



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I**
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

November 28, 2012

Marissa J. Levine, MD, MPH
Deputy Commissioner
Virginia Department of Health
109 Governor Street
Richmond, VA 23219

Dear Dr. Levine:

A periodic meeting with your Commonwealth was held on November 8, 2012. The purpose of this meeting was to review and discuss the status of the Virginia Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Daniel Collins, Duncan White 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) 337-5214 or via e-mail at Monica.Orendi@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Monica Lynn Orendi
Regional State Agreements Officer
Division of Nuclear Materials Safety
U.S. NRC Region I

Enclosure:
Periodic Meeting Summary for Virginia

cc w/encl.: Michael Cline, State Coordinator
Virginia Department of Emergency Management

Steve Harrison, Director
Virginia Department of Health
Division of Radiological Health

Michael Welling, Assistant Director
Virginia Department of Health
Radioactive Materials Program

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
VIRGINIA DEPARTMENT OF HEALTH'S
DIVISION OF RADIOLOGICAL HEALTH

DATE OF MEETING: November 8, 2012

NRC Attendees	Virginia Department of Health Attendees
Monica Orendi, Region I RSAO	Marissa J. Levine, MD, MPH, Deputy Commissioner
Daniel Collins, Deputy Director, Region I	Steve Harrison, Director, Division of Radiological Health
Duncan White, Branch Chief, Office of Federal and State Materials and Environmental Management Programs	Michael Welling, Assistant Director, Radioactive Materials Program

DISCUSSION:

During the 2010 Integrated Materials Performance Evaluation Program (IMPEP) review of the Virginia Agreement State Program (the Program), the review team found the Commonwealth's performance satisfactory for all six performance indicators applicable to the Program. The review team made one recommendation. On January 31, 2011, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Virginia Agreement State Program. The MRB found the Program adequate to protect public health and safety and compatible with 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 four years and that a periodic meeting be held in approximately two years from the date of the November 2010 IMPEP.

The following is the status summary of the Commonwealth's actions to address the open recommendation from the November 2010 IMPEP report:

1. The review team recommended that the Commonwealth implement, use, and update the licensing and inspection qualification journals for each staff member.

Status: Since the November 2010 IMPEP, the Program has implemented and started to use licensing and inspection journals for the staff. The Program noted that the journals, at the time of the periodic meeting, were not completely up to date and that the newest staff member had not yet received a qualification journal.

OTHER TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

The Program has an experienced and well-trained staff. One of the technical staff is a certified health physicist. Three technical staff and the Assistant Director of the Program came from other Agreement State Programs. Two technical staff work from their homes which allows for quicker response times to incidents occurring at licensees in those areas five to six hours away

Enclosure

from the Program office. Program management is able to interact with the remote staff on a daily basis through email and phone communication. The remote staff are also brought to Richmond on an as needed basis (roughly quarterly).

Program Weaknesses

Although the Program believes that having staff located out of their homes in different regions is a strength, they also feel that this is a Program weakness. Having staff present at alternate locations can make the licensing process less efficient. All paperwork has to be scanned and then emailed to the staff member performing the work. This adds an additional workload to staff in the main office and can increase the length of time it takes to process an action.

Feedback on the NRC's Program

The Program Director commented that both the overall relationship and communications with the NRC are good. The Program Director also felt that information sharing between the two agencies went smoothly and efficiently.

Agreement State Program Staffing and Training

The Program staff currently consists of four full time technical staff, one hourly/ wage based technical staff, 2 administrative staff (one full time and one hourly), and a program manager. The hourly/wage technical staff position is in the process of being converted to a full time position. This has been approved and should be in place by the next IMPEP review. The Program has increased its staffing level by one full time equivalent since the last IMPEP. The program director that held the position during the 2010 IMPEP review has retired. The position was posted and subsequently filled in June 2012. No other staff turnover has occurred since the 2010 IMPEP review. Two of the five technical staff are still in the qualification process. One of the individuals is fully qualified to do all inspection and licensing activities except for Increased Controls and irradiator inspections and the other technical staff member is at the beginning of his qualification process. According to the Program Director, the number of FTE in the radioactive materials program is adequate when the Program is fully staffed. Support for staff training exists in the Program. Program staff has attended NRC and other training courses. The Program also does in house training and has junior staff accompany senior staff to aid in the learning process.

Organization

The Virginia Agreement State Program is located in the Division of Radiological Health of the Office of Epidemiology within the Virginia Department of Health under the Deputy Commissioner for Public Health.

Program Budget/Funding

The Program Director stated that the Program is 100 percent fee funded. The funds are placed into a restricted fund for the Radioactive Materials Program. Although the money is placed into a restricted fund the Program does face some challenges and needs approval before using the money for purchases. At the end of November the current fee schedule in VA is being lowered

for 22 fee categories. The Program currently has a budget surplus and the lowered fees will not impact the Department's ability to fund the program.

Inspection and Licensing Programs

The Program's inspection frequencies are at least as frequent as NRC's. Four inspections, one priority one and three priority three inspections, are currently overdue. At the time of the periodic meeting the Program was unsure of how many inspections had been completed overdue since the 2010 IMPEP review. The Program uses a form similar to NRC's form 591 to be able to issue clear inspection findings in the field.

The Program currently has approximately 420 specific licenses. The Program has completed 623 licensing actions since the 2010 IMPEP. The Program currently has 56 licensing action in house the longest of which is a renewal that has been pending since June 2009. The Program has implemented maximum possession limits for all of its licenses and is using pre-licensing guidance for new license applications.

Regulations and Legislative Changes

The Commonwealth adopts some NRC regulations by reference and uses its own rule text to adopt the other required regulations. The Virginia regulatory process typically takes a minimum of two years to complete. Virginia does have a fast track method where is a regulation has been vetted through the federal process it does not need to go out for public comment and the process can then be completed in approximately one year. At the time of the periodic meeting the Program had no overdue regulations due for adoption. There have been no legislative changes since the 2010 IMPEP review which affect the Virginia Agreement State program.

Event Reporting

The Program has reported 16 events to the NRC since the 2010 IMPEP review. Follow up information for all events reported by the Program are included in the Commonwealth's NMED entries. It was noted that there were a few NMED entries requiring additional information from the Program to close out the NMED item. This was brought to the Program's attention during the periodic meeting and the Program stated that they would work on resolving those issues.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations. No allegations were referred from NRC to the Program and the Program did not receive any allegations since the 2010 IMPEP review.

Current State Initiatives

Virginia is in the process of investigating whether the moratorium on uranium mining should be lifted. A Uranium Working Group (UWG) was established and has been meeting since January, 2012 to study this issue. The UWG is expected to complete its final report and submit it to the

Governor's Office by December 1, 2012 and the Governor's Office is expected to present the report to the Coal and Energy Commission for their consideration in mid-December. The General Assembly will convene in January, 2013 for a 45 day session. A decision on whether or not to lift the moratorium is anticipated to be made at that time. Currently no decision has been made on whether Virginia would request to amend their Agreement with the NRC if the moratorium is lifted.

Emerging Technologies

The Program has two licensees using radium-223 as part of an investigational new drug protocol.

Large, Complicated, or Unusual Authorizations for Use of Radioactive Material

The Program received a request from a university licensee to conduct research on radiation under a contract from NASA. The Program is working with the licensee to understand the scope and nature of the research.

State's Mechanisms to Evaluate Performance

The Assistant Director for Radioactive Materials accompanies all inspectors on an annual basis. The Program management and staff meet on a quarterly basis. The Program does not have a mechanism in place to fully evaluate its performance outside of the IMPEP review. Program management agreed to consider implementing a mechanism in the future.

CONCLUSIONS:

The Virginia radioactive materials program continues to be an effective Agreement State program with an experienced and well-trained staff. There are no vacancies in the Program at this time. The Program is effectively managing its licensing and inspection activities.

NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2015 (tentatively November 2014).