



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

May 24, 2023

Lea A. Perlas, Director
Office of Radiological Health
Virginia Department of Health
James Madison Bldg.
109 Governor Street, 7th Floor
Richmond, VA 23219

Dear Director Perlas:

A periodic meeting with you and your staff was held on April 13, 2023. The purpose of this meeting was to review and discuss the status of the Virginia Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Daniel Collins, Deputy Regional Administrator, U.S. NRC Region I and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. If you feel that the conclusions do not accurately summarize 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,

A handwritten signature in cursive script that reads "Monica Lynn Ford".

Signed by Ford, Monica
on 05/24/23

Monica Lynn Ford
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure:
Periodic Meeting Summary for Virginia

cc w/encl.: Sheila Nelson, Interim Director
Radioactive Materials Program

SUBJECT: VIRGINIA PERIODIC MEETING SUMMARY AND TRANSMITTAL LETTER
DATE: May 24, 2023

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
PERIODIC MEETING WITH THE COMMONWEALTH OF VIRGINIA
TYPE OF OVERSIGHT: NONE

April 13, 2023

Final

Enclosure

PERIODIC MEETING PARTICIPANTS

Nuclear Regulatory Commission

- Daniel Collins: Deputy Regional Administrator, Region I
- Monica Ford: Regional State Agreements Officer, Region I

Commonwealth of Virginia

- Sheila Nelson: Interim Director, Radioactive Materials Program

Debrief only:

- Lea Perlas, Director, Office of Radiological Health
- Robert Hicks, Deputy Commissioner, Population Health and Preparedness
- R. Christopher Lindsay, Chief Operating Officer, Virginia Department of Health

1.0 INTRODUCTION

This report presents the results of the periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the Commonwealth of Virginia. The meeting, held on April 13, 2023, covered the period September 26, 2020 – April 12, 2023. The meeting was conducted in accordance with NMSS State Agreements Procedure SA-116 “Periodic Meetings between IMPEP Reviews,” dated October 6, 2021. No COVID-19 pandemic impacts impacting the Agreement State program were noted.

The Virginia Agreement State Program is administered by the Radioactive Materials Program which is located within the Office of Radiological Health. The Office of Radiological Health falls within the Virginia Department of Health. At the time of the periodic meeting, the Virginia Agreement State Program regulated approximately 374 specific licenses authorizing possession and use of radioactive materials. The Virginia Agreement State Program is 100 percent fee funded and receives no money from the State’s general fund. Monies collected from radioactive materials licensees’ fees can only be used for work performed by the Virginia Agreement State Program and cannot be used to fund work done in other areas such as radon, x-ray, and mammography.

The Virginia Agreement State Program last underwent an Integrated Materials Performance Evaluation Program (IMPEP) review September 21-25, 2020. A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on December 16, 2020. Based on the findings presented, the MRB found the Virginia Agreement State Program’s performance satisfactory for all performance indicators. The MRB found the Virginia Agreement State Program adequate to protect public health and safety and compatible with the NRC’s program. No recommendations were made for improved program performance. The MRB directed that the next IMPEP review take place in approximately five years and that a periodic meeting take place in approximately two and a half years. This meeting summary reflects the directed periodic meeting at approximately two and a half years and focuses on the radioactive materials program as it is conducted under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the Commonwealth of Virginia.

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.

2.1 Technical Staffing and Training (2020 IMPEP review: Satisfactory)

Virginia’s Agreement State Program is currently comprised of a program director and five technical staff members, which totals six full-time equivalents (FTE) when fully staffed. Three technical staff are located in the central Office in Richmond and the other two technical staff members work remotely in southeast and southwest Virginia, respectively. All technical staff perform both licensing and inspection activities. At the time of the last IMPEP review there were two technical staff vacancies. Both of these positions were posted prior to the review and were subsequently filled in October 2020.

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The Program Director in place at the time of the last IMPEP review vacated the position in December 2022. A member of the technical staff was promoted to interim director shortly after the Program Director left and is covering those duties. This position vacancy was posted in April 2023 and is working through the hiring process. Additionally, since the previous IMPEP review one technical staff member left in September 2021. This position was posted and subsequently filled in April 2022. The Virginia Agreement State Program has been approved for one additional technical staff person. The plan is to have this individual work remotely from the northern Virginia area. This position has not yet been posted but once filled will bring the program to 7 FTE (one program director and six technical staff).

The Virginia Agreement State Program has a license reviewer and inspector training and qualification manual compatible with the NRC's Inspection Manual Chapter 1248. Each fully qualified inspector/license reviewer completes refresher training and program management ensures that all staff receive 24 hours of training every 24 months.

2.2 Status of Materials Inspection Program (2020 IMPEP review: Satisfactory)

The Virginia Agreement State Program reported that it has conducted 289 Priority 1, 2, 3, 5, and initial inspections since the 2020 IMPEP review. Four inspections have been performed overdue since the last IMPEP review. All four were Priority 2 inspections and were performed overdue as a result of the program code and inspection frequency not being updated in the database when each medical licensee added either high dose rate remote brachytherapy or Yttrium-90 to its license. These additions changed the inspection Priority from a 3 to a 2. Inspectors communicate inspection findings during inspection exits, however they do not issue inspection reports in the field. All inspection reports, both clear and those with violations, are reviewed by management before being issued. The Virginia Agreement State Program has a goal of issuing all inspection reports within 30 days of the inspection exit. The Virginia Agreement State Program's reciprocity process is risk informed and aligns with the criteria in the NRC's Inspection Manual Chapter 2800. Forty-eight reciprocity inspections have been performed since the last IMPEP review.

2.3 Technical Quality of Inspections (2020 IMPEP review: Satisfactory)

The Virginia Agreement State Program has inspection procedures equivalent to the NRC's Inspection Manual Chapter 2800 and the NRC's Inspection Procedures for specific modalities. Program management is aware of the NRC's efforts to update its inspection procedures and will work to update Virginia's inspection procedures accordingly. All inspectors were accompanied in calendar years 2021 and 2022. The Virginia Agreement State Program has a sufficient supply of radiation survey instruments, such as Geiger-Muller devices, scintillation detectors, ion chambers, and micro-R meters to support the inspection program. A commercial vendor calibrates survey instruments.

2.4 Technical Quality of Licensing Actions
(2020 IMPEP review: Satisfactory)

The Virginia Agreement State Program has completed 747 licensing actions since the last IMPEP review. At the time of the periodic meeting, there were thirty-one licensing actions in house. The two longest actions have been in process since June 2022. Both of these licensing actions are transfers of control and one is also associated with a renewal. All licensing actions undergo a peer review before being signed out by the initial license reviewer. Licenses go through a renewal every five years. The Virginia Agreement State Program has licensing guidance equivalent to the NRC's NUREG 1556 series. Additionally, Pre-Licensing Guidance and Risk Significant Radioactive Materials Checklist are up to date.

2.5 Technical Quality of Incident and Allegation Activities
(2020 IMPEP review: Satisfactory)

There have been fifteen reported events since the 2020 IMPEP review. Nine events meet the NRC's reporting threshold, two events do not contain enough information for a determination to be made, and four events have been determined by the NRC's contractor who runs the Nuclear Materials Events Database (NMED) to be not reportable. Eight of the nine reportable events have been reported to the NRC accordingly and appropriate follow-up through the Nuclear Materials Events Database has occurred. One reportable event involving a leaking source that occurred in December 2020 has been listed as meeting the requirements of Title 10 of the *Code of Federal Regulations*, Part 30.50(b)(2), which requires a report to be made to the NRC's headquarters operations center (HOC) within 24 hours of discovery of the event. NRC staff are checking with the contractor who runs NMED to verify this event is labelled correctly. If so, the event will need to be called into the HOC for completeness.

The Virginia Agreement State Program has received eight allegations since the last IMPEP review. Allegations, when received, are quickly reviewed for their effect on public health and safety and staff is dispatched to perform on-site investigations when necessary. The Virginia Agreement State Program plans to review its incident and allegation procedures before the next IMPEP review to ensure both are current and make any updates, as necessary.

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, (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal Program, and (4) Uranium Recovery Program. The NRC's Agreement with Virginia does not relinquish regulatory authority for SS&D Legislation, Regulations and Other Program Elements applies.

3.1 Legislation, Regulations, and Other Program Elements
(2020 IMPEP review: Satisfactory)

No legislation affecting the Virginia Agreement State Program has passed since the last IMPEP review. The Virginia Agreement State Program's rules and regulations are not subject to "sunset" laws. Virginia's administrative rulemaking process takes 5 to

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19 months from drafting to finalizing a rule, depending on the type of regulatory process pursued (e.g., standard, exempt, fast-track). The public, NRC, other agencies, and potentially impacted licensees and registrants are offered an opportunity to comment during the standard regulatory process. Comments are considered and incorporated, as appropriate, before the regulations are finalized and approved by the Commissioner of Health, the Office of the Attorney General, the Secretary of Health and Human Resources, and the Office of the Governor. The Virginia Agreement State Program is in the process of revising its regulations to incorporate regulations coming due for adoption in November 2023, September 2024, and December 2024. These rules were reviewed in draft by the NRC in August 2022 and are expected to be finalized by no later than November 2023.

4.0 SUMMARY

The Virginia Agreement State program continues to be an effective and well-maintained agreement state program. No impacts have been seen as a result of the pandemic. Additionally, no major concerns were identified in any of the common and non-common performance indicators. Based on the information discussed during the periodic meeting, the next IMPEP review of the Virginia Agreement State Program should be held in September 2025 which is in alignment with the Management Review Board direction given as a result of the 2020 IMPEP review.