



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

July 26, 2016

David B. Jansen, Director
Office of Radiation Protection
Department of Health
111 Israel Road, SE
P.O. Box 47827
Olympia, WA 98504-7827

Dear Mr. Jansen:

A periodic meeting with you and your staff was held on May 26, 2016. The purpose of this meeting was to review and discuss the status of the Washington Agreement State Program. The U.S. Nuclear Regulatory Commission was represented by Linda Howell, Deputy Director, Division of Nuclear Materials Safety 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 has been scheduled for August 30, 2016 at 1:00 p.m. (EST). Call in information for the MRB will be provided 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) 200-1143 or via e-mail at Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Randy R. Erickson
State Agreements Officer
Division of Nuclear Materials Safety

Enclosure:
Periodic Meeting Summary

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
WASHINGTON DEPARTMENT OF HEALTH
DATE OF MEETING: MAY 26, 2016

U.S. Nuclear Regulatory Commission (NRC) Attendees	Washington Department of Health Attendees
Randy Erickson, State Agreements Officer, Region IV	David Jansen, Director Office of Radiation Protection
Linda Howell, Deputy Director, Division of Nuclear Materials Safety, Region IV	Earl Fordham, Eastern Deputy Director Office of Radiation Protection
	Chris Williams, Western Deputy Director Office of Radiation Protection
	Craig Lawrence, Supervisor Materials Section Office of Radiation Protection
	Mikel Elsen, Supervisor Waste Section Office of Radiation Protection
	Nine additional Office of Radiation Protection Staff Members

DISCUSSION:

The Washington Agreement State Program (Program) is administered by the Office of Radiation Protection in the Division of Environmental Public Health. The Division is part of the Department of Health.

The previous IMPEP review (ML13212A225) was conducted the week of May 6-10, 2013. At the conclusion of the review the team found Washington's performance to be satisfactory for all performance indicators reviewed. The review team made one recommendation regarding program performance by the State which is discussed later in this report. Accordingly, the review team recommended, and the MRB agreed, that the Washington Agreement State Program be found adequate to protect public health and safety and compatible with the U.S. Nuclear Regulatory Commission's (NRC) program. The team recommended that the next full IMPEP review take place in four years and have a periodic meeting in one year in order to monitor the Office's transition to a new director. The MRB believed that the next review should be held in five years but agreed that the Periodic Meeting could be held in one year. That periodic meeting was held with the Program on May 6, 2014 (ML14189A007).

Program Challenges

An objection was raised by a licensee regarding Washington's unannounced inspection program. Washington is continuing to conduct inspections while examining options to ensure that unannounced inspections can be fully supported. One option they discussed was placing a statement on all applications for licenses which grants the agency permission to inspect under their existing regulations for conducting inspections. Other options are also being considered.

The Program reported that the primary challenge facing them today is succession planning. Currently they have between 3 and 4 senior staff who plan to retire by the time of the next IMPEP review in 2018. They are developing plans on how to deal with the rapidly approaching loss of experience and knowledge.

During the 2014 Periodic Meeting, the Program was concerned about how to retain experienced staff. Some had left the Program and while they had been able to rehire qualified individuals, they had concerns about their ability to continue to effectively fill vacancies. Prior to the 2014 Periodic Meeting, they had also lost their database manager, which when it happened was considered a short term setback for the Program, but the position now no longer exists and that individual's duties have been spread across the technical staff adding to their workload.

Feedback on NRC's Program

The Program expressed their appreciation for NRC sponsored training and they really like NRC's use of webinars to minimize out of state travel and make it possible to provide training to more staff. The Program noted that webinars are often held too early for the west coast states. The Program asked NRC to keep that in mind when scheduling webinars.

The Program appreciated their communication with NRC through the State Agreement Officer. They noted their needs are handled quickly, getting them the information they needed when they needed it.

The Program also commented on NRC providing excellent licensing guidance, specifically for some of the more complex licensing issues that have come up.

The Program also discussed the possibility of hosting certain NRC courses in Washington. A discussion was held regarding how NRC now conducts training courses and that most of the courses that were previously able to be held in other locations are not necessarily able to be held in other locations any longer for various reasons, not withstanding current travel restrictions.

Program Reorganizations

There have been no reorganizations since the 2013 IMPEP review.

Program Budget/Funding

The Program reported that revenue has been dropping off as some licensees are terminating their licenses and many medical facilities are consolidating licenses. At the present time the budget has not had a negative impact on the Program. Their last fee increase was in 2008. Currently they are proposing an across the board fee increase and adjusting the fee structure. In the future they have plans to completely restructure the fee structure as it is known today.

Technical Staffing and Training (2013 IMPEP: Satisfactory)

The Washington Program is managed by the Office Director and two Deputy Directors with responsibility for six sections. One Deputy Director is located in the Olympia Office and is responsible for the operations of the X-Ray and Emergency Response Sections. The other Deputy Director is stationed in the Richland Office and is responsible for the Air Emissions, Environmental Sciences, Materials and Waste Sections.

At the time of the meeting, the Program had a total of 10 technical positions dedicated to the radioactive materials program. Since the 2013 IMPEP review, they hired two individuals to replace two others who had left. They currently have one vacancy.

The Program has a documented training plan consistent with NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs." A discussion was held to clarify the 24 hour continuing education requirement and the various ways that this requirement can be met.

Managers asked if they were required to send their staff to NRC courses to qualify them as inspectors or license reviewers. A discussion was held to explain that while a program needs to have qualification requirements that are similar to those listed in IMC 1248, they are not specifically required to send their staff to NRC courses to qualify them. Qualification of staff is a management decision and needs to be based on an individual's education, training and work experience. How that is achieved is up to the Program. What they need to have is a documented training program and then follow it. It was explained that if a staff member were to come to the Program with training or work experience that is equivalent to, or surpasses that of an NRC course, management can use their discretion to waive attending a training course in lieu of that training and/or work experience. They could also chose to send a staff member to any number of alternate training courses. They just need to fully document how that decision was made.

Subsequent to the meeting, the Program was provided with a guidance document entitled, "*NRC/OAS TRAINING WORKING GROUP RECOMMENDATIONS FOR AGREEMENT STATE TRAINING PROGRAMS*" which details methods agreed upon by NRC and the Organization of Agreement States (OAS) for alternative methods for training. This document was previously used under the former IMC 1246 for the period of time when NRC was not funding Agreement State training.

Status of Materials Inspection Program (2013 IMPEP: Satisfactory)
Technical Quality of Inspections (2013 IMPEP: Satisfactory)

The Materials Section conducted 282 Priority 1, 2, and 3 inspections since the 2013 IMPEP review. None were conducted overdue. In addition, the Program performed 14 initial inspections over the same period. None were performed overdue.

The Program reported that they also performed more than 20 percent of all reciprocity notifications in each year since the previous review.

The Program reported that they are meeting the 30 day goal of forwarding inspection findings to licensees following an inspection.

The Materials Section Supervisor accompanies each Health Physicist annually and each Program Manager (seniors in the major program areas) every other year. In the interim years, Program Managers performed peer accompaniments of each other. The Materials Section used this system to afford the Program Managers the benefit of being accompanied by senior staff members and accompaniments by the Materials Section supervisor. This method for annual supervisor accompaniments has been in place for years.

Technical Quality of Licensing Actions (2013 IMPEP: Satisfactory)

The Program currently has 336 specific licensees which is down from 390 at the time of the 2013 IMPEP review. The Materials Section completed a total of 917 licensing actions since the 2013 IMPEP review. License renewals occur at 5 year intervals. The Program currently has 15 licenses under timely renewal.

The Materials Section performs pre-licensing checks on all new applicants. The Materials Section has a policy of hand delivering all new licenses. Each applicant is subject to an onsite evaluation of their radiation safety and security programs prior to license receipt. This practice ensures that applicants have adequate radiation safety and security programs in place prior to the licensees' taking possession of radioactive material. This also serves as the pre-licensing visit. This practice has not changed since the 2013 IMPEP review.

Technical Quality of Incidents and Allegations (2013 IMPEP: Satisfactory)

When notified of an incident or an allegation, the Materials Section Supervisor and staff discuss the initial response and the need for an on-site investigation. If the incident meets one of the reporting thresholds identified in SA-300, the Materials Section notifies the NRC Headquarters Operation Officer (HOO) and opens a case in NMED. Regardless of whether or not an event meets HOO reporting requirements, all incidents are reported to the NMED database.

At the time of the meeting the incident staff had reported 21 events to the NMED database since the 2013 IMPEP review. At the time of the meeting, 13 events were still open.

The Program received six allegations since the 2013 IMPEP review. Four allegations were reported directly to the Program and two allegations were received from NRC. NRC also referred two misdirected calls to the Program.

Regulations and Legislative Changes (2013 IMPEP: Satisfactory)

The Program's regulations for control of radiation are found in the Washington Administrative Code and apply to all radioactive materials and devices designed to produce radiation. Washington's radiation regulations are not subject to any "sunset" laws. There have been no significant legislative changes affecting the Program since the 2013 IMPEP review.

At the time of the 2013 IMPEP review, no regulations were overdue for adoption. At the time of the 2016 Periodic Meeting, two regulations due for adoption on 8/16/15 and 10/23/15 respectively (RATS IDs 2012-3 and 2012-4) were with NRC for a final compatibility review. RATS ID 2013-1 (Part 37) was working its way through the Washington rulemaking process. Washington passed an emergency rulemaking to meet the Part 37 adoption deadline, but that emergency rulemaking expired in 120 days. On July 15, 2016, Washington adopted their Part 37 rules. There was no gap between expiration of the emergency rulemaking and adoption of the final rule. There are still two comments on the rule to be resolved. That will be submitted in a future rulemaking.

Sealed Source and Device Evaluation Program (2013 IMPEP: Satisfactory)

At the time of the 2013 IMPEP review the Washington Program had five staff who were qualified to perform SS&D reviews. That number was the same during the 2016 Periodic Meeting. Management pointed out that four of those individuals are likely to retire prior to the 2018 IMPEP review. Managers inquired about when the next SS&D training course would be held because of this anticipated need to get additional staff trained prior to the departure of these individuals. The next SS&D course is anticipated to be held in 2017 which should help the Program meet this need.

The Program reported they currently have 22 SS&D Registrations for nine manufacturers. Seven of those are active and 15 need to be inactivated. Since the 2013 IMPEP review they have completed two amendments for one iodine seed manufacturer.

At the time of the 2013 IMPEP review, the team found that the Program did not have a process in place for evaluating the root causes of radioactive materials incidents involving SS&D registered by the State and to identify potential generic issues. They relied on the manufacturer or distributor of the sources or devices to notify the State of any generic issues. The team discussed with the Program the importance of conducting an independent assessment of incidents for generic issues due to the national implications of the sealed sources or devices being distributed across the country. The review team noted that the State has a responsibility to notify its licensees and co-regulators of potential generic issues with sealed sources and devices issued by the State.

Because of this the 2013 IMPEP team made one recommendation for the State. That recommendation was reviewed during the 2014 Periodic Meeting and again during the 2016 Periodic Meeting.

The current status of the recommendation identified during the 2013 Washington final IMPEP report is summarized below.

- The review team recommends that the State implement a process to ensure that radioactive material incidents involving sealed sources and devices registered by the State are periodically and independently assessed by the State for generic issues and that any potential generic issues are communicated to licensees and fellow regulators in a timely manner. (Section 4.2.3 of the 2013 IMPEP Report)

Current Status: The Program reported they added a license condition to their own license requiring the review and implemented a process where one staff member performs six month reviews to ensure that radioactive material incidents involving sealed sources and devices registered by the State are periodically and independently assessed for generic issues and that any potential generic issues are communicated to licensees and fellow regulators in a timely manner.

This process began immediately following the 2013 review. The individual initiating the process reviews NMED events to see if any of the events involve devices approved by Washington. To date they have not found any that have, but when they do, they will follow the process and evaluate any potential generic issues and provide that information to fellow regulators and licensees. A second staff member verifies that the review has been conducted timely and according to the established process.

LLRW/UR Technical Staffing and Training (2013 IMPEP Rating: Satisfactory)

The Waste Section currently has five full-time and part-time technical, managerial, and administrative staff members devoted to the LLRW program. The LLRW program is also supported by the Environmental Sciences Section, the Materials Section, and the Air Emissions Section. The staff that currently supports the LLRW program includes the Waste Section Supervisor, an administrative assistant, and staff members with diversified backgrounds in health physics, engineering, and earth sciences. Since the 2013 IMPEP review, four staff have left the Section, two have been replaced and they currently have two vacancies. While during the 2013 IMPEP review, the Section believed they had adequate staffing, but due to changes in workload they now believe they could use one additional staff member in the Waste Program.

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

The Section reported that two staff are devoted to the uranium recovery program to perform inspections and licensing activities for the Dawn site. Staff have a wide range of technical expertise including health physics, engineering, geohydrology, and geochemistry.

LLRW/UR Status of the Inspection Program (2013 IMPEP Rating: Satisfactory)
LLRW/UR Technical Quality of Inspections (2013 IMPEP Rating: Satisfactory)

The Program reported that the disposal site is inspected annually. Module inspections are performed quarterly which by the end of the year completes their annual inspection. The Program reported that they are not behind on inspections and that since the 2013 IMPEP review, none were conducted overdue. Inspection findings are typically conveyed to the licensee at the completion of the inspection.

The Program reported that the Waste Section also performs both annual radiation safety inspections of the Dawn Mining facility. The inspections cover all aspects of the uranium recovery program. They also perform routine field inspections throughout the year. At the time of the 2013 IMPEP review the Program had no overdue inspections. The Program did not have any overdue inspections at the time of the 2016 Periodic Meeting. Inspection findings are typically issued to licensees within 30 days following completion of the inspection.

The Waste Section supervisor performs annual inspector accompaniments of each of the inspectors in both the waste and uranium recovery program areas.

LLRW/UR Technical Quality of Licensing (2013 IMPEP Rating: Satisfactory)

The Program reported that the Waste Section currently has five licensees holding seven licenses. Since the 2013 IMPEP review, they have received 11 licensing actions for those licensees. All licensing actions have been or are being handled in a timely manner.

LLRW/UR Technical Quality of Incidents and Allegations (2013 IMPEP Rating: Satisfactory)

The Program reported that since the 2013 IMPEP review they have not received any reports of incidents nor have they received any allegations in either the waste or uranium recovery programs. They have appropriate procedures in place for handling incidents and allegations.

Information Exchange

Current State Initiatives

Program managers presented several initiatives ongoing within the Department. These included:

- The Program has purchased tablets for the inspection staff and is moving towards integrating field automation tools into how they do business.
- The Program continues to explore options for how to effectively obtain permission from licensees to perform unannounced inspections.

- The Program is considering options for how to restructure their fees to allow them to deal with declining revenue sources.
- The Program is completing the transfer of control of US Ecology from the Department of Ecology to the Department of Health.

Current NRC Initiatives

NRC managers presented several initiatives ongoing at NRC. These included:

- Project AIM 2020
- Rebaselining
- Management Changes
- Staff Consolidations
- Leaving of Commissioner Ostendorf
- Agreement State training
- Changing licensing renewals from 10 to 15 years
- Proposed Rulemaking
- Revising Inspection Manual Chapter (IMC) 2800

CONCLUSIONS:

NRC staff recommends that the next IMPEP review be conducted as scheduled in May 2018.