June 25, 2001

MEMORANDUM TO: Hubert J. Miller, Regional Administrator
Region I

FROM: Carl J. Paperiello ***/RA/***
Deputy Executive Director for
Materials, Research, and State Programs

SUBJECT: INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM FOR REGION I

On June 5, 2001, the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report for Region I (RI). The MRB found the RI program adequate to protect public health and safety.

Section 5.0, page 18, of the attached final report presents the IMPEP teams single recommendation. We request your evaluation and response to the recommendation within 30 days of receipt of this memorandum.

Based on the results of the current IMPEP review, the next full review will be in approximately four years.

I appreciate the courtesy and cooperation extended to the IMPEP team during the review and your support of the program.

Attachment:
Final Report

CONTACT: Charles Cox, NMSS/IMNS
(301) 414-6755

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

REVIEW OF NRC REGION I PROGRAM

March 19-23, 2001

FINAL REPORT

U.S. Nuclear Regulatory Commission

Attachment 1

1.0 INTRODUCTION

This report presents the results of the review of the Region I (RI) nuclear materials program. The review was conducted during the period of March 19-23, 2001, by a review team comprised of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the Commonwealth of Massachusetts. Team members are identified in Appendix A. The review was conducted in accordance with the "Implementation of the Integrated Materials Performance Evaluation Program and Rescission of a Final General Statement of Policy," published in the Federal Register on October 16, 1997, and the November 5, 1999, revision to NRC Management Directive (MD) 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)." Preliminary results of the review, which covered the period February 1998 to March 2001, were discussed with RI management on March 23, 2001.

A draft of this report was issued to RI for factual comment on April 19, 2001. RI responded in a memorandum dated May 4, 2001. The Management Review Board (MRB) met on June 5, 2001, to consider the proposed final report. The MRB found that the RI radiation control program is adequate to protect public health and safety.

The RI nuclear materials program is administered by the Director, Division of Nuclear Materials Safety (DNMS), who reports directly to the Regional Administrator. The DNMS organization chart is included as Appendix B. At the time of the review, the RI nuclear materials program regulated more than 1700 specific material licenses.

In preparation for the review, a questionnaire addressing the common and non-common indicators was sent to RI on January 12, 2001. RI provided a response to the questionnaire on February 21, 2001. A copy of the questionnaire responses is included as Appendix G to the proposed final report.

The review team's general approach for conduct of this review consisted of: (1) examination of RI's response to the questionnaire; (2) analysis of quantitative information from the licensing, inspection, resource utilization, and allegation databases; (3) technical review of selected licensing, inspection, incident response, allegation, and decommissioning actions or files; (4) field accompaniments of three RI inspectors; and (5) interviews with staff and management to answer questions or clarify issues. The team evaluated the information that it gathered against the IMPEP performance criteria for each common and non-common indicator and made a preliminary assessment of RI's performance.

Section 2 below discusses RI's actions in response to recommendations made following the previous review. Results of the current review for the IMPEP common performance indicators are presented in Section 3. Section 4 discusses results of the applicable non-common indicators, and Section 5 summarizes the review team's findings and recommendations. Recommendations made by the review team are comments that relate directly to program performance by RI. A response is requested from RI to all recommendations in the final report.

2.0 STATUS OF ITEMS IDENTIFIED IN PREVIOUS REVIEWS

During the previous routine IMPEP review, which concluded on January 30, 1998, four recommendations were made and the results transmitted to Hubert J. Miller, Regional Administrator, RI in the final IMPEP report on May 13, 1998. The team's review of the current status of these recommendations is as follows:

(1) The review team recommends that RI continue efforts to improve its timeliness in conducting initial inspections in accordance with Inspection Manual Chapter (IMC) 2800 guidelines.

Current Status: In response to this recommendation, RI modified their procedure for conducting initial inspections and developed a flow diagram of their process to minimize the likelihood of overdue initial inspections. The staff were trained on this new procedure and since its implementation, RI's performance in this area has improved significantly. Section 3.1 of this report describes the new procedure in more detail along with RI's performance data. This recommendation is closed.

(2) The review team recommends that RI implement a process to ensure that each Notice of Violation (NOV) receives a licensee response in a timely manner.

Current Status: In response to this recommendation, RI implemented such a process. Approximately once every month, the licensing assistant team (LAT) leader generates a report from RI's Inspection Planning System to highlight those NOV's that have not received a response from the licensee within 30 days. The LAT leader first tries to find the licensee response in the Agencywide Documents Access and Management System (ADAMS) or other files to ensure that indeed a response has not been received. For those determined to be delinquent, the LAT leader refers the file to the lead inspector for follow-up with the licensee. There were not any delinquent NOV responses found from a sampling of 24 inspection files covering the review period. This recommendation is closed.

(3) The review team recommends that the Offices of Nuclear Material Safety and Safeguards (NMSS) and Analysis and Evaluation of Operational Data (AEOD) consider the availability of the "Finance for Non-Financial Professionals" course and the "Environmental Transport (including Groundwater Transport)" course, and inform the Regions on how these course requirements in Inspection Manual Chapter (IMC) 1246 should be met, or relaxed, while the courses are not offered by NRC.

Current Status: The Technical Training Center and Division of Waste Management revised IMC 1246 in January 2001, to provide managers discretion to determine if individual staff members require the two courses based on the staff member's experience and areas of inspection or review. In addition, IMC 1246 identifies that the environmental transport course requirement will be met by commercially available courses as determined by the responsible manager. The finance course for non-financial professionals is currently available by video tape. This recommendation is closed.

(4) The review team recommends that NMSS reexamine IMC 1246 and reconsider the requirements for decommissioning inspectors and decommissioning technical reviewers on non-complex decommissioning cases (e.g., those involving no groundwater contamination, no contamination outside of licensee buildings, and authorized use for only short half-life materials).

Current Status: The Technical Training Center and Division of Waste Management revised IMC 1246 in January 2001, to provide managers discretion to determine if individual staff members require the two courses, "Finance for Non-Financial Professionals" and "Environmental Transport" , based on the staff member's experience and areas of inspection or review. This recommendation is closed.

3.0 COMMON PERFORMANCE INDICATORS

IMPEP identifies five common performance indicators to be used in reviewing both NRC Regional and Agreement State programs. These indicators are: (1) Status of Materials Inspection Program; (2) Technical Quality of Inspections; (3) Technical Staffing and Training; (4) Technical Quality of Licensing Actions; and (5) Response to Incidents and Allegations.

3.1 Status of Materials Inspection Program

The team focused on four factors in reviewing this indicator: inspection frequency, overdue inspections, initial inspection of new licenses, and timely dispatch of inspection findings to licensees. The review team's evaluation is based on the RI questionnaire responses relative to this indicator, data gathered independently from NRC's Licensing Tracking System (LTS) and other NMSS and RI statistical databases, the examination of completed licensing and inspection casework, and interviews with RI managers and staff.

Review of RI's inspection priorities showed that, as with the 1998 review, the RI inspection frequencies for various types or groups of licenses are consistent with program office guidance, as provided in IMC 2800, "Materials Inspection Program." This was verified by cross-checking the actual inspection frequencies entered in the LTS with the IMC 2800 frequencies. In all cases reviewed, the inspection frequencies in the database (which set the next inspection date, unless the next inspection date is intentionally reduced or extended by RI staff) match the IMC 2800 frequencies. RI is also actively implementing a provision in IMC 2800 to reduce or extend individual licensee inspection schedules, based on the licensee's inspection findings and previous performance.

At the time of this IMPEP review, RI had six core program inspections overdue, in comparison with the IMC 2800 guidance. Of these six, five were Priority 1, and one was a Priority 2. All six overdue core inspections were scheduled and completed in March 2001. The review team noted that during the 1998 IMPEP review, RI had 6 core inspections overdue. RI conducts approximately 550 inspections each year, so six overdue core inspections is well within the range of acceptable performance.

While onsite, the review team obtained a listing of all new licenses issued by RI during the review period. The review team checked inspection dates for a sample of 31 of 229 new licenses issued from February 1998 through February 2001. Of the 31 sampled, three were not

inspected within the first six months following licensees beginning licensed activity or having received licensed material. However, all three were inspected within eight months of beginning licensed activities and within a year of license issuance. The remaining 28 licensees were inspected within the appropriate six month or one year requirement as specified in IMC 2800. In response to the 1998 IMPEP finding in this area, RI implemented a process and flow diagram to minimize the number of overdue initial inspections. The review team observed that RI now makes "inquiries" of new licensees at the 3-month point to determine whether the licensees possess material. If the licensee has received material by the 3-month inquiry, the inspection is announced and scheduled within three months so it will not be overdue. In those cases where the licensee has not received material, RI consistently documented the inquiries with follow-up letters to the licensees. In cases where an initial inspection is completed without the licensee having possessed material at one year, RI continues to periodically contact the licensee so it can schedule an inspection prior to the next regularly scheduled inspection (which may be from 1 to 7 years later) to evaluate the licensee's performance using licensed material. RI treats this inspection as the "true initial inspection."

DNMS Branch 2 conducts and tracks reciprocity inspections for RI. From RI's monthly statistical reports the review team noted 24 reciprocity inspections were conducted during the review period in accordance with the goals specified in IMC 1220. In 1998, six Priority 1 reciprocity licenses were granted while only two inspections were conducted which is one less than the number recommended by IMC 1220. However, for calendar years 1999 and 2000, RI completed the required number of reciprocity inspections.

The review team also evaluated the timeliness of RI's issuance of inspection findings. Based on data from RI's tracking system, routine inspection findings are issued to licensees within 30 days 95 percent of the time. For all inspection findings, the average time to issue inspection findings during the review period was 15 days from completion of the inspections. The review team reviewed casework for 24 different inspection reports for the review period, and found that 20 had inspection findings transmitted to the licensee within 30 days. The remaining four were issued between 34 and 45 days and involved more significant NOVs or other enforcement issues, which may have required coordination with other NRC offices. The review team determined that RI continues to perform appropriately with respect to the timeliness of inspection report issuance to licensees.

The team reviewed an LTS generated data set comparing the number of licensees in each State with the number of inspections conducted by RI since the last IMPEP review. There was no geographic bias on the part of RI in scheduling inspections, as required by IMC 2800.

During the review, the team discussed with RI the requirement in IMC 2800 (06.04.b) to inspect at least fifty percent of the permanent field offices specified on a license over the course of the licensee's inspection cycle. One branch chief was not aware of the requirement while another did not believe it applied to all materials licensees. The review team contacted the other three Regions while on-site and found that they all are aware of and are consistently implementing the requirement. In response to these discussions, a random sampling of 11 multi-site licenses was reviewed by RI. In 10 of the 11 cases, at least 50 percent of the field offices were inspected over the inspection period. Discussions with regional staff and managers revealed that inspectors and branch chiefs used prudent judgement based on safety significance in determining which locations to inspect and had met the intent of IMC 2800.

Based on the IMPEP evaluation criteria, the review team recommends that RI's performance with respect to the indicator, Status of Materials Inspection Program, be found satisfactory.

3.2 Technical Quality of Inspections

The team evaluated the inspection reports, enforcement documentation, and inspection field notes and interviewed inspectors for 25 materials inspections conducted during the review period. The casework included 20 of RI's materials license inspectors, and covered inspections of various license types, including: nuclear pharmacy, radiography, mobile nuclear medicine, medical institution broad, research and development broad, manufacturing and distribution and irradiator licensees. Appendix C lists the inspection casework files reviewed for completeness and adequacy with specific comments.

Based on the casework, the review team noted that routine inspections covered all aspects of the licensees' radiation programs. The review team found that inspection reports were thorough, complete, consistent, and of high quality, with sufficient documentation to ensure that licensee's performance with respect to health and safety was acceptable. The documentation supported violations, recommendations made to the licensee, unresolved safety issues, and discussions held with the licensee during exit interviews. Team inspections were performed when appropriate and for training purposes.

During the onsite review, the review team determined that RI is performing inspections of materials licensees in accordance with IMC 2800. Inspectors used the appropriate inspection field note forms on all the files reviewed. The review team observed that inspectors were reviewing previous open items and past violations during the inspections. For the cases reviewed, 21 of the 25 inspections resulted in NRC Forms 591 issued to the licensees. Two major licensee inspections, at a broad license and a major university, resulted in letters to the licensees stating that no violations were identified. In the rest of the cases reviewed, RI issued NOVs.

During this review period, DNMS branch chiefs accompanied all inspectors at least once each year. To ensure that each inspector is accompanied on an annual basis, each supervisor maintains a report documenting when the accompaniments are performed. Inspectors receive verbal feedback at the time of the inspection accompaniments, and a portion of the inspectors' annual performance appraisals address their inspection skills.

An issue regarding Temporary Instructions (TI) associated with IMC 2800 was discussed with RI. Specifically, two TI's specifying additional radiography and strontium-90 ophthalmic applicator inspection and reporting requirements were apparently unknown to the appropriate RI personnel until after the TI implementation dates had expired. Both of the TI's were issued in 1998 and expired in early 2000. In response to these circumstances, RI modified the method of notification and distribution of TI's to DNMS staff and the appropriate personnel were aware of the TI's in effect at the time of the review.

The review team found that RI maintains a sufficient number of various models of survey instruments to perform radiological surveys of materials licensees. The review team examined RI's instrumentation and observed that the survey instruments in RI's office at the time of the IMPEP review were calibrated and operable. The Decommissioning and Laboratory Branch is

responsible for ensuring that DNMS has an adequate number of calibrated survey instruments on-hand. To provide a variety of different survey instrument models at all times, RI contracts with a commercial radiological service company to provide calibrations, and staggers the calibration dates. The calibration frequency for all instruments is one year which is consistent with the current NMSS policy.

The review team interviewed the laboratory manager of the RI analytical laboratory, toured the laboratory, and examined the laboratory's radiation detection instruments. The laboratory belongs to three intercomparison programs which serve to continuously evaluate the laboratory's ability to properly analyze samples over the range of its purported capabilities. The laboratory has never failed to properly characterize an intercomparison sample. The review team observed that the laboratory has the ability to perform gamma spectroscopy through the use of three high purity germanium detectors and gross alpha and beta counting via a gas proportional counter and a liquid scintillation counter for low energy beta emitters. The laboratory handles samples taken from RI and Region II (RII) licensees along with overflow samples from Region III (RIII). RI sends specialized work such as separation chemistry or for high activity samples, to a central laboratory at ORISE. RI also has a mobile laboratory which is being used primarily for work at power reactor sites.

Three RI inspectors were accompanied during inspections by a review team member during the periods of January 22 -24, 2001 and February 7-8, 2001. Inspection accompaniments were conducted as follows: a high-dose rate remote afterloader brachytherapy facility, an irradator facility, two portable gauge licensees, and an industrial radiographer. These accompaniments are identified in Appendix C. All inspectors performed in-depth examinations of the licensees' facilities; interacted with licensee personnel; observed licensees' activities; and reviewed pertinent records. In all cases, the inspectors demonstrated a performance based inspection approach with appropriate technical skills and professional inspection techniques. The inspectors' performance were adequate to assess the radiological health and safety of the licensees' programs.

Based on the IMPEP evaluation criteria, the review team recommends that RI's performance with respect to the indicator, Technical Quality of Inspections, be found satisfactory.

3.3 Technical Staffing and Training

Issues central to the evaluation of this indicator include the radioactive materials program staffing level, technical qualifications of the staff, training, and staff turnover. To evaluate these issues, the review team examined RI's questionnaire responses relative to this indicator, interviewed DNMS management and staff, interviewed a member of the RI Division of Resource Management, and considered any possible workload backlogs.

RI's DNMS staffing has remained extremely stable during the review period. As RI noted in its response to the questionnaire, four new technical staff members have been hired into DNMS from within the Agency since the last IMPEP review. These individuals were qualified NRC radioactive materials inspectors at the time they joined the DNMS staff. During the review period, four DNMS staff members left the program. These losses came at a time of decreasing resource allocations for the DNMS program as a result of Massachusetts becoming an Agreement State. DNMS had one entry level vacancy at the time of the onsite review. An offer was made and accepted and the new staff member is schedule to join the agency in January

2002. DNMS continues to interview qualified entry-level applicants in anticipation of staffing needs.

DNMS is organized with three branches (Branches 1, 2, and a Decommissioning and Laboratory Branch) and a LAT at the Division level. Including non-technical overhead positions, DNMS has 47 staff members on-board at the time of the review. Funding for direct technical positions comes from the Nuclear Materials Safety Arena (25 FTE), the Nuclear Waste Safety Arena (9 FTE), Office of State and Tribal Programs (1 FTE).

The review team found a good balance of personnel between licensing and inspection. With RI's organization, most technical staff in DNMS complete both licensing and inspection actions, rather than having separate license reviewers and inspectors. With just one exception, all the technical staff in RI were fully qualified inspectors at the time of the onsite review. Of the technical staff members who work on materials issues, 14 have full signature authority for licensing actions, and nine have limited signature authority. The remaining seven have no signature authority for licensing actions, so any licensing work they perform is reviewed and signed by a supervisor or qualified reviewer. DNMS management mentioned insufficient numbers of incoming non-routine licensing cases needed for qualification by the "limited signature authority" technical staff. With the resumption of renewals in 2001, DNMS management anticipate granting greater license signature authority and a number of reviewers expanding their licensing experience. The review team determined that the number of license reviewers with full or limited signature authority is sufficient to complete RI's materials licensing work, and allows for readjustments in the workload between materials licensing and inspection, as necessary.

The review team examined the training spreadsheet, spot-checked individual inspector's qualifications and interviewed managers concerning technical training in accordance with IMC 1246 requirements. The stability and expertise of the RI staff continues to be a strength of the program.

Based on the team's finding and the IMPEP evaluation criteria, the review team recommends that RI's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory.

3.4 Technical Quality of Licensing Actions

The review team examined completed licensing casework and interviewed the staff for 23 specific licenses. Licensing actions were evaluated for completeness, consistency, proper isotopes and quantities used, qualifications of authorized users, adequate facilities and equipment, and operating and emergency procedures sufficient to establish the basis for licensing actions. Licenses were evaluated for overall technical quality including accuracy, appropriateness, license conditions and tie-down conditions. Casework was evaluated for timeliness, adherence to good health physics practices, reference to appropriate regulations, documentation of safety evaluation reports, product certifications, or other supporting documents, consideration of enforcement history on renewals, pre-licensing visits, peer or supervisory review as indicated, and proper signature authorities. The files were checked for retention of necessary documents and supporting data.

The licensing casework was selected to provide a representative sample of licensing actions which were completed during the review period. The sampling included the following types: broad academic; research and development; decontamination services; industrial radiography; service providers; portable gauge; veterinary; self-shielded irradiator; medical; nuclear pharmacy; source material (shielding and other); and manufacturing and distribution. Types of licensing actions selected for evaluation included seven new licenses, four renewal, ten amendments, two notifications, ten financial assurance, and three terminations. A list of the licenses evaluated with case-specific comments can be found in Appendix D.

Overall, the team found that the licensing actions were thorough, complete, consistent, of high quality, and properly addressed health and safety issues. The files contained appropriate deficiency letters, and documentation of telephone communications with the licensee. The license reviewers generally signed all new or renewed licenses or amendments. For those licensing actions for which the license reviewer did not have signature authority, the licenses were signed by a senior reviewer with full authority, or by the Branch Chief.

The review team noted that starting in early 2000, the NRC implemented ADAMS for all incoming and outgoing correspondence. ADAMS was initially used as the primary method of retaining all correspondences, but due to inefficiencies resulting from system performance, RI had gone back to retaining all correspondences in the docket files as well as in ADAMS. The review team found that extracting data from ADAMS for license action reviews was simple and user-friendly. All actions sought by the team were found.

Licensing files were found to be maintained very well. The review team found that, without exception, each of the reviewed docket files was complete and orderly.

Based on the IMPEP evaluation criteria, the review team recommends that RI's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

3.5 Response to Incidents and Allegations

In evaluating the effectiveness of RI's actions in responding to incidents, the review team examined RI's response to the questionnaire relative to this indicator, evaluated selected incidents reported for RI in the Nuclear Material Events Database (NMED) against those contained in RI's files, and evaluated the casework and supporting documentation for 10 material incidents. A list of the incident casework examined with case-specific comments is included in Appendix E. The team also reviewed RI's response to 13 allegations involving radioactive materials.

The review team discussed RI's incident and allegation procedures, file documentation, NMED, and notification of incidents to the NRC Operations Center with DNMS staff and management. The responsibility for initial response and follow-up actions to materials incidents rests with DNMS. All incidents are promptly evaluated for the need for onsite investigations. The review team determined that DNMS took prompt, appropriate action in response to incidents. Of the 10 incidents reviewed, the review team observed that RI consistently addressed health and safety issues in incident follow-up. The review team found that DNMS' level of effort expended on incidents was appropriate and commensurate with the potential health and safety significance of the incidents. DNMS staff adequately and clearly identified licensees' noncompliance issues and, as appropriate, initiated enforcement actions to ensure prompt

compliance. In addition, DNMS coordinated materials incident responses with other NRC offices and, when appropriate, with other regulatory jurisdictions (i.e., States) in a timely and effective manner. The review of license files and discussions with staff revealed that Preliminary Notifications (PNs) in response to incidents were well documented, and were issued in accordance with regional instructions and IMC 1120, "Preliminary Notifications." PNs received supervisory review and approval before issuance. The review team found good correlation between the PNs issued by RI, the incident information in the licensing files, and the incident information on the NMED system.

The review team discussed the recent revisions to the various IMC's regarding the use of NMED by Regional inspection staff in the preparation for inspections. Most inspection field notes did not indicate whether the information in NMED had been reviewed prior to an inspection. In discussion with the DNMS staff and management, most inspectors use the Licensee Event Reports (LERs) and ADAMS to search for reported incidents and events in preparation for inspections. Although there were no performance issues identified in this method of research, the changes to IMCs and the new web-based version of the NMED were discussed with the DNMS Branch Chiefs. DNMS management plans to discuss the revised NMED system and explore additional training in NMED for the staff.

In evaluating the effectiveness of RI's actions in responding to allegations, the review team examined RI's response to the questionnaire relative to this indicator and reviewed the allegations reported for RI in the Allegations Management System against those contained in RI's allegations files, and supporting documentation, for 13 allegations. The review team considered RI's actions in the materials area in response to the May 26, 2000 memorandum, "Results of Audit of Allegation Program," from Mr. Carl Mohriwinkel, Assistant Agency Allegation Advisor. In addition, the review team held interviews with the Regional Allegations Coordinator, DNMS managers, and DNMS technical staff on allegation handling.

Responsibility for initial response and follow-up actions to material allegations rests with the Regional Allegations Coordinator, in conjunction with DNMS staff and management. The team's review of casework, associated documents, and interviews with staff revealed that RI has an aggressive, effective, and an efficient program for managing materials allegations. The range of time for closing materials allegations containing technical concerns is 90-100 days. MD 8.8, "Management of Allegations," sets the goal of 180 days. In addition, Allegation Review Board (ARB) meetings were held an average of 9 days after receipt of the allegation, which is far below the MD 8.8 goal of 30 days. Acknowledgment letters, responding to allegers, were issued an average of 22 days after receipt of the allegation, which is below the performance goal of
30 days.

The FTE provided by DNMS in 1997 to support an additional Allegation Coordinator has been returned to DNMS. In order to provide additional resources to the Allegations Coordinator, Regional management is rotating technical staff through the allegation office on a routine basis. These technical staff members assist the Senior Allegations Coordinator in managing allegations received by RI. DNMS and the Allegation Coordinator have standing ARB meetings scheduled on a biweekly basis. The purpose of these standing ARB meetings is to focus on the review and action plan/assignment of new allegations received in the previous two weeks, as well as review specific allegations for which newly-received information warrants a "re-paneling." Additional, ARB meetings are held, as needed, for expeditious review of materials

allegations. The review team concluded that ARB meetings are administered by RI in a timely, effective and efficient manner.

As noted in the 1998 IMPEP review, DNMS continues to conduct a self-assessment program to address the handling of materials allegations. The Senior Allegations Coordinator generates statistical information on allegations and a detailed status of all open allegations on a monthly basis, and disseminates this information to all RI managers. The statistical information focuses on the performance of RI in meeting its allegation performance goals. Monthly meetings are held between DNMS management and the allegations staff to focus on actions necessary to ensure prompt and procedurally correct follow-up of open allegations. These meetings provide the opportunity for DNMS managers to provide close attention to allegations under their responsibility.

The review team found that proper procedures were being followed for control and maintenance of allegation materials, in accordance with MD 8.8. The allegation staff is within physical view and control of sensitive information. DNMS staff received training on allegations in December 2000. The training included, among other topics, referrals, hostile work environments and chilling effects. This training will further assist in ensuring that materials allegations are addressed in accordance with the Agency's policy and guidance in MD 8.8. Moreover, the review team interviews indicated that the RI staff had a clear understanding of the applications of MD 8.8.

The review team noted that internal and external coordination of allegations was appropriate and performed in a timely manner. The results of file reviews showed that DNMS routinely refers cases involving potential wrongdoing to the Office of Investigations for resolution. In addition, the review team noted that allegations involving Agreement States were appropriately managed.

Based on the IMPEP evaluation criteria, the review team recommends that RI's performance with respect to the indicator, Response to Incidents and Allegations, be found satisfactory.

4.0 NON-COMMON PERFORMANCE INDICATORS

IMPEP identifies three non-common performance indicators to be used in reviewing RI's nuclear materials program: (1) Performance with Respect to Operating Plans and Resource Utilization; (2) Site Decommissioning Management Plan and Decommissioning Activities; and (3) Regional Fuel Cycle Inspection Program. Only the first two non-common performance indicators were applicable to this review, since RI does not have any operating fuel facilities

4.1 Performance with Respect to Operating Plans and Resource Utilization

4.1.1 Operating Plan Performance

In evaluating RI's Operating Plan performance, the review team examined RI's response to the questionnaire relative to this indicator, evaluated RI FY98, FY99, FY00 and FY01 operating plans and updates, and evaluated NMSS Monthly Materials Statistics Reports.

In FY99, NRC Regional Operating Plan performance goals began a shift from measuring timeliness of licensing actions through reduction of backlog to a measure of the timeliness of

processing new applications, renewals, and amendments. In FY99 and FY00 the number of backlog cases and the new measure, timeliness of new applications, renewals, and amendments, were tracked in NMSS's Monthly Materials Statistics Report. In FY01 the backlog measure was dropped entirely with the new measure using a percentage of cases completed within 90 days for new applications and amendments or within 180 days for renewals as the metric with a scale measuring success. Highly successful occurs when 85 percent or more of the licensing actions are completed within 90 or 180 days. A successful program occurs when 80 percent to 84 percent of the licensing actions are completed within 90 or 180 days. An unsuccessful program (not meeting the timeliness metric) is indicated by performance with less than 80 percent of the licensing actions are completed within 90 or 180 days.

Based on NMSS' data, during the period that backlogged cases were tracked, the backlog dropped from 36 cases at the end of first quarter in FY98, to 4 cases at the end of FY 00. Pending cases dropped from 216 cases at the end of the first quarter in FY98 to a low of 109 cases at end of FY99. Since the end of FY99, the number of pending cases has risen to 191 at the end of the second quarter in FY01. The increase in the number of pending cases is the result of expected renewals and an unexpected increase due to a change in the fee recovery policy of charging direct fees for amendments to no fees for amendments. As a result, licensees were no longer waiting to update their licenses all at once to save money. At the end of the 1st quarter in FY00, the new measure for timeliness of licensing actions was 62.5 percent completions within 90 days for new applications, 50 percent for renewals, and 81 percent for amendments. The end of FY00 indicate an improvement in timeliness of licensing actions at 78.5 percent completions within 90 days for new applications, 64.3 percent, within 180 days, for renewals, and 85.2 percent, within 90 days, for amendments. At the end of January 2001, the improving trend in timeliness was continued with licensing actions at 86.4 percent completions within 90 days for new applications, 100 percent for renewals, and 93.3 percent for amendments. These levels represent highly successful performance for FY01 and demonstrate significant improvements in the percentage of licensing actions completed within 90 or 180 days.

4.1.2 Resource Utilization

In evaluating RI's resource utilization, the review team examined RI's response to the questionnaire relative to this indicator, evaluated RI FY98, FY99, FY00 and FY01 operating plans and updates, and evaluated NMSS Monthly Materials Statistics Reports.

In FY98, RI expended 30 FTEs (direct staff effort, not including reactor, State programs, nor overhead effort) versus 22 FTEs budgeted for NMSS program activities (135 percent). The following fiscal year, in FY99, RI expended 25 FTEs versus 21.5 FTEs budgeted for NMSS program activities (115 percent). For FY00, RI expended 23 FTEs versus 22 FTEs (103 percent). In FY01, RI is budgeted 25.0 FTE for materials programs. Data for FY98, FY99 and FY00 reveal that RI expenditures generally match well with budgeted activities, with most of the over-expenditures in materials licensing areas. The over-expenditure in FY98 in large measure is reflective of staffing imbalance resulting from the Commonwealth of Massachusetts becoming an Agreement State. The over-expenditure in FY99 represents the use of staff overtime and, to a lesser extent, overhires to reduce the backlogs and number of pending

licensing cases. The resource expenditure data demonstrated that regional resources are being expended appropriately.

Through the review team's interviews with regional managers, examination of PMDA's and RI's budget data, and consideration of RI's performance across all materials areas, the review team concluded that RI is closely adhering to the priorities given in the Operating Plan in accomplishing DNMS' mission.

Based on the IMPEP evaluation criteria, the review team recommends that RI's performance with respect to the indicator, Performance with Respect to Operating Plans and Resource Utilization, be found satisfactory.

4.2 Site Decommissioning Management Plan (SDMP)

This non-common indicator was reviewed to evaluate RI's SDMP program. The non-common performance indicator for evaluating the SDMP includes: 1) quality of SDMP decommissioning reviews; 2) financial assurance for decommissioning; 3) termination radiological surveys; 4) inspections; 5) staff qualifications; and 6) SDMP milestones.

In performing this review, the review team interviewed DNMS managers and staff, examined SDMP and non-SDMP licensing files, and reviewed financial assurance documents. The interviews included the Decommissioning and Laboratory Branch Chief, three license reviewers/inspectors in the Branch, and other DNMS staff. Review team comments provided in this section of the IMPEP report are applicable to SDMP sites and non-SDMP sites that require substantial decommissioning actions.

SDMP and non-SDMP sites that require substantial decommissioning actions, such as remediation or final radiological surveys, are the responsibility of the Decommissioning and Laboratory Branch. Non-complex decommissioning license terminations, such as for Type I and Type II sites involving sealed sources or limited onsite decontamination and termination radiological surveys, are assigned to the other two DNMS Branches.

4.2.1 Quality of SDMP Decommissioning Reviews

The review team examined docket files for three SDMP sites. These included: Heritage Minerals, Permagrain Products, and Westinghouse Electric Company Waltz Mill. All these sites are managed by RI (that is, RI has both licensing and inspection responsibilities for these projects). Docket files examined by the review team are listed in Appendix F. The review team also attended a public meeting with the licensee regarding the decommissioning schedule for the Heritage Minerals Site.

Through interviews with RI staff and managers and from examination of docket files, the review team found that, for most decommissioning sites managed by RI, an individual staff member in the Decommissioning and Laboratory Branch serves as both the license reviewer and the inspector. Decommissioning licensing review actions undertaken by RI staff include: reviewing the status of sites in accordances with timeliness requirements; establishing radiological criteria for release of sites; reviewing licensees' decommissioning plans; ensuring adequate financial assurance; reviewing licensees' final status survey plans and reports; and conducting confirmatory surveys.

The review team found that licensees' decommissioning plans are appropriately reviewed by RI in accordance with IMC 2605, "Decommissioning Procedures for Fuel Cycle and Materials Licensees;" the Decommissioning Handbook; and the new NUREG-1727, "NMSS Decommissioning Standard Review Plan," when applicable. Through a review of the docket files and discussion with license reviewers and the Branch Chief, the review team concluded that RI decommissioning actions addressed licensee health and safety conditions appropriately.

To assess RI's performance on reviews for license terminations, the review team interviewed RI staff and examined three docket files for non-SDMP licenses that were terminated during the review period. Appendix F lists the termination files reviewed in depth.

Licensee decommissioning plans (where required) were reviewed and documented by DNMS in accordance with NRC guidance. For license terminations, RI included closeout documentation in docket files examined by the review team. The "Materials License Termination/Retirement Form," from Appendix F of the "NMSS Handbook for Decommissioning Fuel Cycle and Materials Licensees," was included in some docket files.

Based on the IMPEP evaluation criteria, the review team recommends that RI's performance for the sub-indicator, Quality of SDMP Decommissioning Reviews, be found satisfactory.

4.2.2 Financial Assurance for Decommissioning

The review team evaluated RI's financial assurance program for conformance with requirements of MD 8.12, "Decommissioning Financial Assurance Instrument Security Program."

To assess the performance of RI for financial assurance, the review team examined the LTS; reviewed RI's "FY2001 Inventory List of Original Financial Assurance Instruments;" reviewed ten financial assurance instruments in the file, including a comparison with the inventory list information, and evaluated RI's annual self-evaluations of the security of decommissioning financial assurance instruments, for the period of the review, required by MD 8.12. The review team followed-up on these activities with reviews of selected docket files and interviews with licensing staff.

The review team confirmed that RI has staff assigned as Decommissioning Financial Assurance Instrument Custodian (FAIC), Alternate Custodian (AFAIC), and FAIC manager, in accordance with MD 8.12. The FAIC Manager is the Chief of the Decommissioning and Laboratory Branch. The review team confirmed that the FAIC, AFAIC, and FAIC manager have been designated in writing, and that no one has access to the financial assurance records other than through these individuals, as required by MD 8.12. The review team confirmed that the decommissioning financial assurance instruments are stored in a fire-rated safe, having a fire rating in accordance with MD 8.12. The review team also confirmed that the FAIC maintains an inventory list of the financial assurance instruments held in the safe, and this inventory contains the information required by MD 8.12.

The review team identified in the review of ten financial assurance instrument files that two of the files did not have the originals of the financial instrument, as required by MD 8.12. The review team and a Decommissioning and Laboratory Branch staff member attempted to locate the original instruments. For one license, the original instrument was found in the docket file for

the license. For this case, the docket file also contained a newer original financial assurance instrument, that had not been listed in the instrument inventory. RI staff corrected this file. For the other license, the original instrument was located later by RI staff.

The review team evaluated the self assessment required by MD 8.12 for 1998, 1999, and 2000. MD 8.12 requires that two evaluations of financial assurance instruments be conducted annually, one by the FAIC or AFAIC and one by the FAIC manager. In 1998, the evaluation by the FAIC manager was performed. In 1999, evaluations by the FAIC and the FAIC manager were performed. In 2000, an evaluation by the FAIC manager was performed, but DNMS made a decision not to have the FAIC perform an evaluation. DNMS managers told the review team that this decision to not follow MD 8.12 was based on resource constraints and they believed that other review mechanisms addressed this issue. However, their basis for not following MD 8.12 was not documented.

MD 8.12 also requires the annual self assessments review of 100% of the files on the inventory list against the guidelines in Section (E)(2)(b) of the MD 8.12 Handbook. The 2000 FAIC manager review identified many comments on additional improvements that may be necessary for individual files. Many of the comments were of a clerical nature, however, the review team considered 24 comments more significant than clerical comments. The table below indicates the review team's categorization of these more significant comments. Some of these comments were of such a nature to indicate a potential that financial assurance instruments might not be executable (e.g., where original instruments were not in the file) or that financial assurance amounts might not be sufficient for decommissioning (e.g., where licensed facilities were not listed in the instrument). For the case where the self-evaluation indicated that the grantor and trustee were both the licensee, a review of the docket file indicated that the standby trust agreement (associated with a letter of credit) did show the grantor and trustee both being commercial companies associated with the licensee (it appeared to the review team that one was the licensee and the other was a parent company). It appeared to the review team and to DNMS management that this situation may be unacceptable for financial assurance. The regulations require the trustee to be a certain type of entity, which is usually a financial institution or insurance company.

The review team also reviewed the 1998 and 1999 RI self evaluations. The review team found that the 1998 FAIC manager's evaluation also noted many significant comments. In comparing the 1998 and 2000 FAIC manager's evaluations, the review team found that of the 21 licensee files noted with significant comments in the 2000 evaluation, 19 of these same comments had been noted in the 1998 evaluation. After the 1998 FAIC manager's evaluation, the DNMS Director committed to resolving the comments raised in the evaluation. The 1999 FAIC evaluation also noted in an October 19, 1999, memorandum to the FAIC manager that many of the specific file comments from the 1998 FAIC manager's evaluation were technical issues and had not been resolved. The review team concludes that RI did not effectively follow-up on the potentially significant issues raised in the previous evaluations of the financial assurance files. The review team recommends that RI follow the financial assurance requirements of MD and that RI effectively follow-up on issues and comments raised in the annual evaluations of the financial assurance files.

During the onsite IMPEP review, the DNMS management stated that staff was following-up on items identified in the 2000 FAIC Manager's self-evaluation. Since then, RI has continued its follow-up to resolve the concerns, and the following table summarizes the status and/or follow-

up. RI has indicated that the financial instruments reviewed, thus far, are executable and sufficient.

Categorization of the More Significant Concerns Regarding Financial Assurance Instrument Files, and Region I Follow-Up Through June 8, 2001 [1]

Type of concern	Number	Region I status/follow-up
Facility listed in license not listed in instrument	4	All statements of intent from government entities. DNMS pursuing alignment between licenses and instruments; expect to complete by end of July 2001.
Grantor and trustee are licensee	1	Licensee is submitting new parent company guarantee, which will replace current instrument.
Impending expiration of instrument	1	At time of IMPEP review, replacement instrument had already been obtained by NRC.
Original of instrument not in FA files	4	DNMS determined that for 3 files, an original or originally-signed duplicate (allowed by NREG-1727 guidance) was in files. Fourth contains original letter of credit and copy of standby trust agreement. DNMS is pursuing original standby trust agreement.
Original of instrument not in FA files [2]	2	Both originals located by time of IMPEP exit.
Attachment(s) to instrument missing from file	12	11 involve attachments to standby trust agreements. DNMS believes that since these attachments are generally unexecuted drafts and do not bear on the validity of the instruments themselves. Attachments have been located for several of these, in the licensing docket files. DNMS follow-up continues on the others.
Facility listed in instrument not in license	2	No update. Note that these situations do not indicate any deficiency in FA.

[1] Concerns raised in 2000 Evaluation of Financial Assurance (FA) Files by FAIC Manager, unless otherwise noted.
[2] Concern raised in IMPEP Review, March 2001.

Based on the IMPEP evaluation criteria, the review team recommends that RI's performance with respect to the sub-indicator, Financial Assurance for Decommissioning, be found satisfactory with recommendations for improvement.

4.2.3 Termination Radiological Surveys

The review team discussed termination surveys with RI staff and managers and evaluated casework for adequacy of licensee and NRC surveys to support license termination. The review team observed that licensee final status survey plans and reports have been prepared in accordance with NUREG/CR-5849, "Manual for Conducting Radiological Surveys in Support of License Termination;" NUREG-1575, "Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM);" or other appropriate methods, and are reviewed by RI staff. The review team concluded that RI's reviews are adequate to ensure that residual radioactivity levels comply with release criteria. NRC confirmatory or closeout surveys are performed, as necessary, for each licensee's site, by RI or NRC's contractor to validate licensee survey data,

as outlined in IMC 2605 and in Inspection Procedure (IP) 87104, “Decommissioning Inspection Procedure for Materials Licensees.”

Based on the IMPEP evaluation criteria, the review team recommends that RI’s performance with respect to the sub-indicator, Termination Radiological Surveys, be found satisfactory.

4.2.4 Inspections

The review team evaluated the number of inspections performed at SDMP sites during the review period. RI indicated that it has performed all inspections in accordance with IMC 2602, “Decommissioning Inspection Program for Fuel Cycle Facilities and Materials Licensees,” and that no decommissioning inspections were overdue. Closeout inspections are performed, as appropriate, to terminate licenses.

Based on the IMPEP evaluation criteria, the review team recommends that RI’s performance with respect to the sub-indicator, Inspections, be found satisfactory.

4.2.5 Staff Qualifications

The review team found that the decommissioning staff is very experienced and highly qualified to perform licensing and inspection functions on decommissioning sites. The staff is knowledgeable about the process and procedures for decommissioning, and the staff addresses the process and procedures, as applicable, to each decommissioning site and license termination action. The Decommissioning and Laboratory Branch Chief indicated that all staff except for one relatively new person have been grandfathered to meet the IMC 1246 requirements for decommissioning technical reviewers and decommissioning inspectors. However, the basis for grandfathering has not been documented. The review team discussed the lack of documentation and the IMC 1246 requirements for decommissioning technical reviewers and decommissioning inspectors with RI management.

Based on the IMPEP evaluation criteria, the review team recommends that RI’s performance with respect to the sub-indicator, Staff Qualifications, be found satisfactory.

4.2.6 SDMP Milestones

The review team found that the decommissioning milestones presented in the last SDMP update to the Commission (SECY-00-0094) are being met on SDMP sites managed by RI. The review team observed that RI updates the SDMP site summaries and Gantt charts as requested. The review team also observed that RI is making progress on reviewing and closing formerly licensed sites.

Based on the IMPEP evaluation criteria, the review team recommends that RI’s performance with respect to the sub-indicator, SDMP Milestones, be found satisfactory.

Based on the IMPEP evaluation criteria, the review team recommends that RI's performance with respect to the indicator, Site Decommissioning Management Plan, be found satisfactory.

5.0 SUMMARY

As noted in Sections 3 and 4 above, the review team found RI's performance with respect to each of the performance indicators to be satisfactory. According, the review team recommended and the MRB concurred in finding the RI nuclear material program to be adequate to protect public health and safety. Based on the results of the current IMPEP review, the next full review will be in approximately 4 years.

Below is a summary list of recommendations, as mentioned in earlier sections of the report, for evaluation and implementation, as appropriate, by RI.

RECOMMENDATIONS:

1. The review team recommends that RI follow the financial assurance requirements of MD 8.12 and that RI effectively follow-up on issues and comments raised in the annual evaluations of the financial assurance files (Section 4.2.2).

LIST OF APPENDICES AND ATTACHMENTS

APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	**Area of Responsibility**
Charles R. Cox, NMSS/IMNS	Team Leader Operating Plan Performance and Resource Utilization Inspection Accompaniments
Jeffery Cruz, RIV	Technical Quality of Inspections
Duane Schmidt, NMSS/DWM	Site Decommissioning Management Plan
Kathleen Schneider, STP	Technical Staffing and Training Response to Incidents and Allegations
Mark Sitek, NMSS/IMNS	Status of Materials Inspection Program
Michael Whalen, Massachusetts	Technical Quality of Licensing Actions

APPENDIX B

REGION I

DIVISION OF NUCLEAR MATERIAL SAFETY

ORGANIZATION CHART

May 4, 2001

MEMORANDUM TO: Donald A. Cool, Director
Division of Industrial and Medical
Nuclear Safety, NMSS

FROM: George Pangburn, Director /RA/
Division of Nuclear Materials Safety, RI

SUBJECT: DRAFT 2001 REGION I INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM (IMPEP) REPORT

In response to your memorandum of April 19, 2001, we have the reviewed the draft 2001 IMPEP report on Region I's Division of Nuclear Materials Safety (DNMS). Our comments on the factual correctness of the document are contained in the attached redline/strikeout version. The report is consistent with the exit conducted by the team on March 23, 2001.

We have been working on the decommissioning financial assurance documentation issues discussed in the report and expect to have closure on the issues by the time of the Management Review Board (MRB) on June 5, 2001. While we do not disagree with the facts presented by the team for this sub-indicator, we are concerned about the tone and relative significance assigned to them. Most of the issues discussed had been identified by the FAIC manager's 2000 audit and were already the focus of significant DNMS management attention. At this time we do not believe that we have any financial assurance instruments that are not executable. We appreciate your consideration of our comments in development of the draft final report for the MRB and will be pleased to discuss these issues with the MRB.

We appreciate the team's thorough review of the materials and decommissioning programs in Region I. I will attend the MRB in headquarters for Region I and other Regional managers and staff will participate by videoconference. If you have any questions regarding the comments on the attachment, please contact me at 610/ 337-5281.

Attachment:
Draft 2001 Region I IMPEP report

Attachment

SPECIFIC COMMENTS ON FACTUAL STATEMENTS IN THE DRAFT RI IMPEP REPORT

(Note: This is a comprehensive list of the redline/strikeout comments from RI. These comments were suggested for added clarity and accuracy.)

Page/Paragraph/Line	Comment
Page 1, Paragraph 1, Line 4	Change Agreement State of Massachusetts to Commonwealth of Massachusetts.
Page 1, Paragraph 3, Line 4	Change 1100 specific material licenses to 1700 specific material licenses.
Page 2, Paragraph 7, Line 5	Add requirement after “environmental transportation course”.
Page 4, Paragraph 3, Line 4	Change the wording from 15 days “upon” completion to 15 day from completion.
Page 4, Paragraph 5. Line 1	Add the paragraph to the reference to IMC 2800 (IMC 2800 (06.04.b))
Page 4, Paragraph 5, Line 6	Change the wording from personnel “appeared to be” aware to personnel were aware.
Page 6, Paragraph 5, Line 5	Change the division’s name from Division of Resource Management and Administration to Division of Resource Management.
Page 6, Paragraph 6, Line 9	Change the sentence “Additional interviews are being conducted in anticipation of upcoming retirement” to DNMS continues to interview qualified entry-level applicants in anticipation of staffing needs.
Page 7, Paragraph 1, Line 3	Change the sentence from “DNMS has approximately 26.2 technical full time equivalents (FTE) devoted to radioactive materials program and 3.6 FTE devoted to the management oversight of the radioactive materials program” to Funding for direct technical positions comes from the Nuclear Materials Safety Arena (25 FTE), the Nuclear Waste Safety Arena (9 FTE), Office of State and Tribal Programs (1 FTE).
Page 8, Paragraph 3, Line 3	Change the wording from “poor implementation of the program by the programmers” to inefficiencies resulting from system performance in reference to ADAMS.
Page 8, Paragraph 3, Line 4	Change “licensees files” to docket files.

Page 9, Paragraph 2, Line 5	Change " licensees Event Reports" to Licensee Event Reports.
Page 9, Paragraph 5, Line 3	Delete "junior" from Line 3 (rotating ~~junior~~ technical staff) and change the wording from "area for periods of 4-6 weeks" to office on a routine basis.
Page 9, Paragraph 6, Line 1	Add "self" to assessment (self-assessment).
Page 11, Paragraph 4, Line 7	Rewrite the sentence as suggested by the redline/strike out to provide additional information: The over-expenditure in FY98 in large measure is reflective of staffing imbalance resulting from the Commonwealth of Massachusetts becoming an Agreement State. ~~and~~ The over-expenditure in FY99 represents the use of staff overtime and, to a lesser extent, overhires ~~and other resources~~ to reduce the backlogs and number of pending licensing cases.