



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

January 8, 2013

Ray Rusin, Director
Radiation Control Program
Office of Facilities Regulation
3 Capitol Hill
Providence, RI 02908

Dear Mr. Rusin:

A periodic meeting with your State was held on December 12, 2012. The purpose of this meeting was to review and discuss the status of the Rhode Island Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Raymond Lorson, Michelle Beardsley, and me.

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 (610) 337-5214 or via e-mail at Monica.Orendi@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Monica Lynn Orendi
Regional State Agreements Officer
Division of Nuclear Materials Safety
U.S. NRC Region I

Enclosure:
Periodic Meeting Summary for Rhode Island

cc w/encl.: Edward W. Johnson, Deputy Director
Rhode Island Emergency Management Agency

Andrew Powers, Acting Chief
Rhode Island Department of Health
State Licensing Unit

Charma Waring, Supervisor
Rhode Island Department of Health
Radiation Control Program

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
RHODE ISLAND DEPARTMENT OF HEALTH'S
RADIATION CONTROL PROGRAM

DATE OF MEETING: December 12, 2012

NRC Attendees	Rhode Island Department of Health Attendees
Monica Orendi, State Agreements Officer, Region I	Andrew Powers, Acting Chief, State Licensing Unit
Raymond Lorson, Director, Region I	Charma Waring, Supervisor, Radiation Control Program
Michelle Beardsley, Health Physicist, Office of Federal and State Materials and Environmental Management Programs	William Dundulis, Risk Assessment Toxicologist
	Dennis Klaczynski, Radiological Health Specialist

DISCUSSION:

During the October 2011 Integrated Materials Performance Evaluation Program (IMPEP) review of the Rhode Island Agreement State Program (the Program), the review team found the State's performance satisfactory for the performance indicators Technical Staffing and Training, Technical Quality of Licensing, and Technical Quality of Incidents and Allegations; satisfactory but needs improvement for the performance indicators Technical Quality of Inspections and Compatibility Requirements; and unsatisfactory for the performance indicator Status of Materials Inspection Program. The review team made six recommendations. On January 17, 2012, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Rhode Island Agreement State Program. The MRB found the Program adequate to protect public health and safety but needs improvement and compatible with NRC's program. Based on the results of the IMPEP review, the review team recommended, and the MRB agreed, that the next full IMPEP review take place in four years and that a periodic meeting be held in one year. The review team also recommended and the MRB agreed that a period of Monitoring be initiated for Rhode Island.

The following is the status summary of the State's actions to address the open recommendations from the October 2011 IMPEP report:

1. The review team recommended that the State document its training and qualification program for license reviewer and inspectors, including the reimplementation, use, and update of licensing and inspection qualification cards for each staff member.

Status: Rhode Island has made progress in this area. Current qualification cards have been brought up to date, however the Program plans to change the way they track training and qualification in the near future. The Program plans to integrate the

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tracking of training and qualification into the office wide electronic system already in use by the Office of Facilities Regulation.

2. The review team recommends that the State take appropriate measures to conduct Priority 1, 2, and 3 inspections and initial inspections in accordance with the inspection priority in Inspection Manual Chapter 2800.

Status: Since October 2011 Rhode Island has made inspections a top priority. Rhode Island has completed all Priority 1, 2, and 3 inspections in accordance with the inspection priority in Inspection Manual Chapter 2800. Rhode Island has completed no inspections overdue by more than twenty five percent of its assigned inspection frequency. Rhode Island has had no new license applications requiring an initial inspection since October 2011.

3. The review team recommends that the State take measures to ensure that inspection records and narrative reports are documented in accordance with the Program's Inspection Manual.

Status: Rhode Island has taken measures to ensure that inspection records and narrative reports are documented in accordance with the Program's Inspection Manual. Inspection reports are reviewed by senior level staff for completeness.

4. The review team recommends that a Program supervisor or other appropriately qualified senior staff member accompany each inspector, at least annually, to ensure quality and consistency in the inspection program.

Status: One of the two inspectors has been accompanied in calendar year 2012. The Program anticipates being able to accompany the other inspector before the end of December.

5. The review team recommends that the State conduct initial and subsequent security-related inspections in a manner that provides for verification of licensee compliance with the requirements.

Status: The Program has focused on performing security-related inspections along with the routine health and safety inspections. During these inspections the Program is verifying licensee requirements with both security-related and health and safety requirements.

6. The review team recommends that the State adopt all currently overdue regulations required for compatibility and adopt future regulation amendments within their required three year time frame.

Status: Rhode Island currently has seven regulation amendments overdue for adoption. Rhode Island is working through their process and hopes to have proposed regulation in to the NRC for review by the end of the first quarter of calendar year 2013. Final regulation adoption, which will include regulation changes through Regulation Amendment Tracking System (RATS) ID 2012-4, is anticipated in the summer of 2013.

OTHER TOPICS COVERED DURING THE MEETING INCLUDED:Program Strengths

The Program has an experienced and well-trained staff. Although the Program is currently short staffed the current staff is very dedicated and has a willingness to put forth the effort to get the job done. The Program also has a very good professional relationship with its licensees allowing for openness and good communication.

Program Weaknesses

The Program feels that staffing issues are a weakness of the program. The Program currently has one staff vacancy and one staff person who is out on extended medical leave. These two unmanned positions have placed a burden on the program.

Feedback on the NRC's Program

The Program commented that both the overall relationship and communications with the NRC are good. The Program did provide an inquiry on why the naval site in Newport was requiring Rhode Island general licensees to file with the NRC for reciprocity to work at the site. The question was taken back to the NRC Region I office for follow-up. NRC staff members who work with the Navy agreed to reach out to both Rhode Island and the naval site in Newport to resolve the issue.

Agreement State Program Staffing and Training

The Program staff currently consists of three technical staff and a program supervisor. One of the three technical staff is currently on extended medical leave and is not anticipated to return to the Program. The Program also has one technical staff vacancy. This vacancy was created when a technical staff member was promoted to the program supervisor position which had been vacant since October 2008. The Program is unable to back fill the staff position at this time but is planning on building it into the 2014 budget and hopes to get approval to post the position then (the 2014 budget goes into effect July 2013). No other staff turnover has occurred since the 2011 IMPEP review. The current staff comprises approximately 1.8 full time equivalents (FTE). According to the program supervisor the number of FTE in the radioactive materials program is adequate when the Program is fully staffed. Support for staff training exists in the Program. Program staff has attended NRC and other training courses.

Organization

The Rhode Island Agreement State Program is located in the State Licensing Unit, in the Office of Facilities Regulation, which is in the Division of Environmental and Health Services, located within the Rhode Island Department of Health. The Program anticipates a reorganization happening in the next 6 months. It is believed that the reorganization will happen below the Office level and will create two new units within the Office of Facilities Regulation: a licensing unit and a federal certification unit. The Program will inform NRC of the new structure when changes are made.

Program Budget/Funding

The Program is 100 percent fee funded. The funds are placed into a restricted receipt account for the Radiation Control Program. Although the money is placed into a restricted fund the Program does face some challenges and needs approval before using the money for purchases. The surplus money at the end of each fiscal year cannot be taken and placed into the State's general fund without an approved change to the legislation.

Inspection and Licensing Programs

The Program's inspection frequencies are at least as frequent as NRC's. No inspections were overdue by more than twenty five percent of their assigned inspection frequency at the time of the periodic meeting. Also no inspections have been completed overdue by more than twenty five percent of their assigned inspection frequency since the 2011 IMPEP review. The Program has completed 18 Priority 1, 2, and 3 inspections since the October 2011 IMPEP. The Program uses a form MAT-6 which is similar to NRC's form 591 to be able to issue clear inspection findings in the field. The Program has had no initial inspections since the October 2011 IMPEP review and completed the one overdue initial inspection mentioned in the 2011 IMPEP report in December 2011.

The Program currently has approximately 45 specific licenses. The Program has 5 renewal packages in house. Licenses are renewed every ten years in Rhode Island. The Program has been working on one renewal application for approximately 10 years. The Program requested an updated renewal package from this licensee which they received six months ago and hopes to issue the renewed license soon. The Program has implemented maximum possession limits for all of its licenses and is using pre-licensing guidance for new license applications.

Regulations and Legislative Changes

Rhode Island is continuing to work on promulgating regulations. The Program hopes to have proposed regulations, which will cover regulation amendment changes through RATS ID 2012-4, submitted to the NRC by the end of the first calendar quarter in 2013. The Program also believes that it will submit final regulation amendment changes to the NRC by the end of the summer of 2013.

The following seven regulation amendment changes are overdue for adoption:

- "Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments," 10 CFR Part 71 (69 FR 3697), that was due for Agreement State implementation on October 1, 2007. (RATS ID 2004-1)
- "Minor Amendments," 10 CFR Parts 20, 30, 32, 35, 40, and 70 (71 FR 15005), that was due for Agreement State implementation on March 27, 2009. (RATS ID 2006-1)
- "Medical Use of Byproduct Material - Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 (72 FR 45147, 54207) that was due for Agreement State implementation on October 29, 2010. (RATS ID 2007-1)

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- “Requirements for Expanded Definition of Byproduct Material,” 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendment (72 FR 55864), that was due for Agreement State adoption by November 30, 2010. (RATS ID 2007-2)
- “Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements,” 10 CFR Parts 30, 31, 32, and 150 amendment (72 FR 58473), that was due for Agreement State adoption by December 17, 2010. (RATS ID 2007-3)
- “Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent,” 10 CFR Parts 19 and 20 (72 FR 68043) that was due for Agreement State implementation on February 15, 2011. (RATS ID 2008-1)
- “Medical Use of Byproduct Material – Authorized User Clarification,” 10 CFR Part 35 amendment (74 FR 33901), that was due for Agreement State implementation on September 28, 2012. (RATS ID 2009-1)

Event Reporting

The Program has reported one event to the NRC since the 2011 IMPEP review. Follow up information for the event reported by the Program is included in the State’s NMED entry. It was noted that the NMED item was listed as still being open by the State even though the State had submitted communication stating that the event was closed. This was brought to the Program’s attention during the periodic meeting and the Program stated that they would work on resolving the issue.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations. No allegations were referred from NRC to the Program and the Program did not receive any allegations since the 2011 IMPEP review.

Current State Initiatives

Rhode Island is looking at ways to stream line their inspection process. The State is also looking into further developing the use of mobile technology.

Emerging Technologies

No emerging technologies were identified during the periodic meeting.

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

No large, complicated or unusual authorizations for the use of radioactive material were identified during the periodic meeting.

State's Mechanisms to Evaluate Performance

The Program Supervisor will be accompanying all inspectors on an annual basis. The Program management and staff meet as needed to discuss program priorities. The Program does not have a mechanism in place to fully evaluate its performance outside of the IMPEP review. The Program stated it would consider implementing a mechanism in the future to aid in further evaluation of program performance between IMPEP reviews.

CONCLUSIONS:

Rhode Island continues to be an effective Agreement State program with an experienced and well-trained staff. There is one vacancy and one unstaffed position, due to a staff member being out on extended medical leave, in the Program at this time. The Program has completed no inspections overdue since the October 2011 IMPEP review. Adoption of regulation changes within the required three year time period is an ongoing issue for the Program. The Program has seven regulation amendment changes overdue for adoption.

NRC staff recommends that the Program continue on Monitoring, a periodic meeting be held in 18 months from the date of the previous periodic meeting, and the next IMPEP review be conducted as scheduled in FY 2016.