



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
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LISLE, ILLINOIS 60532-4352

January 26, 2024

Mary Navara, Manager
Indoor Environments and Radiation Section
Environmental Health Division
Department of Health
P.O. Box 64975
St. Paul, MN 55164-0975

SUBJECT: MINNESOTA FY24 IMPEP PERIODIC MEETING SUMMARY

Dear Mary Navara:

A periodic meeting with Minnesota was conducted with you and your staff on December 14, 2023. The purpose of this meeting was to review and discuss the implementation of Minnesota's Agreement State Program. The Nuclear Regulatory Commission (NRC) was represented by Jared Heck, Deputy Director, Division of Radiological Safety & Security; and Darren Piccirillo, Regional State Agreements Officer from NRC's Region III Office.

We have completed and enclosed a general meeting summary. If you feel that our comments or conclusions do not accurately summarize the meeting discussion, please contact me at 630 829-9661, or via email at Darren.Piccirillo@nrc.gov to discuss your comments.

Sincerely,

Signed by Piccirillo, Darren
on 01/26/24

Darren W. Piccirillo
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for Minnesota

Letter to M. Navara from D. Piccirillo dated January 26, 2024.

SUBJECT: MINNESOTA FY24 IMPEP PERIODIC MEETING SUMMARY

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF MINNESOTA

TYPE OF OVERSIGHT: NONE

December 14, 2023

Enclosure

PERIODIC MEETING PARTICIPANTS

NRC

- Jared Heck: Deputy Director, Division of Radiological Safety & Security, NRC Region III.
- Darren Piccirillo: Regional State Agreements Officer, NRC Region III.

State of Minnesota

- Mary Navara, Manager, Indoor Environments and Radiation Section, Environmental Health Division, Department of Health.
- Brandon Juran, Supervisor, Radioactive Materials Unit, Environmental Health Division, Department of Health.
- Tyler Kruse, Radiation Protection Specialist.
- Lynn Fortier, Radiation Protection Specialist.
- Tyler Benner, Radiation Protection Specialist.
- Bill Sweidan, Radiation Protection Specialist.

Minnesota Periodic Meeting Summary

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 Minnesota. The meeting was held in person on December 14, 2023, and was part of the Integrated Materials Performance Evaluation Program (IMPEP) review. It was conducted in accordance with NMSS Procedure SA-116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The Minnesota Agreement State Program is administered by the Radioactive Materials Unit, which is located within the Indoor Environments and Radiation Section of the Division of Environmental Health (the Division). The Division is part of the Health Protection Bureau which is one of five bureaus in the Minnesota Department of Health (MDH).

At the time of the periodic meeting, the Minnesota Agreement State Program (the Program) regulated 139 specific licenses authorizing possession and use of radioactive materials. The review 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 Minnesota.

One legislative change occurred during the 2021 IMPEP review period and became effective July 1, 2021. This change resulted in the raising and restructuring of Minnesota's fees to their licensees. No changes have occurred to the Agreement State Program's budget/funding and the Program continues to be able to protect public health and safety at current funding levels. The programs fees are set in statute.

The Program last underwent a full IMPEP review from December 13-17, 2021 (ML 22083A236). A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on March 17, 2022.

During the March 17, 2022, MRB meeting, the Minnesota Agreement State Program's performance was found to be satisfactory for all indicators reviewed. The team made no new recommendations and there were no open recommendations from the previous review for the team to consider. Accordingly, the team recommended, and the MRB agreed, that the Minnesota Agreement State Program is adequate to protect public health and safety and compatible with the NRC's program. The team recommended, and the MRB agreed, that the next full IMPEP review will take place in approximately four years with a periodic meeting in approximately 2 years.

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.

Minnesota Periodic Meeting Summary

2.1 Technical Staffing and Training (2021 IMPEP Rating: Satisfactory)

When fully staffed, the Program is comprised of one supervisor and four technical staff members which contribute 4.3 FTE for the radioactive materials unit. At this time, the technical FTEs allocated towards the materials program is deemed adequate.

The previous Radioactive Materials (RAM) Unit supervisor left MDH in October 2022. One of the three technical staff was promoted to the position in January 2023. Two new license reviewer/inspector positions were filled in May and June 2023.

One of the new hires will be transitioning to a position in the Radiological Emergency Preparedness (REP) Program within MDH but may still perform licensing for the RAM unit periodically and on an as needed basis. MDH plans to continue to train the individual to become a fully qualified license reviewer. MDH plans to backfill the position early next year. Minnesota plans to evaluate staffing needs as the new staff get qualified but will consider the radioactive materials unit fully staff when the position is backfilled.

The Program has a training and qualification program equivalent to the requirements in Inspection Manual Chapter (IMC) 1248. There have been no program changes since the 2021 IMPEP. Training, including the required 24 hours of refresher training for qualified staff is tracked by the supervisor and documented in the individual's qualification journal.

2.2 Status of the Materials Inspection Program (2021 IMPEP Rating: Satisfactory)

There has been no policy change to inspection frequencies and Minnesota inspects at a frequency at least as frequent as the NRC. Note that during COVID pandemic inspection frequencies were not changed however, on a case-by-case basis consideration was given to exceeding the overdue dates.

The Program performed 91 inspections during the review period (December 18, 2021-December 8, 2023). A total of 54 of these were routine Priority 1, 2, 3, and initial inspections.

A total of nine routine Priority 1, 2, 3, and initial inspections were performed overdue since December 18, 2021. As noted in the 2021 IMPEP report, the Program had six Priority 2 and 3 inspections overdue at the time of the MRB (three were completed between the IMPEP onsite review and the MRB). During the MRB meeting, Minnesota indicated that they planned to complete the six inspections by the end of October 2022. The last overdue inspection was completed on November 2, 2022, so the Program is back on track and has no Priority 1, 2, and 3 currently overdue for inspections.

Minnesota implemented a new process of determining reciprocity candidates in 2019. This process allows the Program staff to answer questions about a reciprocity applicant and dependent on the answers provided, a value is assigned based on perceived risk. If the total value for the applicant is seven or higher, the applicant becomes a candidate for inspection in that calendar year. Minnesota's goal is to inspect 20 percent of those applicants who score seven or higher each calendar year. Minnesota met this goal in calendar years 2017, 2018, and 2019. Minnesota did not meet its goal of inspecting 20 percent of candidate applicants in calendar years 2020 and 2021 due to limitations

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relating to the COVID-19 pandemic. In 2022, 39 reciprocity authorizations were granted, five inspected (out of 27 candidates identified). In 2023 to date, 31 reciprocity authorizations granted, four inspected (out 20 candidates identified).

2.3 Technical Quality of Inspections (2021 IMPEP Rating: Satisfactory)

In 2022 inspector accompaniments were conducted for all three qualified inspectors. In 2023 inspector accompaniments were conducted for the two qualified inspectors. The supervisor who also performed some inspections in 2023 did not have a supervisory accompaniment for 2023. Inspector accompaniments are usually performed once per year for fully qualified inspectors and multiple times for a new inspector's qualification on an inspection type.

2.4 Technical Quality of Licensing Actions (2021 IMPEP Rating: Satisfactory)

The Program had approximately 139 specific licensees at the time of the periodic meeting with two pending terminations. There are 52 general licenses required to submit an annual inventory report (mainly fixed gauge licenses). The Program completed 177 total licensing actions performed as of 12/08/2023, which includes 1 new license application, 26 license renewals, 138 license amendments, and 12 license terminations.

At the time of the Periodic Meeting, the Program had 22 licenses under timely renewal. There are seven pending applications that are over one year for renewal. The goal for renewals is 90 days to submit a draft license for review or issue a deficiency letter/email.

2.5 Technical Quality of Incident and Allegation Activities (2021 IMPEP Rating: Satisfactory)

A total of 2 allegations, both of which referred by NRC.

The Program has procedures in place that are equivalent to the event reporting requirements delineated in SA-300. These procedures remain unchanged from the 2021 IMPEP review. Since the 2021 IMPEP review, the Program had reported nine total events reported to the NRC. All events which required reporting were communicated to NRC in compliance with SA-300 reporting timelines. The event response, by both the state of Minnesota and the licensee, was otherwise appropriate and all nuclear material was maintained in a safe and secure condition. Following receipt of the licensee's written reports (if applicable) and determination of root cause, events are closed in a timely manner. NMED showed a total of zero open event as of 12/08/23, and the Program has zero open events at time of the Periodic Meeting.

When notified of an incident, Minnesota management and staff discuss the incident and determine the appropriate level of response, which can range from an immediate response to a review of the incident during the next routine inspection. Those determinations are made based on both the circumstances and the health and safety significance of the incident. Minnesota's evaluation of incident notifications and its response to those incidents was thorough, complete, and comprehensive.

Minnesota Periodic Meeting Summary

The Program uses procedures equivalent to the NRC's allegation procedures for processing allegations. Since the 2021 IMPEP review, the program received and responded to a total of two allegations, both of which were referred by NRC. The alлегers were contacted by the Program for additional details.

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 Program. The NRC's Agreement with Minnesota retains regulatory authority for sealed source and device evaluations, low-level radioactive waste disposal, and uranium recovery; therefore, only the first non-common performance indicator applied to this Periodic Meeting.

3.1 Legislation, Regulations, and Other Program Elements (2021 IMPEP Rating: Satisfactory)

The State's administrative rulemaking process typically takes approximately 18 months 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 of Minnesota's Office of Administrative Hearings. The legal office increased staffing to assist in rulemaking. Minnesota's rules and regulations are not subject to "sunset" laws.

During the review period, the State finalized regulatory amendments and received NRC correspondence with one comment for RATS 2018-1 due 1/14/22, 2018-2 due 12/21/21, 2018-3 due 7/30/22, 2019-1 due 12/18/22, 2019-2 due 12/30/22, 2020-1 due 6/16/23, 2020-2 due 8/17/2023, 2020-3 due 11/16/23. The rules had an effective date of January 10, 2022. The one comment was associated with RATS 2019-1 with an incorrect mailstop. The proposed review did not identify this issue.

There are currently three outstanding regulatory amendments (2021-1 due 09/08/24, 2021-2 due 12/30/24, and 2023-1 due 09/25/2026). RATS 2022-1 and 2022-2 are not required for compatibility. Minnesota has started rulemaking and plans to have updated rules in place covering these RATS by September 8, 2024. The mail stop comment is also covered in RATS 2021-1, so will be corrected with the update. There were no significant legislative changes affecting the Program since the 2021 IMPEP.

4.0 SUMMARY

The Minnesota Agreement State program continues to be an effective and well managed Agreement State program. The Program is effectively managing its licensing and inspection activities, even in the aftermath of the COVID-19 PHE. The Program responds to events as appropriate, and they currently have three outstanding regulatory amendments. Based on the information discussed during the Periodic Meeting, NRC staff recommends that the next IMPEP review for the Minnesota Agreement State Program be conducted as scheduled in 2025. The Program did not request a Special MRB.