



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

August 28, 2017

Mr. Terry O'Clair, Director
Division of Air Quality
Department of Health
918 East Divide Avenue
Bismarck, ND 58501-1947

Dear Mr. O'Clair:

A periodic meeting with you and your staff was held on July 19, 2017. The purpose of this meeting was to review and discuss the status of the North Dakota Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Mark Shaffer, Director, Division of Nuclear Materials Safety (DNMS) 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 will be scheduled and the date and time will be provided to you 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 via e-mail at Binesh.Tharakan@nrc.gov to discuss your concerns.

Sincerely,

/RA/

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

Enclosure:
Periodic Meeting Summary

PERIODIC MEETING SUMMARY FOR THE
NORTH DAKOTA RADIATION CONTROL PROGRAM
DATE OF MEETING: JULY 19, 2017

U.S. Nuclear Regulatory Commission (NRC) Attendees	North Dakota Department of Health Attendees
Binesh Tharakan, State Agreements Officer, Region IV	Terry O'Clair, Director, Division of Air Quality
Mark Shaffer, Director, Division of Nuclear Materials Safety, Region IV	Dale Patrick, Manager, Radiation Control Program
	David Stradinger, Environmental Scientist
	Karen Deibert, Environmental Scientist
	Allan Knapp, Environmental Scientist
	Brooke Olson, Environmental Scientist

DISCUSSION:

The North Dakota Agreement State Program is administered by the Radiation Control Program (the Program), located within the Division of Air Quality (the Division) of the North Dakota Department of Health (the Department).

The previous Integrated Materials Performance Evaluation Program (IMPEP) review was conducted the week of June 22–25, 2015. The Program was found to be satisfactory for all performance indicators reviewed and there were no recommendations for the Program. The team recommended and the MRB agreed that the North Dakota Program was adequate to protect public health and safety and is compatible with the NRC's program. The MRB agreed with the team that the next full IMPEP review should take place in 4 years and a periodic meeting should take place in approximately 2 years. The following information summarizes the topics covered at the periodic meeting.

Program Challenges

The Program reported that they are not having any specific challenges implementing the Agreement State Program at the present time. For the purposes of general awareness and discussion, Program management noted that some staff resources are used to regulate Technologically Enhanced Naturally Occurring Radioactive Material (TENORM). North Dakota regulates 33 TENORM licensees. The challenge of identifying, tracking, and licensing these entities periodically diverts the Program's resources away from the radioactive materials (RAM) program. North Dakota is effectively managing staff resources that are applied to both the TENORM and RAM programs, and continues to meet the objectives for the Agreement State program in a timely manner.

Feedback on NRC's Program

The Program continues to appreciate the responsiveness of the Region IV State Agreements Officers (SAOs). North Dakota recently submitted inquiries to the SAOs about various licensing and inspection questions, including Part 37 of Title 10 of the *Code of Federal Regulations* (CFR). The Program requested information about Part 37 implementation, and the SAOs provided timely responses that helped the Program resolve recent inspection findings. The Program also commended the NRC for providing additional online training. The Program cited the online blended learning health physics courses developed by the NRC's Technical Training

Center staff and webinars on various regulatory topics. The Program indicated that the webinars are particularly useful in satisfying refresher training requirements and believes they are an effective and efficient use of staff resources. The Program encourages the NRC to continue to use webinars for training.

Program Reorganizations

There have been no reorganizations since the 2015 IMPEP review. The State will be reorganizing the Health Department and creating a new cabinet level Department of Environmental Quality. Program management estimated that the new department will be established prior to Fiscal Year 2019 which begins July 1, 2018. The Division of Air Quality, in addition to Water Quality, Land Waste Management, and Municipal Facilities, will be moving to the new department after it is created sometime in 2018. Program management indicated that moving to the new department would be advantageous to the Program because it would allow for increased autonomy and control over the functions and budget of the Program.

Program Budget/Funding

The Program reported that their budget is stable. The Program generates more revenue than expenditures. Fees are currently 60 percent of NRC fees and are adjusted annually based on the consumer price index.

Technical Staffing and Training (2015 IMPEP: Satisfactory)

The North Dakota Agreement State Program is composed of the Radiation Control Program manager and five technical staff positions. Technical staff members conduct inspections, perform licensing actions, and respond to incidents and allegations.

The Program reported that since the 2015 IMPEP review, one of the newly hired staff members left the program in May 2017 to pursue a different career. At the time of the periodic meeting, the Program was about to begin interviewing candidates to fill the vacancy.

The Program has a documented training plan that is consistent with NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs."

Status of Materials Inspection Program (2015 IMPEP: Satisfactory)

Technical Quality of Inspections (2015 IMPEP: Satisfactory)

The Program conducted four initial inspections, and 105 Priority 1, 2, or 3 inspections since the 2015 IMPEP review. None of the 109 inspections were conducted overdue.

The Program inspected more than 20 percent of all candidate licensees, as defined in IMC 1220, applying to work in the state under reciprocity in both 2015 (25%) and 2016 (36%).

Supervisory accompaniments of the inspection staff have been performed at least annually for all staff members since the 2015 IMPEP review. The Program reported that it is common for the manager and senior inspector to accompany the other inspectors more than once per year.

Technical Quality of Licensing Actions (2015 IMPEP: Satisfactory)

The Program currently has 90 specific licensees and completed a total of 235 licensing actions since the last review. Currently, there are no licenses in timely renewal.

The Program reported they follow the NRC's revised pre-licensing guidance when performing pre-licensing verifications and use the forms found in the NUREG-1556 series applicable to the specific license type. The Program performs pre-licensing site visits of all new applicants.

Technical Quality of Incidents and Allegations (2015 IMPEP: Satisfactory)

Since the 2015 IMPEP review, the Program reported four events to the Nuclear Material Events Database. The events involved an overexposure to a member of the public from radiography operations, a leaking sealed source, a lost portable gauge, and a radiography camera malfunction. All of the events have been reviewed and closed by the State.

Since the 2015 IMPEP review, five allegations involving North Dakota licensees were received by the Program. All five allegations have been investigated and closed by the State, with responses provided to the allegers, where appropriate. No allegations were referred from the NRC to North Dakota over the same period.

Compatibility Requirements (2015 IMPEP: Satisfactory)

The Department is authorized as the State's radiation control agency under the North Dakota Century Code Chapter 23-20. North Dakota adopts regulations by reference. All regulations are up-to-date. Part 37 regulations were effective in March 2016, and licensees were inspected shortly thereafter.

Current State Initiatives

- Establishment of the new cabinet level Department of Environmental Quality.

Current NRC Initiatives

- Revisions to NRC Management Directives (e.g., 5.6 IMPEP, 5.9 Adequacy and Compatibility)
- Revisions to State Agreements procedures (e.g., SA-100 IMPEP, SA-116 Periodic Meetings, SA-105, IMPEP Review of Incidents and Allegations)
- Category 3 source accountability
- Revisions to Inspection Manual Chapters (e.g., IMC 2800 Nuclear Materials Program - changing license renewals from 10 to 15 years)
- Proposed Rulemaking (e.g., 10 CFR 35, revisions to medical licensing requirements)
- Web-Based Licensing

CONCLUSIONS:

NRC staff recommends that the next IMPEP review be conducted as scheduled in June 2019.