UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

October 11, 2011

Twila Kenna, Ph.D., Manager
Radioactive Materials Program
Radiological Health Section
Division of Public Health Services
Department of Health and Human Services
29 Hazen Drive
Concord, NH 03301-6504

Dear Dr. Kenna:

A periodic meeting was held with you on August 2, 2011. The purpose of the meeting was to review and discuss the status of the New Hampshire Department of Health and Human Services' Agreement State Program. The NRC was represented by Michelle Beardsley, Michelle Killian, and me.

I have completed and enclosed a general meeting summary, including any specific actions that will be taken as a result of this meeting.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (610) 337-5371, or email to Donna.Janda@nrc.gov to discuss your comments.

Sincerely,

/RA/

Donna M. Janda
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure: As stated

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMANS SERVICES
RADIOLOGICAL HEALTH SECTION

DATE OF MEETING: August 2, 2011

NRC Attendees	New Hampshire Radiological Health Section Attendees
Donna Janda, Region I RSAO	Twila Kenna, Ph.D., Manager, Radioactive Materials Program
Michelle Beardsley, FSME	
Michelle Killian, FSME	

DISCUSSION:

During the 2008 Integrated Materials Performance Evaluation Program (IMPEP) review of the New Hampshire Agreement State Program (the Program), the review team found the State's performance satisfactory for six performance indicators and satisfactory, but needs improvement, for one performance indicator, Compatibility Requirements. The review team made one recommendation regarding the Program. On December 5, 2008, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the New Hampshire Agreement State Program. The MRB found the Program adequate to protect public health and safety and compatible with NRC's program. Based on the results of the IMPEP review, the review team recommended, and the MRB agreed, that the next full IMPEP review take place in September 2012 and that a periodic meeting be held in approximately one year from the date of the IMPEP. On October 16, 2009, a periodic meeting was held to discuss the status of the Program and the recommendation made during the 2008 IMPEP. On March 25, 2010, the MRB met to discuss the results of the periodic meeting. The MRB concluded that the next IMPEP review of the Program should take place as currently scheduled.

The status of the State's actions to address the open recommendation follows:

1. The review team recommended that the State develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

   Status: Since the October 2009 periodic meeting, the State has not submitted any regulation packages to the NRC for review. The State has not developed a formal action plan to address this recommendation. The Program has received funding for two staff positions; however, neither of these positions will be assigned to the radioactive materials program. One position will be assigned to the mammography program and one position will be assigned to the non-ionizing radiation program.

OTHER TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

The Program has an experienced and well-trained staff. Both senior management and Program management support staff training. The Program's Radiation Advisory Committee is very supportive of the radioactive materials program.

Program Weaknesses

The Program Manager identified the open Administrator position and the State's rulemaking process as weaknesses due to the resource commitments needed to maintain up-to-date regulations.

The Program Manager noted that IT staff has made progress in updating their website which the Program identified as a weakness during the 2009 periodic meeting.

Feedback on the NRC's Program

The Program Manager commented that both the overall relationship and communications with the NRC are good and expressed appreciation for the NRC funding of qualification training courses.

Agreement State Program Staffing and Training

The Program staff currently consists of four technical staff members and two managers, including the Administrator position (vacant as of July 2011). One technical staff member retired in May 2010 and one technical staff member was hired in April 2011. The Administrator position has been posted internally and interviews will be conducted in the near future.

Support for staff training exists in the Program. One technical staff member is progressing through the Program's qualification process. Program staff has attended NRC and other training courses, including the NRC's Security Systems and Principles Course. The Program also takes advantage of training opportunities with neighboring Agreement States.

Organization

The New Hampshire Agreement State Program is administered by the Radiological Health Section (the Section), which is part of the Division of Public Health Services in the Department of Health and Human Services. In addition to the Program activities, the Section is responsible for activities involving radiation-producing machines and radiological emergency response.

Program Budget/Funding

The Program Manager stated that fees from radioactive materials licensees are placed into a dedicated fund which adequately funds the Program. The Program also receives fees from utilities and x-ray registrants located in the State. The Program receives no money from the State's General Fund.

Inspection and Licensing Programs

The Program's inspection frequencies are at least as frequent as NRC's. The Program conducted one initial inspection overdue since the 2009 periodic meeting. This action was based on an administrative decision to delay the inspection until the licensee possessed radioactive material. The Program maintains a database to monitor inspection scheduling and tracking.

The Program currently has approximately 80 specific licenses. The Program is working off a backlog of 21 license renewals, most of which are awaiting final review and approval. Licenses are renewed for a seven-year period. The Program uses pre-licensing checklists, hand delivers all new licenses and does not issue a license if the information gathered during the pre-licensing visit does not match the information provided in the license application.

Regulations

As stated previously, the Program has not submitted any regulation packages to NRC for review since the 2009 periodic meeting. Between the 2008 IMPEP review and the 2009 periodic meeting, the State submitted two final regulations, one proposed regulation, and three legally binding requirements to NRC for review, leaving five regulation amendments overdue for adoption by the State. Since the 2009 periodic meeting, four additional regulation amendments became overdue for adoption by the State. The following amendments are overdue, four of which are significantly beyond three years from the effective date:

- "Criteria for the Release of Individuals Administered Radioactive Material," 10 CFR Parts 20 and 35 amendment (62 FR 4120), that was due for Agreement State implementation on May 29, 2000.

- "Medical Use of Byproduct Material," 10 CFR Parts 20, 32, and 35 amendment (67 FR 20249), that was due for Agreement State implementation on October 24, 2005.

- "Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments," 10 CFR Part 71 amendment (69 FR 3697), that was due for Agreement State implementation on October 1, 2007.

- "Medical Use of Byproduct Material – Recognition of Specialty Boards," 10 CFR Part 35 amendment (70 FR 16336 and 71 FR 1926), that was due for Agreement State implementation on April 29, 2008.

- "Minor Amendments," 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendment (71 FR 15005), that was due for Agreement State implementation on March 27, 2009.

- "Medical Use of Byproduct Material – Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 amendment (72 FR 45147 and 72 FR 54207), that was due for Agreement State implementation on October 29, 2010.

- "Requirements for Expanded Definition of Byproduct Material," 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendment (72 FR 55864), that was due for Agreement State implementation on November 30, 2010.

- "Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements," 10 CFR Parts 30, 31, 32, and 150 amendment (72 FR 58473) that was due for Agreement State implementation on December 17, 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 implementation on February 15, 2011.

The State will need to address the following NRC amendments in the future:

- "Medical Use of Byproduct Material – Authorized User Clarification," 10 CFR Part 35 amendment (74 FR 33901), that is due for Agreement State adoption by September 28, 2012.

- "Decommissioning Planning," 10 CFR Parts 20, 30, 40, and 70 amendment (76 FR 35512), that is due for Agreement State adoption by December 17, 2015.

Event Reporting

The Program has reported five events to the NRC since the 2009 periodic meeting. Follow up and closure information for all events reported by the Program are included in the State's NMED entries.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations. No allegations were referred from NRC to the Program since the 2009 periodic meeting.

Sealed Source and Device (SS&D) Evaluation Program

Since the 2009 periodic meeting, the Program has issued one new SS&D registration sheet which was for a brachytherapy film source. The Program has two trained SS&D technical reviewers on staff.

Current State Initiatives

The Program is in the process of combining three radioactive materials licenses, which are issued to the State, into one broadscope license.

Large, Complicated, or Unusual Authorizations for Use of Radioactive Material

The Program added a new program code for therapeutic veterinary services in response to a request to use iodine-131 therapy in animals.

The Program is planning for upcoming decommissioning activities at a broadscope licensee facility. The licensee will be removing animal carcasses, which contain radioactive material, that were buried in the ground in the 1960s. Decommissioning of the burial area is expected to take place within the next six to nine months.

State's Mechanisms to Evaluate Performance

All training, licensing and inspection information is tracked on Program databases. The Program Manager and/or Administrator reviews and signs all inspection reports and licensing actions and provides feedback to staff as appropriate. Supervisors perform inspection accompaniments of all materials inspectors. The Program staff holds biweekly staff meetings and receives bimonthly updates on the status of inspections and licensing actions.

CONCLUSIONS:

The New Hampshire radioactive materials program continues to be an effective Agreement State program with an experienced and well-trained staff. Although the Program Administrator has recently left State employment, the position has been posted internally and interviews will be conducted soon. The Program has several overdue regulation amendments that need to be addressed and has a plan to address these overdue amendments in the near future.

NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2013 (tentatively October 2012).