



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

April 4, 2017

Andrew Manca, Associate Director
Division of Customer Services
Rhode Island Department of Health
3 Capitol Hill
Providence, RI 02908

Dear Mr. Manca:

A periodic meeting with your staff was held on March 9, 2017. 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 James Trapp, Director, Division of Nuclear Materials Safety, U.S. NRC Region I and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. A Management Review Board (MRB) meeting to discuss the outcome of the periodic meeting will be scheduled in the future. Once the date is known, call-in information for the MRB will be provided in a separate transmission.

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.Ford@nrc.gov to discuss your concerns.

Sincerely,

/RA/

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

Enclosure:
Periodic Meeting Summary for Rhode Island

cc w/encl.: Charma Waring, Supervisor
Radioactive Materials Section

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

DATE OF MEETING: March 9, 2017

NRC Attendees	Rhode Island Department of Health Attendees
Monica Ford, State Agreements Officer, Region I	Andrew Manca, Associate Director of Health, RI Department of Health (exit only)
James Trapp, Director, Division of Nuclear Materials Safety, Region I	Charma Waring, Supervisor, Radiation Control Program
	Bill Dundulis, Risk Assessment Toxicologist
	Dennis Klaczynski, Radiological Health Specialist
	William Dundulis, Intern

DISCUSSION:

During the March 2016 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 Quality of Inspections, Technical Quality of Licensing, Technical Quality of Incidents and Allegations, and Compatibility Requirements; satisfactory but needs improvement for the performance indicator Technical Staffing and Training; and unsatisfactory for the performance indicator Status of the Materials Inspection Program. The review team left one recommendation open from the 2011 IMPEP review and made no new recommendations. On June 16, 2016, the Management Review Board (MRB) met to consider the proposed final IMPEP report. The MRB found the Program adequate to protect public health and safety, but needs improvement, and compatible with the U.S. Nuclear Regulatory Commission's (NRC) program. Upon deliberation, the MRB issued two additional recommendations to Rhode Island. The MRB directed that Rhode Island continue on monitoring, that calls between the Rhode Island Department of Health (RDH) and NRC staff be conducted quarterly, and that a periodic meeting take place approximately one year from the 2016 IMPEP review and a second periodic meeting be held approximately 18 months after the first periodic meeting.

A periodic meeting was held with the Program on March 9, 2017. This summary is a reflection of that periodic meeting.

TOPICS COVERED DURING THE MEETING INCLUDED:

Feedback on the NRC's Program

The Program commented that both the overall relationship and communications with the NRC are good and that they appreciated NRC's continued support of the Agreement States.

Organization

The Program is administered by the Radiation Control Program which is located within the Division of Customer Service. The Division of Customer Service is located within the Rhode Island Department of Health.

Program Budget and Funding

The Program is 100 percent fee-funded. The funds are placed into a restricted receipt account that can only be accessed by the programs under Radiological Health. This includes radioactive materials, x-ray, tanning, and mammography.

Technical Staffing and Training (2016 IMPEP: Satisfactory but needs improvement)

The Program, when fully staffed, is composed of four technical staff members and a program manager who are all partially allocated to support the Program. The total effort allocated by all five positions is approximately three and a quarter full-time equivalents for the radioactive materials program. At the time of the periodic meeting there was one vacancy in the Program. This was created when a staff member left to take another job within the Rhode Island Department of Health in December 2016. The Program posted the position and a new employee is scheduled to start on April 3, 2017. The newly hired employee has experience in both nuclear medicine and industrial radiography. After the 2016 IMPEP review, the Program hired a licensing assistant, however this individual has been out on leave since July 2016. This has negatively impacted the Program as a majority of the administrative work now falls on the program manager and staff.

The Program has a training and qualification manual compatible with the NRC's Inspection Manual Chapter (IMC) 1248. Staff going through the qualification process have been assigned the Program's training and qualification journal to complete. The Program is tracking refresher training for qualified staff and is aware of the 24 hours every 24 months requirement.

The 2016 MRB generated one recommendation for this performance indicator. The recommendation and its status are listed below.

Recommendation 1: The MRB recommends that the program management take measures to ensure proper documentation of inspection tracking dates and ensure the Program's licensing and inspection files are complete.

Status: To address the first part of the recommendation, the program manager has placed a white board in her office and has populated it with all of the Program's Priority 1, 2, and 3 licensees (which are separated by priority and color coded). This is easily accomplished since the Program has only 20 Priority 1, 2, and 3 licensees. The white board shows the last inspection completed and the next inspection due. This keeps the information prominently

displayed and can be easily consulted should a question about inspection due dates arise. Additionally a spreadsheet is maintained on the program manager's computer which shows the history of the inspections performed since the last IMPEP review. To address the second part of the recommendation, after the 2016 IMPEP review, the program's administrative support staff started to go through all of the program's files and color code them by inspection priority and place them in the correct order. With the newly hired licensing assistant out on leave the program staff has had to help complete this work. Additionally, as new licensing actions are submitted or inspection actions are completed, the program is auditing the associated file to ensure it contains all of the required information.

Status of the Materials Inspection Program (2016 IMPEP: Unsatisfactory)

During the 2016 IMPEP review, the review team determined that 11 of 41 Priority 1, 2, 3, and initial inspections had been completed overdue resulting in the Program completing 27 percent of its inspections overdue. The Program stated that they have since made inspections a focus area and have completed all Priority 1, 2, and 3 inspections in accordance with their assigned inspection frequencies. The Program has had no initial inspections since the last IMPEP review. The Program has continued to be attentive to reciprocity inspections. The program manager stated that she was confident that the Program had inspected greater than 20 percent of candidate licensees in calendar year 2016.

The 2016 IMPEP team kept open one recommendation from the 2011 IMPEP review for the performance indicator Status of the Materials Inspection Program. The recommendation along with its status are listed below.

Recommendation 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 IMC 2800. This recommendation remains open from the 2011 IMPEP review.

Status: Since the 2016 IMPEP review, the Program has made inspections a focus area. Rhode Island has completed all Priority 1, 2, and 3 inspections in accordance with the inspection priority in IMC 2800. Rhode Island has had no new license applications requiring an initial inspection since the 2016 IMPEP review. In addition to the inspection tracking methods put in place as discussed in the status to Recommendation 1, the program manager has also started making reminders in Outlook on the Radiation Control Program calendar.

Technical Quality of Inspections (2016 IMPEP: Satisfactory)

The Program uses a form similar to NRC's form 591 called a MAT 6 to document inspection results. This form can be issued in the field for clear inspections. Inspection findings are routinely sent to licensees within 30 days of the completion of an inspection. All supervisory accompaniments were completed for calendar year 2016.

Technical Quality of Licensing Actions (2016 IMPEP: Satisfactory)

The Program has approximately 44 specific licensees. The Program takes all received licensing actions and places them in a computer tracking system and assigns them a log number. This database is very generic and does not contain any security-related information.

All licensing actions are worked on in a timely manner, then reviewed by a senior staff member before being signed by the Program Director. At the time of the periodic meeting, the Program had a working backlog of approximately 12 licensing actions consisting of renewals and amendments. A majority of the outstanding actions are renewals (9 of the 12). The longest renewal has been pending since 2002. This renewal's completion has been delayed because there have been a lot of changes to the licensee's program, necessitating the Program to continuously request additional information. All nine renewals have been in progress for more than one year and communications are ongoing with the licensees. All other actions (amendments) have been in progress for less than one year. The Program's licenses are on a 10 year renewal cycle.

The MRB for the 2016 IMPEP review generated one recommendation for this performance indicator.

Recommendation 3: The MRB recommends that program management develop and implement an action plan to reduce the licensing renewal backlog.

Status: The Program has not yet developed and implemented a specific action plan to address this recommendation. The Program is, however, actively working on all nine renewals. The Program is aware of the need to complete the renewals in a timely manner and is working diligently to reduce the backlog. The program manager stated that once the Program is fully staffed, a formal metric will be developed and implemented to complete all renewal actions and ensure timely completion of new actions that are received.

Technical Quality of Incidents and Allegations (2016 IMPEP: Satisfactory)

The Program has processes in place to maintain an effective response to incidents and allegations. The Program uses a system called Aspen Complaints Tracking System (ACTS). Incidents are quickly reviewed for their effect on public health and safety and staff is dispatched to perform onsite investigations when necessary. The Program communicates reportable incidents to the NRC Operations Center and Region I. The Program has received no reportable events or allegations since the 2016 IMPEP review.

Compatibility Requirements (2016 IMPEP: Satisfactory)

In 2016 Rhode Island enacted state statute 42-35-5 into its General Laws. Section (b) states the following:

(b) The secretary of state shall oversee the publication of an updated code of state regulations. The code of state regulations shall be compiled and published in a format and medium prescribed by the secretary of state. Upon completion of the updated code, it shall be made available on the secretary of state's website. The rules of an agency shall be published and indexed in the code of state regulations. Agencies must resubmit all existing rules with the secretary of state for publication into the code of state regulations by December 31, 2018. All rules shall be written in plain language. To promote the efficient development of a code of state regulations, the office of regulatory reform is authorized to coordinate and direct agencies in the effort to develop a regulatory code. The office of regulatory reform shall establish a phased approach which requires agencies to submit portions of regulatory content prior to December 31, 2018. Any rule that is not resubmitted by December 31, 2018, and is not published in the code of state regulations, shall not be enforceable until the rule appears in the code of state

regulations. The secretary of state shall make the code of state regulations available for public inspection and, for a reasonable charge, copying.

This statute requires that the Program must recodify all of their rules into the new format as described by the “Rules and Regulations Formatting and Filing Manual” by December 31, 2018 or they will not be able to enforce against them. The Program stated that they will need to ensure that the regulations are with the Secretary of State by August 2018 in order to ensure that they are adopted in final by the deadline. Due to the new regulatory format requirements, the Program plans to adopt NRC regulations by reference. The Program is planning to promulgate adoption by reference regulations in the required format and submit those by the deadline. This could cause the Program to adopt a total of five regulation amendments overdue [one is already currently overdue, (Regulation Amendment Tracking System (RATS) ID 2013-2 due August 2016) and four coming due at various times in 2018]. However, it should make it easier for the Program to ensure timely adoption of regulations in the future. In most cases, they will just need to change the date of the Code of Federal Regulations they are adopting against in their regulations.

The Program’s regulations are subject to sunset requirements. The Program must refile their regulations every five years. The Program completed this refiling in January 2017. The next refiling is scheduled for 2022.

Current State Initiatives

No items were identified for discussion.

Emerging Technologies

The Program stated that they were not aware of any new/emerging technologies being used (or requested to be used) in Rhode Island.

Large, Complicated, or Unusual Authorizations

No items were identified for discussion.

State’s Mechanisms to Evaluate Performance

- The program manager provides weekly updates to senior level management on the status of licensing and inspection actions.
- The program manager reviews and signs all inspection reports. Additionally the program manager accompanies staff in the field to evaluate performance.
- All licensing actions are reviewed by senior level staff or program management before being issued.

Current NRC Initiatives

NRC staff presented several initiatives ongoing at the NRC. These included:

- Updates to the Agreement State Policy Statement
- Government Accountability Office Materials Licensing Audit and Investigation
- Category 3 Source Security and Accountability Working Group

- Agreement State training
- Changing licensing renewals from 10 to 15 years
- Non-military radium
- Updates to the Pre-licensing and Risk Significant Radioactive Materials Checklists

CONCLUSIONS:

NRC staff recommends that Rhode Island continue on Monitoring, the next periodic meeting be conducted as scheduled in September 2018, and the next IMPEP review be conducted as scheduled in March 2020.