



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

March 1, 2023

Edward Simmer, Director  
Department of Health and  
Environmental Control  
2600 Bull Street  
Columbia, SC 29201

Dear Edward Simmer:

On February 2, 2023, the Management Review Board (MRB), which consisted of the U.S. Nuclear Regulatory Commission (NRC) senior managers and an Organization of Agreement States MRB member, met to consider the results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the South Carolina Agreement State Program. The MRB Chair in consultation with the MRB found the South Carolina Agreement State Program adequate to protect public health and safety and compatible with the NRC's program.

The enclosed final report documents the IMPEP team's findings and summarizes the results of the MRB meeting. Because the last five IMPEP reviews have resulted in all performance indicators being found satisfactory, the MRB Chair determined that the next periodic meeting take place in approximately 2.5 years with the next IMPEP review taking place in approximately 5 years.

I appreciate the courtesy and cooperation extended to the IMPEP team during the review. I also wish to acknowledge your continued support for the Agreement State program. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Haney".

Signed by Haney, Cathy  
on 03/01/23

Catherine Haney  
Deputy Executive Director for Materials, Waste,  
Research, State, Tribal, Compliance, Administration,  
and Human Capital Programs  
Office of the Executive Director for Operations

Enclosures:

1. 2022 South Carolina Final IMPEP Report
2. MRB Meeting Participants

cc: Henry Porter, Chief  
Bureau of Radiological Health

Susan Jenkins, Assistant Chief  
Bureau of Radiological Health

Stacey French, Director  
Division of Waste Management

SUBJECT: FINAL SOUTH CAROLINA AGREEMENT STATE INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM REPORT. DATE: March 1, 2023.

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM  
REVIEW OF THE SOUTH CAROLINA AGREEMENT STATE PROGRAM

October 24-28, 2022

**FINAL REPORT**

## **EXECUTIVE SUMMARY**

The results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the South Carolina Agreement State Program (South Carolina) are contained in this report. The review was conducted from October 24-28, 2022. In-person inspector accompaniments were conducted during the week of August 1, 2022, and the week of September 26, 2022.

The team found South Carolina's performance to be satisfactory for all eight performance indicators reviewed and the Management Review Board (MRB) Chair agreed.

The team did not make recommendations and determined that the recommendation from the 2017 IMPEP review should be closed. The MRB Chair agreed with the team's recommendation.

Accordingly, the team recommended and the MRB Chair agreed that the South Carolina Agreement State Program be found adequate to protect public health and safety and compatible with the U.S. Nuclear Regulatory Commission's program. Since this is the fifth IMPEP review where all indicators have been found satisfactory, the team recommended and the MRB Chair agreed that the next periodic meeting take place in approximately 2.5 years and the next IMPEP review take place in approximately 5 years.

## 1.0 INTRODUCTION

The South Carolina Agreement State Program (South Carolina) review was conducted from October 24-28, 2022, by a team of technical staff members from the U.S. Nuclear Regulatory Commission (NRC), the State of Tennessee, and the State of Washington. Team members are identified in Appendix A. In-person inspector accompaniments were conducted during the week of August 1, 2022, and the week of September 26, 2022. The inspector accompaniments are identified in Appendix B.

The review was conducted in accordance with the "Agreement State Program Policy Statement," published in the *Federal Register* (FR) on October 18, 2017 (82 FR 48535), and NRC Management Directive (MD) 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)," dated July 24, 2019. In addition, the team considered IMPEP Temporary Instruction (TI)-003, "Evaluating the Impacts of the Coronavirus Disease 2019 Public Health Emergency (PHE) as Part of IMPEP," dated October 21, 2020, to evaluate the impact of the pandemic on the Program. Preliminary results of the review, which covered the period of June 24, 2017, to October 28, 2022, were discussed with South Carolina managers on the last day of the review.

In preparation for the review, a questionnaire addressing the common and applicable non-common performance indicators was sent to the South Carolina Bureau of Radiological Health (Bureau) and Division of Waste Management (Division) on September 7, 2022. The Division and Bureau provided their responses to the questionnaire on September 15, and October 10, 2022, respectively. A copy of the questionnaire responses are available in the NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Numbers ([ML22304A039](#)) and ([ML22265A240](#)).

The South Carolina Agreement State Program is administered by two programs within the Department of Health and Environmental Control (Department). The radioactive materials program is administered by the Bureau and the Low-Level Radioactive Waste (LLRW) Disposal Program is administered by the Division. Organization charts are available in ADAMS ([ML22265A245](#) and [ML22287A083](#)).

The 2022 IMPEP team issued a draft report to South Carolina on December 9, 2022, for factual comment ([ML22341A603](#)). South Carolina responded to the draft report by email dated January 5, 2023, from Mr. Edward Simmer, Director, Department of Health and Environmental Control ([ML23005A279](#)). The Management Review Board (MRB) was conducted on February 2, 2023, to discuss the team's findings and recommendations.

At the time of the review, South Carolina regulated 300 specific licenses authorizing possession and use of radioactive materials. The review focused on the radiation control program as it is carried out under Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of South Carolina.

The team evaluated the information gathered against the established criteria for each common and applicable non-common performance indicators and made a preliminary assessment of the State's performance.

## 2.0 PREVIOUS IMPEP REVIEW AND STATUS OF RECOMMENDATIONS

The previous IMPEP review concluded on June 23, 2017. The final report is available in ADAMS ([ML17271A272](#)). The results of the 2017 IMPEP review and the status of the associated recommendation are as follows:

Technical Staffing and Training: Satisfactory

Recommendation: The 2017 IMPEP team recommended that the Bureau update its training and qualification manual to incorporate the essential elements of NRC Inspection Manual Chapter (IMC) 1248, "Qualifications Programs for Federal and State Materials and Environmental Management Programs" and implement it for all staff to ensure continued effective and consistent training and development of its staff.

Status: The 2022 IMPEP team determined that South Carolina updated their training and qualification manual incorporating the essential elements of IMC 1248 and implemented their training and qualification manual to ensure that training remained consistent. The 2022 IMPEP team recommended and the MRB Chair agreed that this recommendation be closed.

Status of Materials Inspection Program: Satisfactory  
Recommendation: None

Technical Quality of Inspections: Satisfactory  
Recommendation: None

Technical Quality of Licensing Actions: Satisfactory  
Recommendation: None

Technical Quality of Incident and Allegation Activities: Satisfactory  
Recommendation: None

Legislation, Regulations, and Other Program Elements: Satisfactory  
Recommendation: None

Sealed Source and Device (SS&D) Evaluation Program: Satisfactory  
Recommendation: None

LLRW Disposal Program: Satisfactory  
Recommendation: None

Overall finding: Adequate to protect public health and safety and compatible with the NRC's program

## 3.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC and Agreement State radiation control programs. 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.

### 3.1 Technical Staffing and Training

The ability to conduct effective licensing and inspection programs is largely dependent on having a sufficient number of experienced, knowledgeable, well-trained technical personnel. Under certain conditions, staff turnover could have an adverse effect on the implementation of these programs and could affect public health and safety. Apparent trends in staffing must be assessed. Review of staffing also requires consideration and evaluation of the levels of training and qualification. The evaluation standard measures the overall quality of training available to, and taken by, materials program personnel.

#### a. Scope

The team used the guidance in State Agreements (SA) procedure [SA-103](#), "Reviewing the Common Performance Indicator: Technical Staffing and Training," and evaluated South Carolina's performance with respect to the following performance indicator objectives:

- A well-conceived and balanced staffing strategy has been implemented throughout the review period.
- Any vacancies, especially senior-level positions, are filled in a timely manner.
- There is a balance in staffing of the licensing and inspection programs.
- Management is committed to training and staff qualification.
- Agreement State training and qualification program is equivalent to IMC 1248.
- Qualification criteria for new technical staff are established and are followed, or qualification criteria will be established if new staff members are hired.
- Individuals performing materials licensing and inspection activities are adequately qualified and trained to perform their duties.
- License reviewers and inspectors are trained and qualified in a reasonable period of time.

#### b. Discussion

The South Carolina Agreement State Program when fully staffed is comprised of eight full-time equivalent positions including a Division Director, one Medical Section Manager, one Industrial Section Manager and four Radiation Protection Specialists (RPSs). An additional RPS position was recently added but has not yet been filled. When it is filled, South Carolina will be fully staffed. Section Managers both manage and inspect with the five RPSs and collectively are responsible for all licensing and inspection activities within the Program. During the review period, four staff left the Program and five were hired to replace them. Of the four who left South Carolina, the former Division Director and one RPS retired from State service and the remaining two RPSs left South Carolina for other opportunities. Most positions when open, were typically vacant from six to nine months before being filled. The team found that the four vacancies occurring over the review period had minimal impact on South Carolina's performance during the review period.

At the time of the 2017 IMPEP review, the team found that the South Carolina training and qualification program format and training requirements had not been updated from IMC 1246 "Formal Qualification Programs in the Nuclear Materials Safety & Safeguards Program Area" to IMC 1248 for seven of nine staff qualification journals. The 2017 IMPEP team recommended that South Carolina update its training and qualification manual to incorporate the essential elements of IMC 1248 and implement the training and qualification manual to ensure continued effective and consistent training and development. South Carolina updated their training and qualification manual to be



compatible with IMC 1248. The 2022 IMPEP team found that the training and qualification program was actively managed by the Division Director and the two Section Managers. The Division Director and the two Section Managers set training goals, ensured both formal training and individual study activities were completed timely, recommended and managed formal mentorships, and ensured that training documentation was properly completed. Discussions regarding staff progression through the training process were held between management and staff at regular intervals. The Division Director and Section Managers determined when staff were sufficiently trained to work independently while performing licensing and inspection-related activities, and then, modality by modality, when staff qualified for both licensing and inspection activities which then allowed them to work independently prior to full qualification. An oral qualification board must be passed to grant staff full qualification status. The inspection and licensing staff spoke highly of South Carolina's firm commitment to training, support to attend NRC-sponsored training, the use of on-the-job training, and mentorship for newer employees while learning new duties. Experienced staff also received support for refresher training that was compatible with IMC 1248. The team confirmed that qualified licensing and inspection staff were completing and documenting at least 24 hours of refresher training every 2 years.

c. Evaluation

Status: The 2022 IMPEP team determined that South Carolina updated their training and qualification manual incorporating the essential elements of IMC 1248 and implemented their training and qualification manual to ensure that training remained consistent. The 2022 IMPEP team recommended that the recommendation from the 2017 IMPEP review be closed.

The team determined that, during the review period, South Carolina met the performance indicator objectives listed in Section 3.1.a. Based on the criteria in MD 5.6, the team recommended that South Carolina's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found South Carolina's performance with respect to this indicator satisfactory.

3.2 Status of Materials Inspection Program

Inspections of licensed operations are essential to ensure that activities are being conducted in compliance with regulatory requirements and consistent with good safety and security practices. The frequency of inspections is specified in IMC 2800, "Materials Inspection Program," and is dependent on the amount and type of radioactive material, the type of operation licensed, and the results of previous inspections. There must be a capability for maintaining and retrieving statistical data on the status of the inspection program.

a. Scope

The team used the guidance in [SA-101](#), "Reviewing the Common Performance Indicator: Status of the Materials Inspection Program," and evaluated South Carolina's performance with respect to the following performance indicator objectives:

- Initial inspections and inspections of Priority 1, 2, and 3 licensees are performed at the prescribed frequencies (<https://www.nrc.gov/materials/miau/mat-toolkits.html>).
- Deviations from inspection schedules are normally coordinated between technical staff and management.
- There is a plan to perform any overdue inspections and reschedule any missed or deferred inspections or a basis has been established for not performing any overdue inspections or rescheduling any missed or deferred inspections.
- Candidate licensees working under reciprocity are inspected in accordance with the criteria prescribed in IMC 2800 “Materials Inspection Program” and other applicable guidance or compatible Agreement State Procedure.
- Inspection findings are communicated to licensees in a timely manner (30 calendar days, or 45 days for a team inspection), as specified in IMC 0610, “Nuclear Material Safety and Safeguards Inspection Reports.”

b. Discussion

South Carolina performed 176 Priority 1, 2, 3, and 28 initial inspections during the review period for a total of 204 Priority 1, 2, 3, and initial inspections. South Carolina conducted approximately 2 percent of Priority 1, 2, 3, and initial inspections overdue. One Priority 1, 2, or 3, inspection was overdue and three initial inspections were overdue. These four inspections were overdue because of pandemic-related impacts. The team noted that [TI-003](#), “Evaluating the Impacts of the COVID-19 Public Health Emergency (PHE) as part of the IMPEP,” states, in part, that for inspections that exceed the scheduling window with overdue dates falling inside the defined time frame of the pandemic, the number of overdue inspections should be noted in the report but should not be counted in the calculation of overdue inspections, provided that South Carolina continues to maintain health, safety, and security. Therefore, applying this criteria, South Carolina did not have any overdue inspections during the review period, nor did they have any overdue inspections at the time of the on-site review. The team also determined that there were no health and safety concerns related to these four overdue inspections.

A sampling of 25 inspection reports indicated that none of the inspection findings were communicated to the licensees beyond South Carolina’s goal of 30 days after the inspection exit or 45 days after the team inspection exit.

South Carolina grants reciprocity to out-of-state licensees based on South Carolina’s fiscal year (FY), which runs July 1–June 30. South Carolina tracked the inspection of reciprocity candidates for each FY during the review period. South Carolina performed greater than 20 percent of candidate reciprocity inspections during the review period per South Carolina’s requirements. Specifically, South Carolina performed 35 percent of reciprocity inspections in FY 2017–2018, 30 percent in FY 2018–2019, 23 percent in FY 2019–2020, 31 percent in FY 2020–2021, and 38 percent in FY 2021–2022. Overall, South Carolina performed 31.4 percent of candidate reciprocity inspections during the entire review period.

c. Evaluation

The team determined that, during the review period, South Carolina met the performance indicator objectives listed in Section 3.2.a. Based on the criteria in MD 5.6, the team recommended that South Carolina’s performance with respect to the indicator, Status of Materials Inspection Program, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found South Carolina's performance with respect to this indicator satisfactory.

3.3 Technical Quality of Inspections

Inspections, both routine and reactive, provide reasonable assurance that licensee activities are carried out in a safe and secure manner. Accompaniments of inspectors performing inspections and the critical evaluation of inspection records are used to assess the technical quality of an inspection program.

a. Scope

The team used the guidance in [SA-102](#), "Reviewing the Common Performance Indicator: Technical Quality of Inspections," and evaluated South Carolina's performance with respect to the following performance indicator objectives:

- Inspections of licensed activities focus on health, safety, and security.
- Inspection findings are well-founded and properly documented in reports.
- Management promptly reviews inspection results.
- Procedures are in place and used to help identify root causes and poor licensee performance.
- Inspections address previously identified open items and violations.
- Inspection findings lead to appropriate and prompt regulatory action.
- Supervisors, or senior staff as appropriate, conduct annual accompaniments of each inspector to assess performance and assure consistent application of inspection policies.
- For Programs with separate licensing and inspection staffs, procedures are established and followed to provide feedback information to license reviewers.
- Inspection guides are compatible with NRC guidance.
- An adequate supply of calibrated survey instruments is available to support the inspection program.

b. Discussion

The team evaluated 26 inspection reports and enforcement documentation, and interviewed inspectors involved in materials inspections conducted during the review period. The team reviewed casework for inspections conducted by 10 of South Carolina's current and former inspectors and covered medical, industrial, commercial, academic, research, reciprocity, and service provider licenses. The team identified that South Carolina's inspection results were well-documented, and violations were well supported. South Carolina follows its own documented inspection and enforcement procedures.

The team completed in-person accompaniments of four inspectors during the week of August 1, 2022. The team found that the four inspectors were well-prepared, were thorough in their evaluation of each licensee, and assessed the impact of licensed activities on health, safety, and security. Inspectors observed the use of radioactive materials whenever possible. During interviews of licensee staff, inspectors used open-ended questions, and were able to develop a basis of confidence that radioactive materials were being used safely and securely. Any findings observed were brought to the licensee staff member's attention at the time of the inspection and again to the

licensee's management during the inspection exit meeting. All findings and conclusions were well-founded and appropriately documented. The inspector accompaniments are identified in Appendix B.

The team found that South Carolina did not perform supervisory accompaniments for each inspector during each year of the review period. Under the former Division Director, one inspector accompaniment was not performed in 2018 and two were not performed in 2019. The team determined that missing this inspector accompaniment did not have an adverse impact on the Program. An additional three supervisory accompaniments were not performed in 2020; however, South Carolina stated that the pandemic significantly limited their ability to perform inspector accompaniments for 2020. All accompaniments were performed in 2021 and during the MRB meeting, South Carolina indicated they performed all accompaniments for 2022. [TI-003](#) states, in part, that those supervisory accompaniments not performed due to circumstances associated with the pandemic, should not be considered by the IMPEP team while establishing the overall indicator rating, provided that the Program continues to maintain health, safety and security. The team found that South Carolina continued to maintain health, safety, and security throughout the review period. Therefore, the reduced number of inspector accompaniments conducted in 2020 were not factored into the overall performance indicator rating and did not have an adverse impact on public health and safety.

The team noted that South Carolina has ample supplies of calibrated radiation detection equipment such as Geiger-Mueller meters, scintillation detectors, ion chambers, micro-R meters, and neutron detectors to support its inspection program. Contracted laboratory services are available when needed.

c. Evaluation

The team determined that, during the review period, South Carolina met the performance indicator objectives listed in Section 3.3.a, except for:

- In 2018 and 2019, supervisors, or senior staff, did not conduct annual accompaniments of each inspector to assess performance and assure consistent application of inspection policies.

The team found that the reduced number of inspector accompaniments occurring over the review period had no observable impact on South Carolina's performance over this review period.

Based on the criteria in MD 5.6, the team recommended that South Carolina's performance with respect to the indicator, Technical Quality of Inspections be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found South Carolina's performance with respect to this indicator satisfactory.

3.4 Technical Quality of Licensing Actions

The quality, thoroughness, and timeliness of licensing actions can have a direct bearing on public health and safety, as well as security. An assessment of licensing procedures, implementation of those procedures, and documentation of communications and

associated actions between the South Carolina licensing staff and regulated community is a significant indicator of the overall quality of the licensing program.

a. Scope

The team used the guidance in [SA-104](#), "Reviewing the Common Performance Indicator: Technical Quality of Licensing Actions," and evaluated South Carolina's performance with respect to the following performance indicator objectives:

- Licensing action reviews are thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.
- Essential elements of license applications have been submitted and elements are consistent with current regulatory guidance (e.g., pre-licensing guidance, Title 10 of the *Code of Federal Regulations* (10 CFR) Part 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material," financial assurance, etc.).
- License reviewers, if applicable, have the proper signature authority for the cases they review independently.
- License conditions are stated clearly and can be inspected.
- Deficiency letters clearly state regulatory positions and are used at the proper time.
- Reviews of renewal applications demonstrate a thorough analysis of a licensee's inspection and enforcement history.
- Applicable guidance documents are available to reviewers and are followed (e.g., NUREG-1556 series, pre-licensing guidance, regulatory guides, etc.).
- Licensing practices for risk-significant radioactive materials are appropriately implemented including the physical protection of Category 1 and Category 2 quantities of radioactive material (10 CFR Part 37 equivalent).
- Documents containing sensitive security information are properly marked, handled, controlled, and secured.

b. Discussion

During the review period, South Carolina performed 1,037 radioactive materials licensing actions, and the team evaluated 21 of those licensing actions. The licensing actions selected for review included new applications, amendments, renewals, terminations, and a Financial Assurance and Decommissioning Funding Plan evaluation. The team evaluated casework which included the following license types and actions: academic broad scope, medical diagnostic and therapeutic, accelerator production, industrial radiography, research and development, academic, nuclear pharmacy, gauges, well-logging, service providers, financial assurance, irradiator, and (extensions, clerical, etc.). The casework sample represented work from 10 former and current license reviewers.

The team reviewed South Carolina procedures, license templates, standard conditions, licensing checklists, and use of databases. The Division used the NUREG-1556 series, and additional NRC guidance for all license reviews, and pre-licensing, licensing, and Risk-Significant Radioactive Materials (RSRM) checklists with new license requests and renewals. The team determined that South Carolina completed on-site security reviews for all new license applications, new locations of use authorization, and possession limit increases that would be identified using the NRC's RSRM checklist and was compatible with the NRC's security requirements. The team noted that South Carolina performed pre-licensing visits on all new licenses and transfers of control. South Carolina properly implemented the NRC guidance.

The team observed that South Carolina's use of comprehensive checklists for its licensing actions assured that licensing decisions were well-documented, and properly addressed health, safety, and security issues. The team observed that South Carolina adequately considered the licensee's inspection and enforcement history in completing renewals. For all actions, secondary level reviews were performed by the Materials Program Section Managers, and all licenses were issued by the Materials Program Division Director.

In response to the pre-IMPEP questionnaire, South Carolina identified two renewal applications that were pending for more than a year. The team observed that both of these cases were properly addressed due to a lack of timely response by the licensee. One licensee decided to terminate their license, and the other licensee requested additional changes to their license. Additionally, the program has reviewed the renewals, issued Deficiency Letters, and have been in frequent contact with licensees to finalize these actions.

No impacts related to the pandemic were seen related to this indicator.

c. Evaluation

The team determined that, during the review period, South Carolina met the performance indicator objectives listed in Section 3.4.a. Based on the criteria in MD 5.6, the team recommended that South Carolina's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found South Carolina's performance with respect to this indicator satisfactory.

3.5 Technical Quality of Incident and Allegation Activities

The quality, thoroughness, and timeliness of response to incidents and allegations of safety concerns can have a direct bearing on public health, safety and security. An assessment of incident response and allegation investigation procedures, actual implementation of these procedures internal and external coordination, timely incident reporting, and investigative and follow-up actions, are a significant indicator of the overall quality of the incident response and allegation programs.

a. Scope

The team used the guidance in [SA-105](#), "Reviewing the Common Performance Indicator: Technical Quality of Incident and Allegation Activities," and evaluated South Carolina's performance with respect to the following performance indicator objectives:

- Incident response and allegation procedures are in place and followed.
- Response actions are appropriate, well-coordinated, and timely.
- On-site responses are performed when incidents have potential health, safety, or security significance.
- Appropriate follow-up actions are taken to ensure prompt compliance by licensees.
- Follow-up inspections are scheduled and completed, as necessary.

- Notifications are made to the NRC Headquarters Operations Center (HOC) for incidents requiring a 24-hour or immediate notification to the Agreement State or NRC.
- Incidents are reported to the Nuclear Material Events Database (NMED) and closed when all required information has been obtained.
- Allegations are investigated in a prompt, appropriate manner.
- Concerned individuals are notified within 30 days of investigation conclusions.
- Concerned individuals' identities are protected, as allowed by law.

b. Discussion

During the review period, 46 incidents were reported to South Carolina. The team evaluated 30 radioactive materials incidents which included 7 lost or stolen radioactive materials events, 1 potential overexposure, 3 medical events, 17 damaged equipment events, 1 leaking source, and 1 event related to an inability to retract a radiography source. South Carolina dispatched inspectors for on-site follow-up for 22 of the cases reviewed. The team determined that appropriate actions were taken.

The team also evaluated South Carolina's reporting of incidents to the HOC. In their response to the questionnaire, South Carolina identified three incidents that were not reported during this review period. South Carolina did not report two incidents to the HOC within the specified time frame as described by 10 CFR 20.2201 and did not report another incident within the specified time frame as described by 10 CFR 30.50(b)(1)(i). South Carolina reported the incidents directly to NMED as specified in SA-300. South Carolina has since reported the incidents to the HOC.

In the first incident, a hospital lost a scintillation camera system that was accidentally sent to a scrap yard. In the second incident, a nurse lost brachytherapy seeds after a treatment. South Carolina also reported an additional incident within the specified time frame late. In this incident, a nuclear medicine technician misadministered a Tc-99m treatment and contaminated a patient. In all these cases, South Carolina properly took appropriate follow-up actions to ensure prompt compliance by licensees.

South Carolina has updated its Incident and Allegation Procedure since the 2017 IMPEP review. This revision included defining roles and responsibilities, receipt of incidents/allegations, timeliness of on-site investigations, documentation of incidents/allegations, and proper close out of incidents/allegations.

During the review period, three allegations were received by South Carolina. The team evaluated all three allegations, including two allegations that the NRC referred to the State, during the review period. The team found that South Carolina took prompt and appropriate action in response to the concerns raised. Documentation for each allegation reviewed was complete, concise, and thorough. Concerned individuals were notified of the results of the investigation, whenever possible.

c. Evaluation

The team determined that, during the review period, South Carolina met the performance indicator objectives listed in Section 3.5.a., except for:

- Not all notifications were made to the HOC for incidents requiring a 24-hour or immediate notification to the Agreement State or NRC.

South Carolina did not report 2 incidents that were reportable to the HOC timely with respect to 10 CFR 20.2201. South Carolina did not report 1 incident that was reportable to the HOC timely with respect to 10 CFR 35.50(b)(1)(i). The team did consider a finding of less than satisfactory regarding this issue but determined that South Carolina self-identified the issue and subsequently provided the notification to the HOC.

Based on the criteria in MD 5.6, the team recommended that South Carolina's performance with respect to the indicator, Technical Quality of Incident and Allegation Activities, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found South Carolina's performance with respect to this indicator satisfactory.

4.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Legislation, Regulations, and Other Program Elements; (2) Sealed Source and Device (SS&D) Evaluation Program; (3) LLRW Disposal Program; and (4) Uranium Recovery Program. The NRC's Agreement with South Carolina does not relinquish regulatory authority for a uranium recovery program; therefore, only the first three non-common performance indicators applied to this review.

4.1 Legislation, Regulations, and Other Program Elements

State statutes should authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the State's agreement with the NRC. The statutes must authorize the State to promulgate regulatory requirements necessary to provide reasonable assurance of adequate protection of public health, safety, and security. The State must be authorized through its legal authority to license, inspect, and enforce legally binding requirements, such as regulations and licenses. The NRC regulations that should be adopted by an Agreement State for purposes of compatibility or health and safety should be adopted in a time frame so that the effective date of the State requirement is not later than 3 years after the effective date of the NRC's final rule. Other program elements that have been designated as necessary for maintenance of an adequate and compatible program should be adopted and implemented by an Agreement State within 6 months following NRC designation. A Program Element Table indicating the Compatibility Categories for those program elements other than regulations can be found on the NRC website at the following address: <https://scp.nrc.gov/regtoolbox.html>.

a. Scope

The team used the guidance in [SA-107](#), "Reviewing the Non-Common Performance Indicator, Legislation, Regulations, and Other Program Elements," and evaluated South Carolina's performance with respect to the following performance indicator objectives. A complete list of regulation amendments can be found on the NRC website at the following address: <https://scp.nrc.gov/regtoolbox.html>.



- The Agreement State program does not create conflicts, duplications, gaps, or other conditions that jeopardize an orderly pattern in the regulation of radioactive materials under the Atomic Energy Act of 1954, as amended.
- Regulations adopted by the Agreement State for purposes of compatibility or health and safety were adopted no later than 3 years after the effective date of the NRC regulation.
- Other program elements, as defined in [SA-200](#), “Compatibility Categories and Health and Safety Categories and Safety Identification for NRC Regulations and other Program Elements” that have been designated as necessary for maintenance of an adequate and compatible program, have been adopted and implemented within 6 months of NRC designation.
- The State statutes authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the agreement.
- The State is authorized through its legal authority to license, inspect, and enforce legally binding requirements such as regulations and licenses.
- Sunset requirements, if any, do not negatively impact the effectiveness of the State’s regulations.

b. Discussion

South Carolina became an Agreement State on September 15, 1969. The South Carolina Agreement State Program’s current effective statutory authority is contained in the Code of Laws of South Carolina, the Atomic Energy and Radiation Control Act, the Radioactive Waste and Transportation Act, and Environmental Protection Fees. The Department is designated in Section 13-7-40 of South Carolina’s Atomic Energy and Radiation Control Act, as the State’s radiation control agency. Section 13-7-40 also allows for a Technical Advisory Radiation Control Council (TARCC). TARCC advises the Department on matters pertaining to ionizing and nonionizing radiation and standards and regulations to be adopted, modified, promulgated, or repealed by the Department. No legislation affecting the radiation control program was passed during the review period.

The State’s administrative rulemaking process takes approximately 12 months from drafting to finalizing a rule. The public, the NRC, other agencies, TARCC, 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. The team noted that the State’s rules and regulations are not subject to “sunset” laws.

During the review period, South Carolina submitted three final regulation amendments, three proposed regulation amendments and no legally binding license conditions to the NRC for a compatibility review. None of the amendments were overdue for State adoption at the time of submission. At the time of this review no amendments were overdue for adoption.

c. Evaluation

The team determined that, during the review period, South Carolina met the performance indicator objectives listed in Section 4.1.a. Based on the IMPEP evaluation criteria in MD 5.6, the team recommended that South Carolina’s performance with respect to the indicator, Legislation, Regulations and Other Program Elements, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found South Carolina's performance with respect to this indicator satisfactory.

4.2 SS&D Evaluation Program

Adequate technical evaluations of SS&D designs are essential to ensure that SS&Ds will maintain their integrity and that the design is adequate to protect public health and safety. NUREG-1556, Volume 3, "Consolidated Guidance about Materials Licenses: Applications for Sealed Source and Device Evaluation and Registration," provides information on conducting the SS&D reviews and establishes useful guidance for teams. In accordance with MD 5.6, three sub-elements: Technical Staffing and Training, Technical Quality of the Product Evaluation Program, and Evaluation of Defects and Incidents Regarding SS&D's, are evaluated to determine if the SS&D program is satisfactory. Agreement States with authority for SS&D evaluation programs who are not performing SS&D reviews are required to commit in writing to having an SS&D evaluation program in place before performing evaluations.

a. Scope

The team used the guidance in [SA-108](#), "Reviewing the Non-Common Performance Indicator, Sealed Source and Device Evaluation Program," and evaluated South Carolina's performance with respect to the following performance indicator objectives:

Technical Staffing and Training

- A well-conceived and balanced staffing strategy has been implemented throughout the review period.
- Qualification criteria for new technical staff are established and are being followed or qualification criteria will be established if new staff members are hired.
- Any vacancies, especially senior-level positions, are filled in a timely manner.
- Management is committed to training and staff qualification.
- Individuals performing SS&D evaluation activities are adequately qualified and trained to perform their duties.
- SS&D reviewers are trained and qualified in a reasonable period of time.

Technical Quality of the Product Evaluation Program

- SS&D evaluations are adequate, accurate, complete, clear, specific, and consistent with the guidance in NUREG-1556, Volume 3.

Evaluation of Defects and Incidents

- SS&D incidents are reviewed to identify possible manufacturing defects and the root causes of these incidents.
- Incidents are evaluated to determine if other products may be affected by similar problems. Appropriate action and notifications to the NRC, Agreement States, and others, as appropriate, occur in a timely manner.

b. Discussion

Technical Staffing and Training

South Carolina had two staff members that were qualified to perform SS&D reviews. During the review period, one of the SS&D staff members left South Carolina and no staff members were hired to replace this staff member. South Carolina had been training another staff member to be qualified to perform reviews. South Carolina has a training program equivalent to NRC training requirements listed in the IMC 1248, Appendix D. The team determined that the individual performing SS&D evaluation activities was adequately qualified and trained.

Technical Quality of the Product Evaluation

South Carolina has one SS&D licensee and one applicant (for custom use). South Carolina did not receive any actions during the review period except for one action received in October 2022, that was being processed and was not completed during the on-site IMPEP review. This action included an amendment to a certificate and an inactivation. This action was administrative in nature and did not require a safety evaluation. Because two signatures are required to process the certificate, South Carolina plans to coordinate with the NRC or another Agreement State to help process this action. No other actions were provided to the program during the review period.

Evaluation of Defects and Incidents Regarding SS&Ds

The team evaluated three incidents involving South Carolina SS&D registered products during the review period. These incidents were investigated in accordance with South Carolina's Incident and Allegation Procedure. The Department does not believe that there were any generic defects that affect the safety of these devices. The team reviewed and concurred with this assessment.

c. Evaluation

The team determined that, during the review period, South Carolina met the performance indicator objectives listed in Section 4.2.a. Based on the criteria in MD 5.6, the team recommended that South Carolina's performance with respect to the indicator, SS&D Evaluation Program, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found South Carolina's performance with respect to this indicator satisfactory.

4.3 LLRW Disposal Program

The objective is to determine if South Carolina's LLRW disposal program is adequate to protect public health and safety, and the environment. Five sub-elements are used to make this determination: (1) Technical Staffing and Training; (2) Status of LLRW Inspection Program; (3) Technical Quality of Inspections; (4) Technical Quality of Licensing Actions; and (5) Technical Quality of Incident and Allegation Activities.

a. Scope

The team used the guidance in [SA-109](#), "Reviewing the Non-Common Performance Indicator: Low-Level Radioactive Waste Disposal Program," and evaluated South Carolina's performance with respect to the following performance indicator objectives:

Technical Staffing and Training

- Qualified and trained technical staff are available to license, regulate, control, inspect, and assess the operation and performance of the LLRW disposal facility.
- Qualification criteria for new LLRW technical staff are established and are followed or qualification criteria will be established if new staff members are hired.
- Any vacancies, especially senior-level positions, are filled in a timely manner.
- There is a balance in staffing the LLRW licensing and inspection programs.
- Management is committed to training and staff qualification.
- Individuals performing LLRW licensing and inspection activities are adequately qualified and trained to perform their duties.
- LLRW license reviewers and inspectors are trained and qualified in a reasonable period of time.

Status of LLRW Inspection Program

- The LLRW facility is inspected at prescribed frequencies.
- Statistical data on the status of the inspection program are maintained and can be retrieved.
- Deviations from inspection schedules are coordinated between LLRW technical staff and management.
- There is a plan to perform any overdue inspections and reschedule any missed or deferred inspections; or a basis has been established for not performing any overdue inspections or rescheduling any missed or deferred inspections.
- Inspection findings are communicated to licensees in a timely manner.

Technical Quality of Inspections

- Inspections of LLRW licensed activities focus on health, safety, and security.
- Inspection findings are well-founded and properly documented in reports.
- Management promptly reviews inspection results.
- Procedures are in place and used to help identify root causes and poor licensee performance.
- Inspections address previously identified open items, non-compliances, and violations.
- Inspection findings lead to appropriate and prompt regulatory action.
- Supervisors, or senior staff as appropriate, conduct annual accompaniments of each LLRW inspector to assess performance and assure consistent application of inspection policies.
- Inspection guides are consistent with NRC guidance.
- An adequate supply of calibrated survey instruments is available to support the inspection program.

### Technical Quality of Licensing Actions

- Licensing action reviews are thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.
- Applicable LLRW guidance documents are available to reviewers and are followed.
- Essential elements of license applications have been submitted and elements are consistent with current NRC or Agreement State regulatory guidance for describing the isotopes and quantities used, qualifications of authorized users, facilities, equipment, locations of use, operating and emergency procedures, and any other requirements necessary to ensure an adequate basis for the licensing action.
- LLRW license reviewers, if applicable, have the proper signature authority for the cases they review independently.
- License tie-down conditions are stated clearly and can be inspected.
- Deficiency letters clearly state regulatory positions and are used at the proper time.
- Reviews of renewal applications demonstrate a thorough analysis of a licensee's inspection and enforcement history.
- Licensing practices for RSRM are appropriately implemented including fingerprinting orders (10 CFR Part 37 equivalent).
- Documents containing sensitive security information are properly marked, handled, controlled, and secured.

### Technical Quality of Incident and Allegation Activities

- LLRW incident response, and allegation procedures are in place and followed.
- Response actions are appropriate, well-coordinated, and timely.
- On-site responses are performed when incidents have potential health, safety, or security significance.
- Appropriate follow-up actions are taken to ensure prompt compliance by licensees.
- Follow-up inspections are scheduled and completed, as necessary.
- Notifications are made to the HOC for incidents requiring a 24-hour or immediate notification to the Agreement State or NRC.
- Incidents are reported to the NMED and closed when required information is obtained.
- Allegations are investigated in a prompt, appropriate manner.
- Concerned individuals are notified of investigation conclusions.
- Concerned individuals' identities are protected, as allowed by law.

## b. Discussion

### Technical Staffing and Training

South Carolina had six staff to implement the LLRW disposal program (3.7 FTE). Four of the six staff, including the Division Director and administrative personnel, supported the program on a part-time status. Three full-time employees were fully qualified and one new part-time staff member was being trained. There were no vacancies at the time of the on-site review. During the review period, five staff members left the LLRW program, and four staff members were hired. The positions were vacant from 12 to 15 months. Over the review period, engineering projects at the Barnwell LLRW disposal facility had greatly reduced such that a dedicated engineer (1.0 FTE) was no longer needed. If an engineer were needed, the Section Manager is a trained engineer, and the Division Director is also a Professional Engineer. South Carolina has a training program equivalent to NRC training requirements listed in the IMC 1248, Appendix E, that

includes refresher training for experienced staff. The team confirmed that qualified licensing and inspection staff were completing and documenting at least 24 hours of refresher training every 2 years.

The team evaluated staff training documentation and conducted interviews with selected staff to assess the qualifications and training program as well as their knowledge of their program and status of the Barnwell LLRW disposal facility. No issues were noted; staff were well versed and cognizant of issues at the disposal site.

#### Status of LLRW Disposal Inspection Program

South Carolina performed 5 inspections at the Barnwell LLRW disposal facility during the review period. These inspections were conducted in semi-annual visits covering all aspects of the licensee's radioactive materials license each year. The team determined that South Carolina completed the LLRW inspections in accordance with the NRC's inspection frequency (i.e., annually).

The State inspectors also perform weekly site inspections. The team examined 36 weekly inspections. These inspections included radiation levels at several points around the site, visual inspections for water in the trench, perimeter fence review, and observing if completed trenches have any subsidence, erosion, absence of vegetation, or woody vegetation in the swales around the trench. South Carolina also maintains a resident inspector at the Barnwell LLRW disposal facility to conduct routine vehicle and disposal shipment inspections as the opportunity arise. The team determined that the South Carolina performed complete and thorough inspections of the Barnwell LLRW disposal facility during the weekly and semi-annual inspections. No deviations from the prescribed inspection schedule were noted during this review period.

The team concluded that inspection reports were complete, findings were well-founded, appropriately documented, and reviewed by the Section Manager prior to sending close out letters to the licensee or pursuing enforcement actions. Inspection findings for the LLRW disposal program were communicated by formal correspondence to the licensee within 30 days following the inspection.

#### Technical Quality of Inspections

During the week of September 26, 2022, the team accompanied three inspectors (and one trainee) at the Barnwell LLRW disposal facility during the semi-annual facility inspection lead by the Section Manager. Under the LLRW license, site security, environmental monitoring, facility postings, and dosimetry were observed. No shipments of radioactive waste were received at the disposal site while the team was on-site. The team interviewed the state's Resident Inspector regarding his routine for shipment receipt and approval. The Resident Inspector is very experienced and knowledgeable and is well versed in his procedures for waste acceptance and disposal.

The team evaluated 44 inspection files which included waste acceptance, hydrogeological, radiological, security, and environmental hazards, and determined that the inspection reports were thorough, complete, consistent, and had sufficient documentation to ensure that licensee performance with respect to health, safety and security was acceptable. The findings were well-founded, supported by regulations, and were appropriately documented.

No supervisory accompaniments were performed in 2018. Limited accompaniments were documented in 2019. Supervisory inspector accompaniments in 2020 and 2022 were performed. No supervisory accompaniments were performed in 2021 due to the pandemic. [TI-003](#) states, in part, that those supervisory accompaniments not performed due to circumstances associated with the pandemic, should not be considered by the IMPEP team while establishing the overall indicator rating, provided that the Program continues to maintain health, safety and security. The team found that South Carolina continued to maintain health, safety, and security. Therefore, the reduced number of inspector accompaniments conducted in 2021 were not factored into the overall performance indicator rating.

#### Technical Quality of Licensing Actions

South Carolina completed five licensing actions during the review period. The team examined all five LLRW licensing actions which were minor amendments. The five amendments to the Barnwell LLRW disposal facility license encompassed changes to the Authorized Users listed on the license. Additional licensing activities included a renewal application which has not been completed (in timely renewal).

On March 27, 2019, the South Carolina Supreme Court (SCSC) issued Opinion No. 27821, which ultimately brought the 15-year legal appeal of the 2004 issuance of Radioactive Material License No. 097 for Chem-Nuclear Systems, LLC, Barnwell LLRW Disposal Facility, an Energy Solutions company, to a close. The SCSC opinion focused on two areas: water migration into the waste trenches and migration out of the trenches. Chem-Nuclear submitted a license renewal on September 30, 2019, in addition to a document addressing compliance with SCSC conclusions. The license was deemed in timely renewal on October 15, 2019. While the license has been in timely renewal for over a year, South Carolina has continued to perform weekly and semi-annual inspections to ensure the health and safety of the public.

The team found the casework to be thorough, complete, consistent, and of acceptable technical quality. The license conditions are clear and can be inspected. Health and safety issues were properly addressed. Tie-down conditions are stated clearly, backed by information contained in the file, and enforceable. Public hearings were held when needed and South Carolina engaged in public outreach, particularly regarding the potential groundwater contamination at the Barnwell LLRW disposal facility.

#### Technical Quality of Incident and Allegation Activities

South Carolina's LLRW program did not receive any incidents or allegations during the review period, including no referrals from the NRC. South Carolina has written procedures for the handling, review, analysis, response and follow-up of incidents and allegations. The team reviewed these procedures and found them to be thorough and complete.

#### c. Evaluation

The team determined that, during the review period, South Carolina met the performance indicator objectives listed in Section 4.3.a, except for:

- In 2018 and 2019, supervisors, or senior staff, did not conduct annual accompaniments of each LLRW inspector to assess performance and assure consistent application of inspection policies.

During this time frame, the previous Section Manager was promoted to a new position, a senior member in the LLRW Section was promoted to Section Manager and a senior staff member retired. This personnel shuffle limited the number of qualified inspectors and focused their work on hiring/training new staff. In subsequent years the Section Manager and senior staff were able to again perform staff accompaniments. The reduced number of inspector accompaniments conducted did not have an adverse impact on public health and safety.

Based on the criteria in MD 5.6, the team recommended that South Carolina's performance with respect to the indicator, LLRW Disposal Program, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found South Carolina's performance with respect to this indicator satisfactory.

5.0 SUMMARY

The team found South Carolina's performance to be satisfactory for all performance indicators reviewed and the MRB Chair agreed.

The team did not make any new recommendations and determined that the recommendation from the 2017 IMPEP review should be closed. The MRB Chair agreed with the team's recommendation.

Accordingly, the team recommended and the MRB Chair agreed that South Carolina be found adequate to protect public health and safety, and compatible with the NRC's program. Based on the results of the 2022 IMPEP review, the team recommended and the MRB Chair agreed that the next full IMPEP review take place in approximately 5 years, with a periodic meeting in approximately 2.5 years.



## LIST OF APPENDICES

Appendix A	IMPEP Review Team Members
Appendix B	Inspector Accompaniments

## APPENDIX A

### IMPEP REVIEW TEAM MEMBERS

<b>Name</b>	<b>Areas of Responsibility</b>
Stephen Poy, NRC HQ	Team Leader Technical Quality of Incident and Allegation Activities Legislation, Regulations, and Other Program Elements Sealed Source and Device Evaluation Program Inspector Accompaniments
Shawn Seeley, NRC RI	Status of Materials Inspection Program
Randy Erickson, NRC RIV	Technical Staffing and Training Technical Quality of Inspections
Monica Ford, NRC RI	Inspector Accompaniments
Ron Parsons, State of Tennessee	Technical Quality of Licensing Actions
Earl Fordham, State of Washington	Low-Level Radioactive Waste Disposal Program Inspector Accompaniments

APPENDIX B

INSPECTOR ACCOMPANIMENTS

The following inspector accompaniments were performed prior to the on-site IMPEP review:

Radioactive Materials Section

Accompaniment No.: 1	License No.: 586
License Type: Gammaknife	Priority: 2
Inspection Date: 8/2/2022	Inspector's initials: AG

Accompaniment No.: 2	License No.: 816
License Type: Nuclear Pharmacy/Cyclotron	Priority: 2
Inspection Date: 8/3/2022	Inspector's initials: KK

Accompaniment No.: 3	License No.: 383
License Type: Industrial radiography	Priority: 1
Inspection Date: 8/4/2022	Inspector's initials: LC

Accompaniment No.: 4	License No.: 881
License Type: Medical no written directive required	Priority: 5
Inspection Date: 8/5/2022	Inspector's initials: JP

Low-level Waste Section

Accompaniment No.: 5	License No.: 097
License Type: LLRW Disposal Facility	Priority: 1
Inspection Date: 9/27-28/2022	Inspector's initials: CI

Accompaniment No.: 6	License No.: 097
License Type: LLRW Disposal Facility	Priority: 1
Inspection Date: 9/27-28/2022	Inspector's initials: KS

Accompaniment No.: 7	License No.: 097
License Type: LLRW Disposal Facility	Priority: 1
Inspection Date: 9/27-28/2022	Inspector's initials: KN

**Management Review Board (MRB) Meeting Participants – February 2, 2023**

**Management Review Board:**

Cathy Haney, MRB Chair, OEDO  
Brian Harris, OGC  
John Lubinski, NMSS (VIA MS Teams)

John Monninger, RIV  
Debra Shults, OAS Rep. (TN).

**IMPEP Team Members:**

Stephen Poy, NMSS, Team Leader  
Randy Erickson, Region IV (VIA MS  
Teams)  
Shawn Seeley, Region I (VIA MS  
Teams)

Ron Parsons, State of Tennessee  
(VIA MS Teams)  
Earl Fordham, State of Washington  
(VIA MS Teams)

**State of South Carolina (VIA MS Teams):**

Henry Porter  
Juli Blalock  
Susan Jenkins  
Andrew Roxburgh  
Stacey French

Lynne Garner  
Adam Gause  
Brandon Johnson  
Crispulo Isiminger

**NRC Staff:**

Robert Johnson

**NRC Staff (VIA MS TEAMS):**

Bethany Cecere  
Monica Ford  
Farrah Gaskins  
Michelle Hammond  
Latischa Hanson

Jeffery Lynch  
Karen Meyer  
Pam Noto  
Joseph O'Hara  
Kevin Williams

**Members of the Public:**

Jennifer Baugh-Fennell  
Keisha Cornelius (OK)  
Gary Forsee (IL)  
Matthew Greenwood (TN)

Julia McRoberts (MS)  
Michael Reid (OH)  
Steve Seeger (TN)  
Beth Shelton (TN)

There were no comments from Members of the Public. The meeting began at approximately 1:30 p.m. (ET) and was adjourned at approximately 2:49 p.m. (ET).