



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
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KING OF PRUSSIA, PA 19406-2713

September 9, 2020

Cynthia L. Becker, Chief
Bureau of Radiation Control
Florida Department of Health
4052 Bald Cypress Way, Bin C21
Tallahassee, FL 32399-1741

Dear Ms. Becker:

A periodic meeting with you and your staff was held virtually on July 15, 2020. The purpose of this meeting was to review and discuss the status of the Florida Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Joseph Nick, Deputy Director, Division of Nuclear Materials Safety, U.S. NRC Region I and me.

I have completed and enclosed a general meeting summary. If you feel that summary and its conclusion do not accurately reflect the meeting discussion or have any additional remarks about the meeting in general, please contact me at (610) 337-5143 or via e-mail at Farrah.Gaskins@nrc.gov to discuss your concerns.

Sincerely,

Farrah C. Gaskins
Regional State Agreements Officer
Division of Nuclear Materials Safety
U.S. NRC Region I

Enclosure:
Periodic Meeting Summary for Florida

cc w/encl.: Kevin Kunder, Administrator
Radioactive Materials Program

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NAME	FGaskins		JNick (by email)		FGaskins	
DATE	8/ 11 /2020		9/03/2020		9/09/2020	

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Enclosure



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF FLORIDA

TYPE OF OVERSIGHT: NONE

July 15, 2020

FINAL

Enclosure

PERIODIC MEETING PARTICIPANTS

NRC

- Raymond Lorson, Deputy Regional Administrator, Region I (entrance only)
- Joseph Nick, Deputy Director, Division of Nuclear Materials Safety, Region I
- Farrah Gaskins, Regional State Agreements Officer, Region I

Florida Department of Health Attendees

- Doug Woodlief, Division Director, Division of Emergency Preparedness and Community Support (entrance only)
- Cynthia Becker, Chief, Bureau of Radiation Control
- Kevin Kunder, Administrator, Radioactive Materials Program
- Michael Stephens, Environmental Health Program Consultant
- Jorge Laguna, Inspection Administrator

Florida Periodic Meeting Summary

1.0 INTRODUCTION

This report presents the results of the periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the State of Florida. The meeting was held on July 15, 2020. The meeting was conducted in accordance with the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The Florida Agreement State Program (the Program) is administered by the Bureau of Radiation Control (BRC), which is part of the Division of Emergency Preparedness and Community Support within the Department of Health. The Program is managed by the Bureau Chief, the Radioactive Materials Program Administrator, and the Field Operations Administrator. No changes to the organizational structure of the Program have occurred since the 2019 IMPEP review.

At the time of the periodic meeting, the Program regulated approximately 1502 specific licenses authorizing possession and use of radioactive materials. The meeting focused on the radioactive materials program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of Florida. The Program is 100 percent fee funded. The Program's fiscal year runs July 1 - June 30.

The Program underwent an Integrated Materials Performance Evaluation Program (IMPEP) review in June 2019. A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on September 17, 2019. The MRB agreed with the team's findings that the Program's performance was satisfactory for five indicators, satisfactory but needs improvement for one indicator, and unsatisfactory for one indicator. Three recommendations regarding program performance were made within the indicators Technical Quality of Inspections, Technical Quality of Licensing Actions, and Legislation Regulations, and other Program Elements. Overall, the MRB found the Program adequate to protect public health and safety but needs improvement and not compatible with the NRC's program. The MRB directed that two periodic meetings be held; one in June 2020 and another in June 2022 and that the next full IMPEP review be held approximately in June 2023.

2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC regional and Agreement State radioactive materials programs during an IMPEP review. These indicators are (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities. Each of these indicators was discussed during the July 2020 periodic meeting.

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2.1 Technical Staffing and Training (2019 IMPEP review: Satisfactory)

The Program is comprised of 30 full time equivalents (FTE) which includes 54 technical staff. This is about the same since the 2019 IMPEP review. The Program has undergone several staffing changes since the 2019 IMPEP. For example, the Program reclassified a vacant Environmental Specialist III position to an Environmental Consultant position. This position was reclassified from the Environmental Specialist III located in the Fort Myers/Tampa field operations area vacated by a retirement. In addition, the Program moved the vacant Environmental Specialist position from the Central Florida area to the Broward County area. The Broward County area has more licensees and the position was transferred there to meet the needs of field operations for that area. Since

The Program has the radioactive materials section, which covers licensing, and the field operations which covers inspections. The licensing staff are centrally located in Tallahassee. Since the 2019 IMPEP, there have been three new appointments in licensing, two are new hires and one promotion. The Program is fully staffed in the licensing section. Fields operations are divided into four areas of the state. There are no physical buildings for field operations; staff work from home. Since the 2019 IMPEP, there have been six new inspector appointments. Of the six, four are new hires, one was a transfer, and one was a promotion. At the time of the meeting, the Program had three vacancies in the field operations. The three vacancies were subsequently filled. Since the 2019 IMPEP, four staff retired and positions vacated were either filled or reclassified.

The Program's qualification journal is commensurate with NRC's Inspection Manual Chapter (IMC) 1248. Seven technical staff members are currently undergoing qualification training. The Program also tracks required annual refresher training for the staff.

2.2 Status of the Materials Inspection Program (2019 IMPEP review: Satisfactory)

The Program reported it has conducted 296 inspections since the 2019 IMPEP review. No Priority 1, 2, 3 or initial inspections were completed overdue. No inspections are currently overdue. Because the COVID-19 Public Health Emergency (PHE), the program suspended routine inspections but continued to respond to incidents as necessary. At the time of the meeting, the Program was beginning to resume routine inspections for industrial, and commercial licensees, but had not yet performed routine inspections for medical licensees.

The Program conducted 8 reciprocity inspections from the time of the 2019 IMPEP to December 31, 2019 and 4 reciprocity inspections in 2020 until the time of the periodic meeting. Updates to the NRC's IMC 2800 were discussed, specifically highlighting the changes in performing reciprocity inspections. The Program aims to perform inspections on 20% of reciprocity candidate licensees. The Program is meeting its goal of issuing inspection findings within 30 days of the inspection exit.

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2.3 Technical Quality of Inspections (2019 IMPEP review: Satisfactory, but needs improvement)

The 2019 IMPEP found areas of concern with the Program's inspection program and made one recommendation. The IMPEP identified deficiencies in the inspection accompaniments. Specifically, staff did not adequately identify issues with the licensee's implementation of the access authorization program and security program requirements. The IMPEP found that inspectors had knowledge gaps in areas concerning security. The IMPEP also found inspectors did not adequately evaluate the full calibrations, spot checks, written directive delivery, and shielding when the source was exposed. Finally, the IMPEP found that during the inspection, the inspectors verbally communicated items where previous violations were reviewed and closed but did not formally document them.

The Program has taken steps to ensure that the concerns noted have been addressed. To address the knowledge gaps noted during the 2019 IMPEP in the areas of security and the evaluation of adequacy of spot checks and full calibrations, the Program arranged for the inspectors to receive additional training at a licensee in September 2019. In addition, the Program sent inspectors to relevant classes offered by the NRC. Supervisory accompaniments have been performed and the Program stated that inspections observed have addressed health and safety. The Program stated that up to the time of the COVID-19 PHE, supervisory accompaniments were performed on an annual basis.

The Program uses inspection procedures that are consistent with the inspection guidance outlined in IMC 2800. Inspection reports are reviewed by the inspector's Field Operations Manager and by the Inspection and Program Administrators. Inspection findings are sent to licensees within 30 days of completing an inspection.

Recommendation: The team recommended that the outcome of previously identified inspection open items and violations be documented and communicated formally to the licensee.

Status: Inspectors use tablets, which have an electronic inspection form, while in the field. The Program updated the form so that upon completion of the inspection, the inspector denotes that previous violations were reviewed, and that designation sends notification to the enforcement staff. The enforcement staff will issue a letter to the licensee documenting the results of the inspection which will note, if applicable, previous violations were reviewed and closed.

2.4 Technical Quality of Licensing Actions (2019 IMPEP Review: Satisfactory)

The Program reported having 1,502 specific licenses. The Program had 49 licensing actions in house, none of which had been in house for over three weeks. The Program licenses each major modality and location of use on separate licenses (e.g., gamma knife, high dose rate remote afterloader, and limited medical authorizations would have separate licenses). All licensing actions receive a peer review prior to being issued. There was one recommendation made during the 2019 IMPEP review with regards to improving program performance.

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Recommendation: The team recommended that the Program consistently documented the training completed by license reviewers, including the license types for which each reviewer has obtained signature authority.

Status: The Program updated their qualification manual to be consistent with NRC Manual Chapter 1248. When a staff member is considered proficient in a particular area of licensing, it is documented in their qualification journal and signed off by the manager.

2.5 Technical Quality of Incident and Allegation Activities (2017 IMPEP review: Satisfactory)

The Program reported 21 incidents to the NRC since the 2019 IMPEP review. The Program responded to 82 incidents (reportable and non-reportable to NRC) from June-December 2019, and 77 in 2020 up until the date of the periodic meeting. Event follow-up actions are assigned to an inspector and tracked through completion. Incidents are reported to a central office located in Orlando. Inspectors responding will be from the field area closest to the location of the event. The inspectors work with their respective Field Operations Manager and Administrator to ensure appropriate follow up actions are implemented which are commensurate with the health and safety and/or security significance of the event.

The Program uses procedures equivalent to the NRC's allegation procedures for processing allegations. The Program received and responded to two allegations since the last IMPEP review. No allegations were transferred by NRC.

3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Compatibility Requirements, (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery (UR) Program. The NRC's Agreement with Florida only includes the non-common performance indicators Compatibility Requirements, SS&D, and LLRW.

3.1 Legislation, Regulation, and Other Program Elements (2019 IMPEP review: Unsatisfactory)

Florida became an Agreement State on July 1, 1964. The Program's current effective statutory authority is contained in the Florida Radiation Protection Act in Title XXIX, Chapter 404 of the State of Florida Statutes. Florida's rulemaking process is governed by the Administrative Act in Title X, Chapter 120, of the State of Florida Statutes. The Department, is designated as the State's radiation control agency. No legislation affecting the Program was passed since the 2019 IMPEP review.

Florida's administrative rulemaking process takes approximately 12-18 months from drafting to finalizing a rule. The public, the NRC, other agencies, and potentially impacted licensees and registrants are offered an opportunity to comment during the process. Comments are considered and incorporated, as appropriate, before the regulations are

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finalized and approved by Florida. Florida's rules and regulations are not subject to "sunset" laws.

The 2019 IMEP review found nine regulation amendments were overdue for adoption. Since then, those amendments have been drafted and sent to the Program's legal counsel for review before continuing in the process of making the regulations final.

Recommendation: The team recommended that a plan be developed and implemented to address the overdue regulations, including how rules should be prioritized. The plan should also address instituting a knowledge management program for the staff involved in the rulemaking process.

Status: The Program has set up a rule steering committee. The committee reviews the Regulation Amendment Tracking Sheet monthly to determine which, if any, regulation amendments need to be addressed. The Program has developed a system that prioritizes regulations; green designates that the regulation has been adopted, yellow designates that it is in process, and red designates that it must be addressed. As stated, at the time of the meeting all overdue regulations were submitted to legal in the process of adopting the regulations.

3.2 Sealed Source and Device Evaluation (SS&D) (2019 IMPEP review: Satisfactory)

- Technical Staffing and Training

The Program has two fully qualified SS&D reviewers and one staff person who is working on becoming a fully qualified SS&D reviewer. This individual needs to take the SS&D Training class to complete qualifications. The SS&D class is slated to be held virtually in August 2020. No vacancies existed at the time of the periodic meeting. The Program has a training and qualification manual for SS&D reviewers that is equivalent to the NRC's IMC 1248 Appendix D.

- Technical Quality of Product Evaluation Program

The Program has five SS&D registrants and has not received any SS&D applications (new, amendment, or termination) since the last IMPEP review.

- Evaluation of Defects and Incidents Regarding SS&Ds

No incidents involving SS&D registered products occurred since the last IMPEP review.

4.0 SUMMARY

The Program has worked to implement and complete corrective actions regarding concerns identified in the 2019 IMPEP report. At the time of the meeting, there were three inspector vacancies and the licensing section is fully staffed. By the end of July, the inspector vacancies had been filled. The Program is effectively managing its licensing and

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inspection activities and responds to incidents and allegations as appropriate. During the COVID-19 PHE, the program has continued to address licensing actions but suspended onsite inspections. The Program resumed routine inspections in July and is considering conducting medical inspections remotely. The Program did not exceed Manual Chapter 2800 inspections timelines.

The steering committee formed by the Program was developed to address overdue and late regulations. The Program has addressed the concerns found during the 2019 IMPEP review by developing a plan to review regulations on a monthly basis and to prioritize addressing overdue regulations.

The next Periodic Meeting will be conducted as scheduled in July 2022 to continue to track the Program's progress.