UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
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September 28, 2005

Roland Fletcher, Manager
Radiological Health Program
Air and Radiation Management Administration
Maryland Department of the Environment
1800 Washington Boulevard, Suite 705
Baltimore, MD 21230-1724

Dear Mr. Fletcher :

A periodic meeting with Maryland was held on August 31, 2005. The purpose of this meeting was to review and discuss the status of Maryland's Agreement State program. Specific topics and issues of importance discussed at the meeting included program strengths, staffing and training, performance of licensing and inspection activities, incidents and allegations and the updating of regulations for compatibility.

I have completed and enclosed a general meeting summary, including an action item identified during the meeting.

If you feel that my conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at 610-337-5358 or email to sam9@nrc.gov to discuss your concerns.

Thank you and your staff for the exchange of information.

Sincerely,

/RA/

Sheri Minnick
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure:
1. Agreement State Meeting Summary for Maryland

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR MARYLAND

DATE OF MEETING: August 31, 2005

ATTENDEES:

NRC
Sheri Minnick, RSAO, Region I
Steve Salomon, STP
Jennifer Tobin, STP

STATE
Angelo Bianca, Deputy Director, Air and Radiation Management Administration
Roland Fletcher, Program Director
Ray Manley, Radioactive Materials Licensing & Compliance Division
Alan Jacobson, Supervisor, Inspection Section
Barbara Park, Supervisor, Licensing Section

BACKGROUND:

A meeting was held with the Maryland representatives on August 31, 2005, in Baltimore, Maryland. The topics listed in NRC letter dated June 8, 2005 (ML 051590077), to Mr. Fletcher were discussed. Details for each area are discussed below.

The previous IMPEP review was conducted during the period of July 21-25, 2003, during which three recommendations were made by the team. The Management Review Board met on November 10, 2003, concurred on the team's findings, and found the Maryland program (the program) adequate to protect public health and safety and compatible with the Nuclear Regulatory Commission's program. The program's progress on the 2003 IMPEP recommendations was discussed and is summarized below.

SUMMARY OF ACTION ON 2003 IMPEP RECOMMENDATIONS:

1. Recommendation:

   The review team recommends that the State fill the current vacancies in the program as soon as possible.

   Status:

   The program currently has two unfilled vacancies. One inspection position has been approved by the Maryland legislature. Candidates have been interviewed and the selection is expected by the end of September 2005. One licensing position is currently under the approval process in the legislature and is expected to be approved by October 2005. (See DISCUSSION Section for details)

   This recommendation remains open.

2. The review team recommends that the program implement an action plan to ensure that core inspections, including initial inspections, are performed in accordance with NRC inspection priorities.

   Status:

   The program has been successful in implementing actions to ensure that no core inspections, including initial inspections, are overdue. The program's inspection priorities are generally the same as those listed in NRC Manual Chapter (MC) 2800, with some being more restrictive. (See DISCUSSION Section for details)

   It is recommended that this item be closed at the next IMPEP review.

3. The review team recommends that the program conduct an appropriate evaluation of all licensing actions involving name changes and possible change in ownership/control.

   Status:

   The program has been successful in implementing actions to ensure that all licensing actions involving name changes and possible changes in ownership/control are reviewed. The program developed and implemented new licensing guidance which includes a flowchart, written instructions, and licensing tracking forms. (See DISCUSSION Section for details)

   It is recommended that this item be closed at the next IMPEP review.

DISCUSSION:

The Radiological Health Program consists of two Divisions, the Radioactive Materials Licensing & Compliance Division (the Division) and the Radiation Machines Division. The Division implements the radioactive materials program, and consists of the Inspection Section and the Licensing Section. The Division currently has 609 specific licenses. The Licensing Section is responsible for processing license applications for the use of radioactive material and for performing sealed source and device (SS&D) evaluations. The Licensing Section and the Inspection Section each have authorization for one supervisor and three staff members. At the time of the last IMPEP, there were two vacancies in the Division; the Division Chief and one inspector. The program filled the Division Chief position with the Licensing Supervisor, and backfilled the Licensing Supervisor position with a license reviewer, thus shifting the two vacancies to one inspector and one license reviewer.

The statewide hiring freeze has had a negative impact on maintaining staffing levels in the program, requiring each position to be granted an exemption by the legislature. One inspection position has been approved by the legislature. Candidates have been interviewed and the selection is expected by the end of September 2005. One licensing position is currently under the approval process in the legislature and is expected to be approved by October 2005. These additional staff members will fill current vacancies in the program. The program is also seeking approval for two additional positions in 2007 to accommodate the increased workload due to enhanced security measures and increase in number of licensees.

Despite the two vacancies, the Program Director reported that the program has no overdue core inspections greater than 25% of the inspection frequency, no overdue initial inspections, and licensing continues to be completed in a timely manner. In addition, the program has completed required security inspections under the 274i Agreement, after training two staff members through attendance at the NRC Security course in Albuquerque, New Mexico. Although the program anticipates that routine activities will continue to be done in a timely manner, the Program Director expressed concern that the program would be challenged to maintain current activities if they do not obtain additional staff.

The program requested an allowance for increasing the inspection interval for initial inspections. The program believes that resources could be better utilized if performance of initial inspections occurred within 18 months of the date of license issuance, instead of 12 months as listed in MC 2800. Reasons given for this request include, but are not limited to: 1) all licensees receive a pre-licensing visit; 2) every new license granted includes a license condition that requires notification upon first receipt of radioactive material; 3) limited implementation of program activities results in limited inspection of the program.

Actions were implemented to ensure that all licensing actions involving name changes and possible changes in ownership/control are reviewed. The program developed and implemented new licensing guidance which includes a flowchart, written instructions, and licensing tracking forms. Copies of the guidance were reviewed. Licensing actions are discussed as a team on a routine basis.

The program discussed the current status of inspection and licensing of Neutron Products, Inc. (NPI). This licensee continues to have an impact on resources of the program.

The program's funding structure has changed in that it no longer receives any money from the state's general fund. The program is now supported completely from the Radiation Control Fund, which is 100 percent license fee funded. The program last updated fees to licensees in August 2004 requiring a 47 percent increase, new fees for SS&D applications, and general licensee fees.

The mechanism for reporting events, what events to report, the timeliness of reporting, completeness of the reports, and closing out reports was discussed. Upon review of the NMED system, and the NRC Operating Events, the reports show that events are being appropriately reported and documented to NRC and the NMED system. The program appears to take an appropriate level of response in responding to events.

Allegations are appropriately processed on a case-by-case basis, and follow-up inspections are conducted as needed. There have been two allegations referred to the state since the last review. In both cases, the alleger received a follow-up call from the state and the allegations settled appropriately. The program has been responsive to Regional requests when replies or actions were needed to close out allegations or deal with other requests for information.

STP's procedures for reviewing proposed state regulations, the regulation amendments needed for adequacy and compatibility, and the availability of the regulations on

the NRC bulletin board were briefly discussed. The program is receiving NRC regulation changes as published and distributed. The Regulation Assessment Tracking System (RATS) data sheet for Maryland was reviewed, as updated July 2005, and showed that four regulations were overdue for adoption. Those amendments encompassed in RATS 2000-2 (New Dosimetry Technology), 2001-1 (Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material), and 2002-1 (Revision of the Skin Dose Limit) are overdue for adoption. The regulations are currently in final form and are being made effective via the state's legislative process. The date of issuance is expected to be the end of October 2005. Maryland regulations corresponding to "Medical Use of Byproduct Material-Parts 20, 32, 35" (RATS 2002-2) is currently being discussed and amended in the state's regulation committee. Submission to the NRC is expected in the next year. The three amendments for future adoption are on the agenda for regulation committee review.

The program reported that their strengths include: an increase in congressionally allocated funds for new, state-of-the-art equipment; efficient, well-trained, experienced staff; good relationships with both the licensees and the NRC; successful completion of 274i Agreement including adoption of new safeguards considerations; an e-mail system for reciprocity agreements; and an increase in the number of administrative and support staff.

The program reported that their weaknesses include: shortage of technical staff; the large amount of time spent on NPI litigation; and the difficulty in participation in OAS/CRCPD activities (e.g., collaborative working groups) due to the small number of staff.

The next Maryland IMPEP review is currently scheduled for the 2007 fiscal year.

CONCLUSION:

All of the IMPEP Indicators were discussed and no performance issues were identified.

The Maryland program has effective management and well-trained technical staff. The program continues to have staffing challenges, although two vacancies (one inspector and one license reviewer) are expected to be filled by the end of the calendar year. The program has been successful in implementing actions to address two recommendations from the 2003 IMPEP. Specifically, they have ensured that inspections are being completed in accordance with the priorities listed in MC 2800 and that all licensing actions involving name changes and possible change in ownership/control are properly evaluated. The program does not currently have any inspection or licensing backlogs.

ACTION ITEM:

The program requested an allowance for increasing the inspection interval for initial inspections. The program believes that resources could be better utilized if performance of initial inspections occurred within 18 months of the date of license issuance, instead of 12 months as listed in MC 2800. Reasons given for this request include, but are not limited to: 1) all licensees receive a pre-licensing visit; 2) every new license granted includes a license condition that requires notification upon first receipt of radioactive material; 3) limited implementation of program activities results in limited inspection of the program.

The program will be prepared to discuss the issue before the Management Review Board.