



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

October 23, 2014

MEMORANDUM TO: Roy P. Zimmerman, Acting  
Deputy Director Materials, Waste, Research,  
State, Tribal, and Compliance Programs  
Office of the Executive Director for Operations

Bradley W. Jones, Assistant General Counsel for  
Reactor and Materials Rulemaking  
Office of the General Counsel

Catherine Haney, Director  
Office of Nuclear Material Safety  
and Safeguards

Darrell J. Roberts, Deputy Administrator  
Region III

FROM: Michelle R. Beardsley, Health Physicist */RA/*  
Division of Material Safety, States, Tribal  
and Rulemaking  
Office of Nuclear Material Safety  
and Safeguards

SUBJECT: NOVEMBER 13, 2014 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of the periodic meetings held with the Arizona and Rhode Island Agreement State Programs has been scheduled for **Thursday, November 13, 2014, from 3:00 p.m. to 4:30 p.m. ET, in One White Flint, Room 17-B04**. The summaries for each of the meetings are enclosed (Enclosure 1 and 2).

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 3).

If you have any questions or need additional information, please feel free to contact me at (610) 337-6942 or [Michelle.Beardsley@nrc.gov](mailto:Michelle.Beardsley@nrc.gov).

Enclosures:

1. Arizona Summary Report
2. Rhode Island Summary Report
3. Meeting Agenda

cc: Matthew McKinley, KY  
Organization of Agreement States  
Liaison to the MRB

MRB Members

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<b>OFFICE</b>	MSTR/ASPB	MSTR/ASPB
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<b>DATE</b>	10/23/14	10/23/14

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR THE  
ARIZONA RADIATION REGULATORY AGENCY

DATE OF MEETING: SEPTEMBER 17, 2014

<b>NRC Attendees</b>	<b>Arizona Attendees</b>
Randy Erickson, RSAO	Aubrey Godwin, Director
Mark Shaffer, Director, DNMS, R-IV	Brian Goretzki, Program Manager, RAM
Joe O'Hara, FSME	Jerry Perkins, Program Manager, X-Ray
	Dan Kuhl, Health Physicist
	Phillip (Rocky) Kern, Health Physicist
	Wayne Yates, Health Physicist

**DISCUSSION:**

The Arizona Agreement State Program is administered by the Arizona Radiation Regulatory Agency (the Agency). The Agency Director reports directly to the Governor. At the time of the meeting, the Program regulated the activities of 364 specific licensees.

The previous IMPEP review was conducted the week of March 26-30, 2012. At the conclusion of the review the team found Arizona's performance to be satisfactory for all common performance indicators and satisfactory but needs improvement for the non-common indicator Compatibility Requirements. The Program was found adequate to protect public health and safety and compatible with the NRC's program.

The review team recommended that the next full IMPEP review take place in four years and that a Periodic Meeting take place in one year to monitor the Program's progress on catching up on backlogged regulations. That Periodic Meeting was held on February 12, 2013. At the time of the 2013 meeting, the Program was under a moratorium regarding new regulation development and while the Program has been able to work through the moratorium, they had not yet effectively caught up on backlogged regulations. At that time it was agreed upon that another Periodic Meeting be held in approximately 18 months to further review the Program's progress on rule development.

Other topics discussed at the meeting included:

**Program Strengths:**

While the Program is authorized for six health physicists, they are only budgeted for, and have four full-time health physicists who are cross trained to perform both inspections and licensing actions. This cross training is necessary so that the Program can keep up with the workload with limited staff by utilizing them where they are needed the most. The Program noted that each of the four health physicists are long term employees and are fully qualified. These four health physicists are also required to perform emergency response duties as required.

Enclosure 1

Program Weaknesses:

The Program reported they are concerned about staffing and has identified it as a primary programmatic weakness. Currently the Program is authorized for six materials inspectors but is only allowed to fill four of those positions. Those same four individuals have been maintaining the Program for several years. While they have been able to keep up with the work to this point, at least two of those individuals are close to retirement and could leave at any time. If this happens, the Program believes it would likely cause them to fall behind on licensing actions and inspections, and not be able to provide sufficient staff for emergency response operations.

Feedback for NRC:

- The Program acknowledged that while the theft of portable moisture density gauges is an issue affecting all states, Arizona has recently experienced a larger than average number of thefts of these devices, with six having been stolen as of the date of the review. The Program has recommended a joint NRC-Agreement State working group be formed to look into the possibility of placing GPS tracking devices on gauges to aid in their recovery.
- The Program stated they are concerned that RSO's are allowed to by RSO's on multiple licenses in different geographical areas. The Program does not believe that they are able to effectively respond to emergencies, etc., if they are not on or near a site.
- The Program requested that NRC hold a Financial Assurance Webinar.

Staffing and training:

The Arizona Radioactive Materials Program is managed by the Director and a Program Manager with responsibility for four inspectors and 364 licensees. The Program is budgeted for six staff, but has only been authorized to staff four positions. Each of the staff is fully qualified with several years of experience. Two of the staff members are eligible for retirement which is expected to present a difficulty for the program when it occurs. Training has not been an issue for the Program.

Program reorganizations:

The Program has not been subject to reorganization since the 2012 IMPEP review.

Changes in Program budget/funding:

The Program is not experiencing any problems with budgeting or funding.

Materials Inspection Program:

The Program reported that they have not had any overdue inspections since the 2012 review. Initial inspections are typically performed within 12 months of issuance. They

continue to inspect reciprocity licensees and have not had difficulty performing inspections on at least 20 percent of candidate reciprocity licensees. The Program performs Increased Controls inspections concurrent with health and safety inspections. Supervisory accompaniments are performed annually.

#### Licensing Program:

The Program reported that the licensing program is active. Each of the staff performs both inspections and licensing actions as assigned. The more senior individuals perform the more advanced or complex licensing actions. The Program noted that licensing actions are tracked and that no backlogs exist.

#### Sealed Source and Device Evaluation Program (SS&D):

The Program reported that the SS&D Program is inactive at the present time. No actions have been taken since the 2013 Periodic Meeting.

#### Regulations and Legislative changes:

The Program reported that one legislative package affecting the Program was adopted since the 2013 Periodic Meeting. The Small Business Bill of Rights was passed which allows licensees to appeal inspection findings.

On August 15, 2014, the Program submitted a final regulation package containing amendments 2005-2, 2006-1, 2007-1, 2007-3, 2008-1 and 2009-1. This final regulation package was approved by NRC. With this submission, the Arizona Program is now up to date on regulations. The next amendment due will be 2011-2 due for State adoption on November 14, 2014.

#### Event reporting, including follow-up and closure information in NMED.

Since the 2013 Periodic Meeting, the Program reported 11 events to NMED. At the time of the 2014 Periodic Meeting, all 11 were currently open. Program reported they will complete the event reviews and will close them soon.

#### Response to incidents and allegations.

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Incidents are evaluated for safety significance and staff is dispatched to perform onsite investigations as indicated.

#### Status of allegations and concerns referred by the NRC for action.

The Program continues to process allegations as they are received. Since the 2013 Periodic Meeting, the NRC has referred two allegations to the Program. Each of the allegations received by the Program is being investigated and will be closed when

completed. The Program continues to be sensitive to issues of identity protection regarding alleged.

Current NRC initiatives:

The following NRC initiatives were discussed with the Program:

- FSME – NMSS Merger
- NRC's inspector qualification program (IMC 1248)
- Updates on the NUREG 1556 series revisions
- Rulemaking Initiatives
- IMPEP Performance Metrics
- Merging of the Policy Statements and ASPEI activities
- Policy Statements for Agreement States on Adequacy and Compatibility

Schedule for the next IMPEP review:

It is recommended that the next IMPEP review to be held on schedule in March 2016.

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

DATE OF MEETING: September 18, 2014

<b>NRC Attendees</b>	<b>Rhode Island Department of Health Attendees</b>
Monica Ford, State Agreements Officer, Region I	Ray Rusin, Director, Radiation Control Program
Michelle Beardsley, Health Physicist, Office of Federal and State Materials and Environmental Management Programs	Andrew Powers, Chief, State Licensing Unit
Dan Collins, Director, Division of Nuclear Materials Safety, Region I	Charma Waring, Supervisor, Radiation Control Program
	William Dundulis, Risk Assessment Toxicologist
	Dennis Klaczynski, Radiological Health Specialist
	Edward D'Arezzo, Associate Director, Division of Environmental and Health Services Regulation

**DISCUSSION:**

During the October 2011 Integrated Materials Performance Evaluation Program (IMPEP) review of the Rhode Island Agreement State Program (the Program), the review team found the State's performance satisfactory for the performance indicators Technical Staffing and Training, Technical Quality of Licensing, and Technical Quality of Incidents and Allegations; satisfactory but needs improvement for the performance indicators Technical Quality of Inspections and Compatibility Requirements; and unsatisfactory for the performance indicator Status of Materials Inspection Program. The review team made six recommendations. On January 17, 2012, the Management Review Board (MRB) met to consider the proposed final IMPEP report. 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 summary is a reflection of that periodic meeting.

Enclosure 2

TOPICS COVERED DURING THE MEETING INCLUDED:Program Strengths

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

Program Challenges

The Program feels that staffing issues are a challenge of the program. The Program currently has two staff vacancies accounting for 0.8 of the 2.6 full time equivalents (FTE) allocated to the Program. The Program is hoping to post one of the vacant positions during their fiscal year 2015 which will account for an additional 0.5 FTE.

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. The Program also mentioned that document comment turnaround times established by the NRC can be too short and that it can be difficult to respond timely when multiple documents come out for comment at the same time.

Agreement State Program Staffing and Training

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. Another vacancy at the technical staff level was created when a staff member who was out on extended medical leave retired. These two vacancies comprised 0.7 FTE. One of the two vacant positions was then moved to a structural deficit position (0.4 FTE for the Program) with no plans to fill it. In July 2014 another staff person retired. While this retirement did not impact the Program since the retiree's work was with mammography, it has allowed the Program to delegate that position as 0.5 FTE for radioactive materials and 0.5 FTE other. This will help to make up for the position lost to the structural deficit and creates a 0.8 FTE shortfall in the Program which is currently allocated for 2.6 FTE. The Program hopes to be able to post the one vacant position and recoup 0.5 FTE in fiscal year 2015. As a result of the 2012 periodic meeting and at the Program's request, the NRC drafted a letter of support discussing the Program's staffing issues and sent it to the Rhode Island Director of Health on March 25, 2014 (ML13354B813).

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. The four technical staff positions, two of which are currently vacant, all provide partial support to the Program. The two remaining technical staff and the supervisor are all fully qualified license reviewers and inspectors.

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

**Recommendation 1:** The review team recommended 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:** Current qualification cards have been brought up to date. Going forward, the Program plans 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. Due to the staff vacancies, no date has been set for the integration.

#### Organization

The Rhode Island Agreement State Program is located in the State Licensing Unit, in the Office of Facilities Regulation, which is in the Division of Environmental and Health Services Regulation, located within the Rhode Island Department of Health.

#### Program Budget/Funding

The Program is 100 percent fee funded. The funds are placed into a restricted receipt account for the Radiation Control Program. Although the money is placed into a restricted fund the Program does face some challenges and needs approval before using the money for purchases. The surplus money at the end of each fiscal year cannot be taken and placed into the State's general fund without an approved change to the legislation. Both fiscal years 2015 and 2016 budgets for the State face projected deficits. In order to make up for the deficits each Division has to find ways to cut costs to cover their share. Per program management the deficits do not impact travel within the State, however depending on the circumstances out of State travel can be impacted. There are no anticipated furloughs in fiscal year 2015 and 2016.

#### Inspection and Licensing Programs

At the time of the IMPEP review 12 of 42 Priority 1, 2, and 3 inspections had been completed overdue. The Program stated that they have since made inspections a top priority and have completed all but four inspections in accordance with their assigned inspection frequencies. The Program has had no initial inspections since the last IMPEP review. However, the Program has received three new license applications. One has just recently been issued and the other two are in progress. The Program has continued to be attentive to reciprocity inspections, completing inspections on greater than 20 percent of candidate licensees for calendar years 2013 and 2014.

The Program has approximately 42 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." At the time of the periodic meeting, the Program has a working backlog of approximately 23 licensing actions consisting of renewals, amendments, initial applications, and changes of control. A majority of the outstanding actions are renewals (15 of the 23). Rhode Island is prioritizing and completing health and safety actions first and working on the renewals as time allows. Eleven of the fifteen renewals have been in progress for more than one year. All other actions have been in progress for less than one year. The Program's licenses are on a 10 year renewal cycle.

The 2011 IMPEP team generated four recommendations for these performance indicators. Each recommendation along with its status is 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 Inspection Manual Chapter 2800.

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

**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.

**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 was accompanied by a senior level staff person in December 2013. For calendar year 2014 neither of the two supervisory accompaniments has been completed. The Program supervisor is aware of the need to complete these accompaniments and the plan is to have both completed before the end of the calendar year.

**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.

#### Regulations and Legislative Changes

The Program 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 NRC responded to the Program in a letter dated December 4, 2013 which contained 39 comments (ML13240A262). The Program finalized the proposed regulations on January 15, 2014 but was unable to make any changes in regards to NRC comments at that time. The Program hopes to have regulations which address the 39 comments and incorporates an equivalent to 10 CFR Part 37 ready for adoption by the summer of 2015.

**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 has adopted all regulation changes through RATS ID 2012-4. There are no currently overdue regulations due for adoption. The Program is beginning to work on addressing comments from the previous rulemakings and also is working on incorporating 10 CFR Part 37 into their regulations.

#### Event Reporting

The Program has reported three events to the NRC since the 2011 IMPEP review. All reportable events have been reported to the NRC accordingly and appropriate follow-up through NMED has occurred. The Program stated that all staff is aware of event reporting criteria.

#### Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations. One allegation has been received by the Program since the 2011 IMPEP review.

#### CONCLUSIONS:

Rhode Island continues to be an effective Agreement State program with experienced and well-trained staff. There are two vacancies in the Program accounting for 0.8 FTE. The Program has completed four inspections overdue since the previous IMPEP review. There is a small licensing backlog and there are no regulations overdue for adoption at this time.

NRC staff recommends that the Program continue on Monitoring and the next IMPEP review be conducted as scheduled in October 2015.

**Agenda for Management Review Board Meeting  
November 13, 2014 3:00 p.m. – 4:30 p.m. ET, O-17B04**

1. Announcement of Public Meeting to all attendees and request for identification of any members of the public participating in this meeting.
2. MRB Chair convenes meeting. Introduction of MRB members, NRC staff members, State representatives, and other participants.
3. Discussion of IMPEP Periodic Meetings:
  - a. Arizona Radiation Regulatory Agency  
(September 17, 2014) – ML1414290A601 – Erickson / Shaffer / O'Hara
  - b. Rhode Island Department of Health  
(September 18, 2014) – ML14294A631 – Ford / Beardsley / Collins
4. Adjournment

Invitees:

Roy Zimmerman, DEDMRT  
Bradley Jones, OGC  
Catherine Haney, NMSS  
Darrell Roberts, RIII  
Matthew McKinley, KY, OAS  
Monica Ford, RI/RSOA  
Randy Erickson, RIV/RSOA  
Aubrey Godwin, AZ

Laura Dudes, NMSS  
Pamela Henderson, NMSS  
Duncan White, NMSS  
Lisa Dimmick, NMSS  
Karen Meyer, NMSS  
Michelle Beardsley, NMSS  
Jack Foster, OEDO  
Raymond Rusin, RI  
Charma Waring, RI