



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
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LISLE, ILLINOIS 60532-4352

February 10, 2023

Mark Paulson
Radiation Protection Section Manager
Bureau of Environmental and
Occupational Health
Division of Public Health
Department of Health Services
1 West Wilson Street, Room 150
Madison, WI 53701-2659

SUBJECT: Wisconsin FY23 IMPEP Periodic Meeting Summary

Dear Mark Paulson:

A periodic meeting with Wisconsin was conducted via Teams on December 6, 2022. The purpose of this meeting was to review and discuss the implementation of Wisconsin's Agreement State Program. The Nuclear Regulatory Commission (NRC) was represented by Jared Heck, Deputy Director, Division of Radiological Safety & Security; and Darren Piccirillo, Regional State Agreements Officer from NRC's Region III Office.

We have completed and enclosed a general meeting summary. If you feel that our comments or conclusions do not accurately summarize the meeting discussion, please contact me at 630 829-9661, or via email at Darren.Piccirillo@nrc.gov to discuss your comments.

Sincerely,

A handwritten signature in black ink, appearing to read "DPP", written over a horizontal line.

Signed by Piccirillo, Darren
on 02/10/23

Darren W. Piccirillo
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for Wisconsin

Letter to Mark Paulson from Darren Piccirillo dated February 10, 2023.

SUBJECT: Wisconsin FY23 IMPEP Periodic Meeting Summary

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NAME	DPiccirillo:mc						
DATE	2/10/2023						

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF WISCONSIN

TYPE OF OVERSIGHT: NONE

December 6, 2022

Enclosure

PERIODIC MEETING PARTICIPANTS

NRC

- Jared Heck: Deputy Director, Division of Radiological Safety & Security, NRC Region III; and
- Darren Piccirillo: Regional State Agreements Officer, NRC Region III.

State of Wisconsin

- Anna Benton, Assistant Administrator, Division of Public Health;
- Mark Werner, Director, Division of Public Health, Bureau of Environmental and Occupational Health; and
- Mark Paulson, Section Manager, Radiation Protection Section Materials.

Wisconsin 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 Wisconsin. The meeting was held remotely via Microsoft Teams on December 6, 2022, and was part of the Integrated Materials Performance Evaluation Program (IMPEP) review. It was conducted in accordance with NMSS Procedure SA-116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The Wisconsin Agreement State Program is administered by the Bureau of Environmental and Occupational Health which is located within the Wisconsin Department of Health Services.

At the time of the periodic meeting, the Wisconsin Agreement State Program (the Program) regulated 277 specific licenses authorizing possession and use of radioactive materials. The review 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 Wisconsin.

No changes have occurred to the Program's budget/funding and continues to be able to protect public health and safety at current funding levels. The programs fees are set in administrative rule. The proposed rule, that is pending legislative approval, includes additional annual fee charges for licensees with multiple locations listed on a license (starting at 3 sites). This will help offset the reduction in collected annual revenue that resulted from licensees consolidating multiple licensed sites under one license. The department will seek an across-the-board fee increase and ability to adjust fees annually in the next rule revision; note that the program has not increased fees since they were first set in 2003 when becoming an Agreement State.

The Program last underwent a full IMPEP review from July 8 – 12, 2019 (ML14288A110). A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on September 24, 2019.

During the September 24, 2019, MRB meeting, the Wisconsin Agreement State Program's performance was found to be satisfactory for all indicators reviewed. The team made no new recommendations and there were no open recommendations from the previous review for the team to consider. Accordingly, the team recommended, and the MRB agreed, that the Wisconsin Agreement State Program is adequate to protect public health and safety and compatible with the NRC's program. The team recommended, and the MRB agreed, that the next full IMPEP review will take place 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 Regional Office 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.

Wisconsin Periodic Meeting Summary

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

When fully staffed, Wisconsin is comprised of nine technical staff members which contribute 7.5 FTE for the radioactive materials program. At this time, the technical FTEs allocated towards the materials program is deemed adequate. At this time, the Radioactive Materials Program unit supervisor and 1 license reviewer/inspector positions are vacant.

The license reviewer/inspector transferred to the Radiological Emergency Unit within the section in October. Because it was a transfer within the section the individual has still been performing inspection and license review through the end of the calendar year. The open position is expected to be filled in the first quarter of 2023.

The previous Radioactive Materials Program unit supervisor was promoted to the Radiation Protection Section manager in June of 2023 and has been filling both roles. The unit supervisor position is waiting acceptance of an offer.

The Program has a training and qualification program equivalent to the requirements in Inspection Manual Chapter (IMC) 1248. There have been no program changes since the 2019 IMPEP. The required 24 hours of refresher training every two years is tracked by the supervisors and documented in the individual's qualification journal and exceeds the training requirement.

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

There has been no policy change to inspection frequencies and Wisconsin inspects at a frequency at least as frequent as the NRC. Note that during COVID pandemic inspection frequencies were not changed however, on a case-by-case basis consideration was given to exceeding the overdue dates.

The Program performed 290 inspections during the review period (July 12, 2019 – November 21, 2022). A total of 149 of these were routine priority 1, 2, 3, and initial inspections. All Priority 1, 2 and 3 inspections have since been performed in accordance with the IMC 2800 inspection frequency. Inspection findings are routinely sent to licensees within 30 days of the inspection exit.

A total of 9 routine Priority 1, 2, 3, and initial inspections were performed overdue since 07/12/19. Most were approximately a week or so overdue but is on track now. The Program has no Priority 1, 2, and 3 currently overdue for inspections.

Wisconsin uses a risk-informed criteria, similar to the latest requirements in IMC 2800, to determine which candidates are inspected. In 2019, 46 reciprocity authorizations granted, 10 inspected (out of 16 candidates identified). In 2020, 38 reciprocity authorizations granted, 3 inspected (out 9 candidates identified). In 2021, 28 reciprocity authorizations granted, 3 inspected (out of 11 candidates identified). Finally, in 2022 to date, 43 reciprocity authorizations granted, 4 inspected (out of 12 candidates identified).

Wisconsin Periodic Meeting Summary

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

In 2019 inspector accompaniments were conducted for all inspectors except for 1 inspector. The 1 inspector was not accompanied because they left the program earlier in the year. In 2020 and 2021, inspector accompaniments were not routinely performed after March due to the pandemic. A total of 5 inspectors did not have a supervisory accompaniment in 2020, and a total of 7 inspectors did not have a supervisory accompaniment in 2021. In 2022 inspector accompaniments were started again in March. Except for 1 new inspector, who is still training, accompaniments have been performed or were scheduled.

Inspector accompaniments are usually performed once per year for fully qualified inspectors and multiple times for a new inspector's final qualification on an inspection type. During the pandemic (2020-first quarter 2022) accompaniments were limited to new inspector's final qualifications. Wisconsin believe that this was the most prudent approach considering the reduction in inspections being performed and their experienced and high performing inspectors.

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

The Program had approximately 285 specific licensees at the time of the periodic meeting with no pending terminations. There are 88 general licenses required to submit an annual inventory report (mainly fixed gauge licensees). Since the 2019 IMPEP review, the Program completed 734 total licensing actions, which includes: 538 license amendments, 146 license renewals, 29 new license applications, and 21 license terminations.

At the time of the Periodic Meeting, the Program had 15 licenses under timely renewal. There are 2 pending applications that are over one year for renewal. The goal for renewals is 90 days to submit a draft license for review of an RFI.

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

2022 Periodic Meeting: Since the 2019 IMPEP review, the Program had reported 17 total events reported to the NRC.

NMED shows a total of 1 open event as of 11/30/22:

The State of Wisconsin has 1 open events at time of the Periodic Meeting.

When an incident is reported to Wisconsin, staff and management collectively evaluate the information and make a health and safety determination for an appropriate response. For incidents that Wisconsin determines to be health and safety significant, Wisconsin immediately responds, which includes a thorough written investigation plan. All responses to incidents during the review period were done with regard to established program procedures.

Wisconsin Periodic Meeting Summary

The Program has procedures in place that are equivalent to the event reporting requirements delineated in SA-300. These procedures remain unchanged from the 2019 IMPEP review. Once uploaded to NMED and reported to the HOO, any open events are updated in NMED and electronically uploaded as needed. Following receipt of the licensee's written reports (if applicable) and determination of root cause, events are closed in a timely manner. The Program currently has one open NMED event.

Since the 2019 IMPEP review, the Program had reported 17 total events to NRC. All events which required reporting were communicated to NRC in compliance with SA-300 reporting timelines. The event response, by both the state of Wisconsin and the licensee, was otherwise appropriate and all nuclear material was maintained in a safe and secure condition.

Since the 2019 IMPEP review, the program had a total of 7 allegations, two of which were referred by NRC. All allegeders were contacted by the Program for additional details. Inspectors were dispatched for reactive inspections and the allegeders' identity was secured. Instances of noncompliance were addressed through appropriate enforcement action and notification provided to the allegeder on the status of their concerns within 30 days.

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 Program. The NRC's Agreement with Wisconsin retains regulatory authority for sealed source and device evaluations, low-level radioactive waste disposal, and uranium recovery; therefore, only the first non-common performance indicator applied to this Periodic Meeting.

3.1 Legislation, Regulations, and Other Program Elements (2019 IMPEP Rating: Satisfactory)

The Program has a modified administrative review process is now expected to take between 7.5 to 13 months and is limited to 24 months. The Program staff develops a rulemaking plan that provides overview information (reason for rule changes, potential costs, stakeholder involvement, etc.), and details of the existing rule. Once approved, the plan is submitted to the Office of Legal Counsel for review and Department approval. In the beginning of the administrative review process, a Statement of Scope is then submitted by the Office of the Secretary to the Governor's office. After approval, the Statement of Scope is published in the Wisconsin Administrative Register. The Statement of Scope is valid for 2 years and the remaining process must be completed within that time. After the Statement of Scope is approved the rulemaking package is developed, an economic impact analysis is performed, the need for public informational or listening sessions is determined, and an advisory committee is established, if needed. Wisconsin monitors comments received from all sources and provides comments that differ from the Statement of Scope to the Office of the Secretary and Governor's office for review. Revisions to the rulemaking package are made and the draft rule language and summary economic impact analysis are submitted to the Office of the Secretary and Governor's office for approval. Following the approval, the rulemaking package is sent to the Wisconsin Legislative Council for review and filing of a hearing notice. The

Wisconsin Periodic Meeting Summary

rulemaking package is subsequently published for public comment. There were no legislative changes since the 2019 IMPEP. The State's rules and regulations are not subject to sunset laws.

During the review period, the Program finalized regulatory amendments and received NRC correspondence stating "No Comments" for RATS 2018-1, 2018-2, and 2019-2. There are currently 6 outstanding regulatory amendments (2018-3 due 7/30/22, 2019-1 due 12/18/22, 2020-1 due 6/16/23, 2020-2 due 8/17/23, 2020-3 due 11/16/23, 2021-1 due 9/8/24).

Legally binding license conditions covering changes in 2018-3 have been issued. The outstanding regulatory amendments are waiting final state legislative review and publication which is anticipated during the next legislative session in 2023. Additional legally binding license conditions are being considered for outstanding regulatory amendments and a rulemaking process will be initiated once the pending one is finished.

4.0 SUMMARY

The Wisconsin Agreement State program continues to be an effective and well managed Agreement State program. The Program is effectively managing its licensing and inspection activities, even in the face of the COVID-19 PHE. The Program responds to events as appropriate, and they currently have 6 outstanding regulatory amendments. Based on the information discussed during the Periodic Meeting, NRC staff recommends that the next IMPEP review for the Wisconsin Agreement State Program be conducted as scheduled in 2024. The Program did not request a Special MRB.