



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I**
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

March 23, 2011

Raymond Rusin, Chief
Office of Facilities Regulation
Division of Environmental and Health Services Regulation
Rhode Island Department of Health
3 Capitol Hill
Providence, RI 02908

Dear Mr. Rusin:

A periodic meeting with your Office was held on October 27, 2010. The purpose of the meeting was to review and discuss the status of the Rhode Island Office of Facilities Regulations' Agreement State program. The NRC was represented by Monica Orendi and me.

I have completed and enclosed a general meeting summary, including any specific actions that will be taken as a result of the 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 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
RHODE ISLAND OFFICE OF FACILITIES REGULATIONS'
RADIOLOGICAL HEALTH PROGRAM

DATE OF MEETING: October 27, 2010

NRC Attendees	Rhode Island Radiological Health Program Attendees
Donna Janda, Region I RSAO	Adelita Orefice, Executive Director, Division of Environmental and Health Services Regulation
Monica Orendi, FSME, Health Physicist	Raymond Rusin, Director, Office of Facilities Regulations
	Dennis Klaczynski, Radiation Control Specialist
	William Dundullis, Risk Assessment Toxicologist
	Charma Waring, Radiation Control Specialist

DISCUSSION:

During the 2007 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 five performance indicators and satisfactory, but needs improvement, for one performance indicator, Status of Materials Inspection Program. The IMPEP review team made two recommendations regarding the Program. On January 15, 2008, the Management Review Board (MRB) met to consider the IMPEP review team's proposed findings regarding the Program. The MRB found the Program adequate to protect public health and safety and compatible with the NRC's program. On December 2, 2009, a periodic meeting was held to discuss the status of the Rhode Island Agreement State Program and the recommendations made during the 2007 IMPEP. On March 1, 2010, the MRB met to discuss the results of the periodic meeting. The MRB concluded that the next IMPEP review of the Program should take place as currently scheduled in Fiscal year 2012 and that a periodic meeting should be held in approximately nine months to follow up on the status of the Rhode Island Program.

This summary describes that periodic meeting.

The following is a status summary of the two recommendations that were identified in the 2008 Rhode Island final IMPEP report:

1. 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 schedule in IMC 2800.

Current status: Since the 2009 periodic meeting, one Priority 1 inspection was overdue. This inspection was due in August 2010; however, at the time of this meeting, the licensee was in the process of converting their radiography cell, which had previously been used as a temporary job site, into a fixed radiography cell which would then change the inspection priority to every two years (Priority 2).

This recommendation remains open and should be evaluated at the next IMPEP review.

ENCLOSURE

2. The review team recommends that the State develop a written documentation of its radioactive materials licensing program to ensure that a memorialized program exists to train and transfer knowledge to future, as well as current, staff.

Current Status: Due to other Program priorities, the Program staff has not completed actions related to this recommendation. Staff members are currently reviewing NRC, State and site-specific procedures to incorporate into written documentation for the licensing program.

This recommendation remains open and should be evaluated at the next IMPEP review.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

The Program is now situated in the Office of Facilities Regulations, which according to the Program staff, can help identify issues in the radioactive materials program when issues are identified in other areas (e.g., X-Ray Program). It also allows for a more integrated approach and sharing of information between Programs. A well-trained and experienced staff is a major strength of the Program. Another strength of the Program is that, due to the size of the Program and the geographical size of the State, Program staff members have a significant amount of contact with licensees.

Program Weaknesses

Program management and staff identified State budget issues and broad-based policies (e.g., hiring freeze, purchasing freeze) as areas which can affect the Program.

Feedback on the NRC's Program

The Program staff commented that the overall relationship with the NRC is good. The Program staff appreciates NRC funding of qualification training courses and would support the return of NRC funding of the five-week health physics training course. The Program staff suggested that other courses could be scheduled on a less frequent basis (such as every other year) to offset the cost of the five-week course. The Program staff is currently considering using a web-based training class to satisfy a portion of the five-week health physics course.

One Program staff member has been issued credentials for accessing the NSTS database. Two additional staff members are in the process of applying for their credentials.

Agreement State Program Staffing and Training

The Program has four technical staff members who dedicate a total of 2.0 FTE to the radioactive materials program. One supervisor position is currently vacant, one staff member is on a leave of absence and one individual has returned to the technical staff since the 2009 Periodic Meeting.

Support for staff training exists in the Program. Program staff members can attend out-of-state training courses, including NRC courses, when training is necessary to conduct their work. However, some out-of-state travel has been denied such as attendance at the New England Radiological Health Committee Annual Meeting which was held in Portland, Maine this year.

Organization

The Program is administered under the Office of Facilities Regulations within the Division of Environmental and Health Services in the Rhode Island Department of Health. There have been no organizational changes since the 2009 Periodic Meeting.

Program Budget/Funding

Mr. Rusin stated that the Program is adequately funded with licensee fees placed into a restricted fund. There have been no fee increases since the 2007 IMPEP review. Although the Program is adequately funded, the Program is subject to the overall budget issues that are affecting the State and the Department of Health in particular. The staff has not been subject to furloughs; however, the staff has taken a 10% pay cut over the last two fiscal years.

Inspection/Licensing Programs

The Program has approximately 50 radioactive materials licenses. The Program's inspection frequencies are at least as frequent as NRC's. One Priority 1 inspection was overdue at the time of this meeting (see Recommendation 1 discussed previously in this report.)

It was noted during the previous Periodic Meeting that the Program had eight licensing actions in the process of timely renewal, some for as long as one year. According to the Program staff, seven of these actions have been reviewed and requests for additional information have been sent to the licensees. The Program staff conducts pre-licensing site visits on a case-by-case basis.

Regulations

There have not been any legislative changes or proposals that have affected the Program since the last Periodic Meeting. As of the date of this meeting, Rhode Island has two regulations that are overdue.

The following regulations are overdue:

- "Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments," 10 CFR Part 71 amendment (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 amendment (71 FR 15005), that was due for Agreement State implementation on March 27, 2009. (RATS ID 2006-1)

The State will need to address the following NRC amendments in the future:

- "Medical Use of Byproduct Material – Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 amendment (72 FR 45147 and 72 FR 54207), that is due for Agreement State adoption by October 29, 2010. (RATS ID 2007-1)
- "Requirements for Expanded Definition of Byproduct Material," 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendment (72 FR 55864), that is due for Agreement State adoption by November 30, 2010. (RATS ID 2007-3)

ENCLOSURE

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

Event Reporting

The Program communicates reportable incidents to the NRC Operations Center and Region I when appropriate in a prompt manner. The Program has reported one event to the NRC since the 2009 Periodic Meeting.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for the potential effect on public health and safety. Staff members are dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations and has procedures in place to ensure appropriate follow up action is taken. The Program conducts investigations of allegations and follows up with the concerned individuals regarding the outcome of the investigations. Alleged identity is protected under Rhode Island law.

Current State Initiatives

The Program’s priority initiative is maintaining the radioactive materials program by filling staff vacancies and responding to the recommendations made during the most recent IMPEP.

Mr. Rusin stated that the Program staff is evaluating whether changes to the manner in which the Program conducts its business are necessary due to the Health Care Reform Act.

State’s Mechanisms to Evaluate Performance

Mr. Rusin stated that at the present time there are no self-assessment programs in place to evaluate the performance of the Program. Mr. Rusin stated that he plans to incorporate the assessment of the radioactive materials program into the Office of Facilities Regulations’ assessments. The Program uses spreadsheets with inspection/licensing assignments to monitor workloads.

Summary

Rhode Island continues to maintain their Agreement State Program during a period of budget constraint within the State. Even though the Program is funded by licensee fees, other State budget constraints, including hiring freezes and pay cuts affect the Program. Although the program Supervisor position has been vacant for approximately 18 months, the Program is adequately staffed. The inspection backlog has been reduced and, with a few exceptions, the regulations are up to date.

NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2012 (tentatively October 2011).