



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I**  
2100 RENAISSANCE BOULEVARD, SUITE 100  
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

June 7, 2013

Beverly Anderson, Interim Director  
Radiation Control Program  
Department of Public Health  
Schrafft Center, Suite 1M2A  
529 Main Street  
Charlestown, MA 02129

Dear Ms. Anderson:

A periodic meeting was held with you and your staff on April 10, 2013. The purpose of the meeting was to review and discuss the status of Massachusetts Department of Public Health's Agreement State Program. The NRC was represented by Daniel Collins, Michelle Beardsley, 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](mailto: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  
 MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH  
 RADIATION CONTROL PROGRAM

DATE OF MEETING: April 10, 2013

<b>NRC Attendees</b>	<b>Massachusetts Department of Public Health Attendees</b>
Daniel Collins, Deputy Director, DNMS, Region I	Suzanne Condon, Associate Commissioner/ Director, Bureau of Environmental Health
Donna Janda, RSAO, Region I	Beverly Anderson, Interim Director, Radiation Control Program (RCP)
Michelle Beardsley, Health Physicist, FSME	Joshua Daehler, Materials Supervisor, RCP
	Kenath Traegde, RCP
	Michael Whalen, RCP

**DISCUSSION:**

During the 2010 Integrated Materials Performance Evaluation Program (IMPEP) review of the Massachusetts Agreement State Program (the Program), the review team found the Commonwealth's performance satisfactory for four performance indicators: Technical Quality of Inspections, Technical Quality of Licensing Actions, Technical Quality of Incidents and Allegations, and Sealed Source and Device Evaluation Program; and satisfactory, but needs improvement, for three performance indicators: Technical Staffing and Training, Status of Materials Inspection Program, and Compatibility Requirements. Three recommendations were made by the IMPEP review team, and five recommendations were carried over from the 2002 and 2006 IMPEP reviews. On September 20, 2010, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Massachusetts Agreement State Program. The MRB found the Program adequate to protect public health and safety, but needs improvement, and compatible with NRC's program. The MRB directed NRC staff to initiate a period of monitoring, requested that calls between the Massachusetts DPH and NRC staffs be conducted quarterly, and directed that a periodic meeting take place approximately one year from the 2010 IMPEP review. The periodic meeting was held with the Massachusetts DPH on August 1, 2011.

During the MRB held on November 21, 2011, to discuss the results of the August 2011 periodic meeting, the MRB determined that the Commonwealth had made significant progress in addressing the recommendations that were made during the 2010 IMPEP review and the open recommendations from previous IMPEP reviews. Based on this information, the MRB determined that the period of monitoring should be discontinued, a periodic meeting should be held in approximately 18 months, and the next IMPEP review should be conducted as scheduled in fiscal year 2014 (tentatively July 2014.)

The following is a status summary of the eight recommendations that were identified in the 2010 Massachusetts final IMPEP report:

1. The review team recommended that the Commonwealth pursue adequate funding to support and implement the staffing plan which is needed to meet current program demands as well as the projected increase in workload. (Carryover from the 2006 IMPEP review)

Status: The Program is adequately funded by licensing and registration fees. The funds are placed in to a retained revenue account and the Program is allowed to retain a certain percentage of the revenue from its annual fees and is capped at that point. The Program is trying to increase the cap and is also looking at the Program fees relative to NRC fees to determine if a fee increase is appropriate.

2. The review team recommended that the Commonwealth monitor and maintain accurate information in its database so it can be used by Program management and staff as a reliable planning and tracking tool to ensure that inspections are completed within the required timeframe.

Status: This recommendation was addressed prior to the 2011 periodic meeting.

3. The review team recommended that the Commonwealth routinely perform accompaniments of each inspector, at least annually, to ensure quality and consistency in the inspection program.

Status: The Program completed all but one supervisory accompaniment in calendar year 2011 and completed all of the supervisory accompaniments in calendar year 2012. Supervisory accompaniments are documented on a supervisor accompaniment form which is monitored quarterly.

4. The review team recommended that the Commonwealth take necessary steps to ensure that all reportable events are submitted and updated to NRC in accordance with FSME Procedure SA-300. (Carryover recommendation from the 2002 IMPEP review.)

Status: The 2010 IMPEP review team determined that five out of 51 events were not reported to NRC in a timely manner and timely follow up information was not provided for nine events which were still open in the Nuclear Material Events Database (NMED). Since the IMPEP review, the Program has addressed the open events in NMED and has reported 33 new events to NRC, two of which were not reported in a timely manner. Neither of these incidents involved significant health and safety or security issues and did not have generic implications.

5. The review team recommended that the Commonwealth adopt regulations necessary for compatibility within the required 3-year period. (Carryover from the 2006 IMPEP review; modified in the 2010 IMPEP review.)

Status: Since the 2011 periodic meeting, the Program has submitted 11 regulation amendments to NRC for review. The Program is currently addressing the majority of the comments received from NRC on these amendments. Three of the comments will be addressed through the submission to the Commonwealth's Public Health Council in a future rulemaking. The Program currently has no overdue regulations.

6. The review team recommended that the Commonwealth reissue the certificate MA-0555-S-102-S to contain a table indicating radiation levels under maximum loading conditions.

Status: This recommendation was addressed prior to the 2011 periodic meeting.

7. The review team recommended that the Commonwealth make corrections to registration certificate MA-0166-D-102-B. (Carryover recommendation from the 2002 and 2006 IMPEP reviews.)

Status: This recommendation was addressed prior to the 2011 periodic meeting.

8. The review team recommended that the Commonwealth reissue registration certificate MA-8154-D-803-B with the complete text or equivalent form. (Carryover recommendation from the 2006 IMPEP review; modified in the 2010 IMPEP review.)

Status: This recommendation was addressed prior to the 2011 periodic meeting.

#### OTHER TOPICS COVERED DURING THE MEETING INCLUDED:

##### Program Strengths

The Program has an experienced and well-trained, highly educated staff. Program staff actively participates in emergency response activities. The database used by the Program serves as a very useful tool for the licensing and inspection areas of the Program. Both senior management and Program management support staff training. According to Ms. Condon, the Governor recognizes the importance of the RCP and is adding additional FTE to the State budget. Ms. Condon stated that another strength of the Program is the staff's ability to interact within other Offices within the Commonwealth such as State Police, Fire Services, and the Hazardous Materials Unit.

##### Program Weaknesses

Ms. Condon stated that the open Director's position continues to be a challenge for the Program; however, the position was posted and interviews have been completed so a new permanent Director should be in place in the near future. Another challenge the Program identified is dealing with public perception/concerns related to radiation issues, especially after the Fukushima nuclear power plant event in Japan. In addition, the Program has been addressing the need for knowledge management discussions in recognition of the potential retirement of experienced staff members in the near future.

##### Feedback on the NRC's Program

The Program commented that both the overall relationship and communications with the NRC are good. The Program expressed appreciation for the NRC funding of training, use of webinars, and NMED training at Agreement State offices. The Program managers noted that, because it can take approximately four weeks to receive State approval for travel, it can be challenging to support NRC's requests to participate on short notice in a training class, on an IMPEP team or on working groups.

##### Agreement State Program Staffing and Training

The Program staff currently consists of seven technical staff members and two managers, including the Interim Director. There are two vacancies, one technical position and the RCP Director position. The technical staff position will be filled in early May 2013 with an individual with substantial health physics experience. As mentioned previously, the Director's position has been posted and interviews are completed. During the periodic meeting, Ms. Condon

mentioned that she had just been notified that the Governor had included two FTE in the budget for the RCP, one of which would be dedicated to radioactive materials. In addition, one current 0.5 FTE will become full-time in the RCP. One staff member currently working at the State Laboratory will be transferred to the RCP as soon as another individual is transferred to the Environmental Laboratory. Ms. Condon noted that the RCP is looking at a possible gain of 2.5 FTE with the new positions and transfers.

Support for staff training exists in the Program. The Program anticipates that new technical staff members will progress through the Program's qualification process based on their level of health physics experience. Program staff has attended NRC and other training courses, including the NRC's Security Systems and Principles Course.

### Organization

The Massachusetts Agreement State Program is administered by the Radiation Control Program which is located in the Department of Public Health. Since the 2011 MRB, the Acting Program Director resigned from the Program and currently an Interim Program Director manages the radioactive materials program.

### Program Budget/Funding

The Program is adequately funded by licensing and registration fees. The funds are placed into a retained revenue account and the Program is allowed to retain a certain percentage of the revenue from its annual fees and is capped at that point. The remainder of the revenue is placed into the Commonwealth's General Fund.

### Inspection and Licensing Programs

The Program's inspection frequencies are at least as frequent as NRC's. The Program reported that there have been no inspections completed overdue since the 2011 MRB meeting. The Program staff has been focusing increased efforts on issuing inspection reports to licensees in a timely manner. In addition, the Program staff is in the process of issuing a significant enforcement action to an out-of-state licensee who failed to file for reciprocity to perform licensed activities on several occasions in Massachusetts.

The Program currently has approximately 470 specific licenses. Massachusetts licensees are subject to a five-year license renewal term. The Program reported that there is currently no backlog in licensing actions.

### Regulations and Legislative Changes

There have not been any legislative changes or proposals that have affected the Program. As mentioned in Recommendation 5 above, the Program has submitted 11 regulation amendments to NRC for review since the 2011 Periodic Meeting. The Program is currently addressing the majority of the comments received from NRC on these amendments. The Program currently has no overdue regulations.

### Event Reporting

This topic is discussed in Recommendation 4 above.

### 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.

The Program mentioned two significant events they have been addressing since the previous Periodic Meeting. One involved a manufacturing error by an industrial radiography device manufacturer's vendor not machining to specifications on female connector sleeves. This event was reported to NRC prior to the 2011 Periodic Meeting. The second event involved a report of industrial radiography customers attaching collimators directly to radiography devices rather than to the guide tube as recommended by the manufacturer. This was not considered to be a reportable event; however, the Massachusetts licensee (manufacturer of the device) issued a Customer Service Information Notice and the Program amended the SS&D sheet for this device to address the issue. In addition, the Program discussed the issue during the October 2012 conference call involving NRC, CRCPD, and OAS participants.

### Sealed Source and Device (SS&D) Evaluation Program

The Program noted that there are no staffing changes in the SS&D Evaluation Program.

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

The Program noted that a complicated action addressed in the SS&D program involved the use of NRC Regulatory Issue Summary 2013-01, "Use of Aftermarket Sealed Sources Registered Under 10 CFR 32.210," to address a request from a licensee regarding the use of aftermarket sealed sources.

### Commonwealth's Mechanisms to Evaluate Performance

Inspection reports and licensing actions receive secondary technical reviews. Staff members are provided with weekly tickler reports of due dates for inspections and licensing actions. Managers conduct periodic audits of licensing actions and inspection due dates and perform supervisory accompaniments of inspectors on an annual basis. The Program also holds staff meetings at least every two months. Ms. Condon stated that she plans to attend the next staff meeting to address any questions/concerns that staff members may have regarding the Program.

### CONCLUSIONS:

Massachusetts has an experienced and well trained staff which continues to address the recommendations that were made during the 2010 IMPEP review and to the open recommendations from previous IMPEP reviews. The Program is in the process of filling the open Director's position and a technical staff position. The Program is not experiencing any backlogs in either inspection or licensing activities. NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2014 (tentatively July 2014).