Training (2019 IMPEP review: Satisfactory)

The Alabama Agreement State Program is comprised of 10 staff members, which is equivalent to 5.5 full time equivalents (FTE). This includes a Director, Assistant Director,

a Compliance Supervisor, a Licensing Supervisor, and six technical staff (three license reviewers and three inspectors). There has been no change in the number of staff or FTE dedicated to this program since the 2019 IMPEP review. At the time of the periodic meeting, there was one vacancy which occurred when the licensing supervisor retired on April 16, 2021. This position has received approval to be filled and the Director anticipates it will be filled within the next few months. During the 2019 IMPEP review, there was one staff vacancy identified and since the 2019 IMPEP review one technical staff moved to the x-ray program (July 2019). Both of these vacancies were inspector positions. Two individuals were hired, one in August 2019 to fill the vacancy created in July 2019 and one in October 2020, to fill the vacancy identified during the 2019 IMPEP review. The delay in hiring the second individual was a conscious decision and was done to allow for completion of competing program work.

The two newly hired inspection staff are going through the qualification process and using Alabama's Policy 417. This training and qualification manual is compatible with the NRC's Inspection Manual Chapter 1248, "Formal Qualifications Program for Federal and State Material and Environmental Management Programs." All qualified staff are meeting and exceeding the requirement to complete 24 hours of refresher training every 24 months. No programmatic impacts from the COVID-19 public health emergency (PHE) were noted for this indicator.

2.2 Status of the Materials Inspection Program (2019 IMPEP review: Satisfactory)

The Alabama Agreement State Program has completed 115 Priority 1, 2, and 3 inspections, and 15 initial inspections since the last IMPEP review. One inspection, for a Priority 1 licensee, was completed overdue. This inspection was performed late as a result of the COVID-19 PHE. The previous inspection was performed on October 16, 2018. The inspection's due date fell on October 16, 2019 and overdue date fell on April 16, 2020. The Alabama Agreement State Program ceased inspection activities for 6 weeks at the start of the COVID-19 PHE. This inspection's overdue date fell in that window. The inspection was subsequently performed on May 7, 2020 once programmatic work resumed. There were no Priority 1, 2, 3, or initial inspections overdue for inspection at the time of the periodic meeting. Inspectors are primarily performing unannounced inspections, however, have the ability to announce inspections if circumstances permit. The Alabama Agreement State Program's inspection frequencies are the same as or more frequent than those listed by the NRC. As noted in the 2019 IMPEP report Alabama re-evaluated its inspection of licensees who perform microsphere medical therapy procedures. These licensees were previously inspected at a 3-year frequency (a less restrictive frequency) however, after the IMPEP review the inspection frequency was re-evaluated and the six impacted licensees were changed to a 2-year inspection frequency (same frequency as the NRC).

Alabama performs reciprocity inspections of candidate licensees in a manner similar to that previously documented in the NRC's Inspection Manual Chapter (IMC) 1220. One key difference, however, is that licensees who apply for reciprocity in Alabama are only approved to work for a maximum of 30 days as opposed to 180 days allowed by the NRC. Alabama is allowed to be more restrictive in this regard and no issues with compatibility exist. If an out of state licensee wishes to work in Alabama for greater than 30 days, they must apply for a specific license. Inspection of reciprocity licensees has been a challenge for the program and during the 2019 IMPEP review it was noted that

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licensees were inspected in accordance with the policy in only 2 of the 4 years covered by the review period. A discussion of the phase 2 changes to the NRC's IMC 2800 and the flexibility allowed for reciprocity inspections was held during the meeting. The NRC's changes to its reciprocity program were shared in State and Tribal Communications Letter STC-20-082. The Office Director stated that the changes to the NRC's IMC 2800 would be reviewed by the program to determine what if any changes to programmatic policies were needed.

Alabama's goal is to issue inspection findings within 30 days of the inspection exit and generally adheres to this time frame. All inspection reports are issued from the office under the Compliance Supervisor or Office Director's signature. Alabama does not allow for clear inspection findings to be issued in the field (in a manner similar to the NRC's form 591). Impacts to this indicator from the COVID-19 PHE are noted.

2.3 Technical Quality of Inspections (2019 IMPEP review: Satisfactory)

All staff performing radioactive materials inspections are accompanied on an annual basis. All inspector accompaniments were performed in calendar years 2019 and 2020. The Alabama Agreement State Program has three staff inspectors and one supervisor to support this part of its program. As noted in Section 2.1, two inspectors are currently going through the qualification process.

The Alabama Agreement State Program uses inspection procedures that are compatible with the inspection guidance outlined in the NRC's IMC 2800 and associated inspection procedures. As noted in Section 2.2, final inspection findings are issued from the Office. A wide variety of appropriately calibrated survey instruments are maintained to support the inspection and emergency response programs. Instruments are all calibrated in-house and instrument calibration was not affected by the COVID-19 PHE. No COVID-19 PHE impacts were noted for this indicator. There was one recommendation made for this indicator as a result of the 2019 IMPEP review.

Recommendation: The team recommends that Alabama assess its industrial radiography inspection program with respect to temporary jobsites to determine whether any changes are warranted.

Status: During the 2019 IMPEP review the team noted that the Alabama Agreement State Program was not following its procedure for industrial radiography inspections and that several in-state industrial radiography licensees went the entire review period without being inspected at a temporary jobsite even though work was being performed by those licensees at temporary jobsites within Alabama's jurisdiction. Since the 2019 IMPEP review, 7 of the 17 in-state radiography licensees have had at least one inspection that included observations of work performed at a temporary jobsite. Inspectors will continue to perform inspections of industrial radiography licensees at temporary jobsites as work becomes known and as a part of the routine inspection when available.

2.4 Technical Quality of Licensing Actions
(2019 IMPEP Review: Satisfactory)

The Alabama Agreement State Program has regulatory authority over approximately 344 specific licenses. All licensing actions are completed in a timely manner. Currently, 11 actions are in-house. The longest of these has been in process for 34 days. Licenses are on a five-year renewal term. The licensing portion of the program is supported by a Licensing Supervisor and three technical staff. As noted in Section 2.1, the Licensing Supervisor position recently became vacant due to a retirement.

When a licensing action is received it is routed through and reviewed by the Licensing Supervisor who assigns the action to qualified staff. Once the action is complete it is sent back to the Licensing Supervisor for an administrative review. Since the supervisor position is currently vacant, the senior license reviewer is in charge of assigning incoming work. Additionally, the senior reviewer performs a review of work done by the other two license reviewers and they review the work performed by the senior reviewer. If needed the Office Director or Assistant Director will review the licensing work performed. Once the administrative review is complete, the Office Director, and State Health Officer sign the license and it is issued. Staff use internal licensing procedures along with the NRC's NUREG 1556 Series guidance, Pre-licensing Guidance, and Risk Significant Radioactive Materials Checklist when performing licensing actions. Approximately three exemptions to regulatory requirements have been issued since the beginning of the COVID-19 PHE. Licensing staff used the example exemptions posted by the NRC when determining whether or not to grant an exemption.

Since the 2019 IMPEP review, a scanning process for licensing actions has been implemented to allow for a paperless licensing process. This was primarily put in place to help facilitate the Office of Radiation Control's move to a new location. Storage space was being reduced and scanning and paperless licensing files became a necessity. Documents containing sensitive or security related information are password protected and have limited access.

One unique type of licensing action was issued since the 2019 IMPEP review. A request for a specific license was received from a company wishing to manage a pool of equipment used by power reactor licensees. The company stated that they would own a pool of reactor equipment, including equipment that is contaminated, and that the equipment would exist, and be physically possessed at licensed facilities in other states. The company headquarters is located in Alabama. The company had originally approached the NRC about a license, and through discussion it was determined that this license would fall under Alabama's jurisdiction. The Alabama Agreement State Program issued the license in March 2021.

2.5 Technical Quality of Incident and Allegation Activities
(2019 IMPEP review: Satisfactory)

The Alabama Agreement State Program continues to maintain an effective response to incidents and allegations. Sixteen reportable events were received since the last IMPEP review. One event (Nuclear Materials Events Database (NMED) item 210105) was not reported in the correct time frame and three events (NMED items 210024, 200408, and 190320) were not reported in the correct manner as stated in State Agreements Procedure (SA) 300, "Reporting Material Events." Additionally, six events reported to

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the NRC needed additional information to be supplied in order for the record to be complete and one event (NMED item 200312) has an explicit request for additional information that was requested by the NMED contractors. A detailed discussion of the reportable events received since the 2019 IMPEP review was held during the periodic meeting. On May 14, 2021, Alabama management provided the additional information to Idaho National Lab, the NMED contractor, in order to complete each of the open events.

Five allegations have been received since the last IMPEP review. All allegations have been processed and closed in a timely manner. Identities of concerned individuals are protected appropriately. No impacts from the COVID-19 PHE were noted for this indicator.

3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Legislation, Regulations, and Other Program Elements (LROPE), (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 Alabama does not relinquish regulatory authority for LLRW and UR; therefore, only the non-common performance indicators LROPE and SS&D apply.

3.1 LROPE (2019 IMPEP review: Satisfactory)

Alabama became an Agreement State on October 1, 1966. Alabama's current effective statutory authority is contained in the Acts of 1963, No. 582 of the Alabama Statutes. The Department of Public Health is designated as the State's radiation control agency. No legislative amendments affecting the Alabama Agreement State Program were passed during the review period.

The administrative rulemaking process takes approximately 6 months to 1 year from drafting to finalizing a rule. The public, NRC, other agencies, and potentially impacted licensees, and registrants are offered an opportunity to comment during the process. Comments are considered and incorporated, as appropriate, before the regulations are finalized, and approved by the State Committee of Public Health. Regulations are not subject to "sunset" laws.

The 2019 IMPEP review noted three Regulation Amendment Tracking Sheet (RATS) IDs (2007-3, 2012-3, 2015-5) that had outstanding comments that needed to be addressed. Prior to the periodic meeting a package was submitted to the NRC for review that addresses the outstanding comment related to RATS ID 2007-3, however, the comments related to RATS IDs 2012-3 and 2015-5 will be addressed in a future rulemaking. Additionally, the package submitted to the NRC transmitted proposed rule changes addressing RATS IDs 2018-1, 2018-2, 2018-3, 2019-1, 2020-2, and 2020-3. At this time no amendments are overdue for adoption. Rulemaking not related to the COVID-19 PHE was paused for a period of time due to the need to address items related to the PHE. No rule changes were adopted overdue as a result of this pause.

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3.2 SS&D (2019 IMPEP review: Not reviewed)

Although Alabama has authority to conduct SS&D evaluations for byproduct, source, and certain special nuclear materials, no SS&D evaluations have been issued since Alabama became an Agreement State and therefore this indicator was not discussed.

4.0 SUMMARY

The Alabama Agreement State Program continues to be a strong and effective Agreement State Program. Staff turnover is addressed as it occurs. One inspection was performed overdue since the last IMPEP review, which occurred when inspections were halted at the beginning of the COVID-19 PHE. Licensing actions are completed timely and regulations are adopted within three years of their effective date. No concerns or issues were noted during the periodic meeting. The next IMPEP review is scheduled to be held in May 2023.