



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

July 26, 2006

Clyde Bolton, Director
Division of Public Health Protection & Safety
Department of Public Health
275 East Main Street
Mail Stop HS 2E-D
Frankfort, KY 40621-0001

Dear Mr. Bolton:

A periodic meeting with Kentucky was held on July 6, 2006. The purpose of this meeting was to review and discuss the status of Kentucky's Agreement State program. Specific topics discussed at the meeting included all performance indicators and the program's progress on the seven recommendations made during the 2004 IMPEP review.

Subsequent to the July 2005 Kentucky periodic meeting, a Management Review Board was held on October 17, 2005. The Management Review Board requested quarterly conference calls be conducted between the appropriate Kentucky and NRC staffs to monitor the State's performance and that a periodic meeting should take place in July 2006 due to the performance found during the July 2005 meeting.

I have completed and enclosed a general meeting summary. It was noted during the meeting that the program's overall performance has improved since the 2005 periodic meeting. Additional improvement is still needed in the performance indicators of "SS&D Evaluation Program" and "Compatibility Requirements." These indicators were found "Satisfactory, but Needs Improvement" during the 2004 IMPEP review. Work on the recommendations made during the 2004 IMPEP review is in process. All but one of the recommendations remain open. It was noted that you expressed a commitment to getting the program up to its full staffing level to continue to improve program performance.

This meeting will be discussed at the next quarterly Management Review Board meeting.

If you feel that my conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at 610-337-5358 or email to sam9@nrc.gov to discuss your concerns.

C. Bolton

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Thank you and your staff for the exchange of information.

Sincerely,

Original signed by Sheri Minnick

Sheri Minnick
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure: As stated

cc w/enclosure:
R. Blanton

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR KENTUCKY

DATE OF MEETING: July 6, 2006

ATTENDEES:

NRC

Sheri Minnick, RSAO, Region I
Richard Blanton, ASPO, STP

STATE

Clyde Bolton, Director, Division of Public Health Protection & Safety
Dewey Crawford, Manager, Radiation Health Branch
Matthew McKinley, Supervisor, Radioactive Materials Section

BACKGROUND:

During the July 2004 IMPEP review, the review team found Kentucky's performance to be "Satisfactory" for five performance indicators and "Satisfactory, but Needs Improvement" for three performance indicators. Seven recommendations were made by the IMPEP team. Accordingly, the review team recommended and the Management Review Board (MRB) agreed with the finding that the Kentucky Agreement State program is adequate to protect public health and safety and compatible with NRC's program. The team considered a finding of "Adequate, but Needs Improvement," but noted that the Branch identified a number of needed improvements; developed, and in some cases implemented, action plans to correct specific performance issues; and, has been approved to expand the Section's staff. To monitor the Commonwealth's program progress with regard to their action plans, the MRB directed staff to conduct the periodic management meeting one year after the IMPEP review. In July 2005, a periodic meeting was held with Kentucky.

Subsequent to the July 2005 Kentucky periodic meeting, a MRB was held on October 17, 2005. The MRB requested quarterly conference calls be conducted between the appropriate Kentucky and NRC staffs to monitor the State's performance and that a periodic meeting should take place in July 2006 due to the performance found during the July 2005 meeting. Quarterly conference calls were held in February and May 2006. This summary describes the July 6, 2006 periodic meeting.

DISCUSSION:

A meeting was held with the Kentucky representatives on July 6, 2006. The topics listed in NRC letter dated May 25, 2006, (ML061450359), to the Director were discussed. Details for each area are discussed below.

CURRENT STATUS OF PERFORMANCE INDICATORS:

Technical Staffing and Training

Excerpt from July 2004 IMPEP report (ML043620497):

The review team considered a finding of "Satisfactory, but Needs Improvement" for this indicator based on the complete turnover of staff and the number of identified weaknesses. However, the review team notes that the Branch identified a number of needed improvements; developed, and in some cases implemented, action plans to correct specific performance issues; and, has been approved to expand the Section's staff. In addition, the Branch continued to perform the core inspection and licensing functions and has recently received authorization to fill one vacant position and to add two new positions. The review team concluded that the Branch has an adequate plan to sufficiently staff the Section and make the necessary improvements to the program. Based on the IMPEP evaluation criteria, the review team recommends that Kentucky's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory.

Current Status:

The Radiation Health Branch is located in the Department for Public Health offices in Frankfort. The Branch Manager is responsible for the Radioactive Materials Section, Radiation Producing Machines Section, and the Radiation/Environmental Monitoring Section. The position reports to the Director, Division of Public Health Protections & Safety. The Radioactive Materials Section Supervisor (Supervisor) is primarily responsible for materials licensing and compliance activities.

It was noted that the Director has been working hard at trying to make progress in staffing levels and expressed a commitment to getting the program up to its full staffing level to continue to improve program performance. Many vacancies have been filled, including the Branch Manager position. Since two staff members have resigned, the Section has two vacancies that they are in the process of filling. Interviews are beginning in July 2006. There are currently five technical staff members in the Section, one of which is part-time. One staff member who was activated to military duty in May 2005 is returning to the program in August 2006. One staff member is fully-qualified. The remaining staff members are qualified to perform licensing and inspection of certain types of licensees and are working towards full qualification.

Status of Materials Inspection Program

Excerpt from July 2004 IMPEP report:

Based on the IMPEP evaluation criteria, the review team recommends that Kentucky's performance with respect to the indicator, Status of the Materials Inspection Program, be found satisfactory.

Current Status:

The Branch's inspection priorities are generally the same as those listed in NRC Manual Chapter (MC) 2800, with some being more restrictive. At the time of the last IMPEP, there were 10 core licenses currently overdue by more than 25 percent of the NRC inspection frequency. A current query of the database shows that the Branch has approximately 13 core licenses currently overdue by more than 25 percent and no overdue initial inspections. The Supervisor stated that he continues to work towards the goal of no overdue inspections by the end of the year. The Branch is beginning security inspections in July 2006 for those licensees requiring increased controls.

Technical Quality of Inspections

Excerpt from July 2004 IMPEP report:

Based on the IMPEP evaluation criteria, the review team recommends that Kentucky's performance with respect to the indicator, Technical Quality of Inspections, be found satisfactory.

Current Status:

Based on discussions with staff that there has been no change in the technical quality of inspections since the IMPEP review. Only qualified inspectors are performing inspections. One staff member is fully qualified and the remaining inspectors are qualified for inspections of licensees with certain program codes that they have been approved for.

Technical Quality of Licensing Actions

Excerpt from July 2004 IMPEP report:

Based on the IMPEP evaluation criteria, the review team recommends that Kentucky's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

Current Status:

Based on discussions with staff that there has been no change in the technical quality of licensing actions since the IMPEP review. Only qualified license reviewers are performing licensing actions. One staff member is fully qualified and the remaining inspectors are qualified for licensing of certain program codes that they have been approved for.

Technical Quality of Incident and Allegation Activities

Excerpt from July 2004 IMPEP report:

Based on the IMPEP evaluation criteria, the review team recommends that Kentucky's performance with respect to the indicator, Technical Response to Incident and Allegation Activities, be found satisfactory, but needs improvement.

Current Status:

One incident and two allegations have been handled by the program for this calendar year. These are tracked by the Supervisor via the "Radioactive Materials Section, Monthly Report". Initial responses appeared to be prompt with the level of effort commensurate with the health and safety significance. Follow-up of the event included investigations and gaining corrective actions from the licensee.

The Supervisor uses the program's procedures for documenting responses to incidents and allegations. A training class was conducted for staff on the proper documentation of incidents and allegations as well as a booklet that includes NRC guidance and the Branch's policy. It was noted that events are being submitted to the Nuclear Materials Events Database (NMED).

Compatibility Requirements

Excerpt from July 2004 IMPEP report:

Based on IMPEP evaluation criteria, the review team recommends that Kentucky's performance with respect to the indicator, Compatibility Requirements, be found satisfactory, but needs improvement.

Current Status:

In September 2004, the Branch submitted proposed revisions to their regulations for "Medical Administration of Radiation and Radioactive Materials," 10 CFR Parts 20 and 35 amendments (60 FR 48623) that became effective October 20, 1995. The NRC performed a review and is awaiting a final, amended version based upon three comments that were identified.

The Branch currently has the following five overdue NRC amendments, work on which will begin in July 2006, via a one-year contract with a former Kentucky program director:

1. "Minor Corrections, Clarifying Changes, and a Minor Policy Change," 10 CFR Parts 20, 35 and 36 amendments (63 FR 39477 and 63 FR 45393) that became effective October 26, 1998.
2. "Respiratory Protection and Controls to Restrict Internal Exposure," 10 CFR Part 20 amendment (64 FR 54543 and 64 FR 55524) that became effective February 2, 2000.
3. "Energy Compensation Sources for Well Logging and other Regulatory Clarifications," 10 CFR Part 39 amendment (65 FR 20337) that became effective May 17, 2000.
4. "New Dosimetry Technology" 10 CFR parts 34, 36 and 39 amendments (65 FR 63749) that became effective January 8, 2001.
5. "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material," 10 CFR Parts 30, 31, and 32 amendments (65 FR 79162)

that became effective February 16, 2001. The Branch has amended the appropriate licenses with license conditions compatible with the requirements in 10 CFR 32.52 (a) and (b). The Branch has not adopted the remainder of the amendment.

Sealed Source and Device (SS&D) Evaluation Program

Excerpt from July 2004 IMPEP report:

Based on the IMPEP evaluation criteria, the review team recommends that Kentucky's performance with respect to the indicator, Sealed Source and Device Evaluation Program, be found satisfactory, but needs improvement.

Current Status:

The Branch's sole manufacturer is Ronan Engineering. The Supervisor stated that they currently have one pending minor amendment request for this manufacturer that his staff can handle. No pending requests were reviewed during the meeting.

The Division has hired 0.5 FTE to perform SS&D functions. After training and qualification, this individual will be tasked with terminating Ohmart's old registries since they no longer manufacture in KY; developing a registration certificate evaluation and document format consistent with NUREG-1556, Volume 3; and developing license conditions to require Ronan to report defects, deviations, or non-conformance of safety related system, structures or components. Thus far, the individual has attended NRC's SS&D training workshop. On-the-job training via a contractor will begin in July 2006.

Low-Level Radioactive Waste (LLRW) Disposal Program

Excerpt from July 2004 IMPEP report:

Based on the IMPEP evaluation criteria, the review team recommends that Kentucky's performance with respect to the indicator, Low-Level Radioactive Waste Disposal Program, be found satisfactory.

Current Status:

No change in status was identified.

ACTION ON JULY 2004 IMPEP RECOMMENDATIONS:

1. Recommendation:

The review team recommends that the Branch upgrade their database so that all relevant licensee data are incorporated and maintained to ensure that inspections can be scheduled and performed in accordance with the requirements of MC 2800. Specifically, initial inspection due dates were not entered, and thus a large number of initial inspections were overdue.

Status:

The Supervisor has completed work on a permanent upgrade to the database. The Branch now has all relevant licensee data incorporated into the database and maintained to ensure that inspections can be scheduled and performed in accordance with the requirements of MC 2800.

This recommendation is closed.

2. Recommendation:

The review team recommends that the Branch identify those licensees who require financial assurance and take appropriate action to have them comply with the Commonwealth's decommissioning and financial assurance requirements.

Status:

A small number of licensees have been identified as requiring financial assurance. The issues have been discussed with the licensees; however, letters have not yet been sent explaining the requirements. Work in this area is ongoing.

This recommendation remains open.

3. Recommendation:

The review team recommends that the Branch document incident and allegation responses in accordance with its procedures and provide training on their procedures to all technical staff.

Status:

A training class was conducted for staff on the proper documentation of incidents and allegations as well as a booklet that includes NRC guidance and the Branch's policy. Staff use procedures for documenting responses to incidents and allegations. It was noted that events are being submitted to the Nuclear Materials Events Database (NMED). Review of documentation was not conducted during the meeting and thus it is recommended that this area be reviewed during the next IMPEP review.

This recommendation remains open.

4-7. Recommendations:

The review team recommends that the Branch establish, implement and document a training program for SS&D reviewers.

The review team recommends that the registration certificate evaluation criteria and document format be consistent with NUREG-1556, Volume 3.

The review team recommends that the Branch review and determine the status of SS&D registrations issued to non-Kentucky manufacturers and take appropriate action to either update or inactivate the registration certificates.

The review team recommends that the Branch implement an enforceable mechanism (e.g., rule or license condition) to have the manufacturers report defects, deviations or non-conformance of safety-related systems, structures, or components and document follow up actions.

Status on 4-7:

The Branch's sole manufacturer is Ronan Engineering. The Supervisor stated that they currently have one pending minor amendment request for this manufacturer that his staff can handle. No pending requests were reviewed during the meeting.

The Division has hired 0.5 FTE to perform SS&D functions. After training and qualification, this individual will be tasked with terminating Ohmart's old registries since they no longer manufacture in KY; developing a registration certificate evaluation and document format consistent with NUREG-1556, Volume 3; and developing license conditions to require Ronan to report defects, deviations, or non-conformance of safety related system, structures or components. Thus far, the individual has attended NRC's SS&D training workshop. On-the-job training via a contractor will begin in July 2006.

These recommendations remains open.

CONCLUSION:

The program's overall performance has improved since the 2005 periodic meeting. Additional improvement is still needed in the performance indicators of "SS&D Evaluation Program" and "Compatibility Requirements." These indicators were found "Satisfactory, but Needs Improvement" during the 2004 IMPEP review. Work on the recommendations made during the 2004 IMPEP review is in process. All but one of the recommendations remain open.