



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

June 29, 2010

Jeff Meyers, Administrator
Louisiana Dept. of Environmental Quality
Office of Environmental Compliance
Emergency & Radiological Services Division
P.O. Box 4312
Baton Rouge, LA 70821-4312

SUBJECT: SUMMARY OF PERIODIC MEETING WITH LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY HELD ON JUNE 4, 2010

Dear Mr. Meyers:

A periodic meeting was held on June 4, 2010, with you and your staff. The purpose of this meeting was to review and discuss the status of the Louisiana Agreement State Program. The NRC was represented by Randy Erickson and me from Region IV. I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

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 817-860-8116 or by e-mail at Rachel.Browder@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Rachel S. Browder, CHP
Regional State Agreements Officer

Enclosure:
Louisiana Periodic Meeting Summary

LOUISIANA PERIODIC MEETING SUMMARY

Date of Meeting: June 4, 2010

Attendees

NRC	LOUISIANA
Rachel Browder, RSAO	Jeffrey P. Meyers, Division Administrator
Randy Erickson, RSAO	Ann Troxler, Senior, DCL-B
	Judith Schuerman, Manager
	James M. Pate, III, Supervisor, Licensing
	Dwayne, E. Stepter, Supervisor, Surveillance
	Joseph Noble, Staff, DCL-A
	Scott Blackwell, Staff, DCL-A

DISCUSSION:

The Louisiana Agreement State program is administered by the Emergency & Radiological Services Division (the Division), which is one of five Divisions under the Office of Environmental Compliance, within the Louisiana Department of Environmental Quality (DEQ). The Division had reorganized some of their positions since the last Integrated Materials Performance Evaluation Program (IMPEP) review. These changes are discussed under Staffing and Training, below. At the time of the meeting, the Division regulated approximately 550 licenses authorizing the use of byproduct, source, and special nuclear material.

The last IMPEP Review was conducted May 12-16, 2008. The review team recommended, and the Management Review Board (MRB) agreed, that the Louisiana Agreement State Program was found satisfactory for all seven performance indicators reviewed. There were two recommendations and one good practice identified in the report. Overall, the Louisiana Agreement State Program was found adequate to protect public health and safety and compatible with NRC's program.

Based on the results of the 2008 IMPEP Review, the MRB concurred that the next full review of the Louisiana Agreement State Program is to take place in approximately 4 years from this review, and a periodic meeting will be tentatively scheduled for May 2010. The purpose of this periodic meeting is to fulfill that requirement in order to evaluate the effectiveness of the State's response to the review team's recommendations, as well as the overall implementation of the Agreement State Program.

The status of the recommendations from the 2008 Final Louisiana IMPEP Report is summarized below:

- The review team recommends that the State take measures to evaluate corrective actions of all radioactive materials incidents, ensure proper documentation of the review, and appropriately follow up on the corrective actions at the subsequent inspections.

Enclosure

Status: The Division stated that the program had been evaluating corrective actions for all material incidents; however, the evaluation and follow-up were not being documented. The Division is now capturing the evaluation and follow-up for all corrective actions in the first part of the written narrative of the respective inspection report. This recommendation should be verified and closed at the next IMPEP review.

- The review team recommends that the State adhere to the document format and content guidance in the current version NUREG-1556, Volume 3.

Status: The Division corrected the three specific Sealed Source and Device Nationwide Registry (SSDRs) that were identified as part of the IMPEP review. These were isolated cases. The Division uses the format and content guidance in the current version of NUREG-1556, Volume 3. This recommendation should be verified and closed at the next IMPEP review.

In addition, the IMPEP report discussed that management should consider reviewing the need to inactivate SSDR registrations prior to or in unison with license termination and consistent with the guidance in NUREG-1556.

Status: The Division indicated that there was neither a fee associated with inactivations of sealed source and device registrations nor any fees associated with maintaining registrations, so there is no urgency to inactivate a registration on the part of a licensee. The Division indicated that they would review their processes and possibly discuss some options with other state programs, such as Texas, who may be considering the same process.

Other topics covered at the meeting included:

Program Strengths: The Division has a stable workforce with experienced inspectors. The level of experience within the workforce is increasing and the Division has been able to promote individuals to staff technical positions. The training courses provided by the NRC are considered a strength because they help to ensure that the Louisiana program reflects the same philosophy and intentions as that of the NRC and reduces the level of independence that might develop without the structured training program. The Division has recently purchased a Berkeley Nucleonics Model 940 radioactive isotope identification device (RIID) for surveillance and measurement (SAM-940) and maintains instrumentation calibrated for off-site response and routine inspections. As a result of the experienced staff, planning efficiencies, and schedules, there is not a backlog of their inspections and licensing actions. The communications and coordination between our two agencies has helped the Division implement a program that received a rating of satisfactory for all indicators reviewed during the last IMPEP, and the Division is continuing to implement their program to achieve the same success in the future.

Program Weaknesses: The budget restraints within the state have impacted some of the tangible assets within the Division, such as reduction of DEQ-provided vehicles from 13 to 9 for the inspection staff. This reduction in vehicles has required additional

planning and scheduling for efficient use of resources. One of the Division's senior inspectors will be deployed for up to a year and the staff will have to absorb his work, because the agency cannot hire replacement positions, whether permanent or temporary.

Feedback on NRC's Program

The Division indicated that they appreciated the good support provided by NRC Region IV and the communications between the two agencies. This was exemplified during hurricane responses and the NRC's support to the state at that time. The Division hires qualified staff and attempts to ensure that employment longevity with DEQ is equally the desire of the prospective employee. As a result of the investment made by DEQ for each new employee, the Division sends the new employee to a 4-week health physics course offered by Foxfire Scientific at Baylor College of Medicine. However, it would be beneficial if the NRC would consider supporting the 5-week health physics course, or a similar one as identified above, in a monetary way. There would be benefits derived from having this training course provided to a larger number of NRC and State employees, just as the benefits have been derived from the NRC supporting other training courses.

Staffing and Training

The Division is currently fully staffed with a total of 26 staff positions and 1 administrative position. Since the last IMPEP review, the Manager moved into a Senior Technical position and the new Manager came from the Regulation Development Section of the Legal Division. In addition, one of the inspection staff members was promoted to a technical staff position, supporting surveillance and enforcement activities. Therefore, the complement in this area is four individuals. The inspection staff is comprised of 12 inspectors and the licensing staff is comprised of 5 license reviewers. The staff are maintaining qualifications and continuing to receive training courses sponsored by the NRC or other equivalent courses.

Program Reorganizations

There has not been a program reorganization since 2004 when the current Division was created as the Emergency & Radiological Services Division. The Division Administrator continues to oversee chemical and radiological emergency response, accident prevention, radiation surveillance and enforcement, radioactive materials licensing, and X-ray registration.

Changes in Program Budget/Funding

The Division is adequately funded as a self-generating State agency and does not receive general funds from the State. There will be no merit pay for State classified employees (employees below the level of a political appointee) for the foreseeable future. It is anticipated that overall revenues to the State will be impacted as a result of the BP gulf oil spill and its consequential effect to the fishing and oil/gas industry within

the state. The Division cannot raise fees and cannot hire or replace personnel who leave or retire.

Materials Inspection Program

At the time of this periodic meeting, the Division reported that there were no overdue inspections. The Division meets the quarterly metrics that are developed and which they are committed to meet by legislative mandate.

Materials Licensing Program

At the time of this periodic meeting, the Division indicated that all new applications and license amendment requests were completed within 30 days of receiving the required supporting documentation for the action. The Division performed prelicensing visits and ensured that increased controls were in place prior to issuing new licenses for Category 2 facilities. The Division implemented the increased controls and fingerprinting orders by license conditions.

Regulations and Legislative Changes

The State is up to date on all regulation amendments currently required for compatibility. The Division has a process in place to address the final comments for three regulatory packages that include: (RATS ID 1997-5), (RATS ID 1998-5), and (RATS ID 2006-1). The latter package, (RATS-ID 2006-1), will be submitted to the NRC after final promulgation in the *Louisiana Register*, and the status of the two previous packages are being reviewed. The Division's process includes the submittal of the final regulations to address the respective comments.

The fourth set of comments identified is for (RATS ID 2001-1) and concerns generally licensed devices (GLDs). This regulation review is currently being held in abeyance as a result of the new rule on GLDs. Therefore, it is not incumbent upon the Division to address the comments associated with (RATS ID 2001-1) until the new GLD rule is addressed.

The following amendments will need to be addressed by the Division in future rulemakings or by adopting alternate generic legally binding requirements:

- "Medical Use of Byproduct Material – Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 amendment (72 FR 45147, 54207) that is due for Agreement State adoption by 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 is due for Agreement State adoption by 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 is due for Agreement State adoption by December 17, 2010
- “Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent,” 10 CFR Parts 19 and 20 amendment (72 FR 68043) that is due for Agreement State adoption by February 15, 2011

Event Reporting, Including Follow-up and Closure Information in NMED

The Branch reported 42 events to the Nuclear Material Events Database (NMED) since the 2008 IMPEP review. Based on the percentage of events reviewed and discussed during the periodic meeting, the events were appropriately reported to the NRC and were properly entered into, and updated within, NMED. The Division may want to consider whether they want to use the “Event Closed” field in NMED. This is not a required field as the “Record Complete” field is required for NMED. However, the Division may want to consider how they intend to use this field, if at all, and then consistently implement that process. Using an example of a lost source, some states have indicated closed for the “Record Complete” field because there are no additional records to be completed for the event in NMED, but the state keeps the “Event Closed” field open, since the source is still considered lost.

Response to Incidents and Allegations

The Division continues to be responsive to notifications of incidents and allegations. Incidents are quickly reviewed for their affect on public health and safety.

Status of Allegations and Concerns Referred by the NRC for Action

NRC did not refer any allegations to Louisiana during the review period.

Emerging Technologies

The Division received an inquiry from a company about a potential license for Proton Accelerator Therapy. The Division has discussed the licensing guidance used by the State of Texas regarding this high-risk modality.

Large, Complicated, or Unusual Authorizations for use of Radioactive Materials

None noted

Current State Initiatives

The Division has sent letters to all industrial radiography companies stating that the State will start holding radiographers responsible for their actions and will take action against the radiographer for failure to take required actions or where the radiographer is

at fault for contributing to a potential violation. The action taken against the radiographer does not relieve the licensee from any potential enforcement action. The Division has revoked radiographer certifications or banned radiographers through licensing actions from working in the state's jurisdiction. The Division indicated that taking enforcement action against a licensed individual (radiographer) has appeared to encourage a good safety culture within the radiographer community and several companies have appreciated the actions taken by the Division.

State's Mechanisms to Evaluate Performance

The Division uses peer reviews of inspection reports and licensing actions to ensure the quality of regulatory products. Inspectors are accompanied twice a year by the supervisory staff. The staff's training records are maintained on a spreadsheet for easy accountability of "completed date" and "required" training courses for review by the supervisors and manager. The Surveillance Supervisor hosts a "huddle" twice a year, where the staff discusses issues and unique activities they have observed or authorized. In addition, awards are presented and rapport is developed within the group.

Current NRC Initiatives

NRC staff discussed ongoing Office of Federal and State Materials and Environmental Management Programs (FSME) initiatives with the Louisiana representatives. This included pre-licensing guidance, fingerprint orders, national source tracking, web-based licensing, generally licensed devices, and security rulemaking.

Schedule for the Next IMPEP Review

NRC staff recommends that the next IMPEP review be held, as currently scheduled, in FY 2012.