



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

April 6, 2011

W. Lee Cox, Chief
Radiation Protection Section
Department of Environment and
Natural Resources
3825 Barrett Drive
Raleigh, NC 27609-7221

Dear Mr. Cox:

A periodic meeting was held with your Section on March 15, 2011. The purpose of the meeting was to review and discuss the status of the State of North Carolina's Department of Environment and Natural Resources' Radiation Protection Section. The NRC was represented by Michelle Beardsley and me. Topics and issues of importance discussed at the meeting included a detailed discussion of recommendations from the 2009 IMPEP review.

I have completed and enclosed a general meeting summary.

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 (610) 337-5214, or email: Monica.Orendi@nrc.gov to discuss your comments.

Sincerely,

/RA by Joseph Nick For/

Monica Orendi
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure: As stated

cc w/encl:
James Albright, Manager
Radioactive Materials Branch

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES'
RADIATION PROTECTION SECTION

DATE OF MEETING: March 15, 2011

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| NRC Attendees | North Carolina Department of Environment and Natural Resources Attendees |
| Monica Orendi, Region I RSAO | James Albright, Manager, Radioactive Materials Branch |
| Michelle Beardsley, FSME, Health Physicist | |

DISCUSSION:

During the 2009 Integrated Materials Performance Evaluation Program (IMPEP) review of the North Carolina Agreement State Program (the Program), the review team found the State's performance satisfactory for all seven performance indicators. The IMPEP review team made two recommendations regarding the Program. On May 5, 2009, the Management Review Board (MRB) met to consider the IMPEP review team's proposed findings regarding the Program. The MRB found the Program adequate to protect public health and safety and compatible with the NRC's program. Based on the results of the IMPEP review, the review team recommended, and the MRB agreed, that the next full IMPEP review take place in approximately four years. The MRB also determined that a periodic meeting should take place in early 2011.

This summary describes that periodic meeting.

The following is a status summary of the two recommendations that were identified in the 2009 North Carolina final IMPEP report:

1. The review team recommends that the State strengthen its incident response process to ensure that incidents will be reported to the NRC as required by FSME Procedure SA-300.

Current status: North Carolina acknowledged that reporting to the NRC was not as strong as it could be, as identified in the February 2009 IMPEP review. This was in part due to a misunderstanding on the part of the State regarding reporting incidents with twenty-four (24) hour reporting requirements. This was also in part due to a procedural ambiguity about which staff was responsible for making incident notification to the NRC. State staff handling incidents in the field thought that the Program's Nuclear Material Events Database (NMED) Coordinator was responsible for reporting to the NRC, although that is not the NMED Coordinator's designated responsibility or function. North Carolina stated that they addressed these issues by revising their procedure and training staff as to the following: 1) clarification on reporting requirements: specifically that the State is subject to the same reporting requirements to the NRC as their licensees are required to report incidents to the State, and 2) designation of the Regional Inspectors as the incident lead for all incidents in their Regions. The Regional Inspectors are responsible for determining if notification needs to be made, or was made, in accordance with FSME Procedure SA-300.

2. The review team recommends that the State, to maintain compatibility with the NRC, make appropriate regulatory changes to resolve NRC-generated comments as noted in regulation review letters.

Current Status: North Carolina currently has a plan in place to address NRC comments from letters dated August 15, 2006 and June 30, 2008 along with the five amendments overdue for adoption. North Carolina expects to submit these regulation changes to the NRC in draft in the fall of 2011.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

A LAN based spreadsheet for tracking industrial radiography and reciprocal licensee activities within the State was developed in 2009. In 2010 the Program conducted inspections on an average of 50% of the candidate licensees (those licensees required to submit reciprocal notification or 3-day notification for fieldwork). This exceeds the IMPEP requirement that 20% of the candidate reciprocity licensees are inspected per year.

Program Weaknesses

One weakness noted by the Program was with regards to rulemaking. The Program has begun to address this weakness by designating a staff member with rulemaking as a primary responsibility and developing a plan outlining the adoption of all overdue NRC regulations.

A second weakness noted by the Program is in regards to the incident reporting process. As part of the effort to resolve this weakness, the incident database and corresponding incident files were audited. During this audit it was found that there were some minor problems with the database when staff closed out incidents due to the way the database was designed. The Program intends to replace the current incident database when they beta test NRC's Web Based Licensing system, and to redesign the current database if the web based licensing system lacks the functionality necessary to replace it.

Feedback on the NRC's Program

The Program staff commented that the overall relationship with the NRC is a good one. The Program staff appreciates NRC funding of qualification training courses. The Program staff would like to see NRC continue to work on the development and dissemination of web based licensing. The Program also would like to see NRC revise their general licensing program so that provisions of the increased controls can be implemented for those licensees.

Agreement State Program Staffing and Training

The Program currently consists of ten technical positions, one administrative support position, and one program manager. The Program has one staff vacancy which is a technical position. Support for staff training exists in the Program. Due to the acquisition of four new technical staff since the last IMPEP, training is a major part of the Program's daily functions. The Program is working on cross training its staff so that they can do both licensing and inspection.

Organization

The Program is administered under the Department of Environment and Natural Resources within the Division of Environmental Health. There have been no organizational changes since the 2009 IMPEP review.

Program Budget/Funding

As of July 2011 the Program will no longer receive appropriated funds to support its activities. Fee rules were adopted in February 2011 that fully support the Program's activities.

Inspection/Licensing Programs

The Program has approximately 760 radioactive materials licenses. The Program's inspection frequencies are as frequent as NRC's. There were no overdue inspections at the time of the Periodic meeting.

The Program currently has no overdue licensing actions. The Program is looking forward to beta-testing NRC's Web Based Licensing system.

Regulations

There has been one legislative change with regards to how the Program is funded. Based on this change the Program will be entirely fee based by July 2011. Also the Governor issued Executive Order 70, which requires that rulemaking in the State only be conducted if it is required by federal or state law, or is deemed necessary to protect the public interest. Rules shall not impose an undue burden upon those that have to comply with them and shall be clearly written, relevant, up-to-date, and based upon sound, scientific, technical, economic, and other relevant information. The executive order requires that the Agency Head sign a statement that the proposed rules and rule changes meet the regulatory principals stated in the executive order. Any impact on state or local government has to be fully vetted, whether or not the regulatory change is required by federal or state law. If a rule change proposed by a Program creates more work or extra cost the Program must justify why that change is necessary. As of the date of this meeting, North Carolina has five regulations that are overdue.

The following regulations are overdue:

- "Minor Amendments," 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendment (71 FR 15005), that was due for Agreement State implementation on March 27, 2009. (RATS ID 2006-1)
- "Medical Use of Byproduct Material – Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 amendment (72 FR 45147 and 72 FR 54207), that is due for Agreement State adoption by October 29, 2010. (RATS ID 2007-1)
- "Requirements for Expanded Definition of Byproduct Material," 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendment (72 FR 55864), that is due for Agreement State adoption by November 30, 2010. (RATS ID 2007-3)
- "Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements," 10 CFR Parts 30, 31, 32, and 150 amendment

(72 FR 58473), that is due for Agreement State adoption by December 17, 2010. (RATS ID 2007-2)

- “Occupational Dose Records, Labeling, Containers, and Total Effective Dose Equivalent,” 10 CFR Parts 19 and 20 amendment (72 FR 68043), that is due for Agreement State adoption by February 15, 2011. (RATS ID 2008-1)

The State will need to address the following NRC amendments in the future:

- “Medical Use of Byproduct Material – Authorized User Clarification,” 10 CFR Part 35 (74 FR 33901), that is due for Agreement State adoption by September 28, 2012. (RATS ID 2009-1)

Event Reporting

The Program communicates reportable incidents to the NRC Operations Center and Region I when appropriate in a prompt manner. The Program has reported 23 events to the NRC since the 2009 IMPEP.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for the potential effect on public health and safety. Staff members are dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations and has procedures in place to ensure appropriate follow up action is taken. The Program conducts investigations of allegations and follows up with the concerned individuals regarding the outcome of the investigations.

Sealed Source and Device Program

The Program has two fully trained staff and one trainee that review sealed source and device registration (SS&D) applications. In addition, they contract with a professional engineer at North Carolina State University to provide engineering reviews of these applications on an as-needed basis. Since February, 2009, one SS&D review for a new device was performed and the SS&D was issued. One application to amend an existing SS&D sheet was received but the amendment was determined not to be necessary. No deficiencies were identified during these reviews.

Low-Level Radioactive Waste Program

Although North Carolina has authority for low-level radioactive waste (LLRW) disposal they currently do not have a LLRW disposal facility. North Carolina continues to monitor the disposal needs of their licensees and statewide low-level radioactive waste capacity. The State requires licensees that generate LLRW to submit an annual report to the Program. The data is compiled into a single LLRW report for the NC Radiation Protection Commission and the NC legislature.

Current State Initiatives

The Program is in the process of going paperless to support web based licensing. The Program is doubling their capacity for performing inspections at generally licensed facilities by reassigning one FTE to performing inspections of those facilities half-time. The Program is

ramping up volunteers for their Team of Radiological Emergency Volunteers (TOREV) in partnership with the local chapter of the Health Physics Society for population monitoring during a radiological event.

State's Mechanisms to Evaluate Performance

Starting in 2009, the Program started performing yearly IMPEP like self-assessments to evaluate Program performance. The Program also conducts inspector accompaniments yearly.

Summary

North Carolina continues to maintain a strong Agreement State Program. North Carolina was found adequate to protect public health and safety and compatible with NRC's program, and received satisfactory ratings for all performance indicators during the last four IMPEP reviews. Based on current IMPEP policy extending the frequency of IMPEP reviews from four to five years for high performing Programs, NRC staff recommends that the next IMPEP review of the North Carolina Agreement State Program be extended and conducted in FY 2014.