

KENTUCKY DEPARTMENT FOR PUBLIC HEALTH
 QUARTERLY MONITORING CONFERENCE CALL
 August 29, 2013

Nuclear Regulatory Commission Attendees	Kentucky Department for Public Health Attendees
Monica Orendi, Region I	Matthew McKinley, Radiation Control Program Administrator
Duncan White, FSME	Curt Pendergrass, Radiation Health Supervisor
Lisa Dimmick, FSME	
Michelle Beardsley, FSME	
David Spackman, FSME	

BACKGROUND

During the 2012 Integrated Materials Performance Evaluation Program (IMPEP) review of the Kentucky Agreement State Program (the Program), the review team found the Commonwealth's performance satisfactory for five performance indicators, satisfactory but needs improvement for the performance indicator Compatibility Requirements, and unsatisfactory for the performance indicator Status of Materials Inspection Program. On September 6, 2012, the Management Review Board (MRB) met to consider the proposed final IMPEP report. The MRB found the Program adequate to protect public health and safety, but needs improvement, and compatible with the U.S. Nuclear Regulatory Commission's (NRC) program. The MRB added one recommendation to the final IMPEP report. The MRB directed that Kentucky continue to remain in monitoring status, that calls between the Kentucky Department for Public Health (DPH) and NRC staffs continue to be conducted quarterly, and that a Periodic Meeting take place approximately two years from the June 2012 IMPEP review. DPH provided their response to the final IMPEP report in a letter dated October 18, 2012.

This is the fourth quarterly conference call with DPH since the September 6, 2012 MRB.

DISCUSSION OF PROGRAM STATUS

Mr. McKinley and Mr. Pendergrass led the discussion of the Commonwealth's status for each of the IMPEP performance indicators.

Technical Staffing and Training (2012 IMPEP finding: Satisfactory)

At the time of the June 2012 IMPEP review, the Program was composed of one program administrator, one supervisor, and five technical staff (one of which was, and still, is on military deployment and not scheduled to return until December 2013). The Program also had two vacant staff positions. Since the IMPEP review the Program has hired two new technical staff members to fill the vacant positions. The two new staff members are currently working on their qualifications to become license reviewers and inspectors. Since joining the Program, both new staff members have been qualified to inspect portable gauges and are expected to be fully qualified on industrial type inspections by the end of calendar year 2013. After they complete the industrial qualification track both new employees will begin to work on the qualifications for

medical inspections. In July 2013 another technical staff member left the Program. The Program has been able to post the position and plans to begin the interview process shortly.

The Program continues to support staff training and utilizes the NRC training courses when available. Specifically the Program is particularly interested in the licensing and inspection courses. The Program has one staff member attending the courses in October and hopes to get additional staff into the courses next year. Kentucky has requested to host a Sealed Source and Device Training workshop. NRC has scheduled the SS&D workshop for March 2014.

Status of the Materials Inspection Program (2012 IMPEP finding: Unsatisfactory)

The 2012 IMPEP review found that the Program completed 41 percent of its priority 1, 2, and 3 and initial inspections overdue during the review period. Since the IMPEP review the Program has conducted one inspection overdue by more than 25 percent of its assigned inspection frequency. Based on the number of inspections completed since the 2012 IMPEP, the Program is calculating that they have completed 2.6 percent of Priority 1, 2, and 3 and initial inspections overdue. The Program submitted their inspection numbers and percentage completed overdue calculation prior to the call. The Program's inspection frequencies are the same as NRC's inspection frequencies as listed in Inspection Manual Chapter 2800. No initial inspections have been completed greater than 1 year from license issuance since the IMPEP review. With regard to reciprocity it is the Program's policy to inspect all industrial radiographers that come into Kentucky each year. Program management stated that the Program has inspected greater than the required 20 percent of candidate licensees for reciprocity to date in calendar year 2013. The Program's policy is to issue inspection findings to their licensee's within 30 days from the date of the inspection. The Program has issued two letter's transmitting inspection findings greater than 30 days past the date of the inspection. Both of these inspections had issues during the inspection which required additional information and discussions after the inspections were complete.

The 2012 IMPEP review generated one recommendation for this performance indicator. The recommendation is listed below along with the status.

Recommendation 1: The MRB recommends that the Branch perform a self-assessment to determine the effectiveness of its oversight of the inspection program and that the results of this self-assessment be reviewed as part of the periodic meeting.

Status: Mr. McKinley did state that the Program is performing an ongoing self-assessment of the materials inspection program and will have a final written document summarizing the two years after the IMPEP available for review at the periodic meeting.

Technical Quality of Inspections (2012 IMPEP finding: Satisfactory)

The 2012 IMPEP found that the Program's inspection reports were thorough, complete, consistent, and of high quality, with sufficient documentation to ensure that a licensee's performance with respect to health and safety was acceptable. Documentation supported violations, recommendations made to licensees, unresolved safety issues, and discussions held with licensees during exit interviews. Three of the Program inspectors are fully qualified. One Program inspector is qualified in everything but industrial radiography and the Program hopes to have them complete their qualification by the end of 2013. The remaining two inspectors are in the beginning of their inspector qualifications and are expected to be fully qualified to perform

industrial type inspections by the end of calendar year 2013. Once the industrial track is complete, the two inspectors will begin work on becoming qualified to perform medical inspections.

The inspection procedures utilized by the Branch are consistent with the inspection guidance outlined in IMC 2800. Supervisory accompaniments of Program inspectors are being tracked and all accompaniments were completed for calendar year 2012. Program management has two supervisory accompaniments left to complete in calendar year 2013. The Program is aware of the need to complete these inspector accompaniments and plans to complete them before the end of the calendar year. Appropriate, calibrated survey instrumentation is available. Instruments are calibrated at least annually.

Technical Quality of Licensing (2012 IMPEP finding: Satisfactory)

The 2012 IMPEP found that the licensing actions were thorough, complete, consistent, and of high quality with health, safety, and security issues properly addressed. License tie-down conditions were stated clearly and were supported by information contained in the file. Deficiency letters clearly stated regulatory position, were used at the proper time, and identified substantive deficiencies in the licensees' documents. Terminated licensing actions were well documented, showing appropriate transfer and survey records. License reviewers use the Program's licensing guides and/or NUREG-1556 series guidance documents, policies, checklists, and standard license conditions specific to the type of licensing actions to ensure consistency in licenses. The Program has recently updated its industrial radiography guidance documents.

All licensing actions undergo a peer review and management review. The program administrator subsequently signs the license. The license reviewers and section supervisor do not have signatory authority for licensing actions. The Commonwealth's regulations require, and the Program's licensing guidance documents note, that an amendment in entirety must be performed every five to seven years.

The Program has approximately 423 licensees. The Program has received 838 licensing actions since the last IMPEP and has completed 735 actions. The Program has a working inventory of approximately 100 licensing actions at any one time with the longest action being in house for less than three months. These actions range from amendments to new licenses to amendments in entirety. The Program did identify one licensing action which was received in January 2012 that was missed and left uncompleted. The Program is working with the licensee to submit a revised amendment request so that the Program can complete the action.

Technical Quality of Incidents and Allegations (2012 IMPEP finding: Satisfactory)

The Program is aware of the need to maintain an effective response to incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety and staff is dispatched to perform onsite investigations when necessary. The Program appropriately communicates reportable incidents to the NRC Operations Center and Region I. Since the last IMPEP, the Program has received four reportable events and has reported them appropriately. The Program continues to be sensitive to allegations. The Program has received no allegation since the June 2012 IMPEP.

Compatibility Requirements (2012 IMPEP finding: Satisfactory but Needs Improvement)

The Program is working on promulgating proposed regulations in order to adopt equivalent regulations that are currently overdue for adoption. The 2012 IMPEP review team noted the progress the Program made to address overdue regulations. The Program expects changes for RATS IDs 2001-1 and 2007-3, and fees regulations to be final by the end of 2013.

The Program stated that given the number of issues they are having in regards to adopting regulations they are in the process of exploring adopting applicable sections of NRC's Title 10 Code of Federal Regulations (CFR) by reference. The Program also questioned if it was possible for NRC to issue all of the regulation changes in any one year on one date that would then be required for adoption three years from that date. The Program stated that it can be difficult for a State to re-open a section of its rules that was just recently opened just because NRC issues another set of regulation amendments affecting the same section. D. White (NRC) stated that he would mention this to the Division of Intergovernmental Liaison and Rulemaking for further consideration.

Six NRC regulations are overdue for implementation:

- "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material," 10 CFR Parts 30, 31, and 32 (65 FR 79162), that was due for Agreement State implementation on February 16, 2004;
- "Medical Use of Byproduct Material," 10 CFR Parts 20, 32, and 35 (67 FR 20250), that was due for Agreement State implementation on October 24, 2005;
- "Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material; Licensing and Reporting Requirements," 10 CFR Parts 30, 31, 32, and 150 amendment (72 R 58473), that was due for Agreement State adoption by December 17, 2010;
- "Requirements for Expanded Definition of Byproduct Material," 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, 150 amendment (72 FR 55864), that was due for Agreement State adoption by November 30, 2010;
- "Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent," 10 CFR Parts 19 and 20 amendment (72 FR 68043), that was due for Agreement State adoption by February 15, 2011; and
- "Medical Use of Byproduct Material – Authorized User Clarification," 10 CFR Part 35 amendment (74 FR 33901), due for Agreement State adoption by September 28, 2012.

Sealed Source and Device (SS&D) Evaluation Program (2012 IMPEP finding: Satisfactory)

There have been no changes in the SS&D program since the June 2012 IMPEP. The Commonwealth has one device manufacturer with 11 active SS&D registrations. At the time of this call the Program did not have any pending SS&D actions in house. The last action received, an amendment, was completed and the revised sheet was issued on August 16, 2013. The Program has two qualified SS&D reviewers. The Program is working to qualify one more individual to perform SS&D reviews. This individual is learning the process as SS&D requests

come in. The Program also hopes to have this individual attend the SS&D workshop being held in Kentucky in March 2014.

Low-Level Radioactive Waste Disposal (LLRW) Program (2012 IMPEP finding: Not Reviewed)

Kentucky's LLRW program consists of oversight at one facility, the Maxey Flats site, which is located in eastern Kentucky. The site operated a commercial LLRW disposal facility from May 1963 through December 1977. The license for this site authorizes maintenance activities related to the closed LLRW disposal site. Since the facility is closed and has no on-site activity or operations, the activities at the site are limited to a radiological environmental monitoring program consisting of soil, surface water, and ground water monitoring. The Commonwealth is working on progression of the site to final closure. The remedial design work plan to extend the final cap has been submitted. One hundred and thirty seven comments were received on the plan. Eventually, once approval is received and when work begins, the Program expects to have one or two people dedicated to the project. Mr. McKinley stated that this workload is expected, and should be easily absorbed by the Program.

Kentucky Fees

The Program mentioned that it is in the process of changing its fees. This change to the fee structure may lead to splitting of licenses for the same facility. The Program does not believe this will have any impact on how the Program operates, however it could potentially increase their total number of licenses.

Conclusion

Kentucky's program continues to improve. The Program has been responsive to the recommendation that was made by the MRB stemming from the 2012 IMPEP review. The Program has performed only one inspection overdue since the June 2012 IMPEP and this was inspection found to be overdue during the last IMPEP review. The Program is currently operating with two unfilled staff positions; one created when a staff member left in July 2013 and one due to a military deployment. The Program has posted for the one vacancy and hopes to begin the interview process soon. The person on military deployment is expected to be back with the Program in December 2013. The Program is working on bringing their regulations up to date; however, there are still six overdue regulations due for adoption. The Program hopes to have two of the overdue regulations addressed by the end of calendar year 2013 and is also exploring adoption by reference.