

RHODE ISLAND DEPARTMENT OF HEALTH  
QUARTERLY MONITORING CONFERENCE CALL  
November 7, 2013

Nuclear Regulatory Commission Attendees	Rhode Island Department of Health Attendees
Monica Ford, Region I	Andrew Powers, Chief, Facilities Licensing
Jim Clifford, Region I	Charma Waring, Supervisor, Radiation Control Program
Duncan White, FSME	William Dundulis, Risk Assessment Toxicologist
Michelle Beardsley, FSME	
Lisa Dimmick, FSME	

## BACKGROUND

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 three performance indicators, satisfactory, but needs improvement, for two performance indicators, and unsatisfactory for one performance indicator. Six recommendations were made by the IMPEP review team. On January 17, 2012, 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. The MRB directed that Rhode Island be placed on monitoring, that calls between the Rhode Island Department of Health (RDH) and NRC staffs be conducted quarterly, and that a Periodic Meeting take place approximately one year from the 2011 IMPEP review. RDH provided their response to the IMPEP findings in a letter dated January 6, 2012. NRC acknowledged RDH's responses in a letter dated February 6, 2012 (ML120240375) and felt that Rhode Island did not fully respond to all recommendations and should update their action plan accordingly.

A periodic meeting was held with the Program on December 12, 2012. Subsequent to this Periodic Meeting, the MRB met on April 2, 2013 to consider the findings of the Periodic Meeting. The MRB again directed that the State remain on monitoring, that calls between the Program and the NRC continue to be conducted quarterly and that another Periodic Meeting be held with the Program 18 months from the date of the previous periodic meeting. This is the second quarterly conference call with the Program since the April 2, 2013 MRB meeting.

## DISCUSSION OF PROGRAM STATUS

Ms. Waring and Mr. Dundulis led the discussion of the State's status for each of the IMPEP performance indicators.

### Technical Staffing and Training (2011 IMPEP finding: Satisfactory)

The Program consists of four technical staff positions and a Supervising Radiological Health Specialist (supervisor) position, which was vacant at the time of the last IMPEP review. Since the October 2011 IMPEP the Program was given permission and subsequently filled the Supervisor position with an existing technical staff member thereby creating a vacancy at the technical staff level. There is also another vacancy at the technical staff level which was created when a staff member who was out on extended medical leave retired. The Program is

unable to back fill both these staff positions in fiscal year 2014 due to State budget constraints. At the time of this call the Program also believes it is unlikely that they will be able to fill these positions in fiscal year 2015 (July 1, 2014) due to similar budget constraints. The two technical staff and the supervisor are all fully qualified license reviewers and inspectors.

The Program itself is 100 percent fee funded, however, since neither of the two vacant positions comprises a full FTE in the Program, and since no money has currently been allocated from the general fund to cover the other assigned duties comprising the remaining portions of each FTE, the Program is unable to fill these two positions. 1.8 FTE is allocated to the Program and covers the four technical staff positions. The four technical staff positions, two of which are currently vacant, all provide partial support to the Program.

The 2011 IMPEP team generated one recommendation for this performance indicator. The recommendation and its status are listed below.

**Recommendation 1:** The review team recommends that the State document its training and qualification program for license reviewers 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 is planning to change the way they track training and qualification. The Program plans to integrate the tracking of training and qualification into the office wide electronic system already in use by the Office of Facilities Regulation. This integration is dependent on staffing levels and workload. No date has been set for the integration.

Status of the Materials Inspection Program (2011 IMPEP finding: Unsatisfactory)

At the time of the IMPEP review 12 of 42 Priority 1, 2, and 3 inspections had been completed overdue. Rhode Island stated that they have since made inspections a top priority and have completed all but two inspections in accordance with their assigned inspection frequencies. One priority 1 inspection was completed approximately three months after its overdue date and one priority 1 inspection is currently overdue by approximately three months past its overdue date. The priority 1 inspection that is currently overdue was delayed due to prioritization of workload. The Program has had no initial inspections since the last IMPEP review. Rhode Island has continued to be attentive to reciprocity inspections, completing approximately 11 inspections for the 15 candidate licensees for inspection in 2013. The review team had one recommendation for this performance indicator. The recommendation is listed below along with its status.

**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.

**Status:** Since October 2011 Rhode Island has made inspections a top priority. Rhode Island has completed all but two of their Priority 1, 2, and 3 inspections in accordance with the inspection priorities in Inspection Manual Chapter 2800. Rhode Island has had no new license applications requiring an initial inspection since October 2011.

### Technical Quality of Inspections (2011 IMPEP finding: Satisfactory but Needs Improvement)

The Program is looking to make their inspections more consistent by implementing an electronic form similar in format to NRC's Form 591. The Program is looking to include drop down boxes that, based on the answer selected, would lead the inspector to the next series of items needing to be looked at or questions needing to be asked. The Program is currently waiting for the tablets that were purchased to be formatted by their IT personnel so they can be distributed to staff and used on inspections.

The 2011 IMPEP review team generated three recommendations for this performance indicator. These recommendations are listed below along with their current status.

**Recommendation 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:** The Program 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. The Program will continue to address this recommendation as forms are updated and the tablets are put into place.

**Recommendation 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:** Both inspectors were accompanied by a senior staff member in calendar year 2012. For calendar year 2013, the technical staffer that performs inspections was accompanied by the supervisor in January 2013 and the supervisor who also performs inspections plans on being accompanied by a senior level staff person before the end of 2013.

**Recommendation 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 incorporated this into their inspection process and will be implementing it as inspections occur. 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. (No change since July 2013 call)

### Technical Quality of Licensing (2011 IMPEP finding: Satisfactory)

The Program has approximately 43 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. The Program has addressed maximum possession limits as requested by RCPD Letter 10-007. The Program has incorporated NRC's pre-licensing guidance into its own specific Rhode Island "Enhanced Pre-Licensing Guidance." As of this call,

the Program has a working backlog of approximately 18 licensing actions consisting of renewals, amendments, and changes of control. This backlog has doubled since the July 2013 call. A majority of the outstanding actions are renewals (12 of the 18). Rhode Island is prioritizing and completing health and safety actions first and working on the renewals as time allows. The longest action has been in house approximately one year.

Technical Quality of Incidents and Allegations (2011 IMPEP finding: Satisfactory)

The Program is aware of the need 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 one event since the 2011 IMPEP which involved an under dose of Y-90 microspheres. This event has not been updated by the Program since October 25, 2012 and additional information has been requested by Idaho National Labs (INL), the entity who maintains the Nuclear Materials Events Database (NMED). The Program should respond to INL's request for additional information, update the event with any other additional information provided by the licensee, and close out the report in NMED. The Program has received no allegations since the 2011 IMPEP. (No change since the July 2013 call)

Compatibility Requirements (2011 IMPEP finding: Satisfactory but Needs Improvement)

Rhode Island is continuing to work on promulgating regulations. The Program sent in a package of proposed regulations to the NRC on August 28, 2013 that contained regulation changes through Regulation Amendment Tracking System (RATS) ID 2012-4. The package is currently with the NRC's Office of General Counsel and the NRC expects to have the response letter ready by the end of November 2013.

**Recommendation 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:** The Program is working on a rulemaking package which will incorporate all regulation amendment changes through 2012 and submitted that package to the NRC on August 28, 2013. Rhode Island hopes to have final regulations in place by the Spring of 2014.

Seven NRC regulations are overdue for implementation:

- “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)

- “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)

### Conclusion

Rhode Island has been responsive to and is taking action on the recommendations that were made during the 2011 IMPEP review. The Program filled the vacant Supervisor position and going forward will be operating with two unfilled technical positions due to State budget constraints. The Program has made inspection timeliness a priority and continues to work on licensing actions as they come in. A licensing backlog has started to increase. The Program is aware of the backlog and stated that it is comprised mostly of renewals. The Program is working on renewals as time allows. Proposed regulations were submitted to the NRC on August 28, 2013.

The next quarterly monitoring call will be held in February 2014.