



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

October 29, 2021

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

Dear Mr. Allard:

A periodic meeting with you and your staff was held virtually on August 5, 2021. 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 Blake Welling, Director, Division of Radiological Safety and Security, 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 Pennsylvania

cc w/encl.: John Chipppo,
Radiation Protection (RP) Program Supervisor, Central Office

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SUNSI Review Complete: FCG (Reviewer's Initials)

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
PERIODIC MEETING WITH THE COMMONWEALTH OF PENNSYLVANIA
TYPE OF OVERSIGHT: NONE

August 5, 2021

FINAL

PERIODIC MEETING PARTICIPANTS

NRC

- Blake Welling, Director, Division of Radiological Safety and Security, Region I
- Farrah Gaskins, Regional State Agreements Officer, Region I

Pennsylvania Bureau of Radiation Protection

- David Allard, Director
- John Chippo, Radiation Protection (RP) Program Supervisor, Central Office
- Bryan Werner, RP Program Manager, Central Office
- Joshua Myers, RP Program Supervisor, Central Office
- Barbara Bookser, RP Program Manager, Southwest regional Office
- Lisa Forney, RP Program Supervisor, Southcentral Regional Office
- Terry Derstine, RP Program Manager, Southeast Regional Office
- Jennifer Minnick, RP Program Supervisor, Southeast Regional Office
- Christopher Minott, Counsel
- Kristina Hoffman, Program Analyst
- Krish Ramamurthy, Deputy Secretary for WARR*
- Joseph Adams, Deputy Secretary for Field Operations*
- Rod Nesmith, Regional Director, Southeast Region*

* Exit Meeting Only

1.0 INTRODUCTION

This report presents the results of the periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the Commonwealth of Pennsylvania. The meeting was held virtually on August 5, 2021. 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 Commonwealth of Pennsylvania's Agreement State Program (the Program) is administered by the Bureau of Radiation Protection (the Bureau) which is in the Department of Environmental Protection (Department). The Program is managed by the Bureau Director, the Radiation Protection (RP) Program Manager, and the RP Program Supervisors for Inspection and Licensing. The Department is divided into six regional offices, with the RP Program housed in the three southern regions and each having an RP Manager, and an RP Supervisor. No changes to the organizational structure have occurred since the 2019 Integrated Materials Performance Evaluation Program (IMPEP) review.

At the time of the periodic meeting, the Program regulated approximately 509 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 Commonwealth of Pennsylvania. The Program is 100 percent fee funded and the fiscal year runs July 1-June 30.

The Program underwent an IMPEP review on January 7-11, 2019. A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on April 9, 2019. Based on the findings presented, the MRB found Pennsylvania's performance satisfactory for all indicators reviewed. One recommendation regarding program performance from the 2014 IMPEP was closed and no new recommendations were made. Overall, Pennsylvania was found adequate to protect public health and safety and compatible with the NRC's program. The MRB directed that the next IMPEP review be held in approximately 5 years with a periodic meeting in approximately 2.5 years.

2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC 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 August 2021 periodic meeting.

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

The Program staff are geographically spread across three regional offices and one central office. Staff performing inspection and emergency response duties are in the regional offices while staff performing licensing duties, are in the central office. When fully staffed, the Program is comprised of 58 staff members. This equates to 34.6 full time equivalents

(FTE). The number of staff includes individuals in the areas of administration, compliance, decommissioning, inspection, licensing, and low-level waste. There are currently seven vacancies: one administrative clerical, one in the decommissioning section, a program manager in one of the regional offices, and a program supervisor in the central office, two inspectors, and one in low-level waste. There were nine staff that left the program because of retirements and other opportunities outside of the Bureau. Since March of 2020, there has been a freeze on hiring and the Program had to request exemption memos to post for the open positions. There were four staff hired since the IMPEP; one environmental trainee, one license reviewer, one compliance specialist and the Bureau counsel. The vacancies have been opened between one and 29 months. Staff undergoing qualifications are expected to be complete soon. The qualification process takes approximately two years to complete. During the COVID-19 Public Health Emergency (PHE), staff primarily worked from home. There were no impacts to the Program during that time.

The Program's qualification journal is commensurate with the NRC's Inspection Manual Chapter (IMC) 1248. All qualified staff are meeting and exceeding the requirement to complete 24 hours of refresher training every 24 months.

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

The Program reported it has conducted 1,004 Priority 1, 2, and 3 inspections and one initial inspection since the 2019 IMPEP review. There were nine inspections conducted overdue since the 2019 IMPEP, five of which were due to the PHE. These were instances where the inspection was delayed until the Program had a plan in place to conduct inspections during the PHE. The Program worked to address the overdue inspections and there were no inspections overdue at the time of the meeting. There is one initial inspection that has not been performed. The licensee has not yet received material, but the Program continues to contact the licensee quarterly to inquire about the status of their operations. During the PHE, the Program performed remote inspections, when appropriate, using video capabilities. The Program also performed inspections using a hybrid approach of remote and onsite inspection techniques. Each region used an approach that was conducive to the PHE impacts in that area. The Program's goal is to issue inspection findings within 30 days of the inspection exit.

With respect to reciprocity, the Program conducted inspections for greater than 20% of candidate licensees that filed for reciprocity in each year since the IMPEP. They conducted 35 (66%) reciprocity inspections in 2019, 25 (48%) in 2020, and 17 (29%) so far in 2021. Updates to IMC 2800 were discussed specifically highlighting the changes in performing reciprocity inspections. At the time of the meeting, the Program still planned to perform inspections of 20% of reciprocity candidate licensees.

2.3 Technical Quality of Inspections (2019 IMPEP review: Satisfactory)

The Program's inspection frequencies are the same as the NRC's. The Program's inspectors are in the four regions. The Program has a policy to perform at least one supervisory accompaniment per calendar year. Due to the PHE, inspection accompaniments were not able to be performed in 2020 for two staff.

During the PHE, the Program adjusted how inspections were conducted. When not able to perform the inspections onsite, the Program used video technology and electronic records review to perform remote inspections. In some cases, the Program used a hybrid approach where inspectors would perform both an onsite and remote portion of the inspection. When performing remote inspections, the Program instituted an internal policy to set the next inspection to be completed in a year.

The Program uses inspection procedures that are commensurate with the NRC's Inspection Procedures. An inspection supervisor reviews and signs off on all inspection reports.

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

The Program reported having 509 specific licenses. The Program had 124 licensing actions in house at the time of the meeting. The Program also reported that licensing actions are typically completed within three weeks. There is currently no backlog in licensing actions. The Program uses a three-step approach for completing licensing actions. Upon completion of the initial review, the application is reviewed by a second qualified reviewer who performs a full peer review. After the peer review is complete, the action is given to the RP Supervisor for final review and issuance. There were no exemptions issued as a result of the PHE.

2.5 Technical Quality of Incident and Allegation Activities
(2019 IMPEP review: Satisfactory)

The Program reported 48 incidents to NMED since the 2019 IMPEP review. At the time of the meeting, Pennsylvania had 13 opened events that they would be looking into. Event follow up actions are assigned to an inspector and tracked through completion. Follow-up of events were commensurate with the significance of the event.

The Program has a procedure that is equivalent to the NRC's allegation procedure for processing allegations. The Program received and responded to 15 allegations since the last IMPEP review. Of the 15, four were referred by the NRC. The four referred by the NRC have been investigated and closed. The Program uses a tracking system for allegations received and performs follow accordingly. The Program stated that they generally perform a follow-up inspections for allegations.

3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Legislation, Regulations, and Other Program Elements (LROPE), (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 Pennsylvania does not relinquish regulatory authority for SS&D or UR; therefore only the non-common performance indicators LROPE and LLRW apply.

3.1 LROPE
(2019 IMPEP review: Satisfactory)

The Commonwealth of Pennsylvania became an Agreement State on March 31, 2008. Legislative authority to create a radiation control program and enter into an Agreement with the NRC is granted in the Pennsylvania Statutes, Radiation Protection Act (Act 1984-147), as amended. No legislation affecting the Program has been passed since the IMPEP review.

The rulemaking process takes approximately two years to complete which includes a public comment period. The Program adopts regulations required for purposes of compatibility by reference as written on a specific date. No regulation packages have been submitted since the 2019 IMPEP and none are currently overdue for adoption.

3.2 Low Level Waste
(Not reviewed during the IMPEP)

Although the Pennsylvania Agreement State Program has authority to regulate an LLRW disposal facility, the NRC has not required Agreement States to have a program for licensing a disposal facility until such time as the State has been notified or becomes aware of the need to regulate an LLRW disposal facility. Upon such notification, the Agreement State is expected to put in place a regulatory program that will meet the criteria for an adequate and compatible LLRW program. There are currently no plans for a LLRW disposal facility in Pennsylvania.

4.0 SUMMARY

Pennsylvania continues to have an effective, well maintained program. There are seven vacancies: two at the managerial level and five at the staff level. Pennsylvania has maintained sufficient staff since the IMPEP to effectively manage licensing and inspection activities and respond to incidents and allegations as appropriate.

During the PHE, most of the staff worked from home and the Program continued operating effectively. The Program temporarily stopped inspections at the start of the PHE because inspectors were not able to access facilities. The Program began performing remote inspections and have continued to use remote capabilities when appropriate.

The next IMPEP should be conducted as scheduled in approximately January 2024.