



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

August 7, 2015

David J. Allard, CHP, Director
Bureau of Radiation Protection
Pennsylvania Department of
Environmental Protection
Rachel Carson State Office Building
P.O. Box 8469
Harrisburg, PA 17105-8469

Dear Mr. Allard:

A periodic meeting with you and your staff was held on June 2, 2015. The purpose of this meeting was to review and discuss the status of the Pennsylvania Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Daniel Collins, Lisa Dimmick, and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. 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) 337-5371 or via e-mail at Donna.Janda@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Donna M. Janda
Regional State Agreements Officer
Division of Nuclear Materials Safety
U.S. NRC Region I

Enclosure:
Periodic Meeting Summary for Pennsylvania

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF RADIATION PROTECTION

DATE OF MEETING: June 2, 2015

U.S. Nuclear Regulatory Commission (NRC) Attendees	Pennsylvania Department of Environmental Protection (Department) Attendees
Donna Janda, State Agreements Officer, Region I	David J. Allard, Director, Bureau of Radiation Protection (Bureau)
Daniel Collins, Director, Division of Nuclear Materials Safety, Region I	Keith Salador, Assistant Counsel
Lisa Dimmick, Senior Health Physicist, Agreement State Programs Branch, Office of Nuclear Material Safety and Safeguards	Joseph Melnic, Radiation Protection Program Manager, Radiation Control Division
	Bryan Werner, Radiation Protection Program Manager, Decommissioning & Surveillance Division
	Kristine Hoffman, Program Analyst, Bureau of Radiation Protection

DISCUSSION:

During the 2014 Integrated Materials Performance Evaluation Program (IMPEP) review of the Pennsylvania Agreement State Program (Program), the review team found the Commonwealth's performance satisfactory for all six indicators reviewed. The review team did not make any new recommendations regarding program performance. The review team determined that the recommendation from the 2009 IMPEP review, regarding the strengthening of Pennsylvania's incident response program, should be kept open.

On April 3, 2014, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Program. The MRB found the Program adequate to protect public health and safety and compatible with the NRC's program and determined that the next IMPEP review should take place in approximately five years. Based on a discussion of concerns regarding potential impacts of budget constraints on staffing in the Agreement State Program, the MRB directed that a periodic meeting be performed in one year with special emphasis on reviewing the Commonwealth of Pennsylvania's staffing and hiring status. This summary is a reflection of that periodic meeting.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

- Experienced and well-trained staff
- Good senior management support from Department administration
- Size of staff compared to other Agreement States of similar size
- Program fees are placed in a restricted fund which carries over each fiscal year

- Incorporation of NRC regulations by reference which enables the Program to focus resources on other priorities and keeps the Commonwealth's regulations current with NRC's regulations

Program Challenges

- Retirements and staff turnover continue to impact the Program
- Salary freezes for management (approximately 4.5 years) which affects "pay parity" between management and technical staff positions
- Availability of NRC training courses for new staff; currently have several staff on waiting lists for courses; the Program may conduct its own training courses if needed
- All out-of-state travel requests must be approved by the Governor's office (has not yet been a problem)

Feedback on the NRC's Program

The Program noted that there is good communication and support from NRC. The Program also appreciates the training courses and opportunities provided by NRC.

Organization

The Commonwealth has a new governor, new Department Secretary and an Acting Deputy Secretary. The Program has not been reorganized since the 2014 IMPEP review. The Pennsylvania Agreement State Program is administered by the Bureau, which is part of the Department. The Bureau is managed from the Central Office by the Bureau Director. The Bureau consists of four Divisions, three of which have responsibilities for radioactive materials under the Agreement: the Radiation Control Division, the Decommissioning and Surveillance Division, and the Nuclear Safety Division. On occasion, the Radon Division is called upon to support Agreement State activities or other radioactive materials work. Within the Radiation Control Division, the Radioactive Materials Section Chief directly supervises radioactive materials licensing activities. Inspection and compliance activities are conducted out of three Regional Offices located across the Commonwealth. Each Regional Office has a Radiation Protection Program Manager and Supervisor who directly supervise inspection and compliance activities in the Commonwealth.

Program Budget/Funding

The program is 100 percent fee funded. The money is placed into a restricted fund which is dedicated for Program use. The funds carry over each fiscal year.

Technical Staffing and Training (2014 IMPEP: Satisfactory)

At the time of the periodic meeting, there were 48 individuals with various degrees of involvement in the radioactive materials program. The Regional Offices devote approximately 19.5 full-time equivalents (FTE) to inspection, compliance and emergency response duties. In the Central Office, the Radioactive Materials Section devotes approximately 5.1 FTE to licensing activities, including supervisory duties. This does not include clerical or other administrative support staff. At the time of the periodic meeting, the Program had four technical staff vacancies, including two in the radioactive materials licensing area and one each in

radioactive materials inspection and compliance areas. Two additional vacancies include a Program Analyst position and the Decommissioning Section Chief position.

The Bureau Director noted that, at the time of the periodic meeting, the Commonwealth did not have a hiring freeze and that the number of staff was currently sufficient to complete work.

The meeting participants discussed the potential for retirements within the next four years for Department staff. The Department has projected that 17 out of 43 Bureau staff members in the Central Office are eligible to retire within the next 4 years. Eight of these staff members are currently eligible to retire. The number of eligible retirees includes all programs within the Bureau, not just the Agreement State program. The Regional Offices project that 13 staff members are eligible to retire within the next 4 years. Ten of these staff members are currently eligible to retire. The number of Regional staff eligible to retire includes both X-ray and radioactive materials staff members. Considering the potential retirements and other possible future vacancies due to attrition, the Program is concerned about knowledge management and succession planning and is working on options to address potential staff vacancies.

Status of Materials Inspection Program (2014 IMPEP: Satisfactory)

The Program reported it has conducted 392 Priority 1, 2, and 3 inspections since the last IMPEP review. None of these inspections were completed overdue. No inspections are currently overdue. The Program has completed 26 initial inspections, none of which were completed overdue. In addition, the Program has conducted 33 reciprocity inspections since the 2014 IMPEP review.

Technical Quality of Inspections (2014 IMPEP: Satisfactory)

The Program uses inspection procedures that are consistent with the inspection guidance outlined in IMC 2800. Inspection findings are routinely sent to licensees within 30 days of completing an inspection.

The Program has a policy to accompany all staff performing radioactive materials inspections on an annual basis. The Program reported that they are on target to complete supervisory inspection accompaniments for each materials inspector by the end of the calendar year.

Technical Quality of Licensing Actions (2014 IMPEP: Satisfactory)

At the time of the periodic meeting, the Program reported having 665 specific licensees. The Program has not received any complex licensing actions since the 2014 IMPEP review and reported no backlog in licensing actions. The Program noted that unconventional gas well drilling and pipeline construction activities in Pennsylvania have accounted for increased workload in addressing reciprocity requests. The Program discusses hydro-fracturing and technologically enhanced naturally occurring radioactive materials (TENORM) issues with the States of West Virginia, Ohio, Maryland, North Dakota, New York and Michigan on a regular basis.

Technical Quality of Incidents and Allegations (2014 IMPEP: Satisfactory)

One recommendation in this indicator remains open from the 2009 IMPEP review:

Recommendation: The review team recommends that the Commonwealth strengthen its incident response program to ensure that incidents are appropriately investigated and are promptly reported to NRC, as appropriate.

Status: The Program has reported 24 events since the 2014 IMPEP review. All reportable events were conveyed to the NRC in the appropriate manner. The Program indicated it conducts reactive inspections for all events reportable to the NRC within 24 hours. The Program ensures that root causes are determined for each event. Monthly meetings are held to review open incidents and allegations. Since the 2014 IMPEP review, the Program has made revisions to their internal event tracking spreadsheet to include the Nuclear Materials Event Database Item Number, the licensee's corrective actions, and root cause documentation.

The Program uses procedures equivalent to the NRC's allegation procedures for processing allegations. The Program tracks allegations in their Complaint Tracking System. The Program received and responded to 10 allegations since the last IMPEP review, including 1 allegation that was transferred by NRC.

Regulations and Legislative Changes (2014 IMPEP: Satisfactory)

Pennsylvania adopts NRC regulations by reference and uses Orders or other legally binding requirements such as license conditions as appropriate. Pennsylvania regulations "point" to the NRC regulations in Title 10 CFR and incorporate by reference appropriate Parts and Sections. If NRC develops a new regulation section, such as the requirements for physical protection of byproduct material in 10 CFR Part 37, Pennsylvania must create a new section in its regulations which points to the NRC part. The Program is working on creating a pointer to Part 37 as part of a larger amendment package. Pennsylvania plans to have final regulations implemented by the due date of March 19, 2016; however, if needed, the Program plans to use an NRC-approved license condition to adopt the NRC's Part 37 by reference until final regulations are promulgated.

The Program's administrative rulemaking process takes approximately two years from the development stage to the final approval stage. This process includes two rounds of review and public comment.

CONCLUSIONS:

The Program continues to be an effective, well maintained Agreement State program. There are five staff level vacancies at this time. The Program continues to address the one recommendation held open from the 2009 IMPEP review. The Program is effectively managing its licensing and inspection activities and responds to incidents and allegations as appropriate.

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