



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION I  
475 Allendale Rd., SUITE 102  
KING OF PRUSSIA, PA 19406-1415

August 25, 2022

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 on June 22, 2022. 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 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](mailto:Farrah.Gaskins@nrc.gov) to discuss your concerns.

Sincerely,

Farrah C. Gaskins  
Regional State Agreements Officer  
Division of Radiological Safety and Security  
U.S. NRC Region I

Enclosure:  
Periodic Meeting Summary for Florida

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

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF FLORIDA

TYPE OF OVERSIGHT: NONE

June 22, 2022

**FINAL**

## PERIODIC MEETING PARTICIPANTS

### **NRC**

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

### **Florida Department of Health Attendees**

- Cynthia Becker, Chief, Bureau of Radiation Control
- Kevin Kunder, Administrator, Radioactive Materials Program
- Michael Stephens, Environmental Health Program Consultant
- Jorge Laguna, Inspection Administrator

## 1.0 INTRODUCTION

As a result of the 2019 Integrated Materials Evaluation Program (IMPEP), the Management Review Board (MRB) directed that two periodic meetings be held before the next IMPEP. The first periodic meeting was held in July 2020. This report presents the results of the second periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the State of Florida. 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 Public 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 Agreement State Program have occurred since the July 2020 periodic meeting.

At the time of the periodic meeting, the Florida Agreement State Program regulated approximately 1,523 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 Florida Agreement State 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 review team found the State's performance satisfactory for five indicators, satisfactory but needs improvement for one indicator, and unsatisfactory for one indicator. The review team made three recommendations regarding program performance 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 approximate one year after the IMPEP and another approximately three years after the IMPEP 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 2022 periodic meeting.

### 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 has been consistent since the July 2020 periodic meeting. The Program has undergone staffing changes since the July 2020 periodic meeting. For example, two staff

left the Program and three were hired in the radioactive materials section. One staff member was reassigned within the radioactive materials program from the emergency response coordinator manager position. There are no vacancies in the licensing section.

While the radioactive materials section covers licensing, the field operations section covers inspections. Fields operations are divided into four areas of the state. There are no physical buildings for field operations; staff work from home. There were also staffing changes in the field operations section since the July 2020 periodic meeting, two staff left the program, seven were hired, one was reassigned, and one was promoted in the field operations section. The Program currently has no vacancies in the field operations section.

The Program's qualification journal is commensurate with NRC's Manual Chapter 1248. Six 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 720 inspections since the 2020 periodic meeting. No Priority 1, 2, 3 or initial inspections were completed overdue. No inspections are currently overdue. At the time of this periodic meeting, the Program was conducting in person inspections.

The Program aims to perform 20% reciprocity inspections of candidate licensees. Since the July 2020 periodic meeting, The Program conducted 48% of reciprocity candidates in 2021. The BRC administrator mentioned that 12 reciprocity inspections have been conducted in 2022 and intends to meet the 20% goal by the end of the year. Updates to Manual Chapter 2800 were discussed specifically highlighting the changes in performing reciprocity inspections.

The Program's goal is to issue inspection findings within 30 days of the inspection exit. The BRC stated that they are meeting that goal.

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 source is 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 BRC inspection administrator stated that inspections observed have adequately addressed health and safety. In addition, The Program has updated their inspection review process to initiate a control number notifying license reviewers if an amendment is necessary as a result of the inspection. Supervisory accompaniments have been performed for 2020 and 2021.

The Program uses inspection procedures that are consistent with the inspection guidance outlined in Inspection Manual Chapter (IMC) 2800. Inspection reports are reviewed by the inspector's Field Operations Manager and by the Inspection and Program Administrators. Inspection findings are routinely 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 continue to 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 1,523 specific licenses. The Program had 142 licensing actions in house, with the longest being in process for 51 days. 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.

**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:** Before the July 2022, periodic meeting, 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. The Program demonstrated during the meeting how qualifications are being tracked.

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

The Program reported 26 incidents to NRC since the July 2020 periodic meeting. The Program sends inspectors to respond to all events. 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 office 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 19 allegations since the July 2020 periodic meeting. There were 5 referred by the NRC. All allegations received had been closed at the time of this meeting.

### 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 include non-common performance indicators Compatibility Requirements, SS&D, and LLRW apply.

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

Florida became an Agreement State on July 1, 1964. The Florida Agreement State 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 radiation control program was passed during the review period.

Florida's administrative rulemaking process takes approximately 12-18 months from drafting to finalizing a rule. The public, 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 finalized and approved by Florida. Florida's rules and regulations are not subject to "sunset" laws.

No legislative changes have been passed that affected the Program since the July 2020 periodic meeting. The 2019 IMPEP review found nine regulation amendments were overdue for adoption. At the July 2020 periodic meeting, the amendments had been sent to the Florida's legal counsel for review before continuing in the process of making the regulations final. At the time of this periodic meeting, the amendments were with Florida's legal counsel. Florida stated that the amendment packages had been delayed with their legal counsel and when a rule is not made final within a year, they have to restart the internal review process. Florida expects these rules to be final before the next IMPEP review.

**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:** At the July 2020 periodic meeting, the Program stated that they 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



## Florida Periodic Meeting Summary

that it must be addressed. As stated, at the time of this 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 three fully qualified SS&D reviewers. There were no vacancies in SS&D at the time of this periodic meeting. BRC 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 Florida Agreement State Program has worked to implement and complete corrective actions regarding concerns identified in the 2019 IMPEP report. The Program is fully staffed in licensing and inspection. The Program is effectively managing its licensing and inspection activities and responds to incidents and allegations as appropriate. During the COVID-19 PHE, the program continued to address licensing actions but suspended onsite inspections for a short time. Florida has resumed conducting onsite inspections. The Program has a more restrictive metric than IMC 2800 for considering inspection to be overdue and did not exceed inspection timelines.

The steering committee formed by the Program was developed to address overdue and late regulations. The Program has developed a plan to review regulations on a monthly basis and to prioritize addressing overdue regulations. The Program continues to monitor the progress of overdue amendments and expects to have the rules final before the next IMPEP.

The next IMPEP review will be conducted approximately in June 2023.