

## Comment Resolution Document

### Mississippi IMPEP Review FY2022

The following table addresses comments provided by the State of Mississippi on the draft IMPEP report (via email dated April 22, 2022; ADAMS ML22117A065). In general, the team accepted comments that were validated either during the onsite review or in the Questionnaire response. For comments that could not be accepted, the team's disposition is described below. Of note, although the team was shown an inspection database during its onsite review, the team noted that it was missing data and not maintained.

Comment No.	Location	Comment	Accepted	Remarks
1	Executive Summary	We appreciate the team's analysis and feedback. We are always looking to improve and are more than happy to have NRC, Region and others be part of the improvement process as much as they wish. No matter the interpretation of our suggested modifications we have no problem with any degree of monitoring NRC proposes to help reassure the National Program that MS is moving forward. We don't believe the term Probation will help our program development and improvement including much needed recruitment and retention of team members."	No	MS did not provide any substantive information that would change the team's findings; therefore according to the criteria in MD 5.6, the team's recommendation to place MS on Probation stands.

2	Section 1, Introduction	<p>MS made multiple comments and revisions. Significant comments included the following:</p> <ul style="list-style-type: none"> <li>-new RCPD starting date</li> <li>-new "Branch Director" being hired, who then left his position</li> <li>-new RCPD involvement in IMPEP</li> <li>-MS stated that, "The Mississippi Radiation Control Program was found to be in management transition and in transition from pandemic response."</li> </ul>	<p>The team accepted those that they could validate and did not accept those that were not provided during the onsite review or in the Questionnaire response.</p>	<p>See detailed MS comments in tracked changes version of the draft report included with their email/ML22117A065.</p> <p>The team agreed with the clarifications made to the RCPD's starting dates and the new RCPD's involvement in the IMPEP.</p> <p>The team was not made aware of the position of "Branch Director". This was not indicated in the Questionnaire or discussed during the onsite review.</p> <p>The team disagreed with the statement that the pandemic played a part in the Program decline.</p>
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3	Section 2, Previous IMPEP and Status of Recommendations	<p>MS provided comments and revisions regarding the Status of the Previous Recommendations:</p> <p>For Technical Quality of Licensing Actions:</p> <ul style="list-style-type: none"> <li>-RCPD retirement</li> <li>-MS states there was a "new Deputy RCPD" at one point, and</li> </ul> <p>For Technical Quality of Incidents and Allegations:</p> <ul style="list-style-type: none"> <li>-MS revised to say that only "one of the staff" not following the guidance.</li> </ul>	<p>The team accepted those that they could validate and did not accept those that were not provided or reviewed during the onsite review or in the Questionnaire.</p>	<p>The team was not aware of a new deputy RCPD. This was not indicated in the Questionnaire or discussed during the onsite review.</p> <p>The team disagreed with this statement that there was only one staff not following the guidance for allegations. The team noted there were 3 staff who were not following the guidance.</p>
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4	Section 3.1, Staffing and Training	<p>MS made multiple comments and revisions. Significant comments included the following:</p> <ul style="list-style-type: none"> <li>-Staffing clarifications;</li> <li>-Training documentation/qualifications of staff.</li> <li>-WBL coordination.</li> <li>-samples reviewed were of a "limited" nature.</li> <li>-MS agreed with the team's new recommendation for this indicator.</li> </ul>	<p>The team accepted those that they could validate and did not accept those that were not provided or reviewed during the onsite review or in the Questionnaire.</p>	<p>The team was not aware of a "new" Deputy Director.</p> <p>In the report, the team calls the Branch Director the "first line supervisor".</p> <p>The "new" Branch Director informed the team that he accepted that position after the onsite review.</p> <p>The team disagreed with the comments regarding training documentation for the license reviewer since this documentation was found to be not current, i.e. last updated in 2012. Therefore she was not fully qualified.</p> <p>The team agreed with the comment regarding completion of two training courses for the inspector.</p> <p>The IMPEP report focus is on Mississippi's performance, not NRC. The team noted that Mississippi fully committed to WBL in 2021 when they had a full time license reviewer who dedicated herself to the project.</p>
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5	Section 3.2, Status of Inspections	<p>MS made multiple comments and revisions. Significant comments included the following:</p> <ul style="list-style-type: none"> <li>-The existence of their database</li> <li>-inspection data revision</li> <li>-that management oversight was present during the beginning of the review period. The performance issues developed during management transition.</li> <li>-the existence of their reciprocity procedure.</li> <li>-MS agreed with the team's new recommendations for this indicator.</li> </ul>	<p>The team accepted those that they could validate and did not accept those that were not provided or reviewed during the onsite review or in the Questionnaire.</p>	<p>The team was shown the database during the onsite review, however it was missing data and not maintained; therefore it was unreliable.</p> <p>The team cannot verify the statistics that MS has inserted, therefore they cannot accept them.</p> <p>The team agreed with the statement that there was management oversight during the beginning of the review period. The performance issues appeared to have developed during the transition period.</p> <p>The team did not agree with the revisions regarding the reciprocity procedure attached to the Questionnaire since it was in draft form, i.e., not dated or signed by MS management.</p> <p>The team did not agree with all of the revisions to the Recommendations. See remarks to database above, reciprocity tracking system was not in place, and inspection results should be mailed to licensee (WBL does not do this).</p>
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6	Section 3.3, Technical Quality of Inspections	<p>MS made multiple comments and revisions. Significant comments included the following:</p> <ul style="list-style-type: none"> <li>-MS inserts the word, "current" before "inspectors" in multiple places;</li> <li>-MS disagreed with the sentence, "Furthermore, since each inspection was a snapshot of operating conditions, the same perspective was captured time and again." They state that this condition did not exist until the Supervisor and Director left the Program.</li> <li>-MS stated that the issue of files not found in a central location was resolved before IMPEP review;</li> <li>-regarding the team's statement that the inspector did not understand the license condition for quarterly inventories of sealed medical sources, MS stated that this was not an inconsistency due to the fact the facility referenced has procedures in place that requires them to inventory every quarter. This procedure meets and exceeds the NRC requirement of semiannually inventories;</li> <li>-MS disagreed with the team's statement that the virtual inspection of a fixed gauge licensee was not complete or comprehensive;</li> <li>-MS does not feel that the findings from a "limited" sample were indicative of the program</li> <li>-MS contends that their supervisory accompaniments were in accordance with IMC 2800 criteria.</li> <li>-MS agreed with the team's new recommendations for this indicator.</li> </ul>	<p>The team accepted those that they could validate and did not accept those that were not provided or reviewed during the onsite review or in the Questionnaire.</p>	<p>The team did not agree with the term "current" inspectors. They have no knowledge of the previous inspectors, therefore they cannot validate this.</p> <p>The team did not agree with MS deletion of this sentence since they found that the two inspectors were inspecting the same licensees, and never swapped, therefore there was no strategic plan to ensure a complete, comprehensive review.</p> <p>The team disagreed with MS statement that the issue of the files not being found in a central location was resolved at the time of the onsite review. The team was told by the RCPD that this issue will be resolved when they move to their new building, which will have new filing cabinets to properly consolidate.</p> <p>The team disagreed with MS comment regarding the sealed source inventory since the fact that the licensee properly performed the inventory was immaterial, this was a performance review finding of the inspector.</p> <p>The team disagreed with MS comment that the fixed gauge inspection was identified to the team as not being a good candidate because of the environment, therefore it shouldn't be considered an issue in the report. The team disagreed since this inspection, as with any, can be chosen as an accompaniment. The poor performance of the inspector made the inspection difficult.</p>
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6 (cont.)

The team disagreed with the term "limited" samples as the IMPEP process uses a smart sampling of risk significant casework, and examines work from across all staff, as applicable.

The team disagreed with MS comment that supervisory accompaniments were not conducted in 2018 and 2019 only. The team found that 2 out of 4 were missed in 2017, none were conducted in 2018, 2019, and 2020 (see T1-003), and 2 were conducted in 2021, therefore during the review period only -4 out of 16 supervisory accompaniments were performed.

<p>7</p>	<p>Section 3.4, Technical Quality of Licensing Actions</p>	<p>MS made multiple comments and revisions. Significant comments included the following:</p> <ul style="list-style-type: none"> <li>-MS inserted qualifiers in the criteria in the "Evaluation" section as follows:</li> </ul> <p>"Licensing action reviews were not thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed in some cases.</p> <p>Essential elements of license applications were not always submitted, and some elements were not consistent with current regulatory guidance (e.g., Pre-Licensing Guidance, Title10 CFR Part 37, financial assurance, etc.).</p> <p>"Some" license conditions were not stated clearly.</p> <p>"Some" reviews of renewal applications did not demonstrate a thorough...</p> <ul style="list-style-type: none"> <li>-MS inserted language that they have been working with WBL since 2018.</li> <li>-MS added that the team's conclusions for the indicator finding was based on "the limited sample reviewed".</li> <li>-MS revised the sentence to add the highlighted portion, While the team found no indication of harm to any Mississippian, the evaluation of licensing actions indicated that most do not adequately address health, safety, or security issues that have the potential to result in an overexposure, loss of risk-significant radioactive materials, or unintended/unauthorized use of radioactive material.</li> <li>-MS revised the following sentence to add the word "consistently": "Reviewers are not consistently following the criteria specified in the NUREG-1556...".</li> <li>-MS agreed with the team's new recommendations for this indicator.</li> </ul>	<p>The team accepted those that they could validate and did not accept those that were not provided or reviewed during the onsite review or in the Questionnaire.</p>	<p>The team disagreed with MS's insertion of the qualifiers in the "Evaluation" section because that portion of this section just restates those performance objectives that weren't met, it does not provide details.</p> <p>The IMPEP report focus is on Mississippi's performance, not NRC. The team noted that Mississippi fully committed to WBL in 2021 when they had a full time license reviewer who dedicated herself to the project.</p> <p>The team disagreed with MS's assertion that the team's finding was based on the "limited sample reviewed" as the IMPEP process uses a smart sampling of risk significant casework, and examines work from across all staff, as applicable.</p> <p>The team disagreed with MS's insertion of the language, "While the team found no indication of harm to any Mississippian..." since it is the Program's responsibility to demonstrate that they are protecting the public health and safety for their citizens. The team is focused on MS program performance.</p> <p>The team agreed with MS's insertion of the word "consistently" in the sentence, "Reviewers were not consistently following the criteria specified in the NUREG-1556...".</p>
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<p>8</p>	<p>Section 3.5, Technical Quality of Incidents and Allegations</p>	<p>MS made multiple comments and revisions. Significant comments included the following:</p> <p>In the Discussion section, MS comments on the Complaint/Allegation/Incident (CAI) form, “The form was created during the monitoring period of the previous IMPEP. These comments were not provided to MS. Agree that these additions could enhance the process, but they were not offered during our sessions with NRC. Does NRC have a form for their inspectors that includes this information?”</p> <p>In allegation #4, MS asserted that only 2 of their staff were involved in this allegation investigation, and that they don’t believe this was “excessive” as the report states.</p> <p>MS added that the team’s conclusions for the indicator finding was based on “the limited sample reviewed”.</p> <p>MS inserted qualifiers in the criteria in the “Evaluation” section as follows:</p> <ul style="list-style-type: none"> <li>- Incident response and allegation procedures were in place and not followed consistently.</li> <li>- Some response actions were not appropriate, well-coordinated, and timely.</li> <li>- On-site responses were not performed in some instances when incidents have potential health, safety, or security significance.</li> <li>- Some Allegations were not investigated in a prompt, appropriate manner.</li> <li>- In some cases, Concerned individuals were not notified within 30 days of investigation conclusions.</li> <li>- In one case Concerned individuals’ identities were not protected.</li> </ul> <p>Regarding the team’s conclusions, MS questioned whether there “were more than the one instance of revealing an allegor by the team? While the action of the one employee and the management team missing this fact is a deficit this sentence leads one to believe that in most cases reviewed this occurred.”</p>	<p>The team accepted those that they could validate and did not accept those that were not provided or reviewed during the onsite review or in the Questionnaire.</p>	<p>The previous team may not have mentioned the issues they identified on the CAI form, however this team feels that this information should remain in the report as it gives details on how the Program can improve it.</p> <p>The team removed the 11 person team and removed the last sentence where the word “excessive” was used. It now reads: In another allegation, Mississippi sent a team to survey an individual’s private residence in response to a concern regarding a member of the public being irradiated by their neighbors. The file contained a criminal record for one of the neighbors but was missing a closeout letter to the allegor informing the allegor of the results of the survey and investigation.</p> <p>The team disagreed with MS’s assertion that the team’s finding was based on the “limited sample reviewed” as the IMPEP process uses a smart sampling of risk significant casework, and examines work from across all staff, as applicable.</p> <p>Regarding MS’s insertion of certain qualifiers in the Evaluation section. The team agreed that the I&amp;A procedures were not followed “consistently”; however they disagreed with MS’s insertion of the qualifier “some” in the other items because it is not consistent with their findings.</p>
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8 (cont)		<p>Mississippi requested that the 2017 recommendation be revised to remove incidents and allegations because they have a procedure in place and all staff have been trained. "All four current inspectors have access to this system. Other than ensuring new management and new inspectors being hired have access, we don't understand the deficit."</p> <p>MS agreed with the team's new recommendations for this indicator, and to keeping the recommendation open from the 2017 review.</p>		<p>Mississippi is correct that an alleged's identity was revealed to a licensee once. Mississippi revealed that they received an allegation with a licensee (they did not reveal the name of the alleged in this instance). The sentence was re-written: Also noted above, Mississippi did not protect the identity of an alleged.</p> <p>The team disagrees with Mississippi because the CAI form did not include a section to indicate if a discussion between management and staff took place, whether the follow-up would be conducted as an immediate on-site review, a follow-up telephone call or email, or if the incident would be reviewed at the time of the next routine inspection.</p>
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9	Section 5.0, SUMMARY	Regarding Recommendation #2, MS made the following revisions:	No	The team disagrees with MS's revisions to Recommendation #2 since these actions are to be taken by MS, not the NRC, and while
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