



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 4, 2024

Scott Thompson
Executive Director
Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Dear Mr. Thompson:

On December 7, 2023, the Management Review Board (MRB), which consisted of the U.S. Nuclear Regulatory Commission (NRC) senior managers and an Organization of Agreement States member, met to consider the results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the Oklahoma Agreement State Program. The MRB Chair, in consultation with the MRB, found the Oklahoma Agreement State Program adequate to protect public health and safety and compatible with the NRC's program.

The enclosed final report documents the IMPEP team's findings and summarizes the results of the MRB meeting. Based on the results of the current IMPEP review, the MRB determined that the next periodic meeting take place in approximately 2.5 years with the next IMPEP review taking place in approximately 5 years.

I appreciate the courtesy and cooperation extended to the IMPEP team during the review. I also wish to acknowledge your continued support for the Agreement State program. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Haney".

Signed by Haney, Cathy
on 01/04/24

Catherine Haney
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, Compliance, Administration,
and Human Capital Programs
Office of the Executive Director for Operations

Enclosures:

1. 2023 Oklahoma Final IMPEP Report
2. 2023 Oklahoma MRB Meeting
Participants

SUBJECT: OKLAHOMA FINAL IMPEP REPORT DATE January 4, 2024

DISTRIBUTION:

Chair Hanson
 Commissioner Wright
 Commissioner Caputo
 Commissioner Crowell
 JLubinski, NMSS
 KWilliams, NMSS
 TClark, NMSS
 TBloomer, RIV
 GMiller, RIV
 AGiantelli, NMSS
 FGaskins, NMSS
 JCook, RIV

MSimmons, RIV
 ABhattacharyya, Commonwealth of Kentucky
 DLawrenz, State of Kansas
 RJohnson, NMSS
 DWhite, NMSS
 BShelton, OAS Chair Elect
 RidsEdoMailCenter
 RidsOgcMailCenter
 RidsNMSSOD
 RidsRgn4MailCenter Resource
IMPEP.Resource@nrc.gov
Astrainingandtravel.Resource@nrc.gov

ADAMS Accession No.: ML23345A028

OFFICE	NMSS/MSST	NMSS/MSST	NMSS/MSST	NMSS/MSST
NAME	FGaskins	RSmith	RJohnson	AGiantelli
DATE	12/11/2023	12/11/2023	12/08/2023	12/12/2023
OFFICE	NMSS/MSST	Tech Editor	NMSS	EDO/DEDM
NAME	KWilliams	THerrera	RLewis	CHaney
DATE	12/13/2023	12/14/2023	12/18/2023	1/4/2024

OFFICIAL RECORD COPY



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM REVIEW OF THE
OKLAHOMA AGREEMENT STATE PROGRAM

AUGUST 21-25, 2023

FINAL REPORT

EXECUTIVE SUMMARY

The results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the Oklahoma Agreement State Program are discussed in this report. The review was conducted on-site in Oklahoma's offices in Oklahoma City, Oklahoma, from August 21-25, 2023. Inspector accompaniments were conducted during the week of April 24, 2023.

The team found Oklahoma's performance to be satisfactory for all six performance indicators reviewed. The team recommended and the Management Review Board (MRB) Chair agreed to close the 2018 IMPEP review recommendation regarding issuance of inspection reports and open one new recommendation.

Accordingly, the team recommended, and the MRB Chair agreed, that the Oklahoma Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. Since this is Oklahoma's second consecutive IMPEP review in which they were found to be satisfactory for all performance indicators, the team recommended and the MRB Chair agreed that a periodic meeting take place in approximately 2.5 years and the next full IMPEP review take place in approximately 5 years.

1.0 INTRODUCTION

The Oklahoma Agreement State Program (Oklahoma) review was conducted from August 21-25, 2023, by a team of technical staff members from the U.S. Nuclear Regulatory Commission (NRC), the Commonwealth of Kentucky, and the State of Kansas. Team members are identified in Appendix A. Inspector accompaniments were conducted during the week of April 24, 2023, and are identified in Appendix B. The review was conducted in accordance with the "Agreement State Program Policy Statement," published in the *Federal Register* on October 18, 2017 (82 FR 48535), and NRC Management Directive (MD) 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)," dated July 24, 2019. Preliminary results of the review, which covered the period of September 29, 2018, thru August 25, 2023, were discussed with the Oklahoma managers on the last day of the review.

In preparation for the review, a questionnaire addressing the common performance indicators and applicable non-common performance indicators was sent to Oklahoma on May 30, 2023. Oklahoma provided its response to the questionnaire on August 7, 2023. A copy of the questionnaire response is available in the NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Number [ML23270B118](#).

The 2023 IMPEP team issued a draft report to Oklahoma on October 6, 2023, for factual comment ([ML23270B125](#)). Oklahoma responded to the draft report by letter dated November 9, 2023, from Ms. Kelly Dixon, Director, Land Protection Division, Department of Environmental Quality ([ML23317A015](#)). Oklahoma had one comment related to the new recommendation.

The Oklahoma Agreement State Program is administered by the Radiation Management Section (the Section) which is located within the Land Protection Division (the Division). The Division is part of the Department of Environmental Quality (the Department). Organization charts for Oklahoma are available in ADAMS [ML23227A210](#).

At the time of the review, Oklahoma regulated 212 specific licenses authorizing possession and use of radioactive materials. The review focused on the radiation control program as it is carried out under Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of Oklahoma.

The team evaluated the information gathered against the established criteria for each common and applicable non-common performance indicator and made a preliminary assessment of Oklahoma's performance.

2.0 PREVIOUS IMPEP REVIEW AND STATUS OF RECOMMENDATIONS

The previous IMPEP review concluded on September 28, 2018. The final report is available in ADAMS [ML18331A351](#). The results of the review are as follows:

Technical Staffing and Training: Satisfactory
Recommendation: None

Status of Materials Inspection Program: Satisfactory

Recommendation: Oklahoma should develop a strategy to address the contributing factors for issuing delinquent inspection documentation and assure that inspection documentation is issued within 30 days.

Status: Oklahoma moved to digitizing inspection reports which included using a digital signature for the program manager that signs all the inspection reports. As a result, the time to review, sign, and issue reports was reduced allowing Oklahoma to issue most reports within their 30-day goal. Although Oklahoma had 11 reports that were issued beyond the 30-day goal, the amount was a small percentage with respect to the number of reports issued.

The 2023 IMPEP team recommended and the MRB Chair agreed to close this recommendation.

Technical Quality of Inspections: Satisfactory
Recommendations: None

Technical Quality of Licensing Actions: Satisfactory
Recommendations: None

Technical Quality of Incident and Allegation Activities: Satisfactory
Recommendations: None

Legislation, Regulations, and Other Program Elements: Satisfactory
Recommendations: None

Overall finding: Adequate to protect public health and safety and compatible with the NRC's program. The team further recommended that a periodic meeting be held within 2.5 years and that a the next IMPEP review take place approximately 5 years.

3.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC and Agreement State radiation control programs. 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.

3.1 Technical Staffing and Training

The ability to conduct effective licensing and inspection programs is largely dependent on having a sufficient number of experienced, knowledgeable, well-trained technical personnel. Under certain conditions, staff turnover could have an adverse effect on the implementation of these programs and could affect public health and safety. Apparent trends in staffing must be assessed. Review of staffing also requires consideration and evaluation of the levels of training and qualification. The evaluation standard measures the overall quality of training available to, and taken by, materials program personnel.

a. Scope

The team used the guidance in State Agreements (SA) procedure [SA-103](#), "Reviewing the Common Performance Indicator: Technical Staffing and Training," and evaluated Oklahoma's performance with respect to the following performance indicator objectives:

- A well-conceived and balanced staffing strategy has been implemented throughout the review period.
- Any vacancies, especially senior-level positions, are filled in a timely manner.
- There is a balance in staffing of the licensing and inspection programs.

- Management is committed to training and staff qualification.
- Agreement State training and qualification program is equivalent to NRC [Inspection Manual Chapter \(IMC\) 1248](#), “Formal Qualifications Program for Federal and State Material and Environmental Management Programs.”
- Qualification criteria for new technical staff are established and are followed, or qualification criteria will be established if new staff members are hired.
- Individuals performing materials licensing and inspection activities are adequately qualified and trained to perform their duties.
- License reviewers and inspectors are trained and qualified in a reasonable period of time.

b. Discussion

Oklahoma is comprised of six technical staff members plus one program manager which equals seven full-time equivalents (FTE) for the radiation control program and includes rulemaking, inspection, licensing, and incident investigations activities. During the review period, six staff members left the program and four staff members were hired.

At the time of the review, there were two vacancies that had been vacant for 3 and 6 months, respectively. During the week the team was on-site, Oklahoma received approval, from the Oklahoma Secretary of Energy and Environment, to post these two positions. As of the date of the MRB, Oklahoma noted that they are fully staffed.

The “Oklahoma Department of Environmental Quality Radiation Management Section Training Plan” dated October 2022, is equivalent to NRC’s IMC 1248. In addition, all fully qualified materials inspectors and license reviewers have the required refresher training (minimum 24 hours in a 24-month period) in accordance with IMC 1248.

c. Evaluation

The team determined that, during the review period, Oklahoma met the performance indicator objectives listed in Section 3.1.a. Based on the criteria in MD 5.6, the team recommends that Oklahoma’s performance with respect to the indicator, Technical Staffing and Training, be found satisfactory.

d. MRB Chair’s Determination

The MRB Chair agreed with the team’s recommendation and found Oklahoma’s performance with respect to this performance indicator satisfactory.

3.2 Status of Materials Inspection Program

Inspections of licensed operations are essential to ensure that activities are being conducted in compliance with regulatory requirements and consistent with good safety and security practices. The frequency of inspections is specified in [IMC 2800](#), “Materials Inspection Program,” and is dependent on the amount and type of radioactive material, the type of operation licensed, and the results of previous inspections. There must be a capability for maintaining and retrieving statistical data on the status of the inspection program.

a. Scope

The team used the guidance in [SA-101](#), "Reviewing the Common Performance Indicator: Status of the Materials Inspection Program," and evaluated Oklahoma's performance with respect to the following performance indicator objectives:

- Initial inspections and inspections of Priority 1, 2, and 3 licensees are performed at the prescribed frequencies (<https://www.nrc.gov/materials/miau/mat-toolkits.html>).
- Deviations from inspection schedules are normally coordinated between technical staff and management.
- There is a plan to perform any overdue inspections and reschedule any missed or deferred inspections or a basis has been established for not performing any overdue inspections or rescheduling any missed or deferred inspections.
- Candidate licensees working under reciprocity are inspected in accordance with the criteria prescribed in IMC 2800 and other applicable guidance or compatible Agreement State Procedure.
- Inspection findings are communicated to licensees in a timely manner (30 calendar days, or 45 days for a team inspection), as specified in [IMC 0610](#), "Nuclear Material Safety and Safeguards Inspection Reports."

b. Discussion

The team noted that Oklahoma uses the same inspection frequencies as the NRC. During the review period, Oklahoma performed 178 routine priority 1, 2, and 3 inspections and 15 initial inspections. No priority 1, 2, 3 or initial inspections were overdue during the time of the on-site review. Oklahoma was affected by the pandemic between March 2020 - December 2022, resulting in four inspections being performed overdue during the review period. The team noted that Temporary Instruction (TI) [TI-003](#), "Evaluating the Impacts of the COVID-19 Public Health Emergency (PHE) as part of the Integrated Materials Performance Evaluation Program (IMPEP)," states, in part, that for inspections that exceed the scheduling window with overdue dates falling inside the defined time frame of the pandemic, the number of overdue inspections should be noted in the report but should not be counted in the calculation of overdue inspections, provided that Oklahoma continued to maintain health, safety, and security. The team noted that Oklahoma did continue to maintain public health, safety, and security. Therefore, the team did not include these overdue inspections when performing the calculation. Based on this criterion, there were four priority 1, 2, and 3 inspections conducted overdue including two routine, one initial, and one follow-up inspection. This equated to less than three percent of priority 1, 2, 3, and initial inspections being performed overdue.

The 2018 IMPEP review made a recommendation for Oklahoma to develop a strategy to address the contributing factors for issuing delinquent inspection documentation and assure that inspection documentation is issued within 30 days. Oklahoma moved to digitizing inspection reports which included using a digital signature for the program manager that signs all inspection reports. As a result, the time to review, sign, and issue inspection reports was reduced allowing Oklahoma to issue most reports within their 30-day goal. Of the 193 inspection reports completed during the review period, the team noticed that 11 of the inspection findings were communicated to the licensees beyond Oklahoma's goal of 30 days after the inspection exit or 45 days after the team inspection exit. During the current IMPEP review period, the team noted that the submissions beyond the 30-day period were

significantly reduced due to the increased scrutiny by the inspectors, as well as the adoption of electronic records and signatures. Although Oklahoma had 11 reports that were issued beyond the 30-day goal, the amount was a small percentage with respect to the number of reports issued. The team recommends closing this recommendation.

The team noticed that Oklahoma's reciprocity inspections followed NRC's IMC 2800 Section 7.04 guidance. Oklahoma uses NRC's IMC 2800 which was updated in March 2020 to allow a risk-informed approach for reciprocity. Oklahoma adopted IMC 2800 and updated the reciprocity procedure and began conducting reciprocity inspections are based on screening procedures, involving contacting the licensing state regulator to determine the licensee's overall standing and compliance history. The reciprocity inspections were consistent with this policy.

c. Evaluation

The team determined that, during the review period, Oklahoma met the performance indicator objectives listed in Section 3.2.a. Based on the criteria in MD 5.6, the team recommends that Oklahoma's performance with respect to the indicator, Status of Materials Inspection Program, be found satisfactory. The team also recommends closing the 2018 recommendation.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation, found Oklahoma's performance with respect to this performance indicator satisfactory, and agreed to close the previous recommendation.

3.3 Technical Quality of Inspections

Inspections, both routine and reactive, provide reasonable assurance that licensee activities are carried out in a safe and secure manner. Accompaniments of inspectors performing inspections and the critical evaluation of inspection records are used to assess the technical quality of an inspection program.

a. Scope

The team used the guidance in [SA-102](#), "Reviewing the Common Performance Indicator: Technical Quality of Inspections," and evaluated Oklahoma's performance with respect to the following performance indicator objectives:

- Inspections of licensed activities focus on health, safety, and security.
- Inspection findings are well-founded and properly documented in reports.
- Management promptly reviews inspection results.
- Procedures are in place and used to help identify root causes and poor licensee performance.
- Inspections address previously identified open items and violations.
- Inspection findings lead to appropriate and prompt regulatory action.
- Supervisors, or senior staff as appropriate, conduct annual accompaniments of each inspector to assess performance and assure consistent application of inspection policies.

- For Programs with separate licensing and inspection staffs, procedures are established and followed to provide feedback information to license reviewers.
- Inspection guides are compatible with NRC guidance.
- An adequate supply of calibrated survey instruments is available to support the inspection program.

b. Discussion

The team evaluated 26 inspection reports and enforcement documentation and interviewed materials inspectors. The team reviewed casework for inspections conducted by nine of Oklahoma's current and former inspectors and covered medical, industrial, commercial, academic, research, and service provider licenses.

A team member accompanied four inspectors during the week of April 24, 2023. The inspectors were accompanied on inspections for a portable gauge, academic broad scope, high dose-rate (HDR) remote afterloader, and an industrial radiography that included a fixed location. No performance issues were noted during the inspector accompaniments. The inspectors were well prepared and thoroughly assessed impact of licensed activities on health, safety, and security. The inspector accompaniments are identified in Appendix B.

During the pandemic, Oklahoma transitioned from in-person inspections to virtual inspections and reviewed licensee records electronically. TI-003 states, in part, that supervisory accompaniments of all qualified inspectors may not be able to be performed in each calendar year impacted by the pandemic. TI-003 also states that since these impacts are outside the Program's control, they should not be considered by the IMPEP team while establishing the overall indicator rating. Supervisory accompaniments were performed each year of the review period by the Section Manager except during 2020, due to the pandemic. One inspector did not have an accompaniment in 2021, and another inspector was not accompanied in 2022. Prior to this year, supervisory accompaniments were conducted in the latter part of the calendar year which led to the two missed accompaniments in 2021 and 2022, due to extended absences of staff. This issue was identified by Oklahoma and the focus of conducting all accompaniments in the first half of the calendar year has been adopted. In 2023, Oklahoma conducted all supervisory accompaniments in the first six months.

The team verified that Oklahoma maintains an appropriate inventory of calibrated survey instruments to support the inspection program and respond to radioactive materials incidents and emergency situations.

c. Evaluation

The team determined that, during the review period, Oklahoma met the performance indicator objectives listed in Section 3.3.a. Based on the criteria in MD 5.6, the team recommends that Oklahoma's performance with respect to the indicator, Technical Quality of Inspections be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Oklahoma's performance with respect to this performance indicator satisfactory.

3.4 Technical Quality of Licensing Actions

The quality, thoroughness, and timeliness of licensing actions can have a direct bearing on public health and safety, as well as security. An assessment of licensing procedures, implementation of those procedures, and documentation of communications and associated actions between Oklahoma licensing staff and regulated community is a significant indicator of the overall quality of the licensing program.

a. Scope

The team used the guidance in [SA-104](#), "Reviewing the Common Performance Indicator: Technical Quality of Licensing Actions," and evaluated Oklahoma's performance with respect to the following performance indicator objectives:

- Licensing action reviews are thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.
- Essential elements of license applications have been submitted and elements are consistent with current regulatory guidance (e.g., pre-licensing guidance, Title 10 of the *Code of Federal Regulations* (10 CFR) Part 37, financial assurance, etc.).
- License reviewers, if applicable, have the proper signature authority for the cases they review independently.
- License conditions are stated clearly and can be inspected.
- Deficiency letters clearly state regulatory positions and are used at the proper time.
- Reviews of renewal applications demonstrate a thorough analysis of a licensee's inspection and enforcement history.
- Applicable guidance documents are available to reviewers and are followed (e.g., NUREG-1556 series, pre-licensing guidance, regulatory guides, etc.).
- Licensing practices for risk-significant radioactive materials (RSRM) are appropriately implemented including the physical protection of Category 1 and Category 2 quantities of radioactive material (10 CFR Part 37 equivalent).
- Documents containing sensitive security information are properly marked, handled, controlled, and secured.

b. Discussion

During the review period, Oklahoma completed 1,029 radioactive materials licensing actions. The team evaluated 25 licensing actions. The licensing actions selected for review included 5 new applications, 16 amendments, 2 renewals, and 2 terminations. The team evaluated casework from current and former license reviewers which included the following license types and actions: medical diagnostic and therapeutic, commercial manufacturing and distribution, industrial radiography, research and development, academic, nuclear pharmacy, fixed and portable gauges, well-logging, service providers, and financial assurance.

The Section Manager assigns licensing actions to licensing staff depending on the type of licensing action and the complexity of the action. Licensing staff follow the NRC's NUREG-1556 series when reviewing licensing actions. The team found licensing actions were thorough, complete, consistent, and of acceptable quality of health, safety, and security. The licensing staff uses formal correspondence to licensees for notification of technical deficiencies. The team found that actions terminating a license were well

documented, included the appropriate survey records, and contained documentation of proper disposal or transfer of radioactive material, as appropriate. All change of controls, renewals, and new license applications were reviewed by the State's attorney. All licensing actions were reviewed by a peer license reviewer prior to having final approval and signature by the Section Manager. The team observed that Oklahoma did not have a backlog of licensing actions at the time of the review.

The team evaluated Oklahoma's handling and storing of sensitive information. The team determined that radioactive materials licenses were marked appropriately. The radioactive materials license files were maintained in an electronic database.

The team noted that Oklahoma adopted the NRC's Pre-Licensing Checklist and RSRM Checklist. Both checklists contained the essential elements needed and were used appropriately. In addition, Oklahoma developed procedures and a spreadsheet to assist in determining the amount of financial assurance required based on the possession limits of radioactive material on the license.

The team noted that the peer reviews in addition to the consistent use of checklists while completing licensing actions helped to ensure the technical quality of the action.

c. Evaluation

The team determined that, during the review period, Oklahoma met the performance indicator objectives listed in Section 3.4.a. Based on the criteria in MD 5.6, the team recommends that Oklahoma's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Oklahoma's performance with respect to this performance indicator satisfactory.

3.5 Technical Quality of Incident and Allegation Activities

The quality, thoroughness, and timeliness of response to incidents and allegations of safety concerns can have a direct bearing on public health, safety, and security. An assessment of incident response and allegation investigation procedures, actual implementation of these procedures internal and external coordination, timely incident reporting, and investigative and follow-up actions, are a significant indicator of the overall quality of the incident response and allegation programs.

a. Scope

The team used the guidance in [SA-105](#), "Reviewing the Common Performance Indicator: Technical Quality of Incident and Allegation Activities," and evaluated Oklahoma's performance with respect to the following performance indicator objectives:

- Incident response and allegation procedures are in place and followed.
- Response actions are appropriate, well-coordinated, and timely.
- On-site responses are performed when incidents have potential health, safety, or security significance.

- Appropriate follow-up actions are taken to ensure prompt compliance by licensees.
- Follow-up inspections are scheduled and completed, as necessary.
- Notifications are made to the NRC Headquarters Operations Center for incidents requiring a 24-hour or immediate notification to the Agreement State or NRC.
- Incidents are reported to the Nuclear Material Events Database (NMED) and closed when all required information has been obtained.
- Allegations are investigated in a prompt, appropriate manner.
- Concerned individuals (CI's) are notified within 30 days of investigation conclusions.
- CI's identities are protected, as allowed by law.

b. Discussion

During the review period, 17 incidents were reported to Oklahoma. The team evaluated 11 closed radioactive materials incidents which included: 3 lost or stolen radioactive material, 1 potential overexposure, 1 medical event, 2 involving damaged equipment, 1 equipment failure involving a fixed gauge and 3 industrial radiography source disconnects. Oklahoma dispatched inspectors for on-site follow-up for five of the cases reviewed. Oklahoma closed all 17 incidents that occurred during this review period.

Oklahoma's response to these incidents, ranged from an immediate response to reviewing the incident during the next routine scheduled inspection. Those determinations were made based on both the circumstances and the health and safety and security significance of the incident. The team found that Oklahoma's evaluation of incident notifications and its response and documentation of those incidents was thorough, well balanced, complete, and comprehensive. The team noted that items reported to NMED were closed when required information was available.

The team also evaluated Oklahoma's reporting of incidents to the NRC's Headquarters Operations Office (HOO). The team noted that in each case requiring HOO notification, Oklahoma reported the incidents within the required time frame, once notified by the licensee. The team also evaluated whether Oklahoma had not reported any required incidents to the HOO. The team did not identify any missed reporting requirements.

During the review period, three allegations were received by Oklahoma, and five were referred by the NRC. The team evaluated the three allegations and determined that those received by Oklahoma were properly closed. Although Oklahoma followed-up on all five allegations referred by the NRC, only one was tracked using their current tracking system. Allegations referred by the NRC were sent to the section manager at the time, who followed-up and closed those allegations appropriately, but did not track them in their current tracking system. Therefore, the team is recommending that Oklahoma establish a strategy to track allegations received from outside agencies. The team noted that the identities of concerned individuals was protected in accordance with state statutes, and they were notified of the investigation results.

c. Evaluation

The team determined that, during the review period, Oklahoma met the performance indicator objectives listed in Section 3.5.a. Based on the criteria in MD 5.6, the team recommends that Oklahoma's performance with respect to the indicator, Technical Quality

of Incident and Allegation Activities, be found satisfactory. The team recommends one new recommendation regarding allegations.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation, found Oklahoma's performance with respect to this performance indicator satisfactory, and agreed with the new recommendation.

4.0 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 (LLRW) Disposal Program; and (4) Uranium Recovery Program. The NRC retains regulatory authority for SS&D Evaluation and Uranium Recovery Program(s); therefore, the only non-common performance indicators applied to this review was the Legislation, Regulations, and Other Program Elements performance indicator.

4.1 Legislation, Regulations, and Other Program Elements

State statutes should authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the State's agreement with the NRC. The statutes must authorize the State to promulgate regulatory requirements necessary to provide reasonable assurance of adequate protection of public health, safety, and security. The State must be authorized through its legal authority to license, inspect, and enforce legally binding requirements, such as regulations and licenses. The NRC regulations that should be adopted by an Agreement State for purposes of compatibility or health and safety should be adopted in a time frame so that the effective date of the State requirement is not later than 3 years after the effective date of the NRC's final rule. Other program elements that have been designated as necessary for maintenance of an adequate and compatible program should be adopted and implemented by an Agreement State within 6 months following NRC designation. A Program Element Table indicating the Compatibility Categories for those program elements other than regulations can be found on the NRC website at the following address: <https://scp.nrc.gov/regtoolbox.html>.

a. Scope

The team used the guidance in [SA-107](#), "Reviewing the Non-Common Performance Indicator: Legislation, Regulations, and Other Program Elements," and evaluated Oklahoma's performance with respect to the following performance indicator objectives. A complete list of regulation amendments can be found on the NRC website at the following address: <https://scp.nrc.gov/regtoolbox.html>.

- The Agreement State program does not create conflicts, duplications, gaps, or other conditions that jeopardize an orderly pattern in the regulation of radioactive materials under the Atomic Energy Act of 1954, as amended.
- Regulations adopted by the Agreement State for purposes of compatibility or health and safety were adopted no later than 3 years after the effective date of the NRC regulation.

- Other program elements, as defined in [SA-200](#) that have been designated as necessary for maintenance of an adequate and compatible program, have been adopted and implemented within 6 months of NRC designation.
- The State statutes authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the agreement.
- The State is authorized through its legal authority to license, inspect, and enforce legally binding requirements such as regulations and licenses.
- Sunset requirements, if any, do not negatively impact the effectiveness of the State's regulations.

b. Discussion

Oklahoma became an Agreement State on September 29, 2000. The Oklahoma Agreement State Program's current effective statutory authority is contained in the Radiation Management Act Chapter 27A, of the Oklahoma Statutes, section 2-9-101 et seq. The Section is designated as the State's radiation control agency. No legislation affecting the radiation control program was passed during the review period. Oklahoma's administrative rulemaking process takes approximately 12-18 months from drafting to finalizing a rule. The public, NRC, other agencies, and potentially impacted licensees and registrants were offered an opportunity to comment during the process. Comments were considered and incorporated, as appropriate, before the regulations were finalized and approved by the Governor. The team noted that the State's rules and regulations were not subject to "sunset" laws.

During the review period, Oklahoma submitted 2 proposed regulation amendment(s), 13 final regulation amendments, and no legally binding requirements or license conditions to the NRC for a compatibility review. None of the amendments were overdue for State adoption at the time of submission. Oklahoma adopts NRC regulations by reference.

Oklahoma adopted NRC guidance and procedures or have developed equivalent procedures including inspection procedures, the NUREG publication series, and standard license conditions.

c. Evaluation

The team determined that, during the review period, Oklahoma met the performance indicator objectives listed in Section 4.1.a. Based on the criteria in MD 5.6, the team recommends that Oklahoma's performance with respect to the indicator, Legislation, Regulations, and Other Program Elements, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Oklahoma's performance with respect to this performance indicator satisfactory.

5.0 SUMMARY

Oklahoma's performance was found to be satisfactory for all six performance indicators reviewed.

The team recommends closing the 2018 IMPEP review recommendation regarding issuance of inspection reports and opening one new recommendation that Oklahoma:

Establish a strategy to track allegations received from outside agencies.

Accordingly, the team recommends that Oklahoma be found adequate to protect public health and compatible with the NRC's program. Since this is Oklahoma's second consecutive IMPEP review in which they were found to be satisfactory for all performance indicators, the team recommends that a periodic meeting take place in approximately 2.5 years and the next full IMPEP review take place in approximately 5 years.

LIST OF APPENDICES

Appendix A	IMPEP Review Team Members
Appendix B	Inspector Accompaniments

APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	Areas of Responsibility
Farrah Gaskins, Region I	Team Leader Legislation, Regulations, and Other Program Elements Inspector Accompaniments
Jacqueline Cook, Region IV	Technical Staffing and Training Observed Inspector Accompaniments
Anjan Bhattacharyya, Commonwealth of Kentucky	Status of Materials Inspection Program Technical Quality of Incident and Allegation Activities
David Lawrenz, State of Kansas	Technical Quality of Inspections
Michelle Simmons, Region IV	Technical Quality of Licensing Actions

APPENDIX B

INSPECTOR ACCOMPANIMENTS

The following inspector accompaniments were performed prior to the on-site IMPEP review:

Accompaniment No.: 1	License No.: OK32200-01
License Type: <i>Portable Gauge</i>	Priority: 5
Inspection Date: 04/24/2023	Inspector's initials: CS

Accompaniment No.: 2	License No.: OK07464-03
License Type: <i>Academic Broad scope and Part 37</i>	Priority: 3
Inspection Date: 04/25/2023	Inspector's initials: JM

Accompaniment No.: 3	License No.: OK15194-02
License Type: <i>Industrial Radiography and Part 37</i>	Priority: 1
Inspection Date: 04/26/2023	Inspector's initials: JM

Accompaniment No.: 4	License No.: OK27631-01
License Type: <i>Medical Brachytherapy</i>	Priority: 2
Inspection Date: 04/27/2023	Inspector's initials: MR

Management Review Board (MRB) Meeting Participants – December 7, 2023

Management Review Board:

Cathy Haney, MRB Chair, OEDO
Brian Harris, OGC
Robert Lewis, NMSS

Mohammed Shuaibi, Region III
Beth Shelton, the OAS MRB Rep., from the
State of Tennessee

IMPEP Team Members:

Farrah Gaskins, Region I
Jacqueline Cook, Region IV
Michelle Simmons, Region IV

Anjan Bhattacharyya, Kentucky
David Lawrenz, Kansas

State of Oklahoma:

Keisha Cornelius
Jennifer Baughn-Fennell
Michelle Brewer
Karen Jayne
Jennifer McAllister

Julia McRoberts
Skip Pierce
Michel Reid
Chelsea L. Smith
Mike Stickney

NRC Staff:

Kenneth Erwin, NMSS
Adelaide Giantelli, NMSS
Robert Johnson, NMSS
Lee Smith, NMSS

Kathy Modes, NMSS
Michelle Hammond, NMSS
Sherrie Flaherty, NMSS
Mary Casto, NMSS

Members of the Public:

Ryan Crihfield (TN)

There were no comments from Members of the Public. The meeting began at approximately 1:30 p.m. (ET) and was adjourned at approximately 2:19 p.m. (ET)