UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

June 22, 2016

Kimberly Steves, Director
Radiation Control Program
Department of Health and Environment
1000 SW Jackson, Suite 330
Topeka, KS 66612

Dear Ms. Steves,

A periodic meeting with you and your staff was held on June 2, 2016. The purpose of this meeting was to review and discuss the status of the Kansas Agreement State Program. The scope of the meeting was limited to activities conducted by the Kansas Radiation Control Program. The U.S. Nuclear Regulatory Commission was represented by Linda Howell and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. A Management Review Board (MRB) meeting to discuss the outcome of the periodic meeting has been scheduled for August 30, 2016 at 1:00 pm (EDT). Call-in information for the MRB will be provided in a separate transmission.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 200-1116, or by email at Binesh.Tharakan@nrc.gov.

Sincerely,

/RA/

Binesh K. Tharakan, CHP
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure:
Periodic Meeting Summary

PERIODIC MEETING SUMMARY FOR THE
KANSAS AGREEMENT STATE PROGRAM
DATE OF MEETING: JUNE 2, 2016

U.S. Nuclear Regulatory Commission (NRC) Attendees	**Kansas Department of Health and Environment (KDHE)**
Binesh Tharakan Regional State Agreements Officer Region IV	Kim Steves, Director Kansas Radiation Control Program
Linda Howell, Deputy Director, Division of Nuclear Materials Safety, Region IV	Jason Barney, Supervisor Radioactive Materials and X-ray Section
	Judee Walden, Lead Worker Radioactive Materials Section
	Ashley Goss, Director, Bureau of Community Health Systems

DISCUSSION:

Kansas became an Agreement State on January 1, 1965. The Kansas Agreement State Program is administered by the Radioactive Materials Section (the Section) of the Kansas Radiation Control Program (the Program). The Program is located within the Bureau of Community Health Systems (the Bureau), which is part of the Kansas Department of Health and Environment (the Department).

The 2014 Integrated Materials Performance Evaluation Program (IMPEP) review of the Kansas Agreement State Program found Kansas' performance satisfactory for four out of six performance indicators reviewed: Technical Staffing and Training, Status of the Materials Inspection Program, Technical Quality of Inspections, and Compatibility Requirements. Kansas' performance for the other two indicators, Technical Quality of Licensing Actions and Technical Quality of Incidents and Allegation Activities, was found satisfactory, but needs improvement. The 2014 IMPEP review team made one recommendation for the Program in Technical Quality of Licensing Actions. The review team recommended that the State review all active medical licenses and verify that previously approved authorized physician users have the proper board certification or training requirements, and preceptor attestation, and develop and implement a process that will ensure proper verification and documentation of user qualifications for 10 CFR 35.300 (KAR 28-35-264) uses of byproduct material.

Overall, the review team recommended, and the Management Review Board (MRB) agreed, that the Kansas Agreement State Program be found adequate to protect public health and safety, and compatible with the NRC's program. The MRB also agreed that the next IMPEP review should take place in 4 years and a periodic meeting be held 2 years from the 2014 IMPEP.

On June 2, 2016, the NRC conducted the periodic meeting with the Kansas Agreement State staff and managers listed above. The following report summarizes the periodic meeting.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Challenges

In 2015, the Section Supervisor and the Program Director left for employment elsewhere. A new Program Director and Section Supervisor were promoted from within the Department. A replacement materials inspector with a health physics background was hired from outside the Department. The Program reported that it is very difficult to recruit and retain qualified inspectors, partially due to State budget problems which have resulted in no pay increases over the past several years. However, there has not been significant turnover in the current staff, other than the one new hire. The Program is concerned that two of the five current technical staff could retire in a few years and that recruiting technically qualified individuals to fill the vacancies could become a challenge.

The new Program management inherited the 10 CFR Part 37 Implementation and discovered the regulations were only partially completed. This created challenges for the program because two sets of staff were working on different parts of the new regulations and it was difficult to determine which parts were complete and which ones still needed work. The final Part 37 regulations have been completed by the new Program management. The rules process can be lengthy process sometimes taking upwards of a year to complete. At the time of the periodic meeting, the final Part 37 regulations were at the Kansas Attorney General's office for final approval. Due to the transition in Program management and the lengthy rules process, the Program implemented 10 CFR Part 37 through a license condition. On March 11, 2016, the Program issued an information notice to the affected licensees indicating that their license was being amended on March 19, 2016, to adopt 10 CFR Part 37 by reference. The affected licensees are required to be in compliance with 10 CFR Part 37 no later than March 19, 2016.

Feedback on NRC's Program

In 2012, Kansas suggested that the NRC consider adding more specific information to the email subject line to describe what is in the attachment when the NRC sends notices or letters to the Agreement States. In addition, if the NRC is requesting a response with a due date, it should be clearly stated in the subject line and at the beginning of the respective document instead of at the end of the document. The Program has observed the amount of emails with requested responses has increased. These requests place significant resource burdens on the Program and use time that is much needed for other duties pertaining to the radioactive materials program. Kansas requests that the NRC attempt to lower the number of such requests it routinely sends.

The Program would like to acknowledge the NRC staff for doing an excellent job of communicating and coordinating with the new Program Director and Section Supervisor. Kansas specifically expressed appreciation for the help and support provided by the Region IV State Liaison Officer, Region IV State Agreements Officers, and the NRC Headquarters Agreement State Regulations Resource staff.

Program Reorganizations

The Department has reorganized since the 2014 IMPEP review. There is a new Secretary for Health and Environment. The Bureau of Environmental Health was dissolved and the Kansas Radiation Control Program was moved into the Bureau of Community Health Systems. There is also a new Bureau Director, who has very little experience with radioactive materials. The

asbestos abatement program is no longer part of the Radiation Control Program. More recently, in 2016, job titles within the Section changed from Environmental Scientist (I-IV) to Environmental Compliance/Regulatory Specialist or Environmental Specialist. Regulations development was moved directly under the Section Supervisor instead of being developed by support organization personnel.

Program Budget/Funding

There have been no changes to the budget since the last IMPEP. The Program remains fully fee funded from a dedicated fee fund. Estimated budget projections for the near term indicate a solid base of funding for the Program. A potential increase in fees is estimated to be needed in three to four years, and will require a regulatory change. The Program is in discussions with Department management to develop a strategy to propose future changes to the fee structure.

Technical Staffing and Training (2014 IMPEP: Satisfactory)

At the time of the periodic meeting, the Section was composed of 5 technical positions, one supervisor, and one director, with additional administrative support to implement the Agreement State Program. The Section performs materials licensing, inspection, compliance, and emergency response functions. The Program reported that the five technical staff positions are adequate to implement the radioactive materials program. Since the last IMPEP review, the Section hired one technical staff member with an advanced degree in health physics to replace the position vacated by the current Section Supervisor.

At the time of the periodic meeting, there were no vacancies in the Section. However, when vacancies do occur, it can negatively impact productivity. To offset any negative impacts from vacancies, the Section cross-trains other Program staff by sending them to NRC-sponsored training, as needed. The Section reports that the cross-training of other Program staff should lessen impacts from future retirements and staff turnover within the Section.

At the last IMPEP review, the Section maintained a documented training and qualification program that is compatible with NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs." The Section reported that it continues to maintain a compatible training program and that the documented training program is reviewed and updated annually.

Status of Materials Inspection Program (2014 IMPEP: Satisfactory)

The Program conducts most inspections at the same frequency as the NRC. For academic broad scope, medical broad scope, medical private practice, portable gauge, commercial radiopharmacy, research and development, and well logging licensees, the Program conducts inspections more frequently than required by IMC 2800.

The Program reported that no initial or routine priority 1, 2, or 3 inspections were conducted overdue since the last IMPEP review and that none were currently overdue.

The last IMPEP report stated that the Program did not inspect at least 20 percent of candidate reciprocity licensees in each year of the review period. The Program modified its "Inspection Priority System" procedure to specifically include reciprocity inspections. The Program generates a list of candidate reciprocity licensees and assigns them to individual inspectors. The inspectors are responsible for completing their assigned reciprocity inspections. At the time

of periodic meeting, the Program reported that it inspected 8 of 16 total candidate reciprocity licensees, and at least 20 percent each year, since the last IMPEP review.

Technical Quality of Inspections (2014 IMPEP: Satisfactory)

The Section reported that supervisory accompaniments of the Section's inspectors in 2015 were performed by the lead worker. The Section Supervisor is scheduled to perform the supervisory accompaniments in 2016. Prior to 2015, the supervisory accompaniments were performed by the previous Section Supervisor. The Section also recently completed a revision of the inspection procedures and revised the form to document the supervisory accompaniments.

The Section reported that some challenges affecting the inspection program included the geographic location of licensees; reciprocity inspections, especially mobile medical licensees entering the western part of Kansas; and mentoring/training new inspectors.

Technical Quality of Licensing Actions (2014 IMPEP: Satisfactory, but Needs Improvement)

At the time of the periodic meeting, the Kansas Agreement State Program regulated 275 specific licensees. Licenses are created and tracked using an internal database. Once licensing actions are completed, they are issued under the Section Supervisor's signature. The Section has internal procedures for processing licensing actions based on the guidance contained in NRC's NUREG-1556 series, "Consolidated Guidance about Materials Licenses."

Since the 2014 IMPEP review, the Section has completed 452 licensing actions, of which, about 10 were complex licensing actions for large broad scope medical and academic facilities, or large decommissioning projects.

The 2014 IMPEP review team found repeated examples of licensing actions where the appropriate documentation was not verified by the Program prior to issuing the licensing actions. The 2014 IMPEP review team made the following recommendation.

2014 Recommendation: "The review team recommends that the State review all active medical licenses and verify that previously approved authorized physician users have the proper board certification or training requirements, and preceptor attestation, and develop and implement a process that will ensure proper verification and documentation of user qualifications for 10 CFR 35.300 (KAR 28-35-264) uses of byproduct material."

In response to the recommendation, immediately following the 2014 IMPEP review and prior to the Management Review Board meeting, the Section completed the review of all licenses that authorized 10 CFR 35.300 uses for authorized user board certifications, training requirements, and preceptor attestations. Licensees were contacted to review physician authorizations and verify training. Licenses that had been archived were returned to the Section so that previous authorized user documentation could be scanned and entered into the physician files in the database. All license writers were provided additional training on 10 CFR 35.300 uses and needed authorized user documentation.

The Section also participated in the NRC webinar training on medical inspections and licensing activities held on December 2, 2014.

The Section implemented additional modifications to the verification process to ensure it will include the proper documentation.

- The Section contacted each medical licensee to determine if any Authorized Users were performing procedures they were not qualified to perform. No concerns have been identified.
- The Section completed an audit of all active medical licenses.
- Changes to the database have been made to allow license reviewers to enter information about training and experience. When an attempt is made to authorize a user for a particular license, an error message will be received if the authorized user does not possess the appropriate qualifications and it will allow the license reviewer to update the missing information.
- The Section revised procedures to adopt a new license format. Licensing by restriction is the exception rather than the rule for medical licenses. Instead of authorizing a user for 35.300 except X, Y, and Z, they will be authorized for the uses referenced in 35.392, 35.394, or 35.396, as appropriate. This change was incorporated into the database.

Technical Quality of Incidents and Allegations (2014 IMPEP: Satisfactory, but Needs Improvement)

The 2014 IMPEP review determined that the Section's poor response to a significant well logging event where two well loggers received radiation exposures in excess of regulatory limits and the licensee's handling of well logging sources created the potential for significant health and safety consequences to its workers and public resulted in the less than satisfactory rating for this indicator. No members of the public were exposed to radiation from this incident. The root causes of the Section's poor performance was determined to be insufficient management oversight of this particular investigation and the Section's procedures did not have specific guidance on when an onsite investigation should be conducted. The Section implemented procedural and management oversight changes to prevent recurrence.

Since the 2014 IMPEP review, 23 events were reported to the Section. Eight of the 23 events were reportable to the NRC Headquarters Operations Officer or to the Nuclear Material Events Database (NMED). All eight reportable events have been investigated and closed by the Section. One event had an outstanding request open from NMED and four events were reported to the NRC beyond the time period allowed by procedure. The Section Supervisor acknowledged that the NMED requested information was prepared but not transmitted. The Program Director acknowledged that the late reporting of incidents could have been due to the management transition within the Program.

Compatibility Requirements (2014 IMPEP: Satisfactory)

The Program maintains a database to track regulatory updates as they become available from the NRC. The responsibility for rulemaking was transferred from outside of the Section to the Section Supervisor. The supervisor provides timely assignments of new regulation amendments to the appropriate staff. The Kansas regulatory approval process can be lengthy taking upwards of one year to complete, therefore in some cases, it is necessary to add license conditions to ensure compatibility with the NRC's program is maintained.

At the end of the 2014 IMPEP review, the Program had three outstanding regulation amendment packages with NRC comments still waiting resolution. The final regulations

incorporating the changes were being reviewed by the Attorney General's office at the time of the period review. The regulation package at the Attorney General's office also includes the final 10 CFR Part 37 regulations, which incorporates 11 comments received from NRC on the proposed Part 37 regulations. In the interim, Kansas added a license condition to the affected licenses that requires compliance with 10 CFR Part 37 regulations by reference.

Sealed Source and Device (SS&D) Evaluation Program (2014 IMPEP: Satisfactory)

No changes since last IMPEP. There are currently no SS&D manufacturers in Kansas. The Program has not received any applications for a new SS&D certificate.

Information Exchange

Current State Initiatives

- Implementation of 10 CFR Part 37 requirements.
- Technologically-Enhanced Naturally Occurring Radioactive Material (TENORM) – The Program staff is working with the Bureau of Waste Management to develop regulations for the disposal of TENORM in permitted waste disposal facilities.
- Current RAM and X-Ray Training Events – The Program is initiating annual training programs for licensees, registrants, and the general public. The Program is testing the concept of replacing the biennial radiation control program conference with annual regional radiation control program meetings. The initial plan is to conduct three regional meetings in 2016 and three in 2017 at various locations throughout Kansas. The effectiveness of this outreach to the community will be assessed after the 2017 meetings.
- Working Groups and IMPEP team support – The Program has several members on various NRC, OAS, and CRCPD working groups, and have also participated on several IMPEP review teams.

Current NRC Initiatives

The following NRC initiatives were discussed at the periodic meeting.

- Project AIM
- Re-baselining of NRC activities
- Management Changes
- Agreement State training
- New methods of training offered by NRC
- Agreement State participation on working groups
- Plans to revise IMC 2800
- Comments being solicited for the "Policy Statement for the Agreement State Program"

Emerging Technologies

None Identified

State's Mechanism for Evaluating Performance

The Section uses peer audit reviews of licensing actions and final management review of inspections reports and licensing actions to ensure the quality of regulatory products. Computer tracking mechanisms and checklists are utilized to ensure elements of the program are completed as required. In addition, the Section performs peer and management accompaniments to assess the quality of inspections to ensure that licensed activities protect public health and safety, and are performed in accordance with the regulations, procedures, and license conditions.

CONCLUSIONS:

The Kansas Radiation Control Program is effectively managing its radioactive material licensing, inspection, and incident response activities. The Program does not have any overdue regulation amendments. NRC staff recommends that the next IMPEP review be conducted as scheduled in June 2018.