



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
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February 28, 2024

Ira Schneider, Chief
Radiological Health Branch
Division of Food, Drug &
Radiation Safety
California Department of Health Services
P.O. Box 997414, MS-7610
Sacramento, CA 95899-7414

SUBJECT: 2022 CALIFORNIA PERIODIC MEETING SUMMARY

Dear Mr. Schneider:

A periodic meeting with California was conducted remotely on February 8, 2022. The purpose of this meeting was to review and discuss the implementation of California's Agreement State Program. The Nuclear Regulatory Commission (NRC) was represented by Neil O'Keefe, Acting Deputy Director, Division of Nuclear Materials Safety, and me.

I have completed and enclosed a general meeting summary. If you feel that our comments, conclusions, or actions to be taken do not accurately summarize the meeting discussion or have any additional remarks about the meeting in general, please contact me at (817) 200-1143 or via email at Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

A handwritten signature in black ink that reads "Randy Erickson".

Signed by Erickson, Randy
on 02/28/24

Randy Erickson
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for California

ADAMS Accession No. ML24059A024 letter

OFFICE	RGN-IV/DRSS
NAME	RErickson
DATE	02/28/2024

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF CALIFORNIA

TYPE OF OVERSIGHT: NONE

February 8, 2022

Enclosure

PERIODIC MEETING PARTICIPANTS

NRC

- Neal O'Keefe, Acting Deputy Director, DNMS, Region IV
- Randy Erickson, RSAO, Region IV

CALIFORNIA

- Gonzalo Perez, Health Physicist, Chief, Radiologic Health Branch
- John Fassell, Health Physicist, Supervisor, Inspections
- Ira Schneider, Health Physicist, Supervisor, Licensing
- Robert Greger, Health Physicist
- Phillip Scott, Health Physicist
- Tracy Jue, Health Physicist
- Lynn Co, Health Physicist
- Tyran Bell, Health Physicist
- Connor Kubata, Health Physicist
- Hugh Alsworth, Health Physicist

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 California. The meeting was held on February 8, 2022, and was conducted in accordance with Nuclear Materials Safety and Safeguards (NMSS) Procedure State Agreement (SA) SA-116, "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The California Agreement State Program is administered by the Radiologic Health Branch (the Branch), which is located within the Division of Radiation Safety and Environmental Management. The Division is a part of the Center for Environmental Health, and the Center is a part of the California Department of Public Health. At the time of the 2020 IMPEP review, the California Agreement State Program regulated 1708 specific licensees, and at the time of the 2022 periodic meeting the number of licensees had decreased to 1642 specific radioactive materials licensees authorizing the possession and use of radioactive materials.

California is fee funded. Fees are collected and are deposited into general revenue with a yearly appropriation made for the Program. The last licensee fee increase was in 2017. Fees are reviewed periodically and raised through legislative action when needed. Their budget is adjusted based on workload and program costs, and their current funding reflects an approximate 5.6 percent increase over their 2019 budget. The Department is unable to directly reallocate funds; however, the Governor does have the authority to reallocate funds during an emergency through executive order, and the legislature can also reallocate funds through normal legislative actions. While the Branch reported that no program funding was reallocated to pay for statewide pandemic related activities, they did experience other pandemic related challenges that will be discussed throughout this report.

California last underwent an Integrated Materials Performance Evaluation Program (IMPEP) review from October 21-25, 2019. The results can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) Accession Number [ML20024E166](#). A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on January 16, 2020, and it can also be found in ADAMS [ML20071H445](#).

During the January 16, 2020, MRB meeting, the California Agreement State Program's performance was found to be satisfactory for all indicators reviewed. The team made no new recommendations for the Branch and concluded that the recommendations made by the 2015 IMPEP team should be closed. Based on the criteria in Management Directive 5.6, the team determined that the California Agreement State Program was adequate to protect public health and safety and compatible with the NRC's program. The team further recommended that the next IMPEP review take place in approximately 5 years and that a periodic meeting with the Branch be held in approximately 2.5 years. The MRB agreed with all the team's recommendations.

2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC's 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.

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

At the time of the 2019 IMPEP review, California had 58 full-time equivalents (FTE) in the radioactive materials (RAM) program. At the time of the 2022 periodic meeting, California still had a total of 58 FTE in the RAM program, with a breakdown of 27 FTE in licensing, 12 FTE in inspection, 4.5 FTE come from inspection contracts with Los Angeles and San Diego counties, and 14.5 FTE are in the Radiological Assessment Unit, the Regulations Unit, and other support staff.

The program also reported that during calendar year 2020 through 2021, they had lost the use of three FTE. One had been reassigned to pandemic related activities for a prolonged period of time, and when the only Sacramento based inspector retired, it took over a year to replace him and then it took additional time to train the new individual. Another inspector was stranded overseas and could not return to the U.S. for seven months due to pandemic related travel restrictions.

The previous team had noted that prior to the 2019 IMPEP review, California had experienced an imbalance between staffing and workload that lasted for approximately five months resulting in a large backlog of license renewal actions. By the time of the 2019 IMPEP review, California had restored balance in staffing. During the 2022 periodic meeting, California reported that due to public health emergency activities, a total of 4996 staff hours of licensing employee time had been lost when they were redirected to assist with the public health emergency, yet during that time, they were still able to decrease the renewal backlog from 128 found during the 2019 IMPEP review to only 22 at the time of the 2022 periodic meeting and they expect to be completely caught up by the end of 2023.

California has a training and qualification program that is consistent with NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs." California reported that the training and qualification program had remained unchanged since the 2019 IMPEP review. California tracks continuing education requirements of 24 hours every 2 years and provides ample opportunities for staff to fulfill this requirement; however, they reported that due to the public health emergency that approximately 40 percent of the staff had not completed the full 24-hour biennial refresher training. They stated that those deficits occurred in part, due to the staffing shortages experienced during the public health emergency but would be made up during the subsequent biennial period.

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

The Program's inspection frequencies are the same as the NRC's inspection frequencies identified in IMC 2800. At the time of the 2019 IMPEP review, California had performed a total of 944 Priority 1, 2, and 3 and initial inspections and had conducted 12 overdue for a calculated overdue rate of approximately 1 percent. At the time of the 2022 periodic meeting, California had performed 354 Priority 1, 2, and 3 and initial inspections and had conducted 19 overdue for a calculated overdue rate of 5.4 percent. At the time of the meeting, no Priority 1, 2, and 3 or initial inspections were overdue. California had also performed a total of 294 Priority 5 (non-initial) inspections in addition to the 354 inspections noted previously.

At the time of the 2019 IMPEP review, California had inspected more than 20 percent of candidate reciprocity licensees for each year of the review period. At the time of the 2022 periodic meeting, California reported that their criteria for performing reciprocity inspections had

not changed. They had not adopted a risk informed approach to performing reciprocity inspections, but instead had maintained the requirement of identifying and performing inspections on 20 percent of candidate licensees; and reported that largely due to pandemic concerns, no reciprocity inspections were performed in 2020 and only seven percent had been inspected in 2021.

At the time of the 2019 IMPEP review, the team found that approximately three percent of inspection findings were communicated to the licensee beyond California's goal of 30-days following the inspection exit. At the time of the 2022 periodic meeting, California reported that their database used to track this metric was corrupted and no longer had the ability to enter the completion date. They stated that they should have this corrected soon.

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

The Program uses inspection procedures that are consistent with the inspection guidance outlined in IMC 2800. California has inspection staff located in Richmond, CA, and in Brea, CA, one inspector located in Sacramento, and they also contract with Los Angeles and San Diego Counties to perform limited inspections. All inspection reports are signed out by the immediate regional supervisor and the inspection supervisor located in Sacramento. Inspector accompaniments continue to be performed for everyone performing inspections on an annual basis.

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

The Program had 1642 specific licensees at the time of the 2022 periodic meeting and had a dedicated licensing staff of 27 based in their Sacramento office. Since the 2019 IMPEP review, the Program received 3683 licensing actions. They closed 3417 actions and had 266 actions open at the time of the 2022 periodic meeting.

The Program also reported that licensing guidance used by California is equivalent to the NRC's NUREG-1556 Series guidance, Pre-licensing Guidance, and Risk Significant Radioactive Materials Checklist.

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

The California Agreement State Program has procedures and processes in place to maintain effective responses to incidents and allegations. When an event is reported to California, they evaluate the event to determine its health and safety significance and then decide on the appropriate response. That response can range anywhere from responding immediately to reviewing the event during the next inspection. When an event is determined to have health and safety significance, inspectors are dispatched immediately.

Since the 2019 IMPEP review, the Program reported a total of 66 events to the Nuclear Material Events Database (NMED) database. At the time of the periodic meeting, California had 29 open events listed in the NMED database. Of those, 8 were closed and 13 others were complete and ready for closure with only 8 that were not complete.

When an event is received requiring reporting to the NRC's Headquarters Operations Officer (HOO), those events are identified, and HOO reporting is performed within the required time frame and in accordance guidance found in [SA-300](#), "Reporting Materials Events." Those event

notifications will be reviewed during the next IMPEP review tentatively scheduled for October 2024.

Thirteen allegations were received since the 2019 IMPEP review, of which 6 resulted in formal investigations with 3 of them being closed and 3 remaining active at the time of the 2022 periodic meeting. The seven other allegations were either referred to the X-ray program, informally resolved, or not pursued due to insufficient information. Sixteen additional allegations were received from NRC headquarters with most involving sales of devices containing radioactive materials from on-line sales sites. When allegations are received, they are reviewed and investigated by California, concerned individuals are notified of the actions taken, and allers' identities are protected whenever possible in accordance with state law.

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 California relinquishes regulatory authority for all but the LLRW Program, so three non-common performance indicators were discussed.

3.1 **Legislation, Regulations and Other Program Elements** (2019 IMPEP Rating: Satisfactory)

No legislative actions affecting the Branch had been passed since the 2019 IMPEP review. At the time of the 2019 IMPEP review no amendments were overdue. At the time of the 2022 periodic meeting, California reported that they had one regulation package making its way through the process which contained RATS IDs 2018-1, 2018-3, 2019-1, 2019-2, 2020-1, 2020-2 and 2020-3 of which only RATS ID 2018-1 was overdue for adoption at the time of the meeting. Most of the remainder of the amendments are ahead of schedule and are expected to be completed soon. Regulations applicable to the California Agreement State Program are not subject to sunset requirements.

3.2 **SS&D Evaluation Program** (2019 IMPEP Rating: Satisfactory)

At the time of the 2019 IMPEP review, California had 16 staff qualified to perform SS&D reviews at different levels. Seven individuals were fully qualified SS&D reviewers with full signature authority to perform concurrence-level reviews. There were four staff qualified to perform first-line reviews, but not concurrence-level reviews. There were five staff qualified to perform amendments requiring no radiological or engineering evaluations. One person was in training at the time of the review. During the review period, one SS&D staff member had left the program, and one staff member had been hired. There was one vacancy for a senior supervisory staff position at the time of the review, although one staff member had been acting in that position.

At the time of the 2022 periodic meeting, California had 15 staff qualified to perform SS&D reviews at different levels. Six individuals were fully qualified with full signature authority to perform concurrence-level reviews, four additional staff were qualified to perform first-line reviews but not concurrence-level reviews. California also has five staff qualified to perform amendments where radiological or engineering evaluations are not required. Those individuals have at a minimum taken NRC's 5-day SS&D workshop.

3.3 LLRW Disposal Program

In 1981, the NRC amended its Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement," to allow a State to seek an amendment for the regulation of LLRW as a separate category. Although the California Agreement State Program has LLRW disposal authority, the NRC has not required States to have a program for licensing a LLRW disposal facility until such time as the State has been designated as a host State for a LLRW disposal facility. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, they are expected to put in place a regulatory program which will meet the criteria for an adequate and compatible LLRW disposal program. There are no plans for a LLRW disposal facility in California.

4.0 SUMMARY

The Program continues to be an effective and well managed Agreement State program. At the time of the meeting, California had two vacancies out of 58 positions. California is effectively managing its licensing and inspection activities well, even in the face of the pandemic public health emergency. California responds to events as appropriate, and they only have one overdue regulation amendment.

The NRC staff recommends that the next IMPEP review for the California Program be conducted as scheduled in 2024. The Program did not request a Special MRB to discuss the outcome of this meeting.